

House Amendments to Senate Bill No. 2810

TO THE SECRETARY OF THE SENATE:

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

AMENDMENT NO. 1

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

39 **SECTION 1.** Section 71-5-353, Mississippi Code of 1972, is
40 amended as follows:
41 71-5-353. (1) (a) Each employer shall pay unemployment
42 insurance contributions equal to five and four-tenths percent
43 (5.4%) of taxable wages paid by him each calendar year, except as
44 may be otherwise provided in Section 71-5-361 and except that each
45 newly subject employer shall pay unemployment insurance
46 contributions at the rate of one percent (1%) of taxable wages,
47 for his first year of liability, one and one-tenth percent (1.1%)
48 of taxable wages for his second year of liability, and one and
49 two-tenths percent (1.2%) of taxable wages for his third and
50 subsequent years of liability unless the employer's
51 experience-rating record has been chargeable throughout at least
52 the twelve (12) consecutive calendar months ending on the most
53 recent computation date at the time the rate for a year is
54 determined; thereafter the employer's contribution rate shall be
55 determined in accordance with the provisions of Section 71-5-355.

56 (b) Notwithstanding the newly subject employer
57 contribution rate provided for in paragraph (a) of this
58 subsection, the contribution rate of all newly subject employers
59 shall be reduced by seven one-hundredths of one percent (.07%) for
60 calendar year 2013 only. The contribution rate of all newly
61 subject employers shall be reduced by three one-hundredths of one
62 percent (.03%) for calendar year 2014 only. For purposes of this
63 chapter, "newly subject employers" means employers whose
64 unemployment insurance experience-rating record has not been
65 chargeable throughout at least the twelve (12) consecutive
66 calendar months ending on the most recent computation date at the
67 time the contribution rate for a year is determined.

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

75 (ii) Funds collected shall initially be deposited
76 into the Mississippi Department of Employment Security bank
77 account for clearing contribution collections and subsequently
78 appropriate amounts shall be transferred to the Mississippi
79 Workforce Investment and Training Fund Holding Account described
80 in Section 71-5-453. In the event any employer pays an amount

81 insufficient to cover the total contributions due, the amounts due
82 shall be satisfied in the following order:

- 83 1. Unemployment contributions;
- 84 2. Mississippi Workforce Enhancement Training
85 contributions, * * * Mississippi K-12 Workforce Development Grant
86 Program contributions and the Mississippi Works contributions,
87 known collectively as the Mississippi Workforce Investment and
88 Training contributions, on a pro rata basis;
- 89 3. Interest and damages; then
- 90 4. Legal and processing costs.

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

96 Cost of collection and administration of the Mississippi
97 Workforce Enhancement Training contribution, the * * * Mississippi
98 K-12 Workforce Development Grant Program contribution and the
99 Mississippi Works contribution shall be allocated based on a plan
100 approved by the United States Department of Labor (USDOL). The
101 Mississippi Community College Board shall pay the cost of
102 collecting the Mississippi Workforce Enhancement Training
103 contributions, the * * * Office of Workforce Development shall pay
104 the cost of collecting the * * * Mississippi K-12 Workforce
105 Development Grant Program contributions and the Mississippi
106 Department of Employment Security shall pay the cost of collecting

107 the Mississippi Works contributions. Payments shall be made
108 semiannually with the cost allocated to each based on a USDOL
109 approved plan on a pro rata basis, for periods ending in June and
110 December of each year. Payment shall be made by each organization
111 to the department no later than sixty (60) days after the billing
112 date. Cost shall be allocated under the USDOL's approved plan and
113 in the same ratio as each contribution type represents to the
114 total authorized by subparagraph (ii)2 of this paragraph to be
115 collected for the period.

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

125 (c) All contributions collected for the State Workforce
126 Enhancement Training Fund, the * * * Mississippi K-12 Workforce
127 Development Grant Program Fund and the Mississippi Works Fund will
128 be initially deposited into the Mississippi Department of
129 Employment Security bank account for clearing contribution
130 collections and subsequently transferred to the Workforce
131 Investment and Training Holding Account and will be held by the
132 Mississippi Department of Employment Security in such account for

133 a period of not less than thirty (30) days. After such period,
134 the Mississippi Workforce Enhancement Training contributions shall
135 be transferred to the Mississippi Community College Board Treasury
136 Account, with oversight provided by the Mississippi Office of
137 Workforce Development, the * * * Mississippi K-12 Workforce
138 Development Grant Program contributions shall be transferred to
139 the Mississippi K-12 Workforce Development Grant Program Treasury
140 Account and the Mississippi Works contributions shall be
141 transferred to the Mississippi Department of Employment Security
142 Mississippi Works Treasury Account. The Mississippi K-12
143 Workforce Development Grant Program contributions and the
144 Mississippi Works contributions shall be transferred in the same
145 ratio as each contribution type represents to the total authorized
146 by paragraph (a)(ii)2 of this subsection to be collected for the
147 period and within the time frame determined by the department;
148 however, except in cases of extraordinary circumstances, these
149 funds shall be transferred within fifteen (15) days. Interest
150 earnings or interest credits on deposit amounts in the Workforce
151 Investment and Training Holding Account shall be retained in the
152 account to pay the banking costs of the account. If after the
153 period of twelve (12) months interest earnings less banking costs
154 exceeds Ten Thousand Dollars (\$10,000.00), such excess amounts
155 shall be transferred to the respective accounts within thirty (30)
156 days following the end of each calendar year on the basis
157 described in paragraph (b) of this subsection. Interest earnings
158 and/or interest credits for the * * * Mississippi K-12 Workforce

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

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

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

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

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

218 (ii) Except as otherwise provided in this
219 paragraph (e), all funds deposited into the * * * Mississippi K-12
220 Workforce Development Grant Program Fund shall be used for
221 administration of * * * the Mississippi K-12 Workforce Development
222 Grant Program created in Section 2 of this act. Any funds
223 remaining in the State Workforce Investment board bank account on
224 June 30, 2023, shall be transferred to the Mississippi K-12
225 Workforce Development Grant Program Fund.

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

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

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

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

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

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

272 * * *

273 (3) (a) (i) Mississippi Workforce Enhancement Training
274 contributions and * * * Mississippi K-12 Workforce Development
275 Grant Program contributions shall be collected * * * for calendar
276 years * * * after calendar year 2016 * * * at a rate of twenty
277 one-hundredths percent (.20%), based upon taxable wages, of which
278 fifteen one-hundredths percent (.15%) shall be the Workforce
279 Enhancement Training contribution, one-hundredths of one percent
280 (.01%) shall be the * * * Mississippi K-12 Workforce Development
281 Grant Program contribution and four one-hundredths percent (.04%)
282 shall be the Mississippi Works contribution. The Mississippi
283 Works contribution shall be collected for calendar years in which
284 the general experience ratio, adjusted on the basis of the trust
285 fund adjustment factor and reduced by fifty percent (50%), results
286 in a general experience rate of less than two-tenths percent
287 (.2%). In all other years the Mississippi Works contribution
288 shall not be in effect.

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

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

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

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

339 (4) All collections due or accrued prior to any suspension
340 of the Mississippi Workforce Enhancement Training Fund will be

341 collected based upon the law at the time the contributions
342 accrued, regardless of when they are actually collected.

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

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

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

359 (b) The purpose of the program;

360 (c) Whether the program fits into the ecosystem for the
361 training needs in the area;

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

364 (e) Any other information that the office determines is
365 necessary.

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

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

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

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

383 (2) The members of the State Workforce Investment Board
384 shall include:

385 (a) The Governor, or his designee;

386 (b) Nineteen (19) members, appointed by the Governor,
387 of whom:

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

390 1. Are owners of businesses, chief executives
391 or operating officers of businesses, or other business executives

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

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

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

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

410 1. Includes labor organization
411 representatives who have been nominated by state labor
412 federations;

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

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

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

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

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

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

438 (e) The following state officials:

439 (i) The Executive Director of the Mississippi
440 Department of Employment Security;

441 (ii) The Executive Director of the Department of
442 Rehabilitation Services;

443 (iii) The State Superintendent of Public
444 Education;

445 (iv) The Executive Director of the Mississippi
446 Development Authority;

447 (v) The Executive Director of the Mississippi
448 Community College Board;

449 (vi) The President of the Community College
450 Association; and

451 (vii) The Commissioner of the Institutions of
452 Higher Learning.

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

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

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

461 (i) The membership of the board shall reflect the
462 diversity of the State of Mississippi.

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

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

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

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

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

488 (a) Through the office, develop and submit to the
489 Governor, Lieutenant Governor and Speaker of the House a strategic
490 plan for an integrated state workforce development system that
491 aligns resources and structures the system to more effectively and
492 efficiently meet the demands of Mississippi's employers and job
493 seekers. This plan will comply with the federal Workforce

494 Investment Act of 1998, as amended, the federal Workforce
495 Innovation and Opportunity Act of 2014 and amendments and
496 successor legislation to these acts;

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

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

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

508 (c) Recommend to the office the designation of local
509 workforce investment areas as required in Section 116 of the
510 federal Workforce Investment Act of 1998 and the Workforce
511 Innovation and Opportunity Act of 2014. There shall be four (4)
512 workforce investment areas that are generally aligned with the
513 planning and development district structure in Mississippi.
514 Planning and development districts will serve as the fiscal agents
515 to manage Workforce Investment Act funds, oversee and support the
516 local workforce investment boards aligned with the area and the
517 local programs and activities as delivered by the one-stop
518 employment and training system. The planning and development
519 districts will perform this function through the provisions of the

520 county cooperative service districts created under Sections
521 19-3-101 through 19-3-115; however, planning and development
522 districts currently performing this function under the Interlocal
523 Cooperation Act of 1974, Sections 17-13-1 through 17-13-17, may
524 continue to do so;

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

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

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

541 (i) Design broad guidelines for the delivery of
542 workforce development programs;

543 (ii) Identify all existing delivery agencies and
544 other resources;

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

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

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

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

557 (h) To monitor the effectiveness of the workforce
558 development centers and WIN job centers;

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

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

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

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

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

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

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

587 Each state agency director responsible for workforce training
588 activities shall advise the Mississippi Office of Workforce
589 Development and the State Workforce Investment Board of
590 appropriate federal and state requirements. Each state agency,
591 department and institution shall report any monies received for
592 workforce training activities or career and technical education
593 and a detailed itemization of how those monies were spent to the
594 state board. The board shall compile the data and provide a

595 report of the monies and expenditures to the Chairs of the House
596 and Senate Appropriations Committee, the Chair of the House
597 Workforce Development Committee and the Chair of the Senate
598 Economic and Workforce Development Committee by October 1 of each
599 year. Each such state agency director shall remain responsible
600 for the actions of his agency; however, each state agency and
601 director shall work cooperatively to fulfill the state's goals.

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

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

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

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

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

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

619 (8) The executive committee shall select an executive
620 director of the Office of Workforce Development, with the advice

621 and consent of a majority of the State Workforce Investment Board.
622 The executive committee shall seek input from economic development
623 organizations across the state when selecting the executive
624 director. The executive director shall:

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

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

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

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

645 (e) Serve at the will and pleasure of the executive
646 committee;

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

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

654 (9) The Office of Workforce Development and Mississippi
655 Community College Board shall collaborate in the administration
656 and oversight of the Mississippi Workforce Enhancement Training
657 Fund and Mississippi Works Fund, as described in Section 71-5-353.
658 The executive director shall maintain complete and exclusive
659 operational control of the office's functions.

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

669 (a) Information on the performance of the Mississippi
670 Workforce Enhancement Training Fund and the Mississippi Works
671 Fund, in terms of adding value to the local and state economy, the
672 contribution to future growth of the state economy, and movement

673 toward state goals, including increasing the labor force
674 participation rate; * * *

675 (b) With respect to specific workforce training
676 projects:

677 (i) The location of the training;

678 (ii) The amount allocated to the project;

679 (iii) The purpose of the project;

680 (iv) The specific business entity that is the
681 beneficiary of the project; * * *

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

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

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

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

690 (ii) The amount allocated to the grant;

691 (iii) The purpose of the grant; and

692 (iv) How the grant has been used since it was
693 awarded; and

694 (d) With respect to the office's authority to select
695 tools and resources, including necessary online platforms and
696 similar systems in furtherance of the mission of the office:

697 (i) The policies that the office has adopted or
698 amended on the process for the selection of tools and resources,

699 including necessary online platforms and similar systems in
700 furtherance of the mission of the office;

701 (ii) The eligible entities that the office
702 determined may provide services, such as companies, nonprofit
703 organizations, or other similar groups;

704 (iii) Any tools and resources, including necessary
705 online platforms and similar systems in furtherance of the mission
706 of the office, that have been selected by the office; and

707 (iv) What entity received the benefit of the tools
708 and resources that were selected.

709 All information concerning a proposed project which is
710 provided to the executive director shall be kept confidential.
711 Except as provided in subsections (13) and (14), such
712 confidentiality shall not limit disclosure under the Mississippi
713 Public Records Act of 1983 of records describing the nature,
714 quantity, cost or other pertinent information related to the
715 activities of, or services performed using, the Mississippi
716 Workforce Enhancement Training Fund or the Mississippi Works Fund.

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

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

723 (b) The ability to enter into nondisclosure agreements
724 to effectively support economic development activities and the

725 proprietary nature of customized training for existing and new
726 industry;

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

731 (d) To receive contributions, donations, gifts,
732 bequests of money, other forms of financial assistance and
733 property, equipment, materials or manpower from persons,
734 foundations, trust funds, corporations, organizations and other
735 sources, public or private, made to the office, and may expend or
736 use the same in accordance with the conditions prescribed by the
737 donor, provided that no such condition is contrary to any
738 provision of law;

739 (e) To contract with state agencies, governing
740 authorities or economic and workforce development entities for
741 shared programmatic efforts and support service or joint
742 employment of personnel in order to further the office's purposes;
743 and

744 (f) To determine, subject to appropriation, the need
745 for and, if desired, the selection of tools and resources,
746 including necessary online platforms and similar systems in
747 furtherance of the mission of the office, through processes
748 established in policies adopted by the office that are deemed to
749 be practical, feasible and in the public interest. These
750 processes shall outline eligible entities that may provide such

751 services, such as companies, nonprofit organizations, or other
752 similar groups and shall ensure the office determines metrics for
753 success, including deliverables as required by the office.

754 Through December 31, 2024, the provisions of Section 27-104-7
755 related to rental agreements or leasing of real property for the
756 purpose of conducting agency business shall not apply to the
757 office.

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

763 (13) Any records of the office which contain client
764 information from the Mississippi Development Authority or local
765 economic development entities concerning development projects
766 shall be exempt from the provisions of the Mississippi Public
767 Records Act of 1983 for a period of two (2) years after receipt of
768 the information by the office. Confidential client information as
769 described in this section shall not include the information which
770 must be disclosed by the certified applicant related to a
771 qualified economic development project in the annual report
772 described in Section 57-1-759.

773 (14) Confidential client information in public records held
774 by the office shall be exempt from the provisions of the
775 Mississippi Public Records Act of 1983 during any period of review
776 and negotiation on a project proposal facilitated by the

777 Mississippi Development Authority or local economic development
778 entities and for a period of thirty (30) days after approval,
779 disapproval or abandonment of the proposal not to exceed one (1)
780 year.

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

783 27-104-7. (1) (a) There is created the Public Procurement
784 Review Board, which shall be reconstituted on January 1, 2018, and
785 shall be composed of the following members:

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

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

790 (iii) The Executive Director of the Department of
791 Finance and Administration, serving as an ex officio and nonvoting
792 member.

793 (b) The initial terms of each appointee shall be as
794 follows:

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

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

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

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

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

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

809 (c) When appointing members to the Public Procurement
810 Review Board, the Governor and Lieutenant Governor shall take into
811 consideration persons who possess at least five (5) years of
812 management experience in general business, health care or finance
813 for an organization, corporation or other public or private
814 entity. Any person, or any employee or owner of a company, who
815 receives any grants, procurements or contracts that are subject to
816 approval under this section shall not be appointed to the Public
817 Procurement Review Board. Any person, or any employee or owner of
818 a company, who is a principal of the source providing a personal
819 or professional service shall not be appointed to the Public
820 Procurement Review Board if the principal owns or controls a
821 greater than five percent (5%) interest or has an ownership value
822 of One Million Dollars (\$1,000,000.00) in the source's business,
823 whichever is smaller. No member shall be an officer or employee
824 of the State of Mississippi while serving as a voting member on
825 the Public Procurement Review Board.

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

829 (e) The members of the Public Procurement Review Board
830 shall elect a chair from among the membership, and he or she shall
831 preside over the meetings of the board. The board shall annually
832 elect a vice chair, who shall serve in the absence of the chair.
833 No business shall be transacted, including adoption of rules of
834 procedure, without the presence of a quorum of the board. Three
835 (3) members shall be a quorum. No action shall be valid unless
836 approved by a majority of the members present and voting, entered
837 upon the minutes of the board and signed by the chair. Necessary
838 clerical and administrative support for the board shall be
839 provided by the Department of Finance and Administration. Minutes
840 shall be kept of the proceedings of each meeting, copies of which
841 shall be filed on a monthly basis with the chairs of the
842 Accountability, Efficiency and Transparency Committees of the
843 Senate and House of Representatives and the chairs of the
844 Appropriations Committees of the Senate and House of
845 Representatives.

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

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

852 (b) Adopt regulations governing the approval of
853 contracts let for the construction and maintenance of state

854 buildings and other state facilities as well as related contracts
855 for architectural and engineering services.

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

860 (c) Adopt regulations governing any lease or rental
861 agreement by any state agency or department, including any state
862 agency financed entirely by federal funds, for space outside the
863 buildings under the jurisdiction of the Department of Finance and
864 Administration. These regulations shall require each agency
865 requesting to lease such space to provide the following
866 information that shall be published by the Department of Finance
867 and Administration on its website: the agency to lease the space;
868 the terms of the lease; the approximate square feet to be leased;
869 the use for the space; a description of a suitable space; the
870 general location desired for the leased space; the contact
871 information for a person from the agency; the deadline date for
872 the agency to have received a lease proposal; any other specific
873 terms or conditions of the agency; and any other information
874 deemed appropriate by the Division of Real Property Management of
875 the Department of Finance and Administration or the Public
876 Procurement Review Board. The information shall be provided
877 sufficiently in advance of the time the space is needed to allow
878 the Division of Real Property Management of the Department of

879 Finance and Administration to review and preapprove the lease
880 before the time for advertisement begins;

881 (d) Adopt, in its discretion, regulations to set aside
882 at least five percent (5%) of anticipated annual expenditures for
883 the purchase of commodities from minority businesses; however, all
884 such set-aside purchases shall comply with all purchasing
885 regulations promulgated by the department and shall be subject to
886 all bid requirements. Set-aside purchases for which competitive
887 bids are required shall be made from the lowest and best minority
888 business bidder; however, if no minority bid is available or if
889 the minority bid is more than two percent (2%) higher than the
890 lowest bid, then bids shall be accepted and awarded to the lowest
891 and best bidder. However, the provisions in this paragraph shall
892 not be construed to prohibit the rejection of a bid when only one
893 (1) bid is received. Such rejection shall be placed in the
894 minutes. For the purposes of this paragraph, the term "minority
895 business" means a business which is owned by a person who is a
896 citizen or lawful permanent resident of the United States and who
897 is:

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

900 (ii) Hispanic: of Mexican, Puerto Rican, Cuban,
901 Central or South American, or other Spanish or Portuguese culture
902 or origin regardless of race;

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

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

908 (v) Female;

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

915 (f) Promulgate rules and regulations governing the
916 solicitation and selection of contractual services personnel,
917 including personal and professional services contracts for any
918 form of consulting, policy analysis, public relations, marketing,
919 public affairs, legislative advocacy services or any other
920 contract that the board deems appropriate for oversight, with the
921 exception of any personal service contracts entered into by any
922 agency that employs only nonstate service employees as defined in
923 Section 25-9-107(c), any personal service contracts entered into
924 for computer or information technology-related services governed
925 by the Mississippi Department of Information Technology Services,
926 any personal service contracts entered into by the individual
927 state institutions of higher learning, any personal service
928 contracts entered into by the Mississippi Department of

929 Transportation, any personal service contracts entered into by the
930 Department of Human Services through June 30, 2019, which the
931 Executive Director of the Department of Human Services determines
932 would be useful in establishing and operating the Department of
933 Child Protection Services, any personal service contracts entered
934 into by the Department of Child Protection Services through June
935 30, 2019, any contracts for entertainers and/or performers at the
936 Mississippi State Fairgrounds entered into by the Mississippi Fair
937 Commission, any contracts entered into by the Department of
938 Finance and Administration when procuring aircraft maintenance,
939 parts, equipment and/or services, any contract entered into by the
940 Department of Public Safety for service on specialized equipment
941 and/or software required for the operation at such specialized
942 equipment for use by the Office of Forensics Laboratories, any
943 personal or professional service contract entered into by the
944 Mississippi Department of Health and/or the Department of Revenue
945 solely in connection with their respective responsibilities under
946 the Mississippi Medical Cannabis Act from February 2, 2022,
947 through June 30, 2023, any contract for attorney, accountant,
948 actuary auditor, architect, engineer, anatomical pathologist,
949 utility rate expert services, any personal service contracts
950 approved by the Executive Director of the Department of Finance
951 and Administration and entered into by the Coordinator of Mental
952 Health Accessibility through June 30, 2022, any personal or
953 professional services contract entered into by the State
954 Department of Health in carrying out its responsibilities under

955 the ARPA Rural Water Associations Infrastructure Grant Program
956 through June 30, 2026, and any personal or professional services
957 contract entered into by the Mississippi Department of
958 Environmental Quality in carrying out its responsibilities under
959 the Mississippi Municipality and County Water Infrastructure Grant
960 Program Act of 2022, through June 30, 2026. Any such rules and
961 regulations shall provide for maintaining continuous internal
962 audit covering the activities of such agency affecting its revenue
963 and expenditures as required under Section 7-7-3(6)(d). Any rules
964 and regulation changes related to personal and professional
965 services contracts that the Public Procurement Review Board may
966 propose shall be submitted to the Chairs of the Accountability,
967 Efficiency and Transparency Committees of the Senate and House of
968 Representatives and the Chairs of the Appropriation Committees of
969 the Senate and House of Representatives at least fifteen (15) days
970 before the board votes on the proposed changes, and those rules
971 and regulation changes, if adopted, shall be promulgated in
972 accordance with the Mississippi Administrative Procedures Act;

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

977 (h) Develop mandatory standards with respect to
978 contractual services personnel that require invitations for public
979 bid, requests for proposals, record keeping and financial
980 responsibility of contractors. The Public Procurement Review

981 Board shall, unless exempted under this paragraph (h) or under
982 paragraph (i) or (o) of this subsection (2), require the agency
983 involved to submit the procurement to a competitive procurement
984 process, and may reserve the right to reject any or all resulting
985 procurements;

986 (i) Prescribe certain circumstances by which agency
987 heads may enter into contracts for personal and professional
988 services without receiving prior approval from the Public
989 Procurement Review Board. The Public Procurement Review Board may
990 establish a preapproved list of providers of various personal and
991 professional services for set prices with which state agencies may
992 contract without bidding or prior approval from the board;

993 (i) Agency requirements may be fulfilled by
994 procuring services performed incident to the state's own programs.
995 The agency head shall determine in writing whether the price
996 represents a fair market value for the services. When the
997 procurements are made from other governmental entities, the
998 private sector need not be solicited; however, these contracts
999 shall still be submitted for approval to the Public Procurement
1000 Review Board.

1001 (ii) Contracts between two (2) state agencies,
1002 both under Public Procurement Review Board purview, shall not
1003 require Public Procurement Review Board approval. However, the
1004 contracts shall still be entered into the enterprise resource
1005 planning system;

1006 (j) Provide standards for the issuance of requests for
1007 proposals, the evaluation of proposals received, consideration of
1008 costs and quality of services proposed, contract negotiations, the
1009 administrative monitoring of contract performance by the agency
1010 and successful steps in terminating a contract;

1011 (k) Present recommendations for governmental
1012 privatization and to evaluate privatization proposals submitted by
1013 any state agency;

1014 (l) Authorize personal and professional service
1015 contracts to be effective for more than one (1) year provided a
1016 funding condition is included in any such multiple year contract,
1017 except the State Board of Education, which shall have the
1018 authority to enter into contractual agreements for student
1019 assessment for a period up to ten (10) years. The State Board of
1020 Education shall procure these services in accordance with the
1021 Public Procurement Review Board procurement regulations;

1022 (m) Request the State Auditor to conduct a performance
1023 audit on any personal or professional service contract;

1024 (n) Prepare an annual report to the Legislature
1025 concerning the issuance of personal and professional services
1026 contracts during the previous year, collecting any necessary
1027 information from state agencies in making such report;

1028 (o) Develop and implement the following standards and
1029 procedures for the approval of any sole source contract for
1030 personal and professional services regardless of the value of the
1031 procurement:

1032 (i) For the purposes of this paragraph (o), the
1033 term "sole source" means only one (1) source is available that can
1034 provide the required personal or professional service.

1035 (ii) An agency that has been issued a binding,
1036 valid court order mandating that a particular source or provider
1037 must be used for the required service must include a copy of the
1038 applicable court order in all future sole source contract reviews
1039 for the particular personal or professional service referenced in
1040 the court order.

1041 (iii) Any agency alleging to have a sole source
1042 for any personal or professional service, other than those
1043 exempted under paragraph (f) of this subsection (2) and subsection
1044 (8), shall publish on the procurement portal website established
1045 by Sections 25-53-151 and 27-104-165, for at least fourteen (14)
1046 days, the terms of the proposed contract for those services. In
1047 addition, the publication shall include, but is not limited to,
1048 the following information:

1049 1. The personal or professional service
1050 offered in the contract;

1051 2. An explanation of why the personal or
1052 professional service is the only one that can meet the needs of
1053 the agency;

1054 3. An explanation of why the source is the
1055 only person or entity that can provide the required personal or
1056 professional service;

1057 4. An explanation of why the amount to be
1058 expended for the personal or professional service is reasonable;
1059 and

1060 5. The efforts that the agency went through
1061 to obtain the best possible price for the personal or professional
1062 service.

1063 (iv) If any person or entity objects and proposes
1064 that the personal or professional service published under
1065 subparagraph (iii) of this paragraph (o) is not a sole source
1066 service and can be provided by another person or entity, then the
1067 objecting person or entity shall notify the Public Procurement
1068 Review Board and the agency that published the proposed sole
1069 source contract with a detailed explanation of why the personal or
1070 professional service is not a sole source service.

1071 (v) 1. If the agency determines after review that
1072 the personal or professional service in the proposed sole source
1073 contract can be provided by another person or entity, then the
1074 agency must withdraw the sole source contract publication from the
1075 procurement portal website and submit the procurement of the
1076 personal or professional service to an advertised competitive bid
1077 or selection process.

1078 2. If the agency determines after review that
1079 there is only one (1) source for the required personal or
1080 professional service, then the agency may appeal to the Public
1081 Procurement Review Board. The agency has the burden of proving

1082 that the personal or professional service is only provided by one
1083 (1) source.

1084 3. If the Public Procurement Review Board has
1085 any reasonable doubt as to whether the personal or professional
1086 service can only be provided by one (1) source, then the agency
1087 must submit the procurement of the personal or professional
1088 service to an advertised competitive bid or selection process. No
1089 action taken by the Public Procurement Review Board in this appeal
1090 process shall be valid unless approved by a majority of the
1091 members of the Public Procurement Review Board present and voting.

1092 (vi) The Public Procurement Review Board shall
1093 prepare and submit a quarterly report to the House of
1094 Representatives and Senate Accountability, Efficiency and
1095 Transparency Committees that details the sole source contracts
1096 presented to the Public Procurement Review Board and the reasons
1097 that the Public Procurement Review Board approved or rejected each
1098 contract. These quarterly reports shall also include the
1099 documentation and memoranda required in subsection (4) of this
1100 section. An agency that submitted a sole source contract shall be
1101 prepared to explain the sole source contract to each committee by
1102 December 15 of each year upon request by the committee;

1103 (p) Assess any fines and administrative penalties
1104 provided for in Sections 31-7-401 through 31-7-423.

1105 (3) All submissions shall be made sufficiently in advance of
1106 each monthly meeting of the Public Procurement Review Board as
1107 prescribed by the Public Procurement Review Board. If the Public

1108 Procurement Review Board rejects any contract submitted for review
1109 or approval, the Public Procurement Review Board shall clearly set
1110 out the reasons for its action, including, but not limited to, the
1111 policy that the agency has violated in its submitted contract and
1112 any corrective actions that the agency may take to amend the
1113 contract to comply with the rules and regulations of the Public
1114 Procurement Review Board.

1115 (4) All sole source contracts for personal and professional
1116 services awarded by state agencies, other than those exempted
1117 under Section 27-104-7(2)(f) and (8), whether approved by an
1118 agency head or the Public Procurement Review Board, shall contain
1119 in the procurement file a written determination for the approval,
1120 using a request form furnished by the Public Procurement Review
1121 Board. The written determination shall document the basis for the
1122 determination, including any market analysis conducted in order to
1123 ensure that the service required was practicably available from
1124 only one (1) source. A memorandum shall accompany the request
1125 form and address the following four (4) points:

1126 (a) Explanation of why this service is the only service
1127 that can meet the needs of the purchasing agency;

1128 (b) Explanation of why this vendor is the only
1129 practicably available source from which to obtain this service;

1130 (c) Explanation of why the price is considered
1131 reasonable; and

1132 (d) Description of the efforts that were made to
1133 conduct a noncompetitive negotiation to get the best possible
1134 price for the taxpayers.

1135 (5) In conjunction with the State Personnel Board, the
1136 Public Procurement Review Board shall develop and promulgate rules
1137 and regulations to define the allowable legal relationship between
1138 contract employees and the contracting departments, agencies and
1139 institutions of state government under the jurisdiction of the
1140 State Personnel Board, in compliance with the applicable rules and
1141 regulations of the federal Internal Revenue Service (IRS) for
1142 federal employment tax purposes. Under these regulations, the
1143 usual common law rules are applicable to determine and require
1144 that such worker is an independent contractor and not an employee,
1145 requiring evidence of lawful behavioral control, lawful financial
1146 control and lawful relationship of the parties. Any state
1147 department, agency or institution shall only be authorized to
1148 contract for personnel services in compliance with those
1149 regulations.

1150 (6) No member of the Public Procurement Review Board shall
1151 use his or her official authority or influence to coerce, by
1152 threat of discharge from employment, or otherwise, the purchase of
1153 commodities, the contracting for personal or professional
1154 services, or the contracting for public construction under this
1155 chapter.

1156 (7) Notwithstanding any other laws or rules to the contrary,
1157 the provisions of subsection (2) of this section shall not be
1158 applicable to the Mississippi State Port Authority at Gulfport.

1159 (8) Nothing in this section shall impair or limit the
1160 authority of the Board of Trustees of the Public Employees'
1161 Retirement System to enter into any personal or professional
1162 services contracts directly related to their constitutional
1163 obligation to manage the trust funds, including, but not limited
1164 to, actuarial, custodial banks, cash management, investment
1165 consultant and investment management contracts.

1166 (9) Notwithstanding the exemption of personal and
1167 professional services contracts entered into by the Department of
1168 Human Services and personal and professional services contracts
1169 entered into by the Department of Child Protection Services from
1170 the provisions of this section under subsection (2)(f), before the
1171 Department of Human Services or the Department of Child Protection
1172 Services may enter into a personal or professional service
1173 contract, the department(s) shall give notice of the proposed
1174 personal or professional service contract to the Public
1175 Procurement Review Board for any recommendations by the board.
1176 Upon receipt of the notice, the board shall post the notice on its
1177 website and on the procurement portal website established by
1178 Sections 25-53-151 and 27-104-165. If the board does not respond
1179 to the department(s) within seven (7) calendar days after
1180 receiving the notice, the department(s) may enter the proposed
1181 personal or professional service contract. If the board responds

1182 to the department(s) within seven (7) calendar days, then the
1183 board has seven (7) calendar days from the date of its initial
1184 response to provide any additional recommendations. After the end
1185 of the second seven-day period, the department(s) may enter the
1186 proposed personal or professional service contract. The board is
1187 not authorized to disapprove any proposed personal or professional
1188 services contracts. This subsection shall stand repealed on July
1189 1, 2022.

1190 (10) Through December 31, 2024, the provisions of this
1191 section related to rental agreements or leasing of real property
1192 for the purpose of conducting agency business shall not apply to
1193 the Office of Workforce Development created in Section 37-153-7.

1194 **SECTION 5.** Section 71-5-355, Mississippi Code of 1972, is
1195 amended as follows:

1196 71-5-355. (1) As used in this section, the following words
1197 and phrases shall have the following meanings, unless the context
1198 clearly requires otherwise:

1199 (a) "Tax year" means any period beginning on January 1
1200 and ending on December 31 of a year.

1201 (b) "Computation date" means June 30 of any calendar
1202 year immediately preceding the tax year during which the
1203 particular contribution rates are effective.

1204 (c) "Effective date" means January 1 of the tax year.

1205 (d) Except as hereinafter provided, "payroll" means the
1206 total of all wages paid for employment by an employer as defined
1207 in Section 71-5-11, subsection H, plus the total of all

1208 remuneration paid by such employer excluded from the definition of
1209 wages by Section 71-5-351. For the computation of modified rates,
1210 "payroll" means the total of all wages paid for employment by an
1211 employer as defined in Section 71-5-11, subsection H.

1212 (e) For the computation of modified rates, "eligible
1213 employer" means an employer whose experience-rating record has
1214 been chargeable with benefits throughout the thirty-six (36)
1215 consecutive calendar-month period ending on the computation date,
1216 except that any employer who has not been subject to the
1217 Mississippi Employment Security Law for a period of time
1218 sufficient to meet the thirty-six (36) consecutive calendar-month
1219 requirement shall be an eligible employer if his or her
1220 experience-rating record has been chargeable throughout not less
1221 than the twelve (12) consecutive calendar-month period ending on
1222 the computation date. No employer shall be considered eligible
1223 for a contribution rate less than five and four-tenths percent
1224 (5.4%) with respect to any tax year, who has failed to file any
1225 two (2) quarterly reports within the qualifying period by
1226 September 30 following the computation date. No employer or
1227 employing unit shall be eligible for a contribution rate of less
1228 than five and four-tenths percent (5.4%) for the tax year in which
1229 the employing unit is found by the department to be in violation
1230 of Section 71-5-19(2) or (3) and for the next two (2) succeeding
1231 tax years. No representative of such employing unit who was a
1232 party to a violation as described in Section 71-5-19(2) or (3), if
1233 such representative was or is an employing unit in this state,

1234 shall be eligible for a contribution rate of less than five and
1235 four-tenths percent (5.4%) for the tax year in which such
1236 violation was detected by the department and for the next two (2)
1237 succeeding tax years.

1238 (f) With respect to any tax year, "reserve ratio" means
1239 the ratio which the total amount available for the payment of
1240 benefits in the Unemployment Compensation Fund, excluding any
1241 amount which has been credited to the account of this state under
1242 Section 903 of the Social Security Act, as amended, and which has
1243 been appropriated for the expenses of administration pursuant to
1244 Section 71-5-457 whether or not withdrawn from such account, on
1245 October 31 (close of business) of each calendar year bears to the
1246 aggregate of the taxable payrolls of all employers for the twelve
1247 (12) calendar months ending on June 30 next preceding.

1248 (g) "Modified rates" means the rates of employer
1249 unemployment insurance contributions determined under the
1250 provisions of this chapter and the rates of newly subject
1251 employers, as provided in Section 71-5-353.

1252 (h) For the computation of modified rates, "qualifying
1253 period" means a period of not less than the thirty-six (36)
1254 consecutive calendar months ending on the computation date
1255 throughout which an employer's experience-rating record has been
1256 chargeable with benefits; except that with respect to any eligible
1257 employer who has not been subject to this article for a period of
1258 time sufficient to meet the thirty-six (36) consecutive
1259 calendar-month requirement, "qualifying period" means the period

1260 ending on the computation date throughout which his or her
1261 experience-rating record has been chargeable with benefits, but in
1262 no event less than the twelve (12) consecutive calendar-month
1263 period ending on the computation date throughout which his or her
1264 experience-rating record has been so chargeable.

1265 (i) The "exposure criterion" (EC) is defined as the
1266 cash balance of the Unemployment Compensation Fund which is
1267 available for the payment of benefits as of November 16 of each
1268 calendar year or the next working day if November 16 falls on a
1269 holiday or a weekend, divided by the total wages, exclusive of
1270 wages paid by all state agencies, all political subdivisions,
1271 reimbursable nonprofit corporations, and tax-exempt public service
1272 employment, for the twelve-month period ending June 30 immediately
1273 preceding such date. The EC shall be computed to four (4) decimal
1274 places and rounded up if any fraction remains. Notwithstanding
1275 any other provision contained herein, the date for determining the
1276 cash balance of the Unemployment Compensation Fund which is
1277 available for the payment of benefits for the calendar years 2020
1278 and 2021 shall be December 31.

1279 (j) The "cost rate criterion" (CRC) is defined as
1280 follows: Beginning with January 1974, the benefits paid for the
1281 twelve-month period ending December 1974 are summed and divided by
1282 the total wages for the twelve-month period ending on June 30,
1283 1975. Similar ratios are computed by subtracting the earliest
1284 month's benefit payments and adding the benefits of the next month
1285 in the sequence and dividing each sum of twelve (12) months'

1286 benefits by the total wages for the twelve-month period ending on
1287 the June 30 which is nearest to the final month of the period used
1288 to compute the numerator. If December is the final month of the
1289 period used to compute the numerator, then the twelve-month period
1290 ending the following June 30 will be used for the denominator.
1291 Benefits and total wages used in the computation of the cost rate
1292 criterion shall exclude all benefits and total wages applicable to
1293 state agencies, political subdivisions, reimbursable nonprofit
1294 corporations, and tax-exempt PSE employment.

1295 The CRC shall be computed as the average for the highest
1296 monthly value of the cost rate criterion computations during each
1297 of the economic cycles since the calendar year 1974 as defined by
1298 the National Bureau of Economic Research. The CRC shall be
1299 computed to four (4) decimal places and any remainder shall be
1300 rounded up.

1301 The CRC shall be adjusted only through annual computations
1302 and additions of future economic cycles.

1303 (k) "Size of fund index" (SOFI) is defined as the ratio
1304 of the exposure criterion (EC) to the cost rate criterion (CRC).
1305 The target size of fund index will be fixed at 1.0. If the
1306 insured unemployment rate (IUR) exceeds a four and five-tenths
1307 percent (4.5%) average for the most recent completed July to June
1308 period, the target SOFI will be .8 and will remain at that level
1309 until the computed SOFI (the average exposure criterion of the
1310 current year and the preceding year divided by the average cost
1311 rate criterion) equals 1.0 or the average IUR falls to four and

1312 five-tenths percent (4.5%) or less for any period July to June.
1313 However, if the IUR falls below two and five-tenths percent (2.5%)
1314 for any period July to June the target SOFI shall be 1.2 until
1315 such time as the computed SOFI is equal to or greater than 1.0 or
1316 the IUR is equal to or greater than two and five-tenths percent
1317 (2.5%), at which point the target SOFI shall return to 1.0.

1318 (1) No employer's unemployment contribution general
1319 experience rate plus individual unemployment experience rate shall
1320 exceed five and four-tenths percent (5.4%). Accrual rules shall
1321 apply for purposes of computing contribution rates including
1322 associated functions.

1323 (m) The term "general experience rate" has the same
1324 meaning as the minimum tax rate.

1325 (2) Modified rates:

1326 (a) For any tax year, when the reserve ratio on the
1327 preceding November 16, in the case of any tax year, equals or
1328 exceeds three percent (3%), the modified rates, as hereinafter
1329 prescribed, shall be in effect. In computation of this reserve
1330 ratio, any remainder shall be rounded down.

1331 (b) Modified rates shall be determined for the tax year
1332 for each eligible employer on the basis of his or her
1333 experience-rating record in the following manner:

1334 (i) The department shall maintain an
1335 experience-rating record for each employer. Nothing in this
1336 chapter shall be construed to grant any employer or individuals

1337 performing services for him or her any prior claim or rights to
1338 the amounts paid by the employer into the fund.

1339 (ii) Benefits paid to an eligible individual shall
1340 be charged against the experience-rating record of his or her base
1341 period employers in the proportion to which the wages paid by each
1342 base period employer bears to the total wages paid to the
1343 individual by all the base period employers, provided that
1344 benefits shall not be charged to an employer's experience-rating
1345 record if the department finds that the individual:

1346 1. Voluntarily left the employ of such
1347 employer without good cause attributable to the employer or to
1348 accept other work;

1349 2. Was discharged by such employer for
1350 misconduct connected with his or her work;

1351 3. Refused an offer of suitable work by such
1352 employer without good cause, and the department further finds that
1353 such benefits are based on wages for employment for such employer
1354 prior to such voluntary leaving, discharge or refusal of suitable
1355 work, as the case may be;

1356 4. Had base period wages which included wages
1357 for previously uncovered services as defined in Section
1358 71-5-511(e) to the extent that the Unemployment Compensation Fund
1359 is reimbursed for such benefits pursuant to Section 121 of Public
1360 Law 94-566;

1361 5. Extended benefits paid under the
1362 provisions of Section 71-5-541 which are not reimbursable from

1363 federal funds shall be charged to the experience-rating record of
1364 base period employers;

1365 6. Is still working for such employer on a
1366 regular part-time basis under the same employment conditions as
1367 hired. Provided, however, that benefits shall be charged against
1368 an employer if an eligible individual is paid benefits who is
1369 still working for such employer on a part-time "as-needed" basis;

1370 7. Was hired to replace a United States
1371 serviceman or servicewoman called into active duty and was laid
1372 off upon the return to work by that serviceman or servicewoman,
1373 unless such employer is a state agency or other political
1374 subdivision or instrumentality of the state;

1375 8. Was paid benefits during any week while in
1376 training with the approval of the department, under the provisions
1377 of Section 71-5-513B, or for any week while in training approved
1378 under Section 236(a)(1) of the Trade Act of 1974, under the
1379 provisions of Section 71-5-513C;

1380 9. Is not required to serve the one-week
1381 waiting period as described in Section 71-5-505(2). In that
1382 event, only the benefits paid in lieu of the waiting period week
1383 may be noncharged; or

1384 10. Was paid benefits as a result of a
1385 fraudulent claim, provided notification was made to the
1386 Mississippi Department of Employment Security in writing or by
1387 email by the employer, within ten (10) days of the mailing of the
1388 notice of claim filed to the employer's last-known address.

1389 (iii) Notwithstanding any other provision
1390 contained herein, an employer shall not be noncharged when the
1391 department finds that the employer or the employer's agent of
1392 record was at fault for failing to respond timely or adequately to
1393 the request of the department for information relating to an
1394 unemployment claim that was subsequently determined to be
1395 improperly paid, unless the employer or the employer's agent of
1396 record shows good cause for having failed to respond timely or
1397 adequately to the request of the department for information. For
1398 purposes of this subparagraph "good cause" means an event that
1399 prevents the employer or employer's agent of record from timely
1400 responding, and includes a natural disaster, emergency or similar
1401 event, or an illness on the part of the employer, the employer's
1402 agent of record, or their staff charged with responding to such
1403 inquiries when there is no other individual who has the knowledge
1404 or ability to respond. Any agency error that resulted in a delay
1405 in, or the failure to deliver notice to, the employer or the
1406 employer's agent of record shall also be considered good cause for
1407 purposes of this subparagraph.

1408 (iv) The department shall compute a benefit ratio
1409 for each eligible employer, which shall be the quotient obtained
1410 by dividing the total benefits charged to his or her
1411 experience-rating record during the period his or her
1412 experience-rating record has been chargeable, but not less than
1413 the twelve (12) consecutive calendar-month period nor more than
1414 the thirty-six (36) consecutive calendar-month period ending on

1415 the computation date, by his or her total taxable payroll for the
1416 same period on which all unemployment insurance contributions due
1417 have been paid on or before the September 30 immediately following
1418 the computation date. Such benefit ratio shall be computed to the
1419 tenth of a percent (.1%), rounding any remainder to the next
1420 higher tenth.

1421 (v) 1. The unemployment insurance contribution
1422 rate for each eligible employer shall be the sum of two (2) rates:
1423 his or her individual experience rate in the range from zero
1424 percent (0%) to five and four-tenths percent (5.4%), plus a
1425 general experience rate. In no event shall the resulting
1426 unemployment insurance rate be in excess of five and four-tenths
1427 percent (5.4%), however, it is the intent of this section to
1428 provide the ability for employers to have a tax rate, the general
1429 experience rate plus the individual experience rate, of up to five
1430 and four-tenths percent (5.4%).

1431 2. The employer's individual experience rate
1432 shall be equal to his or her benefit ratio as computed under
1433 paragraph (b)(iv) of this subsection (2).

1434 3. The general experience rate shall be
1435 determined in the following manner: The department shall
1436 determine annually, for the thirty-six (36) consecutive
1437 calendar-month period ending on the computation date, the amount
1438 of benefits which were not charged to the record of any employer
1439 and of benefits which were ineffectively charged to the employer's

1440 experience-rating record. For the purposes of this item 3, the
1441 term "ineffectively charged benefits" shall include:

1442 a. The total of the amounts of benefits
1443 charged to the experience-rating records of all eligible employers
1444 which caused their benefit ratios to exceed five and four-tenths
1445 percent (5.4%);

1446 b. The total of the amounts of benefits
1447 charged to the experience-rating records of all ineligible
1448 employers which would cause their benefit ratios to exceed five
1449 and four-tenths percent (5.4%) if they were eligible employers;
1450 and

1451 c. The total of the amounts of benefits
1452 charged or chargeable to the experience-rating record of any
1453 employer who has discontinued his or her business or whose
1454 coverage has been terminated within such period; provided, that
1455 solely for the purposes of determining the amounts of
1456 ineffectively charged benefits as herein defined, a "benefit
1457 ratio" shall be computed for each ineligible employer, which shall
1458 be the quotient obtained by dividing the total benefits charged to
1459 his or her experience-rating record throughout the period ending
1460 on the computation date, during which his or her experience-rating
1461 record has been chargeable with benefits, by his or her total
1462 taxable payroll for the same period on which all unemployment
1463 insurance contributions due have been paid on or before the
1464 September 30 immediately following the computation date; and
1465 provided further, that such benefit ratio shall be computed to the

1466 tenth of one percent (.1%) and any remainder shall be rounded to
1467 the next higher tenth.

1468 The ratio of the sum of these amounts (subsection
1469 (2)(b)(v)3a, b and c) to the taxable wages paid during the same
1470 period divided by all eligible employers whose benefit ratio did
1471 not exceed five and four-tenths percent (5.4%), computed to the
1472 next higher tenth of one percent (.1%), shall be the general
1473 experience rate; however, the general experience rate for rate
1474 year 2014 shall be two tenths of one percent (.2%) and to that
1475 will be added the employer's individual experience rate for the
1476 total unemployment insurance rate.

1477 4. a. Except as otherwise provided in this
1478 item 4, the general experience rate shall be adjusted by use of
1479 the size of fund index factor. This factor may be positive or
1480 negative, and shall be determined as follows: From the target
1481 SOFI, as defined in subsection (1)(k) of this section, subtract
1482 the simple average of the current and preceding years' exposure
1483 criteria divided by the cost rate criterion, as defined in
1484 subsection (1)(j) of this section. The result is then multiplied
1485 by the product of the CRC, as defined in subsection (1)(j) of this
1486 section, and total wages for the twelve-month period ending June
1487 30 divided by the taxable wages for the twelve-month period ending
1488 June 30. This is the percentage positive or negative added to the
1489 general experience rate. The sum of the general experience rate
1490 and the trust fund adjustment factor shall be multiplied by fifty

1491 percent (50%) and this product shall be computed to one (1)
1492 decimal place, and rounded to the next higher tenth.

1493 b. Notwithstanding the minimum rate
1494 provisions as set forth in subsection (1)(1) of this section, the
1495 general experience rate of all employers shall be reduced by seven
1496 one-hundredths of one percent (.07%) for calendar year 2013 only.

1497 5. The general experience rate shall be zero
1498 percent (0%) unless the general experience ratio for any tax year
1499 as computed and adjusted on the basis of the trust fund adjustment
1500 factor and reduced by fifty percent (50%) is an amount equal to or
1501 greater than two-tenths of one percent (.2%), then the general
1502 experience rate shall be the computed general experience ratio and
1503 adjusted on the basis of the trust fund adjustment factor and
1504 reduced by fifty percent (50%); however, in no case shall the sum
1505 of the general experience plus the individual experience
1506 unemployment insurance rate exceed five and four-tenths percent
1507 (5.4%). For rate years subsequent to 2014, Mississippi Workforce
1508 Enhancement Training contribution rate, and/or * * * Mississippi
1509 K-12 Workforce Development Grant Program contribution rate, and/or
1510 Mississippi Works contribution rate, when in effect, shall be
1511 added to the unemployment contribution rate, regardless of whether
1512 the addition of this contribution rate causes the total
1513 contribution rate for the employer to exceed five and four-tenths
1514 percent (5.4%).

1515 6. The department shall include in its annual
1516 rate notice to employers a brief explanation of the elements of

1517 the general experience rate, and shall include in its regular
1518 publications an annual analysis of benefits not charged to the
1519 record of any employer, and of the benefit experience of employers
1520 by industry group whose benefit ratio exceeds four percent (4%),
1521 and of any other factors which may affect the size of the general
1522 experience rate.

1523 7. Notwithstanding any other provision
1524 contained herein, the general experience rate for calendar year
1525 2021 shall be zero percent (0%). Charges attributed to each
1526 employer's individual experience rate for the period March 8,
1527 2020, through June 30, 2020, will not impact the employer's
1528 individual experience rate calculations for purposes of
1529 calculating the total unemployment insurance rate for 2021 and the
1530 two (2) subsequent tax rate years. Moreover, charges attributed
1531 to each employer's individual experience rate for the period July
1532 1, 2020, through December 31, 2020, will not impact the employer's
1533 individual experience rate calculations for purposes of
1534 calculating the total unemployment insurance rate for 2022 and the
1535 two (2) subsequent tax rate years.

1536 (vi) When any employing unit in any manner
1537 succeeds to or acquires the organization, trade, business or
1538 substantially all the assets thereof of an employer, excepting any
1539 assets retained by such employer incident to the liquidation of
1540 his or her obligations, whether or not such acquiring employing
1541 unit was an employer within the meaning of Section 71-5-11,
1542 subsection H, prior to such acquisition, and continues such

1543 organization, trade or business, the experience-rating and payroll
1544 records of the predecessor employer shall be transferred as of the
1545 date of acquisition to the successor employer for the purpose of
1546 rate determination.

1547 (vii) When any employing unit succeeds to or
1548 acquires a distinct and severable portion of an organization,
1549 trade or business, the experience-rating and payroll records of
1550 such portion, if separately identifiable, shall be transferred to
1551 the successor upon:

1552 1. The mutual consent of the predecessor and
1553 the successor;

1554 2. Approval of the department;

1555 3. Continued operation of the transferred
1556 portion by the successor after transfer; and

1557 4. The execution and the filing with the
1558 department by the predecessor employer of a waiver relinquishing
1559 all rights to have the experience-rating and payroll records of
1560 the transferred portion used for the purpose of determining
1561 modified rates of contribution for such predecessor.

1562 (viii) If the successor was an employer subject to
1563 this chapter prior to the date of acquisition, it shall continue
1564 to pay unemployment insurance contributions at the rate applicable
1565 to it from the date the acquisition occurred until the end of the
1566 then current tax year. If the successor was not an employer prior
1567 to the date of acquisition, it shall pay unemployment insurance
1568 contributions at the rate applicable to the predecessor or, if

1569 more than one (1) predecessor and the same rate is applicable to
1570 both, the rate applicable to the predecessor or predecessors, from
1571 the date the acquisition occurred until the end of the then
1572 current tax year. If the successor was not an employer prior to
1573 the date the acquisition occurred and simultaneously acquires the
1574 businesses of two (2) or more employers to whom different rates of
1575 unemployment insurance contributions are applicable, it shall pay
1576 unemployment insurance contributions from the date of the
1577 acquisition until the end of the current tax year at a rate
1578 computed on the basis of the combined experience-rating and
1579 payroll records of the predecessors as of the computation date for
1580 such tax year. In all cases the rate of unemployment insurance
1581 contributions applicable to such successor for each succeeding tax
1582 year shall be computed on the basis of the combined
1583 experience-rating and payroll records of the successor and the
1584 predecessor or predecessors.

1585 (ix) The department shall notify each employer
1586 quarterly of the benefits paid and charged to his or her
1587 experience-rating record; and such notification, in the absence of
1588 an application for redetermination filed within thirty (30) days
1589 after the date of such notice, shall be final, conclusive and
1590 binding upon the employer for all purposes. A redetermination,
1591 made after notice and opportunity for a fair hearing, by a hearing
1592 officer designated by the department who shall consider and decide
1593 these and related applications and protests; and the finding of
1594 fact in connection therewith may be introduced into any subsequent

1595 administrative or judicial proceedings involving the determination
1596 of the rate of unemployment insurance contributions of any
1597 employer for any tax year, and shall be entitled to the same
1598 finality as is provided in this subsection with respect to the
1599 findings of fact in proceedings to redetermine the contribution
1600 rate of an employer.

1601 (x) The department shall notify each employer of
1602 his or her rate of contribution as determined for any tax year as
1603 soon as reasonably possible after September 1 of the preceding
1604 year. Such determination shall be final, conclusive and binding
1605 upon such employer unless, within thirty (30) days after the date
1606 of such notice to his or her last-known address, the employer
1607 files with the department an application for review and
1608 redetermination of his or her contribution rate, setting forth his
1609 or her reasons therefor. If the department grants such review,
1610 the employer shall be promptly notified thereof and shall be
1611 afforded an opportunity for a fair hearing by a hearing officer
1612 designated by the department who shall consider and decide these
1613 and related applications and protests; but no employer shall be
1614 allowed, in any proceeding involving his or her rate of
1615 unemployment insurance contributions or contribution liability, to
1616 contest the chargeability to his or her account of any benefits
1617 paid in accordance with a determination, redetermination or
1618 decision pursuant to Sections 71-5-515 through 71-5-533 except
1619 upon the ground that the services on the basis of which such
1620 benefits were found to be chargeable did not constitute services

1621 performed in employment for him or her, and then only in the event
1622 that he or she was not a party to such determination,
1623 redetermination, decision or to any other proceedings provided in
1624 this chapter in which the character of such services was
1625 determined. The employer shall be promptly notified of the denial
1626 of this application or of the redetermination, both of which shall
1627 become final unless, within ten (10) days after the date of notice
1628 thereof, there shall be an appeal to the department itself. Any
1629 such appeal shall be on the record before said designated hearing
1630 officer, and the decision of said department shall become final
1631 unless, within thirty (30) days after the date of notice thereof
1632 to the employer's last-known address, there shall be an appeal to
1633 the Circuit Court of the First Judicial District of Hinds County,
1634 Mississippi, in accordance with the provisions of law with respect
1635 to review of civil causes by certiorari.

1636 (3) Notwithstanding any other provision of law, the
1637 following shall apply regarding assignment of rates and transfers
1638 of experience:

1639 (a) (i) If an employer transfers its trade or
1640 business, or a portion thereof, to another employer and, at the
1641 time of the transfer, there is substantially common ownership,
1642 management or control of the two (2) employers, then the
1643 unemployment experience attributable to the transferred trade or
1644 business shall be transferred to the employer to whom such
1645 business is so transferred. The rates of both employers shall be

1646 recalculated and made effective on January 1 of the year following
1647 the year the transfer occurred.

1648 (ii) If, following a transfer of experience under
1649 subparagraph (i) of this paragraph (a), the department determines
1650 that a substantial purpose of the transfer of trade or business
1651 was to obtain a reduced liability of unemployment insurance
1652 contributions, then the experience-rating accounts of the
1653 employers involved shall be combined into a single account and a
1654 single rate assigned to such account.

1655 (b) Whenever a person who is not an employer or an
1656 employing unit under this chapter at the time it acquires the
1657 trade or business of an employer, the unemployment experience of
1658 the acquired business shall not be transferred to such person if
1659 the department finds that such person acquired the business solely
1660 or primarily for the purpose of obtaining a lower rate of
1661 unemployment insurance contributions. Instead, such person shall
1662 be assigned the new employer rate under Section 71-5-353, unless
1663 assignment of the new employer rate results in an increase of less
1664 than two percent (2%), in which case such person would be assigned
1665 the new employer rate plus an additional two percent (2%) penalty
1666 for the rate year. In determining whether the business was
1667 acquired solely or primarily for the purpose of obtaining a lower
1668 rate of unemployment insurance contributions, the department shall
1669 use objective factors which may include the cost of acquiring the
1670 business, whether the person continued the business enterprise of
1671 the acquired business, how long such business enterprise was

1672 continued, or whether a substantial number of new employees were
1673 hired for performance of duties unrelated to the business activity
1674 conducted prior to acquisition.

1675 (c) (i) If a person knowingly violates or attempts to
1676 violate paragraph (a) or (b) of this subsection or any other
1677 provision of this chapter related to determining the assignment of
1678 a contribution rate, or if a person knowingly advises another
1679 person in a way that results in a violation of such provision, the
1680 person shall be subject to the following penalties:

1681 1. If the person is an employer, then such
1682 employer shall be assigned the highest rate assignable under this
1683 chapter for the rate year during which such violation or attempted
1684 violation occurred and the three (3) rate years immediately
1685 following this rate year. However, if the person's business is
1686 already at such highest rate for any year, or if the amount of
1687 increase in the person's rate would be less than two percent (2%)
1688 for such year, then the person's tax rate shall be increased by
1689 two percent (2%) for such year. The penalty rate will apply to
1690 the successor business as well as the related entity from which
1691 the employees were transferred in an effort to obtain a lower rate
1692 of unemployment insurance contributions.

1693 2. If the person is not an employer, such
1694 person shall be subject to a civil money penalty of not more than
1695 Five Thousand Dollars (\$5,000.00). Each such transaction for
1696 which advice was given and each occurrence or reoccurrence after
1697 notification being given by the department shall be a separate

1698 offense and punishable by a separate penalty. Any such fine shall
1699 be deposited in the penalty and interest account established under
1700 Section 71-5-114.

1701 (ii) For purposes of this paragraph (c), the term
1702 "knowingly" means having actual knowledge of or acting with
1703 deliberate ignorance or reckless disregard for the prohibition
1704 involved.

1705 (iii) For purposes of this paragraph (c), the term
1706 "violates or attempts to violate" includes, but is not limited to,
1707 intent to evade, misrepresentation or willful nondisclosure.

1708 (iv) In addition to the penalty imposed by
1709 subparagraph (i) of this paragraph (c), any violation of this
1710 subsection may be punishable by a fine of not more than Ten
1711 Thousand Dollars (\$10,000.00) or by imprisonment for not more than
1712 five (5) years, or by both such fine and imprisonment. This
1713 subsection shall prohibit prosecution under any other criminal
1714 statute of this state.

1715 (d) The department shall establish procedures to
1716 identify the transfer or acquisition of a business for purposes of
1717 this subsection.

1718 (e) For purposes of this subsection:

1719 (i) "Person" has the meaning given such term by
1720 Section 7701(a)(1) of the Internal Revenue Code of 1986; and

1721 (ii) "Employing unit" has the meaning as set forth
1722 in Section 71-5-11.

1723 (f) This subsection shall be interpreted and applied in
1724 such a manner as to meet the minimum requirements contained in any
1725 guidance or regulations issued by the United States Department of
1726 Labor.

1727 **SECTION 6.** Section 71-5-453, Mississippi Code of 1972, is
1728 amended as follows:

1729 71-5-453. The department shall be the treasurer and
1730 custodian of the fund, and shall administer such fund in
1731 accordance with the directions of the department, and shall issue
1732 its warrants upon it in accordance with such regulations as the
1733 department shall prescribe. The department shall maintain within
1734 the fund three (3) separate accounts: (a) a clearing account, (b)
1735 an unemployment trust fund account, and (c) a benefit payment
1736 account. All monies payable to the fund, upon receipt thereof by
1737 the department, shall be immediately deposited in the clearing
1738 account. Refunds payable pursuant to Section 71-5-383 may be paid
1739 from the clearing account by the department. Transfers pursuant
1740 to Section 71-5-114 of all interest, penalties and damages
1741 collected shall be made to the Special Employment Security
1742 Administration Fund as soon as practicable after the end of each
1743 calendar quarter. Workforce Enhancement Training
1744 contributions, * * * Mississippi K-12 Workforce Development Grant
1745 Program contributions and Mississippi Works contributions shall be
1746 deposited into the Workforce Investment and Training Holding
1747 Account as described in this section. All other monies in the
1748 clearing account shall be immediately deposited with the Secretary

1749 of the Treasury of the United States of America to the
1750 Unemployment Trust Fund account for the State of Mississippi,
1751 established and maintained pursuant to Section 904 of the Social
1752 Security Act, as amended, any provisions of law in this state
1753 relating to the deposit, administration, release or disbursement
1754 of monies in the possession or custody of this state to the
1755 contrary notwithstanding. The benefit account shall consist of
1756 all monies requisitioned from this state's account in the
1757 Unemployment Trust Fund. Except as herein otherwise provided,
1758 monies in the clearing and benefit accounts may be deposited by
1759 the department, in any bank or public depository in which general
1760 funds of the state may be deposited, but no public deposit
1761 insurance charge or premium shall be paid out of the fund. The
1762 department shall be liable for the faithful performance of its
1763 duties in connection with the Unemployment Compensation Fund under
1764 this chapter. A Workforce Investment and Training Holding Account
1765 shall be established by and maintained under the control of the
1766 Mississippi Department of Employment Security. Contributions
1767 collected pursuant to the provisions in this chapter for the
1768 Workforce Enhancement Training Fund, * * * Mississippi K-12
1769 Workforce Development Grant Program Fund and the Mississippi Works
1770 Fund shall be transferred from the clearing account into the
1771 Workforce Investment and Training Holding Account on the same
1772 schedule and under the same conditions as funds transferred to the
1773 Unemployment Compensation Fund. Such funds shall remain on
1774 deposit in the holding account for a period of thirty (30) days.

1775 After such period, Workforce Enhancement Training contributions
1776 shall be transferred to the appropriate Mississippi Community
1777 College Board Treasury Account, with oversight provided by the
1778 Mississippi Office of Workforce Development, by the department.
1779 The * * * Mississippi K-12 Workforce Development Grant program
1780 contributions shall be transferred to the * * * Mississippi K-12
1781 Workforce Development Grant Program Treasury Account for the
1782 Mississippi K-12 Workforce Development Grant Program Fund. The
1783 Mississippi Works contributions shall be transferred to the
1784 Mississippi Department of Employment Security Treasury Account for
1785 the Mississippi Works Fund. Such transfers shall occur within
1786 fifteen (15) days after the funds have resided in the Workforce
1787 Investment and Training Holding Account for thirty (30) days. One
1788 (1) such transfer shall be made monthly, but the department, in
1789 its discretion, may make additional transfers in any month. In
1790 the event such funds transferred are subsequently determined to be
1791 erroneously paid or collected, or if deposit of such funds is
1792 denied or rejected by the banking institution for any reason, or
1793 deposits are unable to clear drawer's account for any reason, the
1794 funds must be reimbursed by the recipient of such funds within
1795 thirty (30) days of mailing of notice by the department demanding
1796 such refund, unless funds are available in the Workforce
1797 Investment and Training Holding Account. In that event such
1798 amounts shall be immediately withdrawn from the Workforce
1799 Investment and Training Holding Account by the department and
1800 redeposited into the clearing account.

1801 **SECTION 7.** Section 25-61-5, Mississippi Code of 1972, is
1802 amended as follows:

1803 25-61-5. (1) (a) Except as otherwise provided by Sections
1804 25-61-9, 25-61-11 * * *, 25-61-11.2 and 37-153-7, all public
1805 records are hereby declared to be public property, and any person
1806 shall have the right to inspect, copy or mechanically reproduce or
1807 obtain a reproduction of any public record of a public body in
1808 accordance with reasonable written procedures adopted by the
1809 public body concerning the cost, time, place and method of access,
1810 and public notice of the procedures shall be given by the public
1811 body, or, if a public body has not adopted written procedures, the
1812 right to inspect, copy or mechanically reproduce or obtain a
1813 reproduction of a public record of the public body shall be
1814 provided within one (1) working day after a written request for a
1815 public record is made. No public body shall adopt procedures
1816 which will authorize the public body to produce or deny production
1817 of a public record later than seven (7) working days from the date
1818 of the receipt of the request for the production of the record.

1819 (b) If a public body is unable to produce a public
1820 record by the seventh working day after the request is made, the
1821 public body must provide a written explanation to the person
1822 making the request stating that the record requested will be
1823 produced and specifying with particularity why the records cannot
1824 be produced within the seven-day period. Unless there is mutual
1825 agreement of the parties, or the information requested is part of
1826 ongoing negotiations related to a request for competitive sealed

1827 proposals, in no event shall the date for the public body's
1828 production of the requested records be any later than fourteen
1829 (14) working days from the receipt by the public body of the
1830 original request. Production of competitive sealed proposals in
1831 accordance with requests made pursuant to this section shall be no
1832 later than seven (7) working days after the notice of intent to
1833 award is issued to the winning proposer. Persons making a request
1834 for production of competitive sealed proposals after the notice of
1835 intent to award is issued by the public body shall have a
1836 reasonable amount of time, but in no event less than seven (7)
1837 working days after the production of the competitive sealed
1838 proposals, to protest the procurement or intended award prior to
1839 contract execution. However, in any instance where a person has
1840 filed for a protective order for a competitive sealed proposal and
1841 the court has not ruled on the protective order within ninety (90)
1842 days of filing, then the public body may proceed with awarding the
1843 contract without production of competitive sealed proposals and
1844 the contract may be protested after execution.

1845 (2) If any public record contains material which is not
1846 exempted under this chapter, the public agency shall redact the
1847 exempted material and make the nonexempted material available for
1848 examination. Such public agency shall be entitled to charge a
1849 reasonable fee for the redaction of any exempted material, not to
1850 exceed the agency's actual cost.

1851 (3) Denial by a public body of a request for access to or
1852 copies of public records under this chapter shall be in writing

1853 and shall contain a statement of the specific exemption relied
1854 upon by the public body for the denial. Each public body shall
1855 maintain a file of all denials of requests for public records.
1856 Public bodies shall be required to preserve such denials on file
1857 for not less than three (3) years from the date such denials are
1858 made. This file shall be made available for inspection or
1859 copying, or both, during regular office hours to any person upon
1860 written request.

1861 (4) This section shall stand repealed on July 1, 2024.

1862 **SECTION 8.** This act shall take effect and be in force from
1863 and after July 1, 2023, and shall stand repealed on June 30, 2023.

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

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 PROVIDE
30 TIME-LIMITED EXEMPTIONS FROM THE MISSISSIPPI PUBLIC RECORDS ACT
31 FOR CERTAIN RECORDS AND CONFIDENTIAL CLIENT INFORMATION FROM THE
32 MISSISSIPPI DEVELOPMENT AUTHORITY OR LOCAL ECONOMIC DEVELOPMENT
33 ENTITIES HELD BY THE OFFICE OF WORKFORCE DEVELOPMENT; TO AMEND
34 SECTIONS 71-5-355, 71-5-453 AND 27-104-7, MISSISSIPPI CODE OF
35 1972, TO CONFORM TO THE PROVISIONS OF THIS ACT; TO AMEND SECTION
36 25-61-5, MISSISSIPPI CODE OF 1972, TO CONFORM; AND FOR RELATED
37 PURPOSES.

HR26\SB2810PH.J

Andrew Ketchings
Clerk of the House of Representatives