

By: Representative Roberson

To: Workforce Development

HOUSE BILL NO. 588
(As Sent to Governor)

1 AN ACT TO AMEND SECTION 71-5-353, MISSISSIPPI CODE OF 1972,
2 TO CREATE THE MISSISSIPPI OFFICE OF WORKFORCE DEVELOPMENT FUND IN
3 THE STATE TREASURY WHICH SHALL CONSIST OF FUNDS COLLECTED FROM THE
4 OFFICE OF WORKFORCE DEVELOPMENT CONTRIBUTIONS AND ANY OTHER MONIES
5 THAT MAY BE APPROPRIATED TO IT FROM THE LEGISLATURE; TO PROVIDE
6 THAT THE STATE WORKFORCE INVESTMENT BOARD CONTRIBUTIONS THAT WERE
7 BEING DEPOSITED INTO THE STATE WORKFORCE INVESTMENT BOARD BANK
8 ACCOUNT SHALL NOW BE CONTRIBUTIONS FOR THE MISSISSIPPI OFFICE OF
9 WORKFORCE DEVELOPMENT AND DEPOSITED INTO THE MISSISSIPPI OFFICE OF
10 WORKFORCE DEVELOPMENT FUND; TO PROVIDE THAT ADMINISTRATIVE FEES
11 COLLECTED FOR THE TRAINING PROVIDED USING THE MISSISSIPPI
12 WORKFORCE ENHANCEMENT TRAINING AND MISSISSIPPI WORKS FUNDS MAY NOT
13 BE MORE THAN FIVE PERCENT; TO PROVIDE THAT THE MISSISSIPPI
14 DEPARTMENT OF EMPLOYMENT SECURITY SHALL BE THE FISCAL AGENT FOR
15 ALL FUNDS APPROPRIATED TO IT FOR USE BY THE OFFICE OF WORKFORCE
16 DEVELOPMENT; TO CREATE A NEW SECTION THAT ESTABLISHES THE
17 MISSISSIPPI K-12 WORKFORCE DEVELOPMENT GRANT PROGRAM; TO PROVIDE
18 THAT THE PURPOSE FOR THE GRANT PROGRAM SHALL BE FOR CONSTRUCTING,
19 REMODELING, PURCHASING OR UPGRADING EQUIPMENT OR OTHERWISE
20 PROVIDING SUPPORT TO CAREER TECHNICAL CENTERS AT THE K-12
21 EDUCATION LEVEL; TO PROVIDE HOW A SCHOOL MAY APPLY FOR A GRANT; TO
22 PROVIDE THAT MAXIMUM AMOUNT OF FUNDS THAT MAY BE USED FOR
23 ADMINISTERING THE PROGRAM; TO PROVIDE THE REPORTING REQUIREMENTS
24 OF THE PROGRAM; TO AMEND SECTION 37-153-7, MISSISSIPPI CODE OF
25 1972, TO REVISE THE REPORTING REQUIREMENTS OF THE OFFICE OF
26 WORKFORCE DEVELOPMENT; TO PROVIDE SPECIFIC POWERS AND DUTIES FOR
27 THE OFFICE OF WORKFORCE DEVELOPMENT; TO PROVIDE TIME-LIMITED
28 EXEMPTIONS FROM THE MISSISSIPPI PUBLIC RECORDS ACT FOR CERTAIN
29 RECORDS AND CONFIDENTIAL CLIENT INFORMATION FROM THE MISSISSIPPI
30 DEVELOPMENT AUTHORITY OR LOCAL ECONOMIC DEVELOPMENT ENTITIES HELD
31 BY THE OFFICE OF WORKFORCE DEVELOPMENT; TO AMEND SECTIONS 71-5-355
32 AND 71-5-453, MISSISSIPPI CODE OF 1972, TO CONFORM TO THE
33 PROVISIONS OF THIS ACT; TO AMEND SECTION 27-104-7, MISSISSIPPI
34 CODE OF 1972, AS AMENDED BY HOUSE BILL NO. 249, HOUSE BILL NO. 540



35 AND SENATE BILL NO. 2810, 2023 REGULAR SESSION, TO CONFORM TO THE
36 PROVISIONS OF THIS ACT; TO AMEND SECTION 25-61-5, MISSISSIPPI CODE
37 OF 1972, TO CONFORM; AND FOR RELATED PURPOSES.

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

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 Office of Workforce Development Fund"
72 which consist of funds collected pursuant to subsection (3) of
73 this section and any other monies that may be appropriated to the
74 funds from the Legislature.

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

- 83 1. Unemployment contributions;
84 2. Mississippi Workforce Enhancement Training
85 contributions, * * * Mississippi Office of Workforce Development
86 contributions and the Mississippi Works contributions, known



87 collectively as the Mississippi Workforce Investment and Training
88 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 Office of Workforce Development contribution and the Mississippi
99 Works contribution shall be allocated based on a plan approved by
100 the United States Department of Labor (USDOL). The Mississippi
101 Community College Board shall pay the cost of collecting the
102 Mississippi Workforce Enhancement Training contributions,
103 the * * * Office of Workforce Development shall pay the cost of
104 collecting the * * * Mississippi Office of Workforce Development
105 contributions and the Mississippi Department of Employment
106 Security shall pay the cost of collecting the Mississippi Works
107 contributions. Payments shall be made semiannually with the cost
108 allocated to each based on a USDOL approved plan on a pro rata
109 basis, for periods ending in June and December of each year.
110 Payment shall be made by each organization to the department no
111 later than sixty (60) days after the billing date. Cost shall be



112 allocated under the USDOL's approved plan and in the same ratio as
113 each contribution type represents to the total authorized by
114 subparagraph (ii)2 of this paragraph to be collected for the
115 period.

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

124 * * *

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



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



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

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



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



212 Legislature. A performance report for each training project and
213 community college, based upon these measures, shall be submitted
214 annually to the Governor, Lieutenant Governor, Speaker of the
215 House, and members of the Legislature.

216 (ii) Except as otherwise provided in this
217 paragraph (e), all funds deposited into the * * * Mississippi
218 Office of Workforce Development Fund shall be used for any of the
219 following purposes: administration of State Workforce Investment
220 Board business, the Office of Workforce Development, grants
221 related to training, the Mississippi K-12 Workforce Development
222 Grant Program, and other projects as determined appropriate by
223 the * * * Office of Workforce Development. Any funds remaining in
224 the State Workforce Investment board bank account on June 30,
225 2023, shall be transferred to the Mississippi Office of Workforce
226 Development Fund.

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



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

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

260 2. * * * The Office of Workforce Development,
261 in coordination with the Mississippi Department of Employment



262 Security as fiscal agent, shall ensure that any funds expended for
263 contractual services rendered to the Office of Workforce
264 Development over Five Thousand Dollars (\$5,000.00) shall be paid
265 only to service providers who have been selected on a competitive
266 basis. Any contract for services entered into using funds * * *
267 appropriated to the Mississippi Department of Employment Security
268 for the Office of Workforce Development shall meet the
269 requirements * * * established in policies approved by the State
270 Workforce Investment Board's executive committee deemed to be
271 practical, feasible and in the public interest.

272 3. Any commodities over Five Thousand Dollars
273 (\$5,000.00) procured for the office * * * to further its purpose
274 shall be procured competitively, in accordance with office
275 policies approved by the State Workforce Investment Board's
276 executive committee deemed to be practical, feasible and in the
277 public interest.

278 * * *

279 (3) (a) (i) Mississippi Workforce Enhancement Training
280 contributions and * * * Mississippi Office of Workforce
281 Development contributions shall be collected * * * for calendar
282 years * * * after calendar year 2016 * * * at a rate of twenty
283 one-hundredths percent (.20%), based upon taxable wages, of which
284 fifteen one-hundredths percent (.15%) shall be the Workforce
285 Enhancement Training contribution, one-hundredths of one percent
286 (.01%) shall be the * * * Mississippi Office of Workforce



287 Development contribution and four one-hundredths percent (.04%)
288 shall be the Mississippi Works contribution. The Mississippi
289 Works contribution shall be collected for calendar years in which
290 the general experience ratio, adjusted on the basis of the trust
291 fund adjustment factor and reduced by fifty percent (50%), results
292 in a general experience rate of less than two-tenths percent
293 (.2%). In all other years the Mississippi Works contribution
294 shall not be in effect.

295 (* * * ii) The Mississippi Workforce Enhancement
296 Training Fund contribution, the * * * Mississippi Office of
297 Workforce Development Fund contribution and the Mississippi Works
298 contribution shall be in addition to the general experience rate
299 plus the individual experience rate of all employers but shall not
300 be charged to reimbursing or rate-paying political subdivisions or
301 institutions of higher learning, or reimbursing nonprofit
302 organizations, as described in Sections 71-5-357 and 71-5-359.

303 (b) All Mississippi Workforce Enhancement Training
304 contributions, * * * Mississippi Office of Workforce Development
305 contributions and Mississippi Works contributions collected shall
306 be deposited initially into the Mississippi Department of
307 Employment Security bank account for clearing contribution
308 collections and shall within two (2) business days be transferred
309 to the Workforce Investment and Training Holding Account. Any
310 Mississippi Workforce Enhancement Training Fund and/or * * *
311 Mississippi Office of Workforce Development Fund and/or



312 Mississippi Works Fund transactions from the Mississippi
313 Department of Employment Security bank account for clearing
314 contribution collections that are deposited into the Workforce
315 Investment and Training Fund Holding Account and are not honored
316 by a financial institution will be transferred back to the
317 Mississippi Department of Employment Security bank account for
318 clearing contribution collections out of funds in the Mississippi
319 Workforce Investment and Training Fund Holding Account.

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

335 (d) Notwithstanding any other provision contained
336 herein, contribution collections for the * * * Mississippi Office



337 of Workforce Development Fund, Mississippi Works Fund and
338 Mississippi Workforce Enhancement Training Fund shall not be
339 suspended, under any circumstances, for tax rate year 2021, and
340 the resulting contribution rate of twenty one-hundredths percent
341 (.20%) shall be added to the employer's general and individual
342 experience rate to obtain the total unemployment insurance rate
343 for 2021.

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

348 **SECTION 2.** (1) The Office of Workforce Development shall
349 establish and administer the Mississippi K-12 Workforce
350 Development Grant Program for the purpose of constructing,
351 remodeling, purchasing or upgrading equipment or otherwise
352 providing support to career technical centers at the K-12
353 education level. The grant program shall be funded from any funds
354 available to the Office of Workforce Development.

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

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



362 (b) The purpose of the program;
363 (c) Whether the program fits into the ecosystem for the
364 training needs in the area;
365 (d) Evidence of the school's local involvement with
366 industry partners in the area; and
367 (e) Any other information that the office determines is
368 necessary.

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

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

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

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



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

388 (a) The Governor, or his designee;

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

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

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

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

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



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

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

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

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

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

431 (iii) The balance shall include government
432 representatives, including the lead state officials with primary
433 responsibility for core programs, and chief elected officials



434 (collectively representing both cities and counties, where
435 appropriate);

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

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

441 (e) The following state officials:

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

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

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

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

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

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

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

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



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

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

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

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

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

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

481 (4) The Mississippi Department of Employment Security shall
482 establish limits on administrative costs for each portion of
483 Mississippi's workforce development system consistent with the



484 federal Workforce Investment Act or any future federal workforce
485 legislation.

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

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

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

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

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



509 the Mississippi Comprehensive Workforce Training and Education
510 Consolidation Act;

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

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



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

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

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

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

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

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

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



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

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

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

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

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

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

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



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

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

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



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

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

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

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

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

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

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

628 (a) Be a person with extensive experience in
629 development of economic, human and physical resources, and



630 promotion of industrial and commercial development. The executive
631 director shall have a bachelor's degree from a state-accredited
632 institution and no less than eight (8) years of professional
633 experience related to workforce or economic development;

634 (b) Perform the functions necessary for the daily
635 operation and administration of the office, with oversight from
636 the executive committee and the State Workforce Investment Board,
637 to fulfill the duties of the state board as described in Chapter
638 476, Laws of 2020;

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

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

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

650 (f) Promulgate rules and regulations, subject to
651 oversight by the executive committee, not inconsistent with this
652 article, as may be necessary to enforce the provisions in Chapter
653 476, Laws of 2020; and



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

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

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

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



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

- 680 (i) The location of the training;
- 681 (ii) The amount allocated to the project;
- 682 (iii) The purpose of the project;
- 683 (iv) The specific business entity that is the
684 beneficiary of the project; * * *
- 685 (v) The number of employees intended to be trained
686 and actually trained, if applicable, in the course of the
687 project * * *; and
- 688 (vi) The types of funds used for the project;

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

- 692 (i) The entity that was awarded the grant;
- 693 (ii) The amount allocated to the grant;
- 694 (iii) The purpose of the grant; and
- 695 (iv) How the grant has been used since it was
696 awarded; and

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

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



702 including necessary online platforms and similar systems in
703 furtherance of the mission of the office;

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

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

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

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

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

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



726 (b) The ability to enter into nondisclosure agreements
727 to effectively support economic development activities and the
728 proprietary nature of customized training for existing and new
729 industry;

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

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

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

746 (f) To determine, subject to appropriation, the need
747 for and, if desired, the selection of tools and resources,
748 including necessary online platforms and similar systems in
749 furtherance of the mission of the office, through processes
750 established in policies adopted by the office that are deemed to



751 be practical, feasible and in the public interest. These
752 processes shall outline eligible entities that may provide such
753 services, such as companies, nonprofit organizations, or other
754 similar groups and shall ensure the office determines metrics for
755 success, including deliverables as required by the office;

756 (g) To implement the career coaching program provided
757 for in Section 37-73-3;

758 (h) To provide career coaches with access to technology
759 to develop customized career pathways and connect students with
760 post-secondary and employment opportunities matching their skills
761 and interests; and

762 (i) To implement and oversee programs providing support
763 to community and junior colleges for training needs that may arise
764 when new businesses locate in Mississippi, to include providing
765 support to existing industries that may lose employees as a result
766 of the new business.

767 Through December 31, 2024, the provisions of Section 27-104-7
768 related to rental agreements or leasing of real property for the
769 purpose of conducting agency business shall not apply to the
770 office.

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



776 (13) Any records of the office which contain client
777 information from the Mississippi Development Authority or local
778 economic development entities concerning development projects
779 shall be exempt from the provisions of the Mississippi Public
780 Records Act of 1983 for a period of two (2) years after receipt of
781 the information by the office. Confidential client information as
782 described in this section shall not include the information which
783 must be disclosed by the certified applicant related to a
784 qualified economic development project in the annual report
785 described in Section 57-1-759.

786 (14) Confidential client information in public records held
787 by the office shall be exempt from the provisions of the
788 Mississippi Public Records Act of 1983 during any period of review
789 and negotiation on a project proposal facilitated by the
790 Mississippi Development Authority or local economic development
791 entities and for a period of thirty (30) days after approval,
792 disapproval or abandonment of the proposal not to exceed one (1)
793 year.

794 **SECTION 4.** Section 27-104-7, Mississippi Code of 1972, as
795 amended by House Bill No. 249, House Bill No. 540 and Senate Bill
796 No. 2887, 2023 Regular Session, is amended as follows:

797 27-104-7. (1) (a) There is created the Public Procurement
798 Review Board, which shall be reconstituted on January 1, 2018, and
799 shall be composed of the following members:



800 (i) Three (3) individuals appointed by the
801 Governor with the advice and consent of the Senate;
802 (ii) Two (2) individuals appointed by the
803 Lieutenant Governor with the advice and consent of the Senate; and
804 (iii) The Executive Director of the Department of
805 Finance and Administration, serving as an ex officio and nonvoting
806 member.

807 (b) The initial terms of each appointee shall be as
808 follows:

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

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

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

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

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

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

823 (c) When appointing members to the Public Procurement
824 Review Board, the Governor and Lieutenant Governor shall take into



825 consideration persons who possess at least five (5) years of
826 management experience in general business, health care or finance
827 for an organization, corporation or other public or private
828 entity. Any person, or any employee or owner of a company, who
829 receives any grants, procurements or contracts that are subject to
830 approval under this section shall not be appointed to the Public
831 Procurement Review Board. Any person, or any employee or owner of
832 a company, who is a principal of the source providing a personal
833 or professional service shall not be appointed to the Public
834 Procurement Review Board if the principal owns or controls a
835 greater than five percent (5%) interest or has an ownership value
836 of One Million Dollars (\$1,000,000.00) in the source's business,
837 whichever is smaller. No member shall be an officer or employee
838 of the State of Mississippi while serving as a voting member on
839 the Public Procurement Review Board.

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

843 (e) The members of the Public Procurement Review Board
844 shall elect a chair from among the membership, and he or she shall
845 preside over the meetings of the board. The board shall annually
846 elect a vice chair, who shall serve in the absence of the chair.
847 No business shall be transacted, including adoption of rules of
848 procedure, without the presence of a quorum of the board. Three
849 (3) members shall be a quorum. No action shall be valid unless



850 approved by a majority of the members present and voting, entered
851 upon the minutes of the board and signed by the chair. Necessary
852 clerical and administrative support for the board shall be
853 provided by the Department of Finance and Administration. Minutes
854 shall be kept of the proceedings of each meeting, copies of which
855 shall be filed on a monthly basis with the chairs of the
856 Accountability, Efficiency and Transparency Committees of the
857 Senate and House of Representatives and the chairs of the
858 Appropriations Committees of the Senate and House of
859 Representatives.

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

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

866 (b) Adopt regulations governing the approval of
867 contracts let for the construction and maintenance of state
868 buildings and other state facilities as well as related contracts
869 for architectural and engineering services.

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



874 (c) Adopt regulations governing any lease or rental
875 agreement by any state agency or department, including any state
876 agency financed entirely by federal funds, for space outside the
877 buildings under the jurisdiction of the Department of Finance and
878 Administration. These regulations shall require each agency
879 requesting to lease such space to provide the following
880 information that shall be published by the Department of Finance
881 and Administration on its website: the agency to lease the space;
882 the terms of the lease; the approximate square feet to be leased;
883 the use for the space; a description of a suitable space; the
884 general location desired for the leased space; the contact
885 information for a person from the agency; the deadline date for
886 the agency to have received a lease proposal; any other specific
887 terms or conditions of the agency; and any other information
888 deemed appropriate by the Division of Real Property Management of
889 the Department of Finance and Administration or the Public
890 Procurement Review Board. The information shall be provided
891 sufficiently in advance of the time the space is needed to allow
892 the Division of Real Property Management of the Department of
893 Finance and Administration to review and preapprove the lease
894 before the time for advertisement begins;

895 (d) Adopt, in its discretion, regulations to set aside
896 at least five percent (5%) of anticipated annual expenditures for
897 the purchase of commodities from minority businesses; however, all
898 such set-aside purchases shall comply with all purchasing



899 regulations promulgated by the department and shall be subject to
900 all bid requirements. Set-aside purchases for which competitive
901 bids are required shall be made from the lowest and best minority
902 business bidder; however, if no minority bid is available or if
903 the minority bid is more than two percent (2%) higher than the
904 lowest bid, then bids shall be accepted and awarded to the lowest
905 and best bidder. However, the provisions in this paragraph shall
906 not be construed to prohibit the rejection of a bid when only one
907 (1) bid is received. Such rejection shall be placed in the
908 minutes. For the purposes of this paragraph, the term "minority
909 business" means a business which is owned by a person who is a
910 citizen or lawful permanent resident of the United States and who
911 is:

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

914 (ii) Hispanic: of Mexican, Puerto Rican, Cuban,
915 Central or South American, or other Spanish or Portuguese culture
916 or origin regardless of race;

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

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

922 (v) Female;



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

929 (f) Except as otherwise provided in subparagraph (xv)
930 of this paragraph, promulgate rules and regulations governing the
931 solicitation and selection of contractual services personnel,
932 including personal and professional services contracts for any
933 form of consulting, policy analysis, public relations, marketing,
934 public affairs, legislative advocacy services or any other
935 contract that the board deems appropriate for oversight, with the
936 exception of:

937 (i) Any personal service contracts entered into by
938 any agency that employs only nonstate service employees as defined
939 in Section 25-9-107(c) * * *;

940 (ii) Any personal service contracts entered into
941 for computer or information technology-related services governed
942 by the Mississippi Department of Information Technology
943 Services * * *;

944 (iii) Any personal service contracts entered into
945 by the individual state institutions of higher learning * * *;

946 (iv) Any personal service contracts entered into
947 by the Mississippi Department of Transportation * * *;



948 (v) Any personal service contracts entered into by
949 the Department of Human Services through June 30, 2019, which the
950 Executive Director of the Department of Human Services determines
951 would be useful in establishing and operating the Department of
952 Child Protection Services * * *;

953 (vi) Any personal service contracts entered into
954 by the Department of Child Protection Services through June 30,
955 2019 * * *;

956 (vii) Any contracts for entertainers and/or
957 performers at the Mississippi State Fairgrounds entered into by
958 the Mississippi Fair Commission * * *;

959 (viii) Any contracts entered into by the
960 Department of Finance and Administration when procuring aircraft
961 maintenance, parts, equipment and/or services * * *;

962 (ix) Any contract entered into by the Department
963 of Public Safety for service on specialized equipment and/or
964 software required for the operation at such specialized equipment
965 for use by the Office of Forensics Laboratories * * *;

966 (x) Any personal or professional service contract
967 entered into by the Mississippi Department of Health * * * or the
968 Department of Revenue solely in connection with their respective
969 responsibilities under the Mississippi Medical Cannabis Act from
970 February 2, 2022, through June 30, * * * 2026;



971 (xi) Any contract for attorney, accountant,
972 actuary auditor, architect, engineer, anatomical pathologist, or
973 utility rate expert services * * *;

974 (xii) Any personal service contracts approved by
975 the Executive Director of the Department of Finance and
976 Administration and entered into by the Coordinator of Mental
977 Health Accessibility through June 30, 2022 * * *;

978 (xiii) Any personal or professional services
979 contract entered into by the State Department of Health in
980 carrying out its responsibilities under the ARPA Rural Water
981 Associations Infrastructure Grant Program through June 30,
982 2026 * * *;

983 (xiv) And any personal or professional services
984 contract entered into by the Mississippi Department of
985 Environmental Quality in carrying out its responsibilities under
986 the Mississippi Municipality and County Water Infrastructure Grant
987 Program Act of 2022, through June 30, 2026.

988 Any such rules and regulations shall provide for maintaining
989 continuous internal audit covering the activities of such agency
990 affecting its revenue and expenditures as required under Section
991 7-7-3(6) (d). Any rules and regulation changes related to personal
992 and professional services contracts that the Public Procurement
993 Review Board may propose shall be submitted to the Chairs of the
994 Accountability, Efficiency and Transparency Committees of the
995 Senate and House of Representatives and the Chairs of the



996 Appropriation Committees of the Senate and House of
997 Representatives at least fifteen (15) days before the board votes
998 on the proposed changes, and those rules and regulation changes,
999 if adopted, shall be promulgated in accordance with the
1000 Mississippi Administrative Procedures Act; and
1001 (xv) From and after July 1, 2024, the Public
1002 Procurement Review Board shall promulgate rules and regulations
1003 that require the Department of Finance and Administration to
1004 conduct personal and professional services solicitations as
1005 provided in subparagraph (i) of this paragraph for those services
1006 in excess of Seventy-five Thousand Dollars (\$75,000.00) for the
1007 Department of Marine Resources, the Department of Wildlife,
1008 Fisheries and Parks, the Mississippi Emergency Management Agency
1009 and the Mississippi Development Authority, with assistance to be
1010 provided from these entities. Any powers that have been conferred
1011 upon agencies in order to comply with the provisions of this
1012 section for personal and professional services solicitations shall
1013 be conferred upon the Department of Finance and Administration to
1014 conduct personal and professional services solicitations for the
1015 Department of Marine Resources, the Department of Wildlife,
1016 Fisheries and Parks, the Mississippi Emergency Management Agency
1017 and the Mississippi Development Authority for those services in
1018 excess of Seventy-five Thousand Dollars (\$75,000.00). The
1019 Department of Finance and Administration shall make any
1020 submissions that are required to be made by other agencies to the



1021 Public Procurement Review Board for the Department of Marine
1022 Resources, the Department of Wildlife, Fisheries and Parks, the
1023 Mississippi Emergency Management Agency and the Mississippi
1024 Development Authority.

1025 The provisions of this subparagraph (xv) shall stand repealed
1026 on June 30, 2027.

1027 (g) Approve all personal and professional services
1028 contracts involving the expenditures of funds in excess of
1029 Seventy-five Thousand Dollars (\$75,000.00), except as provided in
1030 paragraph (f) of this subsection (2) and in subsection (8);

1031 (h) Develop mandatory standards with respect to
1032 contractual services personnel that require invitations for public
1033 bid, requests for proposals, record keeping and financial
1034 responsibility of contractors. The Public Procurement Review
1035 Board shall, unless exempted under this paragraph (h) or under
1036 paragraph (i) or (o) of this subsection (2), require the agency
1037 involved to submit the procurement to a competitive procurement
1038 process, and may reserve the right to reject any or all resulting
1039 procurements;

1040 (i) Prescribe certain circumstances by which agency
1041 heads may enter into contracts for personal and professional
1042 services without receiving prior approval from the Public
1043 Procurement Review Board. The Public Procurement Review Board may
1044 establish a preapproved list of providers of various personal and



1045 professional services for set prices with which state agencies may
1046 contract without bidding or prior approval from the board;

1047 (i) Agency requirements may be fulfilled by
1048 procuring services performed incident to the state's own programs.
1049 The agency head shall determine in writing whether the price
1050 represents a fair market value for the services. When the
1051 procurements are made from other governmental entities, the
1052 private sector need not be solicited; however, these contracts
1053 shall still be submitted for approval to the Public Procurement
1054 Review Board.

1055 (ii) Contracts between two (2) state agencies,
1056 both under Public Procurement Review Board purview, shall not
1057 require Public Procurement Review Board approval. However, the
1058 contracts shall still be entered into the enterprise resource
1059 planning system;

1060 (j) Provide standards for the issuance of requests for
1061 proposals, the evaluation of proposals received, consideration of
1062 costs and quality of services proposed, contract negotiations, the
1063 administrative monitoring of contract performance by the agency
1064 and successful steps in terminating a contract;

1065 (k) Present recommendations for governmental
1066 privatization and to evaluate privatization proposals submitted by
1067 any state agency;

1068 (l) Authorize personal and professional service
1069 contracts to be effective for more than one (1) year provided a



1070 funding condition is included in any such multiple year contract,
1071 except the State Board of Education, which shall have the
1072 authority to enter into contractual agreements for student
1073 assessment for a period up to ten (10) years. The State Board of
1074 Education shall procure these services in accordance with the
1075 Public Procurement Review Board procurement regulations;

1076 (m) Request the State Auditor to conduct a performance
1077 audit on any personal or professional service contract;

1078 (n) Prepare an annual report to the Legislature
1079 concerning the issuance of personal and professional services
1080 contracts during the previous year, collecting any necessary
1081 information from state agencies in making such report;

1082 (o) Develop and implement the following standards and
1083 procedures for the approval of any sole source contract for
1084 personal and professional services regardless of the value of the
1085 procurement:

1086 (i) For the purposes of this paragraph (o), the
1087 term "sole source" means only one (1) source is available that can
1088 provide the required personal or professional service.

1089 (ii) An agency that has been issued a binding,
1090 valid court order mandating that a particular source or provider
1091 must be used for the required service must include a copy of the
1092 applicable court order in all future sole source contract reviews
1093 for the particular personal or professional service referenced in
1094 the court order.



1095 (iii) Any agency alleging to have a sole source
1096 for any personal or professional service, other than those
1097 exempted under paragraph (f) of this subsection (2) and subsection
1098 (8), shall publish on the procurement portal website established
1099 by Sections 25-53-151 and 27-104-165, for at least fourteen (14)
1100 days, the terms of the proposed contract for those services. In
1101 addition, the publication shall include, but is not limited to,
1102 the following information:

1103 1. The personal or professional service
1104 offered in the contract;

1105 2. An explanation of why the personal or
1106 professional service is the only one that can meet the needs of
1107 the agency;

1108 3. An explanation of why the source is the
1109 only person or entity that can provide the required personal or
1110 professional service;

1111 4. An explanation of why the amount to be
1112 expended for the personal or professional service is reasonable;
1113 and

1114 5. The efforts that the agency went through
1115 to obtain the best possible price for the personal or professional
1116 service.

1117 (iv) If any person or entity objects and proposes
1118 that the personal or professional service published under
1119 subparagraph (iii) of this paragraph (o) is not a sole source



1120 service and can be provided by another person or entity, then the
1121 objecting person or entity shall notify the Public Procurement
1122 Review Board and the agency that published the proposed sole
1123 source contract with a detailed explanation of why the personal or
1124 professional service is not a sole source service.

1125 (v) 1. If the agency determines after review that
1126 the personal or professional service in the proposed sole source
1127 contract can be provided by another person or entity, then the
1128 agency must withdraw the sole source contract publication from the
1129 procurement portal website and submit the procurement of the
1130 personal or professional service to an advertised competitive bid
1131 or selection process.

1132 2. If the agency determines after review that
1133 there is only one (1) source for the required personal or
1134 professional service, then the agency may appeal to the Public
1135 Procurement Review Board. The agency has the burden of proving
1136 that the personal or professional service is only provided by one
1137 (1) source.

1138 3. If the Public Procurement Review Board has
1139 any reasonable doubt as to whether the personal or professional
1140 service can only be provided by one (1) source, then the agency
1141 must submit the procurement of the personal or professional
1142 service to an advertised competitive bid or selection process. No
1143 action taken by the Public Procurement Review Board in this appeal



1144 process shall be valid unless approved by a majority of the
1145 members of the Public Procurement Review Board present and voting.

1146 (vi) The Public Procurement Review Board shall
1147 prepare and submit a quarterly report to the House of
1148 Representatives and Senate Accountability, Efficiency and
1149 Transparency Committees that details the sole source contracts
1150 presented to the Public Procurement Review Board and the reasons
1151 that the Public Procurement Review Board approved or rejected each
1152 contract. These quarterly reports shall also include the
1153 documentation and memoranda required in subsection (4) of this
1154 section. An agency that submitted a sole source contract shall be
1155 prepared to explain the sole source contract to each committee by
1156 December 15 of each year upon request by the committee;

1157 (p) Assess any fines and administrative penalties
1158 provided for in Sections 31-7-401 through 31-7-423.

1159 (3) All submissions shall be made sufficiently in advance of
1160 each monthly meeting of the Public Procurement Review Board as
1161 prescribed by the Public Procurement Review Board. If the Public
1162 Procurement Review Board rejects any contract submitted for review
1163 or approval, the Public Procurement Review Board shall clearly set
1164 out the reasons for its action, including, but not limited to, the
1165 policy that the agency has violated in its submitted contract and
1166 any corrective actions that the agency may take to amend the
1167 contract to comply with the rules and regulations of the Public
1168 Procurement Review Board.



1169 (4) All sole source contracts for personal and professional
1170 services awarded by state agencies, other than those exempted
1171 under Section 27-104-7(2) (f) and (8), whether approved by an
1172 agency head or the Public Procurement Review Board, shall contain
1173 in the procurement file a written determination for the approval,
1174 using a request form furnished by the Public Procurement Review
1175 Board. The written determination shall document the basis for the
1176 determination, including any market analysis conducted in order to
1177 ensure that the service required was practicably available from
1178 only one (1) source. A memorandum shall accompany the request
1179 form and address the following four (4) points:

1180 (a) Explanation of why this service is the only service
1181 that can meet the needs of the purchasing agency;

1182 (b) Explanation of why this vendor is the only
1183 practicably available source from which to obtain this service;

1184 (c) Explanation of why the price is considered
1185 reasonable; and

1186 (d) Description of the efforts that were made to
1187 conduct a noncompetitive negotiation to get the best possible
1188 price for the taxpayers.

1189 (5) In conjunction with the State Personnel Board, the
1190 Public Procurement Review Board shall develop and promulgate rules
1191 and regulations to define the allowable legal relationship between
1192 contract employees and the contracting departments, agencies and
1193 institutions of state government under the jurisdiction of the



1194 State Personnel Board, in compliance with the applicable rules and
1195 regulations of the federal Internal Revenue Service (IRS) for
1196 federal employment tax purposes. Under these regulations, the
1197 usual common law rules are applicable to determine and require
1198 that such worker is an independent contractor and not an employee,
1199 requiring evidence of lawful behavioral control, lawful financial
1200 control and lawful relationship of the parties. Any state
1201 department, agency or institution shall only be authorized to
1202 contract for personnel services in compliance with those
1203 regulations.

1204 (6) No member of the Public Procurement Review Board shall
1205 use his or her official authority or influence to coerce, by
1206 threat of discharge from employment, or otherwise, the purchase of
1207 commodities, the contracting for personal or professional
1208 services, or the contracting for public construction under this
1209 chapter.

1210 (7) Notwithstanding any other laws or rules to the contrary,
1211 the provisions of subsection (2) of this section shall not be
1212 applicable to the Mississippi State Port Authority at Gulfport.

1213 (8) Nothing in this section shall impair or limit the
1214 authority of the Board of Trustees of the Public Employees'
1215 Retirement System to enter into any personal or professional
1216 services contracts directly related to their constitutional
1217 obligation to manage the trust funds, including, but not limited
1218 to, actuarial, custodial banks, cash management, investment



1219 consultant and investment management contracts. Nothing in this
1220 section shall impair or limit the authority of the State Treasurer
1221 to enter into any personal or professional services contracts
1222 involving the management of trust funds, including, but not
1223 limited to, actuarial, custodial banks, cash management,
1224 investment consultant and investment management contracts.

1225 * * *

1226 (9) Through December 31, 2024, the provisions of this
1227 section related to rental agreements or leasing of real property
1228 for the purpose of conducting agency business shall not apply to
1229 the Office of Workforce Development created in Section 37-153-7.

1230 **SECTION 5.** Section 71-5-355, Mississippi Code of 1972, as
1231 amended by Senate Bill No. 2810, 2023 Regular Session, is amended
1232 as follows:

1233 71-5-355. (1) As used in this section, the following words
1234 and phrases shall have the following meanings, unless the context
1235 clearly requires otherwise:

1236 (a) "Tax year" means any period beginning on January 1
1237 and ending on December 31 of a year.

1238 (b) "Computation date" means June 30 of any calendar
1239 year immediately preceding the tax year during which the
1240 particular contribution rates are effective.

1241 (c) "Effective date" means January 1 of the tax year.

1242 (d) Except as hereinafter provided, "payroll" means the
1243 total of all wages paid for employment by an employer as defined



1244 in Section 71-5-11, subsection H, plus the total of all
1245 remuneration paid by such employer excluded from the definition of
1246 wages by Section 71-5-351. For the computation of modified rates,
1247 "payroll" means the total of all wages paid for employment by an
1248 employer as defined in Section 71-5-11, subsection H.

1249 (e) For the computation of modified rates, "eligible
1250 employer" means an employer whose experience-rating record has
1251 been chargeable with benefits throughout the thirty-six (36)
1252 consecutive calendar-month period ending on the computation date,
1253 except that any employer who has not been subject to the
1254 Mississippi Employment Security Law for a period of time
1255 sufficient to meet the thirty-six (36) consecutive calendar-month
1256 requirement shall be an eligible employer if his or her
1257 experience-rating record has been chargeable throughout not less
1258 than the twelve (12) consecutive calendar-month period ending on
1259 the computation date. No employer shall be considered eligible
1260 for a contribution rate less than five and four-tenths percent
1261 (5.4%) with respect to any tax year, who has failed to file any
1262 two (2) quarterly reports within the qualifying period by
1263 September 30 following the computation date. No employer or
1264 employing unit shall be eligible for a contribution rate of less
1265 than five and four-tenths percent (5.4%) for the tax year in which
1266 the employing unit is found by the department to be in violation
1267 of Section 71-5-19(2) or (3) and for the next two (2) succeeding
1268 tax years. No representative of such employing unit who was a



1269 party to a violation as described in Section 71-5-19(2) or (3), if
1270 such representative was or is an employing unit in this state,
1271 shall be eligible for a contribution rate of less than five and
1272 four-tenths percent (5.4%) for the tax year in which such
1273 violation was detected by the department and for the next two (2)
1274 succeeding tax years.

1275 (f) With respect to any tax year, "reserve ratio" means
1276 the ratio which the total amount available for the payment of
1277 benefits in the Unemployment Compensation Fund, excluding any
1278 amount which has been credited to the account of this state under
1279 Section 903 of the Social Security Act, as amended, and which has
1280 been appropriated for the expenses of administration pursuant to
1281 Section 71-5-457 whether or not withdrawn from such account, on
1282 October 31 (close of business) of each calendar year bears to the
1283 aggregate of the taxable payrolls of all employers for the twelve
1284 (12) calendar months ending on June 30 next preceding.

1285 (g) "Modified rates" means the rates of employer
1286 unemployment insurance contributions determined under the
1287 provisions of this chapter and the rates of newly subject
1288 employers, as provided in Section 71-5-353.

1289 (h) For the computation of modified rates, "qualifying
1290 period" means a period of not less than the thirty-six (36)
1291 consecutive calendar months ending on the computation date
1292 throughout which an employer's experience-rating record has been
1293 chargeable with benefits; except that with respect to any eligible



1294 employer who has not been subject to this article for a period of
1295 time sufficient to meet the thirty-six (36) consecutive
1296 calendar-month requirement, "qualifying period" means the period
1297 ending on the computation date throughout which his or her
1298 experience-rating record has been chargeable with benefits, but in
1299 no event less than the twelve (12) consecutive calendar-month
1300 period ending on the computation date throughout which his or her
1301 experience-rating record has been so chargeable.

1302 (i) The "exposure criterion" (EC) is defined as the
1303 cash balance of the Unemployment Compensation Fund which is
1304 available for the payment of benefits as of November 16 of each
1305 calendar year or the next working day if November 16 falls on a
1306 holiday or a weekend, divided by the total wages, exclusive of
1307 wages paid by all state agencies, all political subdivisions,
1308 reimbursable nonprofit corporations, and tax-exempt public service
1309 employment, for the twelve-month period ending June 30 immediately
1310 preceding such date. The EC shall be computed to four (4) decimal
1311 places and rounded up if any fraction remains. Notwithstanding
1312 any other provision contained herein, the date for determining the
1313 cash balance of the Unemployment Compensation Fund which is
1314 available for the payment of benefits for the calendar years 2020
1315 and 2021 shall be December 31.

1316 (j) The "cost rate criterion" (CRC) is defined as
1317 follows: Beginning with January 1974, the benefits paid for the
1318 twelve-month period ending December 1974 are summed and divided by



1319 the total wages for the twelve-month period ending on June 30,
1320 1975. Similar ratios are computed by subtracting the earliest
1321 month's benefit payments and adding the benefits of the next month
1322 in the sequence and dividing each sum of twelve (12) months'
1323 benefits by the total wages for the twelve-month period ending on
1324 the June 30 which is nearest to the final month of the period used
1325 to compute the numerator. If December is the final month of the
1326 period used to compute the numerator, then the twelve-month period
1327 ending the following June 30 will be used for the denominator.
1328 Benefits and total wages used in the computation of the cost rate
1329 criterion shall exclude all benefits and total wages applicable to
1330 state agencies, political subdivisions, reimbursable nonprofit
1331 corporations, and tax-exempt PSE employment.

1332 The CRC shall be computed as the average for the highest
1333 monthly value of the cost rate criterion computations during each
1334 of the economic cycles since the calendar year 1974 as defined by
1335 the National Bureau of Economic Research. The CRC shall be
1336 computed to four (4) decimal places and any remainder shall be
1337 rounded up.

1338 The CRC shall be adjusted only through annual computations
1339 and additions of future economic cycles.

1340 (k) "Size of fund index" (SOFI) is defined as the ratio
1341 of the exposure criterion (EC) to the cost rate criterion (CRC).
1342 The target size of fund index will be fixed at 1.0. If the
1343 insured unemployment rate (IUR) exceeds a four and five-tenths



1344 percent (4.5%) average for the most recent completed July to June
1345 period, the target SOFI will be .8 and will remain at that level
1346 until the computed SOFI (the average exposure criterion of the
1347 current year and the preceding year divided by the average cost
1348 rate criterion) equals 1.0 or the average IUR falls to four and
1349 five-tenths percent (4.5%) or less for any period July to June.
1350 However, if the IUR falls below two and five-tenths percent (2.5%)
1351 for any period July to June the target SOFI shall be 1.2 until
1352 such time as the computed SOFI is equal to or greater than 1.0 or
1353 the IUR is equal to or greater than two and five-tenths percent
1354 (2.5%), at which point the target SOFI shall return to 1.0.

1355 (1) No employer's unemployment contribution general
1356 experience rate plus individual unemployment experience rate shall
1357 exceed five and four-tenths percent (5.4%). Accrual rules shall
1358 apply for purposes of computing contribution rates including
1359 associated functions.

1360 (m) The term "general experience rate" has the same
1361 meaning as the minimum tax rate.

1362 (2) Modified rates:

1363 (a) For any tax year, when the reserve ratio on the
1364 preceding November 16, in the case of any tax year, equals or
1365 exceeds three percent (3%), the modified rates, as hereinafter
1366 prescribed, shall be in effect. In computation of this reserve
1367 ratio, any remainder shall be rounded down.



1368 (b) Modified rates shall be determined for the tax year
1369 for each eligible employer on the basis of his or her
1370 experience-rating record in the following manner:

1371 (i) The department shall maintain an
1372 experience-rating record for each employer. Nothing in this
1373 chapter shall be construed to grant any employer or individuals
1374 performing services for him or her any prior claim or rights to
1375 the amounts paid by the employer into the fund.

1376 (ii) Benefits paid to an eligible individual shall
1377 be charged against the experience-rating record of his or her base
1378 period employers in the proportion to which the wages paid by each
1379 base period employer bears to the total wages paid to the
1380 individual by all the base period employers, provided that
1381 benefits shall not be charged to an employer's experience-rating
1382 record if the department finds that the individual:

1383 1. Voluntarily left the employ of such
1384 employer without good cause attributable to the employer or to
1385 accept other work;

1386 2. Was discharged by such employer for
1387 misconduct connected with his or her work;

1388 3. Refused an offer of suitable work by such
1389 employer without good cause, and the department further finds that
1390 such benefits are based on wages for employment for such employer
1391 prior to such voluntary leaving, discharge or refusal of suitable
1392 work, as the case may be;



1393 4. Had base period wages which included wages
1394 for previously uncovered services as defined in Section
1395 71-5-511(e) to the extent that the Unemployment Compensation Fund
1396 is reimbursed for such benefits pursuant to Section 121 of Public
1397 Law 94-566;

1398 5. Extended benefits paid under the
1399 provisions of Section 71-5-541 which are not reimbursable from
1400 federal funds shall be charged to the experience-rating record of
1401 base period employers;

1402 6. Is still working for such employer on a
1403 regular part-time basis under the same employment conditions as
1404 hired. Provided, however, that benefits shall be charged against
1405 an employer if an eligible individual is paid benefits who is
1406 still working for such employer on a part-time "as-needed" basis;

1407 7. Was hired to replace a United States
1408 serviceman or servicewoman called into active duty and was laid
1409 off upon the return to work by that serviceman or servicewoman,
1410 unless such employer is a state agency or other political
1411 subdivision or instrumentality of the state;

1412 8. Was paid benefits during any week while in
1413 training with the approval of the department, under the provisions
1414 of Section 71-5-513B, or for any week while in training approved
1415 under Section 236(a) (1) of the Trade Act of 1974, under the
1416 provisions of Section 71-5-513C;



1417 9. Is not required to serve the one-week
1418 waiting period as described in Section 71-5-505(2). In that
1419 event, only the benefits paid in lieu of the waiting period week
1420 may be noncharged; or

1421 10. Was paid benefits as a result of a
1422 fraudulent claim, provided notification was made to the
1423 Mississippi Department of Employment Security in writing or by
1424 email by the employer, within ten (10) days of the mailing of the
1425 notice of claim filed to the employer's last-known address.

1426 (iii) Notwithstanding any other provision
1427 contained herein, an employer shall not be noncharged when the
1428 department finds that the employer or the employer's agent of
1429 record was at fault for failing to respond timely or adequately to
1430 the request of the department for information relating to an
1431 unemployment claim that was subsequently determined to be
1432 improperly paid, unless the employer or the employer's agent of
1433 record shows good cause for having failed to respond timely or
1434 adequately to the request of the department for information. For
1435 purposes of this subparagraph "good cause" means an event that
1436 prevents the employer or employer's agent of record from timely
1437 responding, and includes a natural disaster, emergency or similar
1438 event, or an illness on the part of the employer, the employer's
1439 agent of record, or their staff charged with responding to such
1440 inquiries when there is no other individual who has the knowledge
1441 or ability to respond. Any agency error that resulted in a delay



1442 in, or the failure to deliver notice to, the employer or the
1443 employer's agent of record shall also be considered good cause for
1444 purposes of this subparagraph.

1445 (iv) The department shall compute a benefit ratio
1446 for each eligible employer, which shall be the quotient obtained
1447 by dividing the total benefits charged to his or her
1448 experience-rating record during the period his or her
1449 experience-rating record has been chargeable, but not less than
1450 the twelve (12) consecutive calendar-month period nor more than
1451 the thirty-six (36) consecutive calendar-month period ending on
1452 the computation date, by his or her total taxable payroll for the
1453 same period on which all unemployment insurance contributions due
1454 have been paid on or before the September 30 immediately following
1455 the computation date. Such benefit ratio shall be computed to the
1456 tenth of a percent (.1%), rounding any remainder to the next
1457 higher tenth.

1458 (v) 1. The unemployment insurance contribution
1459 rate for each eligible employer shall be the sum of two (2) rates:
1460 his or her individual experience rate in the range from zero
1461 percent (0%) to five and four-tenths percent (5.4%), plus a
1462 general experience rate. In no event shall the resulting
1463 unemployment insurance rate be in excess of five and four-tenths
1464 percent (5.4%), however, it is the intent of this section to
1465 provide the ability for employers to have a tax rate, the general



1466 experience rate plus the individual experience rate, of up to five
1467 and four-tenths percent (5.4%).

1468 2. The employer's individual experience rate
1469 shall be equal to his or her benefit ratio as computed under
1470 paragraph (b)(iv) of this subsection (2).

1471 3. The general experience rate shall be
1472 determined in the following manner: The department shall
1473 determine annually, for the thirty-six (36) consecutive
1474 calendar-month period ending on the computation date, the amount
1475 of benefits which were not charged to the record of any employer
1476 and of benefits which were ineffectively charged to the employer's
1477 experience-rating record. For the purposes of this item 3, the
1478 term "ineffectively charged benefits" shall include:

1479 a. The total of the amounts of benefits
1480 charged to the experience-rating records of all eligible employers
1481 which caused their benefit ratios to exceed five and four-tenths
1482 percent (5.4%);

1483 b. The total of the amounts of benefits
1484 charged to the experience-rating records of all ineligible
1485 employers which would cause their benefit ratios to exceed five
1486 and four-tenths percent (5.4%) if they were eligible employers;
1487 and

1488 c. The total of the amounts of benefits
1489 charged or chargeable to the experience-rating record of any
1490 employer who has discontinued his or her business or whose



1491 coverage has been terminated within such period; provided, that
1492 solely for the purposes of determining the amounts of
1493 ineffectively charged benefits as herein defined, a "benefit
1494 ratio" shall be computed for each ineligible employer, which shall
1495 be the quotient obtained by dividing the total benefits charged to
1496 his or her experience-rating record throughout the period ending
1497 on the computation date, during which his or her experience-rating
1498 record has been chargeable with benefits, by his or her total
1499 taxable payroll for the same period on which all unemployment
1500 insurance contributions due have been paid on or before the
1501 September 30 immediately following the computation date; and
1502 provided further, that such benefit ratio shall be computed to the
1503 tenth of one percent (.1%) and any remainder shall be rounded to
1504 the next higher tenth.

1505 The ratio of the sum of these amounts (subsection
1506 (2) (b) (v) 3a, b and c) to the taxable wages paid during the same
1507 period divided by all eligible employers whose benefit ratio did
1508 not exceed five and four-tenths percent (5.4%), computed to the
1509 next higher tenth of one percent (.1%), shall be the general
1510 experience rate; however, the general experience rate for rate
1511 year 2014 shall be two-tenths of one percent (.2%) and to that
1512 will be added the employer's individual experience rate for the
1513 total unemployment insurance rate.

1514 4. a. Except as otherwise provided in this
1515 item 4, the general experience rate shall be adjusted by use of



1516 the size of fund index factor. This factor may be positive or
1517 negative, and shall be determined as follows: From the target
1518 SOFI, as defined in subsection (1)(k) of this section, subtract
1519 the simple average of the current and preceding years' exposure
1520 criterions divided by the cost rate criterion, as defined in
1521 subsection (1)(j) of this section. The result is then multiplied
1522 by the product of the CRC, as defined in subsection (1)(j) of this
1523 section, and total wages for the twelve-month period ending June
1524 30 divided by the taxable wages for the twelve-month period ending
1525 June 30. This is the percentage positive or negative added to the
1526 general experience rate. The sum of the general experience rate
1527 and the trust fund adjustment factor shall be multiplied by fifty
1528 percent (50%) and this product shall be computed to one (1)
1529 decimal place, and rounded to the next higher tenth.

1530 b. Notwithstanding the minimum rate
1531 provisions as set forth in subsection (1)(l) of this section, the
1532 general experience rate of all employers shall be reduced by seven
1533 one-hundredths of one percent (.07%) for calendar year 2013 only.

1534 5. The general experience rate shall be zero
1535 percent (0%) unless the general experience ratio for any tax year
1536 as computed and adjusted on the basis of the trust fund adjustment
1537 factor and reduced by fifty percent (50%) is an amount equal to or
1538 greater than two-tenths of one percent (.2%), then the general
1539 experience rate shall be the computed general experience ratio and
1540 adjusted on the basis of the trust fund adjustment factor and



1541 reduced by fifty percent (50%); however, in no case shall the sum
1542 of the general experience plus the individual experience
1543 unemployment insurance rate exceed five and four-tenths percent
1544 (5.4%). For rate years subsequent to 2014, Mississippi Workforce
1545 Enhancement Training contribution rate, and/or * * * Mississippi
1546 Office of Workforce Development contribution rate, and/or
1547 Mississippi Works contribution rate, when in effect, shall be
1548 added to the unemployment contribution rate, regardless of whether
1549 the addition of this contribution rate causes the total
1550 contribution rate for the employer to exceed five and four-tenths
1551 percent (5.4%).

1552 6. The department shall include in its annual
1553 rate notice to employers a brief explanation of the elements of
1554 the general experience rate, and shall include in its regular
1555 publications an annual analysis of benefits not charged to the
1556 record of any employer, and of the benefit experience of employers
1557 by industry group whose benefit ratio exceeds four percent (4%),
1558 and of any other factors which may affect the size of the general
1559 experience rate.

1560 7. Notwithstanding any other provision
1561 contained herein, the general experience rate for calendar year
1562 2021 shall be zero percent (0%). Charges attributed to each
1563 employer's individual experience rate for the period March 8,
1564 2020, through June 30, 2020, will not impact the employer's
1565 individual experience rate calculations for purposes of



1566 calculating the total unemployment insurance rate for 2021 and the
1567 two (2) subsequent tax rate years. Moreover, charges attributed
1568 to each employer's individual experience rate for the period July
1569 1, 2020, through December 31, 2020, will not impact the employer's
1570 individual experience rate calculations for purposes of
1571 calculating the total unemployment insurance rate for 2022 and the
1572 two (2) subsequent tax rate years. Furthermore, noncharges as
1573 defined hereinabove caused by the COVID-19 pandemic will not be
1574 used for the purpose of calculating the general experience rate.

1575 (vi) When any employing unit in any manner
1576 succeeds to or acquires the organization, trade, business or
1577 substantially all the assets thereof of an employer, excepting any
1578 assets retained by such employer incident to the liquidation of
1579 his or her obligations, whether or not such acquiring employing
1580 unit was an employer within the meaning of Section 71-5-11,
1581 subsection H, prior to such acquisition, and continues such
1582 organization, trade or business, the experience-rating and payroll
1583 records of the predecessor employer shall be transferred as of the
1584 date of acquisition to the successor employer for the purpose of
1585 rate determination.

1586 (vii) When any employing unit succeeds to or
1587 acquires a distinct and severable portion of an organization,
1588 trade or business, the experience-rating and payroll records of
1589 such portion, if separately identifiable, shall be transferred to
1590 the successor upon:



- 1591 1. The mutual consent of the predecessor and
1592 the successor;
- 1593 2. Approval of the department;
- 1594 3. Continued operation of the transferred
1595 portion by the successor after transfer; and
- 1596 4. The execution and the filing with the
1597 department by the predecessor employer of a waiver relinquishing
1598 all rights to have the experience-rating and payroll records of
1599 the transferred portion used for the purpose of determining
1600 modified rates of contribution for such predecessor.

1601 (viii) If the successor was an employer subject to
1602 this chapter prior to the date of acquisition, it shall continue
1603 to pay unemployment insurance contributions at the rate applicable
1604 to it from the date the acquisition occurred until the end of the
1605 then current tax year. If the successor was not an employer prior
1606 to the date of acquisition, it shall pay unemployment insurance
1607 contributions at the rate applicable to the predecessor or, if
1608 more than one (1) predecessor and the same rate is applicable to
1609 both, the rate applicable to the predecessor or predecessors, from
1610 the date the acquisition occurred until the end of the then
1611 current tax year. If the successor was not an employer prior to
1612 the date the acquisition occurred and simultaneously acquires the
1613 businesses of two (2) or more employers to whom different rates of
1614 unemployment insurance contributions are applicable, it shall pay
1615 unemployment insurance contributions from the date of the



1616 acquisition until the end of the current tax year at a rate
1617 computed on the basis of the combined experience-rating and
1618 payroll records of the predecessors as of the computation date for
1619 such tax year. In all cases the rate of unemployment insurance
1620 contributions applicable to such successor for each succeeding tax
1621 year shall be computed on the basis of the combined
1622 experience-rating and payroll records of the successor and the
1623 predecessor or predecessors.

1624 (ix) The department shall notify each employer
1625 quarterly of the benefits paid and charged to his or her
1626 experience-rating record; and such notification, in the absence of
1627 an application for redetermination filed within thirty (30) days
1628 after the date of such notice, shall be final, conclusive and
1629 binding upon the employer for all purposes. A redetermination,
1630 made after notice and opportunity for a fair hearing, by a hearing
1631 officer designated by the department who shall consider and decide
1632 these and related applications and protests; and the finding of
1633 fact in connection therewith may be introduced into any subsequent
1634 administrative or judicial proceedings involving the determination
1635 of the rate of unemployment insurance contributions of any
1636 employer for any tax year, and shall be entitled to the same
1637 finality as is provided in this subsection with respect to the
1638 findings of fact in proceedings to redetermine the contribution
1639 rate of an employer.



1640 (x) The department shall notify each employer of
1641 his or her rate of contribution as determined for any tax year as
1642 soon as reasonably possible after September 1 of the preceding
1643 year. Such determination shall be final, conclusive and binding
1644 upon such employer unless, within thirty (30) days after the date
1645 of such notice to his or her last-known address, the employer
1646 files with the department an application for review and
1647 redetermination of his or her contribution rate, setting forth his
1648 or her reasons therefor. If the department grants such review,
1649 the employer shall be promptly notified thereof and shall be
1650 afforded an opportunity for a fair hearing by a hearing officer
1651 designated by the department who shall consider and decide these
1652 and related applications and protests; but no employer shall be
1653 allowed, in any proceeding involving his or her rate of
1654 unemployment insurance contributions or contribution liability, to
1655 contest the chargeability to his or her account of any benefits
1656 paid in accordance with a determination, redetermination or
1657 decision pursuant to Sections 71-5-515 through 71-5-533 except
1658 upon the ground that the services on the basis of which such
1659 benefits were found to be chargeable did not constitute services
1660 performed in employment for him or her, and then only in the event
1661 that he or she was not a party to such determination,
1662 redetermination, decision or to any other proceedings provided in
1663 this chapter in which the character of such services was
1664 determined. The employer shall be promptly notified of the denial



1665 of this application or of the redetermination, both of which shall
1666 become final unless, within ten (10) days after the date of notice
1667 thereof, there shall be an appeal to the department itself. Any
1668 such appeal shall be on the record before said designated hearing
1669 officer, and the decision of said department shall become final
1670 unless, within thirty (30) days after the date of notice thereof
1671 to the employer's last-known address, there shall be an appeal to
1672 the Circuit Court of the First Judicial District of Hinds County,
1673 Mississippi, in accordance with the provisions of law with respect
1674 to review of civil causes by certiorari.

1675 (3) Notwithstanding any other provision of law, the
1676 following shall apply regarding assignment of rates and transfers
1677 of experience:

1678 (a) (i) If an employer transfers its trade or
1679 business, or a portion thereof, to another employer and, at the
1680 time of the transfer, there is substantially common ownership,
1681 management or control of the two (2) employers, then the
1682 unemployment experience attributable to the transferred trade or
1683 business shall be transferred to the employer to whom such
1684 business is so transferred. The rates of both employers shall be
1685 recalculated and made effective on January 1 of the year following
1686 the year the transfer occurred.

1687 (ii) If, following a transfer of experience under
1688 subparagraph (i) of this paragraph (a), the department determines
1689 that a substantial purpose of the transfer of trade or business



1690 was to obtain a reduced liability of unemployment insurance
1691 contributions, then the experience-rating accounts of the
1692 employers involved shall be combined into a single account and a
1693 single rate assigned to such account.

1694 (b) Whenever a person who is not an employer or an
1695 employing unit under this chapter at the time it acquires the
1696 trade or business of an employer, the unemployment experience of
1697 the acquired business shall not be transferred to such person if
1698 the department finds that such person acquired the business solely
1699 or primarily for the purpose of obtaining a lower rate of
1700 unemployment insurance contributions. Instead, such person shall
1701 be assigned the new employer rate under Section 71-5-353, unless
1702 assignment of the new employer rate results in an increase of less
1703 than two percent (2%), in which case such person would be assigned
1704 the new employer rate plus an additional two percent (2%) penalty
1705 for the rate year. In determining whether the business was
1706 acquired solely or primarily for the purpose of obtaining a lower
1707 rate of unemployment insurance contributions, the department shall
1708 use objective factors which may include the cost of acquiring the
1709 business, whether the person continued the business enterprise of
1710 the acquired business, how long such business enterprise was
1711 continued, or whether a substantial number of new employees were
1712 hired for performance of duties unrelated to the business activity
1713 conducted prior to acquisition.



1714 (c) (i) If a person knowingly violates or attempts to
1715 violate paragraph (a) or (b) of this subsection or any other
1716 provision of this chapter related to determining the assignment of
1717 a contribution rate, or if a person knowingly advises another
1718 person in a way that results in a violation of such provision, the
1719 person shall be subject to the following penalties:

1720 1. If the person is an employer, then such
1721 employer shall be assigned the highest rate assignable under this
1722 chapter for the rate year during which such violation or attempted
1723 violation occurred and the three (3) rate years immediately
1724 following this rate year. However, if the person's business is
1725 already at such highest rate for any year, or if the amount of
1726 increase in the person's rate would be less than two percent (2%)
1727 for such year, then the person's tax rate shall be increased by
1728 two percent (2%) for such year. The penalty rate will apply to
1729 the successor business as well as the related entity from which
1730 the employees were transferred in an effort to obtain a lower rate
1731 of unemployment insurance contributions.

1732 2. If the person is not an employer, such
1733 person shall be subject to a civil money penalty of not more than
1734 Five Thousand Dollars (\$5,000.00). Each such transaction for
1735 which advice was given and each occurrence or reoccurrence after
1736 notification being given by the department shall be a separate
1737 offense and punishable by a separate penalty. Any such fine shall



1738 be deposited in the penalty and interest account established under
1739 Section 71-5-114.

1740 (ii) For purposes of this paragraph (c), the term
1741 "knowingly" means having actual knowledge of or acting with
1742 deliberate ignorance or reckless disregard for the prohibition
1743 involved.

1744 (iii) For purposes of this paragraph (c), the term
1745 "violates or attempts to violate" includes, but is not limited to,
1746 intent to evade, misrepresentation or willful nondisclosure.

1747 (iv) In addition to the penalty imposed by
1748 subparagraph (i) of this paragraph (c), any violation of this
1749 subsection may be punishable by a fine of not more than Ten
1750 Thousand Dollars (\$10,000.00) or by imprisonment for not more than
1751 five (5) years, or by both such fine and imprisonment. This
1752 subsection shall prohibit prosecution under any other criminal
1753 statute of this state.

1754 (d) The department shall establish procedures to
1755 identify the transfer or acquisition of a business for purposes of
1756 this subsection.

1757 (e) For purposes of this subsection:

1758 (i) "Person" has the meaning given such term by
1759 Section 7701(a)(1) of the Internal Revenue Code of 1986; and

1760 (ii) "Employing unit" has the meaning as set forth
1761 in Section 71-5-11.



1762 (f) This subsection shall be interpreted and applied in
1763 such a manner as to meet the minimum requirements contained in any
1764 guidance or regulations issued by the United States Department of
1765 Labor.

1766 **SECTION 6.** Section 71-5-453, Mississippi Code of 1972, is
1767 amended as follows:

1768 71-5-453. The department shall be the treasurer and
1769 custodian of the fund, and shall administer such fund in
1770 accordance with the directions of the department, and shall issue
1771 its warrants upon it in accordance with such regulations as the
1772 department shall prescribe. The department shall maintain within
1773 the fund three (3) separate accounts: (a) a clearing account, (b)
1774 an unemployment trust fund account, and (c) a benefit payment
1775 account. All monies payable to the fund, upon receipt thereof by
1776 the department, shall be immediately deposited in the clearing
1777 account. Refunds payable pursuant to Section 71-5-383 may be paid
1778 from the clearing account by the department. Transfers pursuant
1779 to Section 71-5-114 of all interest, penalties and damages
1780 collected shall be made to the Special Employment Security
1781 Administration Fund as soon as practicable after the end of each
1782 calendar quarter. Workforce Enhancement Training
1783 contributions, * * * Mississippi Office of Workforce Development
1784 contributions and Mississippi Works contributions shall be
1785 deposited into the Workforce Investment and Training Holding
1786 Account as described in this section. All other monies in the



1787 clearing account shall be immediately deposited with the Secretary
1788 of the Treasury of the United States of America to the
1789 Unemployment Trust Fund account for the State of Mississippi,
1790 established and maintained pursuant to Section 904 of the Social
1791 Security Act, as amended, any provisions of law in this state
1792 relating to the deposit, administration, release or disbursement
1793 of monies in the possession or custody of this state to the
1794 contrary notwithstanding. The benefit account shall consist of
1795 all monies requisitioned from this state's account in the
1796 Unemployment Trust Fund. Except as herein otherwise provided,
1797 monies in the clearing and benefit accounts may be deposited by
1798 the department, in any bank or public depository in which general
1799 funds of the state may be deposited, but no public deposit
1800 insurance charge or premium shall be paid out of the fund. The
1801 department shall be liable for the faithful performance of its
1802 duties in connection with the Unemployment Compensation Fund under
1803 this chapter. A Workforce Investment and Training Holding Account
1804 shall be established by and maintained under the control of the
1805 Mississippi Department of Employment Security. Contributions
1806 collected pursuant to the provisions in this chapter for the
1807 Workforce Enhancement Training Fund, * * * Mississippi Office of
1808 Workforce Development Fund and the Mississippi Works Fund shall be
1809 transferred from the clearing account into the Workforce
1810 Investment and Training Holding Account on the same schedule and
1811 under the same conditions as funds transferred to the Unemployment



1812 Compensation Fund. Such funds shall remain on deposit in the
1813 holding account for a period of thirty (30) days. After such
1814 period, Workforce Enhancement Training contributions shall be
1815 transferred to the appropriate Mississippi Community College Board
1816 Treasury Account, with oversight provided by the Mississippi
1817 Office of Workforce Development, by the department. The * * *
1818 Mississippi Office of Workforce Development contributions shall be
1819 transferred to the * * * Mississippi Office of Workforce
1820 Development Treasury Account for the Mississippi Office of
1821 Workforce Development Fund. The Mississippi Works contributions
1822 shall be transferred to the Mississippi Department of Employment
1823 Security Treasury Account for the Mississippi Works Fund. Such
1824 transfers shall occur within fifteen (15) days after the funds
1825 have resided in the Workforce Investment and Training Holding
1826 Account for thirty (30) days. One (1) such transfer shall be made
1827 monthly, but the department, in its discretion, may make
1828 additional transfers in any month. In the event such funds
1829 transferred are subsequently determined to be erroneously paid or
1830 collected, or if deposit of such funds is denied or rejected by
1831 the banking institution for any reason, or deposits are unable to
1832 clear drawer's account for any reason, the funds must be
1833 reimbursed by the recipient of such funds within thirty (30) days
1834 of mailing of notice by the department demanding such refund,
1835 unless funds are available in the Workforce Investment and
1836 Training Holding Account. In that event such amounts shall be



1837 immediately withdrawn from the Workforce Investment and Training
1838 Holding Account by the department and redeposited into the
1839 clearing account.

1840 **SECTION 7.** Section 25-61-5, Mississippi Code of 1972, is
1841 amended as follows:

1842 25-61-5. (1) (a) Except as otherwise provided by Sections
1843 25-61-9, 25-61-11 * * *, 25-61-11.2 and 37-153-7, all public
1844 records are hereby declared to be public property, and any person
1845 shall have the right to inspect, copy or mechanically reproduce or
1846 obtain a reproduction of any public record of a public body in
1847 accordance with reasonable written procedures adopted by the
1848 public body concerning the cost, time, place and method of access,
1849 and public notice of the procedures shall be given by the public
1850 body, or, if a public body has not adopted written procedures, the
1851 right to inspect, copy or mechanically reproduce or obtain a
1852 reproduction of a public record of the public body shall be
1853 provided within one (1) working day after a written request for a
1854 public record is made. No public body shall adopt procedures
1855 which will authorize the public body to produce or deny production
1856 of a public record later than seven (7) working days from the date
1857 of the receipt of the request for the production of the record.

1858 (b) If a public body is unable to produce a public
1859 record by the seventh working day after the request is made, the
1860 public body must provide a written explanation to the person
1861 making the request stating that the record requested will be



1862 produced and specifying with particularity why the records cannot
1863 be produced within the seven-day period. Unless there is mutual
1864 agreement of the parties, or the information requested is part of
1865 ongoing negotiations related to a request for competitive sealed
1866 proposals, in no event shall the date for the public body's
1867 production of the requested records be any later than fourteen
1868 (14) working days from the receipt by the public body of the
1869 original request. Production of competitive sealed proposals in
1870 accordance with requests made pursuant to this section shall be no
1871 later than seven (7) working days after the notice of intent to
1872 award is issued to the winning proposer. Persons making a request
1873 for production of competitive sealed proposals after the notice of
1874 intent to award is issued by the public body shall have a
1875 reasonable amount of time, but in no event less than seven (7)
1876 working days after the production of the competitive sealed
1877 proposals, to protest the procurement or intended award prior to
1878 contract execution. However, in any instance where a person has
1879 filed for a protective order for a competitive sealed proposal and
1880 the court has not ruled on the protective order within ninety (90)
1881 days of filing, then the public body may proceed with awarding the
1882 contract without production of competitive sealed proposals and
1883 the contract may be protested after execution.

1884 (2) If any public record contains material which is not
1885 exempted under this chapter, the public agency shall redact the
1886 exempted material and make the nonexempted material available for



1887 examination. Such public agency shall be entitled to charge a
1888 reasonable fee for the redaction of any exempted material, not to
1889 exceed the agency's actual cost.

1890 (3) Denial by a public body of a request for access to or
1891 copies of public records under this chapter shall be in writing
1892 and shall contain a statement of the specific exemption relied
1893 upon by the public body for the denial. Each public body shall
1894 maintain a file of all denials of requests for public records.
1895 Public bodies shall be required to preserve such denials on file
1896 for not less than three (3) years from the date such denials are
1897 made. This file shall be made available for inspection or
1898 copying, or both, during regular office hours to any person upon
1899 written request.

1900 (4) This section shall stand repealed on July 1, 2024.

1901 **SECTION 8.** This act shall take effect and be in force from
1902 and after July 1, 2023.

