

By: Representatives Turner, Arnold, Bell,
Carpenter, DeBar, McLeod, Monsour, Patterson,
Pigott, Rogers (61st), Staples, Taylor,
Weathersby

To: Accountability,
Efficiency, Transparency

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 825

1 AN ACT TO AMEND SECTION 25-9-120, MISSISSIPPI CODE OF 1972,
2 TO REVISE THE COMPOSITION OF THE PERSONAL SERVICE CONTRACT REVIEW
3 BOARD; TO PROVIDE FOR THE TIME OF APPOINTMENT AND THE
4 QUALIFICATIONS FOR THE MEMBERS OF THE PERSONAL SERVICE CONTRACT
5 REVIEW BOARD; TO AUTHORIZE MEMBERS OF THE PERSONAL SERVICE
6 CONTRACT REVIEW BOARD TO RECEIVE PER DIEM AND TRAVEL
7 REIMBURSEMENT; TO REMOVE ALL EXEMPTIONS OF PERSONAL AND
8 PROFESSIONAL SERVICES CONTRACTS FROM REVIEW BY THE PERSONAL
9 SERVICE CONTRACT REVIEW BOARD EXCEPT FOR PERSONAL AND PROFESSIONAL
10 SERVICES CONTRACTS ENTERED INTO FOR COMPUTER OR INFORMATION
11 TECHNOLOGY-RELATED SERVICES BY THE MISSISSIPPI DEPARTMENT OF
12 INFORMATION TECHNOLOGY SERVICES; TO AUTHORIZE AGENCIES TO PETITION
13 FOR RELIEF FROM COMPETITIVE BIDDING PROCUREMENT REQUIREMENTS; TO
14 RESTRICT AGENCY AUTHORITY TO ENTER INTO PERSONAL AND PROFESSIONAL
15 SERVICES CONTRACTS THAT DO NOT REQUIRE PRIOR APPROVAL FROM THE
16 PERSONAL SERVICE CONTRACT REVIEW BOARD; TO PROVIDE A PUBLICATION
17 PROCEDURE AND APPEAL PROCESS FOR ANY AGENCY THAT SEEKS TO CONTRACT
18 FOR A PERSONAL OR PROFESSIONAL SERVICE THROUGH A SOLE SOURCE
19 CONTRACT; TO DECREASE THE EXPENDITURE AMOUNT OF CONTRACTS THAT
20 REQUIRE APPROVAL BY THE PERSONAL SERVICE CONTRACT REVIEW BOARD; TO
21 IMPLEMENT THE CHANGES IN THIS ACT IN TWO SEPARATE PHASES; TO AMEND
22 SECTIONS 27-104-155 AND 27-104-161, MISSISSIPPI CODE OF 1972, TO
23 CLARIFY THAT PERSONAL AND PROFESSIONAL SERVICE CONTRACTS SHALL BE
24 INCLUDED ON THE MISSISSIPPI TRANSPARENCY WEBSITE; TO AMEND SECTION
25 27-104-105, MISSISSIPPI CODE OF 1972, TO DELETE THE REQUIREMENT OF
26 THE EMPLOYMENT OF ATTORNEYS TO BE REVIEWED BY THE MISSISSIPPI
27 STATE PERSONNEL BOARD AND IN ACCORDANCE WITH THE PROVISIONS OF
28 SECTION 25-9-120; TO AMEND SECTIONS 5-8-3 AND 5-8-7, MISSISSIPPI
29 CODE OF 1972, TO PROVIDE THAT ANY INDIVIDUAL THAT PERFORMS BOTH
30 CONSULTING AND LOBBYING SERVICES FOR A PUBLIC ENTITY SHALL BE
31 CONSIDERED A LOBBYIST AND SHALL NOT BE EXEMPT FROM ANY LOBBYING
32 LAW; TO REQUIRE ALL PUBLIC OFFICIALS TO FILE AN ANNUAL REPORT ON
33 CERTAIN GIFTS WITH THE MISSISSIPPI ETHICS COMMISSION; TO EXCLUDE
34 GIFTS FROM CERTAIN RELATIVES OR FRIENDS FROM THE REPORTING



35 REQUIREMENTS OF THIS ACT; TO REQUIRE THE MISSISSIPPI ETHICS
36 COMMISSION TO PREPARE AND MAKE AVAILABLE TO PUBLIC OFFICIALS A
37 FORM FOR THE REQUIRED REPORTING OF GIFTS UNDER THIS ACT; TO AMEND
38 SECTIONS 7-7-203, 7-7-211, 7-7-216, 7-7-225, 25-9-107, 25-11-15,
39 25-11-143, 25-15-5, 27-3-13, 31-11-3, 31-25-19, 31-31-7, 35-7-7,
40 37-33-157, 37-33-163, 37-37-3, 37-101-43, 37-115-25, 41-21-141,
41 41-23-43, 41-95-5, 43-13-121, 43-19-47, 43-33-717, 43-47-9,
42 47-5-35, 47-5-37, 47-5-357, 49-27-71, 55-23-43, 57-1-355, 57-34-7,
43 57-67-11, 57-75-11, 57-85-5, 61-4-11, 65-31-1, 65-43-3, 69-1-14,
44 69-15-7, 69-15-201, 71-5-121, 73-13-15, 73-33-5, 73-53-8,
45 75-76-21, 77-9-531, 81-27-8.115 AND 83-5-211, MISSISSIPPI CODE OF
46 1972, TO CONFORM TO THE PROVISIONS OF THIS ACT; TO BRING FORWARD
47 SECTIONS 5-8-5, 5-8-9 THROUGH 5-8-23, 25-53-21, 25-53-25, 65-1-85,
48 65-1-141 AND 77-3-105, MISSISSIPPI CODE OF 1972, FOR THE PURPOSE
49 OF POSSIBLE AMENDMENT; AND FOR RELATED PURPOSES.

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

51 **SECTION 1.** Section 25-9-120, Mississippi Code of 1972, is
52 amended as follows:

53 **Until July 1, 2016, this section shall read as follows:**

54 25-9-120. (1) Contract personnel, whether classified as
55 contract workers or independent contractors shall not be deemed
56 state service or nonstate service employees of the State of
57 Mississippi, and shall not be eligible to participate in the
58 Public Employees' Retirement System, or the state employee health
59 plan, nor be allowed credit for personal and sick leave and other
60 leave benefits as employees of the State of Mississippi,
61 notwithstanding Sections 25-3-91 through 25-3-101; 25-9-101
62 through 25-9-151; 25-11-1 through 25-11-126; 25-11-128 through
63 25-11-131; 25-15-1 through 25-15-23 and for the purpose set forth
64 herein. Contract workers, i.e., contract personnel who do not
65 meet the criteria of independent contractors, shall be subject to
66 the provisions of Section 25-11-127.



67 (2) (a) There is * * * created the Personal Service
68 Contract Review Board, which shall be composed of the following
69 members:

70 (i) The State Personnel Director * * *;

71 (ii) Four (4) individuals appointed by the
72 Governor; and

73 (iii) Two (2) individuals appointed by the
74 Lieutenant Governor.

75 (b) The initial terms of each appointee shall be as
76 follows:

77 (i) One (1) member appointed by the Governor to
78 serve for a term ending June 30, 2017;

79 (ii) Two (2) members appointed by the Governor to
80 serve for a term ending June 30, 2018;

81 (iii) One (1) member appointed by the Governor to
82 serve for a term ending June 30, 2019;

83 (iv) One (1) member appointed by the Lieutenant
84 Governor to serve for a term ending June 30, 2017; and

85 (v) One (1) member appointed by the Lieutenant
86 Governor to serve for a term ending June 30, 2019.

87 After the expiration of the initial terms, all appointed
88 members' terms shall be for a period of four (4) years from the
89 expiration date of the previous term, and until such time as the
90 member's successor is duly appointed and qualified. All members
91 appointed to initial and succeeding terms shall be subject to the



92 advice and consent of the Senate. All appointed members may be
93 reappointed upon expiration of their initial term or any
94 succeeding term thereafter.

95 The Personal Service Contract Review Board shall at all times
96 consist of members who have at least five (5) years of experience
97 in one (1) of the following: general business, health care,
98 finance, purchasing, bidding, auditing and contract review.
99 Additionally, at least two (2) members appointed by the Governor
100 shall have experience in managing a state agency. No appointed
101 member shall be an officer or employee of the State of Mississippi
102 while serving on the Personal Service Contract Review Board.

103 The members of the Personal Service Contract Review Board are
104 individually exempt from any civil liability as a result of any
105 action taken by the board.

106 A person, or an employee or owner of a company, that receives
107 any grants, procurements or contracts that are subject to approval
108 under this section shall not be a member of the Personal Service
109 Contract Review Board.

110 A person, or an employee or owner of a company, who is a
111 principal of the source providing the personal or professional
112 service shall not be appointed to the Personal Service Contract
113 Review Board if the principal owns or controls a greater than five
114 percent (5%) interest or has an ownership value of One Million
115 Dollars (\$1,000,000.00) in the source's business, whichever is



116 smaller. This prohibition shall not apply to persons owning
117 interests in publicly traded corporations.

118 (c) Members of the Personal Service Contract Review
119 Board shall be entitled to per diem as authorized by Section
120 25-3-69 and travel reimbursement as authorized by Section 25-3-41.

121 (d) * * * The State Personnel Director shall be
122 chairman and shall preside over the meetings of the * * * Personal
123 Service Contract Review Board. The * * * Personal Service
124 Contract Review Board shall annually elect a vice chairman, who
125 shall serve in the absence of the chairman. No business shall be
126 transacted, including adoption of rules of procedure, without the
127 presence of a quorum of the * * * Personal Service Contract Review
128 Board. * * * Four (4) members shall be a quorum. No action shall
129 be valid unless approved by the chairman and * * * three (3) other
130 of those members present and voting, entered upon the minutes of
131 the * * * Personal Service Contract Review Board and signed by the
132 chairman. The Personal Service Contract Review Board shall meet
133 at least once a month and at such other times as the chairman
134 deems necessary and proper. Minutes shall be kept of the
135 proceedings of each meeting, copies of which shall be filed on a
136 monthly basis with the Legislative Budget Office.

137 (e) Necessary clerical and administrative support for
138 the * * * Personal Service Contract Review Board shall be provided
139 by the State Personnel Board. * * * The Department of Finance and



140 Administration and the Attorney General shall provide such support
141 as may be required by the Personal Service Contract Review Board.

142 (3) The Personal Service Contract Review Board shall have
143 the following powers and responsibilities:

144 (a) Promulgate rules and regulations governing the
145 solicitation and selection of contractual services personnel
146 including personal and professional services contracts for any
147 form of consulting, policy analysis, public relations, marketing,
148 public affairs, legislative advocacy services or any other
149 contract that the * * * Personal Service Contract Review Board
150 deems appropriate for oversight, with the exception of any
151 personal or professional services * * * contract entered into for
152 computer or information technology-related services governed by
153 the Mississippi Department of Information Technology Services, any
154 personal or professional services * * * contract entered into by
155 the Mississippi Department of Transportation, and any contract for
156 attorney, accountant, auditor, physician, dentist, architect,
157 engineer, veterinarian and utility rate expert services. Any such
158 rules and regulations shall provide for maintaining continuous
159 internal audit covering the activities of such agency affecting
160 its revenue and expenditures as required under Section
161 7-7-3(6) (d) * * *. The Personal Service Contract Review Board
162 shall file all proposed rules and regulations in conformity with
163 the Administrative Procedures Act, and any notices filed in
164 accordance with that act shall also be provided to the



165 Chairpersons of the House of Representatives and Senate Committees
166 on Accountability, Efficiency and Transparency.

167 (b) Approve all personal and professional services
168 contracts involving the expenditures of funds in excess of One
169 Hundred Thousand Dollars (\$100,000.00);

170 (c) Develop standards with respect to contractual
171 services personnel which require invitations for public bid,
172 requests for proposals, record keeping and financial
173 responsibility of contractors. The Personal Service Contract
174 Review Board may, in its discretion, require the agency involved
175 to advertise such contract for public bid, and may reserve the
176 right to reject any or all bids;

177 (d) Prescribe certain circumstances * * * under which
178 agency heads may enter into contracts for personal and
179 professional services without receiving prior approval from the
180 Personal Service Contract Review Board. The Personal Service
181 Contract Review Board may establish a preapproved list of
182 providers of various personal and professional services for set
183 prices with which state agencies may contract without bidding or
184 prior approval from the board * * *;

185 (e) * * * Provide standards for the issuance of
186 requests for proposals, the evaluation of proposals received,
187 consideration of costs and quality of services proposed, contract
188 negotiations, the administrative monitoring of contract



189 performance by the agency and successful steps in terminating a
190 contract;

191 (f) * * * Present recommendations for governmental
192 privatization and to evaluate privatization proposals submitted by
193 any state agency;

194 (g) * * * Authorize personal and professional services
195 contracts to be effective for more than one (1) year provided a
196 funding condition is included in any such multiple year contract,
197 except the State Board of Education, which shall have the
198 authority to enter into contractual agreements for student
199 assessment for a period up to ten (10) years. The State Board of
200 Education shall procure these services in accordance with the
201 Personal Service Contract Review Board procurement regulations;

202 (h) * * * Request the State Auditor to conduct a
203 performance audit on any personal or professional services
204 contract;

205 (i) Prepare an annual report to the Legislature
206 concerning the issuance of personal and professional services
207 contracts during the previous year, collecting any necessary
208 information from state agencies in making such report.

209 (j) Develop the methods that will be required to review
210 and approve the contracts for personal or professional services to
211 be submitted to the Personal Service Contract Review Board on and
212 after July 1, 2016. The methods developed shall include the
213 following:



214 (i) Any additional positions the Personal Service
215 Contract Review Board will need to review the contracts as
216 provided in this paragraph (j) and the necessary funding that will
217 be required for these positions. Any legislation that may be
218 needed to fund the review of personal and professional contracts
219 by the Personal Service Contract Review Board shall also be
220 recommended;

221 (ii) Any expenses that will be necessary to
222 support any additional positions that may be added by the Personal
223 Service Contract Review Board;

224 All of the methods developed under this paragraph (j) shall
225 be prepared for review by the Legislature and the affected
226 agencies not later than January 1, 2016.

227 (4) No member of the Personal Service Contract Review Board
228 shall use his official authority or influence to coerce, by threat
229 of discharge from employment, or otherwise, the purchase of
230 commodities or the contracting for personal or professional
231 services under this section.

232 **From and after July 1, 2016, until January 1, 2017, this**
233 **section shall read as follows:**

234 25-9-120. (1) Contract personnel, whether classified as
235 contract workers or independent contractors shall not be deemed
236 state service or nonstate service employees of the State of
237 Mississippi, and shall not be eligible to participate in the
238 Public Employees' Retirement System, or the state employee health



239 plan, nor be allowed credit for personal and sick leave and other
240 leave benefits as employees of the State of Mississippi,
241 notwithstanding Sections 25-3-91 through 25-3-101; 25-9-101
242 through 25-9-151; 25-11-1 through 25-11-126; 25-11-128 through
243 25-11-131; 25-15-1 through 25-15-23 and for the purpose set forth
244 herein. Contract workers, i.e., contract personnel who do not
245 meet the criteria of independent contractors, shall be subject to
246 the provisions of Section 25-11-127.

247 (2) (a) There is * * * created the Personal Service
248 Contract Review Board, which shall be composed of the following
249 members:

250 (i) The State Personnel Director * * *;

251 * * *

252 (ii) Four (4) individuals appointed by the
253 Governor; and

254 (iii) Two (2) individuals appointed by the
255 Lieutenant Governor.

256 (b) The initial terms of each appointee shall be as
257 follows:

258 (i) One (1) member appointed by the Governor to
259 serve for a term ending June 30, 2017;

260 (ii) Two (2) members appointed by the Governor to
261 serve for a term ending June 30, 2018;

262 (iii) One (1) member appointed by the Governor to
263 serve for a term ending June 30, 2019;



264 (iv) One (1) member appointed by the Lieutenant
265 Governor to serve for a term ending June 30, 2017; and

266 (v) One (1) member appointed by the Lieutenant
267 Governor to serve for a term ending June 30, 2019.

268 After the expiration of the initial terms, all appointed
269 members' terms shall be for a period of four (4) years from the
270 expiration date of the previous term, and until such time as the
271 member's successor is duly appointed and qualified. All members
272 appointed to initial and succeeding terms shall be subject to the
273 advice and consent of the Senate. All appointed members may be
274 reappointed upon expiration of their initial term or any
275 succeeding term thereafter.

276 The Personal Service Contract Review Board shall at all times
277 consist of members who have at least five (5) years of experience
278 in one (1) of the following: general business, health care,
279 finance, purchasing, bidding, auditing and contract review.
280 Additionally, at least two (2) members appointed by the Governor
281 shall have experience in managing a state agency. No appointed
282 member shall be an officer or employee of the State of Mississippi
283 while serving on the Personal Service Contract Review Board.

284 The members of the Personal Service Contract Review Board are
285 individually exempt from any civil liability as a result of any
286 action taken by the board.

287 A person, or an employee or owner of a company, that receives
288 any grants or procurements or contracts that are subject to



289 approval under this section shall not be a member of the Personal
290 Service Contract Review Board.

291 A person, or an employee or owner of a company, who is a
292 principal of the source providing the personal or professional
293 service if the principal owns or controls a greater than five
294 percent (5%) interest or has an ownership value of One Million
295 Dollars (\$1,000,000.00) in the source's business, whichever is
296 smaller, shall not be appointed to the Personal Service Contract
297 Review Board. This prohibition shall not apply to persons owning
298 interests in publicly traded corporations.

299 (c) Members of the Personal Service Contract Review
300 Board shall be entitled to per diem as authorized by Section
301 25-3-69 and travel reimbursement as authorized by Section 25-3-41.

302 (d) * * * The State Personnel Director shall be
303 chairman and shall preside over the meetings of the * * * Personal
304 Service Contract Review Board. The * * * Personal Service
305 Contract Review Board shall annually elect a vice chairman, who
306 shall serve in the absence of the chairman. No business shall be
307 transacted, including adoption of rules of procedure, without the
308 presence of a quorum of the * * * Personal Service Contract Review
309 Board. * * * Four (4) members shall be a quorum. No action shall
310 be valid unless approved by the chairman and * * * three (3) other
311 of those members present and voting, entered upon the minutes of
312 the * * * Personal Service Contract Review Board and signed by the
313 chairman. The Personal Service Contract Review Board shall meet



314 at least once a month and at such other times as the chairman
315 deems necessary and proper. Minutes shall be kept of the
316 proceedings of each meeting, copies of which shall be filed on a
317 monthly basis with the Legislative Budget Office.

318 (e) Necessary clerical and administrative support for
319 the * * * Personal Service Contract Review Board shall be provided
320 by the State Personnel Board. * * * The Department of Finance and
321 Administration and the Attorney General shall provide such support
322 as may be required by the Personal Service Contract Review Board.

323 (3) The Personal Service Contract Review Board shall have
324 the following powers and responsibilities:

325 (a) Promulgate rules and regulations governing the
326 solicitation and selection of contractual services personnel
327 including personal and professional services contracts for any
328 form of consulting, policy analysis, public relations, marketing,
329 public affairs, legislative advocacy services or any other
330 contract that the * * * Personal Service Contract Review Board
331 deems appropriate for oversight, with the exception of any
332 personal or professional services contract entered into for
333 computer or information technology-related services governed by
334 the Mississippi Department of Information Technology
335 Services * * *. Any such rules and regulations shall provide for
336 maintaining continuous internal audit covering the activities of
337 such agency affecting its revenue and expenditures as required
338 under Section 7-7-3(6) (d) * * *. The Personal Service Contract



339 Review Board shall file all proposed rules and regulations in
340 conformity with the Administrative Procedures Act, and any notices
341 filed in accordance with that act shall also be provided to the
342 Chairpersons of the House of Representatives and Senate Committees
343 on Accountability, Efficiency and Transparency;

344 (b) Approve all personal and professional services
345 contracts involving the expenditures of funds in excess of One
346 Hundred Thousand Dollars (\$100,000.00);

347 (c) Develop mandatory standards with respect to
348 contractual services personnel which require invitations for
349 public bid, requests for proposals, record keeping and financial
350 responsibility of contractors. The Personal Service Contract
351 Review Board * * * shall, unless exempted under this paragraph (c)
352 or under paragraph (d) or (j) of this subsection (3), require the
353 agency involved to advertise such contract for public bid, and may
354 reserve the right to reject any or all bids * * *.

355 (i) Any agency that seeks to procure personal or
356 professional service contracts that are required to be approved by
357 the Personal Service Contract Review Board may petition for relief
358 from any requirement that the agency use competitive bidding as a
359 procurement method. The agency shall be required to show to the
360 Personal Service Contract Review Board's satisfaction one (1) of
361 the following:



362 1. Federal law has established limitations on
363 the use of competitive bidding for the personal or professional
364 contracts the agency is seeking to procure; or

365 2. The agency is required to hire
366 professionals whose members are prohibited from bidding by the
367 rules of professional conduct promulgated by the regulating agency
368 or agencies for that professional; or

369 3. The agency can establish that the use of
370 competitive bidding will be counterproductive to the business of
371 the agency.

372 (ii) If the Personal Service Contract Review Board
373 determines that competitive bidding shall not be required for the
374 particular personal or professional service the agency seeks to
375 procure, then the Personal Service Contract Review Board shall
376 direct the agency to establish a competitive procurement procedure
377 for selecting the personal or professional service contract that
378 ensures open, transparent procedures for making a selection. Such
379 procedures shall include, but not be limited to, qualifications
380 based selection or requests for qualifications. The Personal
381 Service Contract Review Board shall also have the authority to
382 audit the records of any agency to ensure it has used competitive
383 procedures to contract for the personal or professional service.

384 (d) Prescribe certain circumstances * * * under which
385 agency heads may enter into contracts for personal and
386 professional services without receiving prior approval from the



387 Personal Service Contract Review Board. * * * The circumstances
388 allowing such an exemption from prior approval shall be limited to
389 the following:

390 (i) Emergency procurements of personal and
391 professional services as approved by the Governor or the Executive
392 Director of the Department of Finance and Administration;

393 (ii) Selections from a pre-approved list of
394 providers of various personal and professional services for set
395 prices that state agencies may contract without bidding. Such
396 contracts shall be subject to review by the Personal Service
397 Contract Review Board;

398 (e) * * * Provide standards for the issuance of
399 requests for proposals, the evaluation of proposals received,
400 consideration of costs and quality of services proposed, contract
401 negotiations, the administrative monitoring of contract
402 performance by the agency and successful steps in terminating a
403 contract;

404 (f) * * * Present recommendations for governmental
405 privatization and to evaluate privatization proposals submitted by
406 any state agency;

407 (g) * * * Authorize personal and professional services
408 contracts to be effective for more than one (1) year provided a
409 funding condition is included in any such multiple year contract,
410 except the State Board of Education, which shall have the
411 authority to enter into contractual agreements for student



412 assessment for a period up to ten (10) years. The State Board of
413 Education shall procure these services in accordance with the
414 Personal Service Contract Review Board procurement regulations;

415 (h) * * * Request the State Auditor to conduct a
416 performance audit on any personal or professional services
417 contract;

418 (i) Prepare an annual report to the Legislature
419 concerning the issuance of personal and professional services
420 contracts during the previous year, collecting any necessary
421 information from state agencies in making such report * * *;

422 (j) Develop and implement the following standards and
423 procedures for the approval of any sole source contract for
424 personal and professional services regardless of the value of the
425 procurement:

426 (i) For the purposes of this paragraph (j), the
427 term "sole source" means only one (1) source is available that can
428 provide the required personal or professional service.

429 (ii) An agency that has been issued a binding,
430 valid court order mandating that a particular source or provider
431 must be used for the required service must include a copy of the
432 applicable court order in all future sole source contract reviews
433 for the particular personal or professional service referenced in
434 the court order.

435 (iii) Any agency alleging to have a sole source
436 for any personal or professional service shall have published on



437 the procurement portal website established by Sections 25-53-151
438 and 27-104-165, for at least fourteen (14) days, the terms of the
439 proposed contract for those services. In addition, the
440 publication shall include, but is not limited to, the following
441 information:

442 1. The personal or professional service
443 offered in the contract;

444 2. An explanation of why the personal or
445 professional service is the only one that can meet the needs of
446 the agency;

447 3. An explanation of why the source is the
448 only person or entity that can provide the required personal or
449 professional service;

450 4. An explanation of why the amount to be
451 expended for the personal or professional service is reasonable;
452 and

453 5. The efforts that the agency went through
454 to obtain the best possible price for the personal or professional
455 service.

456 (iv) If any person or entity objects and proposes
457 that the personal or professional service published under
458 subparagraph (iii) of this paragraph (j) is not a sole source
459 service and can be provided by another person or entity, then the
460 objecting person or entity shall notify the Personal Service
461 Contract Review Board and the agency that published the proposed



462 sole source contract with a detailed explanation of why the
463 personal or professional service is not a sole source service.

464 (v) 1. If the agency determines after review that
465 the personal or professional service in the proposed sole source
466 contract can be provided by another person or entity, then the
467 agency must withdraw the sole source contract publication from the
468 procurement portal website and submit the procurement of the
469 personal or professional service to an advertised competitive bid
470 or selection process.

471 2. If the agency determines after review that
472 there is only one (1) source for the required personal or
473 professional service, then the agency may appeal to the Personal
474 Service Contract Review Board. The agency has the burden of
475 proving that the personal or professional service is only provided
476 by one (1) source.

477 3. If the Personal Service Contract Review
478 Board has any reasonable doubt as to whether the personal or
479 professional service can only be provided by one (1) source, then
480 the agency must submit the procurement of the personal or
481 professional service to an advertised competitive bid or selection
482 process. No action taken by the Personal Service Contract Review
483 Board in this appeal process shall be valid unless approved by the
484 chairman and three (3) other members of the Personal Service
485 Contract Review Board present and voting.



486 (vi) The Personal Service Contract Review Board
487 shall prepare and submit a quarterly report to the House of
488 Representatives and Senate Committees on Accountability,
489 Efficiency and Transparency that details the sole source contracts
490 presented to the Personal Service Contract Review Board and the
491 reasons that the Personal Service Contract Review Board approved
492 or rejected each contract. Additionally, an agency that submitted
493 a sole source contract shall be prepared to explain the sole
494 source contract to each committee by December 15 of each year upon
495 request by the committee.

496 (4) * * * Any contract submitted to the Personal Service
497 Contract Review Board for review and approval shall be presumed to
498 be approved if the Personal Service Contract Review Board does not
499 object to the contract within thirty (30) days of the agency's
500 submission of the contract. All submissions shall be made thirty
501 (30) days before the monthly meeting of the Personal Service
502 Contract Review Board or as prescribed by the Personal Service
503 Contract Review Board.

504 If the Personal Service Contract Review Board rejects any
505 contract submitted for review or approval, the Personal Service
506 Contract Review Board shall clearly set out the reasons for its
507 action, including, but not limited to, the policy that the agency
508 has violated in its submitted contract and any corrective actions
509 that the agency may take to amend the contract to comply with the



510 rules and regulations of the Personal Service Contract Review
511 Board.

512 (5) No member of the Personal Service Contract Review Board
513 shall use his official authority or influence to coerce, by threat
514 of discharge from employment, or otherwise, the purchase of
515 commodities or the contracting for personal or professional
516 services under this section.

517 **From and after January 1, 2017, this section shall read as**
518 **follows:**

519 25-9-120. (1) Contract personnel, whether classified as
520 contract workers or independent contractors shall not be deemed
521 state service or nonstate service employees of the State of
522 Mississippi, and shall not be eligible to participate in the
523 Public Employees' Retirement System, or the state employee health
524 plan, nor be allowed credit for personal and sick leave and other
525 leave benefits as employees of the State of Mississippi,
526 notwithstanding Sections 25-3-91 through 25-3-101; 25-9-101
527 through 25-9-151; 25-11-1 through 25-11-126; 25-11-128 through
528 25-11-131; 25-15-1 through 25-15-23 and for the purpose set forth
529 herein. Contract workers, i.e., contract personnel who do not
530 meet the criteria of independent contractors, shall be subject to
531 the provisions of Section 25-11-127.

532 (2) (a) There is * * * created the Personal Service
533 Contract Review Board, which shall be composed of the following
534 members:



535 (i) The State Personnel Director * * *;
536 (ii) Four (4) individuals appointed by the
537 Governor; and
538 (iii) Two (2) individuals appointed by the
539 Lieutenant Governor.

540 (b) The initial terms of each appointee shall be as
541 follows:

542 (i) One (1) member appointed by the Governor to
543 serve for a term ending June 30, 2017;

544 (ii) Two (2) members appointed by the Governor to
545 serve for a term ending June 30, 2018;

546 (iii) One (1) member appointed by the Governor to
547 serve for a term ending June 30, 2019;

548 (iv) One (1) member appointed by the Lieutenant
549 Governor to serve for a term ending June 30, 2017; and

550 (v) One (1) member appointed by the Lieutenant
551 Governor to serve for a term ending June 30, 2019.

552 After the expiration of the initial terms, all appointed
553 members' terms shall be for a period of four (4) years from the
554 expiration date of the previous term, and until such time as the
555 member's successor is duly appointed and qualified. All members
556 appointed to initial and succeeding terms shall be subject to the
557 advice and consent of the Senate. All appointed members may be
558 reappointed upon expiration of their initial term or any
559 succeeding term thereafter.



560 The Personal Service Contract Review Board shall at all times
561 consist of members who have at least five (5) years of experience
562 in one (1) of the following: general business, health care,
563 finance, purchasing, bidding, auditing and contract review.
564 Additionally, at least two (2) members appointed by the Governor
565 shall have experience in managing a state agency. No appointed
566 member shall be an officer or employee of the State of Mississippi
567 while serving on the Personal Service Contract Review Board.

568 The members of the Personal Service Contract Review Board are
569 individually exempt from any civil liability as a result of any
570 action taken by the board.

571 A person, or an employee or owner of a company, that receives
572 any grants or procurements or contracts that are subject to
573 approval under this section shall not be a member of the Personal
574 Service Contract Review Board.

575 A person, or an employee or owner of a company, who is a
576 principal of the source providing the personal or professional
577 service if the principal owns or controls a greater than five
578 percent (5%) interest or has an ownership value of One Million
579 Dollars (\$1,000,000.00) in the source's business, whichever is
580 smaller, shall not be appointed to the Personal Service Contract
581 Review Board. This prohibition shall not apply to persons owning
582 interests in publicly traded corporations.



583 (c) Members of the Personal Service Contract Review
584 Board shall be entitled to per diem as authorized by Section
585 25-3-69 and travel reimbursement as authorized by Section 25-3-41.

586 (d) * * * The State Personnel Director shall be
587 chairman and shall preside over the meetings of the * * * Personal
588 Service Contract Review Board. The * * * Personal Service
589 Contract Review Board shall annually elect a vice chairman, who
590 shall serve in the absence of the chairman. No business shall be
591 transacted, including adoption of rules of procedure, without the
592 presence of a quorum of the * * * Personal Service Contract Review
593 Board. * * * Four (4) members shall be a quorum. No action shall
594 be valid unless approved by the chairman and * * * three (3) other
595 of those members present and voting, entered upon the minutes of
596 the * * * Personal Service Contract Review Board and signed by the
597 chairman. The Personal Service Contract Review Board shall meet
598 at least once a month and at such other times as the chairman
599 deems necessary and proper. Minutes shall be kept of the
600 proceedings of each meeting, copies of which shall be filed on a
601 monthly basis with the Legislative Budget Office.

602 (e) Necessary clerical and administrative support for
603 the * * * Personal Service Contract Review Board shall be provided
604 by the State Personnel Board. * * * The Department of Finance and
605 Administration and the Attorney General shall provide such support
606 as may be required by the Personal Service Contract Review Board.



607 (3) The Personal Service Contract Review Board shall have
608 the following powers and responsibilities:

609 (a) Promulgate rules and regulations governing the
610 solicitation and selection of contractual services personnel
611 including personal and professional services contracts for any
612 form of consulting, policy analysis, public relations, marketing,
613 public affairs, legislative advocacy services or any other
614 contract that the * * * Personal Service Contract Review Board
615 deems appropriate for oversight, with the exception of any
616 personal or professional services * * * contract entered into for
617 computer or information technology-related services governed by
618 the Mississippi Department of Information Technology
619 Services * * *. The Personal Service Contract Review Board shall
620 file all proposed rules and regulations in conformity with the
621 Administrative Procedures Act, and any notices filed in accordance
622 with that act shall also be provided to the Chairpersons of the
623 House of Representatives and Senate Committees on Accountability,
624 Efficiency and Transparency.

625 (b) Approve all personal and professional services
626 contracts involving the expenditures of funds in excess of * * *
627 Eighty Thousand Dollars (\$80,000.00);

628 (c) Develop mandatory standards with respect to
629 contractual services personnel which require invitations for
630 public bid, requests for proposals, record keeping and financial
631 responsibility of contractors. The Personal Service Contract



632 Review Board * * * shall, unless exempted under this paragraph (c)
633 or under paragraph (d) or (j) of this subsection (3), require the
634 agency involved to advertise such contract for public bid, and may
635 reserve the right to reject any or all bids;

636 (i) Any agency that seeks to procure personal or
637 professional service contracts that are required to be approved by
638 the Personal Service Contract Review Board may petition for relief
639 from any requirement that the agency use competitive bidding as a
640 procurement method. The agency shall be required to show to the
641 Personal Service Contract Review Board's satisfaction one (1) of
642 the following:

643 1. Federal law has established limitations on
644 the use of competitive bidding for the personal or professional
645 contracts the agency is seeking to procure; or

646 2. The agency is required to hire
647 professionals whose members are prohibited from bidding by the
648 rules of professional conduct promulgated by the regulating agency
649 or agencies for that professional; or

650 3. The agency can establish that the use of
651 competitive bidding will be counterproductive to the business of
652 the agency.

653 (ii) If the Personal Service Contract Review Board
654 determines that competitive bidding shall not be required for the
655 particular personal or professional service the agency seeks to
656 procure, then the Personal Service Contract Review Board shall



657 direct the agency to establish a competitive procurement procedure
658 for selecting the personal or professional service contract that
659 ensures open, transparent procedures for making a selection. Such
660 procedures shall include, but not be limited to, qualifications
661 based selection or requests for qualifications. The Personal
662 Service Contract Review Board shall also have the authority to
663 audit the records of any agency to ensure it has used competitive
664 procedures to contract for the personal or professional service.

665 (d) Prescribe certain circumstances * * * under which
666 agency heads may enter into contracts for personal and
667 professional services without receiving prior approval from the
668 Personal Service Contract Review Board. * * * The circumstances
669 allowing such an exemption from prior approval shall be limited to
670 the following:

671 (i) Emergency procurements of personal and
672 professional services as approved by the Governor or the Executive
673 Director of the Department of Finance and Administration;

674 (ii) Selections from a pre-approved list of
675 providers of various personal and professional services for set
676 prices that state agencies may contract without bidding. Such
677 contracts shall be subject to review by the Personal Service
678 Contract Review Board;

679 (e) * * * Provide standards for the issuance of
680 requests for proposals, the evaluation of proposals received,
681 consideration of costs and quality of services proposed, contract



682 negotiations, the administrative monitoring of contract
683 performance by the agency and successful steps in terminating a
684 contract;

685 (f) * * * Present recommendations for governmental
686 privatization and to evaluate privatization proposals submitted by
687 any state agency;

688 (g) * * * Authorize personal and professional services
689 contracts to be effective for more than one (1) year provided a
690 funding condition is included in any such multiple year contract,
691 except the State Board of Education, which shall have the
692 authority to enter into contractual agreements for student
693 assessment for a period up to ten (10) years. The State Board of
694 Education shall procure these services in accordance with the
695 Personal Service Contract Review Board procurement regulations;

696 (h) * * * Request the State Auditor to conduct a
697 performance audit on any personal or professional services
698 contract;

699 (i) Prepare an annual report to the Legislature
700 concerning the issuance of personal and professional services
701 contracts during the previous year, collecting any necessary
702 information from state agencies in making such report * * *;

703 (j) Develop and implement the following standards and
704 procedures for the approval of any sole source contract for
705 personal and professional services regardless of the value of the
706 procurement:



707 (i) For the purposes of this paragraph (j), the
708 term "sole source" means only one (1) source is available that can
709 provide the required personal or professional service.

710 (ii) An agency that has been issued a binding,
711 valid court order mandating that a particular source or provider
712 must be used for the required service must include a copy of the
713 applicable court order in all future sole source contract reviews
714 for the particular personal or professional service referenced in
715 the court order.

716 (iii) Any agency alleging to have a sole source
717 for any personal or professional service shall have published on
718 the procurement portal website established by Sections 25-53-151
719 and 27-104-165, for at least fourteen (14) days, the terms of the
720 proposed contract for those services. In addition, the
721 publication shall include, but is not limited to, the following
722 information:

723 1. The personal or professional service
724 offered in the contract;

725 2. An explanation of why the personal or
726 professional service is the only one that can meet the needs of
727 the agency;

728 3. An explanation of why the source is the
729 only person or entity that can provide the required personal or
730 professional service;



731 4. An explanation of why the amount to be
732 expended for the personal or professional service is reasonable;
733 and

734 5. The efforts that the agency went through
735 to obtain the best possible price for the personal or professional
736 service.

737 (iv) If any person or entity objects and proposes
738 that the personal or professional service published under
739 subparagraph (iii) of this paragraph (j) is not a sole source
740 service and can be provided by another person or entity, then the
741 objecting person or entity shall notify the Personal Service
742 Contract Review Board and the agency that published the proposed
743 sole source contract with a detailed explanation of why the
744 personal or professional service is not a sole source service.

745 (v) 1. If the agency determines after review that
746 the personal or professional service in the proposed sole source
747 contract can be provided by another person or entity, then the
748 agency must withdraw the sole source contract publication from the
749 procurement portal website and submit the procurement of the
750 personal or professional service to an advertised competitive bid
751 or selection process.

752 2. If the agency determines after review that
753 there is only one (1) source for the required personal or
754 professional service, then the agency may appeal to the Personal
755 Service Contract Review Board. The agency has the burden of



756 proving that the personal or professional service is only provided
757 by one (1) source.

758 3. If the Personal Service Contract Review
759 Board has any reasonable doubt as to whether the personal or
760 professional service can only be provided by one (1) source, then
761 the agency must submit the procurement of the personal or
762 professional service to an advertised competitive bid or selection
763 process. No action taken by the Personal Service Contract Review
764 Board in this appeal process shall be valid unless approved by the
765 chairman and three (3) other members of the Personal Service
766 Contract Review Board present and voting.

767 (vi) The Personal Service Contract Review Board
768 shall prepare and submit a quarterly report to the House of
769 Representatives and Senate Committees on Accountability,
770 Efficiency and Transparency that details the sole source contracts
771 presented to the Personal Service Contract Review Board and the
772 reasons that the Personal Service Contract Review Board approved
773 or rejected each contract. Additionally, an agency that submitted
774 a sole source contract shall be prepared to explain the sole
775 source contract to each committee by December 15 of each year upon
776 request by the committee.

777 (4) * * * Any contract submitted to the Personal Service
778 Contract Review Board for review and approval shall be presumed to
779 be approved if the Personal Service Contract Review Board does not
780 object to the contract within thirty (30) days of the agency's



781 submission of the contract. All submissions shall be made thirty
782 (30) days before the monthly meeting of the Personal Service
783 Contract Review Board or as prescribed by the Personal Service
784 Contract Review Board.

785 If the Personal Service Contract Review Board rejects any
786 contract submitted for review or approval, the Personal Service
787 Contract Review Board shall clearly set out the reasons for its
788 action, including, but not limited to, the policy that the agency
789 has violated in its submitted contract and any corrective actions
790 that the agency may take to amend the contract to comply with the
791 rules and regulations of the Personal Service Contract Review
792 Board.

793 (5) No member of the Personal Service Contract Review Board
794 shall use his official authority or influence to coerce, by threat
795 of discharge from employment, or otherwise, the purchase of
796 commodities or the contracting for personal or professional
797 services under this section.

798 **SECTION 2.** Section 27-104-155, Mississippi Code of 1972, is
799 amended as follows:

800 27-104-155. (1) The Department of Finance and
801 Administration shall develop and operate a searchable website that
802 includes information on expenditures of state funds from all
803 funding sources. The website shall have a unique and simplified
804 website address, and the department shall require each agency that
805 maintains a generally accessible Internet site or for which a



806 generally accessible Internet site is maintained to include a link
807 on the front page of the agency's Internet site to the searchable
808 website required under this section.

809 (a) With regard to disbursement of funds, the website
810 shall include, but not be limited to:

811 (i) The name and principal location of the entity
812 or recipients of the funds, excluding release of information
813 relating to an individual's place of residence, the identity of
814 recipients of state or federal assistance payments, and any other
815 information deemed confidential by state or federal law relating
816 to privacy rights;

817 (ii) The amount of state funds expended;

818 (iii) A descriptive purpose of the funding action
819 or expenditure;

820 (iv) The funding source of the expenditure;

821 (v) The budget program or activity of the
822 expenditure;

823 (vi) The specific source of authority and
824 descriptive purpose of the expenditure, to include a link to the
825 funding authorization document(s) in a searchable PDF form;

826 (vii) The specific source of authority for the
827 expenditure including, but not limited to, a grant, subgrant,
828 contract, or the general discretion of the agency director,
829 provided that if the authority is a grant, subgrant or contract,
830 the website entry shall include a grant, subgrant or contract



831 number or similar information that clearly identifies the specific
832 source of authority. The information required under this
833 paragraph includes data relative to tax exemptions and credits;

834 (viii) The expending agency;

835 (ix) The type of transaction;

836 (x) The expected performance outcomes achieved for
837 the funding action or expenditure;

838 (xi) Links to any state audit or report relating
839 to the entity or recipient of funds or the budget program or
840 activity or agency; and

841 (xii) Any other information deemed relevant by the
842 Department of Finance and Administration.

843 (b) When the expenditure of state funds involves the
844 expenditure of bond proceeds, the searchable website must include
845 a clear, detailed description of the purpose of the bonds, a
846 current status report on the project or projects being financed by
847 the bonds, and a current status report on the payment of the
848 principal and interest on the bonds.

849 (c) The searchable website must include access to an
850 electronic summary of each grant, including amendments; subgrant,
851 including amendments; contract, including amendments; and payment
852 voucher that includes, wherever possible, a hyperlink to the
853 actual document in a searchable PDF format, subject to the
854 restrictions in paragraph (d) of this section. The Department of



855 Finance and Administration may cooperate with other agencies to
856 accomplish the requirements of this paragraph.

857 (d) Nothing in Sections 27-104-151 through 27-104-159
858 shall permit or require the disclosure of trade secrets or other
859 proprietary information, including confidential vendor
860 information, or any other information that is required to be
861 confidential by state or federal law.

862 (e) The information available from the searchable
863 website must be updated no later than fourteen (14) days after the
864 receipt of data from an agency, and the Department of Finance and
865 Administration shall require each agency to provide to the
866 department access to all data that is required to be accessible
867 from the searchable website within fourteen (14) days of each
868 expenditure, grant award, including amendments; subgrant,
869 including amendments; or contract, including amendments; executed
870 by the agency.

871 (f) The searchable website must include all information
872 required by this section for all transactions that are initiated
873 in fiscal year 2015 or later. In addition, all information that
874 is included on the searchable website from the date of the
875 inception of the website until July 1, 2014, must be maintained on
876 the website according to the requirements of this section before
877 July 1, 2014, and remain accessible for ten (10) years from the
878 date it was originally made available. All data on the searchable



879 website must remain accessible to the public for a minimum of ten
880 (10) years.

881 (g) For the purposes of this subsection (1), the term
882 "contract" includes, but is not limited to, personal and
883 professional services contracts.

884 (2) The Board of Trustees of State Institutions of Higher
885 Learning shall create the IHL Accountability and Transparency
886 website to include its executive office and the institutions of
887 higher learning no later than July 1, 2012. This website shall:

888 (a) Provide access to existing financial reports,
889 financial audits, budgets and other financial documents that are
890 used to allocate, appropriate, spend and account for appropriated
891 funds;

892 (b) Have a unique and simplified website address;

893 (c) Be directly accessible via a link from the main
894 page of the Department of Finance and Administration website, as
895 well as the IHL website and the main page of the website of each
896 institution of higher learning;

897 (d) Include other links, features or functionality that
898 will assist the public in obtaining and reviewing public financial
899 information;

900 (e) Report expenditure information currently available
901 within these enterprise resource planning (ERP) computer systems;
902 and



903 (f) Design the reporting format using the existing
904 capabilities of these ERP computer systems.

905 (3) The Mississippi Community College Board shall create the
906 Community and Junior Colleges Accountability and Transparency
907 website to include its executive office and the community and
908 junior colleges no later than July 1, 2012. This website shall:

909 (a) Provide access to existing financial reports,
910 financial audits, budgets and other financial documents that are
911 used to allocate, appropriate, spend and account for appropriated
912 funds;

913 (b) Have a unique and simplified website address;

914 (c) Be directly accessible via a link from the main
915 page of the Department of Finance and Administration website, as
916 well as the Mississippi Community College Board website and the
917 main page of the website of each community and junior college;

918 (d) Include other links, features or functionality that
919 will assist the public in obtaining and reviewing public financial
920 information;

921 (e) Report expenditure information currently available
922 within the computer system of each community and junior college;
923 and

924 (f) Design the reporting format using the existing
925 capabilities of the computer system of each community and junior
926 college.



927 **SECTION 3.** Section 27-104-161, Mississippi Code of 1972, is
928 amended as follows:

929 27-104-161. No provision of Sections 27-104-151 through
930 27-104-159 shall be construed as conferring upon the Department of
931 Finance and Administration any authority to review, approve or
932 deny any expenditures or contracts entered into by the Legislature
933 or any of its committees, or to impose any requirement on the
934 Legislature or any of its committees to take any action other than
935 to disclose expenditures and contracts entered into on or after
936 July 1, 2011. For the purposes of this section, the term
937 "contract" includes, but is not limited to, personal and
938 professional services contracts.

939 **SECTION 4.** Section 27-104-105, Mississippi Code of 1972, is
940 amended as follows:

941 27-104-105. The Department of Finance and Administration
942 shall not process any warrant requested by any state agency for
943 payment for legal services without first determining that the
944 services and contract were approved either by the Attorney
945 General * * *, or as authorized under Section 7-5-39(3) * * * and
946 in accordance with the provisions of Section 25-9-120. The State
947 Auditor shall test for compliance with this section.

948 **SECTION 5.** Section 5-8-3, Mississippi Code of 1972, is
949 amended as follows:



950 5-8-3. The following words and phrases shall have the
951 meanings ascribed herein unless the context clearly indicates
952 otherwise:

953 (a) (i) "Anything of value" means:

954 1. A pecuniary item, including money, or a
955 bank bill or note;

956 2. A promissory note, bill of exchange,
957 order, draft, warrant, check or bond given for the payment of
958 money;

959 3. A contract, agreement, promise or other
960 obligation for an advance, conveyance, forgiveness of
961 indebtedness, deposit, distribution, loan, payment, gift, pledge
962 or transfer of money;

963 4. A stock, bond, note or other investment
964 interest in an entity;

965 5. A receipt given for the payment of money
966 or other property;

967 6. A right in action;

968 7. A gift, tangible good, chattel or an
969 interest in a gift, tangible good or chattel;

970 8. A loan or forgiveness of indebtedness;

971 9. A work of art, antique or collectible;

972 10. An automobile or other means of personal
973 transportation;



974 11. Real property or an interest in real
975 property, including title to realty, a fee simple or partial
976 interest, present or future, contingent or vested within realty, a
977 leasehold interest, or other beneficial interest in realty;

978 12. An honorarium or compensation for
979 services;

980 13. A rebate or discount in the price of
981 anything of value, unless the rebate or discount is made in the
982 ordinary course of business to a member of the public without
983 regard to that person's status as an executive, legislative or
984 public official or public employee, or the sale or trade of
985 something for reasonable compensation that would ordinarily not be
986 available to a member of the public;

987 14. A promise or offer of employment;

988 15. Any other thing of value that is
989 pecuniary or compensatory in value to a person, except as
990 otherwise provided in subparagraph (ii) of this paragraph; or

991 16. A payment that directly benefits an
992 executive, legislative or public official or public employee or a
993 member of that person's immediate family.

994 (ii) "Anything of value" does not mean:

995 1. Informational material such as books,
996 reports, pamphlets, calendars or periodicals informing an
997 executive, legislative or public official or public employee of
998 her or his official duties;



999 2. A certificate, plaque or other
1000 commemorative item which has little pecuniary value;
1001 3. Food and beverages for immediate
1002 consumption provided by a lobbyist up to a value of Ten Dollars
1003 (\$10.00) in the aggregate during any calendar year;
1004 4. Campaign contributions reported in
1005 accordance with Section 23-15-801 et seq., Mississippi Code of
1006 1972.

1007 (b) "Commission" means the Mississippi Ethics
1008 Commission, when used in the context of Section 5-8-19.

1009 (c) "Compensation" means:
1010 (i) An advance, conveyance, forgiveness of
1011 indebtedness, deposit, distribution, loan, payment, gift, pledge
1012 or transfer of money or anything of value, including reimbursement
1013 of travel, food or lodging costs; or
1014 (ii) A contract, agreement, promise or other
1015 obligation for an advance, conveyance, forgiveness of
1016 indebtedness, deposit, distribution, loan, payment, gift, pledge
1017 or transfer of money or anything of value, including reimbursement
1018 of travel, food or lodging costs, for services rendered or to be
1019 rendered.

1020 (d) "Executive action" means the proposal, drafting,
1021 development, consideration, amendment, adoption, approval,
1022 promulgation, issuance, modification, rejection or postponement by
1023 a state or local governmental entity of a rule, regulation, order,



1024 decision, determination or other quasi-legislative action or
1025 proceeding.

1026 (e) "Executive agency" means:

1027 (i) An agency, board, commission, governing
1028 authority or other body in the executive branch of state or local
1029 government; or

1030 (ii) An independent body of state or local
1031 government that is not a part of the legislative or judicial
1032 branch, but which shall include county boards of supervisors.

1033 (f) "Executive official" means:

1034 (i) A member or employee of a state agency, board,
1035 commission, governing authority or other body in the executive
1036 branch of state or local government; or

1037 (ii) A public official or public employee, or any
1038 employee of such person, of state or local government who takes an
1039 executive action.

1040 (g) "Expenditure" means:

1041 (i) A purchase, payment, distribution, loan,
1042 forgiveness of a loan or payment of a loan by a third party,
1043 advance, deposit, transfer of funds, a promise to make a payment,
1044 or a gift of money or anything of value for any purpose;

1045 (ii) A payment to a lobbyist for salary, fee,
1046 commission, compensation for expenses, or other purpose by a
1047 person employing, retaining or contracting for the services of the
1048 lobbyist separately or jointly with other persons;



1049 (iii) A payment in support of or assistance to a
1050 lobbyist or the lobbyist's activities, including the direct
1051 payment of expenses incurred at the request or suggestion of the
1052 lobbyist;

1053 (iv) A payment that directly benefits an
1054 executive, legislative or public official or a member of the
1055 official's immediate family;

1056 (v) A payment, including compensation, payment or
1057 reimbursement for the services, time or expenses of an employee
1058 for or in connection with direct communication with an executive,
1059 legislative or public official made at the direction of the
1060 employee's employer;

1061 (vi) A payment for or in connection with
1062 soliciting or urging other persons to enter into direct
1063 communication with an executive, legislative or public official;
1064 or

1065 (vii) A payment or reimbursement for food,
1066 beverages, travel, lodging, entertainment or sporting activities.

1067 (h) "Gift" means anything of value to the extent that
1068 consideration of equal or greater value is not received, including
1069 a rebate or discount in the price of anything of value unless the
1070 rebate or discount is made in the ordinary course of business to a
1071 member of the public without regard to that person's status as an
1072 executive, legislative or public official.

1073 (i) "Legislative action" means:



1074 (i) Preparation, research, drafting, introduction,
1075 consideration, modification, amendment, approval, passage,
1076 enactment, tabling, postponement, defeat or rejection of a bill,
1077 resolution, amendment, motion, report, nomination, appointment or
1078 other matter by the Mississippi State Legislature or a member or
1079 employee of the Legislature acting or purporting to act in an
1080 official capacity;

1081 (ii) Action by the Governor in approving or
1082 vetoing a bill or other action of the Legislature;

1083 (iii) Action by the Legislature in:

1084 1. Overriding or sustaining a veto by the
1085 Governor; or

1086 2. Considering, confirming or rejecting an
1087 executive appointment of the Governor.

1088 (j) "Legislative official" means:

1089 (i) A member, member-elect or presiding officer of
1090 the Legislature;

1091 (ii) A member of a commission or other entity
1092 established by and responsible to either or both houses of the
1093 Legislature;

1094 (iii) A staff member, officer or employee to a
1095 member or member-elect of the Legislature, to a member of a
1096 commission or other entity established by and responsible to
1097 either or both houses of the Legislature, or to the Legislature or
1098 any house, committee or office thereof.



1099 (k) "Lobbying" means:
1100 (i) Influencing or attempting to influence
1101 legislative or executive action through oral or written
1102 communication; or
1103 (ii) Solicitation of others to influence
1104 legislative or executive action; or
1105 (iii) Paying or promising to pay anything of value
1106 directly or indirectly related to legislative or executive action.
1107 (l) "Lobbyist" means:
1108 (i) An individual who is employed and receives
1109 payments, or who contracts for economic consideration, including
1110 reimbursement for reasonable travel and living expenses, for the
1111 purpose of lobbying;
1112 (ii) An individual who represents a legislative or
1113 public official or public employee, or who represents a person,
1114 organization, association or other group, for the purpose of
1115 lobbying; or
1116 (iii) A sole proprietor, owner, part owner or
1117 shareholder in a business who has a pecuniary interest in
1118 legislative or executive action, who engages in lobbying
1119 activities * * *; or
1120 (iv) Any individual described in subparagraphs (i)
1121 through (iii) of this paragraph (l) who is employed by or has
1122 contracted with any agency, legislative or public official or
1123 public employee, or any other public entity for the purpose of



1124 providing any type of consulting or other similar service but also
1125 engages in any type of lobbying activities. Such individual does
1126 not qualify for any exemption under Section 5-8-7.

1127 (m) "Lobbyist's client" means the person in whose
1128 behalf the lobbyist influences or attempts to influence
1129 legislative or executive action.

1130 (n) "Local" means all entities of government at the
1131 county, county-district, multicounty district, municipal or school
1132 district level.

1133 (o) "Person" means an individual, proprietorship, firm,
1134 partnership, joint venture, joint-stock company, syndicate,
1135 business trust, estate, company, corporation, association, club,
1136 committee, organization or group of persons acting in concert.

1137 (p) "Public employee" means an individual appointed to
1138 a position, including a position created by statute, whether
1139 compensated or not, in state or local government and includes any
1140 employee of the public employee. The term includes a member of
1141 the board of trustees, chancellor, vice-chancellor or the
1142 equivalent thereof in the state university system or the state
1143 community and junior college system, and a president of a state
1144 college or university.

1145 (q) "Public official" means an individual elected to a
1146 state or local office, or an individual who is appointed to fill a
1147 vacancy in the office.



1148 (r) "Value" means the retail cost or fair market worth
1149 of an item or items, whichever is greater.

1150 **SECTION 6.** Section 5-8-7, Mississippi Code of 1972, is
1151 amended as follows:

1152 5-8-7. Notwithstanding any other provisions of this chapter,
1153 except as otherwise provided in Section 5-8-3(1)(iv), the
1154 following person shall not be included within the definition of
1155 "lobbyist" or "lobbyist's client" under this chapter, and
1156 accordingly the registration and reporting provisions, including
1157 the payment of related fees, of this chapter do not apply to:

1158 (a) A legislative or public official acting in an
1159 official capacity.

1160 (b) An individual who:

1161 (i) Represents or purports to represent only the
1162 individual;

1163 (ii) Receives no compensation or anything of value
1164 for lobbying; and

1165 (iii) Has no pecuniary interest in the legislative
1166 or executive action.

1167 (c) An individual lobbying in his or her own interest,
1168 his or her own business interest, who pays, or promises to pay,
1169 offers to pay or causes to be paid to public officials,
1170 legislative officials or public employees any thing or things of
1171 value aggregating in value to less than Two Hundred Dollars
1172 (\$200.00) in any calendar year.



1173 (d) An individual lobbying on behalf of his or her
1174 employer's business interest where such lobbying is not a primary
1175 or regular function of his employment position if such individual
1176 pays, promises to pay, offers to pay, or causes to be paid
1177 individually or on the employer's behalf to public officials,
1178 legislative officials, or public employees any thing or things of
1179 value aggregating in value to less than Two Hundred Dollars
1180 (\$200.00) in any calendar year.

1181 (e) An individual lobbying on behalf of an association
1182 of which he or she is a member, where such lobbying is not a
1183 primary or regular function of his or her position in the
1184 association, if such individual pays, promises to pay, offers to
1185 pay, or causes to be paid individually or on the association's
1186 behalf to public officials, legislative officials or public
1187 employees any thing or things of value aggregating in value to
1188 less than Two Hundred Dollars (\$200.00) in any calendar year.

1189 (f) An individual who is a shareholder, owner or part
1190 owner of a business who lobbies on behalf of such business, where
1191 such individual is not an employee of the business, if such
1192 individual pays, promises to pay, offers to pay, or causes to be
1193 paid individually or on behalf of the business to public
1194 officials, legislative officials or public employees any thing or
1195 things of value aggregating in value to less than Two Hundred
1196 Dollars (\$200.00) in any calendar year.

1197 (g) An individual who:



1198 (i) Limits lobbying solely to formal testimony
1199 before a public meeting of a legislative body or an executive
1200 agency, or a committee, division or department thereof; and

1201 (ii) Registers the appearance in the records of
1202 the public body, if such records are kept.

1203 (h) An individual who is a licensed attorney
1204 representing a client by:

1205 (i) Drafting bills, preparing arguments thereon,
1206 and advising the client or rendering opinions as to the
1207 construction and effect of proposed or pending legislation, where
1208 such services are usual and customary professional legal services
1209 which are not otherwise connected with legislative action; or

1210 (ii) Providing information, on behalf of the
1211 client, to an executive or public official, a public employee, or
1212 an agency, board, commission, governing authority or other body of
1213 state or local government where such services are usual and
1214 customary professional legal services including or related to a
1215 particular nonlegislative matter, case or controversy.

1216 (i) News media and employees of the news media whose
1217 activity is limited solely to the publication or broadcast of
1218 news, editorial comments, or paid advertisements that attempt to
1219 influence legislative or executive action. For the purposes of
1220 this section, "news media" shall be construed to be bona fide
1221 radio and television stations, newspapers, journals or magazines,
1222 or bona fide news bureaus or associations which in turn furnish



1223 information solely to bona fide radio or television stations,
1224 newspapers, journals or magazines.

1225 (j) An individual who engages in lobbying activities
1226 exclusively on behalf of a religious organization which qualifies
1227 as a tax-exempt organization under the Internal Revenue Code.

1228 (k) An individual who is a nonattorney professional and
1229 who receives professional fees and expenses to represent clients
1230 on executive agency matters, except that if anything of value
1231 shall be paid or promised to be paid directly or indirectly on
1232 behalf of a client for the personal use or benefit of an executive
1233 or public official or public employee, then expenditures and
1234 actions of the individual are reportable under this chapter, and
1235 the individual must register as a lobbyist.

1236 **SECTION 7.** (1) The following words and phrases have the
1237 meanings ascribed in this section unless the context clearly
1238 indicates otherwise:

1239 (a) "Public official" means a person elected by popular
1240 vote to any legislative, executive or judicial office, whether the
1241 office is statewide, district, county, municipal or any other
1242 political subdivision and a person who is appointed by a person
1243 who is elected by popular vote.

1244 (b) "Gift" means a tangible good, including money, or a
1245 service having a retail value equal to or exceeding Five Hundred
1246 Dollars (\$500.00) which is given to an elected official for which
1247 consideration of equal or greater value is not received from the



1248 official, including a rebate or discount in the price of anything
1249 of value unless the rebate or discount is made in the ordinary
1250 course of business to a member of the public without regard to
1251 that person's status as an elected official. The term "gift" does
1252 not include a campaign contribution reported under Chapter 15,
1253 Title 23, Mississippi Code of 1972.

1254 (c) "Relative" means the spouse of the public official,
1255 a child of the public official or the spouse of a child, a parent
1256 of the public official or the spouse of a parent, and a sibling of
1257 the public official or the spouse of a sibling.

1258 (d) "Friend" means a person attached to another by
1259 feelings of affection or personal regard. For the purposes of
1260 this section, to determine whether a person qualifies as a
1261 "friend" of the recipient, the factors to consider shall include,
1262 but not be limited to, the following:

1263 (i) Whether the friendship preexisted the
1264 recipient's status as a public employee, public official, or
1265 candidate;

1266 (ii) Whether gifts have been previously exchanged
1267 between the friend and the recipient; and

1268 (iii) Whether a gift by a friend of the recipient
1269 was made under circumstances which made it clear that the gift was
1270 motivated by a friendship and not given because of the recipient's
1271 official position.



1272 (2) Each public official in the State of Mississippi shall
1273 file an annual report with the Mississippi Ethics Commission on
1274 gifts received by the public official during the preceding
1275 twelve-month period. Except as is otherwise provided in this
1276 subsection, for each gift received by the public official, the
1277 report must include:

1278 (a) The name of the donor of the gift;

1279 (b) A description and the estimated monetary value of
1280 the gift, with sufficient detail so that the nature of the gift is
1281 clear; and

1282 (c) The place and date the gift was given.

1283 Exempted from the reporting requirements of this section is
1284 any gift made to a public official by a relative or friend of the
1285 public official.

1286 (3) The Mississippi Ethics Commission shall prepare a form
1287 for the reporting of gifts and shall make copies of the form
1288 available to all persons required to file a report under this
1289 section. In addition, the Ethics Commission shall establish the
1290 date by which reports must be received in the Office of the Ethics
1291 Commission, such established reporting date shall be the same day
1292 as required by the Ethics Commission for filing the statement of
1293 Economic Interest form and shall specify the months which must be
1294 covered by the report.



1295 (4) Reports filed pursuant to this section must be made
1296 available for public inspection during regular office hours at the
1297 Ethics Commission.

1298 **SECTION 8.** Section 7-7-203, Mississippi Code of 1972, is
1299 amended as follows:

1300 7-7-203. The State Auditor shall appoint a director for the
1301 financial and compliance division and a director for the
1302 investigations division of the department. The director of the
1303 financial and compliance division shall be a certified public
1304 accountant of recognized executive ability and thoroughly familiar
1305 with the laws of the state in relation to the financial
1306 administration of the public offices thereof. The director of the
1307 investigations division shall be a certified law enforcement
1308 officer of recognized executive ability and shall be thoroughly
1309 familiar with the laws of the state in relation to the financial
1310 administration of the public offices thereof.

1311 The State Auditor may appoint, in accordance with the
1312 provisions of Section 25-9-120, deputy auditors; employ attorneys,
1313 certified public accountants and other assistants; or contract for
1314 any services necessary to carry out the provisions of this
1315 article.

1316 **SECTION 9.** Section 7-7-211, Mississippi Code of 1972, is
1317 amended as follows:

1318 7-7-211. The department shall have the power and it shall be
1319 its duty:



1320 (a) To identify and define for all public offices of
1321 the state and its subdivisions generally accepted accounting
1322 principles or other accounting principles as promulgated by
1323 nationally recognized professional organizations and to consult
1324 with the State Fiscal Officer in the prescription and
1325 implementation of accounting rules and regulations;

1326 (b) To provide best practices, for all public offices
1327 of regional and local subdivisions of the state, systems of
1328 accounting, budgeting and reporting financial facts relating to
1329 said offices in conformity with legal requirements and with
1330 generally accepted accounting principles or other accounting
1331 principles as promulgated by nationally recognized professional
1332 organizations; to assist such subdivisions in need of assistance
1333 in the installation of such systems; to revise such systems when
1334 deemed necessary, and to report to the Legislature at periodic
1335 times the extent to which each office is maintaining such systems,
1336 along with such recommendations to the Legislature for improvement
1337 as seem desirable;

1338 (c) To study and analyze existing managerial policies,
1339 methods, procedures, duties and services of the various state
1340 departments and institutions upon written request of the Governor,
1341 the Legislature or any committee or other body empowered by the
1342 Legislature to make such request to determine whether and where
1343 operations can be eliminated, combined, simplified and improved;



1344 (d) To postaudit each year and, when deemed necessary,
1345 preaudit and investigate the financial affairs of the departments,
1346 institutions, boards, commissions, or other agencies of state
1347 government, as part of the publication of a comprehensive annual
1348 financial report for the State of Mississippi, or as deemed
1349 necessary by the State Auditor. In complying with the
1350 requirements of this paragraph, the department shall have the
1351 authority to conduct all necessary audit procedures on an interim
1352 and year-end basis;

1353 (e) To postaudit and, when deemed necessary, preaudit
1354 and investigate separately the financial affairs of (i) the
1355 offices, boards and commissions of county governments and any
1356 departments and institutions thereof and therein; (ii) public
1357 school districts, departments of education and junior college
1358 districts; and (iii) any other local offices or agencies which
1359 share revenues derived from taxes or fees imposed by the State
1360 Legislature or receive grants from revenues collected by
1361 governmental divisions of the state; the cost of such audits,
1362 investigations or other services to be paid as follows: Such part
1363 shall be paid by the state from appropriations made by the
1364 Legislature for the operation of the State Department of Audit as
1365 may exceed the sum of Thirty-five Dollars (\$35.00) per man-hour
1366 for the services of each staff person engaged in performing the
1367 audit or other service plus the actual cost of any independent
1368 specialist firm contracted by the State Auditor to assist in the



1369 performance of the audit, which sum shall be paid by the county,
1370 district, department, institution or other agency audited out of
1371 its general fund or any other available funds from which such
1372 payment is not prohibited by law. Costs paid for independent
1373 specialists or firms contracted by the State Auditor shall be paid
1374 by the audited entity through the State Auditor to the specialist
1375 or firm conducting the postaudit.

1376 Each school district in the state shall have its financial
1377 records audited annually, at the end of each fiscal year, either
1378 by the State Auditor or by a certified public accountant approved
1379 by the State Auditor. Beginning with the audits of fiscal year
1380 2010 activity, no certified public accountant shall be selected to
1381 perform the annual audit of a school district who has audited that
1382 district for three (3) or more consecutive years previously.
1383 Certified public accountants shall be selected in a manner
1384 determined by the State Auditor. The school district shall have
1385 the responsibility to pay for the audit, including the review by
1386 the State Auditor of audits performed by certified public
1387 accountants;

1388 (f) To postaudit and, when deemed necessary, preaudit
1389 and investigate the financial affairs of the levee boards;
1390 agencies created by the Legislature or by executive order of the
1391 Governor; profit or nonprofit business entities administering
1392 programs financed by funds flowing through the State Treasury or
1393 through any of the agencies of the state, or its subdivisions; and



1394 all other public bodies supported by funds derived in part or
1395 wholly from public funds, except municipalities which annually
1396 submit an audit prepared by a qualified certified public
1397 accountant using methods and procedures prescribed by the
1398 department;

1399 (g) To make written demand, when necessary, for the
1400 recovery of any amounts representing public funds improperly
1401 withheld, misappropriated and/or otherwise illegally expended by
1402 an officer, employee or administrative body of any state, county
1403 or other public office, and/or for the recovery of the value of
1404 any public property disposed of in an unlawful manner by a public
1405 officer, employee or administrative body, such demands to be made
1406 (i) upon the person or persons liable for such amounts and upon
1407 the surety on official bond thereof, and/or (ii) upon any
1408 individual, partnership, corporation or association to whom the
1409 illegal expenditure was made or with whom the unlawful disposition
1410 of public property was made, if such individual, partnership,
1411 corporation or association knew or had reason to know through the
1412 exercising of reasonable diligence that the expenditure was
1413 illegal or the disposition unlawful. Such demand shall be
1414 premised on competent evidence, which shall include at least one
1415 (1) of the following: (i) sworn statements, (ii) written
1416 documentation, (iii) physical evidence, or (iv) reports and
1417 findings of government or other law enforcement agencies. Other
1418 provisions notwithstanding, a demand letter issued pursuant to



1419 this paragraph shall remain confidential by the State Auditor
1420 until the individual against whom the demand letter is being filed
1421 has been served with a copy of such demand letter. If, however,
1422 such individual cannot be notified within fifteen (15) days using
1423 reasonable means and due diligence, such notification shall be
1424 made to the individual's bonding company, if he or she is bonded.
1425 Each such demand shall be paid into the proper treasury of the
1426 state, county or other public body through the office of the
1427 department in the amount demanded within thirty (30) days from the
1428 date thereof, together with interest thereon in the sum of one
1429 percent (1%) per month from the date such amount or amounts were
1430 improperly withheld, misappropriated and/or otherwise illegally
1431 expended. In the event, however, such person or persons or such
1432 surety shall refuse, neglect or otherwise fail to pay the amount
1433 demanded and the interest due thereon within the allotted thirty
1434 (30) days, the State Auditor shall have the authority and it shall
1435 be his duty to institute suit, and the Attorney General shall
1436 prosecute the same in any court of the state to the end that there
1437 shall be recovered the total of such amounts from the person or
1438 persons and surety on official bond named therein; and the amounts
1439 so recovered shall be paid into the proper treasury of the state,
1440 county or other public body through the State Auditor. In any
1441 case where written demand is issued to a surety on the official
1442 bond of such person or persons and the surety refuses, neglects or
1443 otherwise fails within one hundred twenty (120) days to either pay



1444 the amount demanded and the interest due thereon or to give the
1445 State Auditor a written response with specific reasons for
1446 nonpayment, then the surety shall be subject to a civil penalty in
1447 an amount of twelve percent (12%) of the bond, not to exceed Ten
1448 Thousand Dollars (\$10,000.00), to be deposited into the State
1449 General Fund;

1450 (h) To investigate any alleged or suspected violation
1451 of the laws of the state by any officer or employee of the state,
1452 county or other public office in the purchase, sale or the use of
1453 any supplies, services, equipment or other property belonging
1454 thereto; and in such investigation to do any and all things
1455 necessary to procure evidence sufficient either to prove or
1456 disprove the existence of such alleged or suspected violations.
1457 The Department of Investigation of the State Department of Audit
1458 may investigate, for the purpose of prosecution, any suspected
1459 criminal violation of the provisions of this chapter. For the
1460 purpose of administration and enforcement of this chapter, the
1461 enforcement employees of the Department of Investigation of the
1462 State Department of Audit have the powers of a law enforcement
1463 officer of this state, and shall be empowered to make arrests and
1464 to serve and execute search warrants and other valid legal process
1465 anywhere within the State of Mississippi. All enforcement
1466 employees of the Department of Investigation of the State
1467 Department of Audit hired on or after July 1, 1993, shall be



1468 required to complete the Law Enforcement Officers Training Program
1469 and shall meet the standards of the program;

1470 (i) To issue subpoenas, with the approval of, and
1471 returnable to, a judge of a chancery or circuit court, in termtime
1472 or in vacation, to examine the records, documents or other
1473 evidence of persons, firms, corporations or any other entities
1474 insofar as such records, documents or other evidence relate to
1475 dealings with any state, county or other public entity. The
1476 circuit or chancery judge must serve the county in which the
1477 records, documents or other evidence is located; or where all or
1478 part of the transaction or transactions occurred which are the
1479 subject of the subpoena;

1480 (j) In any instances in which the State Auditor is or
1481 shall be authorized or required to examine or audit, whether
1482 preaudit or postaudit, any books, ledgers, accounts or other
1483 records of the affairs of any public hospital owned or owned and
1484 operated by one or more political subdivisions or parts thereof or
1485 any combination thereof, or any school district, including
1486 activity funds thereof, it shall be sufficient compliance
1487 therewith, in the discretion of the State Auditor, that such
1488 examination or audit be made from the report of any audit or other
1489 examination certified by a certified public accountant and
1490 prepared by or under the supervision of such certified public
1491 accountant. Such audits shall be made in accordance with
1492 generally accepted standards of auditing, with the use of an audit



1493 program prepared by the State Auditor, and final reports of such
1494 audits shall conform to the format prescribed by the State
1495 Auditor. All files, working papers, notes, correspondence and all
1496 other data compiled during the course of the audit shall be
1497 available, without cost, to the State Auditor for examination and
1498 abstracting during the normal business hours of any business day.
1499 The expense of such certified reports shall be borne by the
1500 respective hospital, or any available school district funds other
1501 than minimum program funds, subject to examination or audit. The
1502 State Auditor shall not be bound by such certified reports and
1503 may, in his or their discretion, conduct such examination or audit
1504 from the books, ledgers, accounts or other records involved as may
1505 be appropriate and authorized by law;

1506 (k) The State Auditor shall have the authority to
1507 contract, in accordance with the provisions of Section 25-9-120,
1508 with qualified public accounting firms to perform selected audits
1509 required in paragraphs (d), (e), (f) and (j) of this section, if
1510 funds are made available for such contracts by the Legislature, or
1511 if funds are available from the governmental entity covered by
1512 paragraphs (d), (e), (f) and (j). Such audits shall be made in
1513 accordance with generally accepted standards of auditing. All
1514 files, working papers, notes, correspondence and all other data
1515 compiled during the course of the audit shall be available,
1516 without cost, to the State Auditor for examination and abstracting
1517 during the normal business hours of any business day;



1518 (1) The State Auditor shall have the authority to
1519 establish training courses and programs for the personnel of the
1520 various state and local governmental entities under the
1521 jurisdiction of the Office of the State Auditor. The training
1522 courses and programs shall include, but not be limited to, topics
1523 on internal control of funds, property and equipment control and
1524 inventory, governmental accounting and financial reporting, and
1525 internal auditing. The State Auditor is authorized to charge a
1526 fee from the participants of these courses and programs, which fee
1527 shall be deposited into the Department of Audit Special Fund.
1528 State and local governmental entities are authorized to pay such
1529 fee and any travel expenses out of their general funds or any
1530 other available funds from which such payment is not prohibited by
1531 law;

1532 (m) Upon written request by the Governor or any member
1533 of the State Legislature, the State Auditor may audit any state
1534 funds and/or state and federal funds received by any nonprofit
1535 corporation incorporated under the laws of this state;

1536 (n) To conduct performance audits of personal or
1537 professional service contracts by state agencies on a random
1538 sampling basis, or upon request of the State Personal Service
1539 Contract Review Board under Section 25-9-120(3); and

1540 (o) At the discretion of the State Auditor, the Auditor
1541 may conduct risk assessments, as well as performance and
1542 compliance audits based on Generally Accepted Government Auditing



1543 Standards (GAGAS) of any state-funded economic development program
1544 authorized under Title 57, Mississippi Code of 1972. After risk
1545 assessments or program audits, the State Auditor may conduct
1546 audits of those projects deemed high-risk, specifically as they
1547 identify any potential wrongdoing or noncompliance based on
1548 objectives of the economic development program. The Auditor is
1549 granted authority to gather, audit and review data and information
1550 from the Mississippi Development Authority or any of its agents,
1551 the Department of Revenue, and when necessary under this
1552 paragraph, the recipient business or businesses or any other
1553 private, public or nonprofit entity with information relevant to
1554 the audit project. The maximum amount the State Auditor may bill
1555 the oversight agency under this paragraph in any fiscal year is
1556 One Hundred Thousand Dollars (\$100,000.00), based on reasonable
1557 and necessary expenses.

1558 **SECTION 10.** Section 7-7-216, Mississippi Code of 1972, is
1559 amended as follows:

1560 7-7-216. No less than once during each four-year term of the
1561 State Auditor, the Legislature shall receive bids from an
1562 independent, certified public accounting firm for an opinion and a
1563 legal compliance audit of the Office of the State Auditor, in
1564 accordance with the provisions of Section 25-9-120. Such firm, so
1565 selected, shall report its findings and recommendations to the
1566 Legislature and the Governor. The cost of this audit shall be
1567 paid from funds appropriated for this purpose by the Legislature.



1568 **SECTION 11.** Section 7-7-225, Mississippi Code of 1972, is
1569 amended as follows:

1570 7-7-225. The State Auditor, when conducting agency audits,
1571 shall test to determine whether or not the state institutions of
1572 higher learning and any state agency which does not draw warrants
1573 on the Treasury have either received approval of the Attorney
1574 General or complied with the provisions of Section 7-5-39 and
1575 complied with Section 25-9-120, with regard to any contract for
1576 legal services.

1577 **SECTION 12.** Section 25-9-107, Mississippi Code of 1972, is
1578 amended as follows:

1579 25-9-107. The following terms, when used in this chapter,
1580 unless a different meaning is plainly required by the context,
1581 shall have the following meanings:

1582 (a) "Board" means the State Personnel Board created
1583 under the provisions of this chapter.

1584 (b) "State service" means all employees of state
1585 departments, agencies and institutions as defined herein, except
1586 those officers and employees excluded by this chapter.

1587 (c) "Nonstate service" means the following officers and
1588 employees excluded from the state service by this chapter. The
1589 following are excluded from the state service:

1590 (i) Members of the State Legislature, their staff
1591 and other employees of the legislative branch;



1592 (ii) The Governor and staff members of the
1593 immediate Office of the Governor;

1594 (iii) Justices and judges of the judicial branch
1595 or members of appeals boards on a per diem basis;

1596 (iv) The Lieutenant Governor, staff members of the
1597 immediate Office of the Lieutenant Governor and officers and
1598 employees directly appointed by the Lieutenant Governor;

1599 (v) Officers and officials elected by popular vote
1600 and persons appointed to fill vacancies in elective offices;

1601 (vi) Members of boards and commissioners appointed
1602 by the Governor, Lieutenant Governor or the State Legislature;

1603 (vii) All academic officials, members of the
1604 teaching staffs and employees of the state institutions of higher
1605 learning, the Mississippi Community College Board, and community
1606 and junior colleges;

1607 (viii) Officers and enlisted members of the
1608 National Guard of the state;

1609 (ix) Prisoners, inmates, student or patient help
1610 working in or about institutions;

1611 (x) Contract personnel; provided, that any agency
1612 which employs state service employees may enter into contracts for
1613 personal and professional services only if such contracts are
1614 approved in compliance with the rules and regulations promulgated
1615 by the State Personal Service Contract Review Board under Section
1616 25-9-120(3). Before paying any warrant for such contractual



1617 services in excess of One Hundred Thousand Dollars (\$100,000.00),
1618 or as otherwise provided in Section 25-9-120, the Auditor of
1619 Public Accounts, or the successor to those duties, shall determine
1620 whether the contract involved was for personal or professional
1621 services, and, if so, was approved by the State Personal Service
1622 Contract Review Board;

1623 (xi) Part-time employees; provided, however,
1624 part-time employees shall only be hired into authorized employment
1625 positions classified by the board, shall meet minimum
1626 qualifications as set by the board, and shall be paid in
1627 accordance with the Variable Compensation Plan as certified by the
1628 board;

1629 (xii) Persons appointed on an emergency basis for
1630 the duration of the emergency; the effective date of the emergency
1631 appointments shall not be earlier than the date approved by the
1632 State Personnel Director, and shall be limited to thirty (30)
1633 working days. Emergency appointments may be extended to sixty
1634 (60) working days by the State Personnel Board;

1635 (xiii) Physicians, dentists, veterinarians, nurse
1636 practitioners and attorneys, while serving in their professional
1637 capacities in authorized employment positions who are required by
1638 statute to be licensed, registered or otherwise certified as such,
1639 provided that the State Personnel Director shall verify that the
1640 statutory qualifications are met prior to issuance of a payroll
1641 warrant by the Auditor;



1642 (xiv) Personnel who are employed and paid from
1643 funds received from a federal grant program which has been
1644 approved by the Legislature or the Department of Finance and
1645 Administration whose length of employment has been determined to
1646 be time-limited in nature. This subparagraph shall apply to
1647 personnel employed under the provisions of the Comprehensive
1648 Employment and Training Act of 1973, as amended, and other special
1649 federal grant programs which are not a part of regular federally
1650 funded programs wherein appropriations and employment positions
1651 are appropriated by the Legislature. Such employees shall be paid
1652 in accordance with the Variable Compensation Plan and shall meet
1653 all qualifications required by federal statutes or by the
1654 Mississippi Classification Plan;

1655 (xv) The administrative head who is in charge of
1656 any state department, agency, institution, board or commission,
1657 wherein the statute specifically authorizes the Governor, board,
1658 commission or other authority to appoint said administrative head;
1659 provided, however, that the salary of such administrative head
1660 shall be determined by the State Personnel Board in accordance
1661 with the Variable Compensation Plan unless otherwise fixed by
1662 statute;

1663 (xvi) The State Personnel Board shall exclude
1664 top-level positions if the incumbents determine and publicly
1665 advocate substantive program policy and report directly to the
1666 agency head, or the incumbents are required to maintain a direct



1667 confidential working relationship with a key excluded official.
1668 Provided further, a written job classification shall be approved
1669 by the board for each such position, and positions so excluded
1670 shall be paid in conformity with the Variable Compensation Plan;

1671 (xvii) Employees whose employment is solely in
1672 connection with an agency's contract to produce, store or
1673 transport goods, and whose compensation is derived therefrom;

1674 (xviii) Repealed;

1675 (xix) The associate director, deputy directors and
1676 bureau directors within the Department of Agriculture and
1677 Commerce;

1678 (xx) Personnel employed by the Mississippi
1679 Industries for the Blind; provided, that any agency may enter into
1680 contracts for the personal services of MIB employees without the
1681 prior approval of the State Personnel Board or the State Personal
1682 Service Contract Review Board; however, any agency contracting for
1683 the personal services of an MIB employee shall provide the MIB
1684 employee with not less than the entry-level compensation and
1685 benefits that the agency would provide to a full-time employee of
1686 the agency who performs the same services;

1687 (xxi) Personnel employed by the Mississippi
1688 Department of Wildlife, Fisheries and Parks and the Mississippi
1689 Department of Marine Resources as law enforcement trainees
1690 (cadets); such personnel shall be paid in accordance with the
1691 Colonel Guy Groff State Variable Compensation Plan.



1692 (d) "Agency" means any state board, commission,
1693 committee, council, department or unit thereof created by the
1694 Constitution or statutes if such board, commission, committee,
1695 council, department, unit or the head thereof, is authorized to
1696 appoint subordinate staff by the Constitution or statute, except a
1697 legislative or judicial board, commission, committee, council,
1698 department or unit thereof.

1699 **SECTION 13.** Section 25-11-15, Mississippi Code of 1972, is
1700 amended as follows:

1701 25-11-15. (1) Board of trustees: The general
1702 administration and responsibility for the proper operation of the
1703 Public Employees' Retirement System and the federal-state
1704 agreement and for making effective the provisions of Articles 1
1705 and 3 are vested in a board of trustees.

1706 (2) The board shall consist of ten (10) trustees, as
1707 follows:

1708 (a) The State Treasurer;

1709 (b) One (1) member who shall be appointed by the
1710 Governor for a term of four (4) years, who shall be a member of
1711 the system;

1712 (c) Two (2) members of the system having at least ten
1713 (10) years of creditable service who are state employees who are
1714 not employees of the state institutions of higher learning, who
1715 shall be elected by members of the system who are employees of
1716 state agencies and by members of the Mississippi Highway Safety



1717 Patrol Retirement System, but not by employees of the state
1718 institutions of higher learning;

1719 (d) Two (2) members of the system having at least ten
1720 (10) years of creditable service who do not hold office in the
1721 legislative or judicial departments of municipal or county
1722 government, one (1) of whom shall be an employee of a
1723 municipality, instrumentality or juristic entity thereof, who
1724 shall be elected by members of the system who are employees of the
1725 municipalities, instrumentalities or juristic entities thereof and
1726 by members of the municipal systems and the firemen's and
1727 policemen's disability and relief funds administered by the board
1728 of trustees, and one (1) of whom shall be an employee of a county,
1729 instrumentality or juristic entity thereof, who shall be elected
1730 by members of the system who are employees of the counties,
1731 instrumentalities or juristic entities thereof;

1732 (e) One (1) member of the system having at least ten
1733 (10) years of creditable service who is an employee of a state
1734 institution of higher learning, who shall be elected by members of
1735 the system who are employees of the state institutions of higher
1736 learning as included in Section 37-101-1. Any member of the board
1737 on July 1, 1984, who is an employee of an institution of higher
1738 learning shall serve as the member trustee representing the
1739 institutions of higher learning until the end of the term for
1740 which he or she was elected;



1741 (f) Two (2) retired members who are receiving a
1742 retirement allowance from the system, who shall be elected by the
1743 retired members or beneficiaries receiving a retirement allowance
1744 from the system and by the retired members or beneficiaries of the
1745 municipal systems, the firemen's and policemen's disability and
1746 relief funds and the Mississippi Highway Safety Patrol Retirement
1747 System administered by the board of trustees, to serve for a term
1748 of six (6) years under rules and regulations adopted by the board
1749 to govern that election; however, any retired member of the board
1750 in office on April 19, 1993, shall serve as a retired trustee
1751 until the end of the term for which he or she was elected;

1752 (g) One (1) member of the system having at least ten
1753 (10) years of creditable service who is an employee of any public
1754 school district or junior college or community college district
1755 that participates in the system, who shall be elected by the
1756 members of the system who are employees of any public school
1757 district or junior college or community college district; however,
1758 any member of the board on June 30, 1989, who is a certified
1759 classroom teacher shall serve as the member representing a
1760 classroom teacher until the end of the term for which the member
1761 was appointed;

1762 (h) In the first election to be held for trustees one
1763 (1) member shall be elected for a term of two (2) years, and one
1764 (1) member for a term of four (4) years, and one (1) member for a
1765 term of six (6) years. Thereafter, their successors shall be



1766 elected for terms of six (6) years. All elections shall be held
1767 in accordance with rules and regulations adopted by the board to
1768 govern those elections and the board shall be the sole judge of
1769 all questions arising incident to or connected with the elections.

1770 (i) Any person eligible to vote for the election of a
1771 member of the board of trustees and who meets the qualifications
1772 for the office may seek election to the office and serve if
1773 elected. For purposes of determining eligibility to seek office
1774 as a member of the board of trustees, the required creditable
1775 service in "the system" shall include each system administered by
1776 the board of trustees in which the person is a member.

1777 The members described above and serving on the board on June
1778 30, 1989, shall continue to serve on the board until the
1779 expiration of their terms.

1780 (3) If a vacancy occurs in the office of a trustee, the
1781 vacancy shall be filled for the unexpired term in the same manner
1782 as the office was previously filled. However, if the unexpired
1783 term is six (6) months or less, an election shall be held to fill
1784 the office vacated for the next succeeding full term of office,
1785 and the person so elected to fill the next full term shall be
1786 appointed by the board to fill the remainder of the unexpired
1787 term. Whenever any member who is elected to a position to
1788 represent a class of members ceases to be a member of that class,
1789 that board member is no longer eligible for membership on the
1790 board. The position shall be declared vacant, and the unexpired



1791 term shall be filled in the same manner as the office was
1792 previously filled.

1793 (4) Each trustee shall, within ten (10) days after his or
1794 her appointment or election, take an oath of office as provided by
1795 law and, in addition, shall take an oath that he or she will
1796 diligently and honestly administer the affairs of the board, and
1797 that he or she will not knowingly violate or willingly permit to
1798 be violated any of the provisions of law applicable to Articles 1
1799 and 3. The oath shall be signed by the member making it,
1800 certified by the officer before whom it is taken, and immediately
1801 filed in the office of the Secretary of State.

1802 (5) Each trustee shall be entitled to one (1) vote. Six (6)
1803 members shall constitute a quorum at any meeting of the board, and
1804 a majority of those present shall be necessary for a decision.

1805 (6) Subject to the limitations of Articles 1 and 3, the
1806 board shall establish rules and regulations for the administration
1807 of the system created by those articles and for the transaction of
1808 its business, and to give force and effect to the provisions of
1809 those articles wherever necessary to carry out the intent and
1810 purposes of the Legislature. The cited articles are remedial law
1811 and shall be liberally construed to accomplish their purposes.

1812 (7) Notwithstanding any other law to the contrary, in the
1813 event of a natural disaster or other occurrence that results in
1814 the failure of the retirement system's computer system or a
1815 significant disruption of the normal activities of the retirement



1816 system, the executive director of the board, or his or her deputy,
1817 shall be authorized to contract with another entity, governmental
1818 or private, during the period of the failure or disruption, for
1819 services, commodities, work space and supplies as necessary to
1820 carry out the administration of all systems and programs
1821 administered by the board. The board shall be authorized to pay
1822 the reasonable cost of those services, commodities, work space and
1823 supplies. At the meeting of the board next following the
1824 execution of a contract authorized under this subsection,
1825 documentation of the contract, including a description of the
1826 services, commodities, work space or supplies, the price thereof
1827 and the nature of the disaster or occurrence, shall be presented
1828 to the board and placed on the minutes of the board. Because of
1829 their emergency nature, purchases made under this subsection shall
1830 not be required to comply with the provisions of Section 31-7-13
1831 or any other law governing public purchases, but shall comply with
1832 the provisions of Section 25-9-120.

1833 (8) The computer equipment and software owned by the Public
1834 Employees' Retirement System are assets of the Trust Fund by
1835 virtue of the Constitution, Section 272-A and acquisition and
1836 operation thereof shall be under the jurisdiction of the Public
1837 Employees' Retirement System.

1838 (9) The board shall elect a chairman and shall by a majority
1839 vote of all of its members appoint a secretary whose title shall
1840 be executive director, who shall serve at the will and pleasure of



1841 the board, who shall not be a member of the board of trustees, who
1842 shall be entitled to membership in the system, and who shall act
1843 as secretary of the board. The board of trustees shall employ
1844 such actuarial, clerical and other employees as are required to
1845 transact the business of the system, and shall fix the
1846 compensation of all employees, subject to the rules and
1847 regulations of the State Personnel Board.

1848 (10) Each member of the board shall receive as compensation
1849 for his or her services Three Hundred Dollars (\$300.00) per month.
1850 All members of the board shall be reimbursed for their necessary
1851 traveling expenses, which shall be paid in accordance with the
1852 requirements of Section 25-3-41 or other applicable statutes with
1853 respect to traveling expenses of state officials and employees on
1854 official business. All members of the board shall be entitled to
1855 be members of the system and shall be entitled to creditable
1856 service for all time served as a member of the board, except for
1857 the retired members, who shall not be entitled to be a member of
1858 the system and who shall be eligible to receive the retirement
1859 allowance and compensation for services from the system while
1860 serving as a member of the board. Members of the board who are
1861 employed in state service (as defined in Section 25-11-103) shall
1862 not be required to take annual leave from their state service
1863 employment while performing his or her official duties as a member
1864 of the board.



1865 (11) All expenses of the board incurred in the
1866 administration of Articles 1 and 3 shall be paid from such funds
1867 as may be appropriated by the Legislature for that purpose or from
1868 administrative fees collected from political subdivisions or
1869 juristic entities of the state. Each political subdivision of the
1870 state and each instrumentality of the state or of a political
1871 subdivision or subdivisions that submit a plan for approval by the
1872 board as provided in Section 25-11-11 shall reimburse the board,
1873 for coverage into the administrative expense fund, its pro rata
1874 share of the total expense of administering Articles 1 and 3 as
1875 provided by regulations of the board.

1876 (12) The Lieutenant Governor may designate two (2) Senators
1877 and the Speaker of the House of Representatives may designate two
1878 (2) Representatives to attend any meeting of the Board of Trustees
1879 of the Public Employees' Retirement System. The appointing
1880 authorities may designate alternate members from their respective
1881 houses to serve when the regular designees are unable to attend
1882 the meetings of the board. The legislative designees shall have
1883 no jurisdiction or vote on any matter within the jurisdiction of
1884 the board. For attending meetings of the board, the legislators
1885 shall receive per diem and expenses, which shall be paid from the
1886 contingent expense funds of their respective houses in the same
1887 amounts as provided for committee meetings when the Legislature is
1888 not in session; however, no per diem and expenses for attending
1889 meetings of the board will be paid while the Legislature is in



1890 session. No per diem and expenses will be paid except for
1891 attending meetings of the board without prior approval of the
1892 proper committee in their respective houses.

1893 **SECTION 14.** Section 25-11-143, Mississippi Code of 1972, is
1894 amended as follows:

1895 25-11-143. (1) The provisions of this section shall become
1896 effective from and after July 1 of the year following the year in
1897 which the board determines and the board's actuary certifies that
1898 the employer's contribution rate to the Public Employees'
1899 Retirement System can be reduced by one percent (1%) without
1900 causing the unfunded accrued actuarial liability amortization
1901 period for the retirement system to exceed twenty (20) years.

1902 (2) As used in this section, the term "retiree" means any
1903 person receiving a service or disability retirement benefit from
1904 any system administered by the board; however, in the case of
1905 persons participating in the optional retirement plan established
1906 in Section 25-11-401 et seq., the term "retiree" includes only
1907 those persons who would be entitled to receive a retirement
1908 allowance under the provisions of Section 25-11-111 if they were
1909 not members of the optional retirement plan.

1910 (3) The board shall design a plan of health insurance for
1911 all current and future retirees that will take effect from and
1912 after January 1 following the year in which this section becomes
1913 effective as provided in subsection (1) of this section. The plan
1914 may include coverage for the spouse, surviving beneficiary and



1915 dependent children of retirees and other such sponsored dependents
1916 as the board considers appropriate; however, the subsidy provided
1917 for in this section shall apply only to the cost of providing
1918 coverage to retirees. Initially, the plan shall have benefits
1919 equivalent to those in the State and School Employees Health
1920 Insurance Plan established in Section 25-15-9; however, the board
1921 may modify the plan as necessary to meet the needs of the members
1922 of the plan and to maintain the fiscal soundness of the plan. The
1923 board may offer an optional plan to retirees who are eligible for
1924 Medicare, and any additional cost of that plan shall be paid by
1925 the retiree electing that optional coverage.

1926 (4) (a) Retirees may decline coverage in the plan
1927 established by this section, but they may be included in the plan
1928 later if they apply for coverage during any open enrollment
1929 periods that may be established by the board and can show, by
1930 evidence considered sufficient to the board, that they were
1931 covered by health insurance during the period of time that they
1932 were not covered by the plan established by this section. The
1933 board may adjust the amount of the subsidy for those persons and
1934 may limit the number of times retirees who decline coverage who
1935 may be later included in the plan.

1936 (b) The board shall determine the manner in which
1937 persons who elect continuation coverage under the federal
1938 Consolidated Omnibus Budget Reconciliation Act of 1987 (COBRA)
1939 will be treated regarding their eligibility for coverage under the



1940 plan established under this section and the amount of the subsidy
1941 for those persons.

1942 (5) From and after January 1 following the year in which
1943 this section becomes effective as provided in subsection (1) of
1944 this section, the board shall subsidize a portion of the cost of
1945 providing the plan of health insurance to retirees. The amount of
1946 the subsidy provided for each retiree shall be equal to a
1947 percentage of the annual cost of providing coverage under the plan
1948 to the retiree as determined by the board. Except as otherwise
1949 provided in this section, the percentage amount of the subsidy
1950 shall be two percent (2%) for each year of creditable service,
1951 less any fronted service for age-limited disability benefits of
1952 the retiree up to a maximum of sixty percent (60%). Once the
1953 percentage amount of the subsidy has been determined under this
1954 subsection, it may not be changed unless the retiree returns to
1955 membership service and earns additional years of creditable
1956 service or elects not to be enrolled in the plan for a period of
1957 time.

1958 (6) The amount of the subsidy for each disability retiree
1959 shall be calculated in the same manner as other retirees. For
1960 purposes of determining the amount that a disability retiree must
1961 pay above the subsidy for coverage under the plan, the cost of
1962 coverage for disability retirees shall be deemed to be the average
1963 cost of providing coverage for other retirees as determined by the
1964 board.



1965 (7) Each retiree participating in the plan, by written
1966 authorization, shall instruct the board to deduct from the
1967 retirement allowance the portion of the premium that is not
1968 subsidized. The amounts so deducted shall be handled by the board
1969 in the manner provided for in subsection (9) of this section.

1970 (8) From and after July 1 of the year in which this section
1971 becomes effective as provided in subsection (1) of this section,
1972 each employer shall pay monthly to the board an amount equal to
1973 two and one-half percent (2.5%) of the total payroll of the
1974 employer on which retirement contributions are made under
1975 retirement plans administered by the Public Employees' Retirement
1976 System.

1977 (9) The board may establish and enforce late charges and
1978 interest penalties or other penalties for the purpose of requiring
1979 the prompt payment of all contributions required under this
1980 section. After appropriation for administration expenses of the
1981 program, all funds received by the board under this section shall
1982 be held in a fund in the custody of the board. All those funds
1983 held by the board shall be utilized for the purpose of subsidizing
1984 the health insurance plan required to be established by this
1985 section, and shall be invested as provided in Section 25-11-145.

1986 (10) The board:

1987 (a) Shall administer the plan;

1988 (b) Shall have the sole authority to promulgate rules
1989 and regulations governing the plan, and shall be vested with all



1990 legal authority necessary and proper to perform this function
1991 including, but not limited to, defining the benefits provided by
1992 the plan, requesting and accepting bids for services, establishing
1993 premium rates and receiving premium payments;

1994 (c) May enter into contracts, in accordance with the
1995 provisions of Section 25-9-120, with accountants, actuaries and
1996 other persons whose skills are necessary to carry out the
1997 provisions of this section; and

1998 (d) Is authorized to procure legal services, in
1999 accordance with the provisions of Section 25-9-120, if it deems
2000 these services necessary to carry out its responsibilities under
2001 this section.

2002 **SECTION 15.** Section 25-15-5, Mississippi Code of 1972, is
2003 amended as follows:

2004 25-15-5. (1) The board shall administer the plan and is
2005 authorized to adopt and promulgate rules and regulations for its
2006 administration, subject to the terms and limitations contained in
2007 this article.

2008 (2) The board shall develop a five-year strategic plan for
2009 the insurance plan established by Section 25-15-3 et seq. The
2010 strategic plan shall address, but not be limited to:

2011 (a) Changing trends in the health care industry, and
2012 how they effect delivery of services to members of the plan.

2013 (b) Alternative service delivery systems.



2014 (c) Any foreseeable problems with the present system of
2015 delivering and administering health care benefits in Mississippi.

2016 (d) The development of options and recommendations for
2017 changes in the plan.

2018 (3) To carry out the requirements of subsection (2) of this
2019 section, the board may conduct formal research, including
2020 questionnaires and attitudinal surveys of members' needs and
2021 preferences with respect to service delivery.

2022 (4) After the board has complied with all provisions of
2023 Section 25-15-9 regarding the establishment of the plan, it shall
2024 be responsible for fully disclosing to plan members the provisions
2025 of the plan. Such disclosure shall consist of the dissemination
2026 of educational material on the plan and any proposed changes
2027 thereto. The board shall provide members with complete
2028 educational materials at least thirty (30) days before the date
2029 upon which the plan's members must select a plan option for health
2030 care services. The board shall further use the resources of the
2031 Mississippi Authority for Educational Television or other state
2032 agency, university or college to provide information on proposed
2033 changes. The board may also use other state-owned media, as well
2034 as public service announcements on private media to disseminate
2035 information regarding proposed changes in the plan.

2036 (5) The board shall develop and make available for public
2037 review at its offices a comprehensive plan document which
2038 documents all benefits for which members of the plan created by



2039 Section 25-15-3 et seq. are eligible. This document shall be
2040 typed and maintained also at the offices of any administrator
2041 contracted with in accordance with Section 25-15-301.

2042 (6) (a) The board may enter into contracts with
2043 accountants, actuaries and other persons from the private sector
2044 whose skills are necessary to carry out the purposes of Section
2045 25-15-3 et seq., in accordance with the provisions of Section
2046 25-9-120.

2047 (b) Before the board enters into any contract for
2048 services as provided in paragraph (a) of this subsection, the
2049 board shall first determine that the services are required, and
2050 that the staff of the board and personnel of other state agencies
2051 are not sufficiently experienced to provide the services.

2052 (c) If the service is to be rendered for a period of in
2053 excess of six (6) months, the board shall seek and obtain bids for
2054 the service in a manner identical to that provided for in Section
2055 25-15-301, subsection (1)(a) and (b) except for those provisions
2056 which specifically state criteria which are applicable only to
2057 third-party administrators contracted with in accordance with
2058 Section 25-15-3 et seq.

2059 (d) The board is also authorized to procure legal
2060 services if it deems these services to be necessary to carry out
2061 its responsibilities under Section 25-15-3 et seq.

2062 **SECTION 16.** Section 27-3-13, Mississippi Code of 1972, is
2063 amended as follows:



2064 27-3-13. The Commissioner of Revenue is empowered to employ,
2065 in accordance with the provisions of Section 25-9-120, such
2066 accountants, appraisers, information systems programmers,
2067 information systems technicians, information systems managers,
2068 clerical help, stenographers, and such other assistants and/or
2069 attorneys as he may deem necessary to the proper discharge of the
2070 duties of the Department of Revenue, to prescribe their duties and
2071 to fix the compensation of each employee within the rules,
2072 regulations and guidelines of the State Personnel Board. Such
2073 employees may be used interchangeably in the administration of the
2074 various duties imposed by law upon the commissioner in the several
2075 offices of the Department of Revenue. Further, the Commissioner
2076 of Revenue may designate any ten (10) employees of the commission
2077 to be law enforcement officers, as defined in Section 45-6-3, with
2078 police powers to enforce any laws administered by the Department
2079 of Revenue. Temporary employees may be employed as hereinabove,
2080 when in the opinion of the commissioner a seasonal press of
2081 business requires, except that such temporary employees shall be
2082 retained no longer than is necessary to the discharge of the
2083 duties imposed by law upon the department.

2084 **SECTION 17.** Section 31-11-3, Mississippi Code of 1972, is
2085 amended as follows:

2086 31-11-3. (1) The Department of Finance and Administration,
2087 for the purposes of carrying out the provisions of this chapter,
2088 in addition to all other rights and powers granted by law, shall



2089 have full power and authority to employ and compensate architects,
2090 in accordance with the provisions of Section 25-9-120, or other
2091 employees necessary for the purpose of making inspections,
2092 preparing plans and specifications, supervising the erection of
2093 any buildings, and making any repairs or additions as may be
2094 determined by the Department of Finance and Administration to be
2095 necessary, pursuant to the rules and regulations of the State
2096 Personnel Board. The department shall have entire control and
2097 supervision of, and determine what, if any, buildings, additions,
2098 repairs, demolitions or improvements are to be made under the
2099 provisions of this chapter, subject to the regulations adopted by
2100 the Public Procurement Review Board.

2101 (2) The department shall have full power to erect buildings,
2102 make repairs, additions or improvements, demolitions, to grant or
2103 acquire easements or rights-of-way, and to buy materials, supplies
2104 and equipment for any of the institutions or departments of the
2105 state subject to the regulations adopted by the Public Procurement
2106 Review Board. In addition to other powers conferred, the
2107 department shall have full power and authority as directed by the
2108 Legislature, or when funds have been appropriated for its use for
2109 these purposes, to:

2110 (a) Build a state office building;

2111 (b) Build suitable plants or buildings for the use and
2112 housing of any state schools or institutions, including the



2113 building of plants or buildings for new state schools or
2114 institutions, as provided for by the Legislature;

2115 (c) Provide state aid for the construction of school
2116 buildings;

2117 (d) Promote and develop the training of returned
2118 veterans of the United States in all sorts of educational and
2119 vocational learning to be supplied by the proper educational
2120 institution of the State of Mississippi, and in so doing allocate
2121 monies appropriated to it for these purposes to the Governor for
2122 use by him in setting up, maintaining and operating an office and
2123 employing a state director of on-the-job training for veterans and
2124 the personnel necessary in carrying out Public Law No. 346 of the
2125 United States;

2126 (e) Build and equip a hospital and administration
2127 building at the Mississippi State Penitentiary;

2128 (f) Build and equip additional buildings and wards at
2129 the Boswell Retardation Center;

2130 (g) Construct a sewage disposal and treatment plant at
2131 the Mississippi State Hospital, and in so doing acquire additional
2132 land as may be necessary, and to exercise the right of eminent
2133 domain in the acquisition of this land;

2134 (h) Build and equip the Mississippi central market and
2135 purchase or acquire by eminent domain, if necessary, any lands
2136 needed for this purpose;



2137 (i) Build and equip suitable facilities for a training
2138 and employing center for the blind;

2139 (j) Build and equip a gymnasium at Columbia Training
2140 School;

2141 (k) Approve or disapprove the expenditure of any money
2142 appropriated by the Legislature when authorized by the bill making
2143 the appropriation;

2144 (l) Expend monies appropriated to it in paying the
2145 state's part of the cost of any street paving;

2146 (m) Sell and convey state lands when authorized by the
2147 Legislature, cause said lands to be properly surveyed and platted,
2148 execute all deeds or other legal instruments, and do any and all
2149 other things required to effectively carry out the purpose and
2150 intent of the Legislature. Any transaction which involves state
2151 lands under the provisions of this paragraph shall be done in a
2152 manner consistent with the provisions of Section 29-1-1;

2153 (n) Collect and receive from educational institutions
2154 of the State of Mississippi monies required to be paid by these
2155 institutions to the state in carrying out any veterans'
2156 educational programs;

2157 (o) Purchase lands for building sites, or as additions
2158 to building sites, for the erection of buildings and other
2159 facilities which the department is authorized to erect, and
2160 demolish and dispose of old buildings, when necessary for the
2161 proper construction of new buildings. Any transaction which



2162 involves state lands under the provisions of this paragraph shall
2163 be done in a manner consistent with the provisions of Section
2164 29-1-1;

2165 (p) Obtain business property insurance with a
2166 deductible of not less than One Hundred Thousand Dollars
2167 (\$100,000.00) on state-owned buildings under the management and
2168 control of the department; and

2169 (q) In consultation with and approval by the Chairmen
2170 of the Public Property Committees of the Senate and the House of
2171 Representatives, enter into contracts for the purpose of providing
2172 parking spaces for state employees who work in the Woolfolk
2173 Building, the Carroll Gartin Justice Building or the Walter
2174 Sillers Office Building.

2175 (3) The department shall survey state-owned and
2176 state-utilized buildings to establish an estimate of the costs of
2177 architectural alterations, pursuant to the Americans With
2178 Disabilities Act of 1990, 42 USCS, Section 12111 et seq. The
2179 department shall establish priorities for making the identified
2180 architectural alterations and shall make known to the Legislative
2181 Budget Office and to the Legislature the required cost to
2182 effectuate such alterations. To meet the requirements of this
2183 section, the department shall use standards of accessibility that
2184 are at least as stringent as any applicable federal requirements
2185 and may consider:



2186 (a) Federal minimum guidelines and requirements issued
2187 by the United States Architectural and Transportation Barriers
2188 Compliance Board and standards issued by other federal agencies;

2189 (b) The criteria contained in the American Standard
2190 Specifications for Making Buildings Accessible and Usable by the
2191 Physically Handicapped and any amendments thereto as approved by
2192 the American Standards Association, Incorporated (ANSI Standards);

2193 (c) Design manuals;

2194 (d) Applicable federal guidelines;

2195 (e) Current literature in the field;

2196 (f) Applicable safety standards; and

2197 (g) Any applicable environmental impact statements.

2198 (4) The department shall observe the provisions of Section
2199 31-5-23, in letting contracts and shall use Mississippi products,
2200 including paint, varnish and lacquer which contain as vehicles
2201 tung oil and either ester gum or modified resin (with rosin as the
2202 principal base of constituents), and turpentine shall be used as a
2203 solvent or thinner, where these products are available at a cost
2204 not to exceed the cost of products grown, produced, prepared, made
2205 or manufactured outside of the State of Mississippi.

2206 (5) The department shall have authority to accept grants,
2207 loans or donations from the United States government or from any
2208 other sources for the purpose of matching funds in carrying out
2209 the provisions of this chapter.



2210 (6) The department shall build a wheelchair ramp at the War
2211 Memorial Building which complies with all applicable federal laws,
2212 regulations and specifications regarding wheelchair ramps.

2213 (7) The department shall review and preapprove all
2214 architectural or engineering service contracts entered into by any
2215 state agency, institution, commission, board or authority
2216 regardless of the source of funding used to defray the costs of
2217 the construction or renovation project for which services are to
2218 be obtained. The provisions of this subsection (7) shall not
2219 apply to any architectural or engineering contract paid for by
2220 self-generated funds of any of the state institutions of higher
2221 learning, nor shall they apply to community college projects that
2222 are funded from local funds or other nonstate sources which are
2223 outside the Department of Finance and Administration's
2224 appropriations or as directed by the Legislature. The provisions
2225 of this subsection (7) shall not apply to any construction or
2226 design projects of the State Military Department that are funded
2227 from federal funds or other nonstate sources. In addition, any
2228 architectural or engineering contract shall be subject to Section
2229 25-9-120.

2230 (8) The department shall have the authority to obtain
2231 annually from the state institutions of higher learning
2232 information on all building, construction and renovation projects
2233 including duties, responsibilities and costs of any architect or
2234 engineer hired by any such institutions.



2235 (9) As an alternative to other methods of awarding contracts
2236 as prescribed by law, the department may elect to use the method
2237 of contracting for construction projects set out in Sections
2238 31-7-13.1 and 31-7-13.2; however, the dual-phase design-build
2239 method of construction contracting authorized under Section
2240 31-7-13.1 may be used only when the Legislature has specifically
2241 required or authorized the use of this method in the legislation
2242 authorizing a project.

2243 (10) The department shall have the authority, for the
2244 purposes of carrying out the provisions of this chapter, and in
2245 addition to all other rights and powers granted by law, to create
2246 and maintain a list of suspended and debarred contractors and
2247 subcontractors. Consistent with this authority, the department
2248 may adopt regulations governing the suspension or debarment of
2249 contractors and subcontractors, which regulations shall be subject
2250 to the approval of the Public Procurement Review Board. A
2251 suspended or debarred contractor or subcontractor shall be
2252 disqualified from consideration for contracts with the department
2253 during the suspension or debarment period in accordance with the
2254 department's regulations.

2255 (11) This section shall not apply to the Mississippi State
2256 Port Authority.

2257 **SECTION 18.** Section 31-25-19, Mississippi Code of 1972, is
2258 amended as follows:



2259 31-25-19. (1) In addition to the other powers granted to
2260 the bank under this act, the bank shall have the power:

2261 (a) To sue and be sued in its own name;

2262 (b) To have an official seal and to alter the same at
2263 pleasure;

2264 (c) To maintain an office at such place or places
2265 within this state as it may designate, by lease without the
2266 approval of any other state agency or department;

2267 (d) To adopt and, from time to time, to amend and
2268 repeal bylaws and rules and regulations, not inconsistent with
2269 this act, to carry into effect the powers and purposes of the bank
2270 and governing the conduct of its affairs and business and the use
2271 of its services and facilities;

2272 (e) To make, enter into and enforce all contracts or
2273 agreements necessary, convenient or desirable for the purposes of
2274 the bank or pertaining to any loan to a local governmental unit
2275 made by the purchase of municipal securities or to the performance
2276 of its duties and execution or carrying out of any of its other
2277 powers under this act;

2278 (f) To acquire, hold, use and dispose of its income,
2279 revenues, funds and monies;

2280 (g) To the extent that it will facilitate the conduct
2281 of its operations and thereby further the purposes of this act, to
2282 acquire real or other personal property, or any interest therein,
2283 on either a temporary or long-term basis in the name of the bank



2284 by gift, purchase, transfer, foreclosure, lease or otherwise,
2285 including rights or easements, hold, sell, assign, lease, encumber
2286 mortgage or otherwise dispose of any real or other personal
2287 property, or any interest therein or mortgage interest owned by it
2288 or under its control, custody or in its possession and release or
2289 relinquish any right, title, claim, lien, interest, easement or
2290 demand however acquired, including any equity or right of
2291 redemption in property foreclosed by it and to do any of the
2292 foregoing by public or private sale; and, to the same extent, to
2293 lease or rent any lands, buildings, structures, facilities or
2294 equipment from private parties;

2295 (h) To enter into agreements or other transactions with
2296 and accept the cooperation of the United States or any agency
2297 thereof or of the state or any agency or governmental subdivision
2298 thereof (including any local governmental unit whether or not such
2299 local governmental unit is selling or has sold its bonds to the
2300 bank) in furtherance of the purposes of this act and the corporate
2301 purposes of the bank, and to do any and all things necessary in
2302 order to avail itself of such cooperation;

2303 (i) To receive and accept grants, aid or contributions,
2304 including loan guarantees, from any source of money, materials,
2305 property, labor, supplies, services, program or other things of
2306 value, to be held, used and applied to carry out the purposes of
2307 this act subject to such conditions upon which such grants and
2308 contributions, including loan guarantees, may be made, including,



2309 but not limited to, gifts or grants, including loan guarantees,
2310 from any department or agency of the United States or of this
2311 state or of any governmental subdivision of this state (including
2312 any local governmental unit whether or not such local governmental
2313 unit is selling or has sold its bonds to the bank) for any purpose
2314 consistent with this act, and to do any and all things necessary,
2315 useful, desirable or convenient in connection with the procurement
2316 acceptance or disposition of such gifts or grants, including loan
2317 guarantees;

2318 (j) To procure insurance against any loss in connection
2319 with its property and other assets in such amounts and from
2320 insurers as it deems desirable, and to obtain from any department
2321 or agency of the United States of America or nongovernmental
2322 insurer any insurance or guaranty, to the extent now or hereafter
2323 available, as to, or of or for the payment or repayment of
2324 interest, principal or redemption price, if any, or all or any
2325 part thereof, on any bonds issued by the bank, or on any municipal
2326 securities of local governmental units purchased or held by the
2327 bank pursuant to this act; and notwithstanding any other
2328 provisions of this act to the contrary, to enter into any
2329 agreement or contract whatsoever with respect to any such
2330 insurance or guaranty, except to the extent that the same would in
2331 any way impair or interfere with the ability of the bank to
2332 perform and fulfill the terms of any agreement made with the
2333 holders of the bonds of the bank;



2334 (k) To employ, in accordance with the provisions of
2335 Section 25-9-120, administrative and clerical staff, managing
2336 agents, architects, engineers, attorneys, accountants, and
2337 financial advisors and experts and such other advisors,
2338 consultants, agents and employees as may be necessary in its
2339 judgment and to fix their compensation, and to perform its powers
2340 or functions through its officers, agents and employees or by
2341 contracts with any firm, person or corporation;

2342 (l) To the extent permitted under its contract with the
2343 holders of bonds of the bank, to consent to any modification of
2344 the rate of interest, time and payment of any installment of
2345 principal or interest, security or any other term of such bond,
2346 contract or agreement of any kind to which the bank is a party;

2347 (m) To purchase, hold or dispose of any of its bonds;

2348 (n) Notwithstanding any law to the contrary, to invest
2349 any funds or monies of the bank or proceeds of any securities or
2350 certificates of participation in such manner as shall be deemed by
2351 the bank to be prudent except as otherwise permitted or provided
2352 by this act;

2353 (o) To conduct examinations and hearings and to hear
2354 testimony and take proof, under oath or affirmation, at public or
2355 private hearings, on any matter material for its information and
2356 necessary to carry out this act;



2357 (p) To loan money to local governmental units by the
2358 purchase of municipal securities, subject to the provisions of
2359 this act;

2360 (q) To borrow money for any of its corporate purposes
2361 and to issue bonds therefor, subject to the provisions of this
2362 act;

2363 (r) To exercise any and all of the powers granted to
2364 the bank by any other section of this act and to do any act
2365 necessary or convenient to the exercise of the powers herein
2366 granted or reasonably implied therefrom;

2367 (s) To loan money to any local governmental unit under
2368 any loan guaranty program of any department or agency of the
2369 United States, including the United States Department of
2370 Agriculture Rural Utility Services Water and Waste Disposal
2371 Guaranteed Loan Program and Community Programs Guaranteed Loan
2372 Program or any such successor guaranty programs; and

2373 (t) Notwithstanding any law to the contrary, to
2374 contract with any local governmental unit for the exercise by the
2375 bank of any and all of the bank's powers as set out in this act,
2376 with respect to proceeds of such local governmental unit's
2377 securities or certificates of participation issued by such local
2378 governmental unit pursuant to any state law authorizing the
2379 issuance of local governmental unit debt.

2380 (2) Paragraphs (s) and (t) of subsection (1) of this section
2381 shall be deemed to provide all necessary authority for the doing



2382 of the things authorized thereby and shall be liberally construed
2383 to accomplish the purposes and the authorizations therein stated.

2384 **SECTION 19.** Section 31-31-7, Mississippi Code of 1972, is
2385 amended as follows:

2386 31-31-7. The commission shall have the following powers:

2387 (a) To sue and be sued in its own name;

2388 (b) To maintain offices at such places as it may
2389 designate;

2390 (c) To establish, construct, enlarge, improve,
2391 maintain, equip, operate and regulate the facility and other
2392 property incidental thereto, including any additional property or
2393 facilities considered by the commission to promote the business,
2394 usage or economic viability of the facility;

2395 (d) To grant to others the privilege to operate for
2396 profit concessions, leases and franchises, including but not
2397 limited to, the furnishing of food and banquet services,
2398 management services, and other services necessary to the operation
2399 of the facility and such concessions, leases and franchises shall
2400 be exclusive or limited;

2401 (e) To determine fees, rates and charges for the use of
2402 its facilities;

2403 (f) To apply for and accept gifts, or grants of money
2404 or gifts, grants or loans of other property or other financial
2405 assistance from any source;



2406 (g) To borrow funds needed to carry out the purposes of
2407 this chapter; provided, however, that such debt may be secured
2408 only by the revenues generated by the facility, funds generated by
2409 the tax levied pursuant to Section 31-31-11 and the proceeds of
2410 any bonds issued pursuant to this chapter;

2411 (h) To appoint, employ or engage, in accordance with
2412 the provisions of Section 25-9-120, such officers, employees,
2413 architects, engineers, attorneys, accountants, financial advisors,
2414 investment bankers and other advisors, consultants, and agents as
2415 may be necessary or appropriate;

2416 (i) To make, assume and enter into all contracts,
2417 leases and arrangements necessary or incidental to the exercise
2418 for its powers, including contracts for management, operation or
2419 marketing of all or any part of its facilities;

2420 (j) To adopt, amend and repeal rules and regulations
2421 for the use, maintenance and operation of its facilities and
2422 governing the conduct of persons and organizations using its
2423 facilities and to enforce such rules and regulations; and

2424 (k) To do all things necessary or convenient to the
2425 purposes of this chapter.

2426 **SECTION 20.** Section 35-7-7, Mississippi Code of 1972, is
2427 amended as follows:

2428 35-7-7. The administration of the provisions hereof is
2429 vested in a Veterans' Home Purchase Board consisting of six (6)
2430 members who shall be appointed, or reappointed, by the Governor,



2431 with the advice and consent of the Senate. Members appointed to
2432 the board shall be veterans of either World War II, the Korean
2433 Conflict, the Southeast Asia Conflict, the Persian Gulf Conflict
2434 or have served in active duty for at least one hundred eighty
2435 (180) days during a time of war or a conflict in which a campaign
2436 ribbon or medal was issued and shall possess a background in
2437 business, banking, real estate or the legal profession which
2438 enables them to carry out the duties of the board. No
2439 state/department commander of any federally recognized veterans
2440 organization, no national officer of any federally recognized
2441 veterans organization and no member of the Mississippi Council of
2442 Veterans Organizations shall be eligible for appointment to the
2443 board until the expiration of a period of three (3) years after
2444 the termination of his service in such disqualifying positions.
2445 Appointments shall be staggered, with each Governor appointing or
2446 reappointing two (2) members in the first year of his
2447 administration; one (1) member in the second year, two (2) members
2448 in the third year, and one (1) member in the fourth year.
2449 Appointments for terms that expire in 1988 shall be made as
2450 follows: one (1) shall be made for a term ending on July 1, 1989;
2451 one (1) shall be made for a term ending on July 1, 1991; and two
2452 (2) shall be made for a term ending on July 1, 1992. Persons
2453 appointed to succeed the two (2) members whose terms expired in
2454 1986, or any such member holding over after 1986 because no
2455 successor was appointed, shall serve until July 1, 1990. After



2456 the expiration of the foregoing terms, all appointments shall be
2457 for a term of four (4) years from the expiration date of the
2458 previous term. From and after July 1, 1988, one (1) appointee
2459 shall be selected from each of the five (5) congressional
2460 districts of this state as such districts are composed on May 1,
2461 1987, and one (1) appointee shall be selected from the state at
2462 large. Any vacancy occurring during a term shall be filled by
2463 appointment of a member for the unexpired portion of the term.

2464 The board is hereby authorized and empowered to make and
2465 promulgate such reasonable rules and regulations under this
2466 chapter as it shall deem to be necessary or advisable and to
2467 enforce the same. The board shall have authority to render the
2468 final decision on the purchase application process, approval of
2469 purchases, funding of purchase commitments, servicing loans and
2470 default, property security, management, resale, release from
2471 security, and all other matters relating to the purchases and
2472 loans made under this law. The board shall likewise, by an order
2473 spread on its minutes, elect a chairman and vice chairman to serve
2474 for one-year terms, and all such officers are eligible to succeed
2475 themselves in such offices. The chairman may appoint a
2476 three-member loan committee from the membership of the board and
2477 shall specify the conditions, responsibilities and authority of
2478 such committee.

2479 Each member of the board and his successor shall be
2480 reimbursed all of his actual and necessary traveling and other



2481 expenses incurred in the attendance of the meetings of the board
2482 or in the performance of other duties in connection with the
2483 business of the board as provided for state officers and employees
2484 in Section 25-3-41, and shall be allowed a per diem as provided in
2485 Section 25-3-69 for such attendance; provided that the number of
2486 days per diem shall not exceed sixty-six (66) days for the
2487 chairman and fifty (50) days for other members of the board during
2488 any one (1) fiscal year. The above limitation of days per year
2489 shall not apply to board members appointed on a full-time basis to
2490 the loan committee.

2491 The director, or other executive officer employed by the
2492 board, shall execute a surety bond in the sum of One Hundred
2493 Thousand Dollars (\$100,000.00), conditioned upon the faithful
2494 performance of his duties and upon his accounting for all monies
2495 coming into his hands; and each employee handling funds shall
2496 execute a like bond in the sum of Fifteen Thousand Dollars
2497 (\$15,000.00), and the premiums thereon shall be paid from the
2498 funds provided for administering this chapter.

2499 The board may designate one (1) of its employees as the
2500 acting director or executive officer by a vote of the majority of
2501 the members of the board, officially recorded in the minutes of a
2502 regular or special meeting, and such acting director shall be
2503 vested with all the authority conferred upon the director by the
2504 provisions of this chapter; but such acting director may not serve
2505 for a continuous period of time in excess of six (6) months, and



2506 the acting director, when so designated, will be required to
2507 furnish surety bond in the same amount and under the same
2508 conditions as the director. The purpose of this provision is to
2509 designate an executive officer during any temporary illness,
2510 absence or incapacity of the regularly designated director.

2511 The board may designate one (1) of its employees by a vote of
2512 the majority of the members of the board, officially recorded in
2513 the minutes of a regular or special meeting, to be authorized to
2514 sign a Deed of Conveyance or other closing documents necessary as
2515 to not delay the closing or settlement of a home purchase during
2516 the absence or unavailability of the director.

2517 The board may select and employ such expert, technical and
2518 clerical assistance as in its judgment may be necessary in the
2519 proper administration of said board and fix the salaries of such
2520 employees.

2521 The board is empowered to employ, in accordance with the
2522 provisions of Section 25-9-120, auditors and accountants to
2523 examine the books, accounts and records of the board if it so
2524 desires, and the board is also authorized to employ legal counsel
2525 if it deems such a course necessary in the proper administration
2526 of its affairs.

2527 **SECTION 21.** Section 37-33-157, Mississippi Code of 1972, is
2528 amended as follows:

2529 37-33-157. The Department of Rehabilitation Services shall
2530 provide the rehabilitation services authorized by law and by the



2531 rules, regulations and policies of the board to every individual
2532 determined to be eligible therefor, and in carrying out the
2533 purposes of this chapter the department is authorized, when
2534 consistent with the rules, regulations and policies of the State
2535 Board of Rehabilitation Services:

2536 (a) To expend funds received either by appropriation or
2537 directly from federal or private sources.

2538 (b) To cooperate with other departments, agencies and
2539 institutions, both public and private, in providing the services
2540 authorized by this chapter to disabled individuals, in studying
2541 the problems involved therein, and in establishing, developing and
2542 providing in conformity with the purposes of this chapter, such
2543 programs, facilities and services as may be necessary or
2544 desirable.

2545 (c) To enter into reciprocal agreements with other
2546 states to provide for the services authorized by this chapter to
2547 residents of the states concerned.

2548 (d) To conduct research and compile statistics relating
2549 to the provision of services to or the need of services by
2550 disabled individuals.

2551 (e) To enter into contractual arrangements with the
2552 federal government and with other authorized public agencies or
2553 persons for performance of services related to rehabilitation.

2554 (f) To contract with schools, hospitals and other
2555 agencies, and to contract, in accordance with the provisions of



2556 Section 25-9-120, with doctors, optometrists, nurses, technicians
2557 and other persons, for training, physical restoration,
2558 transportation and other rehabilitation services.

2559 (g) To take such action as may be necessary to enable
2560 the department to apply for, accept and receive for the state and
2561 its residents the full benefits available under the federal
2562 Vocational Rehabilitation Act, and any amendments thereto, and
2563 under any other federal legislation or program having as its
2564 purpose the providing of, improvement or extension of, vocational
2565 rehabilitation services.

2566 (h) To establish an Office on the Deaf and Hard of
2567 Hearing to provide services and activities authorized under
2568 Section 37-33-171.

2569 (i) To own in the name of the State of Mississippi
2570 certain real property described in Section 7 of Chapter 512, Laws
2571 of 2005, and to construct, renovate or repair under the
2572 supervision of the Department of Finance and Administration any
2573 buildings on such property.

2574 (j) To borrow money from the Mississippi Development
2575 Bank or other financial institution for the purpose of
2576 construction, repair and renovation, furnishing or equipping
2577 facilities owned or under the supervision of the department;
2578 however, the department shall certify the following to the
2579 Mississippi Development Bank or other financial institution prior
2580 to entering into any loan:



2581 (i) The available revenue that the department
2582 intends to utilize to repay the loan; and

2583 (ii) That the department does not intend to
2584 request an additional appropriation from state source funding to
2585 pay debt service on any loan entered into under this paragraph.

2586 (k) To fingerprint and perform a current criminal
2587 history record check, child abuse registry check, sex offender
2588 registry check, and vulnerable adult abuse or neglect check on any
2589 person performing services for or on behalf of the department
2590 including, but not limited to, every employee, volunteer,
2591 contractual worker, and independent contractor.

2592 (l) To use the results of the fingerprinting and
2593 background checks performed under paragraph (k) for the purposes
2594 of employment decisions and/or actions and service provision to
2595 consumers of the department's services. The department and its
2596 agents, officers, employees, attorneys and representatives shall
2597 be exempt from liability for any findings, recommendations or
2598 actions taken under this paragraph.

2599 **SECTION 22.** Section 37-33-163, Mississippi Code of 1972, is
2600 amended as follows:

2601 37-33-163. The Office of Disability Determination Services
2602 established by Section 37-33-153 shall be administered by a
2603 director appointed by the Executive Director of the State
2604 Department of Rehabilitation Services. The director shall devote



2605 his full time to the proper administration of the office. In
2606 carrying out his duties under this chapter, the director:

2607 (a) Shall enter into agreements on behalf of the State
2608 Department of Rehabilitation Services and the State of Mississippi
2609 with the federal Social Security Administration or its successor
2610 in order to implement the provisions of the federal Social
2611 Security Act relating to the determination of disabilities under
2612 Title II and Title XVI, and shall enter into contracts necessary
2613 to provide such disability determination functions as allowed
2614 under applicable federal regulation;

2615 (b) Shall, with the approval of the executive director,
2616 make regulations governing Mississippi applications for disability
2617 benefits under Title II and Title XVI of the federal Social
2618 Security Act, and make such other regulations as are found
2619 necessary to implement the functions of the office prescribed
2620 under this chapter;

2621 (c) Shall, with the approval of the executive director,
2622 establish appropriate subordinate administrative units within the
2623 office;

2624 (d) Shall, with the approval of the executive director,
2625 be responsible for appointing, in accordance with the provisions
2626 of Section 25-9-120, supervisors, assistants, physicians, and
2627 other employees or entering into purchase of service contracts, as
2628 are necessary for the efficient performance of the functions of
2629 the office, subject to the rules and regulations adopted and



2630 promulgated by the State Personnel Board as created under Section
2631 25-9-101 et seq.;

2632 (e) Shall prepare and submit to the board through the
2633 executive director annual reports of activities and expenditures,
2634 and estimates of the amounts to be made available to the office
2635 from all sources; and

2636 (f) Shall, with the approval of the executive director
2637 and the board, take such other action as he deems necessary or
2638 appropriate to implement the functions of the office.

2639 **SECTION 23.** Section 37-37-3, Mississippi Code of 1972, is
2640 amended as follows:

2641 37-37-3. In addition to all auditors and other employees now
2642 or hereafter provided by law, the State Auditor may appoint and
2643 employ, in accordance with the provisions of Section 25-9-120,
2644 examiners in the Department of Audit. The examiners shall make
2645 such audits as may be necessary to determine the correctness and
2646 accuracy of all reports made to the State Department of Education
2647 by any school district or school official concerning the number of
2648 educable students in any school district, the number of students
2649 enrolled in any school district, the number of students in average
2650 daily attendance in any school district, and the number of
2651 students being transported or entitled to transportation to any of
2652 the public schools of this state.

2653 **SECTION 24.** Section 37-101-43, Mississippi Code of 1972, is
2654 amended as follows:



2655 37-101-43. (a) Except as otherwise provided in Section
2656 37-101-44, and subject to the provisions of Section 37-101-42,
2657 before entering into or awarding any such lease contract under the
2658 provisions of Section 37-101-41, the Board of Trustees of State
2659 Institutions of Higher Learning shall cause the interested
2660 state-supported institution upon which a facility is proposed to
2661 be constructed or renovated to select and submit three (3)
2662 architects to the board. Thereupon, the board shall approve and
2663 employ, in accordance with the provisions of Section 25-9-120, an
2664 architect, who shall be paid by the interested institution from
2665 any funds available to the interested institution. The architect,
2666 under the direction of the interested institution, shall prepare
2667 complete plans and specifications for the facility or facilities
2668 desired to be constructed or renovated on the leased property.

2669 Upon completion of the plans and specifications and the
2670 approval thereof by the board, and before entering into any lease
2671 contract, the board shall cause to be published once a week for at
2672 least three (3) consecutive weeks and not less than twenty-one
2673 (21) days in at least one (1) newspaper having a general
2674 circulation in the county in which the interested institution is
2675 located and in one (1) newspaper with a general statewide
2676 circulation, a notice inviting bids or proposals for the leasing,
2677 construction or renovation, including the furnishing, maintaining
2678 and equipping, if applicable, and leasing back, if applicable, of
2679 the land and constructed or renovated facility, including any



2680 applicable furnishings or equipment, of the facility to be
2681 constructed or renovated in accordance with the plans and
2682 specifications. The notice shall distinctly state the thing to be
2683 done, and invite sealed proposals, to be filed with the board, to
2684 do the thing to be done. The notice shall contain the following
2685 specific provisions, together with such others as the board in its
2686 discretion deems appropriate, to wit: bids shall be accompanied
2687 by a bid security evidenced by a certified or cashier's check or
2688 bid-bond payable to the board in a sum of not less than five
2689 percent (5%) of the gross construction cost of the facility to be
2690 constructed as estimated by the board and the bids shall contain
2691 proof satisfactory to the board of interim and permanent
2692 financing. The board shall state in the notice when construction
2693 shall commence. The bid shall contain the proposed contractor's
2694 certificate of responsibility number and bidder's license. In all
2695 cases, before the notice shall be published, the plans and
2696 specifications shall be filed with the board and also in the
2697 office of the president of the interested institution, there to
2698 remain.

2699 The board shall award the lease contract to the lowest and
2700 best bidder, who will comply with the terms imposed by the
2701 contract documents. At the time of the awarding of the lease
2702 contract the successful bidder shall enter into bond with
2703 sufficient sureties, to be approved by the board, in such penalty
2704 as may be fixed by the board, but in no case to be less than the



2705 estimated gross construction or renovation cost of the facility to
2706 be constructed or renovated as estimated by the board, conditioned
2707 for the prompt, proper and efficient performance of the contract.
2708 The bond shall be made by an authorized corporate surety bonding
2709 company. The bid security herein provided for shall be forfeited
2710 if the successful bidder fails to enter into lease contract and
2711 commence construction or renovation within the time limitation set
2712 forth in the notice. At such time, and simultaneously with the
2713 signing of the contract, the successful bidder shall deposit a sum
2714 of money, in cash or certified or cashier's check, not less than
2715 the bid security previously deposited as bid security to reimburse
2716 the interested institution for all sums expended by it for
2717 architectural services and other expenditures of the board and
2718 interested institution connected with the bidden lease contract,
2719 of which such other anticipated expenditures notice is to be given
2720 to bidder in the notice. The bid security posted by an
2721 unsuccessful bidder shall be refunded to him.

2722 (b) Under the authority granted under Section
2723 37-101-44, the requirements of paragraph (a) of this section shall
2724 not apply to the Board of Trustees of State Institutions of Higher
2725 Learning's power to grant to universities the authority to
2726 contract with a single entity for privately financed design and
2727 construction or renovation, and if applicable, the furnishing,
2728 maintaining and equipping of facilities on university campuses,



2729 and if applicable, the furnishing, maintenance and equipping of
2730 facilities on university campuses.

2731 **SECTION 25.** Section 37-115-25, Mississippi Code of 1972, is
2732 amended as follows:

2733 37-115-25. (1) There shall be built, equipped and operated
2734 as a part of the medical school, a teaching hospital of the size
2735 of not less than three-hundred-fifty-bed capacity, together with
2736 all ancillary buildings and physical facilities needful or proper
2737 for the establishment, operation and maintenance of such a
2738 hospital as a part of a fully accredited four-year medical school,
2739 including, clinical and outpatient services and all types of
2740 services deemed to be necessary or desirable as a part of the
2741 functioning of such a teaching hospital. Said teaching hospital
2742 shall be known as the University Hospital. There shall also be
2743 acquired and installed all needed equipment and supplies for the
2744 proper operation and maintenance of such medical school and
2745 hospital and other facilities for the purposes aforesaid. There
2746 shall be employed all needed personnel and services to operate
2747 said medical school and hospital and other facilities.

2748 (2) As part of employing appropriate professional staff, the
2749 University Medical Center and University Hospital are authorized
2750 to enter into recruitment agreements to provide for needed faculty
2751 physicians and staff. The agreements for needed faculty
2752 physicians shall be subject to the provisions of Section 25-9-120.
2753 The agreements may include, but are not limited to, salary



2754 supplements, transfer and moving expenses and payment of medical
2755 school loans. Any amount so advanced shall be forgiven over not
2756 less than a three-year period of a year-for-year pro rata basis.
2757 In the event that the physician should leave University of
2758 Mississippi Medical Center employment, said physician shall repay
2759 any remaining sum(s) so advanced plus interest as negotiated in
2760 the agreement. Said amounts to be repaid over no more than a
2761 two-year period.

2762 **SECTION 26.** Section 41-21-141, Mississippi Code of 1972, is
2763 amended as follows:

2764 41-21-141. (1) To implement a comprehensive psychiatric
2765 emergency service, a single point of entry must request licensure
2766 from the State Department of Health for the number of extended
2767 observation beds that are required to adequately serve the
2768 designated catchment area. A license for the requested beds must
2769 be obtained before beginning operation.

2770 (2) If the State Department of Health determines that a
2771 comprehensive psychiatric emergency service can provide for the
2772 privacy and safety of all patients receiving services in the
2773 hospital, the department may approve the location of one or more
2774 of the extended observation beds within another area of the
2775 hospital rather than in proximity to the emergency department.

2776 (3) Each comprehensive psychiatric emergency service shall
2777 provide or contract to provide qualified physicians, psychiatric
2778 nurse practitioners, psychiatric physician assistants and



2779 ancillary personnel necessary to provide services twenty-four (24)
2780 hours per day, seven (7) days per week. Any state-owned
2781 comprehensive psychiatric emergency service shall comply with the
2782 provisions of Section 25-9-120 in contracting with physicians.

2783 (4) A comprehensive psychiatric emergency service shall have
2784 at least one (1) physician, psychiatric nurse practitioner or
2785 psychiatric physician assistant, who is a member of the staff of
2786 the hospital, on duty and available at all times. However, the
2787 medical director of the service may waive this requirement if
2788 provisions are made for a physician in the emergency department to
2789 assume responsibility and provide initial evaluation and treatment
2790 of a person in custody of a CIT officer or referred by the
2791 community mental health center and provisions are made for the
2792 physician, psychiatric nurse practitioner or psychiatric physician
2793 assistant on call for the comprehensive psychiatric emergency
2794 service to evaluate the person onsite within thirty (30) minutes
2795 of notification that the person has arrived.

2796 (5) Any person admitted to a comprehensive psychiatric
2797 emergency service must have a final disposition within a maximum
2798 of seventy-two (72) hours. If a person cannot be stabilized
2799 within seventy-two (72) hours, that person shall be transferred
2800 from an extended observation bed to a more appropriate inpatient
2801 unit.

2802 **SECTION 27.** Section 41-23-43, Mississippi Code of 1972, is
2803 amended as follows:



2804 41-23-43. (1) As used in this section:

2805 (a) "Department" means the Mississippi State Department
2806 of Health, Bioterrorism Division;

2807 (b) "Director" means the Executive Director of the
2808 State Board of Health;

2809 (c) "Bioterrorism" means the intentional use of any
2810 microorganism, virus, infectious substance or biological product
2811 that may be engineered as a result of biotechnology or any
2812 naturally occurring or bioengineered component of any
2813 microorganism, virus, infectious substance or biological product,
2814 to cause or attempt to cause death, disease or other biological
2815 malfunction in any living organism;

2816 (d) "Disaster locations" means any geographical
2817 location where a bioterrorism attack, terrorist attack,
2818 catastrophic or natural disaster or emergency occurs;

2819 (e) "First responders" means state and local law
2820 enforcement personnel, fire department personnel, emergency
2821 medical personnel, emergency management personnel and public works
2822 personnel who may be deployed to bioterrorism attacks, terrorist
2823 attacks, catastrophic or natural disasters and emergencies.

2824 (2) The department shall offer a vaccination program for
2825 first responders who may be exposed to infectious diseases when
2826 deployed to disaster locations. The vaccinations shall include,
2827 but are not limited to, hepatitis A vaccination, hepatitis B
2828 vaccination, diphtheria-tetanus vaccination, influenza



2829 vaccination, pneumococcal vaccination and other vaccinations when
2830 recommended by the United States Public Health Service and in
2831 accordance with Federal Emergency Management Directors Policy.
2832 Immune globulin will be made available when necessary.

2833 (3) Participation in the vaccination program shall be
2834 voluntary by the first responders, except for first responders who
2835 are classified as having "occupational exposure" to blood borne
2836 pathogens as defined by the Occupational Safety and Health
2837 Administration Standard contained at 29 CFR 1910.10300 who shall
2838 be required to take the designated vaccinations or otherwise
2839 required by law.

2840 (4) A first responder shall be exempt from vaccinations when
2841 a written statement from a licensed physician is presented
2842 indicating that a vaccine is medically contraindicated for that
2843 person or the first responder signs a written statement that the
2844 administration of a vaccination conflicts with their religious
2845 tenets.

2846 (5) If there is a vaccine shortage, the director, in
2847 consultation with the Governor and the Centers for Disease Control
2848 and Prevention, shall give priority for vaccination to first
2849 responders.

2850 (6) The department shall notify first responders to the
2851 availability of the vaccination program and shall provide
2852 educational materials on ways to prevent exposure to infectious
2853 diseases.



2854 (7) The department may contract with county and local health
2855 departments, not-for-profit home health care agencies, hospitals
2856 and physicians, in accordance with the provisions of Section
2857 25-9-120, to administer a vaccination program for first
2858 responders.

2859 (8) This section shall be effective upon receipt of federal
2860 funding and/or federal grants for administering a first responders
2861 vaccination program. Upon receipt of that funding, the department
2862 shall make available the vaccines to first responders as provided
2863 in this section.

2864 **SECTION 28.** Section 41-95-5, Mississippi Code of 1972, is
2865 amended as follows:

2866 41-95-5. (1) The Mississippi Health Finance Authority is
2867 created. The authority shall be supervised and directed by the
2868 Mississippi Health Finance Authority Board.

2869 (2) The Mississippi Health Finance Authority Board is
2870 created. The Mississippi Health Finance Authority Board shall
2871 consist of seven (7) members, one (1) from each of the five (5)
2872 congressional districts of Mississippi and two (2) from the state
2873 at large, who shall be appointed by the Governor with the advice
2874 and consent of the Senate. All members shall be qualified
2875 electors of the State of Mississippi who have no financial or
2876 other interest in any health care provider or insurer. It is the
2877 intent of the Legislature that the appointments to the board
2878 reflect the racial and sexual demographics of the entire state.



2879 The initial appointments to the Health Finance Authority Board
2880 shall be for staggered terms, to be designated by the Governor at
2881 the time of appointment as follows: two (2) members to serve for
2882 terms ending June 30, 1997; three (3) members to serve for terms
2883 ending June 30, 1996; and two (2) members to serve for terms
2884 ending June 30, 1995. Thereafter, Mississippi Health Finance
2885 Authority Board members shall be appointed for a term of four (4)
2886 years from the expiration date of the previous term. All
2887 vacancies occurring on the board shall be filled by the Governor
2888 in the same manner as original appointments are made within sixty
2889 (60) days after the vacancy occurs.

2890 (3) The members of the Mississippi Health Finance Authority
2891 Board shall be paid a per diem as authorized by Section 25-3-69
2892 and shall be reimbursed for necessary and ordinary expenses and
2893 mileage incurred while performing their duties as members of the
2894 board, at the rate authorized by Section 25-3-41.

2895 (4) The members of the Mississippi Health Finance Authority
2896 Board shall take an oath to perform faithfully the duties of their
2897 office. The oath shall be administered by a person qualified by
2898 law to administer oaths. Within thirty (30) days after taking the
2899 oath of office, the first board appointed under this section shall
2900 meet for an organizational meeting on call by the Governor. At
2901 such meeting and at an organizational meeting in January every
2902 odd-numbered year thereafter, the board shall elect from its



2903 members a chairman, vice chairman and secretary-treasurer to serve
2904 for terms of two (2) years.

2905 (5) The Mississippi Health Finance Authority Board shall
2906 adopt rules and regulations not inconsistent with Sections 41-95-1
2907 through 41-95-9, in compliance with the Mississippi Administrative
2908 Procedures Law, for the conduct of its business and the carrying
2909 out of its duties.

2910 (6) The Mississippi Health Finance Authority Board shall
2911 hold at least two (2) regular meetings each year, and additional
2912 meetings may be held upon the call of the chairman or at the
2913 written request of any three (3) members.

2914 (7) The members of the Mississippi Health Finance Authority
2915 Board are individually exempt from any civil liability as a result
2916 of any action taken by the board.

2917 (8) There shall be a Joint Oversight Committee of the
2918 Mississippi Health Finance Authority composed of three (3) members
2919 of the Senate appointed by the Lieutenant Governor to serve at the
2920 will and pleasure of the Lieutenant Governor, and three (3)
2921 members of the House of Representatives appointed by the Speaker
2922 of the House to serve at the will and pleasure of the Speaker.
2923 The chairmanship of the committee shall alternate for twelve-month
2924 periods between the Senate members and the House members, with the
2925 first chairman appointed by the Lieutenant Governor from among the
2926 Senate membership. The committee shall meet once each month, or
2927 upon the call of the chairman at such times as he deems necessary



2928 or advisable, and may make recommendations to the Legislature
2929 pertaining to any matter within the jurisdiction of the
2930 Mississippi Health Finance Authority. The appointing authorities
2931 may designate an alternate member from their respective houses to
2932 serve when the regular designee is unable to attend such meetings
2933 of the oversight committee. For attending meetings of the
2934 oversight committee, such legislators shall receive per diem and
2935 expenses which shall be paid from the contingent expense funds of
2936 their respective houses in the same amounts as provided for
2937 committee meetings when the Legislature is not in session;
2938 however, no per diem and expenses for attending meetings of the
2939 committee will be paid while the Legislature is in session. No
2940 per diem and expenses will be paid except for attending meetings
2941 of the oversight committee without prior approval of the proper
2942 committee in their respective houses.

2943 (9) The Mississippi Health Finance Authority Board shall
2944 appoint the following five (5) advisory committees to assist in
2945 administering the provisions of Sections 41-95-1 through 41-95-9:

- 2946 (a) The Benefits and Ethics Committee;
- 2947 (b) The Provider and Standards Committee;
- 2948 (c) The Consumer/Customer Satisfaction Committee;
- 2949 (d) The Data Committee; and
- 2950 (e) The Health Finance Advisory Committee.

2951 Each committee shall consist of at least five (5) and no more
2952 than seven (7) members. The qualifications of the committee



2953 members for the committees listed in paragraphs (a), (b), (c) and
2954 (d) shall be set forth by the board in its bylaws and regulations.
2955 It is the intent of the Legislature that the appointments to each
2956 of the committees listed in paragraphs (a), (b), (c) and (d)
2957 reflect the racial and sexual demographics of the entire state.
2958 The Health Finance Advisory Committee shall be composed of the
2959 chairman of the other committees and the Executive Director of the
2960 Mississippi Health Finance Authority. All such committee members
2961 shall be appointed by the Mississippi Health Finance Authority
2962 Board for a term of four (4) years. If a member is unable to
2963 complete his term, a successor shall be appointed to serve the
2964 unexpired term. No person may serve as a member of the committee
2965 for more than ten (10) years. The terms of the initial committees
2966 shall be staggered. Two (2) members shall be appointed to a term
2967 of two (2) years, two (2) members shall be appointed to a term of
2968 three (3) years, and three (3) members shall be appointed to a
2969 term of four (4) years, to be designated by the board at the time
2970 of appointment. Members shall receive no salary for services
2971 performed, but may be reimbursed for necessary and actual expenses
2972 incurred in connection with attendance at meetings or for
2973 authorized business from funds made available for such purpose.
2974 The committees shall meet at least once in each quarter of the
2975 year at a time and place fixed by the committees, and at such
2976 other times as requested by the board. The organization, meetings
2977 and management of the committees shall be established by



2978 regulations promulgated by the board. The board, in its
2979 discretion, may appoint additional committees as deemed necessary
2980 to carry out its duties and responsibilities.

2981 (10) The Mississippi Health Finance Authority Board shall
2982 elect a full-time director who holds a graduate degree in finance,
2983 economics, business, health policy or health finance, or the
2984 equivalent, and who has no financial or other interest in any
2985 health care provider or payor. The director shall have a minimum
2986 of five (5) years' appropriate experience to be certified by the
2987 State Personnel Board. The director shall serve at the will and
2988 pleasure of the Mississippi Health Finance Authority Board. The
2989 director shall be the chief administrative officer of the
2990 Mississippi Health Finance Authority Board, shall be the agent of
2991 the board for the purpose of receiving all services of process,
2992 summonses and notices directed to the board, shall direct the
2993 daily operations of the board, and shall perform such other duties
2994 as the board may delegate to him. The position of attorney for
2995 the Mississippi Health Finance Authority is authorized, who shall
2996 be a duly licensed attorney and whose salary and qualifications
2997 shall be fixed by the board. Such attorney shall be employed by
2998 the Mississippi Health Finance Authority Board, in accordance with
2999 the provisions of Section 25-9-120. The Director of the
3000 Mississippi Health Finance Authority shall appoint heads of
3001 offices, who shall serve at the pleasure of the director, and
3002 shall appoint any necessary supervisors, assistants and employees.



3003 The salary and compensation of such employees shall be subject to
3004 the rules and regulations adopted and promulgated by the State
3005 Personnel Board created under Section 25-9-101 et seq. The
3006 director shall have the authority to organize offices as deemed
3007 appropriate to carry out the responsibilities of the Mississippi
3008 Health Finance Authority. All new positions, before staff is to
3009 be hired to fill them, must be authorized and approved by the
3010 board itself in accordance with the laws and regulations set forth
3011 by the State Personnel Board. The organizational structure of the
3012 staff shall provide for the performance of assigned functions and
3013 shall be subject to the approval of the board.

3014 (11) The Director of the Mississippi Health Finance
3015 Authority is authorized:

3016 (a) To enforce rules and regulations adopted and
3017 promulgated by the board implementing or effectuating the powers
3018 and duties of the Mississippi Health Finance Authority under any
3019 and all statutes within the Mississippi Health Finance Authority's
3020 jurisdiction;

3021 (b) To apply for, receive and expend any federal or
3022 state funds or contributions, gifts, devises, bequests or funds
3023 from any other source;

3024 (c) To enter into and execute contracts, grants and
3025 cooperative agreements with any federal or state agency or
3026 subdivision thereof, or any public or private institution located
3027 inside or outside the State of Mississippi, or any person,



3028 corporation or association in connection with carrying out the
3029 programs of the Mississippi Health Finance Authority; and

3030 (d) To discharge such other duties, responsibilities
3031 and powers as are necessary to implement the programs of the
3032 Mississippi Health Finance Authority.

3033 **SECTION 29.** Section 43-13-121, Mississippi Code of 1972, is
3034 amended as follows:

3035 43-13-121. (1) The division shall administer the Medicaid
3036 program under the provisions of this article, and may do the
3037 following:

3038 (a) Adopt and promulgate reasonable rules, regulations
3039 and standards, with approval of the Governor, and in accordance
3040 with the Administrative Procedures Law, Section 25-43-1 et seq.:

3041 (i) Establishing methods and procedures as may be
3042 necessary for the proper and efficient administration of this
3043 article;

3044 (ii) Providing Medicaid to all qualified
3045 recipients under the provisions of this article as the division
3046 may determine and within the limits of appropriated funds;

3047 (iii) Establishing reasonable fees, charges and
3048 rates for medical services and drugs; in doing so, the division
3049 shall fix all of those fees, charges and rates at the minimum
3050 levels absolutely necessary to provide the medical assistance
3051 authorized by this article, and shall not change any of those



3052 fees, charges or rates except as may be authorized in Section
3053 43-13-117;

3054 (iv) Providing for fair and impartial hearings;

3055 (v) Providing safeguards for preserving the
3056 confidentiality of records; and

3057 (vi) For detecting and processing fraudulent
3058 practices and abuses of the program;

3059 (b) Receive and expend state, federal and other funds
3060 in accordance with court judgments or settlements and agreements
3061 between the State of Mississippi and the federal government, the
3062 rules and regulations promulgated by the division, with the
3063 approval of the Governor, and within the limitations and
3064 restrictions of this article and within the limits of funds
3065 available for that purpose;

3066 (c) Subject to the limits imposed by this article, to
3067 submit a Medicaid plan to the United States Department of Health
3068 and Human Services for approval under the provisions of the
3069 federal Social Security Act, to act for the state in making
3070 negotiations relative to the submission and approval of that plan,
3071 to make such arrangements, not inconsistent with the law, as may
3072 be required by or under federal law to obtain and retain that
3073 approval and to secure for the state the benefits of the
3074 provisions of that law.

3075 No agreements, specifically including the general plan for
3076 the operation of the Medicaid program in this state, shall be made



3077 by and between the division and the United States Department of
3078 Health and Human Services unless the Attorney General of the State
3079 of Mississippi has reviewed the agreements, specifically including
3080 the operational plan, and has certified in writing to the Governor
3081 and to the executive director of the division that the agreements,
3082 including the plan of operation, have been drawn strictly in
3083 accordance with the terms and requirements of this article;

3084 (d) In accordance with the purposes and intent of this
3085 article and in compliance with its provisions, provide for aged
3086 persons otherwise eligible for the benefits provided under Title
3087 XVIII of the federal Social Security Act by expenditure of funds
3088 available for those purposes;

3089 (e) To make reports to the United States Department of
3090 Health and Human Services as from time to time may be required by
3091 that federal department and to the Mississippi Legislature as
3092 provided in this section;

3093 (f) Define and determine the scope, duration and amount
3094 of Medicaid that may be provided in accordance with this article
3095 and establish priorities therefor in conformity with this article;

3096 (g) Cooperate and contract with other state agencies
3097 for the purpose of coordinating Medicaid provided under this
3098 article and eliminating duplication and inefficiency in the
3099 Medicaid program;

3100 (h) Adopt and use an official seal of the division;



3101 (i) Sue in its own name on behalf of the State of
3102 Mississippi and employ legal counsel on a contingency basis with
3103 the approval of the Attorney General;

3104 (j) To recover any and all payments incorrectly made by
3105 the division to a recipient or provider from the recipient or
3106 provider receiving the payments. The division shall be authorized
3107 to collect any overpayments to providers thirty (30) days after
3108 the conclusion of any administrative appeal unless the matter is
3109 appealed to a court of proper jurisdiction and bond is posted.
3110 Any appeal filed after July 1, 2014, shall be to the Chancery
3111 Court of Hinds County, Mississippi. To recover those payments,
3112 the division may use the following methods, in addition to any
3113 other methods available to the division:

3114 (i) The division shall report to the Department of
3115 Revenue the name of any current or former Medicaid recipient who
3116 has received medical services rendered during a period of
3117 established Medicaid ineligibility and who has not reimbursed the
3118 division for the related medical service payment(s). The
3119 Department of Revenue shall withhold from the state tax refund of
3120 the individual, and pay to the division, the amount of the
3121 payment(s) for medical services rendered to the ineligible
3122 individual that have not been reimbursed to the division for the
3123 related medical service payment(s).

3124 (ii) The division shall report to the Department
3125 of Revenue the name of any Medicaid provider to whom payments were



3126 incorrectly made that the division has not been able to recover by
3127 other methods available to the division. The Department of
3128 Revenue shall withhold from the state tax refund of the provider,
3129 and pay to the division, the amount of the payments that were
3130 incorrectly made to the provider that have not been recovered by
3131 other available methods;

3132 (k) To recover any and all payments by the division
3133 fraudulently obtained by a recipient or provider. Additionally,
3134 if recovery of any payments fraudulently obtained by a recipient
3135 or provider is made in any court, then, upon motion of the
3136 Governor, the judge of the court may award twice the payments
3137 recovered as damages;

3138 (l) Have full, complete and plenary power and authority
3139 to conduct such investigations as it may deem necessary and
3140 requisite of alleged or suspected violations or abuses of the
3141 provisions of this article or of the regulations adopted under
3142 this article, including, but not limited to, fraudulent or
3143 unlawful act or deed by applicants for Medicaid or other benefits,
3144 or payments made to any person, firm or corporation under the
3145 terms, conditions and authority of this article, to suspend or
3146 disqualify any provider of services, applicant or recipient for
3147 gross abuse, fraudulent or unlawful acts for such periods,
3148 including permanently, and under such conditions as the division
3149 deems proper and just, including the imposition of a legal rate of
3150 interest on the amount improperly or incorrectly paid. Recipients



3151 who are found to have misused or abused Medicaid benefits may be
3152 locked into one (1) physician and/or one (1) pharmacy of the
3153 recipient's choice for a reasonable amount of time in order to
3154 educate and promote appropriate use of medical services, in
3155 accordance with federal regulations. If an administrative hearing
3156 becomes necessary, the division may, if the provider does not
3157 succeed in his or her defense, tax the costs of the administrative
3158 hearing, including the costs of the court reporter or stenographer
3159 and transcript, to the provider. The convictions of a recipient
3160 or a provider in a state or federal court for abuse, fraudulent or
3161 unlawful acts under this chapter shall constitute an automatic
3162 disqualification of the recipient or automatic disqualification of
3163 the provider from participation under the Medicaid program.

3164 A conviction, for the purposes of this chapter, shall include
3165 a judgment entered on a plea of nolo contendere or a
3166 nonadjudicated guilty plea and shall have the same force as a
3167 judgment entered pursuant to a guilty plea or a conviction
3168 following trial. A certified copy of the judgment of the court of
3169 competent jurisdiction of the conviction shall constitute prima
3170 facie evidence of the conviction for disqualification purposes;

3171 (m) Establish and provide such methods of
3172 administration as may be necessary for the proper and efficient
3173 operation of the Medicaid program, fully utilizing computer
3174 equipment as may be necessary to oversee and control all current
3175 expenditures for purposes of this article, and to closely monitor



3176 and supervise all recipient payments and vendors rendering
3177 services under this article. Notwithstanding any other provision
3178 of state law, the division is authorized to enter into a ten-year
3179 contract(s) with a vendor(s) to provide services described in this
3180 paragraph (m), in accordance with the provisions of Section
3181 25-9-120. Effective July 1, 2014, and notwithstanding any
3182 provision of law to the contrary, the division is authorized to
3183 extend its Fiscal Agent and Eligibility Determination System
3184 contracts expiring on July 1, 2014, for a period not to exceed
3185 three (3) years without complying with the requirements provided
3186 in Section 25-9-120 and the Personal Service Contract Review Board
3187 procurement regulations;

3188 (n) To cooperate and contract with the federal
3189 government for the purpose of providing Medicaid to Vietnamese and
3190 Cambodian refugees, under the provisions of Public Law 94-23 and
3191 Public Law 94-24, including any amendments to those laws, only to
3192 the extent that the Medicaid assistance and the administrative
3193 cost related thereto are one hundred percent (100%) reimbursable
3194 by the federal government. For the purposes of Section 43-13-117,
3195 persons receiving Medicaid under Public Law 94-23 and Public Law
3196 94-24, including any amendments to those laws, shall not be
3197 considered a new group or category of recipient; and

3198 (o) The division shall impose penalties upon Medicaid
3199 only, Title XIX participating long-term care facilities found to
3200 be in noncompliance with division and certification standards in



3201 accordance with federal and state regulations, including interest
3202 at the same rate calculated by the United States Department of
3203 Health and Human Services and/or the Centers for Medicare and
3204 Medicaid Services (CMS) under federal regulations.

3205 (2) The division also shall exercise such additional powers
3206 and perform such other duties as may be conferred upon the
3207 division by act of the Legislature.

3208 (3) The division, and the State Department of Health as the
3209 agency for licensure of health care facilities and certification
3210 and inspection for the Medicaid and/or Medicare programs, shall
3211 contract for or otherwise provide for the consolidation of on-site
3212 inspections of health care facilities that are necessitated by the
3213 respective programs and functions of the division and the
3214 department.

3215 (4) The division and its hearing officers shall have power
3216 to preserve and enforce order during hearings; to issue subpoenas
3217 for, to administer oaths to and to compel the attendance and
3218 testimony of witnesses, or the production of books, papers,
3219 documents and other evidence, or the taking of depositions before
3220 any designated individual competent to administer oaths; to
3221 examine witnesses; and to do all things conformable to law that
3222 may be necessary to enable them effectively to discharge the
3223 duties of their office. In compelling the attendance and
3224 testimony of witnesses, or the production of books, papers,
3225 documents and other evidence, or the taking of depositions, as



3226 authorized by this section, the division or its hearing officers
3227 may designate an individual employed by the division or some other
3228 suitable person to execute and return that process, whose action
3229 in executing and returning that process shall be as lawful as if
3230 done by the sheriff or some other proper officer authorized to
3231 execute and return process in the county where the witness may
3232 reside. In carrying out the investigatory powers under the
3233 provisions of this article, the executive director or other
3234 designated person or persons may examine, obtain, copy or
3235 reproduce the books, papers, documents, medical charts,
3236 prescriptions and other records relating to medical care and
3237 services furnished by the provider to a recipient or designated
3238 recipients of Medicaid services under investigation. In the
3239 absence of the voluntary submission of the books, papers,
3240 documents, medical charts, prescriptions and other records, the
3241 Governor, the executive director, or other designated person may
3242 issue and serve subpoenas instantly upon the provider, his or her
3243 agent, servant or employee for the production of the books,
3244 papers, documents, medical charts, prescriptions or other records
3245 during an audit or investigation of the provider. If any provider
3246 or his or her agent, servant or employee refuses to produce the
3247 records after being duly subpoenaed, the executive director may
3248 certify those facts and institute contempt proceedings in the
3249 manner, time and place as authorized by law for administrative
3250 proceedings. As an additional remedy, the division may recover



3251 all amounts paid to the provider covering the period of the audit
3252 or investigation, inclusive of a legal rate of interest and a
3253 reasonable attorney's fee and costs of court if suit becomes
3254 necessary. Division staff shall have immediate access to the
3255 provider's physical location, facilities, records, documents,
3256 books, and any other records relating to medical care and services
3257 rendered to recipients during regular business hours.

3258 (5) If any person in proceedings before the division
3259 disobeys or resists any lawful order or process, or misbehaves
3260 during a hearing or so near the place thereof as to obstruct the
3261 hearing, or neglects to produce, after having been ordered to do
3262 so, any pertinent book, paper or document, or refuses to appear
3263 after having been subpoenaed, or upon appearing refuses to take
3264 the oath as a witness, or after having taken the oath refuses to
3265 be examined according to law, the executive director shall certify
3266 the facts to any court having jurisdiction in the place in which
3267 it is sitting, and the court shall thereupon, in a summary manner,
3268 hear the evidence as to the acts complained of, and if the
3269 evidence so warrants, punish that person in the same manner and to
3270 the same extent as for a contempt committed before the court, or
3271 commit that person upon the same condition as if the doing of the
3272 forbidden act had occurred with reference to the process of, or in
3273 the presence of, the court.

3274 (6) In suspending or terminating any provider from
3275 participation in the Medicaid program, the division shall preclude



3276 the provider from submitting claims for payment, either personally
3277 or through any clinic, group, corporation or other association to
3278 the division or its fiscal agents for any services or supplies
3279 provided under the Medicaid program except for those services or
3280 supplies provided before the suspension or termination. No
3281 clinic, group, corporation or other association that is a provider
3282 of services shall submit claims for payment to the division or its
3283 fiscal agents for any services or supplies provided by a person
3284 within that organization who has been suspended or terminated from
3285 participation in the Medicaid program except for those services or
3286 supplies provided before the suspension or termination. When this
3287 provision is violated by a provider of services that is a clinic,
3288 group, corporation or other association, the division may suspend
3289 or terminate that organization from participation. Suspension may
3290 be applied by the division to all known affiliates of a provider,
3291 provided that each decision to include an affiliate is made on a
3292 case-by-case basis after giving due regard to all relevant facts
3293 and circumstances. The violation, failure or inadequacy of
3294 performance may be imputed to a person with whom the provider is
3295 affiliated where that conduct was accomplished within the course
3296 of his or her official duty or was effectuated by him or her with
3297 the knowledge or approval of that person.

3298 (7) The division may deny or revoke enrollment in the
3299 Medicaid program to a provider if any of the following are found
3300 to be applicable to the provider, his or her agent, a managing



3301 employee or any person having an ownership interest equal to five
3302 percent (5%) or greater in the provider:

3303 (a) Failure to truthfully or fully disclose any and all
3304 information required, or the concealment of any and all
3305 information required, on a claim, a provider application or a
3306 provider agreement, or the making of a false or misleading
3307 statement to the division relative to the Medicaid program.

3308 (b) Previous or current exclusion, suspension,
3309 termination from or the involuntary withdrawing from participation
3310 in the Medicaid program, any other state's Medicaid program,
3311 Medicare or any other public or private health or health insurance
3312 program. If the division ascertains that a provider has been
3313 convicted of a felony under federal or state law for an offense
3314 that the division determines is detrimental to the best interest
3315 of the program or of Medicaid beneficiaries, the division may
3316 refuse to enter into an agreement with that provider, or may
3317 terminate or refuse to renew an existing agreement.

3318 (c) Conviction under federal or state law of a criminal
3319 offense relating to the delivery of any goods, services or
3320 supplies, including the performance of management or
3321 administrative services relating to the delivery of the goods,
3322 services or supplies, under the Medicaid program, any other
3323 state's Medicaid program, Medicare or any other public or private
3324 health or health insurance program.



3325 (d) Conviction under federal or state law of a criminal
3326 offense relating to the neglect or abuse of a patient in
3327 connection with the delivery of any goods, services or supplies.

3328 (e) Conviction under federal or state law of a criminal
3329 offense relating to the unlawful manufacture, distribution,
3330 prescription or dispensing of a controlled substance.

3331 (f) Conviction under federal or state law of a criminal
3332 offense relating to fraud, theft, embezzlement, breach of
3333 fiduciary responsibility or other financial misconduct.

3334 (g) Conviction under federal or state law of a criminal
3335 offense punishable by imprisonment of a year or more that involves
3336 moral turpitude, or acts against the elderly, children or infirm.

3337 (h) Conviction under federal or state law of a criminal
3338 offense in connection with the interference or obstruction of any
3339 investigation into any criminal offense listed in paragraphs (c)
3340 through (i) of this subsection.

3341 (i) Sanction for a violation of federal or state laws
3342 or rules relative to the Medicaid program, any other state's
3343 Medicaid program, Medicare or any other public health care or
3344 health insurance program.

3345 (j) Revocation of license or certification.

3346 (k) Failure to pay recovery properly assessed or
3347 pursuant to an approved repayment schedule under the Medicaid
3348 program.

3349 (l) Failure to meet any condition of enrollment.



3350 **SECTION 30.** Section 43-19-47, Mississippi Code of 1972, is
3351 amended as follows:

3352 43-19-47. (1) The Child Support Unit of the State
3353 Department of Human Services, in cooperation with the Attorney
3354 General, may appoint at least one (1) full-time staff attorney in
3355 or for each chancery court district for the purpose of initiating
3356 proceedings under the provisions of Sections 43-19-31 through
3357 43-19-53 in securing child support and establishing paternity.
3358 The Child Support Unit shall employ the attorneys in accordance
3359 with the provisions of Section 25-9-120. The annual salary of
3360 each of the attorneys appointed by the Child Support Unit, in
3361 cooperation with the Attorney General's office under the
3362 provisions of Sections 43-19-31 through 43-19-53 shall be fixed at
3363 such sums as may be deemed proper in accordance with the salaries
3364 of other full-time employed state attorneys with the Attorney
3365 General's Office. Such salaries, inclusive of all reimbursable
3366 travel and other expenses, inclusive of financial arrangements
3367 perfected with the appropriate courts, the law enforcement
3368 officials and the district attorneys, shall be paid monthly from
3369 the funds appropriated to the Child Support Unit of the State
3370 Department of Human Services and from the special fund for the
3371 Division of Child Support in which the interest from its accounts
3372 and all attorney's fees and other fees is placed. The Mississippi
3373 Personnel Board shall survey the salaries of other Mississippi
3374 attorneys with the Attorney General's Office each year and shall



3375 raise the start step of the staff and senior attorneys accordingly
3376 and the minimum shall never go below Forty Thousand Dollars
3377 (\$40,000.00) for staff attorneys or Fifty Thousand Dollars
3378 (\$50,000.00) for senior attorneys.

3379 (2) To assist in the implementation of the provisions of
3380 Sections 43-19-31 through 43-19-53, the Executive Director of the
3381 Department of Human Services is empowered to enter into
3382 cooperative agreements with district attorneys, county attorneys
3383 and attorneys employed by the county boards of supervisors, in
3384 conjunction with the Office of Attorney General. Said cooperative
3385 agreements shall be made in compliance with the regulations
3386 established by the Secretary of the Department of Health and Human
3387 Services, and may be funded either by funds appropriated to the
3388 Child Support Unit of the State Department of Human Services or
3389 funds appropriated by any county board of supervisors in this
3390 state for their respective county. Attorneys may be hired
3391 contractually, in accordance with the provisions of Section
3392 25-9-120, to be paid in amounts commensurate with the department's
3393 staff attorneys.

3394 **SECTION 31.** Section 43-33-717, Mississippi Code of 1972, is
3395 amended as follows:

3396 43-33-717. (1) The corporation shall have all the powers
3397 necessary or convenient to carry out and effectuate the purposes
3398 and provisions of this article, including, but without limiting
3399 the generality of the foregoing, the power:



3400 (a) To make and alter bylaws for its organization and
3401 internal management;

3402 (b) To sue and be sued, have a seal and alter the same
3403 at pleasure, and maintain an office at such place or places in the
3404 state as it may determine;

3405 (c) To appoint officers, agents and employees,
3406 prescribe their duties and qualifications, and fix their
3407 compensation;

3408 (d) To acquire real or personal property, or any
3409 interest therein, by purchase, exchange, gift, assignment,
3410 transfer, foreclosure, lease, condemnation or otherwise, including
3411 rights or easements; to hold, manage, operate or improve real or
3412 personal property; to sell, assign, exchange, lease, encumber,
3413 mortgage or otherwise dispose of any real or personal property, or
3414 any interest therein, or deed of trust or mortgage lien interest
3415 owned by it or under its control, custody or in its possession and
3416 release or relinquish any right, title, claim, lien, interest,
3417 easement or demand however acquired, including any equity or right
3418 of redemption in property foreclosed by it and to do any of the
3419 foregoing by public sale;

3420 (e) To make and execute agreements, contracts and other
3421 instruments necessary or convenient to the exercise of the powers
3422 and functions of the corporation under this article;

3423 (f) To employ or contract, in accordance with the
3424 provisions of Section 25-9-120, with architects, engineers,



3425 attorneys, accountants, financial experts and other advisors as
3426 may be necessary in its judgment and to fix and pay their
3427 compensation;

3428 (g) To make and execute contracts for the
3429 administration, servicing or collection of any mortgage loan and
3430 pay the reasonable value of services rendered to the corporation
3431 pursuant to such contracts;

3432 (h) To contract, in accordance with the provisions of
3433 Section 25-9-120, for the employment of a financial advisor,
3434 underwriting attorneys, trustees, paying agents, depositories or
3435 any consultants retained in connection with the issuance of any
3436 bonds or notes including refunding bonds or notes or dealing with
3437 the disposition of any proceeds thereof;

3438 (i) To issue negotiable bonds and notes and to provide
3439 for the rights of the holders thereof;

3440 (j) Subject to any agreement with bondholders or
3441 noteholders, to sell any mortgage loans at public or private sale
3442 at the fair market value for such a mortgage; and

3443 (k) Subject to any agreement with bondholders and
3444 noteholders, to make, alter or repeal such rules and regulations
3445 with respect to the operations, properties and facilities of the
3446 corporation as are necessary to carry out its functions and duties
3447 in the administration of this article.

3448 (2) The corporation shall also have the power:



3449 (a) To make loans to mortgage lenders for the purpose
3450 of:

3451 (i) Making housing development mortgage loans to
3452 qualified sponsors for low and moderate income rental or
3453 residential housing;

3454 (ii) Making loans to low and moderate income
3455 purchasers of residential housing with preference to those who are
3456 displaced from adequate housing as a result of a major disaster,
3457 whether it be a man-made, technological or natural disaster, upon
3458 a declaration by the Governor that a major disaster exists in the
3459 state;

3460 (b) To purchase from mortgage lenders any of the loans
3461 enumerated in subparagraphs (i) and (ii);

3462 (c) To insure, reinsure or guarantee any of the types
3463 of loans enumerated in subparagraphs (i) and (ii);

3464 (d) To make, in such amounts and upon such terms and
3465 conditions as the corporation shall approve, temporary loans,
3466 preconstruction loans, interim financing loans to any qualified
3467 sponsor and permanent financing to any qualified sponsor of
3468 multifamily housing.

3469 (3) The corporation shall also have the power to make loans
3470 from funds not otherwise encumbered by pledge or indenture to low
3471 and moderate income persons for the following purposes:

3472 (a) Purchasing, improving or rehabilitating existing
3473 residential housing and occupied by the owners;



3474 (b) Making loans to qualified nonprofit sponsors, to
3475 local housing authorities and to owners of residential housing for
3476 the development, construction, purchase, rehabilitation,
3477 weatherization or maintenance of residential housing.

3478 (4) Using funds not otherwise encumbered by pledge or
3479 indenture, the corporation may:

3480 (a) Establish a rental assistance program;

3481 (b) Provide such advisory consultation, training and
3482 educational services as will assist in the planning, construction,
3483 rehabilitation and operation of housing, including but not limited
3484 to, assistance in community development and organization, home
3485 management and advisory services for residents, and in promotion
3486 of community organizations and local governments to assist in
3487 developing housing;

3488 (c) Encourage research and demonstration projects to
3489 develop new and better methods for increasing the supply, types
3490 and financing of housing and to receive and accept contributions,
3491 grants or aid from any source, public or private, including but
3492 not limited to the United States and this state, for carrying out
3493 this purpose;

3494 (d) Encourage and stimulate cooperatives and other
3495 forms of housing with tenant participation;

3496 (e) Promote innovative programs for home ownership,
3497 including but not limited to lease-purchase programs,



3498 employer-sponsored housing programs, tenant cooperatives and
3499 nonprofit associations;

3500 (f) Design and support programs to address special
3501 needs groups including, but not limited to, handicapped, disabled,
3502 elderly, homeless, HIV/AIDS carriers and families with children;

3503 (g) Develop a comprehensive plan for, and engage in a
3504 yearly planning process for, addressing the housing needs of low
3505 and moderate income persons in Mississippi.

3506 (5) The corporation also has the power:

3507 (a) To procure, or require the procurement of,
3508 insurance against any loss in connection with its operations,
3509 including without limitation the repayment of any mortgage loan or
3510 loans, in such amounts and from such insurers, including the
3511 federal government, as it may deem necessary or desirable, and to
3512 pay any premiums therefor;

3513 (b) Subject to any agreement with bondholders or
3514 noteholders: (i) to renegotiate any loan in default; (ii) to
3515 waive any default or consent to the modification of the terms of
3516 any loan or agreement; (iii) to commence, prosecute and enforce a
3517 judgment in any action or proceeding, including without limitation
3518 a foreclosure proceeding, to protect or enforce any right
3519 conferred upon it by law, mortgage loan agreement, contract or
3520 other agreement; and (iv) in connection with any such proceeding,
3521 to bid for and purchase the property or acquire or take possession
3522 thereof and, in such event, complete, administer and pay the



3523 principal of and interest on any obligations incurred in
3524 connection with such property and dispose of and otherwise deal
3525 with such property in such manner as the corporation may deem
3526 advisable to protect its interest therein;

3527 (c) To fix, revise, charge and collect fees and other
3528 charges in connection with the making of loans, the purchasing of
3529 mortgage loans, and any other services rendered by the
3530 corporation;

3531 (d) To arrange for guarantees of its bonds, notes or
3532 other obligations by the federal government or by any private
3533 insurer and to pay any premiums therefor;

3534 (e) Notwithstanding any law to the contrary, but
3535 subject to any agreement with bondholders or noteholders, to
3536 invest money of the corporation not required for immediate use,
3537 including proceeds from the sale of any bonds or notes;

3538 (i) In obligations of any municipality or the
3539 state or the United States of America;

3540 (ii) In obligations the principal and interest of
3541 which are guaranteed by the state or the United States of America;

3542 (iii) In obligations of any corporation wholly
3543 owned by the United States of America;

3544 (iv) In obligations of any corporation sponsored
3545 by the United States of America which are, or may become, eligible
3546 as collateral for advances to member banks as determined by the
3547 Board of Governors of the Federal Reserve System;



3548 (v) In obligations of insurance firms or other
3549 corporations whose investments are rated "A" or better by
3550 recognized rating companies;

3551 (vi) In certificates of deposit or time deposits
3552 of qualified depositories of the state as approved by the State
3553 Depository Commission, secured in such manner, if any, as the
3554 corporation shall determine;

3555 (vii) In contracts for the purchase and sale of
3556 obligations of the type specified in items (i) through (v) above;

3557 (viii) In repurchase agreements secured by
3558 obligations specified in items (i) through (v) above;

3559 (ix) In money market funds, the assets of which
3560 are required to be invested in obligations specified in items (i)
3561 through (vi) above;

3562 (f) Subject to any agreement with bondholders or
3563 noteholders, to purchase, and to agree to purchase, bonds or notes
3564 of the corporation at a price not exceeding: (i) if the bonds or
3565 notes are then redeemable, the redemption price then applicable
3566 plus accrued interest to the date of purchase; or (ii) if the
3567 bonds or notes are not then redeemable, the redemption price
3568 applicable on the first date after such purchase upon which the
3569 notes or bonds become subject to redemption at the option of the
3570 corporation plus accrued interest to the date of purchase;

3571 (g) Subject to the provisions of this article, to
3572 contract for and to accept any gifts, grants or loans of funds or



3573 property or financial or other aid in any form from federal, state
3574 or local governments, private or public entities, or individuals;

3575 (h) To enter into agreements or other transactions with
3576 the federal or state government, any agency thereof or any
3577 municipality in furtherance of the purposes of this article; to
3578 operate and administer loan programs of the federal government,
3579 the State of Mississippi, or any governmental agency thereof; and
3580 to operate and administer any program of housing assistance for
3581 persons and families of low or moderate income, however funded;

3582 (i) To establish a benevolent loan fund, housing
3583 development fund, or such additional and further funds as may be
3584 necessary and desirable to accomplish any corporate purpose or to
3585 comply with the provisions of any agreement made by the
3586 corporation or any resolution approved by the corporation. The
3587 resolution establishing such a fund shall specify the source of
3588 monies from which it shall be funded and the purposes for which
3589 monies held in the fund shall be disbursed;

3590 (j) In carrying out the provisions of this article, the
3591 corporation shall cooperate with the housing authorities created
3592 under Sections 43-33-1 through 43-33-69 and Sections 43-33-101
3593 through 43-33-137, Mississippi Code of 1972;

3594 (k) To accept letters of credit and other credit
3595 facilities necessary to make loans authorized herein to repay
3596 bonds or notes issued by the corporation;



3597 (1) To do any and all things necessary or convenient to
3598 carry out its purposes and exercise the powers given and granted
3599 in this article.

3600 **SECTION 32.** Section 43-47-9, Mississippi Code of 1972, is
3601 amended as follows:

3602 43-47-9. (1) Upon receipt of a report pursuant to Section
3603 43-47-7 that a vulnerable person is in need of protective
3604 services, the department shall initiate an investigation and/or
3605 evaluation within forty-eight (48) hours if immediate attention is
3606 needed, or within seventy-two (72) hours if the vulnerable person
3607 is not in immediate danger, to determine whether the vulnerable
3608 person is in need of protective services and what services are
3609 needed. The evaluation shall include any necessary visits and
3610 interviews with the person, and if appropriate, with the alleged
3611 perpetrator of the vulnerable person abuse and with any person
3612 believed to have knowledge of the circumstances of the case. When
3613 a caretaker of a vulnerable person refuses to allow the department
3614 reasonable access to conduct an investigation to determine if the
3615 vulnerable person is in need of protective services, the
3616 department may petition the court for an order for injunctive
3617 relief enjoining the caretaker from interfering with the
3618 investigation.

3619 (2) The staff and physicians of local health departments,
3620 mental health clinics and other public or private agencies,
3621 including law enforcement agencies, shall cooperate fully with the



3622 department in the performance of its duties. These duties include
3623 immediate, in-residence evaluations and medical examinations and
3624 treatment where the department deems it necessary. However, upon
3625 receipt of a report of abuse, neglect or exploitation of a
3626 vulnerable person confined in a licensed hospital or licensed
3627 nursing home facility in the state, the department shall
3628 immediately refer this report to the proper authority at the State
3629 Department of Health for investigation under Section 43-47-37.

3630 Upon a showing of probable cause that a vulnerable person has
3631 been abused, a court may authorize a qualified third party to make
3632 an evaluation to enter the residence of, and to examine the
3633 vulnerable person. Upon a showing of probable cause that a
3634 vulnerable person has been financially exploited, a court may
3635 authorize a qualified third party, also authorized by the
3636 department, to make an evaluation, and to gain access to the
3637 financial records of the vulnerable person.

3638 (3) The department may contract with an agency or private
3639 physician, in accordance with the provisions of Section 25-9-120,
3640 for the purpose of providing immediate, accessible evaluations in
3641 the location that the department deems most appropriate.

3642 **SECTION 33.** Section 47-5-35, Mississippi Code of 1972, is
3643 amended as follows:

3644 47-5-35. The Joint Legislative Committee on Performance
3645 Evaluation and Expenditure Review (PEER) shall appoint an auditor
3646 to audit the correctional system, in accordance with the



3647 provisions of Section 25-9-120, and provide sufficient office
3648 facilities in the Jackson office, who shall be a certified public
3649 accountant or an experienced accountant, whose duty shall be to
3650 audit all accounts of the state correctional system for the
3651 purpose of reporting to the Legislative Budget Office. He shall
3652 report whether supplies and products bought and sold are handled
3653 in accordance with law and when bought on samples and
3654 specifications whether they measure up to such samples and
3655 specifications when the goods are received. The auditor shall
3656 report on the letting of bids and shall make a determination that
3657 all bids are advertised and let in accordance with law and shall
3658 render a report on same. The auditor shall be responsible to make
3659 a periodic inventory on all goods, machinery, livestock, farm
3660 produce or any other property of the correctional system and make
3661 a report thereon to the Legislative Budget Office on such terms
3662 and conditions and as often as required by the committee. The
3663 salaries and expenses of such auditor or his employees shall be
3664 paid from funds appropriated for support of the Legislature or its
3665 committees.

3666 Such auditor shall make, at least, a monthly report to the
3667 Legislative Budget Office and the Chairman of the Corrections
3668 Committee of the Senate and the Chairman of the Penitentiary
3669 Committee in the House of Representatives.

3670 The auditor shall attend all the meetings of the board and
3671 shall be notified by the board of all meetings or specially called



3672 meetings. The Joint Legislative Committee on Performance
3673 Evaluation and Expenditure Review shall provide the auditor with a
3674 secretary and such personnel as it deems necessary.

3675 **SECTION 34.** Section 47-5-37, Mississippi Code of 1972, is
3676 amended as follows:

3677 47-5-37. The commissioner shall employ, in accordance with
3678 the provisions of Section 25-9-120, a qualified fiscal comptroller
3679 who shall be a certified public accountant and who shall be
3680 charged with the responsibility of maintaining a modern accounting
3681 system which shall accurately reflect all fiscal transactions in
3682 such manner and in such form as shall be recommended by the State
3683 Fiscal Management Board. The commissioner shall employ such
3684 qualified bookkeepers and other clerical personnel as required to
3685 maintain the accounting system who shall devote their full time to
3686 their duties as employees of the correctional system. The fiscal
3687 comptroller shall make a monthly report to the Governor and
3688 Chairmen of Corrections Committee of the Senate and the
3689 Penitentiary Committee of the House of Representatives. The
3690 fiscal comptroller shall countersign all checks. The fiscal
3691 comptroller shall have sole responsibility for all purchases and
3692 the signing of all purchase orders issued by the correctional
3693 system. Such fiscal comptroller shall execute a good and
3694 sufficient bond payable to the State of Mississippi in the sum of
3695 Fifty Thousand Dollars (\$50,000.00), conditioned for the
3696 satisfactory performance of the duties of his office, and the



3697 accurate accounting of any moneys and properties coming into his
3698 hands.

3699 The commissioner or his designee shall sign all requisitions
3700 for issuance of warrant authorizing any disbursement of any sum or
3701 sums on account of the correctional system, and no money shall be
3702 paid out on any account of the correctional system except on a
3703 requisition for issuance of warrant signed by him or his designee.

3704 **SECTION 35.** Section 47-5-357, Mississippi Code of 1972, is
3705 amended as follows:

3706 47-5-357. (1) Due to the unique and time sensitive
3707 requirements of growing and harvesting products produced by the
3708 prison agricultural enterprises, the Department of Finance and
3709 Administration and the department shall establish a prudent
3710 purchasing policy which may exempt from bid requirements those
3711 commodities, items or services which are needed for the efficient
3712 and effective management of the prison agricultural enterprises.
3713 The purchasing policy shall be established in compliance with the
3714 provisions for bid requirements set forth in Section 25-9-120.

3715 (2) The Department of Finance and Administration shall, by
3716 order entered on its minutes, list those commodities, items and
3717 services exempted from bid requirements as provided in Section
3718 31-7-12, Mississippi Code of 1972.

3719 **SECTION 36.** Section 49-27-71, Mississippi Code of 1972, is
3720 amended as follows:



3721 49-27-71. (1) (a) The department may remove from the
3722 coastal wetlands, as defined in Section 49-27-5(a), Mississippi
3723 Code of 1972, or from any private or man-made canal with a
3724 navigable connection to coastal wetlands, any vessel which is
3725 derelict, or has been determined by the department to be a public
3726 safety or environmental hazard, having been relinquished, deserted
3727 or left by the owner with the intention of abandoning the vessel.
3728 Any vessel submerged in or on the coastal wetlands or submerged in
3729 any private or man-made canal, with a navigable connection to
3730 coastal wetlands, in excess of thirty (30) days is declared
3731 abandoned and a derelict vessel. For the purposes of this
3732 section, no vessel submerged more than one hundred (100) years
3733 will be considered derelict.

3734 (b) Any owner or operator of a derelict vessel shall be
3735 liable to the State of Mississippi for the restoration of all
3736 affected coastal wetlands and all costs associated with the
3737 removal of the vessel.

3738 (2) (a) If the last known owner or operator of a derelict
3739 vessel is ascertainable, the owner or operator shall be notified
3740 by certified mail to remove the derelict vessel and restore the
3741 affected coastal wetlands within thirty (30) days of the date of
3742 the notice. Failure to remove the vessel may result in the
3743 imposition of the damages provided in subsection (3).

3744 (b) When the owner or operator of the derelict vessel
3745 is unknown or cannot be located after diligent search and inquiry,



3746 notice shall be given by publishing in a newspaper having general
3747 circulation in the county where the derelict vessel is located the
3748 intent to remove and dispose of the derelict vessel. The notice
3749 shall be published once a week for three (3) consecutive weeks.
3750 The derelict vessel may be removed ten (10) days after the last
3751 date of publication.

3752 (c) The municipality or county where the vessel is
3753 located may remove the derelict vessel or request the department
3754 to contract for the removal of the derelict vessel. The cost of
3755 the removal of the derelict vessel shall be paid by the
3756 municipality or the county where the vessel is located. If the
3757 county or municipality cannot pay the cost of removal, the
3758 department may pay the cost of removal, if funds are available.

3759 (d) Any derelict vessel salvaged may be destroyed or
3760 otherwise disposed of without additional notice to the owner or
3761 operator and the value thereof, if any, applied as an offset to
3762 the cost of the removal of the derelict vessel and restoration of
3763 the affected coastal wetlands.

3764 (e) If an owner or operator is subsequently identified,
3765 the owner or operator shall be liable for double the cost of the
3766 removal of the derelict vessel and the restoration of the affected
3767 coastal wetlands, attorneys' fees and all costs of court. Upon
3768 recovery of these damages, the county, municipality or department,
3769 as the case may be, shall be reimbursed the costs of the removal
3770 of the derelict vessel and restoration of the coastal wetlands.



3771 (f) In addition to providing notice by publication or
3772 to the known owner or operator, notice shall be sent by mail to
3773 the Mississippi Department of Archives and History for a
3774 determination as to whether the vessel to be removed is of
3775 archaeological, historical or architectural significance under the
3776 state antiquities law. The Department of Archives and History
3777 shall respond within thirty (30) days to the notice and advise
3778 whether or not the vessel should be preserved.

3779 (3) The chancery court of the county where the vessel is
3780 located shall have jurisdiction and by writ of mandatory
3781 injunction, order the removal of the vessel by the owner or
3782 operator. The chancery court shall allow a reasonable time for
3783 completion of the restoration of the coastal wetlands and removal
3784 of the vessel. The chancery court may, in its discretion, order
3785 as damages a sum not to exceed Five Hundred Dollars (\$500.00) per
3786 day for each day such violation has existed. The chancery court
3787 may further order as damages a sum not to exceed Five Hundred
3788 Dollars (\$500.00) per day for each day that the violation exists
3789 beyond the date set by the court in its injunction for the removal
3790 of the vessel and the restoration of the coastal wetlands.
3791 Additionally, the owner or operator shall be liable for reasonable
3792 attorneys' fees and all costs of court.

3793 (4) Any reimbursed cost of removal and any fines and damages
3794 collected in excess of the cost of the removal of the vessel and
3795 the restoration of the affected coastal wetlands shall be



3796 deposited in a special fund in the State Treasury to be known as
3797 the "Derelict Vessel Fund." The fund shall be administered by the
3798 department. Any funds deposited in the fund shall be used to
3799 cover the administrative costs and removal costs incurred by the
3800 department for the removal of vessels. Any remaining funds shall
3801 be used as a match for municipal and county funds to cover the
3802 costs of removing additional vessels.

3803 (5) Any sunken or submerged vessel in or on the coastal
3804 wetlands within any designated navigation channel or within one
3805 hundred (100) yards of the boundaries of any state, county or
3806 municipal port may be declared a hazard to navigation and subject
3807 to immediate removal and disposal by the department. Any sunken
3808 or submerged vessel in or on the coastal wetlands that is leaking
3809 any hazardous substances, chemicals or fuels may be declared an
3810 environmental hazard and subject to immediate removal and disposal
3811 by the department. The owners of a vessel removed in accordance
3812 with this subsection shall be liable for the costs associated with
3813 the salvage and disposal of the vessel and any damages to the
3814 flora and fauna within the coastal wetlands.

3815 (6) The department is authorized to enter into contracts
3816 with individuals, firms and corporations for the removal of
3817 vessels. The salvage value, if any, of the vessel may be used to
3818 offset the cost of the removal of the vessel and the restoration
3819 of the coastal wetlands. The department may enter into
3820 noncompetitive contracts or agreements with any state or federal



3821 entity for the removal of vessels, except as otherwise provided in
3822 Section 25-9-120.

3823 (7) The commission shall adopt rules and regulations
3824 necessary and appropriate to carry out this section. The
3825 commission may also enter into interstate or intrastate efforts
3826 toward this end, and may seek and utilize aid from all federal,
3827 state and local sources in this endeavor.

3828 (8) The State of Mississippi, the commission, the department
3829 and their employees and representatives shall not be liable for
3830 any damage resulting from the removal, sale or disposal of any
3831 vessel declared a derelict or hazardous vessel pursuant to this
3832 section.

3833 **SECTION 37.** Section 55-23-43, Mississippi Code of 1972, is
3834 amended as follows:

3835 55-23-43. The Building Commission may employ, in accordance
3836 with the provisions of Section 25-9-120, competent architects,
3837 engineers and other qualified agents to prepare plans,
3838 specifications and such other data as may be necessary to enable
3839 it to carry out the purposes of Sections 55-23-21 through 55-23-43
3840 in a manner consistent with sound construction principles. When
3841 the plans and specifications have been approved and accepted by
3842 the Building Commission, contracts for the various phases of
3843 construction shall then be let by the Building Commission in the
3844 manner provided by law to competent and responsible firms or
3845 individuals whose work shall proceed under the constant inspection



3846 of a reliable and competent inspector to be furnished for that
3847 purpose by the State Building Commission. All expenses incurred
3848 in the enlargement and renovation under the provisions of Sections
3849 55-23-21 through 55-23-43 shall be paid from the Mississippi
3850 Memorial Stadium Construction Fund created herein. The
3851 Mississippi Veterans Memorial Stadium Commission may take any
3852 action authorized in Section 55-23-8 relating to the property
3853 described in such section.

3854 **SECTION 38.** Section 57-1-355, Mississippi Code of 1972, is
3855 amended as follows:

3856 57-1-355. DECD, in addition to any and all powers now or
3857 hereafter granted to it, is empowered and shall exercise
3858 discretion and the use of these powers depending on the
3859 circumstances of the project or projects:

3860 (a) To employ or contract, in accordance with the
3861 provisions of Section 25-9-120, with architects, engineers,
3862 attorneys, accountants, construction and financial experts and
3863 such other advisors, consultants and agents as may be necessary in
3864 its judgment and to fix and pay their compensation.

3865 (b) To make such applications and enter into such
3866 contracts for financial assistance as may be appropriate under
3867 applicable federal or state law.

3868 (c) To apply for, accept and utilize grants, gifts and
3869 other funds or aid from any source for any purpose contemplated by
3870 Sections 57-1-351 through 57-1-369, and to comply, subject to the



3871 provisions of Sections 57-1-351 through 57-1-369, with the terms
3872 and conditions thereof.

3873 (d) To acquire by purchase or lease any public lands
3874 and public property, including sixteenth section lands and lieu
3875 lands, within the project area, which are necessary for the
3876 project. Sixteenth section lands or lieu lands acquired under
3877 Sections 57-1-351 through 57-1-369 shall be deemed to be acquired
3878 for the purposes of industrial development thereon and such
3879 acquisition will serve a higher public interest in accordance with
3880 the purposes of Sections 57-1-351 through 57-1-369.

3881 (e) If DECD identifies any land owned by the state as
3882 being necessary, for the location or use of the project, or any
3883 facility related to the project, to recommend to the Legislature
3884 the conveyance of such land or any interest therein, as the
3885 Legislature deems appropriate.

3886 (f) To make or cause to be made such examinations and
3887 surveys as may be necessary to the planning, design, construction
3888 and operation of the project.

3889 (g) From and after the date of notification to DECD by
3890 the enterprise that the state has been finally selected as the
3891 site of the project, to acquire by condemnation and to own,
3892 maintain, use, operate and convey or otherwise dispose of any and
3893 all property of any kind, real, personal or mixed, or any interest
3894 or estate therein, within the project area, necessary for the
3895 project or any facility related to the project, with the



3896 concurrence of the affected public agency, and the exercise of the
3897 powers granted by Sections 57-1-351 through 57-1-369, according to
3898 the procedures provided by Chapter 27, Title 11, Mississippi Code
3899 of 1972, except as modified by Sections 57-1-351 through 57-1-369.

3900 (i) In acquiring lands by condemnation, DECD shall
3901 not acquire minerals or royalties in minerals unless a competent
3902 registered professional engineer shall have certified that the
3903 acquisition of such minerals and royalties in minerals is
3904 necessary for purposes of the project; provided that limestone,
3905 clay, chalk, sand and gravel shall not be considered as minerals
3906 within the meaning of this section; and

3907 (ii) Unless minerals or royalties in minerals have
3908 been acquired by condemnation or otherwise, no person or persons
3909 owning the drilling rights or the right to share in production of
3910 minerals shall be prevented from exploring, developing, or
3911 producing oil or gas with necessary rights-of-way for ingress and
3912 egress, pipelines and other means of transporting interests on any
3913 land or interest therein of the authority held or used for the
3914 purposes of Sections 57-1-351 through 57-1-369; but any such
3915 activities shall be under such reasonable regulation by DECD as
3916 will adequately protect the project contemplated by Sections
3917 57-1-351 through 57-1-369 as provided in paragraph (r) of this
3918 section.

3919 (h) To negotiate the necessary relocation or rerouting
3920 of roads and highways, railroad, telephone and telegraph lines and



3921 properties, electric power lines, pipelines and related
3922 facilities, or to require the anchoring or other protection of any
3923 of these, provided due compensation is paid to the owners thereof
3924 or agreement is had with such owners regarding the payment of the
3925 cost of such relocation, and to acquire by condemnation or
3926 otherwise easements or rights-of-way for such relocation or
3927 rerouting and to convey the same to the owners of the facilities
3928 being relocated or rerouted in connection with the purposes of
3929 Sections 57-1-351 through 57-1-369.

3930 (i) To negotiate the necessary relocation of cemeteries
3931 and to pay all reasonable costs thereof.

3932 (j) To perform or have performed any and all acts and
3933 make all payments necessary to comply with all applicable federal
3934 laws, rules or regulations including, but not limited to, the
3935 Uniform Relocation Assistance and Real Property Acquisition
3936 Policies Act of 1970 (42 U.S.C. 4601, 4602, 4621 to 4638, and 4651
3937 to 4655) and relocation rules and regulations promulgated by any
3938 agency or department of the federal government.

3939 (k) To construct, extend, improve, maintain, and
3940 reconstruct, to cause to be constructed, extended, improved,
3941 maintained, and reconstructed, and to use and operate any and all
3942 components of the project or any facility related to the project,
3943 with the concurrence of the affected public agency, within the
3944 project area, necessary to the project and to the exercise of such
3945 powers, rights, and privileges granted DECD.



3946 (1) To incur or defray any designated portion of the
3947 cost of any component of the project or any facility related to
3948 the project acquired or constructed by any public agency.

3949 (m) To lease, sell or convey any or all property
3950 acquired by DECD under the provisions of Sections 57-1-351 through
3951 57-1-369 to the enterprise, its successors or assigns, and in
3952 connection therewith to pay the costs of title search, perfection
3953 of title, title insurance and recording fees as may be required.
3954 DECD may provide in the instrument conveying such property a
3955 provision that such property shall revert to DECD if, as and when
3956 the property is declared by the enterprise to be no longer needed.

3957 (n) To enter into contracts with any person or public
3958 agency including, but not limited to, contracts authorized by
3959 Section 57-1-363, in furtherance of any of the purposes authorized
3960 by Sections 57-1-351 through 57-1-369 upon such consideration
3961 as DECD and such person or public agency may agree. Any such
3962 contract may extend over any period of time, notwithstanding any
3963 rule of law to the contrary, may be upon such terms as the parties
3964 thereto shall agree, and may provide that it shall continue in
3965 effect until bonds specified therein, refunding bonds issued in
3966 lieu of such bonds, and all other obligations specified therein
3967 are paid or terminated. Any such contract shall be binding upon
3968 the parties thereto according to its terms. Such contracts may
3969 include an agreement to reimburse the enterprise, its successors
3970 and assigns for any assistance provided by the enterprise in the



3971 acquisition of real property for the project or any facility
3972 related to the project.

3973 (o) To establish and maintain reasonable rates and
3974 charges for the use of any facility within the project area owned
3975 or operated by DECD, and from time to time to adjust such rates
3976 and to impose penalties for failure to pay such rates and charges
3977 when due.

3978 (p) To adopt and enforce with the concurrence of the
3979 affected public agency all necessary and reasonable rules and
3980 regulations to carry out and effectuate the implementation of the
3981 project and any land use plan or zoning classification adopted for
3982 the project area, including but not limited to rules, regulations,
3983 and restrictions concerning mining, construction, excavation or
3984 any other activity the occurrence of which may endanger the
3985 structure or operation of the project. Such rules may be enforced
3986 within the project area and without the project area as necessary
3987 to protect the structure and operation of the project. DECD is
3988 authorized to plan or replan, zone or rezone, and make exceptions
3989 to any regulations, whether local or state, with the concurrence
3990 of the affected public agency which are inconsistent with the
3991 design, planning, construction or operation of the project and
3992 facilities related to the project.

3993 (q) To plan, design, coordinate and implement measures
3994 and programs to mitigate impacts on the natural environment caused
3995 by the project or any facility related to the project.



3996 (r) To develop plans for technology transfer activities
3997 to ensure private sector conduits for exchange of information,
3998 technology and expertise related to the project to generate
3999 opportunities for commercial development within the state.

4000 (s) To consult with the State Department of Education
4001 and other public agencies for the purpose of improving public
4002 schools and curricula within the project area.

4003 (t) To consult with the State Board of Health and other
4004 public agencies for the purpose of improving medical centers,
4005 hospitals and public health centers in order to provide
4006 appropriate health care facilities within the project area.

4007 (u) To consult with the Office of Minority Business
4008 Enterprise Development and other public agencies for the purpose
4009 of developing plans for technical assistance and loan programs to
4010 maximize the economic impact related to the project for minority
4011 business enterprises within the State of Mississippi.

4012 (v) To promulgate rules and regulations necessary to
4013 effectuate the purposes of Sections 57-1-351 through 57-1-369.

4014 **SECTION 39.** Section 57-34-7, Mississippi Code of 1972, is
4015 amended as follows:

4016 57-34-7. **Creation; governance; authority to act.** (1) The
4017 Alabama-Mississippi Joint Economic Development Authority is hereby
4018 created by the states for the performance of essential public
4019 functions.



4020 (2) The authority shall be governed by a board of directors
4021 consisting of the Director of the Alabama Development Office and
4022 the Executive Director of the Mississippi Major Economic Impact
4023 Authority. The board of directors shall administer, manage and
4024 direct the affairs and business of the authority. The board of
4025 directors shall act by unanimous consent in exercising the powers
4026 now or hereafter granted to the authority and in administering,
4027 managing and directing the affairs and business of the authority.
4028 The board of directors may delegate the performance of any
4029 administrative functions to such persons or public agencies of
4030 either of the states as the board of directors deems appropriate.

4031 (3) The board of directors may enter into an administrative
4032 agreement setting forth any provision regarding:

4033 (a) The management and operation of the authority;

4034 (b) The terms, conditions or manner in which the
4035 authority will engage in projects; and

4036 (c) Any other matters not inconsistent with the terms
4037 or purposes of this chapter.

4038 (4) The board of directors may negotiate and enter into a
4039 project agreement setting forth any provisions relating to a
4040 specific project that are not inconsistent with the terms or
4041 purposes of this chapter.

4042 (5) The authority, through its board of directors, is hereby
4043 authorized, designated and empowered to:



4044 (a) Promulgate rules and regulations consistent with
4045 this chapter concerning such matters as the authority deems
4046 appropriate;

4047 (b) Take all steps necessary or appropriate to effect
4048 the siting, development and operation of a project within the
4049 designated geographic area;

4050 (c) Act on behalf of the states in submitting site and
4051 incentive proposals for any project. Notwithstanding anything in
4052 this chapter to the contrary, no proposal shall be binding upon
4053 the authority or the states until after the project agreement, and
4054 the incentives contained in the agreement with respect to the
4055 project, have been approved by the legislatures of both states as
4056 required under the laws of each state;

4057 (d) To employ or contract, in accordance with the
4058 provisions of Section 25-9-120, with architects, engineers,
4059 attorneys, accountants, construction and financial experts and
4060 such other advisors, consultants and agents as may be necessary in
4061 its judgment and to fix and pay their compensation;

4062 (e) To make applications and enter into any contracts
4063 for financial assistance as may be appropriate under applicable
4064 federal law or the laws of either state;

4065 (f) To apply for, accept and utilize grants, gifts and
4066 other funds or aid from any source for any purpose contemplated by
4067 this chapter, and to comply, subject to the provisions of this
4068 chapter, with the terms and conditions thereof; and



4069 (g) To acquire by purchase, lease, gift, or in other
4070 manner, or obtain options to acquire and to own, maintain, use,
4071 operate and convey any and all property of any kind, public or
4072 private, real, personal, or mixed, or any interest or estate
4073 therein, within the designated geographic area necessary for the
4074 project or any facility related and necessary to the project.

4075 (6) If an area within the designated geographic area is
4076 selected as the preferred project site for a project and the
4077 legislatures of the states have approved a project agreement with
4078 respect to the project, the authority is hereby designated and
4079 empowered to coordinate fully the development of the project with
4080 private business, the United States government and public agencies
4081 and/or political subdivisions of both states.

4082 (7) The authority shall create a separate account for money
4083 that it receives from sources other than the states and shall
4084 account for such monies separate from appropriations and other
4085 monies from the states.

4086 **SECTION 40.** Section 57-67-11, Mississippi Code of 1972, is
4087 amended as follows:

4088 57-67-11. The authority, in addition to any and all powers
4089 now or hereafter granted to it, is hereby empowered:

4090 (a) To maintain an office at a place or places in the
4091 state.

4092 (b) To employ or contract, in accordance with the
4093 provisions of Section 25-9-120, with architects, engineers,



4094 attorneys, accountants, construction and financial experts and
4095 such other advisors, consultants and agents as may be necessary in
4096 its judgment and to fix and pay their compensation.

4097 (c) To make such applications and enter into such
4098 contracts for financial assistance as may be appropriate under
4099 applicable federal or state law.

4100 (d) To apply for, accept and utilize grants, gifts and
4101 other funds or aid from any source for any purpose contemplated by
4102 the chapter, and to comply, subject to the provisions of this
4103 chapter, with the terms and conditions thereof.

4104 (e) To acquire by purchase, lease, gift, or in other
4105 manner other than by eminent domain, or obtain options to acquire,
4106 and to own, maintain, use, operate and convey any and all property
4107 of any kind, real, personal, or mixed, or any interest or estate
4108 therein, (including easements, rights-of-way, air rights or
4109 subsurface rights, or a stratified fee estate in a specified
4110 volume of land located below, at, or above the surface) within or
4111 without the project area, necessary or convenient for the project
4112 or any facility related to the project or necessary or convenient
4113 for any enhancement offered to secure the siting of the project in
4114 the state or for the exercise of the powers granted by this
4115 chapter.

4116 (f) To acquire by purchase or lease any public lands
4117 and public property, including sixteenth section lands and lieu
4118 lands, within the project area, which are necessary or convenient



4119 for the project. Sixteenth section lands or lieu lands acquired
4120 under this chapter shall be deemed to be acquired for the purposes
4121 of industrial development thereon and such acquisition will serve
4122 a higher public interest in accordance with the purposes of this
4123 chapter.

4124 (g) To make or cause to be made such examinations and
4125 surveys as may be necessary to the planning, design, construction
4126 and operation of the project; and for such purpose the authority,
4127 its agents, servants, or any public agency involved in the project
4128 selection, design, construction or operation, shall have immediate
4129 and full right of entry upon the lands and waters of any person
4130 for the purposes of survey and exploration.

4131 (h) From and after the date of notification to the
4132 authority by the Department of Energy that the state has been
4133 finally selected as the site of the project, to acquire by
4134 condemnation and to own, maintain, use, operate and convey or
4135 otherwise dispose of any and all property of any kind, real,
4136 personal or mixed, or any interest or estate therein, (including
4137 easements, rights-of-way, air rights or subsurface rights, or a
4138 stratified fee estate in a specified volume of land located below,
4139 at, or above the surface), within the project area, necessary or
4140 convenient for the project or any facility related to the project
4141 and the exercise of the powers granted by this chapter, according
4142 to the procedures provided by Chapter 27, Title 11, Mississippi
4143 Code of 1972, except as modified by this chapter. For the



4144 purposes of this chapter, the right of eminent domain shall be
4145 superior and dominant to the right of eminent domain of other
4146 public agencies and of railroad, telephone, telegraph, gas, power
4147 and other companies or corporations and shall extend to public and
4148 private lands including sixteenth section lands. The amount and
4149 character of interest in land, other property, and easements thus
4150 to be acquired shall be determined by the authority, and its
4151 determination shall be conclusive and shall not be subject to
4152 attack in the absence of manifest abuse of discretion or fraud on
4153 the part of the authority in making such determination. However,

4154 (i) In acquiring lands by condemnation, the
4155 authority shall not acquire minerals or royalties in minerals
4156 unless a competent registered professional engineer shall have
4157 certified that the acquisition of such minerals and royalties in
4158 minerals is necessary for purposes of the project; provided that
4159 limestone, clay, chalk, sand and gravel shall not be considered as
4160 minerals within the meaning of this section; and

4161 (ii) Unless minerals or royalties in minerals have
4162 been acquired by condemnation or otherwise, no person or persons
4163 owning the drilling rights or the right to share in production of
4164 minerals shall be prevented from exploring, developing, or
4165 producing oil or gas with necessary rights-of-way for ingress and
4166 egress, pipelines and other means of transporting interests on any
4167 land or interest therein of the authority held or used for the
4168 purposes of this chapter; but any such activities shall be under



4169 such reasonable regulation by the authority as will adequately
4170 protect the project contemplated by this chapter as provided in
4171 subparagraph (s) of this section. For the purpose of acquiring by
4172 condemnation land and easements for the project or any facility
4173 related to the project located within the project area, the
4174 authority shall have the right of immediate possession pursuant to
4175 Sections 11-27-81 through 11-27-89.

4176 (i) In any proceeding in any court which has been or
4177 may be instituted by and in the name of the authority for the
4178 acquisition of any land or easement or right-of-way in land for
4179 the public use as provided in subparagraph (h) of this section,
4180 the authority may file in the cause, with the petition or at any
4181 time before judgment, a declaration of taking signed by the
4182 authority, declaring that said lands are thereby taken for the use
4183 of the authority in connection with the location of the project.
4184 Said declaration of taking shall contain or have annexed thereto:

4185 (i) A statement of the statutory authority under
4186 which and the public use for which said lands are taken.

4187 (ii) A description of the lands taken sufficient
4188 for the identification thereof.

4189 (iii) A statement of the estate or interest in
4190 said lands taken for said public use.

4191 (iv) A statement of the necessity of the immediate
4192 vesting of title in the authority in order to convey such property
4193 to the United States for the use in connection with the project.



4194 (v) A statement of the sum of money estimated by
4195 the authority to be due compensation for the land taken. Upon
4196 filing the declaration of taking and of the deposit in the court,
4197 to the use of the persons entitled thereto, of the amount of the
4198 estimated compensation stated in the declaration, title to such
4199 lands in fee simple absolute, or such less estate or interest
4200 therein as is specified in the declaration, shall vest in the
4201 authority, and such lands shall be deemed to be condemned and
4202 taken for the use of the authority, and the right to due
4203 compensation for the same shall vest in the persons entitled
4204 thereto; and compensation shall be ascertained and awarded in the
4205 proceeding and established by judgment therein, and the judgment
4206 shall include, as part of the due compensation awarded, interest
4207 in accordance with law on the amount finally awarded as the value
4208 of the property as of the date of taking, from such date to the
4209 date of payment; but interest shall not be allowed on so much
4210 thereof as shall have been paid into the court. No sum so paid
4211 into the court shall be charged with commissions or poundage.

4212 Upon the application of the parties in interest, the court
4213 may order that the money deposited in the court, or any part
4214 thereof, be paid forthwith for or on account of the due
4215 compensation to be awarded in the proceeding. If the compensation
4216 finally awarded in respect of such lands, or any parcel thereof,
4217 shall exceed the amount of the money so received by any person



4218 entitled, the court shall enter judgment against the authority for
4219 the amount of the deficiency.

4220 Upon the filing of a declaration of taking, the court shall
4221 have power to fix the time within which and the terms upon which
4222 the parties in possession shall be required to surrender
4223 possession to the petitioner. The court shall have power to make
4224 such orders in respect of encumbrances, liens, rents, taxes,
4225 assessments, insurance, and other charges, if any, as shall be
4226 just and equitable. No appeal in any cause under this
4227 subparagraph (i) of this section nor any bond or undertaking given
4228 therein shall operate to prevent or delay the vesting of title to
4229 such lands in the authority.

4230 (j) To require the necessary relocation or rerouting of
4231 roads and highways, railroad, telephone and telegraph lines and
4232 properties, electric power lines, pipelines and related
4233 facilities, or to require the anchoring or other protection of any
4234 of these, provided due compensation is paid to the owners thereof
4235 or agreement is had with such owners regarding the payment of the
4236 cost of such relocation, and to acquire by condemnation or
4237 otherwise easements or rights-of-way for such relocation or
4238 rerouting and to convey the same to the owners of the facilities
4239 being relocated or rerouted in connection with the purposes of
4240 this chapter.

4241 (k) To require the necessary relocation of cemeteries
4242 and to pay all reasonable costs thereof.



4243 (l) To perform or have performed any and all acts and
4244 make all payments necessary to comply with all applicable federal
4245 laws, rules or regulations including but not limited to the
4246 Uniform Relocation Assistance and Real Property Acquisition
4247 Policies Act of 1970 (42 U.S.C. 4601, 4602, 4621 to 4638, and
4248 4651 to 4655) and relocation rules and regulations promulgated by
4249 the Department of Energy.

4250 (m) To construct, extend, improve, maintain, and
4251 reconstruct, to cause to be constructed, extended, improved,
4252 maintained, and reconstructed, and to use and operate any and all
4253 components of the project or any facility related to the project,
4254 within the project area, necessary or convenient to the project
4255 and to the exercise of such powers, rights, and privileges granted
4256 the authority.

4257 (n) To incur or defray any designated portion of the
4258 cost of any component of the project or any facility related to
4259 the project acquired or constructed by any public agency.

4260 (o) To lease, sell, give, donate, convey or otherwise
4261 transfer any or all property acquired by the authority under the
4262 provisions of this chapter to the United States Department of
4263 Energy, its successors or assigns, and in connection therewith to
4264 pay the costs of title search, perfection of title, title
4265 insurance and recording fees as may be required. The authority
4266 may provide in the instrument conveying such property a provision
4267 that such property shall revert to the authority if, as and when



4268 the property is declared by the United States Department of Energy
4269 to be no longer needed for the Superconducting Super Collider
4270 research facility.

4271 (p) To enter into contracts with any person, public
4272 agency or political subdivision including, but not limited to,
4273 contracts authorized by Section 57-67-17, in furtherance of any of
4274 the purposes authorized by this chapter upon such consideration as
4275 the authority and such person, public agency or political
4276 subdivision may agree. Any such contract may extend over any
4277 period of time, notwithstanding any rule of law to the contrary,
4278 may be upon such terms as the parties thereto shall agree, and may
4279 provide that it shall continue in effect until bonds specified
4280 therein, refunding bonds issued in lieu of such bonds, and all
4281 other obligations specified therein are paid or terminated. Any
4282 such contract shall be binding upon the parties thereto according
4283 to its terms. Such contracts may include an agreement to
4284 reimburse the United States Department of Energy, its successors
4285 and assigns for any assistance provided by the United States
4286 Department of Energy in the acquisition of real property for the
4287 project or any facility related to the project.

4288 (q) To establish and maintain reasonable rates and
4289 charges for the use of any facility within the project area owned
4290 or operated by the authority, and from time to time to adjust such
4291 rates and to impose penalties for failure to pay such rates and
4292 charges when due.



4293 (r) To make and enforce, and from time to time amend
4294 and repeal, rules and regulations for the construction, use,
4295 maintenance and operation of any facility related to the project
4296 under its management and control and any other of its properties.

4297 (s) To adopt and enforce all necessary and reasonable
4298 rules and regulations to carry out and effectuate the
4299 implementation of the project and any land use plan or zoning
4300 classification adopted for the project area, including but not
4301 limited to rules, regulations, and restrictions concerning mining,
4302 construction, excavation or any other activity the occurrence of
4303 which may endanger the structure or operation of the project.
4304 Such rules may be enforced within the project area and without the
4305 project area as necessary to protect the structure and operation
4306 of the project. The authority is authorized to plan or replan,
4307 zone or rezone, and make exceptions to any regulations, whether
4308 local or state, which are inconsistent with the design, planning,
4309 construction or operation of the project and facilities related to
4310 the project.

4311 (t) To plan, design, coordinate and implement measures
4312 and programs to mitigate impacts on the natural environment caused
4313 by the project or any facility related to the project.

4314 (u) To assist any public agency involved with the
4315 project design, construction or operation in securing any state or
4316 local permits and approval required for the project or any
4317 facility related to the project.



4318 (v) To do any and all things necessary or convenient to
4319 carry out the authority's purposes and to exercise the powers
4320 given and granted in this chapter.

4321 **SECTION 41.** Section 57-75-11, Mississippi Code of 1972, is
4322 amended as follows:

4323 57-75-11. The authority, in addition to any and all powers
4324 now or hereafter granted to it, is empowered and shall exercise
4325 discretion and the use of these powers depending on the
4326 circumstances of the project or projects:

4327 (a) To maintain an office at a place or places within
4328 the state.

4329 (b) To employ or contract, in accordance with the
4330 provisions of Section 25-9-120, with architects, engineers,
4331 attorneys, accountants, construction and financial experts and
4332 such other advisors, consultants and agents as may be necessary in
4333 its judgment and to fix and pay their compensation.

4334 (c) To make such applications and enter into such
4335 contracts for financial assistance as may be appropriate under
4336 applicable federal or state law.

4337 (d) To apply for, accept and utilize grants, gifts and
4338 other funds or aid from any source for any purpose contemplated by
4339 the act, and to comply, subject to the provisions of this act,
4340 with the terms and conditions thereof.

4341 (e) (i) To acquire by purchase, lease, gift, or in
4342 other manner, including quick-take eminent domain, or obtain



4343 options to acquire, and to own, maintain, use, operate and convey
4344 any and all property of any kind, real, personal, or mixed, or any
4345 interest or estate therein, within the project area, necessary for
4346 the project or any facility related to the project. The
4347 provisions of this paragraph that allow the acquisition of
4348 property by quick-take eminent domain shall be repealed by
4349 operation of law on July 1, 1994; and

4350 (ii) Notwithstanding any other provision of this
4351 paragraph (e), from and after November 6, 2000, to exercise the
4352 right of immediate possession pursuant to the provisions of
4353 Sections 11-27-81 through 11-27-89 for the purpose of acquiring
4354 land, property and/or rights-of-way in the county in which a
4355 project as defined in Section 57-75-5(f)(iv)1 is located, that are
4356 necessary for such project or any facility related to the project.

4357 (f) To acquire by purchase or lease any public lands
4358 and public property, including sixteenth section lands and lieu
4359 lands, within the project area, which are necessary for the
4360 project. Sixteenth section lands or lieu lands acquired under
4361 this act shall be deemed to be acquired for the purposes of
4362 industrial development thereon and such acquisition will serve a
4363 higher public interest in accordance with the purposes of this
4364 act.

4365 (g) If the authority identifies any land owned by the
4366 state as being necessary, for the location or use of the project,
4367 or any facility related to the project, to recommend to the



4368 Legislature the conveyance of such land or any interest therein,
4369 as the Legislature deems appropriate.

4370 (h) To make or cause to be made such examinations and
4371 surveys as may be necessary to the planning, design, construction
4372 and operation of the project.

4373 (i) From and after the date of notification to the
4374 authority by the enterprise that the state has been finally
4375 selected as the site of the project, to acquire by condemnation
4376 and to own, maintain, use, operate and convey or otherwise dispose
4377 of any and all property of any kind, real, personal or mixed, or
4378 any interest or estate therein, within the project area, necessary
4379 for the project or any facility related to the project, with the
4380 concurrence of the affected public agency, and the exercise of the
4381 powers granted by this act, according to the procedures provided
4382 by Chapter 27, Title 11, Mississippi Code of 1972, except as
4383 modified by this act.

4384 (i) Except as otherwise provided in subparagraph
4385 (iii) of this paragraph (i), in acquiring lands by condemnation,
4386 the authority shall not acquire minerals or royalties in minerals
4387 unless a competent registered professional engineer shall have
4388 certified that the acquisition of such minerals and royalties in
4389 minerals is necessary for purposes of the project; provided that
4390 limestone, clay, chalk, sand and gravel shall not be considered as
4391 minerals for the purposes of subparagraphs (i) and (ii) of this
4392 paragraph (i);



4393 (ii) Unless minerals or royalties in minerals have
4394 been acquired by condemnation or otherwise, no person or persons
4395 owning the drilling rights or the right to share in production of
4396 minerals shall be prevented from exploring, developing, or
4397 producing oil or gas with necessary rights-of-way for ingress and
4398 egress, pipelines and other means of transporting interests on any
4399 land or interest therein of the authority held or used for the
4400 purposes of this act; but any such activities shall be under such
4401 reasonable regulation by the authority as will adequately protect
4402 the project contemplated by this act as provided in paragraph (r)
4403 of this section; and

4404 (iii) In acquiring lands by condemnation,
4405 including the exercise of immediate possession, for a project, as
4406 defined in Section 57-75-5(f)(iv)1, the authority may acquire
4407 minerals or royalties in minerals.

4408 (j) To negotiate the necessary relocation or rerouting
4409 of roads and highways, railroad, telephone and telegraph lines and
4410 properties, electric power lines, pipelines and related
4411 facilities, or to require the anchoring or other protection of any
4412 of these, provided due compensation is paid to the owners thereof
4413 or agreement is had with such owners regarding the payment of the
4414 cost of such relocation, and to acquire by condemnation or
4415 otherwise easements or rights-of-way for such relocation or
4416 rerouting and to convey the same to the owners of the facilities



4417 being relocated or rerouted in connection with the purposes of
4418 this act.

4419 (k) To negotiate the necessary relocation of graves and
4420 cemeteries and to pay all reasonable costs thereof.

4421 (l) To perform or have performed any and all acts and
4422 make all payments necessary to comply with all applicable federal
4423 laws, rules or regulations including, but not limited to, the
4424 Uniform Relocation Assistance and Real Property Acquisition
4425 Policies Act of 1970 (42 USCS 4601, 4602, 4621 to 4638, and 4651
4426 to 4655) and relocation rules and regulations promulgated by any
4427 agency or department of the federal government.

4428 (m) To construct, extend, improve, maintain, and
4429 reconstruct, to cause to be constructed, extended, improved,
4430 maintained, and reconstructed, and to use and operate any and all
4431 components of the project or any facility related to the project,
4432 with the concurrence of the affected public agency, within the
4433 project area, necessary to the project and to the exercise of such
4434 powers, rights, and privileges granted the authority.

4435 (n) To incur or defray any designated portion of the
4436 cost of any component of the project or any facility related to
4437 the project acquired or constructed by any public agency.

4438 (o) (i) To lease, sell or convey any or all property
4439 acquired by the authority under the provisions of this act to the
4440 enterprise, its successors or assigns, and/or any entity for
4441 purposes in furtherance of economic development as determined by



4442 the authority, and in connection therewith to pay the costs of
4443 title search, perfection of title, title insurance and recording
4444 fees as may be required. The authority may provide in the
4445 instrument conveying such property a provision that such property
4446 shall revert to the authority if, as and when the property is
4447 declared by the transferee to be no longer needed.

4448 (ii) To lease, sell, transfer or convey on any
4449 terms agreed upon by the authority any or all real and personal
4450 property, improvements, leases, funds and contractual obligations
4451 of a project as defined in Section 57-75-5(f)(vi) and conveyed to
4452 the State of Mississippi by a Quitclaim Deed from the United
4453 States of America dated February 23, 1996, filed of record at
4454 pages 511 to 524, Deed Book Number B179, Chancery Clerk's Office,
4455 Tishomingo County, Mississippi, to any governmental authority
4456 located within the geographic boundaries of the county wherein
4457 such project exists upon agreement of such governmental authority
4458 to undertake and assume from the State of Mississippi all
4459 obligations and responsibilities in connection with ownership and
4460 operation of the project. Property leased, sold, transferred or
4461 otherwise conveyed by the authority under this paragraph (o) shall
4462 be used only for economic development purposes.

4463 (p) To enter into contracts with any person or public
4464 agency, including, but not limited to, contracts authorized by
4465 Section 57-75-17, in furtherance of any of the purposes authorized
4466 by this act upon such consideration as the authority and such



4467 person or public agency may agree. Any such contract may extend
4468 over any period of time, notwithstanding any rule of law to the
4469 contrary, may be upon such terms as the parties thereto shall
4470 agree, and may provide that it shall continue in effect until
4471 bonds specified therein, refunding bonds issued in lieu of such
4472 bonds, and all other obligations specified therein are paid or
4473 terminated. Any such contract shall be binding upon the parties
4474 thereto according to its terms. Such contracts may include an
4475 agreement to reimburse the enterprise, its successors and assigns
4476 for any assistance provided by the enterprise in the acquisition
4477 of real property for the project or any facility related to the
4478 project.

4479 (q) To establish and maintain reasonable rates and
4480 charges for the use of any facility within the project area owned
4481 or operated by the authority, and from time to time, to adjust
4482 such rates and to impose penalties for failure to pay such rates
4483 and charges when due.

4484 (r) To adopt and enforce with the concurrence of the
4485 affected public agency all necessary and reasonable rules and
4486 regulations to carry out and effectuate the implementation of the
4487 project and any land use plan or zoning classification adopted for
4488 the project area, including, but not limited to, rules,
4489 regulations, and restrictions concerning mining, construction,
4490 excavation or any other activity the occurrence of which may
4491 endanger the structure or operation of the project. Such rules



4492 may be enforced within the project area and without the project
4493 area as necessary to protect the structure and operation of the
4494 project. The authority is authorized to plan or replan, zone or
4495 rezone, and make exceptions to any regulations, whether local or
4496 state, with the concurrence of the affected public agency which
4497 are inconsistent with the design, planning, construction or
4498 operation of the project and facilities related to the project.

4499 (s) To plan, design, coordinate and implement measures
4500 and programs to mitigate impacts on the natural environment caused
4501 by the project or any facility related to the project.

4502 (t) To develop plans for technology transfer activities
4503 to ensure private sector conduits for exchange of information,
4504 technology and expertise related to the project to generate
4505 opportunities for commercial development within the state.

4506 (u) To consult with the State Department of Education
4507 and other public agencies for the purpose of improving public
4508 schools and curricula within the project area.

4509 (v) To consult with the State Board of Health and other
4510 public agencies for the purpose of improving medical centers,
4511 hospitals and public health centers in order to provide
4512 appropriate health care facilities within the project area.

4513 (w) To consult with the Office of Minority Business
4514 Enterprise Development and other public agencies for the purpose
4515 of developing plans for technical assistance and loan programs to



4516 maximize the economic impact related to the project for minority
4517 business enterprises within the State of Mississippi.

4518 (x) To deposit into the "Yellow Creek Project Area
4519 Fund" created pursuant to Section 57-75-31:

4520 (i) Any funds or aid received as authorized in
4521 this section for the project described in Section 57-75-5(f) (vi),
4522 and

4523 (ii) Any funds received from the sale or lease of
4524 property from the project described in Section 57-75-5(f) (vi)
4525 pursuant to the powers exercised under this section.

4526 (y) To manage and develop the project described in
4527 Section 57-75-5(f) (vi).

4528 (z) To promulgate rules and regulations necessary to
4529 effectuate the purposes of this act.

4530 (aa) To negotiate a fee-in-lieu with the owners of the
4531 project.

4532 (bb) To enter into contractual agreements to warrant
4533 any site work for a project defined in Section 57-75-5(f) (iv)1;
4534 provided, however, that the aggregate amount of such warranties
4535 shall not exceed Fifteen Million Dollars (\$15,000,000.00).

4536 (cc) To provide grant funds to an enterprise operating
4537 a project defined in Section 57-75-5(f) (iv)1 in an amount not to
4538 exceed Thirty-nine Million Dollars (\$39,000,000.00).

4539 (dd) (i) To own surface water transmission lines
4540 constructed with the proceeds of bonds issued pursuant to this act



4541 and in connection therewith to purchase and provide water to any
4542 project defined in Section 57-75-5(f) (iv) and to certificated
4543 water providers; and

4544 (ii) To lease such surface water transmission
4545 lines to a public agency or public utility to provide water to
4546 such project and to certificated water providers.

4547 (ee) To provide grant funds to an enterprise operating
4548 a project defined in Section 57-75-5(f) (v) or, in connection with
4549 a facility related to such a project, for job training, recruiting
4550 and infrastructure.

4551 (ff) To enter into negotiations with persons proposing
4552 projects defined in Section 57-75-5(f) (xi) and execute acquisition
4553 options and conduct planning, design and environmental impact
4554 studies with regard to such project.

4555 (gg) To establish such guidelines, rules and
4556 regulations as the authority may deem necessary and appropriate
4557 from time to time in its sole discretion, to promote the purposes
4558 of this act.

4559 (hh) In connection with projects defined in Section
4560 57-75-5(f) (ii):

4561 (i) To provide grant funds or loans to a public
4562 agency or an enterprise owning, leasing or operating a project
4563 defined in Section 57-75-5(f) (ii) in amounts not to exceed the
4564 amount authorized in Section 57-75-15(3) (b);



4565 (ii) To supervise the use of all such grant funds
4566 or loans; and

4567 (iii) To requisition money in the Mississippi
4568 Major Economic Impact Authority Revolving Loan Fund in connection
4569 with such loans.

4570 (ii) In connection with projects defined under Section
4571 57-75-5(f) (xiv):

4572 (i) To provide grant funds or loans to an
4573 enterprise owning, leasing or operating a project defined in
4574 Section 57-75-5(f) (xiv); however, the aggregate amount of any such
4575 loans under this paragraph (ii) shall not exceed Eighteen Million
4576 Dollars (\$18,000,000.00) and the aggregate amount of any such
4577 grants under this paragraph (ii) shall not exceed Six Million
4578 Dollars (\$6,000,000.00);

4579 (ii) To supervise the use of all such grant funds
4580 or loans; and

4581 (iii) Notwithstanding any provision of this act to
4582 the contrary, such loans shall be for a term not to exceed twenty
4583 (20) years as may be determined by the authority, shall bear
4584 interest at such rates as may be determined by the authority,
4585 shall, in the sole discretion of the authority, be secured in an
4586 amount and a manner as may be determined by the authority.

4587 (jj) In connection with projects defined under Section
4588 57-75-5(f) (xviii):



4589 (i) To provide grant funds of Twenty-five Million
4590 Dollars (\$25,000,000.00) to an enterprise owning or operating a
4591 project defined in Section 57-75-5(f) (xviii) to be used for real
4592 estate improvements and which may be disbursed as determined by
4593 the authority;

4594 (ii) To provide loans to an enterprise owning or
4595 operating a project defined in Section 57-75-5(f) (xviii) or make
4596 payments to a lender providing financing to the enterprise;
4597 subject to the following provisions:

4598 1. Not more than Ten Million Dollars
4599 (\$10,000,000.00) may be loaned to such an enterprise for the
4600 purpose of defraying costs incurred by the enterprise for site
4601 preparation and real property improvements during the construction
4602 of the project in excess of budgeted costs; however, the amount of
4603 any such loan shall not exceed fifty percent (50%) of such excess
4604 costs;

4605 2. Not more than Sixty Million Dollars
4606 (\$60,000,000.00) may be loaned to such an enterprise or paid to a
4607 lender providing financing to the enterprise for purposes
4608 determined appropriate by the authority, and the enterprise shall
4609 be obligated to repay the amount of the loan or payment plus any
4610 expenses incurred by the state as a result of the issuance of
4611 bonds pursuant to Section 57-75-15(3) (p); however, no such loan or
4612 payment may be made before the beginning of the fifth year after



4613 issuance by the enterprise of debt in like amount the proceeds of
4614 which are to be used in connection with the project;

4615 (iii) To supervise the use of all such loan funds;

4616 (iv) Loans under this paragraph (jj) may be for
4617 any term determined appropriate by the authority provided that the
4618 payments on any loan must be in an amount sufficient to pay the
4619 state's debt service on bonds issued for the purpose of providing
4620 funds for such a loan; and

4621 (v) The repayment obligation of the enterprise for
4622 any loan or payment authorized under this paragraph (jj) shall, in
4623 the discretion of the authority, be secured in an amount and a
4624 manner as may be determined by the authority.

4625 (kk) In connection with projects defined in Section
4626 57-75-5(f)(xxi) or a facility related to such a project:

4627 (i) To provide grant funds to reimburse public
4628 agencies, Itawamba Community College, Northeast Mississippi
4629 Community College, and/or East Mississippi Community College,
4630 public or private nonprofits or an enterprise owning or operating
4631 a project as defined in Section 57-75-5(f)(xxi) for site
4632 preparation, real estate improvements, utilities, railroads,
4633 roads, infrastructure, job training, recruiting and any other
4634 expenses approved by the authority in amounts not to exceed the
4635 amount authorized in Section 57-75-15(3)(s);

4636 (ii) To supervise the use of all such grant funds
4637 so reimbursed; and



4638 (iii) To enter into contractual agreements to
4639 warrant site preparation and availability for a project defined in
4640 Section 57-75-5(f) (xxi).

4641 (ll) In connection with a project related to a Tier One
4642 supplier:

4643 (i) To provide grant funds to reimburse public
4644 agencies, public or private nonprofits and Tier One suppliers for
4645 site preparation, real estate improvements, utilities, railroads,
4646 roads, infrastructure, job training, recruiting and any other
4647 expenses approved by the authority in amounts not to exceed the
4648 amount authorized in Section 57-75-15(3) (t);

4649 (ii) To supervise the use of all such grant funds
4650 so reimbursed.

4651 (mm) In connection with projects defined in Section
4652 57-75-5(f) (xxii) or a facility related to such a project:

4653 (i) To provide grant funds to reimburse public
4654 agencies or an enterprise owning or operating a project as defined
4655 in Section 57-75-5(f) (xxii) for site preparation, real estate
4656 improvements, utilities, fire protection, wastewater, railroads,
4657 roads, infrastructure, job training, recruiting and any other
4658 expenses approved by the authority in amounts not to exceed the
4659 amount authorized in Section 57-75-15(3) (u); and

4660 (ii) To supervise the use of all such grant funds
4661 so reimbursed.



4662 (nn) It is the policy of the authority and the
4663 authority is authorized to accommodate and support any enterprise
4664 owning or operating a project defined in Section
4665 57-75-5(f) (xviii), 57-75-5(f) (xxi), 57-75-5(f) (xxii),
4666 57-75-5(f) (xxvi), 57-75-5(f) (xxvii) or 57-75-5(f) (xxviii) or an
4667 enterprise developing or owning a project defined in Section
4668 57-75-5(f) (xx), that wishes to have a program of diversity in
4669 contracting, and/or that wishes to do business with or cause its
4670 prime contractor to do business with Mississippi companies,
4671 including those companies that are small business concerns owned
4672 and controlled by socially and economically disadvantaged
4673 individuals. The term "socially and economically disadvantaged
4674 individuals" shall have the meaning ascribed to such term under
4675 Section 8(d) of the Small Business Act (15 USCS 637(d)) and
4676 relevant subcontracting regulations promulgated pursuant thereto;
4677 except that women shall be presumed to be socially and
4678 economically disadvantaged individuals for the purposes of this
4679 paragraph.

4680 (oo) To provide grant funds to an enterprise developing
4681 or owning a project defined in Section 57-75-5(f) (xx) for
4682 reimbursement of costs incurred by such enterprise for
4683 infrastructure improvements in the initial phase of development of
4684 the project, upon dedication of such improvements to the
4685 appropriate public agency.



4686 (pp) In connection with projects defined in Section
4687 57-75-5(f)(xxiii):

4688 (i) To provide grant funds to reimburse public
4689 agencies or an enterprise operating a project as defined in
4690 Section 57-75-5(f)(xxiii) for site preparation, utilities, real
4691 estate improvements, infrastructure, roads, public works, job
4692 training and any other expenses approved by the authority in
4693 amounts not to exceed the amount authorized in Section
4694 57-75-15(3)(v); and

4695 (ii) To supervise the use of all such grant funds
4696 so reimbursed.

4697 (qq) (i) To provide grant funds for the expansion of a
4698 publicly owned building for the project defined in Section
4699 57-75-5(f)(xxiv) or loans to an enterprise owning, leasing or
4700 operating a project defined in Section 57-75-5(f)(xxiv) for the
4701 purchase and/or relocation of equipment, or for any other purpose
4702 related to the project as approved by the authority; however, the
4703 aggregate amount of any such loans under this paragraph (qq) shall
4704 not exceed Six Million Dollars (\$6,000,000.00) and the aggregate
4705 amount of any such grants under this paragraph (qq) shall not
4706 exceed Seven Million Dollars (\$7,000,000.00);

4707 (ii) To supervise the use of all such grant funds
4708 or loans; and

4709 (iii) Notwithstanding any provision of this act to
4710 the contrary, such loans shall be for a term not to exceed ten



4711 (10) years as may be determined by the authority, shall bear a
4712 rate of interest to be determined by the authority, and shall be
4713 secured in an amount and a manner as may be determined by the
4714 authority.

4715 (rr) (i) To provide grant funds to an enterprise
4716 owning or operating a project defined in Section 57-75-5(f) (xxv)
4717 for reimbursement of costs incurred by the enterprise in
4718 reconfiguring the manufacturing plant and for the purchase of
4719 equipment, or for any other purpose related to the project as
4720 approved by the authority;

4721 (ii) To supervise the use of all such grant funds.

4722 (ss) In connection with projects defined under Section
4723 57-75-5(f) (xxvi):

4724 (i) To provide grant funds and/or loans to a
4725 public agency in an amount not to exceed Fifteen Million Dollars
4726 (\$15,000,000.00) for the construction of a publicly owned building
4727 to be leased by the enterprise owning or operating the project;

4728 (ii) To provide loan guarantees in an amount not
4729 to exceed the total cost of the project for which financing is
4730 sought or Twenty Million Dollars (\$20,000,000.00), whichever is
4731 less, for the purpose of encouraging the extension of conventional
4732 financing and the issuance of letters of credit to the enterprise
4733 owning or operating the project;

4734 (iii) In connection with any loan guarantee made
4735 pursuant to this paragraph, to make payments to lenders providing



4736 financing to the enterprise owning or operating the project and
4737 the enterprise shall be obligated to repay the amount of the
4738 payment plus any expenses incurred by the state as a result of the
4739 issuance of bonds pursuant to Section 57-75-15(3) (y);

4740 (iv) To supervise the use of all such grant funds,
4741 loan funds or payments; and

4742 (v) To require the enterprise owning or operating
4743 the project to provide security for the repayment obligation for
4744 any loan guarantee authorized under this paragraph in an amount
4745 and in a manner as may be determined by the authority.

4746 (tt) In connection with projects defined under Section
4747 57-75-5(f) (xxvii):

4748 (i) To provide loans to a public agency in an
4749 amount not to exceed Fifty Million Dollars (\$50,000,000.00) for
4750 the construction of a publicly owned building and acquisition of
4751 equipment to be leased by the enterprise owning or operating the
4752 project; and

4753 (ii) To supervise the use of all such loan funds.

4754 (uu) In connection with projects defined under Section
4755 57-75-5(f) (xxviii):

4756 (i) To provide grant funds to reimburse public
4757 agencies or an enterprise operating a project for site
4758 preparation, utilities, real estate purchase and improvements,
4759 infrastructure, roads, rail improvements, public works, job
4760 training and any other expenses approved by the authority in



4761 amounts not to exceed the amount authorized in Section
4762 57-75-15(3) (aa); and

4763 (ii) To supervise the use of all such grant funds
4764 so reimbursed.

4765 (vv) (i) In addition to any other requirements or
4766 conditions under this chapter, the authority shall require that
4767 any application for assistance regarding a project under this
4768 chapter include, at a minimum:

4769 1. A two-year business plan (which shall
4770 include pro forma balance sheets, income statements and monthly
4771 cash flow statements);

4772 2. Financial statements or tax returns for
4773 the three (3) years immediately prior to the application (if the
4774 project is a new company or enterprise, personal financial
4775 statements or tax returns will be required);

4776 3. Credit reports on all persons or entities
4777 with a twenty percent (20%) or greater interest in the project;

4778 4. Data supporting the expertise of the
4779 project's principals;

4780 5. A cost-benefit analysis of the project
4781 performed by a state institution of higher learning or other
4782 entity selected by the authority; and

4783 6. Any other information required by the
4784 authority.



4785 (ii) The authority shall require that binding
4786 commitments be entered into requiring that:

4787 1. The applicable minimum requirements of
4788 this chapter and such other requirements as the authority
4789 considers proper shall be met; and

4790 2. If the agreed upon commitments are not
4791 met, all or a portion of the funds provided under this chapter as
4792 determined by the authority shall be repaid.

4793 (iii) Where appropriate, in the discretion of the
4794 authority, the authority shall acquire a security interest in or
4795 other lien upon any applicable collateral.

4796 (iv) The provisions of this paragraph (vv) shall
4797 not apply to a project defined in Section 57-75-5(f)(xxiii).

4798 **SECTION 42.** Section 57-85-5, Mississippi Code of 1972, is
4799 amended as follows:

4800 57-85-5. (1) For the purposes of this section, the
4801 following words and phrases shall have the meanings ascribed in
4802 this section unless the context clearly indicates otherwise:

4803 (a) "MDA" means the Mississippi Development Authority.

4804 (b) "Project" means construction, rehabilitation or
4805 repair of buildings; sewer systems and transportation directly
4806 affecting the site of the proposed rural business; sewer
4807 facilities, acquisition of real property, development of real
4808 property, improvements to real property, and any other project
4809 approved by the Mississippi Development Authority.



4810 (c) "Rural business" means a new or existing business
4811 located or to be located in a rural community or a business or
4812 industry located or to be located within five (5) miles of a rural
4813 community. "Rural business" does not include gaming businesses or
4814 utility businesses.

4815 (d) "Rural community" means a county in the State of
4816 Mississippi that meets the population criteria for the term
4817 "limited population county" as provided in Section 57-1-18.
4818 "Rural community" also means a municipality in the State of
4819 Mississippi that meets the population criteria for the term "small
4820 municipality" as provided in Section 57-1-18.

4821 (2) (a) There is created in the State Treasury a special
4822 fund to be designated as the "Mississippi Rural Impact Fund,"
4823 which shall consist of funds appropriated or otherwise made
4824 available by the Legislature in any manner and funds from any
4825 other source designated for deposit into such fund. Unexpended
4826 amounts remaining in the fund at the end of a fiscal year shall
4827 not lapse into the State General Fund, and any investment earnings
4828 or interest earned on amounts in the fund shall be deposited to
4829 the credit of the fund. Monies in the fund shall be used to make
4830 grants and loans to rural communities and loan guaranties on
4831 behalf of rural businesses to assist in completing projects under
4832 this section.

4833 (b) Monies in the fund which are derived from proceeds
4834 of bonds issued after April 15, 2003, may be used to reimburse



4835 reasonable actual and necessary costs incurred by the MDA in
4836 providing assistance related to a project for which funding is
4837 provided under this section from the use of proceeds of such
4838 bonds. An accounting of actual costs incurred for which
4839 reimbursement is sought shall be maintained for each project by
4840 the MDA. Reimbursement of reasonable actual and necessary costs
4841 for a project shall not exceed three percent (3%) of the proceeds
4842 of bonds issued for such project. Monies authorized for a
4843 particular project may not be used to reimburse administrative
4844 costs for unrelated projects. Reimbursements under this paragraph
4845 (b) shall satisfy any applicable federal tax law requirements.

4846 (c) The MDA may use monies in the fund to pay for the
4847 services, in accordance with the provisions of Section 25-9-120,
4848 of architects, engineers, attorneys and such other advisors,
4849 consultants and agents that the MDA determines are necessary to
4850 review loan and grant applications and to implement and administer
4851 the program established under this section.

4852 (d) The State Auditor may conduct performance and
4853 compliance audits under this chapter according to Section
4854 7-7-211(o) and may bill the oversight agency.

4855 (3) The MDA shall establish a program to make grants and
4856 loans to rural communities and loan guaranties on behalf of rural
4857 businesses from the Mississippi Rural Impact Fund. A rural
4858 community may apply to the MDA for a grant or loan under this
4859 section in the manner provided for in this section. A rural



4860 business may apply to the MDA for a loan guaranty under this
4861 section in the manner provided in this section.

4862 (4) A rural community desiring assistance under this section
4863 must submit an application to the MDA. The application must
4864 include a description of the project for which assistance is
4865 requested, the cost of the project for which assistance is
4866 requested and any other information required by the MDA. A rural
4867 business desiring assistance under this section must submit an
4868 application to the MDA. The application must include a
4869 description of the purpose for which assistance is requested and
4870 any other information required by the MDA. The MDA may waive any
4871 requirements of the program established under this section in
4872 order to expedite funding for unique projects.

4873 (5) The MDA shall have all powers necessary to implement and
4874 administer the program established under this section, and the MDA
4875 shall promulgate rules and regulations, in accordance with the
4876 Mississippi Administrative Procedures Law, necessary for the
4877 implementation of this section.

4878 **SECTION 43.** Section 61-4-11, Mississippi Code of 1972, is
4879 amended as follows:

4880 61-4-11. The Authority, in addition to any and all powers
4881 now or hereafter granted to it, is hereby empowered:

4882 (a) To maintain an office at a place or places in the
4883 state.



4884 (b) To employ or contract, in accordance with the
4885 provisions of Section 25-9-120, with architects, engineers,
4886 attorneys, accountants, construction and financial experts and
4887 such other advisors, consultants and agents as may be necessary in
4888 its judgment and to fix and pay their compensation.

4889 (c) To make such applications and enter into such
4890 contracts for financial assistance as may be appropriate under
4891 applicable federal or state law.

4892 (d) To apply for, accept and utilize grants, gifts and
4893 other funds or aid from any source for any purpose contemplated by
4894 this chapter, and to comply, subject to the provisions of this
4895 chapter, with the terms and conditions thereof.

4896 (e) To acquire by purchase, lease, gift, or in other
4897 manner other than by eminent domain, or obtain options to acquire,
4898 and to own, maintain, use, operate and convey any and all property
4899 of any kind, real, personal or mixed, or any interest or estate
4900 therein, (including easements, rights-of-way, air rights or
4901 subsurface rights, or a stratified fee estate in a specified
4902 volume of land located below, at or above the surface) within or
4903 without the project area, necessary or convenient for the project
4904 or any facility related to the project or necessary or convenient
4905 for any enhancement offered to secure the siting of the project in
4906 the state or for the exercise of the powers granted by this
4907 chapter.



4908 (f) To acquire by purchase or lease any public lands
4909 and public property, including sixteenth section lands and lieu
4910 lands, and including not more than fifteen thousand (15,000) acres
4911 of state-owned land at Parchman, Sunflower County, Mississippi,
4912 within the project area, which are necessary or convenient for the
4913 project. Sixteenth section lands or lieu lands acquired under
4914 this chapter shall be deemed to be acquired for the purposes of
4915 industrial development thereon and such acquisition will serve a
4916 higher public interest in accordance with the purposes of this
4917 chapter. With the approval of the Secretary of State and the
4918 assistance of the Office of Attorney General, any part of, up to
4919 fifteen thousand (15,000) acres of state-owned land at Parchman
4920 may either be dedicated for the project, leased or sold to the
4921 federal or state government agency or creation thereof for a
4922 nominal consideration, or may be managed by the Authority for the
4923 purposes specified in this chapter.

4924 (g) To make or cause to be made such examinations and
4925 surveys as may be necessary to the planning, design, construction
4926 and operation of the project; and for such purpose the Authority,
4927 its agents, servants or any public agency involved in the project
4928 selection, design, construction or operation, shall have immediate
4929 and full right of entry upon the lands and waters of any person
4930 for the purposes of survey and exploration.

4931 (h) From and after the date of notification to the
4932 Authority by the federal government agency or creation thereof



4933 that the state has been finally selected as the site of the
4934 project, with the concurrence of the affected public agency, to
4935 acquire by condemnation and to own, maintain, use, operate and
4936 convey or otherwise dispose of any and all property of any kind,
4937 real, personal or mixed, or any interest or estate therein,
4938 (including easements, rights-of-way, air rights or subsurface
4939 rights, or a stratified fee estate in a specified volume of land
4940 located below, at or above the surface), within the project area,
4941 necessary or convenient for the project or any facility related to
4942 the project and the exercise of the powers granted by this
4943 chapter, according to the procedures provided by Chapter 27, Title
4944 11, Mississippi Code of 1972, except as modified by this chapter.
4945 For the purposes of this chapter, the right of eminent domain
4946 shall be superior and dominant to the right of eminent domain of
4947 other public agencies and of railroad, telephone, telegraph, gas,
4948 power and other companies or corporations and shall extend to
4949 public and private lands including sixteenth section lands. The
4950 amount and character of interest in land, other property and
4951 easements thus to be acquired shall be determined by the
4952 Authority, and its determination shall be conclusive and shall not
4953 be subject to attack in the absence of manifest abuse of
4954 discretion or fraud on the part of the Authority in making such
4955 determination. However,
4956 (i) In acquiring lands by condemnation, the
4957 Authority shall not acquire minerals or royalties in minerals



4958 unless a competent registered professional engineer shall have
4959 certified that the acquisition of such minerals and royalties in
4960 minerals is necessary for purposes of the project; provided that
4961 limestone, clay, chalk, sand and gravel shall not be considered as
4962 minerals within the meaning of this section; and

4963 (ii) Unless minerals or royalties in minerals have
4964 been acquired by condemnation or otherwise, no person or persons
4965 owning the drilling rights or the right to share in production of
4966 minerals shall be prevented from exploring, developing or
4967 producing oil or gas with necessary rights-of-way for ingress and
4968 egress, pipelines and other means of transporting interests on any
4969 land or interest therein of the Authority held or used for the
4970 purposes of this chapter; but any such activities shall be under
4971 such reasonable regulation by the Authority as will adequately
4972 protect the project contemplated by this chapter as provided in
4973 (s) of this section. For the purpose of acquiring by condemnation
4974 land and easements for the project or any facility related to the
4975 project located within the project area, the Authority shall have
4976 the right of immediate possession pursuant to Sections 11-27-81
4977 through 11-27-89, Mississippi Code of 1972.

4978 (i) In any proceeding in any court which has been or
4979 may be instituted by and in the name of the Authority for the
4980 acquisition of any land or easement or right-of-way in land for
4981 the public use as provided in (h) of this section, the Authority
4982 may file in the cause, with the petition or at any time before



4983 judgment, a declaration of taking signed by the Authority,
4984 declaring that said lands are thereby taken for the use of the
4985 Authority in connection with the location of the project. Said
4986 declaration of taking shall contain or have annexed thereto:

4987 (i) A statement of the statutory authority under
4988 which and the public use for which said lands are taken.

4989 (ii) A description of the lands taken sufficient
4990 for the identification thereof.

4991 (iii) A statement of the estate or interest in
4992 said lands taken for said public use.

4993 (iv) A statement of the necessity of the immediate
4994 vesting of title in the Authority in order to convey such property
4995 to the United States for the use in connection with the project.

4996 (v) A statement of the sum of money estimated by
4997 the Authority to be due compensation for the land taken. Upon
4998 filing the declaration of taking and of the deposit in the court,
4999 to the use of the persons entitled thereto, of the amount of the
5000 estimated compensation stated in the declaration, title to such
5001 lands in fee simple absolute, or such less estate or interest
5002 therein as is specified in the declaration, shall vest in the
5003 Authority, and such lands shall be deemed to be condemned and
5004 taken for the use of the Authority, and the right to due
5005 compensation for the same shall vest in the persons entitled
5006 thereto; and compensation shall be ascertained and awarded in the
5007 proceeding and established by judgment therein, and the judgment



5008 shall include, as part of the due compensation awarded, interest
5009 in accordance with law on the amount finally awarded as the value
5010 of the property as of the date of taking, from such date to the
5011 date of payment; but interest shall not be allowed on so much
5012 thereof as shall have been paid into the court. No sum so paid
5013 into the court shall be charged with commissions or poundage.

5014 Upon the application of the parties in interest, the court
5015 may order that the money deposited in the court, or any part
5016 thereof, be paid forthwith for or on account of the due
5017 compensation to be awarded in the proceeding. If the compensation
5018 finally awarded in respect of such lands, or any parcel thereof,
5019 shall exceed the amount of the money so received by any person
5020 entitled, the court shall enter judgment against the Authority for
5021 the amount of the deficiency.

5022 Upon the filing of a declaration of taking, the court shall
5023 have power to fix the time within which and the terms upon which
5024 the parties in possession shall be required to surrender
5025 possession to the petitioner. The court shall have power to make
5026 such orders in respect of encumbrances, liens, rents, taxes,
5027 assessments, insurance, and other charges, if any, as shall be
5028 just and equitable. No appeal in any cause under this (i) of this
5029 section nor any bond or undertaking given therein shall operate to
5030 prevent or delay the vesting of title to such lands in the
5031 Authority.



5032 (j) With the concurrence of the affected public agency,
5033 to construct and maintain or require the necessary relocation or
5034 rerouting of roads and highways, railroad, telephone and telegraph
5035 lines and properties, electric power lines, pipelines and related
5036 facilities, or to require the anchoring or other protection of any
5037 of these, provided due compensation is paid to the owners thereof
5038 or agreement is had with such owners regarding the payment of the
5039 cost of such relocation, and to acquire by condemnation or
5040 otherwise easements or rights-of-way for such relocation or
5041 rerouting and to convey the same to the owners of the facilities
5042 being relocated or rerouted in connection with the purposes of
5043 this chapter.

5044 (k) To require the necessary relocation of cemeteries
5045 and to pay all reasonable costs thereof.

5046 (l) To perform or have performed any and all acts and
5047 make all payments necessary to comply with all applicable federal
5048 laws, rules or regulations including but not limited to the
5049 Uniform Relocation Assistance and Real Property Acquisition
5050 Policies Act of 1970 (42 U.S.C. 4601, 4602, 4621 to 4638, and 4651
5051 to 4655) and relocation rules and regulations promulgated by the
5052 U.S. Department of Transportation.

5053 (m) To construct, extend, improve, maintain and
5054 reconstruct, to cause to be constructed, extended, improved,
5055 maintained and reconstructed, and to use and operate any and all
5056 components of the project or any facility related to the project,



5057 within the project area, necessary or convenient to the project
5058 and to the exercise of such powers, rights and privileges granted
5059 the Authority.

5060 (n) To incur or defray any designated portion of the
5061 cost of any component of the project or any facility related to
5062 the project acquired or constructed by any public agency.

5063 (o) To lease, sell, give, donate, convey or otherwise
5064 transfer any or all property acquired by the Authority under the
5065 provisions of this chapter to the federal or state government
5066 agency or creation thereof, their successors or assigns, and in
5067 connection therewith to pay the costs of title search, perfection
5068 of title, title insurance and recording fees as may be required.
5069 The Authority shall provide in the instrument conveying such
5070 property a provision reserving all minerals, other than limestone,
5071 clay, chalk, sand and gravel, and a provision that such property
5072 shall revert to the Authority if, as and when the property is
5073 declared by the federal government agency or creation thereof to
5074 be no longer needed for the Wayport facility.

5075 (p) To enter into contracts with any person, public
5076 agency or political subdivision in furtherance of any of the
5077 purposes authorized by this chapter upon such consideration as the
5078 Authority and such person, public agency or political subdivision
5079 may agree. Any such contract may extend over any period of time,
5080 notwithstanding any rule of law to the contrary, may be upon such
5081 terms as the parties thereto shall agree. Any such contract shall



5082 be binding upon the parties thereto according to its terms. Such
5083 contracts may include an agreement to reimburse the federal
5084 government agency or creation thereof, its successors and assigns
5085 for any assistance provided by the federal government agency or
5086 creation thereof in the acquisition of real property for the
5087 project or any facility related to the project.

5088 (q) To establish and maintain reasonable rates and
5089 charges for the use of any facility within the project area owned
5090 or operated by the Authority, and from time to time, to adjust
5091 such rates and to impose penalties for failure to pay such rates
5092 and charges when due.

5093 (r) To make and enforce, and from time to time amend
5094 and repeal, rules and regulations for the construction, use,
5095 maintenance and operation of any facility related to the project
5096 under its management and control and any other of its properties.

5097 (s) To adopt and enforce with the concurrence of the
5098 affected public agency all necessary and reasonable rules and
5099 regulations to carry out and effectuate the implementation of the
5100 project and any land use plan or zoning classification adopted for
5101 the project area, including, but not limited to, rules,
5102 regulations, and restrictions concerning mining, construction,
5103 excavation or any other activity the occurrence of which may
5104 endanger the structure or operation of the project. Such rules
5105 may be enforced within the project area and without the project
5106 area as necessary to protect the structure and operation of the



5107 project. The Authority is authorized to plan or replan, zone or
5108 rezone, and make exceptions to any regulations, whether local or
5109 state, which are inconsistent with the design, planning,
5110 construction or operation of the project and facilities related to
5111 the project.

5112 (t) To plan, design, coordinate and implement measures
5113 and programs to mitigate impacts on the natural environment caused
5114 by the project or any facility related to the project.

5115 (u) To assist any public agency involved with the
5116 project design, construction or operation in securing any state or
5117 local permits and approval required for the project or any
5118 facility related to the project.

5119 (v) To do any and all things necessary or convenient to
5120 carry out the Authority's purposes and to exercise the powers
5121 given and granted in this chapter.

5122 **SECTION 44.** Section 65-31-1, Mississippi Code of 1972, is
5123 amended as follows:

5124 65-31-1. The Mississippi Transportation Commission is hereby
5125 authorized to locate, design, construct, operate, and maintain
5126 hospitality stations on trunkline highways at or near points of
5127 entry into this state from other states. In carrying out the
5128 provisions of this chapter, the commission shall have authority to
5129 employ, in accordance with the provisions of Section 25-9-120,
5130 such engineers, architects, skilled and unskilled labor as may be
5131 determined necessary by the commission, for the preparation of



5132 plans for such hospitality stations and their proper location,
5133 design, construction, maintenance, and operation. The commission
5134 also may employ full-time security officers, as authorized under
5135 Section 65-1-131, and/or may contract for the employment of
5136 private security officers, as authorized under Section 65-1-136,
5137 to patrol and protect the property of hospitality stations and
5138 visitors, patrons and other employees of hospitality stations.

5139 Prior to the location of such hospitality stations the
5140 commission shall afford the opportunity for a public hearing in
5141 the county wherein such hospitality station is to be located for
5142 the purpose of receiving testimony regarding the most feasible and
5143 advantageous location for such hospitality station, at which
5144 hearing all interested persons may appear and present testimony in
5145 regard thereto. A notice of such proposed location shall be given
5146 in some newspaper published or having general circulation in the
5147 county wherein such hospitality station is proposed to be located.
5148 Should a public hearing be requested thereon, notice by
5149 publication shall be given at least ten (10) days prior to the
5150 date upon which public hearing is to be held and written notice
5151 thereof shall likewise be given, within said time, to the
5152 governing authorities of all municipalities within such county and
5153 the governing authority of such county.

5154 Each hospitality station constructed under the provisions of
5155 this chapter shall be maintained and kept in a neat and attractive
5156 condition.



5157 **SECTION 45.** Section 65-43-3, Mississippi Code of 1972, is
5158 amended as follows:

5159 65-43-3. (1) (a) In addition to and as an alternative to
5160 any other authority granted by law, including, but not limited to,
5161 Section 65-43-1, any governmental entities, as defined in Section
5162 65-43-1, in their discretion, may contract, individually or
5163 jointly with other governmental entities, with any persons,
5164 corporations, partnerships or other businesses licensed to do
5165 business in the State of Mississippi (hereinafter referred to as
5166 "companies" or "company") for the purpose of designing, financing,
5167 constructing, operating and maintaining one or more new toll roads
5168 or toll bridges in the state for motor vehicle traffic, including
5169 tollbooths and related facilities, at those locations where an
5170 alternate untolled route exists. Such contracts may provide that
5171 the governmental entities may grant certain rights (including, but
5172 not limited to, the right to exclusively operate and maintain) in
5173 land held by the governmental entities, whether in fee simple, as
5174 an easement or other interest, to a company for design,
5175 construction, operation and/or maintenance of roadways, highways
5176 or bridges for motor vehicle traffic, tollbooths and related
5177 facilities. All such highways, pavement, bridges,
5178 drainage-related structures and other infrastructure comprising
5179 the projects shall be built and maintained in accordance with not
5180 less than the minimum highway design, construction and maintenance
5181 standards established by the contracting governmental entity for



5182 such highways, infrastructure and facilities. The contracting
5183 governmental entity shall conduct periodic inspections of any such
5184 project throughout the term of the contract to ensure compliance
5185 by the company. Failure of a company to comply with minimum
5186 standards established for the project by the contracting
5187 governmental entity shall constitute a breach and shall subject
5188 the company to liability on its bond or security or to rescission
5189 of the contract in accordance with the terms and provisions of the
5190 contract.

5191 (b) A governmental entity may not enter into a contract
5192 under this section with (i) any company designated as a foreign
5193 terrorist organization pursuant to Presidential Executive Order
5194 13224 or Section 302 of the federal Antiterrorism or Effective
5195 Death Penalty Act of 1996, (ii) any company under the control of a
5196 so-designated foreign terrorist organization, or (iii) any company
5197 controlled by a foreign person if to do so would violate any order
5198 of the Committee on Foreign Investment in the United States under
5199 the Foreign Investment and National Security Act of 2007, H.R.
5200 566, 110th Cong. (2007), Public Law 110-49, 121 Stat. 246. These
5201 requirements also shall apply to any proposed transfer or
5202 assignment of any contract entered into under this section.

5203 (2) (a) Every contract entered into by a governmental
5204 entity under this section (except for contracts entered into with
5205 another governmental entity or following termination of a
5206 predecessor contract entered into under this section), at a



5207 minimum, must provide for the design and construction of a new
5208 toll road or toll bridge project and may also provide for the
5209 financing, acquisition, lease, maintenance, and/or operation of a
5210 new toll road or toll bridge project.

5211 (b) If a governmental entity enters into a contract
5212 with a company as authorized by this section, such governmental
5213 entity shall use a competitive procurement process that provides
5214 the best value for the governmental entity. The governmental
5215 entity may accept unsolicited proposals for a proposed new toll
5216 road or solicit proposals in accordance with this section.

5217 (c) A governmental entity shall publish a request for
5218 competing proposals and qualifications in a newspaper having a
5219 general circulation within such governmental entity or, if the
5220 governmental entity is the Mississippi Transportation Commission,
5221 shall publish the request in a newspaper having a general
5222 circulation at the seat of government and, if the governmental
5223 entity has a website, shall post the request on such website.
5224 Such request shall include the criteria used to evaluate the
5225 proposals, the relative weight given to the criteria and a
5226 deadline by which proposals must be received. At a minimum, a
5227 proposal submitted in response to such request must contain:

5228 (i) Information regarding the proposed project
5229 location, scope and limits;



5230 (ii) Information regarding the company's
5231 qualifications, experience, technical competence, and capability
5232 to develop the project; and

5233 (iii) A proposed financial plan for the proposed
5234 project that includes, at a minimum, the projected project costs,
5235 projected revenues and proposed sources of funds.

5236 A governmental entity may interview a company submitting a
5237 solicited or unsolicited proposal. In evaluating such proposals,
5238 a governmental entity may solicit input from other sources
5239 regarding such proposals.

5240 (d) The governmental entity shall rank each proposal
5241 based on the criteria described in the request for proposals and
5242 select the company whose proposal offers the best value to the
5243 governmental entity. The governmental entity may enter into
5244 discussions with the company whose proposal offers the best value.
5245 If at any point during the discussions it appears to the
5246 governmental entity that the highest ranking proposal will not
5247 provide the governmental entity with the overall best value, the
5248 governmental entity may enter into discussions with the company
5249 submitting the next highest ranking proposal.

5250 (e) The governmental entity may withdraw a request for
5251 competing proposals and qualifications at any time and for any
5252 reason and may reject any one (1) or all proposals. In either
5253 case, the governmental entity may then publish a new request for
5254 competing proposals and qualifications. A governmental entity



5255 shall not be required to pay any company for the costs of
5256 preparing or submitting proposals.

5257 (f) The governmental entity shall prescribe the general
5258 form of a contract authorized by this section and may include any
5259 matter the governmental entity considers advantageous to it. The
5260 governmental entity and the company shall negotiate the specific
5261 terms of the contract.

5262 (g) Except as provided under this subsection (2), no
5263 such contract entered into hereunder shall be subject to the
5264 provisions of Section 65-1-8, Section 31-7-13 or any other public
5265 bid or public procurement laws of this state. However, a contract
5266 for any personal or professional service shall be subject to the
5267 requirements of Section 25-9-120.

5268 (h) The Transportation Commission shall evaluate each
5269 proposal based on the criteria established by the commission. The
5270 Transportation Commission shall approve or disapprove a proposal
5271 within ninety (90) days after receipt of the proposal. If the
5272 Transportation Commission needs additional information, it may
5273 delay approval for an additional sixty (60) days.

5274 (i) Any right or interest arising under or as a result
5275 of any contract entered into under this section by a governmental
5276 entity with a company involving a franchise, license agreement,
5277 concession agreement, operating agreement, construction agreement,
5278 design agreement and/or any other similar contractual arrangement
5279 in connection with the financing, design, construction,



5280 acquisition, maintenance and/or operation of a toll road or toll
5281 bridge project shall not constitute any right, title or interest
5282 in land or other real property or real estate or in personal
5283 property within the meaning of Article 1, Chapter 35, Title 27,
5284 Mississippi Code of 1972, in the toll road or toll bridge project,
5285 including tollbooths and related toll facilities (including, but
5286 not limited to, land, pavement, drainage-related structures, and
5287 other infrastructure and property related thereto) in which a
5288 governmental entity is the title owner of such property and/or
5289 holder of easements, rights-of-way and/or other interests for such
5290 toll road or toll bridge project.

5291 (3) Every contract entered into by a governmental entity
5292 under this section shall require a company to enter into bond and
5293 provide such security as the governmental entity determines may be
5294 necessary or advisable to ensure timely completion and proper
5295 execution and performance of the contract. The term of the
5296 contract shall not exceed fifty (50) years and shall not be
5297 extended or renewed. The governmental entities are authorized to
5298 acquire such property or interests in property as may be
5299 necessary, by gift, purchase or eminent domain, for construction
5300 and maintenance of the highways or bridges built pursuant to
5301 contracts entered into under this section. Upon expiration,
5302 termination or rescission of the contract, any and all rights
5303 and/or interests that the company may have in the land,
5304 infrastructure, facilities or other improvements to the property



5305 subject to contract shall terminate and automatically, by
5306 operation of law, be returned or conveyed to and vested in the
5307 State of Mississippi or the contracting governmental entity. Upon
5308 termination, expiration or rescission of the contract, the
5309 collection of tolls shall cease.

5310 (4) The governmental entity having jurisdiction over the
5311 toll highway or bridge may, after notice and public hearing,
5312 establish, charge and collect motor vehicle operator tolls for use
5313 of the highway or bridge and its facilities. Alternatively,
5314 during the term of any contract entered into under this section,
5315 the company may establish, charge and collect motor vehicle
5316 operators tolls for use of the highway or bridge and its
5317 facilities. The amount of such tolls, and any modification
5318 thereto, shall be subject to approval by the contracting
5319 governmental entity after notice and public hearing. All such
5320 contracts entered into with the Mississippi Transportation
5321 Commission may require a company to pay a percentage or other
5322 specified portion of all tolls collected to the Mississippi
5323 Department of Transportation. If bonds are issued pursuant to
5324 Section 65-43-13, then all such tolls paid to the department shall
5325 be deposited into the special bond sinking fund under Section
5326 65-43-11, and may be expended only as authorized by the
5327 Legislature. If bonds are not issued pursuant to Section
5328 65-43-13, then all such tolls paid to the department shall be



5329 deposited into the department's highway fund to be used by the
5330 department for the construction and maintenance of highways.

5331 (5) If a toll road is a designated evacuation route and a
5332 declaration of a state of emergency is issued by the President of
5333 the United States or by the Governor, the collection of tolls
5334 shall cease until the termination of the state of emergency.

5335 (6) All statutes of this state relating to vehicle and
5336 traffic regulation and control shall be applicable to motor
5337 vehicles operated upon highways and bridges constructed under this
5338 section and shall be enforceable by the Mississippi Department of
5339 Public Safety, the Mississippi Highway Safety Patrol or any other
5340 law enforcement agency having jurisdiction over such highways and
5341 bridges.

5342 (7) The State of Mississippi, the Mississippi Transportation
5343 Commission, the Mississippi Department of Transportation,
5344 counties, municipalities or any other agency or political
5345 subdivision, or any officer or employee thereof, shall not be
5346 liable for any tortious act or omission arising out of the
5347 construction, maintenance or operation of any highway or bridge
5348 project under the provisions of this section where the act or
5349 omission occurs during the term of any such contract entered into
5350 by the Mississippi Transportation Commission or other governmental
5351 entity and a company.

5352 **SECTION 46.** Section 69-1-14, Mississippi Code of 1972, is
5353 amended as follows:



5354 69-1-14. (1) The Commissioner of Agriculture and Commerce
5355 is hereby authorized and empowered to employ, in accordance with
5356 the provisions of Section 25-9-120, an attorney to represent the
5357 Department of Agriculture and Commerce and to fix his compensation
5358 subject to the approval of the State Personnel Board. Said
5359 attorney shall be a full-time employee of the Department of
5360 Agriculture and Commerce and shall be furnished such office space
5361 and clerical assistance as shall be necessary. In addition to his
5362 duties with the Department of Agriculture and Commerce, said
5363 attorney shall represent the Board of Animal Health, the
5364 Mississippi State Fair Commission and the Mississippi Central
5365 Market Board. The salary and expenses of said attorney shall be
5366 paid from any funds available to the Department of Agriculture and
5367 Commerce, the Board of Animal Health, the Mississippi Fair
5368 Commission and the Mississippi Central Market Board in a ratio
5369 commensurate with the services provided by said attorney to each
5370 of the said agencies.

5371 (2) The Department of Agriculture and Commerce, the Board of
5372 Animal Health, the Mississippi Fair Commission and the Mississippi
5373 Central Market Board are hereby authorized and empowered to expend
5374 such sums from any funds available for the purposes of paying the
5375 salary and expenses of the attorney provided for in subsection
5376 (1).

5377 **SECTION 47.** Section 69-15-7, Mississippi Code of 1972, is
5378 amended as follows:



5379 69-15-7. The State Veterinarian is authorized and empowered
5380 to employ the necessary professional, technical and clerical
5381 personnel as he deems necessary to carry out the powers and duties
5382 of the board, and to fix their compensation. The board shall
5383 appoint from a written list of not less than three (3) licensed
5384 veterinarians submitted by the Commissioner of Agriculture and
5385 Commerce, a duly licensed and practicing veterinarian as the State
5386 Veterinarian, who shall hold a Degree of Veterinary Medicine from
5387 a recognized college or university and shall have been engaged in
5388 the practice of veterinary science for not less than ten (10)
5389 years prior to his appointment. The State Veterinarian shall
5390 serve at the will and pleasure of the board and shall enter into a
5391 surety bond for the faithful performance of his duties, and the
5392 premium therefor shall be paid by the board. The board shall also
5393 be authorized to employ, in accordance with the provisions of
5394 Section 25-9-120, an attorney as authorized in Section 69-1-14,
5395 Mississippi Code of 1972.

5396 **SECTION 48.** Section 69-15-201, Mississippi Code of 1972, is
5397 amended as follows:

5398 69-15-201. The State Veterinarian, with the approval and
5399 consent of the Board of Animal Health is directed to employ, in
5400 accordance with the provisions of Section 25-9-120, one or more
5401 qualified veterinarians to be paid from the funds at the disposal
5402 of said board, who shall cooperate with the veterinarians of the



5403 U.S. Department of Agriculture, Bureau of Animal Industry, in
5404 testing cattle for tuberculosis in this state.

5405 **SECTION 49.** Section 71-5-121, Mississippi Code of 1972, is
5406 amended as follows:

5407 71-5-121. Subject to other provisions of this chapter, the
5408 executive director is authorized to appoint, in accordance with
5409 the provisions of Section 25-9-120, fix the compensation, and
5410 prescribe the duties and powers of such officers, accountants,
5411 attorneys, experts and other persons as may be necessary in the
5412 performance of department duties; however, all personnel who were
5413 former members of the Armed Forces of the United States of America
5414 shall be given credit regardless of rate, rank or commission. All
5415 positions shall be filled by persons selected and appointed on a
5416 nonpartisan merit basis, in accordance with Section 25-9-101 et
5417 seq., that provides for a state service personnel system. The
5418 executive director shall not employ any person who is an officer
5419 or committee member of any political party organization. The
5420 executive director may delegate to any such person so appointed
5421 such power and authority as he deems reasonable and proper for the
5422 effective administration of this chapter, and may in his
5423 discretion bond any person handling monies or signing checks
5424 hereunder. The veteran status of an individual shall be
5425 considered and preference given in accordance with the provisions
5426 of the State Personnel Board.



5427 The department and its employees are exempt from Sections
5428 25-15-101 and 25-15-103.

5429 The department may use federal granted funds to provide such
5430 group health, life, accident and hospitalization insurance for its
5431 employees as may be agreed upon by the department and the federal
5432 granting authorities.

5433 The department shall adopt a "layoff formula" to be used
5434 wherever it is determined that, because of reduced workload,
5435 budget reductions or in order to effect a more economical
5436 operation, a reduction in force shall occur in any group.

5437 In establishing this formula, the department shall give
5438 effect to the principle of seniority and shall provide that
5439 seniority points may be added for disabled veterans and veterans,
5440 with due regard to the efficiency of the service. Any such layoff
5441 formula shall be implemented according to the policies, rules and
5442 regulations of the State Personnel Board.

5443 **SECTION 50.** Section 73-13-15, Mississippi Code of 1972, is
5444 amended as follows:

5445 73-13-15. The board shall have the power to adopt and amend
5446 all regulations and rules of procedure, not inconsistent with the
5447 Constitution and laws of this state, which may be reasonably
5448 necessary for the proper performance of its duties and the
5449 regulations of the proceedings before it. The board shall adopt
5450 and have an official seal. It shall not be required to post bond



5451 on appeals. The board shall have the further power and authority
5452 to:

5453 (a) Establish standards of conduct and ethics;

5454 (b) Institute proceedings in its own name;

5455 (c) Promulgate rules restricting competitive bidding;

5456 however, any such rules shall not conflict with the provisions of
5457 Section 25-9-120;

5458 (d) Promulgate rules limiting or restricting
5459 advertising;

5460 (e) Promulgate rules requiring a demonstration of
5461 continuing education;

5462 (f) Adopt and promulgate reasonable bylaws and rules
5463 and regulations necessary or appropriate for the proper
5464 fulfillment of its duties under state laws pertaining thereto;

5465 (g) Provide for the enforcement of and to enforce the
5466 laws of the State of Mississippi and, in particular, the
5467 provisions of this chapter, and the bylaws, rules and regulations
5468 of the board;

5469 (h) Provide by appropriate rules and regulations,
5470 within the provisions of this chapter, a system for taking the
5471 disciplinary actions provided for in Section 73-13-37, including
5472 the imposition of fines as provided therein;

5473 (i) Investigate, prosecute or initiate prosecution for
5474 violation of the laws of this state pertaining to the practices of



5475 engineering and surveying, or matters affecting the rights and
5476 duties or otherwise related thereto; and

5477 (j) Adopt rules setting forth qualifications and
5478 standards of practice for firms.

5479 In carrying into effect the provisions of Sections 73-13-1
5480 through 73-13-105, the board, under the hand of its president or
5481 secretary and the seal of the board may subpoena witnesses and
5482 compel their attendance, and also may require the production of
5483 books, papers, documents, etc., in any case involving the
5484 disciplinary actions provided for in Section 73-13-37 or 73-13-89
5485 or practicing or offering to practice without licensure. Any
5486 member of the board may administer oaths or affirmations to
5487 witnesses appearing before the board. If any person shall refuse
5488 to obey any subpoena so issued, or shall refuse to testify or
5489 produce any books, papers or documents, the board may present its
5490 petition to such authority as may have jurisdiction, setting forth
5491 the facts, and thereupon such authority shall, in a proper case,
5492 issue its subpoena to such person, requiring his attendance before
5493 such authority and there to testify or to produce such books,
5494 papers, and documents, as may be deemed necessary and pertinent by
5495 the board. Any person failing or refusing to obey the subpoena or
5496 order of the said authority may be proceeded against in the same
5497 manner as for refusal to obey any other subpoena or order of the
5498 authority.



5499 **SECTION 51.** Section 73-33-5, Mississippi Code of 1972, is
5500 amended as follows:

5501 73-33-5. The Mississippi State Board of Public Accountancy
5502 is hereby authorized with the following powers and duties:

5503 (a) To adopt a seal;

5504 (b) To govern its proceedings;

5505 (c) To set the fees and to regulate the time, manner
5506 and place of conducting examinations to be held under this
5507 chapter. Beginning February 1, 1995, a total of one hundred fifty
5508 (150) collegiate-level semester hours of education including a
5509 baccalaureate degree or its equivalent at a college or university
5510 acceptable to the board shall be required in order to sit for the
5511 examination by candidates who have not previously sat for the
5512 examination. The education program shall include an accounting
5513 concentration or the equivalent as determined by the board to be
5514 appropriate by rules and regulations. The examination shall cover
5515 branches of knowledge pertaining to accountancy as the board may
5516 deem proper;

5517 (d) To initiate investigations of certified public
5518 accountant and certified public accountant firm practices;

5519 (e) To notify applicants who have failed an examination
5520 of such failure and in what branch or branches deficiency was
5521 found;

5522 (f) To adopt and enforce such rules and regulations
5523 concerning certified public accountant examinee and licensee



5524 qualifications and practices and certified public accountant firm
5525 permits and practices as the board considers necessary to maintain
5526 the highest standard of proficiency in the profession of certified
5527 public accounting and for the protection of the public interest.
5528 The standards of practice by certified public accountants and
5529 certified public accountant firms shall include generally accepted
5530 auditing and accounting standards as recognized by the Mississippi
5531 State Board of Public Accountancy;

5532 (g) To issue certified public accountant licenses under
5533 the signature and the official seal of the board as provided in
5534 this chapter; and to issue permits to practice public accounting
5535 to certified public accountant firms pursuant to such rules and
5536 regulations as may be promulgated by the board;

5537 (h) To employ personnel;

5538 (i) To contract for services in accordance with the
5539 provisions of Section 25-9-120 and rent; and

5540 (j) To adopt and enforce all such rules and regulations
5541 as shall be necessary for the administration of this chapter;
5542 provided, however, no adoption or modification of any rules or
5543 regulations of the board shall become effective unless any final
5544 action of the board approving such adoption or modification shall
5545 occur at a time and place which is open to the public and for
5546 which notice by mail of such time and place and the rules and
5547 regulations proposed to be adopted or modified has been given at



5548 least thirty (30) days prior thereto to every person who is
5549 licensed and registered with the board.

5550 Each application or filing made under this section shall
5551 include the social security number(s) of the applicant in
5552 accordance with Section 93-11-64, Mississippi Code of 1972.

5553 **SECTION 52.** Section 73-53-8, Mississippi Code of 1972, is
5554 amended as follows:

5555 73-53-8. (1) There is created the Board of Examiners for
5556 Social Workers and Marriage and Family Therapists to license and
5557 regulate social workers and marriage and family therapists. The
5558 board shall be composed of ten (10) members, six (6) of which
5559 shall be social workers and four (4) of which shall be marriage
5560 and family therapists.

5561 (2) Of the social worker members of the board, two (2) must
5562 be licensed social workers, and four (4) must be licensed master
5563 social workers or licensed certified social workers or a
5564 combination thereof. The marriage and family therapist members of
5565 the board must be licensed marriage and family therapists. For at
5566 least two (2) years immediately preceding his or her appointment,
5567 each marriage and family therapist appointee must have been
5568 actively engaged as a marriage and family therapist in rendering
5569 professional services in marriage and family therapy, or in the
5570 education and training of master's, doctoral or post-doctoral
5571 students of marriage and family therapy, or in marriage and family
5572 therapy research, and during the two (2) years preceding his or



5573 her appointment, must have spent the majority of the time devoted
5574 to that activity in this state. The initial marriage and family
5575 therapist appointees shall be deemed to be and shall become
5576 licensed practicing marriage and family therapists immediately
5577 upon their appointment and qualification as members of the board.
5578 All subsequent marriage and family therapist appointees to the
5579 board must be licensed marriage and family therapists before their
5580 appointment.

5581 (3) The Governor shall appoint six (6) members of the board,
5582 four (4) of which shall be social workers and two (2) of which
5583 shall be marriage and family therapists, and the Lieutenant
5584 Governor shall appoint four (4) members of the board, two (2) of
5585 which shall be social workers and two (2) of which shall be
5586 marriage and family therapists. Social worker members of the
5587 board shall be appointed from nominations submitted by the
5588 Mississippi Chapter of the National Association of Social Workers,
5589 and marriage and family therapist members of the board shall be
5590 appointed from nominations submitted by the Mississippi
5591 Association for Marriage and Family Therapy. All appointments
5592 shall be made with the advice and consent of the Senate.

5593 (4) The initial appointments to the board shall be made as
5594 follows: The Governor shall appoint one (1) social worker member
5595 for a term that expires on June 30, 1999, one (1) social worker
5596 member for a term that expires on June 30, 2001, two (2) social
5597 worker members for terms that expire on June 30, 2002, one (1)



5598 marriage and family therapist member for a term that expires on
5599 June 30, 1998, and one (1) marriage and family therapist member
5600 for a term that expires on June 30, 2000. The Lieutenant Governor
5601 shall appoint one (1) social worker member for a term that expires
5602 on June 30, 1998, one (1) social worker member for a term that
5603 expires on June 30, 2000, one (1) marriage and family therapist
5604 member for a term that expires on June 30, 1999, and one (1)
5605 marriage and family therapist member of the board for a term that
5606 expires on June 30, 2001. After the expiration of the initial
5607 terms, all subsequent appointments shall be made by the original
5608 appointing authorities for terms of four (4) years from the
5609 expiration date of the previous term. Upon the expiration of his
5610 or her term of office, a board member shall continue to serve
5611 until his or her successor has been appointed and has qualified.
5612 No person may be appointed more than once to fill an unexpired
5613 term or more than two (2) consecutive full terms.

5614 (5) Any vacancy on the board before the expiration of a term
5615 shall be filled by appointment of the original appointing
5616 authority for the remainder of the unexpired term. Appointments
5617 to fill vacancies shall be made from nominations submitted by the
5618 appropriate organization as specified in subsection (2) of this
5619 section for the position being filled.

5620 (6) The appointing authorities shall give due regard to
5621 geographic distribution, race and sex in making all appointments
5622 to the board.



5623 (7) The board shall select one (1) of its members to serve
5624 as chairman during the term of his or her appointment to the
5625 board. No person may serve as chairman for more than four (4)
5626 years. The board may remove any member of the board or the
5627 chairman from his or her position as chairman for (a) malfeasance
5628 in office, or (b) conviction of a felony or a crime of moral
5629 turpitude while in office, or (c) failure to attend three (3)
5630 consecutive board meetings. However, no member may be removed
5631 until after a public hearing of the charges against him or her,
5632 and at least thirty (30) days' prior written notice to the accused
5633 member of the charges against him or her and of the date fixed for
5634 such hearing. No board member shall participate in any matter
5635 before the board in which he has a pecuniary interest, personal
5636 bias or other similar conflict of interest.

5637 (8) Board members shall receive no compensation for their
5638 services, but shall be reimbursed for their actual and necessary
5639 expenses incurred in the performance of official board business as
5640 provided in Section 25-3-41.

5641 (9) Four (4) social worker members and three (3) marriage
5642 and family therapist members of the board shall constitute a
5643 quorum of the board. In making its decisions and taking actions
5644 affecting the members of one (1) of the professions regulated by
5645 the board, the board shall consider the recommendations of the
5646 board members who are members of that profession. If the board is
5647 unable to have a quorum present at a regularly scheduled meeting



5648 location, the board may allow other members to participate in the
5649 meeting by telephone or other electronic means. In the case of an
5650 administrative hearing, when recusals from the process are
5651 necessary, a quorum may consist of a simple majority of six (6)
5652 members.

5653 (10) The principal office of the board shall be in the City
5654 of Jackson, but the board may act and exercise all of its powers
5655 at any other place. The board shall adopt an official seal, which
5656 shall be judicially noticed and which shall be affixed to all
5657 licenses issued by the board.

5658 (11) The board is authorized to employ, subject to the
5659 approval of the State Personnel Board, an executive director and
5660 such attorneys, in accordance with the provisions of Section
5661 25-9-120, experts and other employees as it may, from time to
5662 time, find necessary for the proper performance of its duties and
5663 for which the necessary funds are available, and to set the salary
5664 of the executive director, subject to the approval of the State
5665 Personnel Board.

5666 (12) The board, by a majority vote, from time to time, may
5667 make such provisions as it deems appropriate to authorize the
5668 performance by any board member or members, employee or other
5669 agent of the board of any function given the board in this chapter
5670 or Sections 73-54-1 through 73-54-39.

5671 **SECTION 53.** Section 75-76-21, Mississippi Code of 1972, is
5672 amended as follows:



5673 75-76-21. (1) The executive director in pursuit of the
5674 attainment of the objectives and the purposes of this chapter may:
5675 (a) Sue and be sued on behalf of the commission;
5676 (b) Acquire real property in accordance with statutory
5677 procedure and make improvements thereon on behalf of the
5678 commission;
5679 (c) Make, execute and effectuate any and all agreements
5680 or contracts, including contracts for the purchase of goods and
5681 services as are necessary;
5682 (d) Employ the services of such persons as he considers
5683 necessary for the purposes of consultation or investigation and
5684 fix the salaries of or contract for the services of such legal,
5685 professional, technical and operational personnel and consultants,
5686 subject to applicable provisions of the State Personnel Board and
5687 the Personal Service Contract Review Board under Section 25-9-120.
5688 For the purpose of implementing the provisions of this chapter,
5689 additional legal assistance may be retained only with the approval
5690 of the Attorney General;
5691 (e) Acquire such furnishings, equipment, supplies,
5692 stationery, books, and all other things as he may deem necessary
5693 or desirable in carrying out his functions; and
5694 (f) Perform such other duties which he may deem
5695 necessary to effectuate the purposes of this chapter.
5696 (2) Except as otherwise provided in this chapter, all costs
5697 of administration incurred by the executive director and his



5698 employees shall be paid out on claims from the State Treasury in
5699 the same manner as other claims against the state are paid.

5700 (3) [Repealed]

5701 **SECTION 54.** Section 77-9-531, Mississippi Code of 1972, is
5702 amended as follows:

5703 77-9-531. The Governor, on behalf of this state, is hereby
5704 authorized and directed to execute a compact, in substantially the
5705 following form, with the State of Alabama; and the Legislature
5706 hereby signifies in advance its approval and ratification of such
5707 compact, which compact is as follows:

5708 MISSISSIPPI-ALABAMA RAILROAD AUTHORITY COMPACT

5709 The contracting states solemnly agree:

5710 ARTICLE I.

5711 The purpose of this compact is to promote and develop trade,
5712 commerce, industry and employment opportunities for the public
5713 good and welfare in Mississippi and Alabama through the
5714 establishment of a joint interstate authority to acquire certain
5715 railroad properties and facilities which the operator thereof has
5716 notified the Interstate Commerce Commission of an intention to
5717 abandon and which are located in Mississippi or Alabama.

5718 ARTICLE II.

5719 For the purposes of this compact the following terms shall
5720 have the following meanings unless the context clearly indicates
5721 otherwise:



5722 (a) "Person" means an individual, a corporation, a
5723 partnership or any other entity.

5724 (b) "Railroad" means a common carrier by railroad as
5725 defined in Section 1(3) of Part I of the Interstate Commerce Act
5726 (codified as 49 U.S.C.S. Section 1(3)).

5727 (c) "Railroad properties and facilities" means any real
5728 or personal property or interest in such property which is owned,
5729 leased or otherwise controlled by a railroad or other person,
5730 including the authority, and which is used or is useful in rail
5731 transportation service, including the foregoing:

5732 (i) Track, roadbed and related structures,
5733 including rail, ties, ballast, other track materials, grading,
5734 tunnels, bridges, trestles, culverts, elevated structures,
5735 station, office buildings used for operating purposes only, repair
5736 shops, engine houses and public improvements used or useful in
5737 providing rail transportation service;

5738 (ii) Communication and power transmission systems
5739 for use by railroads;

5740 (iii) Signals and interlockers;

5741 (iv) Terminal or yard facilities and services to
5742 express companies, railroads and their shippers, including
5743 ferries, tugs, car floats and related shoreside facilities
5744 designed for the transportation of equipment by water; and

5745 (v) Shop or repair facilities or any other
5746 property used or capable of being used in providing rail



5747 transportation service or in connection with such service or for
5748 originating, terminating, improving and expediting the movement of
5749 equipment or goods.

5750 (d) "Rail transportation service" means freight and/or
5751 passenger rail service.

5752 ARTICLE III.

5753 The states which are parties to this compact (hereinafter
5754 referred to as the "party states") do hereby establish and create
5755 a joint interstate authority which shall be known as the
5756 "Mississippi-Alabama Railroad Authority" (hereinafter referred to
5757 as the "authority"). The authority shall be governed and all
5758 powers thereof exercised by a board of directors (hereinafter
5759 referred as the "board"). The membership of the board shall
5760 consist of the Mayor of the Town of Belmont, Mississippi; two (2)
5761 other citizens of the State of Mississippi to be appointed by the
5762 governing authorities of the Town of Belmont, Mississippi; the
5763 Mayor of the City of Red Bay, Alabama, and two (2) other citizens
5764 of the State of Alabama to be appointed by the governing
5765 authorities of the City of Red Bay, Alabama. Each of the
5766 appointive members of the board shall be a qualified elector in a
5767 state named in Article I and shall serve for a term of four (4)
5768 years. Directors shall be eligible for reelection. If any
5769 director should die, resign or become incapable or ineligible to
5770 act as a director, a successor thereto for the remaining portion
5771 of the unexpired term shall be appointed by the governing body



5772 which appointed the director whose unexpired term is to be filled.
5773 The board shall hold such regular and special meetings as its
5774 business may require and as the board may determine. Any meeting
5775 of the board may be adjourned from time to time by a majority of
5776 the members present. A majority of the members of the board shall
5777 constitute a quorum for the transaction of any business. No
5778 vacancy in the membership of the board shall impair the right of a
5779 quorum to exercise all powers and duties of the authority.
5780 Members of the board shall receive no compensation for their
5781 services as directors; however, each member may be reimbursed for
5782 expenses actually incurred in the performance of his duties as
5783 provided by law. The authority shall adopt rules and regulations
5784 for the transaction of its business and the secretary shall keep a
5785 record of all its business and furnish copies thereof to each
5786 member of the board. The meetings and records of the board and of
5787 the authority shall be open to the public. The board shall
5788 establish the location of the principal office of the authority,
5789 which shall be in one (1) of the states named in Article I. The
5790 officers of the authority shall consist of a chairman, a vice
5791 chairman, a secretary, a treasurer and such other officers as the
5792 board shall deem necessary. The chairman and vice chairman shall
5793 be elected by the board from its membership and the chairmanship
5794 shall rotate each year among the party states in order of their
5795 acceptance of this compact. Neither the secretary nor the
5796 treasurer nor any other officer of the authority need be a member



5797 of the board. Each officer shall be elected by the board for a
5798 term of one (1) year. Officers shall be eligible for reelection.
5799 The duties of the officers of the authority shall be such as are
5800 customarily performed by such officers and as may be prescribed by
5801 the board.

5802 ARTICLE IV.

5803 (1) Subject to the provisions hereof, the authority shall
5804 have and may exercise all powers as may be necessary or
5805 appropriate to enable it to carry out the purposes of this
5806 compact, including the following powers:

5807 (a) To have succession by its corporate name;

5808 (b) To sue and be sued in its own name in civil suit
5809 and actions;

5810 (c) To adopt and make use of a corporate seal and to
5811 alter the same at pleasure;

5812 (d) To adopt and alter bylaws for the regulation and
5813 conduct of its affairs and business;

5814 (e) To acquire, receive, take and hold, whether by
5815 purchase, gift, lease, devise, or otherwise, property of every
5816 description, whether real, personal or mixed, wherever located in
5817 any party state, and to manage such property, and to develop any
5818 undeveloped property owned, leased or controlled by it in a manner
5819 necessary or convenient to carry out the purposes of this compact;

5820 (f) To make, enter into, execute and deliver such
5821 contracts, agreements, leases, applications, permits,



5822 notifications, security documents and other instruments and
5823 documents as may be necessary, proper, convenient or incidental to
5824 accomplish any purpose for which the authority was created or to
5825 carry out the purposes of this compact or to exercise any power
5826 granted hereunder, including contracts, agreements and other
5827 documents and instruments containing such covenants, terms and
5828 conditions as in the judgment of the board may be necessary,
5829 proper or advisable for the purpose of obtaining grants, loans or
5830 other financial assistance from any federal or state government or
5831 any department, branch or agency thereof for or in the aid of the
5832 acquisition or improvement of railroad properties and facilities
5833 and any and all licenses, leases, mortgages and deeds of trust and
5834 other agreements relating to the railroad properties and
5835 facilities and the construction, operation, maintenance, repair
5836 and improvement thereof, and to carry out and perform the
5837 covenants, terms and conditions of all such contracts, agreements
5838 and other documents or instruments;

5839 (g) To plan, establish, acquire (by purchase, gift,
5840 lease or devise), construct, enlarge, reconstruct, improve,
5841 operate, maintain, replace, repair, extend, improve, regulate and
5842 protect railroad properties and facilities (whether or not then
5843 existing) wherever located or to be located within the boundaries
5844 of either or both of the party states;

5845 (h) To make the use and services of its railroad
5846 properties and facilities available to others in furtherance of



5847 the purposes of this compact and upon such terms and conditions as
5848 the board shall deem proper, and to lease such railroad properties
5849 and facilities to others upon such terms and conditions as the
5850 board may determine;

5851 (i) To establish schedules of tolls, fees, rates,
5852 charges and rentals for the use of its railroad properties and
5853 facilities and to charge, alter and collect such tolls, fees,
5854 rates, charges and rentals in carrying out the provisions of this
5855 compact;

5856 (j) To issue revenue bonds and notes at any time and
5857 from time to time, for any corporate purpose or purposes or in aid
5858 of any power under this compact, payable from the limited sources
5859 hereinafter referenced and to pledge for payment of such bonds and
5860 notes any revenues and funds from which such bonds and notes are
5861 made payable;

5862 (k) To exercise, with respect to property located in
5863 Mississippi in the manner provided by the laws of Mississippi and
5864 with respect to property located in Alabama in the manner provided
5865 by the laws of Alabama, the power of eminent domain with respect
5866 to any property, real, personal or mixed; provided, the authority
5867 may not acquire by eminent domain any real property or rights
5868 owned or held by railroads, transportation companies or utilities,
5869 either public or private;

5870 (l) To appoint, employ, contract with and provide for
5871 compensation of such officers, employees and agents, including



5872 engineers, attorneys, consultants, fiscal advisers and such other
5873 employees as the business of the authority may require, including
5874 the power to fix working conditions by general rule and other
5875 conditions of employment, and at its option to provide a system of
5876 disability pay, retirement compensation and pensions, or any of
5877 them, and to hire and fire servants, agents, employees and
5878 officers at will;

5879 (m) To provide for such insurance, including use and
5880 occupancy insurance, as the authority may deem advisable;

5881 (n) To invest any funds of the authority that the board
5882 may determine are not presently needed for its corporate purposes
5883 in any obligations which are direct general obligations of the
5884 United States of America or which are unconditionally guaranteed
5885 as to both principal and interest by the United States of America,
5886 or in interest-bearing time deposits of any bank or savings and
5887 loan association organized under the laws of any party state or of
5888 the United States of America;

5889 (o) To cooperate with any party state and any county,
5890 city, town, public corporation, agency, department or political
5891 subdivision of any party state and to make such contracts with
5892 them or any of them as the board may deem advisable to accomplish
5893 the purposes for which the authority was established;

5894 (p) To sell and convey any of its properties that may
5895 have become obsolete or worn out or that may no longer be needed
5896 or useful;



5897 (q) To accept, receive, receipt for, disburse and
5898 expend moneys or other financial assistance from the United States
5899 of America or any department or agency thereof, and from any party
5900 state or any department, agency or political subdivision thereof,
5901 and to receive and accept money, property, labor or other thing of
5902 value, from any source whatever, public or private, to be used for
5903 or in aid of the acquisition, construction, extension,
5904 improvement, maintenance and operation of railroad properties and
5905 facilities or to be used in furtherance or to accomplish (in whole
5906 or in part) any of the purposes of this compact. All federal
5907 moneys shall be accepted and expended by the authority upon such
5908 terms and conditions as are prescribed by the United States of
5909 America and as are not inconsistent with the laws of any party
5910 state, and all state moneys shall be accepted and expended by the
5911 authority upon such terms and conditions as are prescribed by the
5912 laws of the state making the same available;

5913 (r) To purchase equipment and supplies necessary or
5914 convenient for the exercise of any power of the authority; and

5915 (s) To take such action and do all things as may be
5916 necessary or convenient to carry out the purposes of this compact
5917 or the exercise of any power hereunder.

5918 (2) Nothing contained in this compact shall operate or be
5919 construed to (a) permit or require any person to avoid or refuse
5920 compliance with any law, rule, regulation, order or other
5921 controlling directive or administrative guidance, now or hereafter



5922 existing or in force, of any federal or state government,
5923 department, branch, agency or other instrumentality or (b) impair,
5924 limit, diminish or otherwise affect any right, power or
5925 jurisdiction of the United States of America or any department,
5926 branch, agency, court, bureau or other instrumentality thereof
5927 with respect to any matter including commerce between the states,
5928 or (c) grant or confer any right or power to the authority or any
5929 officer, member of the board, or other representative thereof to
5930 regulate commerce between the states. The authority shall be
5931 subject to and shall comply with all applicable laws, regulations,
5932 rules, rulings, orders, decrees, judgments, decisions or other
5933 guidelines of the United States of America or any branch, agency,
5934 department, court or other instrumentality having jurisdiction
5935 over the authority or any of its activities or properties or of
5936 any person acting for the authority and all rights and powers
5937 provided by this compact may be exercised only to the extent the
5938 exercise thereof does not violate any of the foregoing. The
5939 provisions of this compact are subject to all provisions of
5940 federal law and other controlling federal directives applicable in
5941 the premises and to be limited to the extent necessary to comply
5942 therewith.

5943 ARTICLE V.

5944 For the purpose of aiding and cooperating with the authority
5945 in the planning, development, undertaking, construction,
5946 extension, improvement or operation of railroad properties and



5947 facilities, any county, city, town or other political subdivision,
5948 public corporation, agency or instrumentality of a party state
5949 may, upon such terms and with or without consideration, as it may
5950 determine:

5951 (a) Lend or donate money to the authority;

5952 (b) Cause water, sewer or drainage facilities, or any
5953 other facilities which it is empowered to provide, to be furnished
5954 adjacent to or in connection with such railroad properties and
5955 facilities;

5956 (c) Donate, sell, convey, transfer or lease to the
5957 authority any land, property, franchise, grant, easement, license
5958 or lease, which it may own;

5959 (d) Donate, transfer, assign, sell or convey to the
5960 authority any right, title or interest which it may have in any
5961 lease, contract, agreement, license or property;

5962 (e) Furnish, dedicate, close, pave, repair, install,
5963 grade, regrade, plan or replan streets, roads, roadways and walks
5964 from established streets or roads to railroad properties and
5965 facilities of the authority; and

5966 (f) Do any and all things whether or not specifically
5967 authorized in this compact and not otherwise prohibited by law in
5968 the applicable party state that are necessary or convenient to aid
5969 and cooperate with the authority in the planning, undertaking,
5970 construction, reconstruction, acquisition or operation of railroad
5971 properties and facilities.



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ARTICLE VI.

No action or suit shall be brought or maintained against any administrator, executive, manager, officer or member of the board or the authority for or on account of the negligence of the authority or of any such person or its or his agents, servants or employees, in or about the construction, maintenance, operation, superintendence or management of any railroad properties and facilities or other property owned or controlled by the authority.

ARTICLE VII.

(1) All bonds issued by the authority shall be payable solely from, and may be secured by a pledge of, the revenues derived by the authority from the operation, leasing or sale of any or all of its railroad properties and facilities and other property, and/or from any other funds made available or to be made available to the authority if so permitted by the terms under which such funds are so made available to the authority. No bonds or notes issued or contracts entered into by the authority shall ever constitute or create an obligation or debt of any party state, or of any county, city or town within any party state or a charge against the credit or taxing powers of any party state or of any county, city or town within any party state.

(2) Bonds of the authority may be issued at any time and from time to time, may be in such form, either in bearer form with appurtenant coupons (and subject to registration as to principal or interest, or both, all as the board may determine) or in fully



5997 registered form without coupons, and in such denominations, may be
5998 of such tenor, may be payable in such installments and at such
5999 time or times not exceeding forty (40) years from their date, may
6000 be payable at such place or places whether within or without any
6001 party state, may bear interest at such rate or rates (which may be
6002 fixed or which may float or vary based on some index or other
6003 standard deemed appropriate by the board), and shall be payable
6004 and evidenced in such manner, all as shall not be inconsistent
6005 with the provisions of this compact and as may be provided in the
6006 proceedings of the board wherein the bonds shall be authorized to
6007 be issued. Any bond may be made subject to redemption at the
6008 option of the authority at such time or times and at such price or
6009 prices and upon such notice or notices and on such terms and in
6010 such manner as may be provided in the proceedings of the board
6011 wherein the bonds shall be authorized to be issued. Bonds of the
6012 authority may be sold at public or private sale in such manner and
6013 from time to time as may be determined by the board. The
6014 authority may pay all reasonable expenses, premiums, fees and
6015 commissions that the board may deem necessary or advantageous in
6016 connection with the authorization, sale and issuance of its bonds.
6017 All bonds shall contain a recital that they are issued pursuant to
6018 the provisions of this compact, which recital shall be conclusive
6019 that they have been duly authorized pursuant to the provisions of
6020 this compact. Neither a public hearing nor the consent of any
6021 agency of any party state or any political subdivision thereof



6022 shall be prerequisite to the issuance of bonds by the authority.
6023 All bonds issued under the provisions of this compact are hereby
6024 made and shall be deemed negotiable instruments.

6025 (3) All bonds shall be signed (either manually or by
6026 facsimile) by the chairman or the vice chairman and the secretary
6027 or the treasurer of the authority and the seal of the authority
6028 shall be affixed (either manually or by facsimile) thereto.
6029 Delivery of bonds so executed shall be valid notwithstanding any
6030 changes in said officers or in the seal of the authority after the
6031 signing and sealing of the bonds.

6032 (4) Any bonds may be issued under and secured by an
6033 indenture between the authority and a trustee. Such trustee may
6034 be a private person or corporation, including any trust company or
6035 bank having trust powers, whether such bank or trust company is
6036 located within or without any party state. In such indenture or
6037 resolution providing for the issuance of bonds, the authority may
6038 pledge, for payment of the principal of and the interest on such
6039 bonds, any of its revenues to which its right then exists or may
6040 thereafter come into existence and may assign, as security for
6041 such payment, any of its leases, franchises, permits and
6042 contracts; and in any such indenture, the authority may mortgage
6043 or grant security interests in any of its properties, including
6044 any that may be thereafter acquired by it. Any such pledge of
6045 revenues shall be valid and binding from the time it is made and
6046 the revenues so pledged and thereafter received by the authority



6047 shall immediately become subject to the lien of such pledge
6048 without any physical delivery thereof or further act. The lien of
6049 such pledge shall be valid and binding against all parties having
6050 claims of any kind in tort, contract or otherwise against the
6051 authority, irrespective of whether the parties have actual notice
6052 thereof, from the time a statement is filed for record in each
6053 county in which is located any part of the property the revenues
6054 from which are so pledged. Such notice need state only the date
6055 on which the resolution authorizing the issuance of the bonds was
6056 adopted by the board, the principal amount of bonds issued, a
6057 brief description of the revenues so pledged and a brief
6058 description of any property the revenues from which are so
6059 pledged.

6060 (5) In any indenture or resolution authorizing the issuance
6061 of bonds and pledging for the benefit thereof revenues from any of
6062 its railroad properties and facilities, the authority shall have
6063 the power to include provisions customarily contained in
6064 instruments securing evidence of indebtedness, including
6065 provisions respecting the collection, segregation and application
6066 of any rental or other revenue due to or to become due to the
6067 authority, the terms to be incorporated in any lease agreement
6068 respecting any property of the authority, the maintenance and
6069 insurance of any building or structure owned by the authority, the
6070 creation and maintenance of special funds from any revenue of the
6071 authority and the rights and remedies available in the event of



6072 default to the holders of the bonds or the trustee under the
6073 indenture, all as the board shall deem advisable. If there be any
6074 default by the authority in payment of the principal of or the
6075 interest on the bonds or in any of the agreements on the part of
6076 the authority that may properly be included in any indenture
6077 securing the bonds, any holder of bonds, or the trustee under any
6078 indenture if so authorized in such indenture, in addition to any
6079 other remedies herein provided or otherwise available, may either
6080 at law or in equity, by suit, action, mandamus or other
6081 proceedings, enforce payment of such principal or interest and
6082 compel performance of all duties of the board and officers of the
6083 authority, and shall be entitled as a matter of right, and
6084 regardless of the sufficiency of any such security, to the
6085 appointment of a receiver in equity with all the powers of such
6086 receiver for the operation and maintenance of the property of the
6087 authority covered by such indenture and the collection,
6088 segregation and application of revenues therefrom. The indenture
6089 may also contain provisions restricting the individual rights of
6090 action of the holders of the bonds.

6091 (6) The proceeds derived from the sale of any bonds other
6092 than refunding bonds may be used only to pay the costs of
6093 acquiring, constructing, improving, enlarging, equipping and
6094 operating the railroad properties and facilities, or other
6095 property with respect to which such bonds were issued, as may be
6096 specified in the proceedings in which the bonds are authorized to



6097 be issued. Such costs shall be deemed to include the following:
6098 the costs of any land or easements forming a part of such railroad
6099 properties and facilities or other property; the cost of labor,
6100 material and supplies used in any such construction, improvement
6101 or enlargement, including architects' and engineers' fees, and the
6102 cost of preparing contract documents and advertising for bids; the
6103 purchase price of and the cost of installing equipment for use in
6104 connection with such railroad properties and facilities or other
6105 property; the cost of constructing and installing roads,
6106 sidewalks, curbs, gutters, utilities and parking places in
6107 connection with such railroad properties and facilities or other
6108 property; the amounts of any debt service, maintenance and capital
6109 improvement and other similar reserves deemed advisable; legal,
6110 fiscal, credit enhancement or insurance, and recording fees,
6111 premiums and expenses incurred in connection with the
6112 authorization, sale and issuance of the bonds issued in connection
6113 with such railroad properties and facilities or other property;
6114 and interest on said bonds for a reasonable period prior to and
6115 during the time required for such construction, improvement,
6116 enlargement and equipment and not to exceed eighteen (18) months
6117 after completion thereof. If any of the proceeds derived from the
6118 sale of said bonds remains undisbursed after completion of such
6119 work and payment of all of the said costs and expenses, such
6120 balance shall be used for retirement of the principal of the bonds
6121 of the same issue.



6122 (7) The authority may at any time and from time to time
6123 issue refunding bonds for the purpose of refunding the principal
6124 of and the interest on any bonds of the authority theretofore
6125 issued hereunder and then outstanding, whether or not such
6126 principal and interest shall have matured at the time of such
6127 refunding, and for the payment of any expenses incurred in
6128 connection with such refunding and any premium necessary to be
6129 paid in order to redeem, retire or purchase for retirement the
6130 bonds to be refunded. The proceeds derived from the sale of any
6131 refunding bonds shall be used only for the purposes for which the
6132 refunding bonds were authorized to be issued. Any such refunding
6133 may be effected either by sale of the refunding bonds and the
6134 application of the proceeds thereof, or by exchange of the
6135 refunding bonds for the bonds to be refunded thereby. All
6136 provisions of this compact pertaining to bonds of the authority
6137 that are not inconsistent with the provisions of this subsection
6138 shall, to the extent applicable, also apply to refunding bonds
6139 issued by the authority. The authority may at any time and from
6140 time to time issue bonds for the purpose of so refunding the
6141 principal of and the interest on any of its bonds and for any
6142 other purpose for which it is authorized to issue bonds, in which
6143 event the provisions hereof respecting refunding bonds shall apply
6144 only to that portion of such combined issue authorized for
6145 refunding purposes and the provisions hereof respecting other



6146 financing shall apply to the remaining portion of such combined
6147 issue.

6148 (8) The authority may, in addition to the other powers
6149 granted herein, borrow money for use for any corporate purpose
6150 described herein and, in evidence of such borrowing, issue from
6151 time to time revenue notes maturing not later than eighteen (18)
6152 months from the date of issuance and bearing such rate or rates of
6153 interest as the board may provide in the proceedings when the same
6154 are authorized to be issued. Such notes may be payable from the
6155 principal proceeds from the sale of bonds and/or, to the extent
6156 necessary, from any revenues of the authority which may be pledged
6157 to the payment of its bonds and such notes may be secured by a
6158 pledge of so much as may be necessary therefor of such revenues.
6159 Any such notes may be refunded or renewed or extended for
6160 additional periods of not more than eighteen (18) months each from
6161 the date of maturity of such notes being refunded or renewed or
6162 extended, but otherwise pursuant to the terms and conditions
6163 hereof. Any such notes may be sold either at public or private
6164 sale as the board may determine. All provisions of this compact
6165 pertaining to bonds of the authority that are not inconsistent
6166 with the provisions of this subsection shall, to the extent
6167 applicable, also apply to notes issued by the authority.

6168 (9) The governing body of any county, city or town within
6169 any party state is authorized in its discretion to invest in bonds
6170 of the authority any money held in its treasury. Bonds issued



6171 under the provisions of this compact are hereby made legal
6172 investments for executors, administrators, trustees and other
6173 fiduciaries, unless otherwise directed by the court having
6174 jurisdiction of the fiduciary relation or by the document that is
6175 the source of the fiduciary's authority. Such bonds shall be
6176 legal investments for savings banks and insurance companies
6177 organized under the laws of any party state.

6178 (10) The directors and officers of the authority shall not
6179 be subject to any personal liability by reason of the issuance of
6180 any bonds or notes of the authority.

6181 ARTICLE VIII.

6182 The authority and all contracts made by it shall be exempt,
6183 except as otherwise provided in Section 25-9-120, from (a) all
6184 laws (i) relating to the advertising and award of construction
6185 contracts and purchase contracts and (ii) limiting the duration of
6186 or requiring competitive bids in connection with any contract to
6187 be entered into by any municipality, county, public corporation or
6188 other instrumentality, and (b) from all laws relating to or
6189 governing usury or prescribing or limiting interest rates. The
6190 authority and its contracts and properties shall be exempt from
6191 all jurisdiction of and all regulation and supervision by the
6192 Public Service Commission or other successor or similar agency of
6193 any party state. All bonds or notes issued by the authority, the
6194 transfer thereof and the income therefrom shall be exempt from all
6195 taxation by each party state and any political subdivision



6196 thereof. The authority and all property and income of the
6197 authority shall be exempt from all state, county, municipal and
6198 other local taxation and from any assessment for public
6199 improvements; provided, however, that this exemption shall not be
6200 construed to exempt concessionaires, licensees, tenants, operators
6201 or lessees of the authority from the payment of any taxes,
6202 including licenses or privilege taxes levied by any party state or
6203 any county or any municipality in any party state. All documents
6204 or instruments of whatever nature or content to which the
6205 authority is a party shall be filed for record in any county in
6206 any party state without the payment of any tax or fee other than
6207 such fee as may be authorized by law for the recording of such
6208 documents and instruments. The authority shall be exempt from all
6209 income, privilege, license or excise taxes levied by any party
6210 state or any county, city, town or other political subdivision
6211 thereof in respect to the income, revenue or profits of the
6212 authority or the privilege of engaging in any of the activities or
6213 powers in which the authority may engage or which the authority
6214 may exercise. The authority shall be exempt from all privilege,
6215 license or excise taxes levied by any party state or any county,
6216 city, town or other political subdivision thereof with respect to
6217 tangible personal property purchased or used by the authority.

6218 ARTICLE IX.

6219 Nothing in this compact shall be construed so as to conflict
6220 with any existing statute, or to limit the powers of any party



6221 state, or to repeal or prevent legislation, or to authorize or
6222 permit curtailment or diminution of any other railroad project, or
6223 to affect any existing or future cooperative arrangement or
6224 relationship between any federal agency and a party state.

6225 ARTICLE X.

6226 This compact shall continue in full force and remain binding
6227 upon each party state. At any time when the authority does not
6228 have any bonds, notes or other obligations outstanding, including
6229 any leases under which the authority is either lessor or lessee,
6230 the Legislature of each or either party state may take action to
6231 withdraw from this compact; provided, that such withdrawal shall
6232 not become effective until six (6) months after the date of the
6233 action taken by the Legislature. Notice of such action shall be
6234 given to the other party state and the authority by the Secretary
6235 of State of the party state which takes such action. Upon
6236 withdrawal of a party state from this compact becoming effective
6237 as to such party state, the authority shall cease to exist and all
6238 rights, title and interest of the authority in property located in
6239 the State of Mississippi shall be vested in the Town of Belmont,
6240 Mississippi, and all rights, title and interest of the authority
6241 in property located in the State of Alabama shall be vested in the
6242 City of Red Bay, Alabama.

6243 ARTICLE XI.

6244 The authority shall be a nonprofit corporation and no part of
6245 its net earnings remaining after payment of its expenses shall



6246 inure to the benefit of any person, except that in the event the
6247 board shall determine that sufficient provision has been made for
6248 the full payment of the expenses, bonds, notes and other
6249 obligations of authority, then any net earnings of the authority
6250 thereafter accruing shall be equally divided between the Town of
6251 Belmont, Mississippi, and the City of Red Bay, Alabama. The
6252 authority shall not be appropriated any monies nor shall the
6253 authority expend any monies from the State General Fund of
6254 Mississippi.

6255 ARTICLE XII.

6256 There is hereby granted to the Governor, to the members of
6257 the board of the authority for Mississippi and to any executives
6258 or administrators of this compact all the powers provided for in
6259 such compact. All officers of the State of Mississippi are hereby
6260 authorized and directed to do all things falling within their
6261 respective jurisdictions which are necessary or incidental to
6262 carrying out the purposes of such compact.

6263 ARTICLE XIII.

6264 The provisions of this compact are severable. If any part of
6265 this compact is declared invalid or unconstitutional, such
6266 declaration shall not affect the remaining parts thereof.

6267 **SECTION 55.** Section 81-27-8.115, Mississippi Code of 1972,
6268 is amended as follows:

6269 81-27-8.115. The commissioner, for the purpose of
6270 liquidating state trust companies as herein provided, shall



6271 employ, in accordance with the provisions of Section 25-9-120,
6272 such liquidating agents, competent local attorneys, accountants
6273 and clerks as may be necessary to properly liquidate and
6274 distribute the assets of a state trust company, and shall fix the
6275 compensation for all such agents, attorneys, accountants and
6276 clerks, and shall pay the same out of the funds derived from the
6277 liquidation of the assets of the state trust company. However,
6278 all expenditure for the purpose herein provided shall be approved
6279 by the presiding chancellor in the pending action at such time as
6280 the same may be reported, and such charges shall be a proper
6281 charge and lien on the assets of the state trust company until
6282 paid.

6283 **SECTION 56.** Section 83-5-211, Mississippi Code of 1972, is
6284 amended as follows:

6285 83-5-211. (1) No examiner may be appointed by the
6286 commissioner if such examiner, either directly or indirectly, has
6287 a conflict of interest or is affiliated with the management of or
6288 owns a pecuniary interest in any person subject to examination
6289 under Sections 83-5-201 through 83-5-217. This section shall not
6290 be construed to automatically preclude an examiner from being:

6291 (a) A policyholder or claimant under an insurance
6292 policy;

6293 (b) A grantor of a mortgage or similar instrument on
6294 the examiner's residence to a regulated entity if done under
6295 customary terms and in the ordinary course of business;



6296 (c) An investment owner in shares of regulated
6297 diversified investment companies; or

6298 (d) A settlor or beneficiary of a "blind trust" into
6299 which any otherwise impermissible holdings have been placed.

6300 (2) Notwithstanding the requirements of this section the
6301 commissioner may retain from time to time, on an individual basis,
6302 in accordance with the provisions of Section 25-9-120, qualified
6303 actuaries, certified public accountants or other similar
6304 individuals who are independently practicing their professions,
6305 even though such persons may from time to time be similarly
6306 employed or retained by persons subject to examination under
6307 Sections 83-5-201 through 83-5-217.

6308 **SECTION 57.** Section 5-8-5, Mississippi Code of 1972, is
6309 brought forward as follows:

6310 5-8-5. (1) Except as otherwise provided in Section 5-8-7 of
6311 this chapter and in addition to reports required by Sections 5-8-9
6312 and 5-8-11 of this chapter, every lobbyist and every lobbyist's
6313 client shall file a registration statement with the Secretary of
6314 State within five (5) calendar days after becoming a lobbyist,
6315 becoming a lobbyist's client or beginning to lobby for a new
6316 client. The filing of every registration statement shall be
6317 accompanied by the payment of a registration fee of Twenty-five
6318 Dollars (\$25.00) to the Secretary of State. The lobbyist shall
6319 file the registration statement and pay the fees to the Secretary
6320 of State for each lobbyist's client whom the lobbyist represents.



6321 (2) The registration statement shall include the following:
6322 (a) The name, address, occupation and telephone number
6323 of the lobbyist;
6324 (b) The name, address, telephone number and principal
6325 place of business of the lobbyist's client;
6326 (c) The kind of business of the lobbyist's client;
6327 (d) The full name of the person or persons who control
6328 the lobbyist's client, the partners, if any, and officers of the
6329 lobbyist's client;
6330 (e) The full name, address and telephone number of each
6331 lobbyist employed by or representing the lobbyist's client; and
6332 (f) A statement or statements by the lobbyist and
6333 lobbyist's client indicating the specific nature of the issues
6334 being advocated for or against on behalf of the lobbyist's client,
6335 with sufficient detail so that the precise nature of the
6336 lobbyist's advocacy is evident from the statement itself.
6337 (3) Registration shall be valid for one (1) calendar year,
6338 commencing January 1 and ending December 31 of each year. If the
6339 lobbyist or lobbyist's client shall register after January 1, the
6340 registration shall be effective upon actual receipt by the
6341 Secretary of State and shall cease on December 31 of each year.
6342 (4) A lobbyist or lobbyist's client may terminate his
6343 registration by filing an expenditure report required under this
6344 chapter. Such report shall include information through the last
6345 day of lobbying activity. The termination report must indicate



6346 that the lobbyist intends to use the report as the final
6347 accounting of lobbying activity.

6348 (5) The Secretary of State shall prescribe and make
6349 available to every lobbyist and lobbyist's client appropriate
6350 forms for filing registration statements as required by Sections
6351 5-8-1 through 5-8-19 of this chapter.

6352 **SECTION 58.** Section 5-8-9, Mississippi Code of 1972, is
6353 brought forward as follows:

6354 5-8-9. (1) Except as otherwise provided in Section 5-8-7 of
6355 this chapter and in subsection (7) of this section, no later than
6356 January 30 of each year, a lobbyist's client shall file a report
6357 of expenditures with the Secretary of State. The report must
6358 contain information on all expenditures paid by the lobbyist's
6359 client during the preceding twelve (12) calendar months.

6360 (2) The report must list expenditures for the purpose of
6361 lobbying according to the following categories:

6362 (a) A payment to a lobbyist for salary, fee,
6363 compensation for expenses, or other purpose by a person employing,
6364 retaining or contracting for the services of the lobbyist
6365 separately or jointly with other persons;

6366 (b) A payment for those portions of office rent,
6367 utilities, supplies and compensation of support personnel
6368 attributable to lobbying activities;



6369 (c) A payment in support of or assistance to a lobbyist
6370 or the lobbyist's activities, including the direct payment of
6371 expenses incurred at the request or suggestion of the lobbyist;

6372 (d) A payment, including compensation, payment or
6373 reimbursement for the services, time or expenses of an employee
6374 for or in connection with direct communication with an executive,
6375 legislative or public official or public employee, where such
6376 communication is made at the request, suggestion or direction of
6377 the lobbyist's client;

6378 (e) A payment for or in connection with soliciting or
6379 urging other persons to enter into direct communication with an
6380 executive, legislative or public official or public employee,
6381 where such communication is made at the request, suggestion or
6382 direction of the lobbyist's client;

6383 (f) A payment or reimbursement for food, beverages,
6384 travel, lodging, entertainment or sporting activities; or

6385 (g) A purchase, payment, distribution, loan,
6386 forgiveness of a loan or payment of a loan by a third party,
6387 advance, deposit, transfer of funds, a promise to make a payment,
6388 or a gift of money or anything of value for any purpose.

6389 (3) For each executive, legislative or public official or
6390 public employee who was paid, given or promised to be paid
6391 anything of value in full or in part from the lobbyist's client,
6392 the report must also include:



6393 (a) The name of the executive, legislative or public
6394 official or public employee who was paid, given or promised
6395 anything of value;

6396 (b) A description and the monetary value of anything of
6397 value paid, given or promised to such official or employee, with
6398 sufficient detail so that the nature of the transfer is clear;

6399 (c) The place and date anything of value was paid,
6400 given or promised; and

6401 (d) The name of the person who paid, gave or promised
6402 to pay anything of value.

6403 (4) Each expenditure for the purpose of lobbying must be
6404 reported in accordance with the category of the expenditure
6405 required in this section and with any additional categories as may
6406 be required by rule or regulation of the Secretary of State.

6407 (5) The report due January 30 shall include a cumulative
6408 total for the calendar year for all reportable categories.

6409 (6) A lobbyist's client shall maintain contemporaneous
6410 records of all expenditures reportable under Sections 5-8-1
6411 through 5-8-19 of this chapter and shall retain such records for a
6412 period of two (2) years.

6413 (7) If the State of Mississippi is a lobbyist's client, the
6414 State of Mississippi shall be exempt from filing an annual report.

6415 (8) (a) If the entire Legislature and all statewide elected
6416 officials are individually invited to a single function, which is
6417 sponsored by a lobbyist's client, or a lobbyist on behalf of such



6418 client, and is to begin and end within one (1) day, then it shall
6419 not be necessary to report the costs related to food and beverages
6420 offered for immediate consumption required in subsection (3) of
6421 this section, so long as food and beverages provided at such
6422 functions are offered equally to all invitees; however, in all
6423 such cases, the amount expended for such functions shall be
6424 reported in accordance with the provisions of this subsection.

6425 (b) The report of the expenditure connected with a
6426 single function as described in paragraph (a) of this subsection
6427 shall be made by the lobbyist's client and shall include the
6428 following:

6429 (i) The total amount of money expended for the
6430 function;

6431 (ii) The estimated total number of persons in
6432 attendance at the function;

6433 (iii) The estimated total number of public
6434 officials in attendance at the function.

6435 **SECTION 59.** Section 5-8-11, Mississippi Code of 1972, is
6436 brought forward as follows:

6437 5-8-11. (1) Except as otherwise provided in Section 5-8-7
6438 of this chapter, a lobbyist shall file with the Secretary of State
6439 a separate report for each lobbyist's client. The report shall
6440 specifically list all payments received from the lobbyist's client
6441 and all expenditures that were initiated or paid by the lobbyist



6442 on behalf of each lobbyist's client during each reporting period
6443 required herein.

6444 (2) The report must list expenditures for the purpose of
6445 lobbying according to the following categories:

6446 (a) A payment to the lobbyist for salary, fee,
6447 compensation for expenses, or other purpose by the person
6448 employing, retaining or contracting for the services of the
6449 lobbyist separately or jointly with other persons;

6450 (b) A payment for those portions of office rent,
6451 utilities, supplies and compensation of support personnel
6452 attributable to lobbying activities;

6453 (c) A payment in support of or assistance to a lobbyist
6454 or the lobbyist's activities, including the direct payment of
6455 expenses incurred at the request or suggestion of the lobbyist;

6456 (d) A payment, including compensation, payment or
6457 reimbursement for the services, time or expenses of an employee
6458 for or in connection with direct communication with an executive,
6459 legislative or public official or public employee, where such
6460 communication is made at the request, suggestion or direction of
6461 the lobbyist;

6462 (e) A payment for or in connection with soliciting or
6463 urging other persons to enter into direct communication with an
6464 executive, legislative or public official or public employee,
6465 where such communication is made at the request, suggestion or
6466 direction of the lobbyist;



6467 (f) A payment or reimbursement for food, beverages,
6468 travel, lodging, entertainment or sporting activities;

6469 (g) A purchase, payment, distribution, loan, or
6470 forgiveness of a loan or payment of a loan by a third party,
6471 advance, deposit, transfer of funds, a promise to make a payment,
6472 or a gift of money or anything of value for any purpose.

6473 (3) For each executive, legislative or public official or
6474 public employee who was paid, given or promised to be paid
6475 anything of value in full or in part from the lobbyist, the report
6476 must also include:

6477 (a) The name of the executive, legislative or public
6478 official or employee who was paid, given or promised anything of
6479 value;

6480 (b) A description and the monetary value of anything of
6481 value paid, given or promised to such official or employee, with
6482 sufficient detail so that the nature of the transfer is clear;

6483 (c) The place and date anything of value was paid,
6484 given or promised; and

6485 (d) The name of the person who paid, gave or promised
6486 to pay anything of value.

6487 (4) Each expenditure for the purpose of lobbying must be
6488 reported in accordance with the category of the expenditure
6489 required in this section and with any additional categories as may
6490 be required by rule or regulation of the Secretary of State.



6491 (5) A report of expenditures must be filed with the
6492 Secretary of State no later than January 30 of each year. The
6493 report shall contain information on all expenditures paid or
6494 initiated by the lobbyist on behalf of each lobbyist's client
6495 during the preceding twelve (12) calendar months, and it shall
6496 include a cumulative total for the calendar year of all reportable
6497 categories.

6498 (6) In addition to the annual report required above, a
6499 lobbyist shall file two (2) reports during regular sessions of the
6500 Legislature with the Secretary of State on February 25 and within
6501 ten (10) days after the Legislature's adjournment sine die. Such
6502 additional report shall include the name of the executive,
6503 legislative, or public official or public employee who receives
6504 anything of value from the lobbyist or from the lobbyist on behalf
6505 of the lobbyist's client, the name of the person receiving the
6506 payment, the name of the person making the payment, the amount of
6507 the payment and the date of the payment. However, any lobbyist
6508 who lobbies local government exclusively shall be exempt from the
6509 requirement of filing the reports required by this paragraph.

6510 (7) (a) If the entire Legislature and all statewide elected
6511 officials are individually invited to a single function which is
6512 sponsored by a lobbyist on behalf of one or more lobbyist's
6513 clients and is to begin and end within one (1) day, then it shall
6514 not be necessary to report the costs related to food and beverages
6515 offered for immediate consumption as required in subsection (3) of



6516 this section, so long as food and beverages provided at such
6517 functions are offered equally to all invitees; however, in all
6518 such cases, the amount expended for such functions shall be
6519 reported in accordance with the provisions of this subsection.

6520 (b) The report of the expenditure connected with a
6521 single function as described in paragraph (a) of this subsection
6522 shall be made by the lobbyist and shall include the following:

6523 (i) The total amount of money expended for the
6524 function, reception or meal;

6525 (ii) The total number of persons in attendance at
6526 the function, reception or meal;

6527 (iii) The total number of legislators in
6528 attendance at the function, reception or meal.

6529 (8) A lobbyist shall maintain contemporaneous records of all
6530 expenditures reportable under Sections 5-8-1 through 5-8-19 of
6531 this chapter, and shall retain such records for a period of two
6532 (2) years.

6533 **SECTION 60.** Section 5-8-13, Mississippi Code of 1972, is
6534 brought forward as follows:

6535 5-8-13. (1) A lobbyist shall not contract to receive or
6536 accept compensation dependent upon the success or failure of a
6537 legislative or executive action.

6538 (2) A lobbyist or lobbyist's client shall not knowingly or
6539 willfully make or cause to be made a false statement or
6540 misrepresentation of facts to an executive, legislative or public



6541 official or public employee, or to the public in general with the
6542 intent to affect the outcome of a legislative or executive action.

6543 (3) A lobbyist or lobbyist's client shall not cause a
6544 legislative or executive action for the purpose of obtaining
6545 employment to lobby in support of or in opposition to the
6546 legislative or executive action.

6547 (4) An executive, legislative or public official or public
6548 employee shall not be a lobbyist, except that he may act as a
6549 lobbyist when acting in his official capacity.

6550 (5) A lobbyist must disclose anything of value given in
6551 whole or in part to any executive, legislative or public official
6552 or public employee.

6553 **SECTION 61.** Section 5-8-17, Mississippi Code of 1972, is
6554 brought forward as follows:

6555 5-8-17. (1) In addition to any other penalty permitted by
6556 law, the Secretary of State shall require any person who fails to
6557 file a report as required under Sections 5-8-1 through 5-8-19 of
6558 this chapter, or who shall file a report which fails to comply
6559 with the material particulars of Sections 5-8-1 through 5-8-19 of
6560 this chapter or any rules, regulations or procedures implemented
6561 pursuant to Sections 5-8-1 through 5-8-19 of this chapter, to be
6562 assessed a civil penalty as follows:

6563 (a) Within five (5) calendar days after any deadline
6564 for filing a report pursuant to Sections 5-8-1 through 5-8-19 of
6565 this chapter, the Secretary of State shall compile a list of those



6566 lobbyists and lobbyists' clients who have failed to file a
6567 required report. The Secretary of State shall provide each
6568 lobbyist or lobbyist's client who has failed to file such a report
6569 notice of such failure by certified mail.

6570 (b) Beginning with the tenth calendar day after which
6571 any report shall be due, the Secretary of State shall assess the
6572 delinquent lobbyist and delinquent lobbyist's client a civil
6573 penalty of Fifty Dollars (\$50.00) per day and part of any day
6574 until a valid report is delivered to the Secretary of State, up to
6575 a maximum of ten (10) days. However, in the discretion of the
6576 Secretary of State, the assessing of such fine may be waived if
6577 the Secretary of State shall determine that unforeseeable
6578 mitigating circumstances, such as the health of the lobbyist,
6579 shall interfere with timely filing of a required report.

6580 (c) Filing of the required report and payment of the
6581 fine within ten (10) calendar days of notice by the Secretary of
6582 State that a required statement has not been filed constitutes
6583 compliance with Sections 5-8-1 through 5-8-19 of this chapter.

6584 (d) Payment of the fine without filing the required
6585 report does not in any way excuse or exempt any person required to
6586 file from the filing requirements of Sections 5-8-1 through 5-8-19
6587 of this chapter.

6588 (2) (a) Upon the sworn application of a lobbyist or
6589 lobbyist's client against whom a civil penalty has been assessed
6590 pursuant to subsection (1), the Secretary of State shall forward



6591 the application to the Mississippi Ethics Commission. The
6592 commission shall fix a time and place for a hearing and shall
6593 cause a written notice specifying the civil penalties that have
6594 been assessed against the lobbyist or lobbyist's client and notice
6595 of the time and place of the hearing to be served upon the
6596 lobbyist or lobbyist's client at least twenty (20) calendar days
6597 prior to the hearing date. Such notice may be served by mailing a
6598 copy thereof by certified mail, postage prepaid, to the last known
6599 business address of the lobbyist or lobbyist's client.

6600 (b) The commission is authorized to issue subpoenas for
6601 the attendance of witnesses and the production of books and papers
6602 at such hearing. Process issued by the commission shall extend to
6603 all parts of the state and shall be served by any person
6604 designated by the commission for such service.

6605 (c) The lobbyist or lobbyist's client shall have the
6606 right to appear either personally or by counsel, or both, to
6607 produce witnesses or evidence in his behalf, to cross-examine
6608 witnesses and to have subpoenas issued by the commission.

6609 (d) A hearing officer shall be appointed by the
6610 commission to conduct the hearing. At the hearing, the hearing
6611 officer shall administer oaths as may be necessary for the proper
6612 conduct of the hearing. All hearings shall be conducted by the
6613 commission, who shall not be bound by strict rules of procedure or
6614 by the laws of evidence in the conduct of the proceedings, but the



6615 determination shall be based upon sufficient evidence to sustain
6616 it.

6617 (e) Where, in any proceeding before the commission, any
6618 witness fails or refuses to attend upon a subpoena issued by the
6619 commission, refuses to testify, or refuses to produce any books
6620 and papers the production of which is called for by a subpoena,
6621 the attendance of such witness, the giving of his testimony or the
6622 production of the books and papers shall be enforced by any court
6623 of competent jurisdiction of this state in the manner provided for
6624 the enforcement of attendance and testimony of witnesses in civil
6625 cases in the courts of this state.

6626 (f) Within fifteen (15) calendar days after conclusion
6627 of the hearing, the commission shall reduce its decision to
6628 writing and forward an attested true copy thereof to the last
6629 known business address of the lobbyist or lobbyist's client by way
6630 of United States first-class, certified mail, postage prepaid.

6631 (3) (a) The right to appeal from the decision of the
6632 commission in an administrative hearing concerning the assessment
6633 of civil penalties authorized pursuant to this section is hereby
6634 granted. Such appeal shall be to the Circuit Court of Hinds
6635 County and shall include a verbatim transcript of the testimony at
6636 the hearing. The appeal shall be taken within thirty (30)
6637 calendar days after notice of the decision of the commission
6638 following an administrative hearing. The appeal shall be
6639 perfected upon filing notice of the appeal and by the prepayment



6640 of all costs, including the cost of the preparation of the record
6641 of the proceedings by the commission, and the filing of a bond in
6642 the sum of Two Hundred Dollars (\$200.00), conditioned that if the
6643 decision of the commission be affirmed by the court, the lobbyist
6644 or lobbyist's client will pay the costs of the appeal and the
6645 action in court. If the decision is reversed by the court, the
6646 Secretary of State will pay the costs of the appeal and the action
6647 in court.

6648 (b) If there is an appeal, such appeal shall act as a
6649 supersedeas. The court shall dispose of the appeal and enter its
6650 decision promptly. The hearing on the appeal may be tried in
6651 vacation, in the court's discretion. The scope of review of the
6652 court shall be limited to a review of the record made before the
6653 commission to determine if the action of the commission is
6654 unlawful for the reason that it was (i) not supported by
6655 substantial evidence, (ii) arbitrary or capricious, (iii) beyond
6656 the power of the commission to make, or (iv) in violation of some
6657 statutory or constitutional right of the appellant. The decision
6658 of the court may be appealed to the Supreme Court in the manner
6659 provided by law.

6660 (4) If, after forty-five (45) calendar days of the date of
6661 the administrative hearing procedure set forth in subsection (2),
6662 the lobbyist or lobbyist's client shall not file a valid report as
6663 required by law, the commission shall notify the Attorney General



6664 of the delinquency. The Attorney General shall investigate said
6665 offense in accordance with the provisions of this chapter.

6666 **SECTION 62.** Section 5-8-19, Mississippi Code of 1972, is
6667 brought forward as follows:

6668 5-8-19. The Secretary of State shall:

6669 (a) Provide forms for registration and for statements
6670 required by Sections 5-8-1 through 5-8-19 of this chapter to all
6671 persons required to file.

6672 (b) Issue a certificate of registration to a lobbyist
6673 registered under the provisions of Sections 5-8-1 through 5-8-19
6674 of this chapter.

6675 (c) Make all statements and reports filed available for
6676 public inspection and copying, at a reasonable cost, during
6677 regular office hours.

6678 (d) Publish an annual report summarizing the financial
6679 activities of lobbyists and lobbyists' clients, and such annual
6680 report shall not include amounts reported pursuant to Sections
6681 5-8-9(8) and 5-8-11(7) for single functions in the calculation of
6682 the cumulative total amount of money expended for lobbying
6683 purposes.

6684 **SECTION 63.** Section 5-8-21, Mississippi Code of 1972, is
6685 brought forward as follows:

6686 5-8-21. Any person who, with intent, violates any of the
6687 provisions of this chapter whether acting either individually or
6688 as an officer, agent, employee, or counsel of a person, firm,



6689 corporation or association, or any person whether acting
6690 individually or as the officer, employee, agent or counsel of a
6691 firm, corporation or association, who, with intent, causes or
6692 participates, either directly or indirectly, in any violation of
6693 the provisions of this chapter shall upon conviction for the first
6694 offense be fined not more than One Thousand Dollars (\$1,000.00) or
6695 imprisoned in the county jail not more than six (6) months or both
6696 and upon conviction for a second or any subsequent offense be
6697 fined not more than Five Thousand Dollars (\$5,000.00) or
6698 imprisoned in the Penitentiary not more than three (3) years or
6699 both. Any association or corporation which, with intent,
6700 violates, or causes or participates, either directly or
6701 indirectly, in any violation of any of the provisions of this
6702 chapter shall, for each offense, upon conviction, be fined not
6703 more than Five Thousand Dollars (\$5,000.00). The prosecution or
6704 conviction of one or more of the officers or employees of such
6705 corporation or association shall not be a bar to the prosecution
6706 and conviction of the corporation or association for such offense.

6707 **SECTION 64.** Section 5-8-23, Mississippi Code of 1972, is
6708 brought forward as follows:

6709 5-8-23. If any section, paragraph, sentence, clause, phrase
6710 or any part of this chapter passed hereafter is declared to be
6711 unconstitutional or void, or if for any reason is declared to be
6712 invalid or of no effect, the remaining sections, paragraphs,



6713 sentences, clauses, phrases or parts thereof shall be in no manner
6714 affected thereby but shall remain in full force and effect.

6715 **SECTION 65.** Section 25-53-21, Mississippi Code of 1972, is
6716 brought forward as follows:

6717 25-53-21. The executive director shall have the following
6718 duties, responsibilities and authority:

6719 (a) He shall conduct continuing studies of all
6720 information technology activities carried out by all agencies of
6721 the state and shall develop a long-range plan for the efficient
6722 and economical performance of such activities in state government.
6723 Such plan shall be submitted to the authority for its approval
6724 and, having been approved by the authority, shall be implemented
6725 by the executive director and all state agencies. Such plan shall
6726 be continuously reviewed and modifications thereof shall be
6727 proposed to the authority by the executive director as
6728 developments in information technology techniques and changes in
6729 the structure, activities, and functions of state government may
6730 require.

6731 (b) He shall review the purchasing practices of all
6732 state agencies in the area of the purchasing of supplies for
6733 information technology and make recommendations to the authority
6734 and to the Public Procurement Review Board for the institution of
6735 purchasing procedures which will insure the most economical
6736 procurement of such supplies commensurate with the efficient
6737 operation of all departments and agencies of state government.



6738 (c) He shall see that all reports required of all
6739 agencies are promptly and accurately made in accordance with the
6740 rules and regulations adopted by the authority. Either in person
6741 or through his authorized agents, he shall make such inspections
6742 of information technology operations being conducted by any of the
6743 agencies of the state as may be necessary for the performance of
6744 his duties.

6745 (d) He shall suggest and cause to be brought about
6746 cooperation between the several state agencies in order to provide
6747 efficiency in information technology operation. He shall,
6748 together with the heads of the agencies involved, reduce to
6749 writing and execute cooperative plans for the acquisition and
6750 operation of information technology equipment, and any such plan
6751 so adopted shall be carried out in accordance with the provisions
6752 of such plan unless the same shall be amended by the joint action
6753 of the executive director and the heads of agencies involved. The
6754 executive director shall report to the authority the details of
6755 any plan so adopted and all amendments or modifications thereof,
6756 and shall otherwise report to the authority and to the Public
6757 Procurement Review Board any failure on the part of any agency to
6758 carry out the provisions of such plan. In the event the head of
6759 any agency involved or the executive director shall propose
6760 amendments to a plan so adopted and such amendment is disapproved
6761 by the head of another agency involved or the executive director,
6762 an appeal may be taken to the authority which may, after full



6763 consideration thereof, order the adoption of the proposed
6764 amendment or any modification thereof. The executive director
6765 shall make decisions on all questions of the division of the cost
6766 of information technology operations among the several agencies,
6767 but his findings shall be subject to the approval or modification
6768 by the authority on appeal to it.

6769 (e) He shall review all contracts for acquisition of
6770 computer equipment or services now or hereafter in force and may
6771 require the renegotiation, termination, amendment or execution of
6772 any such contracts in proper form and in accordance with the
6773 policies and rules and regulations and subject to the direction of
6774 the authority. In the negotiation and execution of such
6775 contracts, the executive director may negotiate a limitation on
6776 the liability to the state of prospective contractors provided
6777 such limitation affords the state reasonable protection.

6778 (f) He shall act as the purchasing and contracting
6779 agent for the State of Mississippi in the negotiation and
6780 execution of all contracts for the acquisition of computer
6781 equipment or services. He shall receive, review, and promptly
6782 approve or disapprove all requests of agencies of the state for
6783 the acquisition of computer equipment or services, which are
6784 submitted in accordance with rules and regulations of the
6785 authority. In the event that any such request is disapproved, he
6786 shall immediately notify the requesting agency and the members of
6787 the authority in writing of such disapproval, stating his reasons



6788 therefor. The disapproval of any request by the executive
6789 director of the authority may be appealed to the authority or to
6790 the Public Procurement Review Board, respectively, in such manner
6791 as may be authorized by such reasonable rules and regulations
6792 hereby authorized to be adopted by the authority and by the Public
6793 Procurement Review Board to govern the same. The executive
6794 director shall report the approval of all such requests to the
6795 authority in such manner as may be directed by the authority, and
6796 shall execute any such contracts only after complying with rules
6797 and regulations which may be adopted by the authority in relation
6798 thereto. Any contracts for personal or professional services
6799 entered into by the executive director shall be exempted from the
6800 requirements of Section 25-9-120(3) relating to submission of such
6801 contract to the State Personal Service Contract Review Board.

6802 (g) He shall suggest and cause to be brought about
6803 cooperation between the several state agencies, departments and
6804 institutions in order that work may be done by one agency for
6805 another agency, and equipment in one agency may be made available
6806 to another agency, and suggest and cause to be brought about such
6807 improvements as may be necessary in joint or cooperative
6808 information technology operations.

6809 (h) He shall be designated as the "Chief Information
6810 Confidentiality Officer" after being duly sworn to the oath of
6811 this office by the chairman of the authority and shall be



6812 responsible for administering the oath to other qualified officers
6813 he may designate.

6814 (i) He shall appoint employees of the Mississippi
6815 Department of Information Technology Services, or at his
6816 discretion, employees of other state agencies and institutions
6817 that are responsible for handling or processing data for any
6818 agency or institution other than that for which they are employed,
6819 to a position of information custodial care that shall be known as
6820 "Information Confidentiality Officer." The selection and swearing
6821 of all officers shall be reported to the authority at the next
6822 regular meeting and names, affirmation dates and employment dates
6823 shall be recorded in the permanent minutes of the authority.

6824 **SECTION 66.** Section 25-53-25, Mississippi Code of 1972, is
6825 brought forward as follows:

6826 25-53-25. (1) Nothing in this chapter shall be construed to
6827 imply exemption from the public purchases law, being Section
6828 31-7-1 et seq.

6829 (2) The authority may establish policies and procedures for
6830 the purpose of delegating the bidding and contracting
6831 responsibilities related to the procurement of computer equipment
6832 or services to the purchasing agency. Such policies and
6833 procedures must address the following issues:

6834 (a) Establish categories of equipment or services
6835 affected;



6836 (b) Establish maximum unit and/or ceiling prices of
6837 such procurements;

6838 (c) Establish reporting, monitoring and control of such
6839 procurements; and

6840 (d) Establish other such rules and regulations as
6841 necessary to fully implement the purposes of this section.
6842 Nothing in this subsection shall be construed to imply exemption
6843 from the public purchases law, being Section 31-7-1 et seq.

6844 (3) Acquisitions of computer equipment and services by
6845 institutions of higher learning or junior colleges wholly with
6846 federal funds and not with state general funds shall be exempt
6847 from the provisions of this chapter; however, nothing in this
6848 subsection shall be construed to imply an exemption of such
6849 acquisitions from the public purchases law, being Section 31-7-1
6850 et seq.

6851 (4) [Repealed]

6852 **SECTION 67.** Section 65-1-85, Mississippi Code of 1972, is
6853 brought forward as follows:

6854 65-1-85. (1) All contracts by or on behalf of the
6855 commission for the purchase of materials, equipment and supplies
6856 shall be made in compliance with Section 31-7-1 et seq. All
6857 contracts by or on behalf of the commission for construction,
6858 reconstruction or other public work authorized to be done under
6859 the provisions of this chapter, except maintenance, shall be made
6860 by the executive director, subject to the approval of the



6861 commission, only upon competitive bids after due advertisement as
6862 follows, to wit:

6863 (a) Advertisement for bids shall be in accordance with
6864 such rules and regulations, in addition to those herein provided,
6865 as may be adopted therefor by the commission, and the commission
6866 is authorized and empowered to make and promulgate such rules and
6867 regulations as it may deem proper, to provide and adopt standard
6868 specifications for road and bridge construction, and to amend such
6869 rules and regulations from time to time.

6870 (b) The advertisement shall be inserted twice, being
6871 once a week for two (2) successive weeks in a newspaper published
6872 at the seat of government in Jackson, Mississippi, having a
6873 general circulation throughout the state, and no letting shall be
6874 less than fourteen (14) days nor more than sixty (60) days after
6875 the publication of the first notice of such letting, and notices
6876 of such letting may be placed in a metropolitan paper or national
6877 trade publication.

6878 (c) Before advertising for such work, the executive
6879 director shall cause to be prepared and filed in the department
6880 detailed plans and specifications covering the work proposed to be
6881 done and copies of the plans and specifications shall be subject
6882 to inspection by any citizen during all office hours and made
6883 available to all prospective bidders upon such reasonable terms
6884 and conditions as may be required by the commission. A fee shall



6885 be charged equal to the cost of producing a copy of any such plans
6886 and specifications.

6887 (d) All such contracts shall be let to a responsible
6888 bidder with the lowest and best bid, and a record of all bids
6889 received for construction and reconstruction shall be preserved.

6890 (e) Each bid for such a construction and reconstruction
6891 contract must be accompanied by a cashier's check, a certified
6892 check or bidders bond executed by a surety company authorized to
6893 do business in the State of Mississippi, in the principal amount
6894 of not less than five percent (5%) of the bid, guaranteeing that
6895 the bidder will give bond and enter into a contract for the
6896 faithful performance of the contract according to plans and
6897 specifications on file.

6898 (f) Bonds shall be required of the successful bidder in
6899 an amount equal to the contract price. The contract price shall
6900 mean the entire cost of the particular contract let. In the event
6901 change orders are made after the execution of a contract which
6902 results in increasing the total contract price, additional bond in
6903 the amount of the increased cost may be required. The surety or
6904 sureties on such bonds shall be a surety company or surety
6905 companies authorized to do business in the State of Mississippi,
6906 all bonds to be payable to the State of Mississippi and to be
6907 conditioned for the prompt, faithful and efficient performance of
6908 the contract according to plans and specifications, and for the
6909 prompt payment of all persons furnishing labor, material,



6910 equipment and supplies therefor. Such bonds shall be subject to
6911 the additional obligation that the principal and surety or
6912 sureties executing the same shall be liable to the state in a
6913 civil action instituted by the state at the instance of the
6914 commission or any officer of the state authorized in such cases,
6915 for double any amount in money or property the state may lose or
6916 be overcharged or otherwise defrauded of by reason of any wrongful
6917 or criminal act, if any, of the contractor, his agent or
6918 employees.

6919 (2) With respect to equipment used in the construction,
6920 reconstruction or other public work authorized to be done under
6921 the provisions of this chapter: the word "equipment," in addition
6922 to all equipment incorporated into or fully consumed in connection
6923 with such project, shall include the reasonable value of the use
6924 of all equipment of every kind and character and all accessories
6925 and attachments thereto which are reasonably necessary to be used
6926 and which are used in carrying out the performance of the
6927 contract, and the reasonable value of the use thereof, during the
6928 period of time the same are used in carrying out the performance
6929 of the contract, shall be the amount as agreed upon by the persons
6930 furnishing the equipment and those using the same to be paid
6931 therefor, which amount, however, shall not be in excess of the
6932 maximum current rates and charges allowable for leasing or renting
6933 as specified in Section 65-7-95; the word "labor" shall include
6934 all work performed in repairing equipment used in carrying out the



6935 performance of the contract, which repair labor is reasonably
6936 necessary to the efficient operation of said equipment; and the
6937 words "materials" and "supplies" shall include all repair parts
6938 installed in or on equipment used in carrying out the performance
6939 of the contract, which repair parts are reasonably necessary to
6940 the efficient operation of said equipment.

6941 (3) The executive director, subject to the approval of the
6942 commission, shall have the right to reject any and all bids,
6943 whether such right is reserved in the notice or not.

6944 (4) The commission may require the prequalification of any
6945 and all bidders and the failure to comply with prequalification
6946 requirements may be the basis for the rejection of any bid by the
6947 commission. The commission may require the prequalification of
6948 any and all subcontractors before they are approved to participate
6949 in any contract awarded under this section.

6950 (5) The commission may adopt rules and regulations for the
6951 termination of any previously awarded contract which is not timely
6952 proceeding toward completion. The failure of a contractor to
6953 comply with such rules and regulations shall be a lawful basis for
6954 the commission to terminate the contract with such contractor. In
6955 the event of a termination under such rules and regulations, the
6956 contractor shall not be entitled to any payment, benefit or
6957 damages beyond the cost of the work actually completed.

6958 (6) Any contract for construction or paving of any highway
6959 may be entered into for any cost which does not exceed the amount



6960 of funds that may be made available therefor through bond issues
6961 or from other sources of revenue, and the letting of contracts for
6962 such construction or paving shall not necessarily be delayed until
6963 the funds are actually on hand, provided authorization for the
6964 issuance of necessary bonds has been granted by law to supplement
6965 other anticipated revenue, or when the department certifies to the
6966 Department of Finance and Administration and the Legislative
6967 Budget Office that projected receipts of funds by the department
6968 will be sufficient to pay such contracts as they become due and
6969 the Department of Finance and Administration determines that the
6970 projections are reasonable and receipts will be sufficient to pay
6971 the contracts as they become due. The Department of Finance and
6972 Administration shall spread such determination on its minutes
6973 prior to the letting of any contracts based on projected receipts.
6974 Nothing in this subsection shall prohibit the issuance of bonds,
6975 which have been authorized, at any time in the discretion of the
6976 State Bond Commission, nor to prevent investment of surplus funds
6977 in United States government bonds or State of Mississippi bonds as
6978 presently authorized by Section 12, Chapter 312, Laws of 1956.

6979 (7) All other contracts for work to be done under the
6980 provisions of this chapter and for the purchase of materials,
6981 equipment and supplies to be used as provided for in this chapter
6982 shall be made in compliance with Section 31-7-1 et seq.

6983 (8) The commission shall not empower or authorize the
6984 executive director, or any one or more of its members, or any



6985 engineer or other person to let or make contracts for the
6986 construction or repair of public roads, or building bridges, or
6987 for the purchase of material, equipment or supplies contrary to
6988 the provisions of this chapter as set forth in this section,
6989 except in cases of flood or other cases of emergency where the
6990 public interest requires that the work be done or the materials,
6991 equipment or supplies be purchased without the delay incident to
6992 advertising for competitive bids. Such emergency contracts may be
6993 made without advertisement under such rules and regulations as the
6994 commission may prescribe.

6995 (9) The executive director, subject to the approval of the
6996 commission, is authorized to negotiate and make agreements with
6997 communities and/or civic organizations for landscaping,
6998 beautification and maintenance of highway rights-of-way; however,
6999 nothing in this subsection shall be construed as authorization for
7000 the executive director or commission to participate in such a
7001 project to an extent greater than the average cost for maintenance
7002 of shoulders, backslopes and median areas with respect thereto.

7003 (10) The executive director may negotiate and enter into
7004 contracts with private parties for the mowing of grass and
7005 trimming of vegetation on the rights-of-way of state highways
7006 whenever such practice is possible and cost effective.

7007 (11) (a) As an alternative to the method of awarding
7008 contracts as otherwise provided in this section, the commission
7009 may use the design-build method of contracting for the following:



7010 (i) Projects for the Mississippi Development
7011 Authority pursuant to agreements between both governmental
7012 entities;

7013 (ii) Any project with an estimated cost of not
7014 more than Ten Million Dollars (\$10,000,000.00), not to exceed two
7015 (2) projects per fiscal year; and

7016 (iii) Any project which has an estimated cost of
7017 more than Ten Million Dollars (\$10,000,000.00), not to exceed one
7018 (1) project per fiscal year.

7019 (b) As used in this subsection, the term "design-build"
7020 method of contracting means a contract that combines the design
7021 and construction phases of a project into a single contract and
7022 the contractor is required to satisfactorily perform, at a
7023 minimum, both the design and construction of the project.

7024 (c) The commission shall establish detailed criteria
7025 for the selection of the successful design-build contractor in
7026 each request for design-build proposals. The evaluation of the
7027 selection committee is a public record and shall be maintained for
7028 a minimum of ten (10) years after project completion.

7029 (d) The commission shall maintain detailed records on
7030 projects separate and apart from its regular record keeping. The
7031 commission shall file a report to the Legislature evaluating the
7032 design-build method of contracting by comparing it to the low-bid
7033 method of contracting. At a minimum, the report must include:



7034 (i) The management goals and objectives for the
7035 design-build system of management;

7036 (ii) A complete description of the components of
7037 the design-build management system, including a description of the
7038 system the department put into place on all projects managed under
7039 the system to insure that it has the complete information on
7040 highway segment costs and to insure proper analysis of any
7041 proposal the commission receives from a highway contractor;

7042 (iii) The accountability systems the
7043 Transportation Department established to monitor any design-build
7044 project's compliance with specific goals and objectives for the
7045 project;

7046 (iv) The outcome of any project or any interim
7047 report on an ongoing project let under a design-build management
7048 system showing compliance with the goals, objectives, policies and
7049 procedures the department set for the project; and

7050 (v) The method used by the department to select
7051 projects to be let under the design-build system of management and
7052 all other systems, policies and procedures that the department
7053 considered as necessary components to a design-build management
7054 system.

7055 (e) All contracts let under the provisions of this
7056 subsection shall be subject to oversight and review by the State
7057 Auditor. The State Auditor shall file a report with the
7058 Legislature on or before January 1 of each year detailing his



7059 findings with regard to any contract let or project performed in
7060 violation of the provisions of this subsection. The actual and
7061 necessary expenses incurred by the State Auditor in complying with
7062 this paragraph (e) shall be paid for and reimbursed by the
7063 Mississippi Department of Transportation out of funds made
7064 available for the contract or contracts let and project or
7065 projects performed.

7066 (12) The provisions of this section shall not be construed
7067 to prohibit the commission from awarding or entering into
7068 contracts for the design, construction and financing of toll
7069 roads, highways and bridge projects as provided under Sections
7070 65-43-1 and 65-43-3.

7071 **SECTION 68.** Section 65-1-141, Mississippi Code of 1972, is
7072 brought forward as follows:

7073 65-1-141. (1) (a) The Highway Commission shall annually
7074 have the Highway Department prepare a three-year plan for the
7075 maintenance, construction, reconstruction and relocation of the
7076 State Highway System. The plan shall include:

7077 (i) For each interstate, primary, secondary and
7078 other highway or road system under the jurisdiction of the Highway
7079 Commission, a list and detailed description of those highways, or
7080 segments thereof, on the highway system which are determined to
7081 have the highest priority for maintenance and which can be
7082 maintained within the three-year period from funds available or
7083 estimated to be made available for such purpose;



7084 (ii) For each interstate, primary, secondary and
7085 other highway or road system under the jurisdiction of the Highway
7086 Commission, a list and detailed description of those highways, or
7087 segments thereof, on the highway system which are determined to
7088 have the highest priority for construction, reconstruction or
7089 relocation and for which contracts can be let for construction,
7090 reconstruction or relocation within the three-year period from
7091 funds available or estimated to be available for such purpose;

7092 (iii) The reasons for the priority assigned to
7093 highways, or segments thereof, pursuant to the criteria
7094 established in the following subsection (1)(b), and the annual
7095 cost and total estimated cost of completion for each such project;
7096 and

7097 (iv) A synopsis of any analyses or studies
7098 considered by the commission to develop the criteria in
7099 determining priorities.

7100 (b) The Highway Commission shall determine the criteria
7101 on which the Highway Department shall assign priority for
7102 maintenance, construction, reconstruction and relocation of
7103 highways, or segments thereof, on each highway or road system
7104 under its jurisdiction, taking into consideration all of the
7105 following criteria:

7106 (i) Public necessity and public safety;
7107 (ii) Present and future economic benefit and
7108 commercial value;



7109 (iii) Present and future traffic census; and
7110 (iv) Route continuity.

7111 Additionally, the Highway Commission shall take into
7112 consideration conditions potentially hazardous to the public
7113 safety at points on highways having substantial truck traffic
7114 entering and leaving the highway. In setting priorities for
7115 construction, the department shall take into consideration the
7116 construction of turning lanes at such points on highways to
7117 facilitate the safe movement of traffic.

7118 (c) To develop the criteria to be used in determining
7119 priorities, the State Highway Commission may conduct public
7120 hearings; shall conduct analyses or studies of highway needs,
7121 utilizing highway department personnel; and shall consider highway
7122 needs analyses or studies submitted to them by the University
7123 Research Center, which is hereby directed to develop such highway
7124 needs analyses or studies with respect to the criteria set forth
7125 in subsection (1) (b) (ii) above and to timely submit or present
7126 such analyses or studies to the State Highway Commission.

7127 (2) All funds appropriated and made available to the
7128 State Highway Department from any source within the state for
7129 maintenance, construction, reconstruction and relocation of the
7130 state highway system shall be expended on order of the
7131 State Highway Commission according to the priorities herein set
7132 forth and without regard to the provisions of Sections 65-3-29
7133 through 65-3-33. The commission shall spread upon its minutes,



7134 from time to time, the priority of roads for application of such
7135 funds, the specific reasons for each priority so assigned, and the
7136 source and amount of funds applied to each project.

7137 (a) All interstate funds apportioned to the
7138 State Highway Commission under the Federal Aid Highway Act of 1956
7139 shall be allocated on the basis of need to complete the interstate
7140 system of highways to provide for the maximum commercial benefit
7141 to the state.

7142 (b) All primary road construction money shall be used
7143 in the priorities established pursuant to subsection (1)(b)
7144 hereof.

7145 (c) The State Highway Department shall match all
7146 available federal money for highways.

7147 (d) Federal aid primary system as constituted. Priority
7148 of use of these funds shall be determined by roads meeting most of
7149 the criteria receiving priority established pursuant to subsection
7150 (1)(b) hereof.

7151 (e) Secondary road construction money shall be used
7152 with priorities established by roads meeting most of the following
7153 criteria receiving priority:

7154 (i) Roads in the order of the relative use and
7155 importance of such highways, as may be determined by the present
7156 and future traffic censuses thereof, taking into consideration
7157 their present and future use, convenience, public necessity and
7158 public safety, the connecting of Mississippi towns, cities and



7159 population centers and the economic contribution to the state
7160 should a specific highway be improved, the recorded maintenance
7161 expense and their continuity as highways through the state.

7162 (ii) Roads which carry the most traffic.

7163 (iii) Roads which connect the federal aid primary
7164 or interstate system in a uniform manner.

7165 (iv) Roads which serve the most commercial value.

7166 (v) Roads which are arterial in nature.

7167 (vi) Roads which connect the major rural
7168 communities with similar communities in adjoining counties.

7169 (f) The State Highway Department shall when funds are
7170 available match all available federal money for highways.

7171 (3) Projects eligible for reimbursement under the provisions
7172 of Public Law 97-424 shall be exempt from the requirements of
7173 subsection (1)(a) of this section, but the State Highway
7174 Commission shall expend funds available to it for such projects in
7175 the priorities established pursuant to subsection (1)(b) hereof.

7176 (4) All highway construction, reconstruction and relocation
7177 shall be by contract, let on competitive bid in the manner
7178 provided by statute. On any one (1) reconstruction project the
7179 total cost of which does not exceed Two Hundred Thousand Dollars
7180 (\$200,000.00), reconstruction may be accomplished by Highway
7181 Department labor, equipment or materials. Nothing herein shall be
7182 construed to affect maintenance and repair work done or to be done
7183 on existing roads. When new programs require the utilization of



7184 professional services, the Mississippi State Highway Department
7185 may contract with, engage, or retain available, competent firms
7186 actively offering such professional services as a primary source
7187 of livelihood. "Professional services" is defined as services
7188 normally performed on a fee basis or contract by engineers,
7189 architects, business management, administrative and consulting
7190 firms.

7191 **SECTION 69.** Section 77-3-105, Mississippi Code of 1972, is
7192 brought forward as follows:

7193 77-3-105. (1) (a) The commission is fully empowered and
7194 authorized to include in an electric public utility's rate base
7195 and rates, as used and useful components of furnishing electric
7196 service, all expenditures determined to be prudently incurred
7197 preconstruction, construction, operating and related costs that
7198 the utility incurs in connection with a generating facility
7199 (including but not limited to all such costs contained in the
7200 utility's "Construction Work in Progress" or "CWIP" accounts),
7201 whether or not the construction of any generating facility is ever
7202 commenced or completed, or the generating facility is placed into
7203 commercial operation. However, all costs incurred before May 9,
7204 2008, may be reflected in rates only upon an order of the Public
7205 Service Commission after a finding of prudence.

7206 (b) The commission is further empowered and authorized
7207 to allow a public utility to accrue a just and reasonable rate of
7208 return to be determined by the commission on the unrecovered



7209 balance of any preconstruction or construction costs which shall
7210 include all costs incurred before May 9, 2008, and such costs may
7211 be reflected in rates only upon an order of the Public Service
7212 Commission after a finding of prudence.

7213 (c) The commission may order that preconstruction,
7214 construction, operating and related costs be reflected in rates
7215 either as a part of base rates or through the operation of a rider
7216 schedule or other similar rate mechanism, or through a combination
7217 thereof, as the commission deems appropriate and in the public
7218 interest, and such costs incurred before May 9, 2008, may be
7219 reflected in rates only upon an order of the Public Service
7220 Commission after a finding of prudence.

7221 (d) Notwithstanding other provisions of this section,
7222 recovery of any construction costs incurred in excess of the
7223 amount estimated by the public utility in a certificate proceeding
7224 will be addressed by the commission in a proceeding after the
7225 generating facility is completed and commences commercial
7226 operation, upon petition by the public utility.

7227 (e) Once the commission grants a facilities
7228 certificate, no public utility shall abandon or cancel
7229 construction of a generating facility without approval from the
7230 commission based on a finding that the construction is no longer
7231 in the public interest. Notwithstanding any provisions of this
7232 article to the contrary, if the generating facility is abandoned
7233 or cancelled without the approval of the commission, the



7234 commission shall determine whether the public interest will be
7235 served to allow (i) the recovery of all or part of the prudently
7236 incurred preconstruction, construction and related costs in
7237 connection with the generating facility and related facilities,
7238 (ii) the recovery of a return on the unrecovered balance of the
7239 utility's prudently incurred costs at a just and reasonable rate
7240 of return to be determined by the commission, or (iii) the
7241 implementation of credits, refunds or rebates to ratepayers to
7242 defray costs incurred for the generating facility.

7243 (2) (a) The commission is authorized to conduct prudence
7244 reviews on a periodic or ongoing basis with regard to any
7245 preconstruction, construction, operating and related costs
7246 associated with a generating facility, to hold hearings thereon,
7247 and to reflect the outcome of such commission reviews, including
7248 commission prudence determinations, in the public utility's rates.
7249 The commission is authorized to make and issue such prudence
7250 determinations as frequently as each calendar quarter. The
7251 commission is authorized to set a procedural schedule for such
7252 commission determinations. Any such prudence determinations shall
7253 be binding in all future regulatory proceedings affecting such
7254 generating facility, unless the generating facility is imprudently
7255 abandoned or cancelled.

7256 (b) The Executive Director of the Public Utilities
7257 Staff and the commission may enter into professional services
7258 contracts with one or more consultants to audit preconstruction,



7259 construction and related costs incurred for a generating facility
7260 and to make such reports and provide testimony thereon as may be
7261 required by the executive director or the commission, as
7262 applicable. Such contracts shall be considered to be for auditor
7263 or utility rate expert services under Section 25-9-120. Costs
7264 associated with such professional service contracts shall not
7265 exceed Three Hundred Fifty Thousand Dollars (\$350,000.00) for work
7266 performed on any given nuclear generating facility and Two Hundred
7267 Thousand Dollars (\$200,000.00) on any given non-nuclear generating
7268 facility, in any twelve-month period; provided, however, the
7269 Public Utilities Staff and the commission may by rule, after
7270 notice and hearing, modify these amounts. The consultants shall
7271 submit periodically to the executive director or the commission,
7272 as applicable, for approval of payment, itemized bills detailing
7273 the work performed. The executive director or the chairman of the
7274 commission, as applicable, shall requisition the audited public
7275 utility to make the requisite payments to such consultants.
7276 Payments by the audited public utility shall be considered as
7277 preconstruction, construction, operating or related costs and
7278 recoverable pursuant to paragraph (c) of subsection (1).

7279 (c) The provisions of Sections 77-3-37(7)(b) and
7280 77-3-39(10) and (15) shall not apply to any proceeding for the
7281 change in rates by the commission in connection with a generating
7282 facility.



7283 (3) Any party aggrieved by any final order of the commission
7284 relating to any generating facility shall have a right of direct
7285 appeal to the Mississippi Supreme Court. The procedures set out
7286 in Section 77-3-72 for direct appeal, including those provisions
7287 relating to periods of time in which filings are to be made, shall
7288 apply to any commission final order promulgated, in whole or in
7289 part, pursuant to this article.

7290 **SECTION 70.** This act shall take effect and be in force from
7291 and after its passage.

