

By: Representatives Turner, Arnold, Bell,
Carpenter, DeBar, McLeod, Monsour, Patterson,
Pigott, Rogers (61st), Staples, Taylor,
Weathersby, Kinkade, Haney, Willis, Jennings,
Hamilton, Barker, Miles

To: Accountability,
Efficiency, Transparency

HOUSE BILL NO. 825
(As Passed the House)

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 PROVIDE THAT NO CONTRACT OR CONTRACTS FOR
8 PERSONAL OR PROFESSIONAL SERVICES SHALL BE MADE FOR THE PURPOSE OF
9 CIRCUMVENTING THE PROVISIONS THAT REQUIRE REVIEW BY THE PERSONAL
10 SERVICE CONTRACT REVIEW BOARD; TO AUTHORIZE THE PERSONAL SERVICE
11 CONTRACT REVIEW BOARD TO CONSIDER MORE THAN ONE CONTRACT BY ANY
12 AGENCY WITH THE SAME INDIVIDUAL OR ENTITY FOR THE SAME PERSONAL OR
13 PROFESSIONAL SERVICES WITHIN A CERTAIN TIME PERIOD AS A SINGLE
14 CONTRACT FOR THE PURPOSES OF REVIEW; TO REQUIRE CERTAIN ENTITIES
15 OF GOVERNMENT TO PROVIDE A LIST THAT INCLUDES THE NAME AND CONTACT
16 INFORMATION FOR WHICH THE CONTRACT WAS AWARDED, THE SUBCONTRACTOR,
17 AND ANY PERSON, PARTNERSHIP, OR CORPORATION RECEIVING ANY BENEFIT
18 FROM THE CONTRACT FOR EVERY CONTRACT NOT ADVERTISED FOR, BY OR
19 THROUGH A BID PROCEDURE; TO REMOVE ALL EXEMPTIONS OF PERSONAL AND
20 PROFESSIONAL SERVICES CONTRACTS FROM REVIEW BY THE PERSONAL
21 SERVICE CONTRACT REVIEW BOARD EXCEPT FOR PERSONAL AND PROFESSIONAL
22 SERVICES CONTRACTS ENTERED INTO FOR COMPUTER OR INFORMATION
23 TECHNOLOGY-RELATED SERVICES BY THE MISSISSIPPI DEPARTMENT OF
24 INFORMATION TECHNOLOGY SERVICES; TO AUTHORIZE AGENCIES TO PETITION
25 FOR RELIEF FROM COMPETITIVE BIDDING PROCUREMENT REQUIREMENTS; TO
26 RESTRICT AGENCY AUTHORITY TO ENTER INTO PERSONAL AND PROFESSIONAL
27 SERVICES CONTRACTS THAT DO NOT REQUIRE PRIOR APPROVAL FROM THE
28 PERSONAL SERVICE CONTRACT REVIEW BOARD; TO PROVIDE A PUBLICATION
29 PROCEDURE AND APPEAL PROCESS FOR ANY AGENCY THAT SEEKS TO CONTRACT
30 FOR A PERSONAL OR PROFESSIONAL SERVICE THROUGH A SOLE SOURCE
31 CONTRACT; TO DECREASE THE EXPENDITURE AMOUNT OF CONTRACTS THAT
32 REQUIRE APPROVAL BY THE PERSONAL SERVICE CONTRACT REVIEW BOARD; TO
33 IMPLEMENT THE CHANGES IN THIS ACT IN TWO SEPARATE PHASES; TO AMEND
34 SECTIONS 27-104-155 AND 27-104-161, MISSISSIPPI CODE OF 1972, TO



CLARIFY THAT PERSONAL AND PROFESSIONAL SERVICE CONTRACTS SHALL BE INCLUDED ON THE MISSISSIPPI TRANSPARENCY WEBSITE; TO AMEND SECTION 27-104-105, MISSISSIPPI CODE OF 1972, TO DELETE THE REQUIREMENT OF THE EMPLOYMENT OF ATTORNEYS TO BE REVIEWED BY THE MISSISSIPPI STATE PERSONNEL BOARD AND IN ACCORDANCE WITH THE PROVISIONS OF SECTION 25-9-120; TO AMEND SECTIONS 5-8-3 AND 5-8-7, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT ANY INDIVIDUAL THAT PERFORMS BOTH CONSULTING AND LOBBYING SERVICES FOR A PUBLIC ENTITY SHALL BE CONSIDERED A LOBBYIST AND SHALL NOT BE EXEMPT FROM ANY LOBBYING LAW; TO REQUIRE ALL PUBLIC OFFICIALS TO FILE AN ANNUAL REPORT ON CERTAIN GIFTS WITH THE MISSISSIPPI ETHICS COMMISSION; TO EXCLUDE GIFTS FROM CERTAIN RELATIVES OR FRIENDS FROM THE REPORTING REQUIREMENTS OF THIS ACT; TO REQUIRE THE MISSISSIPPI ETHICS COMMISSION TO PREPARE AND MAKE AVAILABLE TO PUBLIC OFFICIALS A FORM FOR THE REQUIRED REPORTING OF GIFTS UNDER THIS ACT; TO AMEND SECTIONS 7-7-203, 7-7-211, 7-7-216, 7-7-225, 25-9-107, 25-11-143, 25-15-5, 27-3-13, 31-11-3, 31-25-19, 31-31-7, 35-7-7, 37-33-157, 37-33-163, 37-37-3, 37-101-43, 37-115-25, 41-21-141, 41-23-43, 41-95-5, 43-13-121, 43-19-47, 43-33-717, 43-47-9, 47-5-35, 47-5-37, 47-5-357, 49-27-71, 55-23-43, 57-1-355, 57-34-7, 57-67-11, 57-75-11, 57-85-5, 61-4-11, 65-31-1, 65-43-3, 69-1-14, 69-15-7, 69-15-201, 71-5-121, 73-13-15, 73-33-5, 73-53-8, 75-76-21, 77-9-531 AND 81-27-8.115, MISSISSIPPI CODE OF 1972, TO CONFORM TO THE PROVISIONS OF THIS ACT; TO BRING FORWARD SECTIONS 5-8-5, 5-8-9 THROUGH 5-8-23, 25-53-21, 25-53-25, 65-1-85, 65-1-141 AND 77-3-105, MISSISSIPPI CODE OF 1972, FOR THE PURPOSE OF POSSIBLE AMENDMENT; AND FOR RELATED PURPOSES.

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

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

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

25-9-120. (1) Contract personnel, whether classified as contract workers or independent contractors shall not be deemed state service or nonstate service employees of the State of Mississippi, and shall not be eligible to participate in the Public Employees' Retirement System, or the state employee health plan, nor be allowed credit for personal and sick leave and other leave benefits as employees of the State of Mississippi, notwithstanding Sections 25-3-91 through 25-3-101; 25-9-101



74 through 25-9-151; 25-11-1 through 25-11-126; 25-11-128 through
75 25-11-131; 25-15-1 through 25-15-23 and for the purpose set forth
76 herein. Contract workers, i.e., contract personnel who do not
77 meet the criteria of independent contractors, shall be subject to
78 the provisions of Section 25-11-127.

79 (2) (a) There is * * * created the Personal Service
80 Contract Review Board, which shall be composed of the following
81 members:

82 (i) The State Personnel Director * * *;
83 (ii) Four (4) individuals appointed by the
84 Governor; and
85 (iii) Two (2) individuals appointed by the
86 Lieutenant Governor.

87 (b) The initial terms of each appointee shall be as
88 follows:

89 (i) One (1) member appointed by the Governor to
90 serve for a term ending June 30, 2017;
91 (ii) Two (2) members appointed by the Governor to
92 serve for a term ending June 30, 2018;
93 (iii) One (1) member appointed by the Governor to
94 serve for a term ending June 30, 2019;
95 (iv) One (1) member appointed by the Lieutenant
96 Governor to serve for a term ending June 30, 2017; and
97 (v) One (1) member appointed by the Lieutenant
98 Governor to serve for a term ending June 30, 2019.



99 After the expiration of the initial terms, all appointed
100 members' terms shall be for a period of four (4) years from the
101 expiration date of the previous term, and until such time as the
102 member's successor is duly appointed and qualified. All members
103 appointed to initial and succeeding terms shall be subject to the
104 advice and consent of the Senate. All appointed members may be
105 reappointed upon expiration of their initial term or any
106 succeeding term thereafter.

107 The Personal Service Contract Review Board shall at all times
108 consist of members who have at least five (5) years of experience
109 in one (1) of the following: general business, health care,
110 finance, purchasing, bidding, auditing and contract review.
111 Additionally, at least two (2) members appointed by the Governor
112 shall have experience in managing a state agency. No appointed
113 member shall be an officer or employee of the State of Mississippi
114 while serving on the Personal Service Contract Review Board.

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

118 A person, or an employee or owner of a company, that receives
119 or has received during the past five (5) years any grants,
120 procurements or contracts that are subject to approval under this
121 section shall not be a member of the Personal Service Contract
122 Review Board.



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

131 (c) Members of the Personal Service Contract Review
132 Board shall be entitled to per diem as authorized by Section
133 25-3-69 and travel reimbursement as authorized by Section 25-3-41.

134 (d) * * * The State Personnel Director shall be
135 chairman and shall preside over the meetings of the * * * Personal
136 Service Contract Review Board. The * * * Personal Service
137 Contract Review Board shall annually elect a vice chairman, who
138 shall serve in the absence of the chairman. No business shall be
139 transacted, including adoption of rules of procedure, without the
140 presence of a quorum of the * * * Personal Service Contract Review
141 Board. * * * Four (4) members shall be a quorum. No action shall
142 be valid unless approved by the chairman and * * * three (3) other
143 of those members present and voting, entered upon the minutes of
144 the * * * Personal Service Contract Review Board and signed by the
145 chairman. The Personal Service Contract Review Board shall meet
146 at least once a month and at such other times as the chairman
147 deems necessary and proper. Minutes shall be kept of the



148 proceedings of each meeting, copies of which shall be filed on a
149 monthly basis with the Legislative Budget Office.

150 (e) Necessary clerical and administrative support for
151 the * * * Personal Service Contract Review Board shall be provided
152 by the State Personnel Board. * * *

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

155 (a) Promulgate rules and regulations governing the
156 solicitation and selection of contractual services personnel
157 including personal and professional services contracts for any
158 form of consulting, policy analysis, public relations, marketing,
159 public affairs, legislative advocacy services or any other
160 contract that the * * * Personal Service Contract Review Board
161 deems appropriate for oversight, with the exception of any
162 personal or professional services * * * contract entered into for
163 computer or information technology-related services governed by
164 the Mississippi Department of Information Technology Services, any
165 personal or professional services * * * contract entered into by
166 the Mississippi Department of Transportation, and any contract for
167 attorney, accountant, auditor, physician, dentist, architect,
168 engineer, veterinarian and utility rate expert services. Any such
169 rules and regulations shall provide for maintaining continuous
170 internal audit covering the activities of such agency affecting
171 its revenue and expenditures as required under Section
172 7-7-3(6)(d) * * *. The Personal Service Contract Review Board



shall file all proposed rules and regulations in conformity with
the Administrative Procedures Act, and any notices filed in
accordance with that act shall also be provided to the
Chairpersons of the House of Representatives and Senate Committees
on Accountability, Efficiency and Transparency.

(b) Approve all personal and professional services
contracts involving the expenditures of funds in excess of One
Hundred Thousand Dollars (\$100,000.00). No contract or contracts
for personal or professional services as herein authorized shall
be made for the purpose of circumventing the provisions of this
section requiring review of the contract or contracts by the
Personal Service Contract Review Board. The Personal Service
Contract Review Board shall adopt regulations under which more
than one (1) contract by an agency with the same individual or
entity for the same personal or professional services within a
certain period of time as prescribed by the Personal Service
Contract Review Board may be considered to be a single contract
for the purposes of review;

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



198 (d) Prescribe certain circumstances * * * under which
199 agency heads may enter into contracts for personal and
200 professional services without receiving prior approval from the
201 Personal Service Contract Review Board. The Personal Service
202 Contract Review Board may establish a preapproved list of
203 providers of various personal and professional services for set
204 prices with which state agencies may contract without bidding or
205 prior approval from the board * * *;

206 (e) * * * Provide standards for the issuance of
207 requests for proposals, the evaluation of proposals received,
208 consideration of costs and quality of services proposed, contract
209 negotiations, the administrative monitoring of contract
210 performance by the agency and successful steps in terminating a
211 contract;

212 (f) * * * Present recommendations for governmental
213 privatization and to evaluate privatization proposals submitted by
214 any state agency;

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



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

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

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

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

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

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



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

For every contract not advertised for, by or through a bid procedure each agency, department, board, commission, elected statewide or district-wide official, entity or quasi-entity of state government shall within thirty (30) days provide a list of all contracts awarded, through their respective entity of government including the name and contact information for which the contract awarded, subcontractor, any person, partnership or corporation receiving any benefit from the contract.

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

25-9-120. (1) Contract personnel, whether classified as contract workers or independent contractors shall not be deemed state service or nonstate service employees of the State of Mississippi, and shall not be eligible to participate in the Public Employees' Retirement System, or the state employee health plan, nor be allowed credit for personal and sick leave and other leave benefits as employees of the State of Mississippi, notwithstanding Sections 25-3-91 through 25-3-101; 25-9-101 through 25-9-151; 25-11-1 through 25-11-126; 25-11-128 through 25-11-131; 25-15-1 through 25-15-23 and for the purpose set forth



herein. Contract workers, i.e., contract personnel who do not meet the criteria of independent contractors, shall be subject to the provisions of Section 25-11-127.

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

(i) The State Personnel Director * * *;

* * *

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

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

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

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

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

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

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

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



297 After the expiration of the initial terms, all appointed
298 members' terms shall be for a period of four (4) years from the
299 expiration date of the previous term, and until such time as the
300 member's successor is duly appointed and qualified. All members
301 appointed to initial and succeeding terms shall be subject to the
302 advice and consent of the Senate. All appointed members may be
303 reappointed upon expiration of their initial term or any
304 succeeding term thereafter.

305 The Personal Service Contract Review Board shall at all times
306 consist of members who have at least five (5) years of experience
307 in one (1) of the following: general business, health care,
308 finance, purchasing, bidding, auditing and contract review.
309 Additionally, at least two (2) members appointed by the Governor
310 shall have experience in managing a state agency. No appointed
311 member shall be an officer or employee of the State of Mississippi
312 while serving on the Personal Service Contract Review Board.

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

316 A person, or an employee or owner of a company, that receives
317 or has received during the past five (5) years any grants or
318 procurements or contracts that are subject to approval under this
319 section shall not be a member of the Personal Service Contract
320 Review Board.



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

329 (c) Members of the Personal Service Contract Review
330 Board shall be entitled to per diem as authorized by Section
331 25-3-69 and travel reimbursement as authorized by Section 25-3-41.

332 (d) * * * The State Personnel Director shall be
333 chairman and shall preside over the meetings of the * * * Personal
334 Service Contract Review Board. The * * * Personal Service
335 Contract Review Board shall annually elect a vice chairman, who
336 shall serve in the absence of the chairman. No business shall be
337 transacted, including adoption of rules of procedure, without the
338 presence of a quorum of the * * * Personal Service Contract Review
339 Board. * * * Four (4) members shall be a quorum. No action shall
340 be valid unless approved by the chairman and * * * three (3) other
341 of those members present and voting, entered upon the minutes of
342 the * * * Personal Service Contract Review Board and signed by the
343 chairman. The Personal Service Contract Review Board shall meet
344 at least once a month and at such other times as the chairman
345 deems necessary and proper. Minutes shall be kept of the



proceedings of each meeting, copies of which shall be filed on a
monthly basis with the Legislative Budget Office.

(e) Necessary clerical and administrative support for
the * * * Personal Service Contract Review Board shall be provided
by the State Personnel Board. * * *

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

(a) Promulgate rules and regulations governing the
solicitation and selection of contractual services personnel
including personal and professional services contracts for any
form of consulting, policy analysis, public relations, marketing,
public affairs, legislative advocacy services or any other
contract that the * * * Personal Service Contract Review Board
deems appropriate for oversight, with the exception of any
personal or professional services contract entered into for
computer or information technology-related services governed by
the Mississippi Department of Information Technology
Services * * *. Any such rules and regulations shall provide for
maintaining continuous internal audit covering the activities of
such agency affecting its revenue and expenditures as required
under Section 7-7-3(6)(d) * * *. The Personal Service Contract
Review Board shall file all proposed rules and regulations in
conformity with the Administrative Procedures Act, and any notices
filed in accordance with that act shall also be provided to the



Chairpersons of the House of Representatives and Senate Committees
on Accountability, Efficiency and Transparency;

(b) Approve all personal and professional services contracts involving the expenditures of funds in excess of One Hundred Thousand Dollars (\$100,000.00). No contract or contracts for personal or professional services as herein authorized shall be made for the purpose of circumventing the provisions of this section requiring review of the contract or contracts by the Personal Service Contract Review Board. The Personal Service Contract Review Board shall adopt regulations under which more than one (1) contract by an agency with the same individual or entity for the same personal or professional services within a certain period of time as prescribed by the Personal Service Contract Review Board may be considered to be a single contract for the purposes of review;

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

(i) Any agency that seeks to procure personal or professional service contracts that are required to be approved by



the Personal Service Contract Review Board may petition for relief from any requirement that the agency use competitive bidding as a procurement method. The agency shall be required to show to the Personal Service Contract Review Board's satisfaction one (1) of the following:

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

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

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

(ii) If the Personal Service Contract Review Board determines that competitive bidding shall not be required for the particular personal or professional service the agency seeks to procure, then the Personal Service Contract Review Board shall direct the agency to establish a competitive procurement procedure for selecting the personal or professional service contract that ensures open, transparent procedures for making a selection. Such procedures shall include, but not be limited to, qualifications based selection or requests for qualifications. The Personal Service Contract Review Board shall also have the authority to



420 audit the records of any agency to ensure it has used competitive
421 procedures to contract for the personal or professional service.

422 (d) Prescribe certain circumstances * * * under which
423 agency heads may enter into contracts for personal and
424 professional services without receiving prior approval from the
425 Personal Service Contract Review Board. * * * The circumstances
426 allowing such an exemption from prior approval shall be limited to
427 the following:

428 (i) Emergency procurements of personal and
429 professional services as approved by the Governor or the Executive
430 Director of the Department of Finance and Administration, or the
431 designees of the Executive Director;

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

437 (e) * * * Provide standards for the issuance of
438 requests for proposals, the evaluation of proposals received,
439 consideration of costs and quality of services proposed, contract
440 negotiations, the administrative monitoring of contract
441 performance by the agency and successful steps in terminating a
442 contract;



443 (f) * * * Present recommendations for governmental
444 privatization and to evaluate privatization proposals submitted by
445 any state agency;

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

454 (h) * * * Request the State Auditor to conduct a
455 performance audit on any personal or professional services
456 contract;

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

461 (j) Develop and implement the following standards and
462 procedures for the approval of any sole source contract for
463 personal and professional services regardless of the value of the
464 procurement:

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



468 (ii) An agency that has been issued a binding,
469 valid court order mandating that a particular source or provider
470 must be used for the required service must include a copy of the
471 applicable court order in all future sole source contract reviews
472 for the particular personal or professional service referenced in
473 the court order.

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

481 1. The personal or professional service
482 offered in the contract;

483 2. An explanation of why the personal or
484 professional service is the only one that can meet the needs of
485 the agency;

486 3. An explanation of why the source is the
487 only person or entity that can provide the required personal or
488 professional service;

489 4. An explanation of why the amount to be
490 expended for the personal or professional service is reasonable;
491 and



492 5. The efforts that the agency went through
493 to obtain the best possible price for the personal or professional
494 service.

495 (iv) If any person or entity objects and proposes
496 that the personal or professional service published under
497 subparagraph (iii) of this paragraph (j) is not a sole source
498 service and can be provided by another person or entity, then the
499 objecting person or entity shall notify the Personal Service
500 Contract Review Board and the agency that published the proposed
501 sole source contract with a detailed explanation of why the
502 personal or professional service is not a sole source service.

503 (v) 1. If the agency determines after review that
504 the personal or professional service in the proposed sole source
505 contract can be provided by another person or entity, then the
506 agency must withdraw the sole source contract publication from the
507 procurement portal website and submit the procurement of the
508 personal or professional service to an advertised competitive bid
509 or selection process.

510 2. If the agency determines after review that
511 there is only one (1) source for the required personal or
512 professional service, then the agency may appeal to the Personal
513 Service Contract Review Board. The agency has the burden of
514 proving that the personal or professional service is only provided
515 by one (1) source.



516 3. If the Personal Service Contract Review
517 Board has any reasonable doubt as to whether the personal or
518 professional service can only be provided by one (1) source, then
519 the agency must submit the procurement of the personal or
520 professional service to an advertised competitive bid or selection
521 process. No action taken by the Personal Service Contract Review
522 Board in this appeal process shall be valid unless approved by the
523 chairman and three (3) other members of the Personal Service
524 Contract Review Board present and voting.

525 (vi) The Personal Service Contract Review Board
526 shall prepare and submit a quarterly report to the House of
527 Representatives and Senate Committees on Accountability,
528 Efficiency and Transparency that details the sole source contracts
529 presented to the Personal Service Contract Review Board and the
530 reasons that the Personal Service Contract Review Board approved
531 or rejected each contract. Additionally, an agency that submitted
532 a sole source contract shall be prepared to explain the sole
533 source contract to each committee by December 15 of each year upon
534 request by the committee.

535 (4) * * * Any contract submitted to the Personal Service
536 Contract Review Board for review and approval shall be presumed to
537 be approved if the Personal Service Contract Review Board does not
538 object to the contract within thirty (30) days of the agency's
539 submission of the contract. All submissions shall be made thirty
540 (30) days before the monthly meeting of the Personal Service



Contract Review Board or as prescribed by the Personal Service
Contract Review Board.

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

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

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

For every contract not advertised for, by or through a bid
procedure each agency, department, board, commission, elected
statewide or district-wide official, entity or quasi-entity of



state government shall within thirty (30) days provide a list of all contracts awarded, through their respective entity of government including the name and contact information for which the contract awarded, subcontractor, any person, partnership or corporation receiving any benefit from the contract.

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

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

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

(i) The State Personnel Director * * *;



590 (ii) Four (4) individuals appointed by the
591 Governor; and

592 (iii) Two (2) individuals appointed by the
593 Lieutenant Governor.

594 (b) The initial terms of each appointee shall be as
595 follows:

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

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

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

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

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

606 After the expiration of the initial terms, all appointed
607 members' terms shall be for a period of four (4) years from the
608 expiration date of the previous term, and until such time as the
609 member's successor is duly appointed and qualified. All members
610 appointed to initial and succeeding terms shall be subject to the
611 advice and consent of the Senate. All appointed members may be
612 reappointed upon expiration of their initial term or any
613 succeeding term thereafter.



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

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

A person, or an employee or owner of a company, that receives or has received during the past five (5) years any grants or procurements or contracts that are subject to approval under this section shall not be a member of the Personal Service Contract Review Board.

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



638 (c) Members of the Personal Service Contract Review
639 Board shall be entitled to per diem as authorized by Section
640 25-3-69 and travel reimbursement as authorized by Section 25-3-41.

641 (d) * * * The State Personnel Director shall be
642 chairman and shall preside over the meetings of the * * * Personal
643 Service Contract Review Board. The * * * Personal Service
644 Contract Review Board shall annually elect a vice chairman, who
645 shall serve in the absence of the chairman. No business shall be
646 transacted, including adoption of rules of procedure, without the
647 presence of a quorum of the * * * Personal Service Contract Review
648 Board. * * * Four (4) members shall be a quorum. No action shall
649 be valid unless approved by the chairman and * * * three (3) other
650 of those members present and voting, entered upon the minutes of
651 the * * * Personal Service Contract Review Board and signed by the
652 chairman. The Personal Service Contract Review Board shall meet
653 at least once a month and at such other times as the chairman
654 deems necessary and proper. Minutes shall be kept of the
655 proceedings of each meeting, copies of which shall be filed on a
656 monthly basis with the Legislative Budget Office.

657 (e) Necessary clerical and administrative support for
658 the * * * Personal Service Contract Review Board shall be provided
659 by the State Personnel Board. * * *

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



662 (a) Promulgate rules and regulations governing the
663 solicitation and selection of contractual services personnel
664 including personal and professional services contracts for any
665 form of consulting, policy analysis, public relations, marketing,
666 public affairs, legislative advocacy services or any other
667 contract that the * * * Personal Service Contract Review Board
668 deems appropriate for oversight, with the exception of any
669 personal or professional services * * * contract entered into for
670 computer or information technology-related services governed by
671 the Mississippi Department of Information Technology
672 Services * * *. The Personal Service Contract Review Board shall
673 file all proposed rules and regulations in conformity with the
674 Administrative Procedures Act, and any notices filed in accordance
675 with that act shall also be provided to the Chairpersons of the
676 House of Representatives and Senate Committees on Accountability,
677 Efficiency and Transparency.

678 (b) Approve all personal and professional services
679 contracts involving the expenditures of funds in excess of * * *
680 Eighty Thousand Dollars (\$80,000.00). No contract or contracts
681 for personal or professional services as herein authorized shall
682 be made for the purpose of circumventing the provisions of this
683 section requiring review of the contract or contracts by the
684 Personal Service Contract Review Board. The Personal Service
685 Contract Review Board shall adopt regulations under which more
686 than one (1) contract by an agency with the same individual or



entity for the same personal or professional services within a certain period of time as prescribed by the Personal Service Contract Review Board may be considered to be a single contract for the purposes of review;

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

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

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

2. The agency is required to hire professionals whose members are prohibited from bidding by the



rules of professional conduct promulgated by the regulating agency
or agencies for that professional; or

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

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

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

(i) Emergency procurements of personal and
professional services as approved by the Governor or the Executive



Director of the Department of Finance and Administration, or the
designees of the Executive Director;

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

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

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

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



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

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

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

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

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

(iii) Any agency alleging to have a sole source for any personal or professional service shall have published on the procurement portal website established by Sections 25-53-151 and 27-104-165, for at least fourteen (14) days, the terms of the proposed contract for those services. In addition, the



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

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

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

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

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

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

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



809 (v) 1. If the agency determines after review that
810 the personal or professional service in the proposed sole source
811 contract can be provided by another person or entity, then the
812 agency must withdraw the sole source contract publication from the
813 procurement portal website and submit the procurement of the
814 personal or professional service to an advertised competitive bid
815 or selection process.

816 2. If the agency determines after review that
817 there is only one (1) source for the required personal or
818 professional service, then the agency may appeal to the Personal
819 Service Contract Review Board. The agency has the burden of
820 proving that the personal or professional service is only provided
821 by one (1) source.

822 3. If the Personal Service Contract Review
823 Board has any reasonable doubt as to whether the personal or
824 professional service can only be provided by one (1) source, then
825 the agency must submit the procurement of the personal or
826 professional service to an advertised competitive bid or selection
827 process. No action taken by the Personal Service Contract Review
828 Board in this appeal process shall be valid unless approved by the
829 chairman and three (3) other members of the Personal Service
830 Contract Review Board present and voting.

831 (vi) The Personal Service Contract Review Board
832 shall prepare and submit a quarterly report to the House of
833 Representatives and Senate Committees on Accountability,



Efficiency and Transparency that details the sole source contracts presented to the Personal Service Contract Review Board and the reasons that the Personal Service Contract Review Board approved or rejected each contract. Additionally, an agency that submitted a sole source contract shall be prepared to explain the sole source contract to each committee by December 15 of each year upon request by the committee.

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

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

(5) No member of the Personal Service Contract Review Board shall use his official authority or influence to coerce, by threat



859 of discharge from employment, or otherwise, the purchase of
860 commodities or the contracting for personal or professional
861 services under this section.

862 (6) Nothing in this section shall impair or limit the
863 authority of the Board of Trustees of the Public Employees'
864 Retirement System to enter into any personal or professional
865 services contracts directly related to their constitutional
866 obligation to manage the trust funds, including, but not limited
867 to, actuarial, custodial banks, cash management, investment
868 consultant, and investment management contracts.

869 For every contract not advertised for, by or through a bid
870 procedure each agency, department, board, commission, elected
871 statewide or district-wide official, entity or quasi-entity of
872 state government shall within thirty (30) days provide a list of
873 all contracts awarded, through their respective entity of
874 government including the name and contact information for which
875 the contract awarded, subcontractor, any person, partnership or
876 corporation receiving any benefit from the contract.

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

879 27-104-155. (1) The Department of Finance and
880 Administration shall develop and operate a searchable website that
881 includes information on expenditures of state funds from all
882 funding sources. The website shall have a unique and simplified
883 website address, and the department shall require each agency that



maintains a generally accessible Internet site or for which a generally accessible Internet site is maintained to include a link on the front page of the agency's Internet site to the searchable website required under this section.

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

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

(ii) The amount of state funds expended;

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

(iv) The funding source of the expenditure;

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

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

(vii) The specific source of authority for the expenditure including, but not limited to, a grant, subgrant, contract, or the general discretion of the agency director, provided that if the authority is a grant, subgrant or contract,



the website entry shall include a grant, subgrant or contract number or similar information that clearly identifies the specific source of authority. The information required under this paragraph includes data relative to tax exemptions and credits;

- (viii) The expending agency;
- (ix) The type of transaction;
- (x) The expected performance outcomes achieved for the funding action or expenditure;
- (xi) Links to any state audit or report relating to the entity or recipient of funds or the budget program or activity or agency; and
- (xii) Any other information deemed relevant by the Department of Finance and Administration.

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

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



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

936 (d) Nothing in Sections 27-104-151 through 27-104-159
937 shall permit or require the disclosure of trade secrets or other
938 proprietary information, including confidential vendor
939 information, or any other information that is required to be
940 confidential by state or federal law.

941 (e) The information available from the searchable
942 website must be updated no later than fourteen (14) days after the
943 receipt of data from an agency, and the Department of Finance and
944 Administration shall require each agency to provide to the
945 department access to all data that is required to be accessible
946 from the searchable website within fourteen (14) days of each
947 expenditure, grant award, including amendments; subgrant,
948 including amendments; or contract, including amendments; executed
949 by the agency.

950 (f) The searchable website must include all information
951 required by this section for all transactions that are initiated
952 in fiscal year 2015 or later. In addition, all information that
953 is included on the searchable website from the date of the
954 inception of the website until July 1, 2014, must be maintained on
955 the website according to the requirements of this section before
956 July 1, 2014, and remain accessible for ten (10) years from the
957 date it was originally made available. All data on the searchable



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

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

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

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

(b) Have a unique and simplified website address;

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

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

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



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

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

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

(b) Have a unique and simplified website address;

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

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

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

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



1006 **SECTION 3.** Section 27-104-161, Mississippi Code of 1972, is
1007 amended as follows:

1008 27-104-161. No provision of Sections 27-104-151 through
1009 27-104-159 shall be construed as conferring upon the Department of
1010 Finance and Administration any authority to review, approve or
1011 deny any expenditures or contracts entered into by the Legislature
1012 or any of its committees, or to impose any requirement on the
1013 Legislature or any of its committees to take any action other than
1014 to disclose expenditures and contracts entered into on or after
1015 July 1, 2011. For the purposes of this section, the term
1016 "contract" includes, but is not limited to, personal and
1017 professional services contracts.

1018 **SECTION 4.** Section 27-104-105, Mississippi Code of 1972, is
1019 amended as follows:

1020 27-104-105. The Department of Finance and Administration
1021 shall not process any warrant requested by any state agency for
1022 payment for legal services without first determining that the
1023 services and contract were approved either by the Attorney
1024 General * * *, or as authorized under Section 7-5-39(3) * * * and
1025 in accordance with the provisions of Section 25-9-120. The State
1026 Auditor shall test for compliance with this section.

1027 **SECTION 5.** Section 5-8-3, Mississippi Code of 1972, is
1028 amended as follows:



1029 5-8-3. The following words and phrases shall have the
1030 meanings ascribed herein unless the context clearly indicates
1031 otherwise:

1032 (a) (i) "Anything of value" means:

1033 1. A pecuniary item, including money, or a
1034 bank bill or note;

1035 2. A promissory note, bill of exchange,
1036 order, draft, warrant, check or bond given for the payment of
1037 money;

1038 3. A contract, agreement, promise or other
1039 obligation for an advance, conveyance, forgiveness of
1040 indebtedness, deposit, distribution, loan, payment, gift, pledge
1041 or transfer of money;

1042 4. A stock, bond, note or other investment
1043 interest in an entity;

1044 5. A receipt given for the payment of money
1045 or other property;

1046 6. A right in action;

1047 7. A gift, tangible good, chattel or an
1048 interest in a gift, tangible good or chattel;

1049 8. A loan or forgiveness of indebtedness;

1050 9. A work of art, antique or collectible;

1051 10. An automobile or other means of personal
1052 transportation;



1053 11. Real property or an interest in real
1054 property, including title to realty, a fee simple or partial
1055 interest, present or future, contingent or vested within realty, a
1056 leasehold interest, or other beneficial interest in realty;
1057 12. An honorarium or compensation for
1058 services;
1059 13. A rebate or discount in the price of
1060 anything of value, unless the rebate or discount is made in the
1061 ordinary course of business to a member of the public without
1062 regard to that person's status as an executive, legislative or
1063 public official or public employee, or the sale or trade of
1064 something for reasonable compensation that would ordinarily not be
1065 available to a member of the public;
1066 14. A promise or offer of employment;
1067 15. Any other thing of value that is
1068 pecuniary or compensatory in value to a person, except as
1069 otherwise provided in subparagraph (ii) of this paragraph; or
1070 16. A payment that directly benefits an
1071 executive, legislative or public official or public employee or a
1072 member of that person's immediate family.
1073 (ii) "Anything of value" does not mean:
1074 1. Informational material such as books,
1075 reports, pamphlets, calendars or periodicals informing an
1076 executive, legislative or public official or public employee of
1077 her or his official duties;



1078 2. A certificate, plaque or other
1079 commemorative item which has little pecuniary value;
1080 3. Food and beverages for immediate
1081 consumption provided by a lobbyist up to a value of Ten Dollars
1082 (\$10.00) in the aggregate during any calendar year;
1083 4. Campaign contributions reported in
1084 accordance with Section 23-15-801 et seq., Mississippi Code of
1085 1972.

1086 (b) "Commission" means the Mississippi Ethics
1087 Commission, when used in the context of Section 5-8-19.

1088 (c) "Compensation" means:

1089 (i) An advance, conveyance, forgiveness of
1090 indebtedness, deposit, distribution, loan, payment, gift, pledge
1091 or transfer of money or anything of value, including reimbursement
1092 of travel, food or lodging costs; or

1093 (ii) A contract, agreement, promise or other
1094 obligation for an advance, conveyance, forgiveness of
1095 indebtedness, deposit, distribution, loan, payment, gift, pledge
1096 or transfer of money or anything of value, including reimbursement
1097 of travel, food or lodging costs, for services rendered or to be
1098 rendered.

1099 (d) "Executive action" means the proposal, drafting,
1100 development, consideration, amendment, adoption, approval,
1101 promulgation, issuance, modification, rejection or postponement by
1102 a state or local governmental entity of a rule, regulation, order,



1103 decision, determination or other quasi-legislative action or
1104 proceeding.

1105 (e) "Executive agency" means:

1106 (i) An agency, board, commission, governing
1107 authority or other body in the executive branch of state or local
1108 government; or

1109 (ii) An independent body of state or local
1110 government that is not a part of the legislative or judicial
1111 branch, but which shall include county boards of supervisors.

1112 (f) "Executive official" means:

1113 (i) A member or employee of a state agency, board,
1114 commission, governing authority or other body in the executive
1115 branch of state or local government; or

1116 (ii) A public official or public employee, or any
1117 employee of such person, of state or local government who takes an
1118 executive action.

1119 (g) "Expenditure" means:

1120 (i) A purchase, payment, distribution, loan,
1121 forgiveness of a loan or payment of a loan by a third party,
1122 advance, deposit, transfer of funds, a promise to make a payment,
1123 or a gift of money or anything of value for any purpose;

1124 (ii) A payment to a lobbyist for salary, fee,
1125 commission, compensation for expenses, or other purpose by a
1126 person employing, retaining or contracting for the services of the
1127 lobbyist separately or jointly with other persons;



1128 (iii) A payment in support of or assistance to a
1129 lobbyist or the lobbyist's activities, including the direct
1130 payment of expenses incurred at the request or suggestion of the
1131 lobbyist;

1132 (iv) A payment that directly benefits an
1133 executive, legislative or public official or a member of the
1134 official's immediate family;

1135 (v) A payment, including compensation, payment or
1136 reimbursement for the services, time or expenses of an employee
1137 for or in connection with direct communication with an executive,
1138 legislative or public official made at the direction of the
1139 employee's employer;

1140 (vi) A payment for or in connection with
1141 soliciting or urging other persons to enter into direct
1142 communication with an executive, legislative or public official;
1143 or

1144 (vii) A payment or reimbursement for food,
1145 beverages, travel, lodging, entertainment or sporting activities.

1146 (h) "Gift" means anything of value to the extent that
1147 consideration of equal or greater value is not received, including
1148 a rebate or discount in the price of anything of value unless the
1149 rebate or discount is made in the ordinary course of business to a
1150 member of the public without regard to that person's status as an
1151 executive, legislative or public official.

1152 (i) "Legislative action" means:



1153 (i) Preparation, research, drafting, introduction,
1154 consideration, modification, amendment, approval, passage,
1155 enactment, tabling, postponement, defeat or rejection of a bill,
1156 resolution, amendment, motion, report, nomination, appointment or
1157 other matter by the Mississippi State Legislature or a member or
1158 employee of the Legislature acting or purporting to act in an
1159 official capacity;

1160 (ii) Action by the Governor in approving or
1161 vetoing a bill or other action of the Legislature;

1162 (iii) Action by the Legislature in:

1163 1. Overriding or sustaining a veto by the
1164 Governor; or

1165 2. Considering, confirming or rejecting an
1166 executive appointment of the Governor.

1167 (j) "Legislative official" means:

1168 (i) A member, member-elect or presiding officer of
1169 the Legislature;

1170 (ii) A member of a commission or other entity
1171 established by and responsible to either or both houses of the
1172 Legislature;

1173 (iii) A staff member, officer or employee to a
1174 member or member-elect of the Legislature, to a member of a
1175 commission or other entity established by and responsible to
1176 either or both houses of the Legislature, or to the Legislature or
1177 any house, committee or office thereof.



1178 (k) "Lobbying" means:

1179 (i) Influencing or attempting to influence

1180 legislative or executive action through oral or written

1181 communication; or

1182 (ii) Solicitation of others to influence

1183 legislative or executive action; or

1184 (iii) Paying or promising to pay anything of value

1185 directly or indirectly related to legislative or executive action.

1186 (l) "Lobbyist" means:

1187 (i) An individual who is employed and receives

1188 payments, or who contracts for economic consideration, including

1189 reimbursement for reasonable travel and living expenses, for the

1190 purpose of lobbying;

1191 (ii) An individual who represents a legislative or

1192 public official or public employee, or who represents a person,

1193 organization, association or other group, for the purpose of

1194 lobbying; or

1195 (iii) A sole proprietor, owner, part owner or

1196 shareholder in a business who has a pecuniary interest in

1197 legislative or executive action, who engages in lobbying

1198 activities * * *; or

1199 (iv) Any individual described in subparagraphs (i)

1200 through (iii) of this paragraph (l) who is employed by or has

1201 contracted with any agency, legislative or public official or

1202 public employee, or any other public entity for the purpose of



1203 providing any type of consulting or other similar service but also
1204 engages in any type of lobbying activities. Such individual does
1205 not qualify for any exemption under Section 5-8-7.

1206 (m) "Lobbyist's client" means the person in whose
1207 behalf the lobbyist influences or attempts to influence
1208 legislative or executive action.

1209 (n) "Local" means all entities of government at the
1210 county, county-district, multicounty district, municipal or school
1211 district level.

1212 (o) "Person" means an individual, proprietorship, firm,
1213 partnership, joint venture, joint-stock company, syndicate,
1214 business trust, estate, company, corporation, association, club,
1215 committee, organization or group of persons acting in concert.

1216 (p) "Public employee" means an individual appointed to
1217 a position, including a position created by statute, whether
1218 compensated or not, in state or local government and includes any
1219 employee of the public employee. The term includes a member of
1220 the board of trustees, chancellor, vice-chancellor or the
1221 equivalent thereof in the state university system or the state
1222 community and junior college system, and a president of a state
1223 college or university.

1224 (q) "Public official" means an individual elected to a
1225 state or local office, or an individual who is appointed to fill a
1226 vacancy in the office.



1227 (r) "Value" means the retail cost or fair market worth
1228 of an item or items, whichever is greater.

1229 **SECTION 6.** Section 5-8-7, Mississippi Code of 1972, is
1230 amended as follows:

1231 5-8-7. Notwithstanding any other provisions of this chapter,
1232 except as otherwise provided in Section 5-8-3(1)(iv), the
1233 following person shall not be included within the definition of
1234 "lobbyist" or "lobbyist's client" under this chapter, and
1235 accordingly the registration and reporting provisions, including
1236 the payment of related fees, of this chapter do not apply to:

1237 (a) A legislative or public official acting in an
1238 official capacity.

1239 (b) An individual who:

1240 (i) Represents or purports to represent only the
1241 individual;

1242 (ii) Receives no compensation or anything of value
1243 for lobbying; and

1244 (iii) Has no pecuniary interest in the legislative
1245 or executive action.

1246 (c) An individual lobbying in his or her own interest,
1247 his or her own business interest, who pays, or promises to pay,
1248 offers to pay or causes to be paid to public officials,
1249 legislative officials or public employees any thing or things of
1250 value aggregating in value to less than Two Hundred Dollars
1251 (\$200.00) in any calendar year.



1252 (d) An individual lobbying on behalf of his or her
1253 employer's business interest where such lobbying is not a primary
1254 or regular function of his employment position if such individual
1255 pays, promises to pay, offers to pay, or causes to be paid
1256 individually or on the employer's behalf to public officials,
1257 legislative officials, or public employees any thing or things of
1258 value aggregating in value to less than Two Hundred Dollars
1259 (\$200.00) in any calendar year.

1260 (e) An individual lobbying on behalf of an association
1261 of which he or she is a member, where such lobbying is not a
1262 primary or regular function of his or her position in the
1263 association, if such individual pays, promises to pay, offers to
1264 pay, or causes to be paid individually or on the association's
1265 behalf to public officials, legislative officials or public
1266 employees any thing or things of value aggregating in value to
1267 less than Two Hundred Dollars (\$200.00) in any calendar year.

1268 (f) An individual who is a shareholder, owner or part
1269 owner of a business who lobbies on behalf of such business, where
1270 such individual is not an employee of the business, if such
1271 individual pays, promises to pay, offers to pay, or causes to be
1272 paid individually or on behalf of the business to public
1273 officials, legislative officials or public employees any thing or
1274 things of value aggregating in value to less than Two Hundred
1275 Dollars (\$200.00) in any calendar year.

1276 (g) An individual who:



1277 (i) Limits lobbying solely to formal testimony
1278 before a public meeting of a legislative body or an executive
1279 agency, or a committee, division or department thereof; and

1280 (ii) Registers the appearance in the records of
1281 the public body, if such records are kept.

1282 (h) An individual who is a licensed attorney
1283 representing a client by:

1284 (i) Drafting bills, preparing arguments thereon,
1285 and advising the client or rendering opinions as to the
1286 construction and effect of proposed or pending legislation, where
1287 such services are usual and customary professional legal services
1288 which are not otherwise connected with legislative action; or

1289 (ii) Providing information, on behalf of the
1290 client, to an executive or public official, a public employee, or
1291 an agency, board, commission, governing authority or other body of
1292 state or local government where such services are usual and
1293 customary professional legal services including or related to a
1294 particular nonlegislative matter, case or controversy.

1295 (i) News media and employees of the news media whose
1296 activity is limited solely to the publication or broadcast of
1297 news, editorial comments, or paid advertisements that attempt to
1298 influence legislative or executive action. For the purposes of
1299 this section, "news media" shall be construed to be bona fide
1300 radio and television stations, newspapers, journals or magazines,
1301 or bona fide news bureaus or associations which in turn furnish



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

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

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

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

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

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



1327 official, including a rebate or discount in the price of anything
1328 of value unless the rebate or discount is made in the ordinary
1329 course of business to a member of the public without regard to
1330 that person's status as an elected official. The term "gift" does
1331 not include a campaign contribution reported under Chapter 15,
1332 Title 23, Mississippi Code of 1972.

1333 (c) "Relative" means the spouse of the public official,
1334 a child of the public official or the spouse of a child, a parent
1335 of the public official or the spouse of a parent, and a sibling of
1336 the public official or the spouse of a sibling.

1337 (d) "Friend" means a person attached to another by
1338 feelings of affection or personal regard. For the purposes of
1339 this section, to determine whether a person qualifies as a
1340 "friend" of the recipient, the factors to consider shall include,
1341 but not be limited to, the following:

1342 (i) Whether the friendship preexisted the
1343 recipient's status as a public employee, public official, or
1344 candidate;

1345 (ii) Whether gifts have been previously exchanged
1346 between the friend and the recipient; and

1347 (iii) Whether a gift by a friend of the recipient
1348 was made under circumstances which made it clear that the gift was
1349 motivated by a friendship and not given because of the recipient's
1350 official position.



1351 (2) Each public official in the State of Mississippi shall
1352 file an annual report with the Mississippi Ethics Commission on
1353 gifts received by the public official during the preceding
1354 twelve-month period. Except as is otherwise provided in this
1355 subsection, for each gift received by the public official, the
1356 report must include:

1357 (a) The name of the donor of the gift;

1358 (b) A description and the estimated monetary value of
1359 the gift, with sufficient detail so that the nature of the gift is
1360 clear; and

1361 (c) The place and date the gift was given.

1362 Exempted from the reporting requirements of this section is
1363 any gift made to a public official by a relative or friend of the
1364 public official.

1365 (3) The Mississippi Ethics Commission shall prepare a form
1366 for the reporting of gifts and shall make copies of the form
1367 available to all persons required to file a report under this
1368 section. In addition, the Ethics Commission shall establish the
1369 date by which reports must be received in the Office of the Ethics
1370 Commission, such established reporting date shall be the same day
1371 as required by the Ethics Commission for filing the statement of
1372 Economic Interest form and shall specify the months which must be
1373 covered by the report.



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

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

7-7-203. The State Auditor shall appoint a director for the financial and compliance division and a director for the investigations division of the department. The director of the financial and compliance division shall be a certified public accountant of recognized executive ability and thoroughly familiar with the laws of the state in relation to the financial administration of the public offices thereof. The director of the investigations division shall be a certified law enforcement officer of recognized executive ability and shall be thoroughly familiar with the laws of the state in relation to the financial administration of the public offices thereof.

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

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

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



1399 (a) To identify and define for all public offices of
1400 the state and its subdivisions generally accepted accounting
1401 principles or other accounting principles as promulgated by
1402 nationally recognized professional organizations and to consult
1403 with the State Fiscal Officer in the prescription and
1404 implementation of accounting rules and regulations;

1405 (b) To provide best practices, for all public offices
1406 of regional and local subdivisions of the state, systems of
1407 accounting, budgeting and reporting financial facts relating to
1408 said offices in conformity with legal requirements and with
1409 generally accepted accounting principles or other accounting
1410 principles as promulgated by nationally recognized professional
1411 organizations; to assist such subdivisions in need of assistance
1412 in the installation of such systems; to revise such systems when
1413 deemed necessary, and to report to the Legislature at periodic
1414 times the extent to which each office is maintaining such systems,
1415 along with such recommendations to the Legislature for improvement
1416 as seem desirable;

1417 (c) To study and analyze existing managerial policies,
1418 methods, procedures, duties and services of the various state
1419 departments and institutions upon written request of the Governor,
1420 the Legislature or any committee or other body empowered by the
1421 Legislature to make such request to determine whether and where
1422 operations can be eliminated, combined, simplified and improved;



1423 (d) To postaudit each year and, when deemed necessary,
1424 preaudit and investigate the financial affairs of the departments,
1425 institutions, boards, commissions, or other agencies of state
1426 government, as part of the publication of a comprehensive annual
1427 financial report for the State of Mississippi, or as deemed
1428 necessary by the State Auditor. In complying with the
1429 requirements of this paragraph, the department shall have the
1430 authority to conduct all necessary audit procedures on an interim
1431 and year-end basis;

1432 (e) To postaudit and, when deemed necessary, preaudit
1433 and investigate separately the financial affairs of (i) the
1434 offices, boards and commissions of county governments and any
1435 departments and institutions thereof and therein; (ii) public
1436 school districts, departments of education and junior college
1437 districts; and (iii) any other local offices or agencies which
1438 share revenues derived from taxes or fees imposed by the State
1439 Legislature or receive grants from revenues collected by
1440 governmental divisions of the state; the cost of such audits,
1441 investigations or other services to be paid as follows: Such part
1442 shall be paid by the state from appropriations made by the
1443 Legislature for the operation of the State Department of Audit as
1444 may exceed the sum of Thirty-five Dollars (\$35.00) per man-hour
1445 for the services of each staff person engaged in performing the
1446 audit or other service plus the actual cost of any independent
1447 specialist firm contracted by the State Auditor to assist in the



1448 performance of the audit, which sum shall be paid by the county,
1449 district, department, institution or other agency audited out of
1450 its general fund or any other available funds from which such
1451 payment is not prohibited by law. Costs paid for independent
1452 specialists or firms contracted by the State Auditor shall be paid
1453 by the audited entity through the State Auditor to the specialist
1454 or firm conducting the postaudit.

1455 Each school district in the state shall have its financial
1456 records audited annually, at the end of each fiscal year, either
1457 by the State Auditor or by a certified public accountant approved
1458 by the State Auditor. Beginning with the audits of fiscal year
1459 2010 activity, no certified public accountant shall be selected to
1460 perform the annual audit of a school district who has audited that
1461 district for three (3) or more consecutive years previously.
1462 Certified public accountants shall be selected in a manner
1463 determined by the State Auditor. The school district shall have
1464 the responsibility to pay for the audit, including the review by
1465 the State Auditor of audits performed by certified public
1466 accountants;

1467 (f) To postaudit and, when deemed necessary, preaudit
1468 and investigate the financial affairs of the levee boards;
1469 agencies created by the Legislature or by executive order of the
1470 Governor; profit or nonprofit business entities administering
1471 programs financed by funds flowing through the State Treasury or
1472 through any of the agencies of the state, or its subdivisions; and



1473 all other public bodies supported by funds derived in part or
1474 wholly from public funds, except municipalities which annually
1475 submit an audit prepared by a qualified certified public
1476 accountant using methods and procedures prescribed by the
1477 department;

1478 (g) To make written demand, when necessary, for the
1479 recovery of any amounts representing public funds improperly
1480 withheld, misappropriated and/or otherwise illegally expended by
1481 an officer, employee or administrative body of any state, county
1482 or other public office, and/or for the recovery of the value of
1483 any public property disposed of in an unlawful manner by a public
1484 officer, employee or administrative body, such demands to be made
1485 (i) upon the person or persons liable for such amounts and upon
1486 the surety on official bond thereof, and/or (ii) upon any
1487 individual, partnership, corporation or association to whom the
1488 illegal expenditure was made or with whom the unlawful disposition
1489 of public property was made, if such individual, partnership,
1490 corporation or association knew or had reason to know through the
1491 exercising of reasonable diligence that the expenditure was
1492 illegal or the disposition unlawful. Such demand shall be
1493 premised on competent evidence, which shall include at least one
1494 (1) of the following: (i) sworn statements, (ii) written
1495 documentation, (iii) physical evidence, or (iv) reports and
1496 findings of government or other law enforcement agencies. Other
1497 provisions notwithstanding, a demand letter issued pursuant to



1498 this paragraph shall remain confidential by the State Auditor
1499 until the individual against whom the demand letter is being filed
1500 has been served with a copy of such demand letter. If, however,
1501 such individual cannot be notified within fifteen (15) days using
1502 reasonable means and due diligence, such notification shall be
1503 made to the individual's bonding company, if he or she is bonded.
1504 Each such demand shall be paid into the proper treasury of the
1505 state, county or other public body through the office of the
1506 department in the amount demanded within thirty (30) days from the
1507 date thereof, together with interest thereon in the sum of one
1508 percent (1%) per month from the date such amount or amounts were
1509 improperly withheld, misappropriated and/or otherwise illegally
1510 expended. In the event, however, such person or persons or such
1511 surety shall refuse, neglect or otherwise fail to pay the amount
1512 demanded and the interest due thereon within the allotted thirty
1513 (30) days, the State Auditor shall have the authority and it shall
1514 be his duty to institute suit, and the Attorney General shall
1515 prosecute the same in any court of the state to the end that there
1516 shall be recovered the total of such amounts from the person or
1517 persons and surety on official bond named therein; and the amounts
1518 so recovered shall be paid into the proper treasury of the state,
1519 county or other public body through the State Auditor. In any
1520 case where written demand is issued to a surety on the official
1521 bond of such person or persons and the surety refuses, neglects or
1522 otherwise fails within one hundred twenty (120) days to either pay



1523 the amount demanded and the interest due thereon or to give the
1524 State Auditor a written response with specific reasons for
1525 nonpayment, then the surety shall be subject to a civil penalty in
1526 an amount of twelve percent (12%) of the bond, not to exceed Ten
1527 Thousand Dollars (\$10,000.00), to be deposited into the State
1528 General Fund;

1529 (h) To investigate any alleged or suspected violation
1530 of the laws of the state by any officer or employee of the state,
1531 county or other public office in the purchase, sale or the use of
1532 any supplies, services, equipment or other property belonging
1533 thereto; and in such investigation to do any and all things
1534 necessary to procure evidence sufficient either to prove or
1535 disprove the existence of such alleged or suspected violations.
1536 The Department of Investigation of the State Department of Audit
1537 may investigate, for the purpose of prosecution, any suspected
1538 criminal violation of the provisions of this chapter. For the
1539 purpose of administration and enforcement of this chapter, the
1540 enforcement employees of the Department of Investigation of the
1541 State Department of Audit have the powers of a law enforcement
1542 officer of this state, and shall be empowered to make arrests and
1543 to serve and execute search warrants and other valid legal process
1544 anywhere within the State of Mississippi. All enforcement
1545 employees of the Department of Investigation of the State
1546 Department of Audit hired on or after July 1, 1993, shall be



1547 required to complete the Law Enforcement Officers Training Program
1548 and shall meet the standards of the program;

1549 (i) To issue subpoenas, with the approval of, and
1550 returnable to, a judge of a chancery or circuit court, in termtime
1551 or in vacation, to examine the records, documents or other
1552 evidence of persons, firms, corporations or any other entities
1553 insofar as such records, documents or other evidence relate to
1554 dealings with any state, county or other public entity. The
1555 circuit or chancery judge must serve the county in which the
1556 records, documents or other evidence is located; or where all or
1557 part of the transaction or transactions occurred which are the
1558 subject of the subpoena;

1559 (j) In any instances in which the State Auditor is or
1560 shall be authorized or required to examine or audit, whether
1561 preaudit or postaudit, any books, ledgers, accounts or other
1562 records of the affairs of any public hospital owned or owned and
1563 operated by one or more political subdivisions or parts thereof or
1564 any combination thereof, or any school district, including
1565 activity funds thereof, it shall be sufficient compliance
1566 therewith, in the discretion of the State Auditor, that such
1567 examination or audit be made from the report of any audit or other
1568 examination certified by a certified public accountant and
1569 prepared by or under the supervision of such certified public
1570 accountant. Such audits shall be made in accordance with
1571 generally accepted standards of auditing, with the use of an audit



1572 program prepared by the State Auditor, and final reports of such
1573 audits shall conform to the format prescribed by the State
1574 Auditor. All files, working papers, notes, correspondence and all
1575 other data compiled during the course of the audit shall be
1576 available, without cost, to the State Auditor for examination and
1577 abstracting during the normal business hours of any business day.
1578 The expense of such certified reports shall be borne by the
1579 respective hospital, or any available school district funds other
1580 than minimum program funds, subject to examination or audit. The
1581 State Auditor shall not be bound by such certified reports and
1582 may, in his or their discretion, conduct such examination or audit
1583 from the books, ledgers, accounts or other records involved as may
1584 be appropriate and authorized by law;

1585 (k) The State Auditor shall have the authority to
1586 contract, in accordance with the provisions of Section 25-9-120,
1587 with qualified public accounting firms to perform selected audits
1588 required in paragraphs (d), (e), (f) and (j) of this section, if
1589 funds are made available for such contracts by the Legislature, or
1590 if funds are available from the governmental entity covered by
1591 paragraphs (d), (e), (f) and (j). Such audits shall be made in
1592 accordance with generally accepted standards of auditing. All
1593 files, working papers, notes, correspondence and all other data
1594 compiled during the course of the audit shall be available,
1595 without cost, to the State Auditor for examination and abstracting
1596 during the normal business hours of any business day;



1597 (1) The State Auditor shall have the authority to
1598 establish training courses and programs for the personnel of the
1599 various state and local governmental entities under the
1600 jurisdiction of the Office of the State Auditor. The training
1601 courses and programs shall include, but not be limited to, topics
1602 on internal control of funds, property and equipment control and
1603 inventory, governmental accounting and financial reporting, and
1604 internal auditing. The State Auditor is authorized to charge a
1605 fee from the participants of these courses and programs, which fee
1606 shall be deposited into the Department of Audit Special Fund.
1607 State and local governmental entities are authorized to pay such
1608 fee and any travel expenses out of their general funds or any
1609 other available funds from which such payment is not prohibited by
1610 law;

1611 (m) Upon written request by the Governor or any member
1612 of the State Legislature, the State Auditor may audit any state
1613 funds and/or state and federal funds received by any nonprofit
1614 corporation incorporated under the laws of this state;

1615 (n) To conduct performance audits of personal or
1616 professional service contracts by state agencies on a random
1617 sampling basis, or upon request of the State Personal Service
1618 Contract Review Board under Section 25-9-120(3); and

1619 (o) At the discretion of the State Auditor, the Auditor
1620 may conduct risk assessments, as well as performance and
1621 compliance audits based on Generally Accepted Government Auditing



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

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

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



1647 **SECTION 11.** Section 7-7-225, Mississippi Code of 1972, is
1648 amended as follows:

1649 7-7-225. The State Auditor, when conducting agency audits,
1650 shall test to determine whether or not the state institutions of
1651 higher learning and any state agency which does not draw warrants
1652 on the Treasury have either received approval of the Attorney
1653 General or complied with the provisions of Section 7-5-39 and
1654 complied with Section 25-9-120, with regard to any contract for
1655 legal services.

1656 **SECTION 12.** Section 25-9-107, Mississippi Code of 1972, is
1657 amended as follows:

1658 25-9-107. The following terms, when used in this chapter,
1659 unless a different meaning is plainly required by the context,
1660 shall have the following meanings:

1661 (a) "Board" means the State Personnel Board created
1662 under the provisions of this chapter.

1663 (b) "State service" means all employees of state
1664 departments, agencies and institutions as defined herein, except
1665 those officers and employees excluded by this chapter.

1666 (c) "Nonstate service" means the following officers and
1667 employees excluded from the state service by this chapter. The
1668 following are excluded from the state service:

1669 (i) Members of the State Legislature, their staff
1670 and other employees of the legislative branch;



1671 (ii) The Governor and staff members of the
1672 immediate Office of the Governor;
1673 (iii) Justices and judges of the judicial branch
1674 or members of appeals boards on a per diem basis;
1675 (iv) The Lieutenant Governor, staff members of the
1676 immediate Office of the Lieutenant Governor and officers and
1677 employees directly appointed by the Lieutenant Governor;
1678 (v) Officers and officials elected by popular vote
1679 and persons appointed to fill vacancies in elective offices;
1680 (vi) Members of boards and commissioners appointed
1681 by the Governor, Lieutenant Governor or the State Legislature;
1682 (vii) All academic officials, members of the
1683 teaching staffs and employees of the state institutions of higher
1684 learning, the Mississippi Community College Board, and community
1685 and junior colleges;
1686 (viii) Officers and enlisted members of the
1687 National Guard of the state;
1688 (ix) Prisoners, inmates, student or patient help
1689 working in or about institutions;
1690 (x) Contract personnel; provided, that any agency
1691 which employs state service employees may enter into contracts for
1692 personal and professional services only if such contracts are
1693 approved in compliance with the rules and regulations promulgated
1694 by the State Personal Service Contract Review Board under Section
1695 25-9-120(3). Before paying any warrant for such contractual



1696 services in excess of One Hundred Thousand Dollars (\$100,000.00),
1697 or as otherwise provided in Section 25-9-120, the Auditor of
1698 Public Accounts, or the successor to those duties, shall determine
1699 whether the contract involved was for personal or professional
1700 services, and, if so, was approved by the State Personal Service
1701 Contract Review Board;

1702 (xi) Part-time employees; provided, however,
1703 part-time employees shall only be hired into authorized employment
1704 positions classified by the board, shall meet minimum
1705 qualifications as set by the board, and shall be paid in
1706 accordance with the Variable Compensation Plan as certified by the
1707 board;

1708 (xii) Persons appointed on an emergency basis for
1709 the duration of the emergency; the effective date of the emergency
1710 appointments shall not be earlier than the date approved by the
1711 State Personnel Director, and shall be limited to thirty (30)
1712 working days. Emergency appointments may be extended to sixty
1713 (60) working days by the State Personnel Board;

1714 (xiii) Physicians, dentists, veterinarians, nurse
1715 practitioners and attorneys, while serving in their professional
1716 capacities in authorized employment positions who are required by
1717 statute to be licensed, registered or otherwise certified as such,
1718 provided that the State Personnel Director shall verify that the
1719 statutory qualifications are met prior to issuance of a payroll
1720 warrant by the Auditor;



1721 (xiv) Personnel who are employed and paid from
1722 funds received from a federal grant program which has been
1723 approved by the Legislature or the Department of Finance and
1724 Administration whose length of employment has been determined to
1725 be time-limited in nature. This subparagraph shall apply to
1726 personnel employed under the provisions of the Comprehensive
1727 Employment and Training Act of 1973, as amended, and other special
1728 federal grant programs which are not a part of regular federally
1729 funded programs wherein appropriations and employment positions
1730 are appropriated by the Legislature. Such employees shall be paid
1731 in accordance with the Variable Compensation Plan and shall meet
1732 all qualifications required by federal statutes or by the
1733 Mississippi Classification Plan;

1734 (xv) The administrative head who is in charge of
1735 any state department, agency, institution, board or commission,
1736 wherein the statute specifically authorizes the Governor, board,
1737 commission or other authority to appoint said administrative head;
1738 provided, however, that the salary of such administrative head
1739 shall be determined by the State Personnel Board in accordance
1740 with the Variable Compensation Plan unless otherwise fixed by
1741 statute;

1742 (xvi) The State Personnel Board shall exclude
1743 top-level positions if the incumbents determine and publicly
1744 advocate substantive program policy and report directly to the
1745 agency head, or the incumbents are required to maintain a direct



1746 confidential working relationship with a key excluded official.
1747 Provided further, a written job classification shall be approved
1748 by the board for each such position, and positions so excluded
1749 shall be paid in conformity with the Variable Compensation Plan;
1750 (xvii) Employees whose employment is solely in
1751 connection with an agency's contract to produce, store or
1752 transport goods, and whose compensation is derived therefrom;
1753 (xviii) Repealed;
1754 (xix) The associate director, deputy directors and
1755 bureau directors within the Department of Agriculture and
1756 Commerce;
1757 (xx) Personnel employed by the Mississippi
1758 Industries for the Blind; provided, that any agency may enter into
1759 contracts for the personal services of MIB employees without the
1760 prior approval of the State Personnel Board or the State Personal
1761 Service Contract Review Board; however, any agency contracting for
1762 the personal services of an MIB employee shall provide the MIB
1763 employee with not less than the entry-level compensation and
1764 benefits that the agency would provide to a full-time employee of
1765 the agency who performs the same services;
1766 (xxi) Personnel employed by the Mississippi
1767 Department of Wildlife, Fisheries and Parks and the Mississippi
1768 Department of Marine Resources as law enforcement trainees
1769 (cadets); such personnel shall be paid in accordance with the
1770 Colonel Guy Groff State Variable Compensation Plan.



1771 (d) "Agency" means any state board, commission,
1772 committee, council, department or unit thereof created by the
1773 Constitution or statutes if such board, commission, committee,
1774 council, department, unit or the head thereof, is authorized to
1775 appoint subordinate staff by the Constitution or statute, except a
1776 legislative or judicial board, commission, committee, council,
1777 department or unit thereof.

1778 **SECTION 13.** Section 25-11-143, Mississippi Code of 1972, is
1779 amended as follows:

1780 25-11-143. (1) The provisions of this section shall become
1781 effective from and after July 1 of the year following the year in
1782 which the board determines and the board's actuary certifies that
1783 the employer's contribution rate to the Public Employees'
1784 Retirement System can be reduced by one percent (1%) without
1785 causing the unfunded accrued actuarial liability amortization
1786 period for the retirement system to exceed twenty (20) years.

1787 (2) As used in this section, the term "retiree" means any
1788 person receiving a service or disability retirement benefit from
1789 any system administered by the board; however, in the case of
1790 persons participating in the optional retirement plan established
1791 in Section 25-11-401 et seq., the term "retiree" includes only
1792 those persons who would be entitled to receive a retirement
1793 allowance under the provisions of Section 25-11-111 if they were
1794 not members of the optional retirement plan.



1795 (3) The board shall design a plan of health insurance for
1796 all current and future retirees that will take effect from and
1797 after January 1 following the year in which this section becomes
1798 effective as provided in subsection (1) of this section. The plan
1799 may include coverage for the spouse, surviving beneficiary and
1800 dependent children of retirees and other such sponsored dependents
1801 as the board considers appropriate; however, the subsidy provided
1802 for in this section shall apply only to the cost of providing
1803 coverage to retirees. Initially, the plan shall have benefits
1804 equivalent to those in the State and School Employees Health
1805 Insurance Plan established in Section 25-15-9; however, the board
1806 may modify the plan as necessary to meet the needs of the members
1807 of the plan and to maintain the fiscal soundness of the plan. The
1808 board may offer an optional plan to retirees who are eligible for
1809 Medicare, and any additional cost of that plan shall be paid by
1810 the retiree electing that optional coverage.

1811 (4) (a) Retirees may decline coverage in the plan
1812 established by this section, but they may be included in the plan
1813 later if they apply for coverage during any open enrollment
1814 periods that may be established by the board and can show, by
1815 evidence considered sufficient to the board, that they were
1816 covered by health insurance during the period of time that they
1817 were not covered by the plan established by this section. The
1818 board may adjust the amount of the subsidy for those persons and



1819 may limit the number of times retirees who decline coverage who
1820 may be later included in the plan.

1821 (b) The board shall determine the manner in which
1822 persons who elect continuation coverage under the federal
1823 Consolidated Omnibus Budget Reconciliation Act of 1987 (COBRA)
1824 will be treated regarding their eligibility for coverage under the
1825 plan established under this section and the amount of the subsidy
1826 for those persons.

1827 (5) From and after January 1 following the year in which
1828 this section becomes effective as provided in subsection (1) of
1829 this section, the board shall subsidize a portion of the cost of
1830 providing the plan of health insurance to retirees. The amount of
1831 the subsidy provided for each retiree shall be equal to a
1832 percentage of the annual cost of providing coverage under the plan
1833 to the retiree as determined by the board. Except as otherwise
1834 provided in this section, the percentage amount of the subsidy
1835 shall be two percent (2%) for each year of creditable service,
1836 less any fronted service for age-limited disability benefits of
1837 the retiree up to a maximum of sixty percent (60%). Once the
1838 percentage amount of the subsidy has been determined under this
1839 subsection, it may not be changed unless the retiree returns to
1840 membership service and earns additional years of creditable
1841 service or elects not to be enrolled in the plan for a period of
1842 time.



1843 (6) The amount of the subsidy for each disability retiree
1844 shall be calculated in the same manner as other retirees. For
1845 purposes of determining the amount that a disability retiree must
1846 pay above the subsidy for coverage under the plan, the cost of
1847 coverage for disability retirees shall be deemed to be the average
1848 cost of providing coverage for other retirees as determined by the
1849 board.

1850 (7) Each retiree participating in the plan, by written
1851 authorization, shall instruct the board to deduct from the
1852 retirement allowance the portion of the premium that is not
1853 subsidized. The amounts so deducted shall be handled by the board
1854 in the manner provided for in subsection (9) of this section.

1855 (8) From and after July 1 of the year in which this section
1856 becomes effective as provided in subsection (1) of this section,
1857 each employer shall pay monthly to the board an amount equal to
1858 two and one-half percent (2.5%) of the total payroll of the
1859 employer on which retirement contributions are made under
1860 retirement plans administered by the Public Employees' Retirement
1861 System.

1862 (9) The board may establish and enforce late charges and
1863 interest penalties or other penalties for the purpose of requiring
1864 the prompt payment of all contributions required under this
1865 section. After appropriation for administration expenses of the
1866 program, all funds received by the board under this section shall
1867 be held in a fund in the custody of the board. All those funds



1868 held by the board shall be utilized for the purpose of subsidizing
1869 the health insurance plan required to be established by this
1870 section, and shall be invested as provided in Section 25-11-145.

1871 (10) The board:

1872 (a) Shall administer the plan;

1873 (b) Shall have the sole authority to promulgate rules
1874 and regulations governing the plan, and shall be vested with all
1875 legal authority necessary and proper to perform this function
1876 including, but not limited to, defining the benefits provided by
1877 the plan, requesting and accepting bids for services, establishing
1878 premium rates and receiving premium payments;

1879 (c) May enter into contracts, in accordance with the
1880 provisions of Section 25-9-120, with accountants, actuaries and
1881 other persons whose skills are necessary to carry out the
1882 provisions of this section; and

1883 (d) Is authorized to procure legal services, in
1884 accordance with the provisions of Section 25-9-120, if it deems
1885 these services necessary to carry out its responsibilities under
1886 this section.

1887 **SECTION 14.** Section 25-15-5, Mississippi Code of 1972, is
1888 amended as follows:

1889 25-15-5. (1) The board shall administer the plan and is
1890 authorized to adopt and promulgate rules and regulations for its
1891 administration, subject to the terms and limitations contained in
1892 this article.



1893 (2) The board shall develop a five-year strategic plan for
1894 the insurance plan established by Section 25-15-3 et seq. The
1895 strategic plan shall address, but not be limited to:

1896 (a) Changing trends in the health care industry, and
1897 how they effect delivery of services to members of the plan.

1898 (b) Alternative service delivery systems.

1899 (c) Any foreseeable problems with the present system of
1900 delivering and administering health care benefits in Mississippi.

1901 (d) The development of options and recommendations for
1902 changes in the plan.

1903 (3) To carry out the requirements of subsection (2) of this
1904 section, the board may conduct formal research, including
1905 questionnaires and attitudinal surveys of members' needs and
1906 preferences with respect to service delivery.

1907 (4) After the board has complied with all provisions of
1908 Section 25-15-9 regarding the establishment of the plan, it shall
1909 be responsible for fully disclosing to plan members the provisions
1910 of the plan. Such disclosure shall consist of the dissemination
1911 of educational material on the plan and any proposed changes
1912 thereto. The board shall provide members with complete
1913 educational materials at least thirty (30) days before the date
1914 upon which the plan's members must select a plan option for health
1915 care services. The board shall further use the resources of the
1916 Mississippi Authority for Educational Television or other state
1917 agency, university or college to provide information on proposed



changes. The board may also use other state-owned media, as well as public service announcements on private media to disseminate information regarding proposed changes in the plan.

(5) The board shall develop and make available for public review at its offices a comprehensive plan document which documents all benefits for which members of the plan created by Section 25-15-3 et seq. are eligible. This document shall be typed and maintained also at the offices of any administrator contracted with in accordance with Section 25-15-301.

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

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

(c) If the service is to be rendered for a period of in excess of six (6) months, the board shall seek and obtain bids for the service in a manner identical to that provided for in Section 25-15-301, subsection (1)(a) and (b) except for those provisions which specifically state criteria which are applicable only to



third-party administrators contracted with in accordance with
Section 25-15-3 et seq.

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

SECTION 15. Section 27-3-13, Mississippi Code of 1972, is
amended as follows:

27-3-13. The Commissioner of Revenue is empowered to employ,
in accordance with the provisions of Section 25-9-120, such
accountants, appraisers, information systems programmers,
information systems technicians, information systems managers,
clerical help, stenographers, and such other assistants and/or
attorneys as he may deem necessary to the proper discharge of the
duties of the Department of Revenue, to prescribe their duties and
to fix the compensation of each employee within the rules,
regulations and guidelines of the State Personnel Board. Such
employees may be used interchangeably in the administration of the
various duties imposed by law upon the commissioner in the several
offices of the Department of Revenue. Further, the Commissioner
of Revenue may designate any ten (10) employees of the commission
to be law enforcement officers, as defined in Section 45-6-3, with
police powers to enforce any laws administered by the Department
of Revenue. Temporary employees may be employed as hereinabove,
when in the opinion of the commissioner a seasonal press of
business requires, except that such temporary employees shall be



1967 retained no longer than is necessary to the discharge of the
1968 duties imposed by law upon the department.

1969 **SECTION 16.** Section 31-11-3, Mississippi Code of 1972, is
1970 amended as follows:

1971 31-11-3. (1) The Department of Finance and Administration,
1972 for the purposes of carrying out the provisions of this chapter,
1973 in addition to all other rights and powers granted by law, shall
1974 have full power and authority to employ and compensate architects,
1975 in accordance with the provisions of Section 25-9-120, or other
1976 employees necessary for the purpose of making inspections,
1977 preparing plans and specifications, supervising the erection of
1978 any buildings, and making any repairs or additions as may be
1979 determined by the Department of Finance and Administration to be
1980 necessary, pursuant to the rules and regulations of the State
1981 Personnel Board. The department shall have entire control and
1982 supervision of, and determine what, if any, buildings, additions,
1983 repairs, demolitions or improvements are to be made under the
1984 provisions of this chapter, subject to the regulations adopted by
1985 the Public Procurement Review Board.

1986 (2) The department shall have full power to erect buildings,
1987 make repairs, additions or improvements, demolitions, to grant or
1988 acquire easements or rights-of-way, and to buy materials, supplies
1989 and equipment for any of the institutions or departments of the
1990 state subject to the regulations adopted by the Public Procurement
1991 Review Board. In addition to other powers conferred, the



1992 department shall have full power and authority as directed by the
1993 Legislature, or when funds have been appropriated for its use for
1994 these purposes, to:

1995 (a) Build a state office building;

1996 (b) Build suitable plants or buildings for the use and
1997 housing of any state schools or institutions, including the
1998 building of plants or buildings for new state schools or
1999 institutions, as provided for by the Legislature;

2000 (c) Provide state aid for the construction of school
2001 buildings;

2002 (d) Promote and develop the training of returned
2003 veterans of the United States in all sorts of educational and
2004 vocational learning to be supplied by the proper educational
2005 institution of the State of Mississippi, and in so doing allocate
2006 monies appropriated to it for these purposes to the Governor for
2007 use by him in setting up, maintaining and operating an office and
2008 employing a state director of on-the-job training for veterans and
2009 the personnel necessary in carrying out Public Law No. 346 of the
2010 United States;

2011 (e) Build and equip a hospital and administration
2012 building at the Mississippi State Penitentiary;

2013 (f) Build and equip additional buildings and wards at
2014 the Boswell Retardation Center;

2015 (g) Construct a sewage disposal and treatment plant at
2016 the Mississippi State Hospital, and in so doing acquire additional



2017 land as may be necessary, and to exercise the right of eminent
2018 domain in the acquisition of this land;

2019 (h) Build and equip the Mississippi central market and
2020 purchase or acquire by eminent domain, if necessary, any lands
2021 needed for this purpose;

2022 (i) Build and equip suitable facilities for a training
2023 and employing center for the blind;

2024 (j) Build and equip a gymnasium at Columbia Training
2025 School;

2026 (k) Approve or disapprove the expenditure of any money
2027 appropriated by the Legislature when authorized by the bill making
2028 the appropriation;

2029 (l) Expend monies appropriated to it in paying the
2030 state's part of the cost of any street paving;

2031 (m) Sell and convey state lands when authorized by the
2032 Legislature, cause said lands to be properly surveyed and platted,
2033 execute all deeds or other legal instruments, and do any and all
2034 other things required to effectively carry out the purpose and
2035 intent of the Legislature. Any transaction which involves state
2036 lands under the provisions of this paragraph shall be done in a
2037 manner consistent with the provisions of Section 29-1-1;

2038 (n) Collect and receive from educational institutions
2039 of the State of Mississippi monies required to be paid by these
2040 institutions to the state in carrying out any veterans'
2041 educational programs;



2042 (o) Purchase lands for building sites, or as additions
2043 to building sites, for the erection of buildings and other
2044 facilities which the department is authorized to erect, and
2045 demolish and dispose of old buildings, when necessary for the
2046 proper construction of new buildings. Any transaction which
2047 involves state lands under the provisions of this paragraph shall
2048 be done in a manner consistent with the provisions of Section
2049 29-1-1;

2050 (p) Obtain business property insurance with a
2051 deductible of not less than One Hundred Thousand Dollars
2052 (\$100,000.00) on state-owned buildings under the management and
2053 control of the department; and

2054 (q) In consultation with and approval by the Chairmen
2055 of the Public Property Committees of the Senate and the House of
2056 Representatives, enter into contracts for the purpose of providing
2057 parking spaces for state employees who work in the Woolfolk
2058 Building, the Carroll Gartin Justice Building or the Walter
2059 Sillers Office Building.

2060 (3) The department shall survey state-owned and
2061 state-utilized buildings to establish an estimate of the costs of
2062 architectural alterations, pursuant to the Americans With
2063 Disabilities Act of 1990, 42 USCS, Section 12111 et seq. The
2064 department shall establish priorities for making the identified
2065 architectural alterations and shall make known to the Legislative
2066 Budget Office and to the Legislature the required cost to



2067 effectuate such alterations. To meet the requirements of this
2068 section, the department shall use standards of accessibility that
2069 are at least as stringent as any applicable federal requirements
2070 and may consider:

2071 (a) Federal minimum guidelines and requirements issued
2072 by the United States Architectural and Transportation Barriers
2073 Compliance Board and standards issued by other federal agencies;

2074 (b) The criteria contained in the American Standard
2075 Specifications for Making Buildings Accessible and Usable by the
2076 Physically Handicapped and any amendments thereto as approved by
2077 the American Standards Association, Incorporated (ANSI Standards);

2078 (c) Design manuals;

2079 (d) Applicable federal guidelines;

2080 (e) Current literature in the field;

2081 (f) Applicable safety standards; and

2082 (g) Any applicable environmental impact statements.

2083 (4) The department shall observe the provisions of Section
2084 31-5-23, in letting contracts and shall use Mississippi products,
2085 including paint, varnish and lacquer which contain as vehicles
2086 tung oil and either ester gum or modified resin (with rosin as the
2087 principal base of constituents), and turpentine shall be used as a
2088 solvent or thinner, where these products are available at a cost
2089 not to exceed the cost of products grown, produced, prepared, made
2090 or manufactured outside of the State of Mississippi.



2091 (5) The department shall have authority to accept grants,
2092 loans or donations from the United States government or from any
2093 other sources for the purpose of matching funds in carrying out
2094 the provisions of this chapter.

2095 (6) The department shall build a wheelchair ramp at the War
2096 Memorial Building which complies with all applicable federal laws,
2097 regulations and specifications regarding wheelchair ramps.

2098 (7) The department shall review and preapprove all
2099 architectural or engineering service contracts entered into by any
2100 state agency, institution, commission, board or authority
2101 regardless of the source of funding used to defray the costs of
2102 the construction or renovation project for which services are to
2103 be obtained. The provisions of this subsection (7) shall not
2104 apply to any architectural or engineering contract paid for by
2105 self-generated funds of any of the state institutions of higher
2106 learning, nor shall they apply to community college projects that
2107 are funded from local funds or other nonstate sources which are
2108 outside the Department of Finance and Administration's
2109 appropriations or as directed by the Legislature. The provisions
2110 of this subsection (7) shall not apply to any construction or
2111 design projects of the State Military Department that are funded
2112 from federal funds or other nonstate sources. In addition, any
2113 architectural or engineering contract shall be subject to Section
2114 25-9-120.



2115 (8) The department shall have the authority to obtain
2116 annually from the state institutions of higher learning
2117 information on all building, construction and renovation projects
2118 including duties, responsibilities and costs of any architect or
2119 engineer hired by any such institutions.

2120 (9) As an alternative to other methods of awarding contracts
2121 as prescribed by law, the department may elect to use the method
2122 of contracting for construction projects set out in Sections
2123 31-7-13.1 and 31-7-13.2; however, the dual-phase design-build
2124 method of construction contracting authorized under Section
2125 31-7-13.1 may be used only when the Legislature has specifically
2126 required or authorized the use of this method in the legislation
2127 authorizing a project.

2128 (10) The department shall have the authority, for the
2129 purposes of carrying out the provisions of this chapter, and in
2130 addition to all other rights and powers granted by law, to create
2131 and maintain a list of suspended and debarred contractors and
2132 subcontractors. Consistent with this authority, the department
2133 may adopt regulations governing the suspension or debarment of
2134 contractors and subcontractors, which regulations shall be subject
2135 to the approval of the Public Procurement Review Board. A
2136 suspended or debarred contractor or subcontractor shall be
2137 disqualified from consideration for contracts with the department
2138 during the suspension or debarment period in accordance with the
2139 department's regulations.



2140 (11) This section shall not apply to the Mississippi State
2141 Port Authority.

2142 **SECTION 17.** Section 31-25-19, Mississippi Code of 1972, is
2143 amended as follows:

2144 31-25-19. (1) In addition to the other powers granted to
2145 the bank under this act, the bank shall have the power:

2146 (a) To sue and be sued in its own name;

2147 (b) To have an official seal and to alter the same at
2148 pleasure;

2149 (c) To maintain an office at such place or places
2150 within this state as it may designate, by lease without the
2151 approval of any other state agency or department;

2152 (d) To adopt and, from time to time, to amend and
2153 repeal bylaws and rules and regulations, not inconsistent with
2154 this act, to carry into effect the powers and purposes of the bank
2155 and governing the conduct of its affairs and business and the use
2156 of its services and facilities;

2157 (e) To make, enter into and enforce all contracts or
2158 agreements necessary, convenient or desirable for the purposes of
2159 the bank or pertaining to any loan to a local governmental unit
2160 made by the purchase of municipal securities or to the performance
2161 of its duties and execution or carrying out of any of its other
2162 powers under this act;

2163 (f) To acquire, hold, use and dispose of its income,
2164 revenues, funds and monies;



2165 (g) To the extent that it will facilitate the conduct
2166 of its operations and thereby further the purposes of this act, to
2167 acquire real or other personal property, or any interest therein,
2168 on either a temporary or long-term basis in the name of the bank
2169 by gift, purchase, transfer, foreclosure, lease or otherwise,
2170 including rights or easements, hold, sell, assign, lease, encumber
2171 mortgage or otherwise dispose of any real or other personal
2172 property, or any interest therein or mortgage interest owned by it
2173 or under its control, custody or in its possession and release or
2174 relinquish any right, title, claim, lien, interest, easement or
2175 demand however acquired, including any equity or right of
2176 redemption in property foreclosed by it and to do any of the
2177 foregoing by public or private sale; and, to the same extent, to
2178 lease or rent any lands, buildings, structures, facilities or
2179 equipment from private parties;

2180 (h) To enter into agreements or other transactions with
2181 and accept the cooperation of the United States or any agency
2182 thereof or of the state or any agency or governmental subdivision
2183 thereof (including any local governmental unit whether or not such
2184 local governmental unit is selling or has sold its bonds to the
2185 bank) in furtherance of the purposes of this act and the corporate
2186 purposes of the bank, and to do any and all things necessary in
2187 order to avail itself of such cooperation;

2188 (i) To receive and accept grants, aid or contributions,
2189 including loan guarantees, from any source of money, materials,



2190 property, labor, supplies, services, program or other things of
2191 value, to be held, used and applied to carry out the purposes of
2192 this act subject to such conditions upon which such grants and
2193 contributions, including loan guarantees, may be made, including,
2194 but not limited to, gifts or grants, including loan guarantees,
2195 from any department or agency of the United States or of this
2196 state or of any governmental subdivision of this state (including
2197 any local governmental unit whether or not such local governmental
2198 unit is selling or has sold its bonds to the bank) for any purpose
2199 consistent with this act, and to do any and all things necessary,
2200 useful, desirable or convenient in connection with the procurement
2201 acceptance or disposition of such gifts or grants, including loan
2202 guarantees;

2203 (j) To procure insurance against any loss in connection
2204 with its property and other assets in such amounts and from
2205 insurers as it deems desirable, and to obtain from any department
2206 or agency of the United States of America or nongovernmental
2207 insurer any insurance or guaranty, to the extent now or hereafter
2208 available, as to, or of or for the payment or repayment of
2209 interest, principal or redemption price, if any, or all or any
2210 part thereof, on any bonds issued by the bank, or on any municipal
2211 securities of local governmental units purchased or held by the
2212 bank pursuant to this act; and notwithstanding any other
2213 provisions of this act to the contrary, to enter into any
2214 agreement or contract whatsoever with respect to any such



2215 insurance or guaranty, except to the extent that the same would in
2216 any way impair or interfere with the ability of the bank to
2217 perform and fulfill the terms of any agreement made with the
2218 holders of the bonds of the bank;

2219 (k) To employ, in accordance with the provisions of
2220 Section 25-9-120, administrative and clerical staff, managing
2221 agents, architects, engineers, attorneys, accountants, and
2222 financial advisors and experts and such other advisors,
2223 consultants, agents and employees as may be necessary in its
2224 judgment and to fix their compensation, and to perform its powers
2225 or functions through its officers, agents and employees or by
2226 contracts with any firm, person or corporation;

2227 (l) To the extent permitted under its contract with the
2228 holders of bonds of the bank, to consent to any modification of
2229 the rate of interest, time and payment of any installment of
2230 principal or interest, security or any other term of such bond,
2231 contract or agreement of any kind to which the bank is a party;

2232 (m) To purchase, hold or dispose of any of its bonds;

2233 (n) Notwithstanding any law to the contrary, to invest
2234 any funds or monies of the bank or proceeds of any securities or
2235 certificates of participation in such manner as shall be deemed by
2236 the bank to be prudent except as otherwise permitted or provided
2237 by this act;

2238 (o) To conduct examinations and hearings and to hear
2239 testimony and take proof, under oath or affirmation, at public or



2240 private hearings, on any matter material for its information and
2241 necessary to carry out this act;

2242 (p) To loan money to local governmental units by the
2243 purchase of municipal securities, subject to the provisions of
2244 this act;

2245 (q) To borrow money for any of its corporate purposes
2246 and to issue bonds therefor, subject to the provisions of this
2247 act;

2248 (r) To exercise any and all of the powers granted to
2249 the bank by any other section of this act and to do any act
2250 necessary or convenient to the exercise of the powers herein
2251 granted or reasonably implied therefrom;

2252 (s) To loan money to any local governmental unit under
2253 any loan guaranty program of any department or agency of the
2254 United States, including the United States Department of
2255 Agriculture Rural Utility Services Water and Waste Disposal
2256 Guaranteed Loan Program and Community Programs Guaranteed Loan
2257 Program or any such successor guaranty programs; and

2258 (t) Notwithstanding any law to the contrary, to
2259 contract with any local governmental unit for the exercise by the
2260 bank of any and all of the bank's powers as set out in this act,
2261 with respect to proceeds of such local governmental unit's
2262 securities or certificates of participation issued by such local
2263 governmental unit pursuant to any state law authorizing the
2264 issuance of local governmental unit debt.



2265 (2) Paragraphs (s) and (t) of subsection (1) of this section
2266 shall be deemed to provide all necessary authority for the doing
2267 of the things authorized thereby and shall be liberally construed
2268 to accomplish the purposes and the authorizations therein stated.

2269 **SECTION 18.** Section 31-31-7, Mississippi Code of 1972, is
2270 amended as follows:

2271 31-31-7. The commission shall have the following powers:

2272 (a) To sue and be sued in its own name;

2273 (b) To maintain offices at such places as it may
2274 designate;

2275 (c) To establish, construct, enlarge, improve,
2276 maintain, equip, operate and regulate the facility and other
2277 property incidental thereto, including any additional property or
2278 facilities considered by the commission to promote the business,
2279 usage or economic viability of the facility;

2280 (d) To grant to others the privilege to operate for
2281 profit concessions, leases and franchises, including but not
2282 limited to, the furnishing of food and banquet services,
2283 management services, and other services necessary to the operation
2284 of the facility and such concessions, leases and franchises shall
2285 be exclusive or limited;

2286 (e) To determine fees, rates and charges for the use of
2287 its facilities;



2288 (f) To apply for and accept gifts, or grants of money
2289 or gifts, grants or loans of other property or other financial
2290 assistance from any source;

2291 (g) To borrow funds needed to carry out the purposes of
2292 this chapter; provided, however, that such debt may be secured
2293 only by the revenues generated by the facility, funds generated by
2294 the tax levied pursuant to Section 31-31-11 and the proceeds of
2295 any bonds issued pursuant to this chapter;

2296 (h) To appoint, employ or engage, in accordance with
2297 the provisions of Section 25-9-120, such officers, employees,
2298 architects, engineers, attorneys, accountants, financial advisors,
2299 investment bankers and other advisors, consultants, and agents as
2300 may be necessary or appropriate;

2301 (i) To make, assume and enter into all contracts,
2302 leases and arrangements necessary or incidental to the exercise
2303 for its powers, including contracts for management, operation or
2304 marketing of all or any part of its facilities;

2305 (j) To adopt, amend and repeal rules and regulations
2306 for the use, maintenance and operation of its facilities and
2307 governing the conduct of persons and organizations using its
2308 facilities and to enforce such rules and regulations; and

2309 (k) To do all things necessary or convenient to the
2310 purposes of this chapter.

2311 **SECTION 19.** Section 35-7-7, Mississippi Code of 1972, is
2312 amended as follows:



2313 35-7-7. The administration of the provisions hereof is
2314 vested in a Veterans' Home Purchase Board consisting of six (6)
2315 members who shall be appointed, or reappointed, by the Governor,
2316 with the advice and consent of the Senate. Members appointed to
2317 the board shall be veterans of either World War II, the Korean
2318 Conflict, the Southeast Asia Conflict, the Persian Gulf Conflict
2319 or have served in active duty for at least one hundred eighty
2320 (180) days during a time of war or a conflict in which a campaign
2321 ribbon or medal was issued and shall possess a background in
2322 business, banking, real estate or the legal profession which
2323 enables them to carry out the duties of the board. No
2324 state/department commander of any federally recognized veterans
2325 organization, no national officer of any federally recognized
2326 veterans organization and no member of the Mississippi Council of
2327 Veterans Organizations shall be eligible for appointment to the
2328 board until the expiration of a period of three (3) years after
2329 the termination of his service in such disqualifying positions.
2330 Appointments shall be staggered, with each Governor appointing or
2331 reappointing two (2) members in the first year of his
2332 administration; one (1) member in the second year, two (2) members
2333 in the third year, and one (1) member in the fourth year.
2334 Appointments for terms that expire in 1988 shall be made as
2335 follows: one (1) shall be made for a term ending on July 1, 1989;
2336 one (1) shall be made for a term ending on July 1, 1991; and two
2337 (2) shall be made for a term ending on July 1, 1992. Persons



2338 appointed to succeed the two (2) members whose terms expired in
2339 1986, or any such member holding over after 1986 because no
2340 successor was appointed, shall serve until July 1, 1990. After
2341 the expiration of the foregoing terms, all appointments shall be
2342 for a term of four (4) years from the expiration date of the
2343 previous term. From and after July 1, 1988, one (1) appointee
2344 shall be selected from each of the five (5) congressional
2345 districts of this state as such districts are composed on May 1,
2346 1987, and one (1) appointee shall be selected from the state at
2347 large. Any vacancy occurring during a term shall be filled by
2348 appointment of a member for the unexpired portion of the term.

2349 The board is hereby authorized and empowered to make and
2350 promulgate such reasonable rules and regulations under this
2351 chapter as it shall deem to be necessary or advisable and to
2352 enforce the same. The board shall have authority to render the
2353 final decision on the purchase application process, approval of
2354 purchases, funding of purchase commitments, servicing loans and
2355 default, property security, management, resale, release from
2356 security, and all other matters relating to the purchases and
2357 loans made under this law. The board shall likewise, by an order
2358 spread on its minutes, elect a chairman and vice chairman to serve
2359 for one-year terms, and all such officers are eligible to succeed
2360 themselves in such offices. The chairman may appoint a
2361 three-member loan committee from the membership of the board and



2362 shall specify the conditions, responsibilities and authority of
2363 such committee.

2364 Each member of the board and his successor shall be
2365 reimbursed all of his actual and necessary traveling and other
2366 expenses incurred in the attendance of the meetings of the board
2367 or in the performance of other duties in connection with the
2368 business of the board as provided for state officers and employees
2369 in Section 25-3-41, and shall be allowed a per diem as provided in
2370 Section 25-3-69 for such attendance; provided that the number of
2371 days per diem shall not exceed sixty-six (66) days for the
2372 chairman and fifty (50) days for other members of the board during
2373 any one (1) fiscal year. The above limitation of days per year
2374 shall not apply to board members appointed on a full-time basis to
2375 the loan committee.

2376 The director, or other executive officer employed by the
2377 board, shall execute a surety bond in the sum of One Hundred
2378 Thousand Dollars (\$100,000.00), conditioned upon the faithful
2379 performance of his duties and upon his accounting for all monies
2380 coming into his hands; and each employee handling funds shall
2381 execute a like bond in the sum of Fifteen Thousand Dollars
2382 (\$15,000.00), and the premiums thereon shall be paid from the
2383 funds provided for administering this chapter.

2384 The board may designate one (1) of its employees as the
2385 acting director or executive officer by a vote of the majority of
2386 the members of the board, officially recorded in the minutes of a



2387 regular or special meeting, and such acting director shall be
2388 vested with all the authority conferred upon the director by the
2389 provisions of this chapter; but such acting director may not serve
2390 for a continuous period of time in excess of six (6) months, and
2391 the acting director, when so designated, will be required to
2392 furnish surety bond in the same amount and under the same
2393 conditions as the director. The purpose of this provision is to
2394 designate an executive officer during any temporary illness,
2395 absence or incapacity of the regularly designated director.

2396 The board may designate one (1) of its employees by a vote of
2397 the majority of the members of the board, officially recorded in
2398 the minutes of a regular or special meeting, to be authorized to
2399 sign a Deed of Conveyance or other closing documents necessary as
2400 to not delay the closing or settlement of a home purchase during
2401 the absence or unavailability of the director.

2402 The board may select and employ such expert, technical and
2403 clerical assistance as in its judgment may be necessary in the
2404 proper administration of said board and fix the salaries of such
2405 employees.

2406 The board is empowered to employ, in accordance with the
2407 provisions of Section 25-9-120, auditors and accountants to
2408 examine the books, accounts and records of the board if it so
2409 desires, and the board is also authorized to employ legal counsel
2410 if it deems such a course necessary in the proper administration
2411 of its affairs.



2412 **SECTION 20.** Section 37-33-157, Mississippi Code of 1972, is
2413 amended as follows:

2414 37-33-157. The Department of Rehabilitation Services shall
2415 provide the rehabilitation services authorized by law and by the
2416 rules, regulations and policies of the board to every individual
2417 determined to be eligible therefor, and in carrying out the
2418 purposes of this chapter the department is authorized, when
2419 consistent with the rules, regulations and policies of the State
2420 Board of Rehabilitation Services:

2421 (a) To expend funds received either by appropriation or
2422 directly from federal or private sources.

2423 (b) To cooperate with other departments, agencies and
2424 institutions, both public and private, in providing the services
2425 authorized by this chapter to disabled individuals, in studying
2426 the problems involved therein, and in establishing, developing and
2427 providing in conformity with the purposes of this chapter, such
2428 programs, facilities and services as may be necessary or
2429 desirable.

2430 (c) To enter into reciprocal agreements with other
2431 states to provide for the services authorized by this chapter to
2432 residents of the states concerned.

2433 (d) To conduct research and compile statistics relating
2434 to the provision of services to or the need of services by
2435 disabled individuals.



2436 (e) To enter into contractual arrangements with the
2437 federal government and with other authorized public agencies or
2438 persons for performance of services related to rehabilitation.

2439 (f) To contract with schools, hospitals and other
2440 agencies, and to contract, in accordance with the provisions of
2441 Section 25-9-120, with doctors, optometrists, nurses, technicians
2442 and other persons, for training, physical restoration,
2443 transportation and other rehabilitation services.

2444 (g) To take such action as may be necessary to enable
2445 the department to apply for, accept and receive for the state and
2446 its residents the full benefits available under the federal
2447 Vocational Rehabilitation Act, and any amendments thereto, and
2448 under any other federal legislation or program having as its
2449 purpose the providing of, improvement or extension of, vocational
2450 rehabilitation services.

2451 (h) To establish an Office on the Deaf and Hard of
2452 Hearing to provide services and activities authorized under
2453 Section 37-33-171.

2454 (i) To own in the name of the State of Mississippi
2455 certain real property described in Section 7 of Chapter 512, Laws
2456 of 2005, and to construct, renovate or repair under the
2457 supervision of the Department of Finance and Administration any
2458 buildings on such property.

2459 (j) To borrow money from the Mississippi Development
2460 Bank or other financial institution for the purpose of



2461 construction, repair and renovation, furnishing or equipping
2462 facilities owned or under the supervision of the department;
2463 however, the department shall certify the following to the
2464 Mississippi Development Bank or other financial institution prior
2465 to entering into any loan:

2466 (i) The available revenue that the department
2467 intends to utilize to repay the loan; and

2468 (ii) That the department does not intend to
2469 request an additional appropriation from state source funding to
2470 pay debt service on any loan entered into under this paragraph.

2471 (k) To fingerprint and perform a current criminal
2472 history record check, child abuse registry check, sex offender
2473 registry check, and vulnerable adult abuse or neglect check on any
2474 person performing services for or on behalf of the department
2475 including, but not limited to, every employee, volunteer,
2476 contractual worker, and independent contractor.

2477 (l) To use the results of the fingerprinting and
2478 background checks performed under paragraph (k) for the purposes
2479 of employment decisions and/or actions and service provision to
2480 consumers of the department's services. The department and its
2481 agents, officers, employees, attorneys and representatives shall
2482 be exempt from liability for any findings, recommendations or
2483 actions taken under this paragraph.

2484 **SECTION 21.** Section 37-33-163, Mississippi Code of 1972, is
2485 amended as follows:



2486 37-33-163. The Office of Disability Determination Services
2487 established by Section 37-33-153 shall be administered by a
2488 director appointed by the Executive Director of the State
2489 Department of Rehabilitation Services. The director shall devote
2490 his full time to the proper administration of the office. In
2491 carrying out his duties under this chapter, the director:

2492 (a) Shall enter into agreements on behalf of the State
2493 Department of Rehabilitation Services and the State of Mississippi
2494 with the federal Social Security Administration or its successor
2495 in order to implement the provisions of the federal Social
2496 Security Act relating to the determination of disabilities under
2497 Title II and Title XVI, and shall enter into contracts necessary
2498 to provide such disability determination functions as allowed
2499 under applicable federal regulation;

2500 (b) Shall, with the approval of the executive director,
2501 make regulations governing Mississippi applications for disability
2502 benefits under Title II and Title XVI of the federal Social
2503 Security Act, and make such other regulations as are found
2504 necessary to implement the functions of the office prescribed
2505 under this chapter;

2506 (c) Shall, with the approval of the executive director,
2507 establish appropriate subordinate administrative units within the
2508 office;

2509 (d) Shall, with the approval of the executive director,
2510 be responsible for appointing, in accordance with the provisions



2511 of Section 25-9-120, supervisors, assistants, physicians, and
2512 other employees or entering into purchase of service contracts, as
2513 are necessary for the efficient performance of the functions of
2514 the office, subject to the rules and regulations adopted and
2515 promulgated by the State Personnel Board as created under Section
2516 25-9-101 et seq.;

2517 (e) Shall prepare and submit to the board through the
2518 executive director annual reports of activities and expenditures,
2519 and estimates of the amounts to be made available to the office
2520 from all sources; and

2521 (f) Shall, with the approval of the executive director
2522 and the board, take such other action as he deems necessary or
2523 appropriate to implement the functions of the office.

2524 **SECTION 22.** Section 37-37-3, Mississippi Code of 1972, is
2525 amended as follows:

2526 37-37-3. In addition to all auditors and other employees now
2527 or hereafter provided by law, the State Auditor may appoint and
2528 employ, in accordance with the provisions of Section 25-9-120,
2529 examiners in the Department of Audit. The examiners shall make
2530 such audits as may be necessary to determine the correctness and
2531 accuracy of all reports made to the State Department of Education
2532 by any school district or school official concerning the number of
2533 educable students in any school district, the number of students
2534 enrolled in any school district, the number of students in average
2535 daily attendance in any school district, and the number of



students being transported or entitled to transportation to any of the public schools of this state.

SECTION 23. Section 37-101-43, Mississippi Code of 1972, is amended as follows:

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

Upon completion of the plans and specifications and the approval thereof by the board, and before entering into any lease contract, the board shall cause to be published once a week for at least three (3) consecutive weeks and not less than twenty-one (21) days in at least one (1) newspaper having a general circulation in the county in which the interested institution is located and in one (1) newspaper with a general statewide



2561 circulation, a notice inviting bids or proposals for the leasing,
2562 construction or renovation, including the furnishing, maintaining
2563 and equipping, if applicable, and leasing back, if applicable, of
2564 the land and constructed or renovated facility, including any
2565 applicable furnishings or equipment, of the facility to be
2566 constructed or renovated in accordance with the plans and
2567 specifications. The notice shall distinctly state the thing to be
2568 done, and invite sealed proposals, to be filed with the board, to
2569 do the thing to be done. The notice shall contain the following
2570 specific provisions, together with such others as the board in its
2571 discretion deems appropriate, to wit: bids shall be accompanied
2572 by a bid security evidenced by a certified or cashier's check or
2573 bid-bond payable to the board in a sum of not less than five
2574 percent (5%) of the gross construction cost of the facility to be
2575 constructed as estimated by the board and the bids shall contain
2576 proof satisfactory to the board of interim and permanent
2577 financing. The board shall state in the notice when construction
2578 shall commence. The bid shall contain the proposed contractor's
2579 certificate of responsibility number and bidder's license. In all
2580 cases, before the notice shall be published, the plans and
2581 specifications shall be filed with the board and also in the
2582 office of the president of the interested institution, there to
2583 remain.

2584 The board shall award the lease contract to the lowest and
2585 best bidder, who will comply with the terms imposed by the



2586 contract documents. At the time of the awarding of the lease
2587 contract the successful bidder shall enter into bond with
2588 sufficient sureties, to be approved by the board, in such penalty
2589 as may be fixed by the board, but in no case to be less than the
2590 estimated gross construction or renovation cost of the facility to
2591 be constructed or renovated as estimated by the board, conditioned
2592 for the prompt, proper and efficient performance of the contract.
2593 The bond shall be made by an authorized corporate surety bonding
2594 company. The bid security herein provided for shall be forfeited
2595 if the successful bidder fails to enter into lease contract and
2596 commence construction or renovation within the time limitation set
2597 forth in the notice. At such time, and simultaneously with the
2598 signing of the contract, the successful bidder shall deposit a sum
2599 of money, in cash or certified or cashier's check, not less than
2600 the bid security previously deposited as bid security to reimburse
2601 the interested institution for all sums expended by it for
2602 architectural services and other expenditures of the board and
2603 interested institution connected with the bidden lease contract,
2604 of which such other anticipated expenditures notice is to be given
2605 to bidder in the notice. The bid security posted by an
2606 unsuccessful bidder shall be refunded to him.

2607 (b) Under the authority granted under Section
2608 37-101-44, the requirements of paragraph (a) of this section shall
2609 not apply to the Board of Trustees of State Institutions of Higher
2610 Learning's power to grant to universities the authority to



contract with a single entity for privately financed design and construction or renovation, and if applicable, the furnishing, maintaining and equipping of facilities on university campuses, and if applicable, the furnishing, maintenance and equipping of facilities on university campuses.

SECTION 24. Section 37-115-25, Mississippi Code of 1972, is amended as follows:

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

(2) As part of employing appropriate professional staff, the University Medical Center and University Hospital are authorized to enter into recruitment agreements to provide for needed faculty



2636 physicians and staff. The agreements for needed faculty
2637 physicians shall be subject to the provisions of Section 25-9-120.
2638 The agreements may include, but are not limited to, salary
2639 supplements, transfer and moving expenses and payment of medical
2640 school loans. Any amount so advanced shall be forgiven over not
2641 less than a three-year period of a year-for-year pro rata basis.
2642 In the event that the physician should leave University of
2643 Mississippi Medical Center employment, said physician shall repay
2644 any remaining sum(s) so advanced plus interest as negotiated in
2645 the agreement. Said amounts to be repaid over no more than a
2646 two-year period.

2647 **SECTION 25.** Section 41-21-141, Mississippi Code of 1972, is
2648 amended as follows:

2649 41-21-141. (1) To implement a comprehensive psychiatric
2650 emergency service, a single point of entry must request licensure
2651 from the State Department of Health for the number of extended
2652 observation beds that are required to adequately serve the
2653 designated catchment area. A license for the requested beds must
2654 be obtained before beginning operation.

2655 (2) If the State Department of Health determines that a
2656 comprehensive psychiatric emergency service can provide for the
2657 privacy and safety of all patients receiving services in the
2658 hospital, the department may approve the location of one or more
2659 of the extended observation beds within another area of the
2660 hospital rather than in proximity to the emergency department.



2661 (3) Each comprehensive psychiatric emergency service shall
2662 provide or contract to provide qualified physicians, psychiatric
2663 nurse practitioners, psychiatric physician assistants and
2664 ancillary personnel necessary to provide services twenty-four (24)
2665 hours per day, seven (7) days per week. Any state-owned
2666 comprehensive psychiatric emergency service shall comply with the
2667 provisions of Section 25-9-120 in contracting with physicians.

2668 (4) A comprehensive psychiatric emergency service shall have
2669 at least one (1) physician, psychiatric nurse practitioner or
2670 psychiatric physician assistant, who is a member of the staff of
2671 the hospital, on duty and available at all times. However, the
2672 medical director of the service may waive this requirement if
2673 provisions are made for a physician in the emergency department to
2674 assume responsibility and provide initial evaluation and treatment
2675 of a person in custody of a CIT officer or referred by the
2676 community mental health center and provisions are made for the
2677 physician, psychiatric nurse practitioner or psychiatric physician
2678 assistant on call for the comprehensive psychiatric emergency
2679 service to evaluate the person onsite within thirty (30) minutes
2680 of notification that the person has arrived.

2681 (5) Any person admitted to a comprehensive psychiatric
2682 emergency service must have a final disposition within a maximum
2683 of seventy-two (72) hours. If a person cannot be stabilized
2684 within seventy-two (72) hours, that person shall be transferred



2685 from an extended observation bed to a more appropriate inpatient
2686 unit.

2687 **SECTION 26.** Section 41-23-43, Mississippi Code of 1972, is
2688 amended as follows:

2689 41-23-43. (1) As used in this section:

2690 (a) "Department" means the Mississippi State Department
2691 of Health, Bioterrorism Division;

2692 (b) "Director" means the Executive Director of the
2693 State Board of Health;

2694 (c) "Bioterrorism" means the intentional use of any
2695 microorganism, virus, infectious substance or biological product
2696 that may be engineered as a result of biotechnology or any
2697 naturally occurring or bioengineered component of any
2698 microorganism, virus, infectious substance or biological product,
2699 to cause or attempt to cause death, disease or other biological
2700 malfunction in any living organism;

2701 (d) "Disaster locations" means any geographical
2702 location where a bioterrorism attack, terrorist attack,
2703 catastrophic or natural disaster or emergency occurs;

2704 (e) "First responders" means state and local law
2705 enforcement personnel, fire department personnel, emergency
2706 medical personnel, emergency management personnel and public works
2707 personnel who may be deployed to bioterrorism attacks, terrorist
2708 attacks, catastrophic or natural disasters and emergencies.



2709 (2) The department shall offer a vaccination program for
2710 first responders who may be exposed to infectious diseases when
2711 deployed to disaster locations. The vaccinations shall include,
2712 but are not limited to, hepatitis A vaccination, hepatitis B
2713 vaccination, diphtheria-tetanus vaccination, influenza
2714 vaccination, pneumococcal vaccination and other vaccinations when
2715 recommended by the United States Public Health Service and in
2716 accordance with Federal Emergency Management Directors Policy.
2717 Immune globulin will be made available when necessary.

2718 (3) Participation in the vaccination program shall be
2719 voluntary by the first responders, except for first responders who
2720 are classified as having "occupational exposure" to blood borne
2721 pathogens as defined by the Occupational Safety and Health
2722 Administration Standard contained at 29 CFR 1910.10300 who shall
2723 be required to take the designated vaccinations or otherwise
2724 required by law.

2725 (4) A first responder shall be exempt from vaccinations when
2726 a written statement from a licensed physician is presented
2727 indicating that a vaccine is medically contraindicated for that
2728 person or the first responder signs a written statement that the
2729 administration of a vaccination conflicts with their religious
2730 tenets.

2731 (5) If there is a vaccine shortage, the director, in
2732 consultation with the Governor and the Centers for Disease Control



2733 and Prevention, shall give priority for vaccination to first
2734 responders.

2735 (6) The department shall notify first responders to the
2736 availability of the vaccination program and shall provide
2737 educational materials on ways to prevent exposure to infectious
2738 diseases.

2739 (7) The department may contract with county and local health
2740 departments, not-for-profit home health care agencies, hospitals
2741 and physicians, in accordance with the provisions of Section
2742 25-9-120, to administer a vaccination program for first
2743 responders.

2744 (8) This section shall be effective upon receipt of federal
2745 funding and/or federal grants for administering a first responders
2746 vaccination program. Upon receipt of that funding, the department
2747 shall make available the vaccines to first responders as provided
2748 in this section.

2749 **SECTION 27.** Section 41-95-5, Mississippi Code of 1972, is
2750 amended as follows:

2751 41-95-5. (1) The Mississippi Health Finance Authority is
2752 created. The authority shall be supervised and directed by the
2753 Mississippi Health Finance Authority Board.

2754 (2) The Mississippi Health Finance Authority Board is
2755 created. The Mississippi Health Finance Authority Board shall
2756 consist of seven (7) members, one (1) from each of the five (5)
2757 congressional districts of Mississippi and two (2) from the state



2758 at large, who shall be appointed by the Governor with the advice
2759 and consent of the Senate. All members shall be qualified
2760 electors of the State of Mississippi who have no financial or
2761 other interest in any health care provider or insurer. It is the
2762 intent of the Legislature that the appointments to the board
2763 reflect the racial and sexual demographics of the entire state.
2764 The initial appointments to the Health Finance Authority Board
2765 shall be for staggered terms, to be designated by the Governor at
2766 the time of appointment as follows: two (2) members to serve for
2767 terms ending June 30, 1997; three (3) members to serve for terms
2768 ending June 30, 1996; and two (2) members to serve for terms
2769 ending June 30, 1995. Thereafter, Mississippi Health Finance
2770 Authority Board members shall be appointed for a term of four (4)
2771 years from the expiration date of the previous term. All
2772 vacancies occurring on the board shall be filled by the Governor
2773 in the same manner as original appointments are made within sixty
2774 (60) days after the vacancy occurs.

2775 (3) The members of the Mississippi Health Finance Authority
2776 Board shall be paid a per diem as authorized by Section 25-3-69
2777 and shall be reimbursed for necessary and ordinary expenses and
2778 mileage incurred while performing their duties as members of the
2779 board, at the rate authorized by Section 25-3-41.

2780 (4) The members of the Mississippi Health Finance Authority
2781 Board shall take an oath to perform faithfully the duties of their
2782 office. The oath shall be administered by a person qualified by



2783 law to administer oaths. Within thirty (30) days after taking the
2784 oath of office, the first board appointed under this section shall
2785 meet for an organizational meeting on call by the Governor. At
2786 such meeting and at an organizational meeting in January every
2787 odd-numbered year thereafter, the board shall elect from its
2788 members a chairman, vice chairman and secretary-treasurer to serve
2789 for terms of two (2) years.

2790 (5) The Mississippi Health Finance Authority Board shall
2791 adopt rules and regulations not inconsistent with Sections 41-95-1
2792 through 41-95-9, in compliance with the Mississippi Administrative
2793 Procedures Law, for the conduct of its business and the carrying
2794 out of its duties.

2795 (6) The Mississippi Health Finance Authority Board shall
2796 hold at least two (2) regular meetings each year, and additional
2797 meetings may be held upon the call of the chairman or at the
2798 written request of any three (3) members.

2799 (7) The members of the Mississippi Health Finance Authority
2800 Board are individually exempt from any civil liability as a result
2801 of any action taken by the board.

2802 (8) There shall be a Joint Oversight Committee of the
2803 Mississippi Health Finance Authority composed of three (3) members
2804 of the Senate appointed by the Lieutenant Governor to serve at the
2805 will and pleasure of the Lieutenant Governor, and three (3)
2806 members of the House of Representatives appointed by the Speaker
2807 of the House to serve at the will and pleasure of the Speaker.



2808 The chairmanship of the committee shall alternate for twelve-month
2809 periods between the Senate members and the House members, with the
2810 first chairman appointed by the Lieutenant Governor from among the
2811 Senate membership. The committee shall meet once each month, or
2812 upon the call of the chairman at such times as he deems necessary
2813 or advisable, and may make recommendations to the Legislature
2814 pertaining to any matter within the jurisdiction of the
2815 Mississippi Health Finance Authority. The appointing authorities
2816 may designate an alternate member from their respective houses to
2817 serve when the regular designee is unable to attend such meetings
2818 of the oversight committee. For attending meetings of the
2819 oversight committee, such legislators shall receive per diem and
2820 expenses which shall be paid from the contingent expense funds of
2821 their respective houses in the same amounts as provided for
2822 committee meetings when the Legislature is not in session;
2823 however, no per diem and expenses for attending meetings of the
2824 committee will be paid while the Legislature is in session. No
2825 per diem and expenses will be paid except for attending meetings
2826 of the oversight committee without prior approval of the proper
2827 committee in their respective houses.

2828 (9) The Mississippi Health Finance Authority Board shall
2829 appoint the following five (5) advisory committees to assist in
2830 administering the provisions of Sections 41-95-1 through 41-95-9:

- 2831 (a) The Benefits and Ethics Committee;
- 2832 (b) The Provider and Standards Committee;



2833 (c) The Consumer/Customer Satisfaction Committee;
2834 (d) The Data Committee; and
2835 (e) The Health Finance Advisory Committee.

2836 Each committee shall consist of at least five (5) and no more
2837 than seven (7) members. The qualifications of the committee
2838 members for the committees listed in paragraphs (a), (b), (c) and
2839 (d) shall be set forth by the board in its bylaws and regulations.
2840 It is the intent of the Legislature that the appointments to each
2841 of the committees listed in paragraphs (a), (b), (c) and (d)
2842 reflect the racial and sexual demographics of the entire state.
2843 The Health Finance Advisory Committee shall be composed of the
2844 chairman of the other committees and the Executive Director of the
2845 Mississippi Health Finance Authority. All such committee members
2846 shall be appointed by the Mississippi Health Finance Authority
2847 Board for a term of four (4) years. If a member is unable to
2848 complete his term, a successor shall be appointed to serve the
2849 unexpired term. No person may serve as a member of the committee
2850 for more than ten (10) years. The terms of the initial committees
2851 shall be staggered. Two (2) members shall be appointed to a term
2852 of two (2) years, two (2) members shall be appointed to a term of
2853 three (3) years, and three (3) members shall be appointed to a
2854 term of four (4) years, to be designated by the board at the time
2855 of appointment. Members shall receive no salary for services
2856 performed, but may be reimbursed for necessary and actual expenses
2857 incurred in connection with attendance at meetings or for



2858 authorized business from funds made available for such purpose.
2859 The committees shall meet at least once in each quarter of the
2860 year at a time and place fixed by the committees, and at such
2861 other times as requested by the board. The organization, meetings
2862 and management of the committees shall be established by
2863 regulations promulgated by the board. The board, in its
2864 discretion, may appoint additional committees as deemed necessary
2865 to carry out its duties and responsibilities.

2866 (10) The Mississippi Health Finance Authority Board shall
2867 elect a full-time director who holds a graduate degree in finance,
2868 economics, business, health policy or health finance, or the
2869 equivalent, and who has no financial or other interest in any
2870 health care provider or payor. The director shall have a minimum
2871 of five (5) years' appropriate experience to be certified by the
2872 State Personnel Board. The director shall serve at the will and
2873 pleasure of the Mississippi Health Finance Authority Board. The
2874 director shall be the chief administrative officer of the
2875 Mississippi Health Finance Authority Board, shall be the agent of
2876 the board for the purpose of receiving all services of process,
2877 summonses and notices directed to the board, shall direct the
2878 daily operations of the board, and shall perform such other duties
2879 as the board may delegate to him. The position of attorney for
2880 the Mississippi Health Finance Authority is authorized, who shall
2881 be a duly licensed attorney and whose salary and qualifications
2882 shall be fixed by the board. Such attorney shall be employed by



2883 the Mississippi Health Finance Authority Board, in accordance with
2884 the provisions of Section 25-9-120. The Director of the
2885 Mississippi Health Finance Authority shall appoint heads of
2886 offices, who shall serve at the pleasure of the director, and
2887 shall appoint any necessary supervisors, assistants and employees.
2888 The salary and compensation of such employees shall be subject to
2889 the rules and regulations adopted and promulgated by the State
2890 Personnel Board created under Section 25-9-101 et seq. The
2891 director shall have the authority to organize offices as deemed
2892 appropriate to carry out the responsibilities of the Mississippi
2893 Health Finance Authority. All new positions, before staff is to
2894 be hired to fill them, must be authorized and approved by the
2895 board itself in accordance with the laws and regulations set forth
2896 by the State Personnel Board. The organizational structure of the
2897 staff shall provide for the performance of assigned functions and
2898 shall be subject to the approval of the board.

2899 (11) The Director of the Mississippi Health Finance
2900 Authority is authorized:

2901 (a) To enforce rules and regulations adopted and
2902 promulgated by the board implementing or effectuating the powers
2903 and duties of the Mississippi Health Finance Authority under any
2904 and all statutes within the Mississippi Health Finance Authority's
2905 jurisdiction;



2906 (b) To apply for, receive and expend any federal or
2907 state funds or contributions, gifts, devises, bequests or funds
2908 from any other source;

2909 (c) To enter into and execute contracts, grants and
2910 cooperative agreements with any federal or state agency or
2911 subdivision thereof, or any public or private institution located
2912 inside or outside the State of Mississippi, or any person,
2913 corporation or association in connection with carrying out the
2914 programs of the Mississippi Health Finance Authority; and

2915 (d) To discharge such other duties, responsibilities
2916 and powers as are necessary to implement the programs of the
2917 Mississippi Health Finance Authority.

2918 **SECTION 28.** Section 43-13-121, Mississippi Code of 1972, is
2919 amended as follows:

2920 43-13-121. (1) The division shall administer the Medicaid
2921 program under the provisions of this article, and may do the
2922 following:

2923 (a) Adopt and promulgate reasonable rules, regulations
2924 and standards, with approval of the Governor, and in accordance
2925 with the Administrative Procedures Law, Section 25-43-1 et seq.:

2926 (i) Establishing methods and procedures as may be
2927 necessary for the proper and efficient administration of this
2928 article;



2929 (ii) Providing Medicaid to all qualified
2930 recipients under the provisions of this article as the division
2931 may determine and within the limits of appropriated funds;
2932 (iii) Establishing reasonable fees, charges and
2933 rates for medical services and drugs; in doing so, the division
2934 shall fix all of those fees, charges and rates at the minimum
2935 levels absolutely necessary to provide the medical assistance
2936 authorized by this article, and shall not change any of those
2937 fees, charges or rates except as may be authorized in Section
2938 43-13-117;
2939 (iv) Providing for fair and impartial hearings;
2940 (v) Providing safeguards for preserving the
2941 confidentiality of records; and
2942 (vi) For detecting and processing fraudulent
2943 practices and abuses of the program;
2944 (b) Receive and expend state, federal and other funds
2945 in accordance with court judgments or settlements and agreements
2946 between the State of Mississippi and the federal government, the
2947 rules and regulations promulgated by the division, with the
2948 approval of the Governor, and within the limitations and
2949 restrictions of this article and within the limits of funds
2950 available for that purpose;
2951 (c) Subject to the limits imposed by this article, to
2952 submit a Medicaid plan to the United States Department of Health
2953 and Human Services for approval under the provisions of the



2954 federal Social Security Act, to act for the state in making
2955 negotiations relative to the submission and approval of that plan,
2956 to make such arrangements, not inconsistent with the law, as may
2957 be required by or under federal law to obtain and retain that
2958 approval and to secure for the state the benefits of the
2959 provisions of that law.

2960 No agreements, specifically including the general plan for
2961 the operation of the Medicaid program in this state, shall be made
2962 by and between the division and the United States Department of
2963 Health and Human Services unless the Attorney General of the State
2964 of Mississippi has reviewed the agreements, specifically including
2965 the operational plan, and has certified in writing to the Governor
2966 and to the executive director of the division that the agreements,
2967 including the plan of operation, have been drawn strictly in
2968 accordance with the terms and requirements of this article;

2969 (d) In accordance with the purposes and intent of this
2970 article and in compliance with its provisions, provide for aged
2971 persons otherwise eligible for the benefits provided under Title
2972 XVIII of the federal Social Security Act by expenditure of funds
2973 available for those purposes;

2974 (e) To make reports to the United States Department of
2975 Health and Human Services as from time to time may be required by
2976 that federal department and to the Mississippi Legislature as
2977 provided in this section;



2978 (f) Define and determine the scope, duration and amount
2979 of Medicaid that may be provided in accordance with this article
2980 and establish priorities therefor in conformity with this article;

2981 (g) Cooperate and contract with other state agencies
2982 for the purpose of coordinating Medicaid provided under this
2983 article and eliminating duplication and inefficiency in the
2984 Medicaid program;

2985 (h) Adopt and use an official seal of the division;

2986 (i) Sue in its own name on behalf of the State of
2987 Mississippi and employ legal counsel on a contingency basis with
2988 the approval of the Attorney General;

2989 (j) To recover any and all payments incorrectly made by
2990 the division to a recipient or provider from the recipient or
2991 provider receiving the payments. The division shall be authorized
2992 to collect any overpayments to providers thirty (30) days after
2993 the conclusion of any administrative appeal unless the matter is
2994 appealed to a court of proper jurisdiction and bond is posted.
2995 Any appeal filed after July 1, 2014, shall be to the Chancery
2996 Court of Hinds County, Mississippi. To recover those payments,
2997 the division may use the following methods, in addition to any
2998 other methods available to the division:

2999 (i) The division shall report to the Department of
3000 Revenue the name of any current or former Medicaid recipient who
3001 has received medical services rendered during a period of
3002 established Medicaid ineligibility and who has not reimbursed the



3003 division for the related medical service payment(s). The
3004 Department of Revenue shall withhold from the state tax refund of
3005 the individual, and pay to the division, the amount of the
3006 payment(s) for medical services rendered to the ineligible
3007 individual that have not been reimbursed to the division for the
3008 related medical service payment(s).

3009 (ii) The division shall report to the Department
3010 of Revenue the name of any Medicaid provider to whom payments were
3011 incorrectly made that the division has not been able to recover by
3012 other methods available to the division. The Department of
3013 Revenue shall withhold from the state tax refund of the provider,
3014 and pay to the division, the amount of the payments that were
3015 incorrectly made to the provider that have not been recovered by
3016 other available methods;

3017 (k) To recover any and all payments by the division
3018 fraudulently obtained by a recipient or provider. Additionally,
3019 if recovery of any payments fraudulently obtained by a recipient
3020 or provider is made in any court, then, upon motion of the
3021 Governor, the judge of the court may award twice the payments
3022 recovered as damages;

3023 (l) Have full, complete and plenary power and authority
3024 to conduct such investigations as it may deem necessary and
3025 requisite of alleged or suspected violations or abuses of the
3026 provisions of this article or of the regulations adopted under
3027 this article, including, but not limited to, fraudulent or



3028 unlawful act or deed by applicants for Medicaid or other benefits,
3029 or payments made to any person, firm or corporation under the
3030 terms, conditions and authority of this article, to suspend or
3031 disqualify any provider of services, applicant or recipient for
3032 gross abuse, fraudulent or unlawful acts for such periods,
3033 including permanently, and under such conditions as the division
3034 deems proper and just, including the imposition of a legal rate of
3035 interest on the amount improperly or incorrectly paid. Recipients
3036 who are found to have misused or abused Medicaid benefits may be
3037 locked into one (1) physician and/or one (1) pharmacy of the
3038 recipient's choice for a reasonable amount of time in order to
3039 educate and promote appropriate use of medical services, in
3040 accordance with federal regulations. If an administrative hearing
3041 becomes necessary, the division may, if the provider does not
3042 succeed in his or her defense, tax the costs of the administrative
3043 hearing, including the costs of the court reporter or stenographer
3044 and transcript, to the provider. The convictions of a recipient
3045 or a provider in a state or federal court for abuse, fraudulent or
3046 unlawful acts under this chapter shall constitute an automatic
3047 disqualification of the recipient or automatic disqualification of
3048 the provider from participation under the Medicaid program.

3049 A conviction, for the purposes of this chapter, shall include
3050 a judgment entered on a plea of nolo contendere or a
3051 nonadjudicated guilty plea and shall have the same force as a
3052 judgment entered pursuant to a guilty plea or a conviction



3053 following trial. A certified copy of the judgment of the court of
3054 competent jurisdiction of the conviction shall constitute prima
3055 facie evidence of the conviction for disqualification purposes;

3056 (m) Establish and provide such methods of
3057 administration as may be necessary for the proper and efficient
3058 operation of the Medicaid program, fully utilizing computer
3059 equipment as may be necessary to oversee and control all current
3060 expenditures for purposes of this article, and to closely monitor
3061 and supervise all recipient payments and vendors rendering
3062 services under this article. Notwithstanding any other provision
3063 of state law, the division is authorized to enter into a ten-year
3064 contract(s) with a vendor(s) to provide services described in this
3065 paragraph (m), in accordance with the provisions of Section
3066 25-9-120. Effective July 1, 2014, and notwithstanding any
3067 provision of law to the contrary, the division is authorized to
3068 extend its Fiscal Agent and Eligibility Determination System
3069 contracts expiring on July 1, 2014, for a period not to exceed
3070 three (3) years without complying with the requirements provided
3071 in Section 25-9-120 and the Personal Service Contract Review Board
3072 procurement regulations;

3073 (n) To cooperate and contract with the federal
3074 government for the purpose of providing Medicaid to Vietnamese and
3075 Cambodian refugees, under the provisions of Public Law 94-23 and
3076 Public Law 94-24, including any amendments to those laws, only to
3077 the extent that the Medicaid assistance and the administrative



3078 cost related thereto are one hundred percent (100%) reimbursable
3079 by the federal government. For the purposes of Section 43-13-117,
3080 persons receiving Medicaid under Public Law 94-23 and Public Law
3081 94-24, including any amendments to those laws, shall not be
3082 considered a new group or category of recipient; and

3083 (o) The division shall impose penalties upon Medicaid
3084 only, Title XIX participating long-term care facilities found to
3085 be in noncompliance with division and certification standards in
3086 accordance with federal and state regulations, including interest
3087 at the same rate calculated by the United States Department of
3088 Health and Human Services and/or the Centers for Medicare and
3089 Medicaid Services (CMS) under federal regulations.

3090 (2) The division also shall exercise such additional powers
3091 and perform such other duties as may be conferred upon the
3092 division by act of the Legislature.

3093 (3) The division, and the State Department of Health as the
3094 agency for licensure of health care facilities and certification
3095 and inspection for the Medicaid and/or Medicare programs, shall
3096 contract for or otherwise provide for the consolidation of on-site
3097 inspections of health care facilities that are necessitated by the
3098 respective programs and functions of the division and the
3099 department.

3100 (4) The division and its hearing officers shall have power
3101 to preserve and enforce order during hearings; to issue subpoenas
3102 for, to administer oaths to and to compel the attendance and



3103 testimony of witnesses, or the production of books, papers,
3104 documents and other evidence, or the taking of depositions before
3105 any designated individual competent to administer oaths; to
3106 examine witnesses; and to do all things conformable to law that
3107 may be necessary to enable them effectively to discharge the
3108 duties of their office. In compelling the attendance and
3109 testimony of witnesses, or the production of books, papers,
3110 documents and other evidence, or the taking of depositions, as
3111 authorized by this section, the division or its hearing officers
3112 may designate an individual employed by the division or some other
3113 suitable person to execute and return that process, whose action
3114 in executing and returning that process shall be as lawful as if
3115 done by the sheriff or some other proper officer authorized to
3116 execute and return process in the county where the witness may
3117 reside. In carrying out the investigatory powers under the
3118 provisions of this article, the executive director or other
3119 designated person or persons may examine, obtain, copy or
3120 reproduce the books, papers, documents, medical charts,
3121 prescriptions and other records relating to medical care and
3122 services furnished by the provider to a recipient or designated
3123 recipients of Medicaid services under investigation. In the
3124 absence of the voluntary submission of the books, papers,
3125 documents, medical charts, prescriptions and other records, the
3126 Governor, the executive director, or other designated person may
3127 issue and serve subpoenas instantly upon the provider, his or her



3128 agent, servant or employee for the production of the books,
3129 papers, documents, medical charts, prescriptions or other records
3130 during an audit or investigation of the provider. If any provider
3131 or his or her agent, servant or employee refuses to produce the
3132 records after being duly subpoenaed, the executive director may
3133 certify those facts and institute contempt proceedings in the
3134 manner, time and place as authorized by law for administrative
3135 proceedings. As an additional remedy, the division may recover
3136 all amounts paid to the provider covering the period of the audit
3137 or investigation, inclusive of a legal rate of interest and a
3138 reasonable attorney's fee and costs of court if suit becomes
3139 necessary. Division staff shall have immediate access to the
3140 provider's physical location, facilities, records, documents,
3141 books, and any other records relating to medical care and services
3142 rendered to recipients during regular business hours.

3143 (5) If any person in proceedings before the division
3144 disobeys or resists any lawful order or process, or misbehaves
3145 during a hearing or so near the place thereof as to obstruct the
3146 hearing, or neglects to produce, after having been ordered to do
3147 so, any pertinent book, paper or document, or refuses to appear
3148 after having been subpoenaed, or upon appearing refuses to take
3149 the oath as a witness, or after having taken the oath refuses to
3150 be examined according to law, the executive director shall certify
3151 the facts to any court having jurisdiction in the place in which
3152 it is sitting, and the court shall thereupon, in a summary manner,



3153 hear the evidence as to the acts complained of, and if the
3154 evidence so warrants, punish that person in the same manner and to
3155 the same extent as for a contempt committed before the court, or
3156 commit that person upon the same condition as if the doing of the
3157 forbidden act had occurred with reference to the process of, or in
3158 the presence of, the court.

3159 (6) In suspending or terminating any provider from
3160 participation in the Medicaid program, the division shall preclude
3161 the provider from submitting claims for payment, either personally
3162 or through any clinic, group, corporation or other association to
3163 the division or its fiscal agents for any services or supplies
3164 provided under the Medicaid program except for those services or
3165 supplies provided before the suspension or termination. No
3166 clinic, group, corporation or other association that is a provider
3167 of services shall submit claims for payment to the division or its
3168 fiscal agents for any services or supplies provided by a person
3169 within that organization who has been suspended or terminated from
3170 participation in the Medicaid program except for those services or
3171 supplies provided before the suspension or termination. When this
3172 provision is violated by a provider of services that is a clinic,
3173 group, corporation or other association, the division may suspend
3174 or terminate that organization from participation. Suspension may
3175 be applied by the division to all known affiliates of a provider,
3176 provided that each decision to include an affiliate is made on a
3177 case-by-case basis after giving due regard to all relevant facts



3178 and circumstances. The violation, failure or inadequacy of
3179 performance may be imputed to a person with whom the provider is
3180 affiliated where that conduct was accomplished within the course
3181 of his or her official duty or was effectuated by him or her with
3182 the knowledge or approval of that person.

3183 (7) The division may deny or revoke enrollment in the
3184 Medicaid program to a provider if any of the following are found
3185 to be applicable to the provider, his or her agent, a managing
3186 employee or any person having an ownership interest equal to five
3187 percent (5%) or greater in the provider:

3188 (a) Failure to truthfully or fully disclose any and all
3189 information required, or the concealment of any and all
3190 information required, on a claim, a provider application or a
3191 provider agreement, or the making of a false or misleading
3192 statement to the division relative to the Medicaid program.

3193 (b) Previous or current exclusion, suspension,
3194 termination from or the involuntary withdrawing from participation
3195 in the Medicaid program, any other state's Medicaid program,
3196 Medicare or any other public or private health or health insurance
3197 program. If the division ascertains that a provider has been
3198 convicted of a felony under federal or state law for an offense
3199 that the division determines is detrimental to the best interest
3200 of the program or of Medicaid beneficiaries, the division may
3201 refuse to enter into an agreement with that provider, or may
3202 terminate or refuse to renew an existing agreement.



3203 (c) Conviction under federal or state law of a criminal
3204 offense relating to the delivery of any goods, services or
3205 supplies, including the performance of management or
3206 administrative services relating to the delivery of the goods,
3207 services or supplies, under the Medicaid program, any other
3208 state's Medicaid program, Medicare or any other public or private
3209 health or health insurance program.

3210 (d) Conviction under federal or state law of a criminal
3211 offense relating to the neglect or abuse of a patient in
3212 connection with the delivery of any goods, services or supplies.

3213 (e) Conviction under federal or state law of a criminal
3214 offense relating to the unlawful manufacture, distribution,
3215 prescription or dispensing of a controlled substance.

3216 (f) Conviction under federal or state law of a criminal
3217 offense relating to fraud, theft, embezzlement, breach of
3218 fiduciary responsibility or other financial misconduct.

3219 (g) Conviction under federal or state law of a criminal
3220 offense punishable by imprisonment of a year or more that involves
3221 moral turpitude, or acts against the elderly, children or infirm.

3222 (h) Conviction under federal or state law of a criminal
3223 offense in connection with the interference or obstruction of any
3224 investigation into any criminal offense listed in paragraphs (c)
3225 through (i) of this subsection.

3226 (i) Sanction for a violation of federal or state laws
3227 or rules relative to the Medicaid program, any other state's



3228 Medicaid program, Medicare or any other public health care or
3229 health insurance program.

3230 (j) Revocation of license or certification.

3231 (k) Failure to pay recovery properly assessed or
3232 pursuant to an approved repayment schedule under the Medicaid
3233 program.

3234 (l) Failure to meet any condition of enrollment.

3235 **SECTION 29.** Section 43-19-47, Mississippi Code of 1972, is
3236 amended as follows:

3237 43-19-47. (1) The Child Support Unit of the State
3238 Department of Human Services, in cooperation with the Attorney
3239 General, may appoint at least one (1) full-time staff attorney in
3240 or for each chancery court district for the purpose of initiating
3241 proceedings under the provisions of Sections 43-19-31 through
3242 43-19-53 in securing child support and establishing paternity.
3243 The Child Support Unit shall employ the attorneys in accordance
3244 with the provisions of Section 25-9-120. The annual salary of
3245 each of the attorneys appointed by the Child Support Unit, in
3246 cooperation with the Attorney General's office under the
3247 provisions of Sections 43-19-31 through 43-19-53 shall be fixed at
3248 such sums as may be deemed proper in accordance with the salaries
3249 of other full-time employed state attorneys with the Attorney
3250 General's Office. Such salaries, inclusive of all reimbursable
3251 travel and other expenses, inclusive of financial arrangements
3252 perfected with the appropriate courts, the law enforcement



3253 officials and the district attorneys, shall be paid monthly from
3254 the funds appropriated to the Child Support Unit of the State
3255 Department of Human Services and from the special fund for the
3256 Division of Child Support in which the interest from its accounts
3257 and all attorney's fees and other fees is placed. The Mississippi
3258 Personnel Board shall survey the salaries of other Mississippi
3259 attorneys with the Attorney General's Office each year and shall
3260 raise the start step of the staff and senior attorneys accordingly
3261 and the minimum shall never go below Forty Thousand Dollars
3262 (\$40,000.00) for staff attorneys or Fifty Thousand Dollars
3263 (\$50,000.00) for senior attorneys.

3264 (2) To assist in the implementation of the provisions of
3265 Sections 43-19-31 through 43-19-53, the Executive Director of the
3266 Department of Human Services is empowered to enter into
3267 cooperative agreements with district attorneys, county attorneys
3268 and attorneys employed by the county boards of supervisors, in
3269 conjunction with the Office of Attorney General. Said cooperative
3270 agreements shall be made in compliance with the regulations
3271 established by the Secretary of the Department of Health and Human
3272 Services, and may be funded either by funds appropriated to the
3273 Child Support Unit of the State Department of Human Services or
3274 funds appropriated by any county board of supervisors in this
3275 state for their respective county. Attorneys may be hired
3276 contractually, in accordance with the provisions of Section



3277 25-9-120, to be paid in amounts commensurate with the department's
3278 staff attorneys.

3279 **SECTION 30.** Section 43-33-717, Mississippi Code of 1972, is
3280 amended as follows:

3281 43-33-717. (1) The corporation shall have all the powers
3282 necessary or convenient to carry out and effectuate the purposes
3283 and provisions of this article, including, but without limiting
3284 the generality of the foregoing, the power:

3285 (a) To make and alter bylaws for its organization and
3286 internal management;

3287 (b) To sue and be sued, have a seal and alter the same
3288 at pleasure, and maintain an office at such place or places in the
3289 state as it may determine;

3290 (c) To appoint officers, agents and employees,
3291 prescribe their duties and qualifications, and fix their
3292 compensation;

3293 (d) To acquire real or personal property, or any
3294 interest therein, by purchase, exchange, gift, assignment,
3295 transfer, foreclosure, lease, condemnation or otherwise, including
3296 rights or easements; to hold, manage, operate or improve real or
3297 personal property; to sell, assign, exchange, lease, encumber,
3298 mortgage or otherwise dispose of any real or personal property, or
3299 any interest therein, or deed of trust or mortgage lien interest
3300 owned by it or under its control, custody or in its possession and
3301 release or relinquish any right, title, claim, lien, interest,



3302 easement or demand however acquired, including any equity or right
3303 of redemption in property foreclosed by it and to do any of the
3304 foregoing by public sale;

3305 (e) To make and execute agreements, contracts and other
3306 instruments necessary or convenient to the exercise of the powers
3307 and functions of the corporation under this article;

3308 (f) To employ or contract, in accordance with the
3309 provisions of Section 25-9-120, with architects, engineers,
3310 attorneys, accountants, financial experts and other advisors as
3311 may be necessary in its judgment and to fix and pay their
3312 compensation;

3313 (g) To make and execute contracts for the
3314 administration, servicing or collection of any mortgage loan and
3315 pay the reasonable value of services rendered to the corporation
3316 pursuant to such contracts;

3317 (h) To contract, in accordance with the provisions of
3318 Section 25-9-120, for the employment of a financial advisor,
3319 underwriting attorneys, trustees, paying agents, depositories or
3320 any consultants retained in connection with the issuance of any
3321 bonds or notes including refunding bonds or notes or dealing with
3322 the disposition of any proceeds thereof;

3323 (i) To issue negotiable bonds and notes and to provide
3324 for the rights of the holders thereof;



3325 (j) Subject to any agreement with bondholders or
3326 noteholders, to sell any mortgage loans at public or private sale
3327 at the fair market value for such a mortgage; and

3328 (k) Subject to any agreement with bondholders and
3329 noteholders, to make, alter or repeal such rules and regulations
3330 with respect to the operations, properties and facilities of the
3331 corporation as are necessary to carry out its functions and duties
3332 in the administration of this article.

3333 (2) The corporation shall also have the power:

3334 (a) To make loans to mortgage lenders for the purpose
3335 of:

3336 (i) Making housing development mortgage loans to
3337 qualified sponsors for low and moderate income rental or
3338 residential housing;

3339 (ii) Making loans to low and moderate income
3340 purchasers of residential housing with preference to those who are
3341 displaced from adequate housing as a result of a major disaster,
3342 whether it be a man-made, technological or natural disaster, upon
3343 a declaration by the Governor that a major disaster exists in the
3344 state;

3345 (b) To purchase from mortgage lenders any of the loans
3346 enumerated in subparagraphs (i) and (ii);

3347 (c) To insure, reinsure or guarantee any of the types
3348 of loans enumerated in subparagraphs (i) and (ii);



3349 (d) To make, in such amounts and upon such terms and
3350 conditions as the corporation shall approve, temporary loans,
3351 preconstruction loans, interim financing loans to any qualified
3352 sponsor and permanent financing to any qualified sponsor of
3353 multifamily housing.

3354 (3) The corporation shall also have the power to make loans
3355 from funds not otherwise encumbered by pledge or indenture to low
3356 and moderate income persons for the following purposes:

3357 (a) Purchasing, improving or rehabilitating existing
3358 residential housing and occupied by the owners;

3359 (b) Making loans to qualified nonprofit sponsors, to
3360 local housing authorities and to owners of residential housing for
3361 the development, construction, purchase, rehabilitation,
3362 weatherization or maintenance of residential housing.

3363 (4) Using funds not otherwise encumbered by pledge or
3364 indenture, the corporation may:

3365 (a) Establish a rental assistance program;

3366 (b) Provide such advisory consultation, training and
3367 educational services as will assist in the planning, construction,
3368 rehabilitation and operation of housing, including but not limited
3369 to, assistance in community development and organization, home
3370 management and advisory services for residents, and in promotion
3371 of community organizations and local governments to assist in
3372 developing housing;



3373 (c) Encourage research and demonstration projects to
3374 develop new and better methods for increasing the supply, types
3375 and financing of housing and to receive and accept contributions,
3376 grants or aid from any source, public or private, including but
3377 not limited to the United States and this state, for carrying out
3378 this purpose;

3379 (d) Encourage and stimulate cooperatives and other
3380 forms of housing with tenant participation;

3381 (e) Promote innovative programs for home ownership,
3382 including but not limited to lease-purchase programs,
3383 employer-sponsored housing programs, tenant cooperatives and
3384 nonprofit associations;

3385 (f) Design and support programs to address special
3386 needs groups including, but not limited to, handicapped, disabled,
3387 elderly, homeless, HIV/AIDS carriers and families with children;

3388 (g) Develop a comprehensive plan for, and engage in a
3389 yearly planning process for, addressing the housing needs of low
3390 and moderate income persons in Mississippi.

3391 (5) The corporation also has the power:

3392 (a) To procure, or require the procurement of,
3393 insurance against any loss in connection with its operations,
3394 including without limitation the repayment of any mortgage loan or
3395 loans, in such amounts and from such insurers, including the
3396 federal government, as it may deem necessary or desirable, and to
3397 pay any premiums therefor;



3398 (b) Subject to any agreement with bondholders or
3399 noteholders: (i) to renegotiate any loan in default; (ii) to
3400 waive any default or consent to the modification of the terms of
3401 any loan or agreement; (iii) to commence, prosecute and enforce a
3402 judgment in any action or proceeding, including without limitation
3403 a foreclosure proceeding, to protect or enforce any right
3404 conferred upon it by law, mortgage loan agreement, contract or
3405 other agreement; and (iv) in connection with any such proceeding,
3406 to bid for and purchase the property or acquire or take possession
3407 thereof and, in such event, complete, administer and pay the
3408 principal of and interest on any obligations incurred in
3409 connection with such property and dispose of and otherwise deal
3410 with such property in such manner as the corporation may deem
3411 advisable to protect its interest therein;

3412 (c) To fix, revise, charge and collect fees and other
3413 charges in connection with the making of loans, the purchasing of
3414 mortgage loans, and any other services rendered by the
3415 corporation;

3416 (d) To arrange for guarantees of its bonds, notes or
3417 other obligations by the federal government or by any private
3418 insurer and to pay any premiums therefor;

3419 (e) Notwithstanding any law to the contrary, but
3420 subject to any agreement with bondholders or noteholders, to
3421 invest money of the corporation not required for immediate use,
3422 including proceeds from the sale of any bonds or notes;



3423 (i) In obligations of any municipality or the
3424 state or the United States of America;
3425 (ii) In obligations the principal and interest of
3426 which are guaranteed by the state or the United States of America;
3427 (iii) In obligations of any corporation wholly
3428 owned by the United States of America;
3429 (iv) In obligations of any corporation sponsored
3430 by the United States of America which are, or may become, eligible
3431 as collateral for advances to member banks as determined by the
3432 Board of Governors of the Federal Reserve System;
3433 (v) In obligations of insurance firms or other
3434 corporations whose investments are rated "A" or better by
3435 recognized rating companies;
3436 (vi) In certificates of deposit or time deposits
3437 of qualified depositories of the state as approved by the State
3438 Depository Commission, secured in such manner, if any, as the
3439 corporation shall determine;
3440 (vii) In contracts for the purchase and sale of
3441 obligations of the type specified in items (i) through (v) above;
3442 (viii) In repurchase agreements secured by
3443 obligations specified in items (i) through (v) above;
3444 (ix) In money market funds, the assets of which
3445 are required to be invested in obligations specified in items (i)
3446 through (vi) above;



3447 (f) Subject to any agreement with bondholders or
3448 noteholders, to purchase, and to agree to purchase, bonds or notes
3449 of the corporation at a price not exceeding: (i) if the bonds or
3450 notes are then redeemable, the redemption price then applicable
3451 plus accrued interest to the date of purchase; or (ii) if the
3452 bonds or notes are not then redeemable, the redemption price
3453 applicable on the first date after such purchase upon which the
3454 notes or bonds become subject to redemption at the option of the
3455 corporation plus accrued interest to the date of purchase;

3456 (g) Subject to the provisions of this article, to
3457 contract for and to accept any gifts, grants or loans of funds or
3458 property or financial or other aid in any form from federal, state
3459 or local governments, private or public entities, or individuals;

3460 (h) To enter into agreements or other transactions with
3461 the federal or state government, any agency thereof or any
3462 municipality in furtherance of the purposes of this article; to
3463 operate and administer loan programs of the federal government,
3464 the State of Mississippi, or any governmental agency thereof; and
3465 to operate and administer any program of housing assistance for
3466 persons and families of low or moderate income, however funded;

3467 (i) To establish a benevolent loan fund, housing
3468 development fund, or such additional and further funds as may be
3469 necessary and desirable to accomplish any corporate purpose or to
3470 comply with the provisions of any agreement made by the
3471 corporation or any resolution approved by the corporation. The



3472 resolution establishing such a fund shall specify the source of
3473 monies from which it shall be funded and the purposes for which
3474 monies held in the fund shall be disbursed;

3475 (j) In carrying out the provisions of this article, the
3476 corporation shall cooperate with the housing authorities created
3477 under Sections 43-33-1 through 43-33-69 and Sections 43-33-101
3478 through 43-33-137, Mississippi Code of 1972;

3479 (k) To accept letters of credit and other credit
3480 facilities necessary to make loans authorized herein to repay
3481 bonds or notes issued by the corporation;

3482 (l) To do any and all things necessary or convenient to
3483 carry out its purposes and exercise the powers given and granted
3484 in this article.

3485 **SECTION 31.** Section 43-47-9, Mississippi Code of 1972, is
3486 amended as follows:

3487 43-47-9. (1) Upon receipt of a report pursuant to Section
3488 43-47-7 that a vulnerable person is in need of protective
3489 services, the department shall initiate an investigation and/or
3490 evaluation within forty-eight (48) hours if immediate attention is
3491 needed, or within seventy-two (72) hours if the vulnerable person
3492 is not in immediate danger, to determine whether the vulnerable
3493 person is in need of protective services and what services are
3494 needed. The evaluation shall include any necessary visits and
3495 interviews with the person, and if appropriate, with the alleged
3496 perpetrator of the vulnerable person abuse and with any person



3497 believed to have knowledge of the circumstances of the case. When
3498 a caretaker of a vulnerable person refuses to allow the department
3499 reasonable access to conduct an investigation to determine if the
3500 vulnerable person is in need of protective services, the
3501 department may petition the court for an order for injunctive
3502 relief enjoining the caretaker from interfering with the
3503 investigation.

3504 (2) The staff and physicians of local health departments,
3505 mental health clinics and other public or private agencies,
3506 including law enforcement agencies, shall cooperate fully with the
3507 department in the performance of its duties. These duties include
3508 immediate, in-residence evaluations and medical examinations and
3509 treatment where the department deems it necessary. However, upon
3510 receipt of a report of abuse, neglect or exploitation of a
3511 vulnerable person confined in a licensed hospital or licensed
3512 nursing home facility in the state, the department shall
3513 immediately refer this report to the proper authority at the State
3514 Department of Health for investigation under Section 43-47-37.

3515 Upon a showing of probable cause that a vulnerable person has
3516 been abused, a court may authorize a qualified third party to make
3517 an evaluation to enter the residence of, and to examine the
3518 vulnerable person. Upon a showing of probable cause that a
3519 vulnerable person has been financially exploited, a court may
3520 authorize a qualified third party, also authorized by the



department, to make an evaluation, and to gain access to the financial records of the vulnerable person.

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

SECTION 32. Section 47-5-35, Mississippi Code of 1972, is amended as follows:

47-5-35. The Joint Legislative Committee on Performance Evaluation and Expenditure Review (PEER) shall appoint an auditor to audit the correctional system, in accordance with the provisions of Section 25-9-120, and provide sufficient office facilities in the Jackson office, who shall be a certified public accountant or an experienced accountant, whose duty shall be to audit all accounts of the state correctional system for the purpose of reporting to the Legislative Budget Office. He shall report whether supplies and products bought and sold are handled in accordance with law and when bought on samples and specifications whether they measure up to such samples and specifications when the goods are received. The auditor shall report on the letting of bids and shall make a determination that all bids are advertised and let in accordance with law and shall render a report on same. The auditor shall be responsible to make a periodic inventory on all goods, machinery, livestock, farm produce or any other property of the correctional system and make



3546 a report thereon to the Legislative Budget Office on such terms
3547 and conditions and as often as required by the committee. The
3548 salaries and expenses of such auditor or his employees shall be
3549 paid from funds appropriated for support of the Legislature or its
3550 committees.

3551 Such auditor shall make, at least, a monthly report to the
3552 Legislative Budget Office and the Chairman of the Corrections
3553 Committee of the Senate and the Chairman of the Penitentiary
3554 Committee in the House of Representatives.

3555 The auditor shall attend all the meetings of the board and
3556 shall be notified by the board of all meetings or specially called
3557 meetings. The Joint Legislative Committee on Performance
3558 Evaluation and Expenditure Review shall provide the auditor with a
3559 secretary and such personnel as it deems necessary.

3560 **SECTION 33.** Section 47-5-37, Mississippi Code of 1972, is
3561 amended as follows:

3562 47-5-37. The commissioner shall employ, in accordance with
3563 the provisions of Section 25-9-120, a qualified fiscal comptroller
3564 who shall be a certified public accountant and who shall be
3565 charged with the responsibility of maintaining a modern accounting
3566 system which shall accurately reflect all fiscal transactions in
3567 such manner and in such form as shall be recommended by the State
3568 Fiscal Management Board. The commissioner shall employ such
3569 qualified bookkeepers and other clerical personnel as required to
3570 maintain the accounting system who shall devote their full time to



3571 their duties as employees of the correctional system. The fiscal
3572 comptroller shall make a monthly report to the Governor and
3573 Chairmen of Corrections Committee of the Senate and the
3574 Penitentiary Committee of the House of Representatives. The
3575 fiscal comptroller shall countersign all checks. The fiscal
3576 comptroller shall have sole responsibility for all purchases and
3577 the signing of all purchase orders issued by the correctional
3578 system. Such fiscal comptroller shall execute a good and
3579 sufficient bond payable to the State of Mississippi in the sum of
3580 Fifty Thousand Dollars (\$50,000.00), conditioned for the
3581 satisfactory performance of the duties of his office, and the
3582 accurate accounting of any moneys and properties coming into his
3583 hands.

3584 The commissioner or his designee shall sign all requisitions
3585 for issuance of warrant authorizing any disbursement of any sum or
3586 sums on account of the correctional system, and no money shall be
3587 paid out on any account of the correctional system except on a
3588 requisition for issuance of warrant signed by him or his designee.

3589 **SECTION 34.** Section 47-5-357, Mississippi Code of 1972, is
3590 amended as follows:

3591 47-5-357. (1) Due to the unique and time sensitive
3592 requirements of growing and harvesting products produced by the
3593 prison agricultural enterprises, the Department of Finance and
3594 Administration and the department shall establish a prudent
3595 purchasing policy which may exempt from bid requirements those



commodities, items or services which are needed for the efficient and effective management of the prison agricultural enterprises. The purchasing policy shall be established in compliance with the provisions for bid requirements set forth in Section 25-9-120.

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

SECTION 35. Section 49-27-71, Mississippi Code of 1972, is amended as follows:

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

(b) Any owner or operator of a derelict vessel shall be liable to the State of Mississippi for the restoration of all



3621 affected coastal wetlands and all costs associated with the
3622 removal of the vessel.

3623 (2) (a) If the last known owner or operator of a derelict
3624 vessel is ascertainable, the owner or operator shall be notified
3625 by certified mail to remove the derelict vessel and restore the
3626 affected coastal wetlands within thirty (30) days of the date of
3627 the notice. Failure to remove the vessel may result in the
3628 imposition of the damages provided in subsection (3).

3629 (b) When the owner or operator of the derelict vessel
3630 is unknown or cannot be located after diligent search and inquiry,
3631 notice shall be given by publishing in a newspaper having general
3632 circulation in the county where the derelict vessel is located the
3633 intent to remove and dispose of the derelict vessel. The notice
3634 shall be published once a week for three (3) consecutive weeks.
3635 The derelict vessel may be removed ten (10) days after the last
3636 date of publication.

3637 (c) The municipality or county where the vessel is
3638 located may remove the derelict vessel or request the department
3639 to contract for the removal of the derelict vessel. The cost of
3640 the removal of the derelict vessel shall be paid by the
3641 municipality or the county where the vessel is located. If the
3642 county or municipality cannot pay the cost of removal, the
3643 department may pay the cost of removal, if funds are available.

3644 (d) Any derelict vessel salvaged may be destroyed or
3645 otherwise disposed of without additional notice to the owner or



operator and the value thereof, if any, applied as an offset to the cost of the removal of the derelict vessel and restoration of the affected coastal wetlands.

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

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

(3) The chancery court of the county where the vessel is located shall have jurisdiction and by writ of mandatory injunction, order the removal of the vessel by the owner or operator. The chancery court shall allow a reasonable time for completion of the restoration of the coastal wetlands and removal of the vessel. The chancery court may, in its discretion, order as damages a sum not to exceed Five Hundred Dollars (\$500.00) per



3671 day for each day such violation has existed. The chancery court
3672 may further order as damages a sum not to exceed Five Hundred
3673 Dollars (\$500.00) per day for each day that the violation exists
3674 beyond the date set by the court in its injunction for the removal
3675 of the vessel and the restoration of the coastal wetlands.
3676 Additionally, the owner or operator shall be liable for reasonable
3677 attorneys' fees and all costs of court.

3678 (4) Any reimbursed cost of removal and any fines and damages
3679 collected in excess of the cost of the removal of the vessel and
3680 the restoration of the affected coastal wetlands shall be
3681 deposited in a special fund in the State Treasury to be known as
3682 the "Derelict Vessel Fund." The fund shall be administered by the
3683 department. Any funds deposited in the fund shall be used to
3684 cover the administrative costs and removal costs incurred by the
3685 department for the removal of vessels. Any remaining funds shall
3686 be used as a match for municipal and county funds to cover the
3687 costs of removing additional vessels.

3688 (5) Any sunken or submerged vessel in or on the coastal
3689 wetlands within any designated navigation channel or within one
3690 hundred (100) yards of the boundaries of any state, county or
3691 municipal port may be declared a hazard to navigation and subject
3692 to immediate removal and disposal by the department. Any sunken
3693 or submerged vessel in or on the coastal wetlands that is leaking
3694 any hazardous substances, chemicals or fuels may be declared an
3695 environmental hazard and subject to immediate removal and disposal



3696 by the department. The owners of a vessel removed in accordance
3697 with this subsection shall be liable for the costs associated with
3698 the salvage and disposal of the vessel and any damages to the
3699 flora and fauna within the coastal wetlands.

3700 (6) The department is authorized to enter into contracts
3701 with individuals, firms and corporations for the removal of
3702 vessels. The salvage value, if any, of the vessel may be used to
3703 offset the cost of the removal of the vessel and the restoration
3704 of the coastal wetlands. The department may enter into
3705 noncompetitive contracts or agreements with any state or federal
3706 entity for the removal of vessels, except as otherwise provided in
3707 Section 25-9-120.

3708 (7) The commission shall adopt rules and regulations
3709 necessary and appropriate to carry out this section. The
3710 commission may also enter into interstate or intrastate efforts
3711 toward this end, and may seek and utilize aid from all federal,
3712 state and local sources in this endeavor.

3713 (8) The State of Mississippi, the commission, the department
3714 and their employees and representatives shall not be liable for
3715 any damage resulting from the removal, sale or disposal of any
3716 vessel declared a derelict or hazardous vessel pursuant to this
3717 section.

3718 **SECTION 36.** Section 55-23-43, Mississippi Code of 1972, is
3719 amended as follows:



3720 55-23-43. The Building Commission may employ, in accordance
3721 with the provisions of Section 25-9-120, competent architects,
3722 engineers and other qualified agents to prepare plans,
3723 specifications and such other data as may be necessary to enable
3724 it to carry out the purposes of Sections 55-23-21 through 55-23-43
3725 in a manner consistent with sound construction principles. When
3726 the plans and specifications have been approved and accepted by
3727 the Building Commission, contracts for the various phases of
3728 construction shall then be let by the Building Commission in the
3729 manner provided by law to competent and responsible firms or
3730 individuals whose work shall proceed under the constant inspection
3731 of a reliable and competent inspector to be furnished for that
3732 purpose by the State Building Commission. All expenses incurred
3733 in the enlargement and renovation under the provisions of Sections
3734 55-23-21 through 55-23-43 shall be paid from the Mississippi
3735 Memorial Stadium Construction Fund created herein. The
3736 Mississippi Veterans Memorial Stadium Commission may take any
3737 action authorized in Section 55-23-8 relating to the property
3738 described in such section.

3739 **SECTION 37.** Section 57-1-355, Mississippi Code of 1972, is
3740 amended as follows:

3741 57-1-355. DECD, in addition to any and all powers now or
3742 hereafter granted to it, is empowered and shall exercise
3743 discretion and the use of these powers depending on the
3744 circumstances of the project or projects:



3745 (a) To employ or contract, in accordance with the
3746 provisions of Section 25-9-120, with architects, engineers,
3747 attorneys, accountants, construction and financial experts and
3748 such other advisors, consultants and agents as may be necessary in
3749 its judgment and to fix and pay their compensation.

3750 (b) To make such applications and enter into such
3751 contracts for financial assistance as may be appropriate under
3752 applicable federal or state law.

3753 (c) To apply for, accept and utilize grants, gifts and
3754 other funds or aid from any source for any purpose contemplated by
3755 Sections 57-1-351 through 57-1-369, and to comply, subject to the
3756 provisions of Sections 57-1-351 through 57-1-369, with the terms
3757 and conditions thereof.

3758 (d) To acquire by purchase or lease any public lands
3759 and public property, including sixteenth section lands and lieu
3760 lands, within the project area, which are necessary for the
3761 project. Sixteenth section lands or lieu lands acquired under
3762 Sections 57-1-351 through 57-1-369 shall be deemed to be acquired
3763 for the purposes of industrial development thereon and such
3764 acquisition will serve a higher public interest in accordance with
3765 the purposes of Sections 57-1-351 through 57-1-369.

3766 (e) If DECD identifies any land owned by the state as
3767 being necessary, for the location or use of the project, or any
3768 facility related to the project, to recommend to the Legislature



3769 the conveyance of such land or any interest therein, as the
3770 Legislature deems appropriate.

3771 (f) To make or cause to be made such examinations and
3772 surveys as may be necessary to the planning, design, construction
3773 and operation of the project.

3774 (g) From and after the date of notification to DECD by
3775 the enterprise that the state has been finally selected as the
3776 site of the project, to acquire by condemnation and to own,
3777 maintain, use, operate and convey or otherwise dispose of any and
3778 all property of any kind, real, personal or mixed, or any interest
3779 or estate therein, within the project area, necessary for the
3780 project or any facility related to the project, with the
3781 concurrence of the affected public agency, and the exercise of the
3782 powers granted by Sections 57-1-351 through 57-1-369, according to
3783 the procedures provided by Chapter 27, Title 11, Mississippi Code
3784 of 1972, except as modified by Sections 57-1-351 through 57-1-369.

3785 (i) In acquiring lands by condemnation, DECD shall
3786 not acquire minerals or royalties in minerals unless a competent
3787 registered professional engineer shall have certified that the
3788 acquisition of such minerals and royalties in minerals is
3789 necessary for purposes of the project; provided that limestone,
3790 clay, chalk, sand and gravel shall not be considered as minerals
3791 within the meaning of this section; and

3792 (ii) Unless minerals or royalties in minerals have
3793 been acquired by condemnation or otherwise, no person or persons



3794 owning the drilling rights or the right to share in production of
3795 minerals shall be prevented from exploring, developing, or
3796 producing oil or gas with necessary rights-of-way for ingress and
3797 egress, pipelines and other means of transporting interests on any
3798 land or interest therein of the authority held or used for the
3799 purposes of Sections 57-1-351 through 57-1-369; but any such
3800 activities shall be under such reasonable regulation by DECD as
3801 will adequately protect the project contemplated by Sections
3802 57-1-351 through 57-1-369 as provided in paragraph (r) of this
3803 section.

3804 (h) To negotiate the necessary relocation or rerouting
3805 of roads and highways, railroad, telephone and telegraph lines and
3806 properties, electric power lines, pipelines and related
3807 facilities, or to require the anchoring or other protection of any
3808 of these, provided due compensation is paid to the owners thereof
3809 or agreement is had with such owners regarding the payment of the
3810 cost of such relocation, and to acquire by condemnation or
3811 otherwise easements or rights-of-way for such relocation or
3812 rerouting and to convey the same to the owners of the facilities
3813 being relocated or rerouted in connection with the purposes of
3814 Sections 57-1-351 through 57-1-369.

3815 (i) To negotiate the necessary relocation of cemeteries
3816 and to pay all reasonable costs thereof.

3817 (j) To perform or have performed any and all acts and
3818 make all payments necessary to comply with all applicable federal



3819 laws, rules or regulations including, but not limited to, the
3820 Uniform Relocation Assistance and Real Property Acquisition
3821 Policies Act of 1970 (42 U.S.C. 4601, 4602, 4621 to 4638, and 4651
3822 to 4655) and relocation rules and regulations promulgated by any
3823 agency or department of the federal government.

3824 (k) To construct, extend, improve, maintain, and
3825 reconstruct, to cause to be constructed, extended, improved,
3826 maintained, and reconstructed, and to use and operate any and all
3827 components of the project or any facility related to the project,
3828 with the concurrence of the affected public agency, within the
3829 project area, necessary to the project and to the exercise of such
3830 powers, rights, and privileges granted DECD.

3831 (l) To incur or defray any designated portion of the
3832 cost of any component of the project or any facility related to
3833 the project acquired or constructed by any public agency.

3834 (m) To lease, sell or convey any or all property
3835 acquired by DECD under the provisions of Sections 57-1-351 through
3836 57-1-369 to the enterprise, its successors or assigns, and in
3837 connection therewith to pay the costs of title search, perfection
3838 of title, title insurance and recording fees as may be required.
3839 DECD may provide in the instrument conveying such property a
3840 provision that such property shall revert to DECD if, as and when
3841 the property is declared by the enterprise to be no longer needed.

3842 (n) To enter into contracts with any person or public
3843 agency including, but not limited to, contracts authorized by



3844 Section 57-1-363, in furtherance of any of the purposes authorized
3845 by Sections 57-1-351 through 57-1-369 upon such consideration
3846 as DECD and such person or public agency may agree. Any such
3847 contract may extend over any period of time, notwithstanding any
3848 rule of law to the contrary, may be upon such terms as the parties
3849 thereto shall agree, and may provide that it shall continue in
3850 effect until bonds specified therein, refunding bonds issued in
3851 lieu of such bonds, and all other obligations specified therein
3852 are paid or terminated. Any such contract shall be binding upon
3853 the parties thereto according to its terms. Such contracts may
3854 include an agreement to reimburse the enterprise, its successors
3855 and assigns for any assistance provided by the enterprise in the
3856 acquisition of real property for the project or any facility
3857 related to the project.

3858 (o) To establish and maintain reasonable rates and
3859 charges for the use of any facility within the project area owned
3860 or operated by DECD, and from time to time to adjust such rates
3861 and to impose penalties for failure to pay such rates and charges
3862 when due.

3863 (p) To adopt and enforce with the concurrence of the
3864 affected public agency all necessary and reasonable rules and
3865 regulations to carry out and effectuate the implementation of the
3866 project and any land use plan or zoning classification adopted for
3867 the project area, including but not limited to rules, regulations,
3868 and restrictions concerning mining, construction, excavation or



3869 any other activity the occurrence of which may endanger the
3870 structure or operation of the project. Such rules may be enforced
3871 within the project area and without the project area as necessary
3872 to protect the structure and operation of the project. DECD is
3873 authorized to plan or replan, zone or rezone, and make exceptions
3874 to any regulations, whether local or state, with the concurrence
3875 of the affected public agency which are inconsistent with the
3876 design, planning, construction or operation of the project and
3877 facilities related to the project.

3878 (q) To plan, design, coordinate and implement measures
3879 and programs to mitigate impacts on the natural environment caused
3880 by the project or any facility related to the project.

3881 (r) To develop plans for technology transfer activities
3882 to ensure private sector conduits for exchange of information,
3883 technology and expertise related to the project to generate
3884 opportunities for commercial development within the state.

3885 (s) To consult with the State Department of Education
3886 and other public agencies for the purpose of improving public
3887 schools and curricula within the project area.

3888 (t) To consult with the State Board of Health and other
3889 public agencies for the purpose of improving medical centers,
3890 hospitals and public health centers in order to provide
3891 appropriate health care facilities within the project area.

3892 (u) To consult with the Office of Minority Business
3893 Enterprise Development and other public agencies for the purpose



of developing plans for technical assistance and loan programs to maximize the economic impact related to the project for minority business enterprises within the State of Mississippi.

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

SECTION 38. Section 57-34-7, Mississippi Code of 1972, is amended as follows:

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

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

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

(a) The management and operation of the authority;



3919 (b) The terms, conditions or manner in which the
3920 authority will engage in projects; and

3921 (c) Any other matters not inconsistent with the terms
3922 or purposes of this chapter.

3923 (4) The board of directors may negotiate and enter into a
3924 project agreement setting forth any provisions relating to a
3925 specific project that are not inconsistent with the terms or
3926 purposes of this chapter.

3927 (5) The authority, through its board of directors, is hereby
3928 authorized, designated and empowered to:

3929 (a) Promulgate rules and regulations consistent with
3930 this chapter concerning such matters as the authority deems
3931 appropriate;

3932 (b) Take all steps necessary or appropriate to effect
3933 the siting, development and operation of a project within the
3934 designated geographic area;

3935 (c) Act on behalf of the states in submitting site and
3936 incentive proposals for any project. Notwithstanding anything in
3937 this chapter to the contrary, no proposal shall be binding upon
3938 the authority or the states until after the project agreement, and
3939 the incentives contained in the agreement with respect to the
3940 project, have been approved by the legislatures of both states as
3941 required under the laws of each state;

3942 (d) To employ or contract, in accordance with the
3943 provisions of Section 25-9-120, with architects, engineers,



3944 attorneys, accountants, construction and financial experts and
3945 such other advisors, consultants and agents as may be necessary in
3946 its judgment and to fix and pay their compensation;

3947 (e) To make applications and enter into any contracts
3948 for financial assistance as may be appropriate under applicable
3949 federal law or the laws of either state;

3950 (f) To apply for, accept and utilize grants, gifts and
3951 other funds or aid from any source for any purpose contemplated by
3952 this chapter, and to comply, subject to the provisions of this
3953 chapter, with the terms and conditions thereof; and

3954 (g) To acquire by purchase, lease, gift, or in other
3955 manner, or obtain options to acquire and to own, maintain, use,
3956 operate and convey any and all property of any kind, public or
3957 private, real, personal, or mixed, or any interest or estate
3958 therein, within the designated geographic area necessary for the
3959 project or any facility related and necessary to the project.

3960 (6) If an area within the designated geographic area is
3961 selected as the preferred project site for a project and the
3962 legislatures of the states have approved a project agreement with
3963 respect to the project, the authority is hereby designated and
3964 empowered to coordinate fully the development of the project with
3965 private business, the United States government and public agencies
3966 and/or political subdivisions of both states.

3967 (7) The authority shall create a separate account for money
3968 that it receives from sources other than the states and shall



3969 account for such monies separate from appropriations and other
3970 monies from the states.

3971 **SECTION 39.** Section 57-67-11, Mississippi Code of 1972, is
3972 amended as follows:

3973 57-67-11. The authority, in addition to any and all powers
3974 now or hereafter granted to it, is hereby empowered:

3975 (a) To maintain an office at a place or places in the
3976 state.

3977 (b) To employ or contract, in accordance with the
3978 provisions of Section 25-9-120, with architects, engineers,
3979 attorneys, accountants, construction and financial experts and
3980 such other advisors, consultants and agents as may be necessary in
3981 its judgment and to fix and pay their compensation.

3982 (c) To make such applications and enter into such
3983 contracts for financial assistance as may be appropriate under
3984 applicable federal or state law.

3985 (d) To apply for, accept and utilize grants, gifts and
3986 other funds or aid from any source for any purpose contemplated by
3987 the chapter, and to comply, subject to the provisions of this
3988 chapter, with the terms and conditions thereof.

3989 (e) To acquire by purchase, lease, gift, or in other
3990 manner other than by eminent domain, or obtain options to acquire,
3991 and to own, maintain, use, operate and convey any and all property
3992 of any kind, real, personal, or mixed, or any interest or estate
3993 therein, (including easements, rights-of-way, air rights or



3994 subsurface rights, or a stratified fee estate in a specified
3995 volume of land located below, at, or above the surface) within or
3996 without the project area, necessary or convenient for the project
3997 or any facility related to the project or necessary or convenient
3998 for any enhancement offered to secure the siting of the project in
3999 the state or for the exercise of the powers granted by this
4000 chapter.

4001 (f) To acquire by purchase or lease any public lands
4002 and public property, including sixteenth section lands and lieu
4003 lands, within the project area, which are necessary or convenient
4004 for the project. Sixteenth section lands or lieu lands acquired
4005 under this chapter shall be deemed to be acquired for the purposes
4006 of industrial development thereon and such acquisition will serve
4007 a higher public interest in accordance with the purposes of this
4008 chapter.

4009 (g) To make or cause to be made such examinations and
4010 surveys as may be necessary to the planning, design, construction
4011 and operation of the project; and for such purpose the authority,
4012 its agents, servants, or any public agency involved in the project
4013 selection, design, construction or operation, shall have immediate
4014 and full right of entry upon the lands and waters of any person
4015 for the purposes of survey and exploration.

4016 (h) From and after the date of notification to the
4017 authority by the Department of Energy that the state has been
4018 finally selected as the site of the project, to acquire by



4019 condemnation and to own, maintain, use, operate and convey or
4020 otherwise dispose of any and all property of any kind, real,
4021 personal or mixed, or any interest or estate therein, (including
4022 easements, rights-of-way, air rights or subsurface rights, or a
4023 stratified fee estate in a specified volume of land located below,
4024 at, or above the surface), within the project area, necessary or
4025 convenient for the project or any facility related to the project
4026 and the exercise of the powers granted by this chapter, according
4027 to the procedures provided by Chapter 27, Title 11, Mississippi
4028 Code of 1972, except as modified by this chapter. For the
4029 purposes of this chapter, the right of eminent domain shall be
4030 superior and dominant to the right of eminent domain of other
4031 public agencies and of railroad, telephone, telegraph, gas, power
4032 and other companies or corporations and shall extend to public and
4033 private lands including sixteenth section lands. The amount and
4034 character of interest in land, other property, and easements thus
4035 to be acquired shall be determined by the authority, and its
4036 determination shall be conclusive and shall not be subject to
4037 attack in the absence of manifest abuse of discretion or fraud on
4038 the part of the authority in making such determination. However,
4039 (i) In acquiring lands by condemnation, the
4040 authority shall not acquire minerals or royalties in minerals
4041 unless a competent registered professional engineer shall have
4042 certified that the acquisition of such minerals and royalties in
4043 minerals is necessary for purposes of the project; provided that



limestone, clay, chalk, sand and gravel shall not be considered as minerals within the meaning of this section; and

(ii) Unless minerals or royalties in minerals have been acquired by condemnation or otherwise, no person or persons owning the drilling rights or the right to share in production of minerals shall be prevented from exploring, developing, or producing oil or gas with necessary rights-of-way for ingress and egress, pipelines and other means of transporting interests on any land or interest therein of the authority held or used for the purposes of this chapter; but any such activities shall be under such reasonable regulation by the authority as will adequately protect the project contemplated by this chapter as provided in subparagraph (s) of this section. For the purpose of acquiring by condemnation land and easements for the project or any facility related to the project located within the project area, the authority shall have the right of immediate possession pursuant to Sections 11-27-81 through 11-27-89.

(i) In any proceeding in any court which has been or may be instituted by and in the name of the authority for the acquisition of any land or easement or right-of-way in land for the public use as provided in subparagraph (h) of this section, the authority may file in the cause, with the petition or at any time before judgment, a declaration of taking signed by the authority, declaring that said lands are thereby taken for the use



4068 of the authority in connection with the location of the project.
4069 Said declaration of taking shall contain or have annexed thereto:

4070 (i) A statement of the statutory authority under
4071 which and the public use for which said lands are taken.

4072 (ii) A description of the lands taken sufficient
4073 for the identification thereof.

4074 (iii) A statement of the estate or interest in
4075 said lands taken for said public use.

4076 (iv) A statement of the necessity of the immediate
4077 vesting of title in the authority in order to convey such property
4078 to the United States for the use in connection with the project.

4079 (v) A statement of the sum of money estimated by
4080 the authority to be due compensation for the land taken. Upon
4081 filing the declaration of taking and of the deposit in the court,
4082 to the use of the persons entitled thereto, of the amount of the
4083 estimated compensation stated in the declaration, title to such
4084 lands in fee simple absolute, or such less estate or interest
4085 therein as is specified in the declaration, shall vest in the
4086 authority, and such lands shall be deemed to be condemned and
4087 taken for the use of the authority, and the right to due
4088 compensation for the same shall vest in the persons entitled
4089 thereto; and compensation shall be ascertained and awarded in the
4090 proceeding and established by judgment therein, and the judgment
4091 shall include, as part of the due compensation awarded, interest
4092 in accordance with law on the amount finally awarded as the value



4093 of the property as of the date of taking, from such date to the
4094 date of payment; but interest shall not be allowed on so much
4095 thereof as shall have been paid into the court. No sum so paid
4096 into the court shall be charged with commissions or poundage.

4097 Upon the application of the parties in interest, the court
4098 may order that the money deposited in the court, or any part
4099 thereof, be paid forthwith for or on account of the due
4100 compensation to be awarded in the proceeding. If the compensation
4101 finally awarded in respect of such lands, or any parcel thereof,
4102 shall exceed the amount of the money so received by any person
4103 entitled, the court shall enter judgment against the authority for
4104 the amount of the deficiency.

4105 Upon the filing of a declaration of taking, the court shall
4106 have power to fix the time within which and the terms upon which
4107 the parties in possession shall be required to surrender
4108 possession to the petitioner. The court shall have power to make
4109 such orders in respect of encumbrances, liens, rents, taxes,
4110 assessments, insurance, and other charges, if any, as shall be
4111 just and equitable. No appeal in any cause under this
4112 subparagraph (i) of this section nor any bond or undertaking given
4113 therein shall operate to prevent or delay the vesting of title to
4114 such lands in the authority.

4115 (j) To require the necessary relocation or rerouting of
4116 roads and highways, railroad, telephone and telegraph lines and
4117 properties, electric power lines, pipelines and related



4118 facilities, or to require the anchoring or other protection of any
4119 of these, provided due compensation is paid to the owners thereof
4120 or agreement is had with such owners regarding the payment of the
4121 cost of such relocation, and to acquire by condemnation or
4122 otherwise easements or rights-of-way for such relocation or
4123 rerouting and to convey the same to the owners of the facilities
4124 being relocated or rerouted in connection with the purposes of
4125 this chapter.

4126 (k) To require the necessary relocation of cemeteries
4127 and to pay all reasonable costs thereof.

4128 (l) To perform or have performed any and all acts and
4129 make all payments necessary to comply with all applicable federal
4130 laws, rules or regulations including but not limited to the
4131 Uniform Relocation Assistance and Real Property Acquisition
4132 Policies Act of 1970 (42 U.S.C. 4601, 4602, 4621 to 4638, and
4133 4651 to 4655) and relocation rules and regulations promulgated by
4134 the Department of Energy.

4135 (m) To construct, extend, improve, maintain, and
4136 reconstruct, to cause to be constructed, extended, improved,
4137 maintained, and reconstructed, and to use and operate any and all
4138 components of the project or any facility related to the project,
4139 within the project area, necessary or convenient to the project
4140 and to the exercise of such powers, rights, and privileges granted
4141 the authority.



4142 (n) To incur or defray any designated portion of the
4143 cost of any component of the project or any facility related to
4144 the project acquired or constructed by any public agency.

4145 (o) To lease, sell, give, donate, convey or otherwise
4146 transfer any or all property acquired by the authority under the
4147 provisions of this chapter to the United States Department of
4148 Energy, its successors or assigns, and in connection therewith to
4149 pay the costs of title search, perfection of title, title
4150 insurance and recording fees as may be required. The authority
4151 may provide in the instrument conveying such property a provision
4152 that such property shall revert to the authority if, as and when
4153 the property is declared by the United States Department of Energy
4154 to be no longer needed for the Superconducting Super Collider
4155 research facility.

4156 (p) To enter into contracts with any person, public
4157 agency or political subdivision including, but not limited to,
4158 contracts authorized by Section 57-67-17, in furtherance of any of
4159 the purposes authorized by this chapter upon such consideration as
4160 the authority and such person, public agency or political
4161 subdivision may agree. Any such contract may extend over any
4162 period of time, notwithstanding any rule of law to the contrary,
4163 may be upon such terms as the parties thereto shall agree, and may
4164 provide that it shall continue in effect until bonds specified
4165 therein, refunding bonds issued in lieu of such bonds, and all
4166 other obligations specified therein are paid or terminated. Any



4167 such contract shall be binding upon the parties thereto according
4168 to its terms. Such contracts may include an agreement to
4169 reimburse the United States Department of Energy, its successors
4170 and assigns for any assistance provided by the United States
4171 Department of Energy in the acquisition of real property for the
4172 project or any facility related to the project.

4173 (q) To establish and maintain reasonable rates and
4174 charges for the use of any facility within the project area owned
4175 or operated by the authority, and from time to time to adjust such
4176 rates and to impose penalties for failure to pay such rates and
4177 charges when due.

4178 (r) To make and enforce, and from time to time amend
4179 and repeal, rules and regulations for the construction, use,
4180 maintenance and operation of any facility related to the project
4181 under its management and control and any other of its properties.

4182 (s) To adopt and enforce all necessary and reasonable
4183 rules and regulations to carry out and effectuate the
4184 implementation of the project and any land use plan or zoning
4185 classification adopted for the project area, including but not
4186 limited to rules, regulations, and restrictions concerning mining,
4187 construction, excavation or any other activity the occurrence of
4188 which may endanger the structure or operation of the project.
4189 Such rules may be enforced within the project area and without the
4190 project area as necessary to protect the structure and operation
4191 of the project. The authority is authorized to plan or replan,



4192 zone or rezone, and make exceptions to any regulations, whether
4193 local or state, which are inconsistent with the design, planning,
4194 construction or operation of the project and facilities related to
4195 the project.

4196 (t) To plan, design, coordinate and implement measures
4197 and programs to mitigate impacts on the natural environment caused
4198 by the project or any facility related to the project.

4199 (u) To assist any public agency involved with the
4200 project design, construction or operation in securing any state or
4201 local permits and approval required for the project or any
4202 facility related to the project.

4203 (v) To do any and all things necessary or convenient to
4204 carry out the authority's purposes and to exercise the powers
4205 given and granted in this chapter.

4206 **SECTION 40.** Section 57-75-11, Mississippi Code of 1972, is
4207 amended as follows:

4208 57-75-11. The authority, in addition to any and all powers
4209 now or hereafter granted to it, is empowered and shall exercise
4210 discretion and the use of these powers depending on the
4211 circumstances of the project or projects:

4212 (a) To maintain an office at a place or places within
4213 the state.

4214 (b) To employ or contract, in accordance with the
4215 provisions of Section 25-9-120, with architects, engineers,
4216 attorneys, accountants, construction and financial experts and



4217 such other advisors, consultants and agents as may be necessary in
4218 its judgment and to fix and pay their compensation.

4219 (c) To make such applications and enter into such
4220 contracts for financial assistance as may be appropriate under
4221 applicable federal or state law.

4222 (d) To apply for, accept and utilize grants, gifts and
4223 other funds or aid from any source for any purpose contemplated by
4224 the act, and to comply, subject to the provisions of this act,
4225 with the terms and conditions thereof.

4226 (e) (i) To acquire by purchase, lease, gift, or in
4227 other manner, including quick-take eminent domain, or obtain
4228 options to acquire, and to own, maintain, use, operate and convey
4229 any and all property of any kind, real, personal, or mixed, or any
4230 interest or estate therein, within the project area, necessary for
4231 the project or any facility related to the project. The
4232 provisions of this paragraph that allow the acquisition of
4233 property by quick-take eminent domain shall be repealed by
4234 operation of law on July 1, 1994; and

4235 (ii) Notwithstanding any other provision of this
4236 paragraph (e), from and after November 6, 2000, to exercise the
4237 right of immediate possession pursuant to the provisions of
4238 Sections 11-27-81 through 11-27-89 for the purpose of acquiring
4239 land, property and/or rights-of-way in the county in which a
4240 project as defined in Section 57-75-5(f)(iv)1 is located, that are
4241 necessary for such project or any facility related to the project.



4242 (f) To acquire by purchase or lease any public lands
4243 and public property, including sixteenth section lands and lieu
4244 lands, within the project area, which are necessary for the
4245 project. Sixteenth section lands or lieu lands acquired under
4246 this act shall be deemed to be acquired for the purposes of
4247 industrial development thereon and such acquisition will serve a
4248 higher public interest in accordance with the purposes of this
4249 act.

4250 (g) If the authority identifies any land owned by the
4251 state as being necessary, for the location or use of the project,
4252 or any facility related to the project, to recommend to the
4253 Legislature the conveyance of such land or any interest therein,
4254 as the Legislature deems appropriate.

4255 (h) To make or cause to be made such examinations and
4256 surveys as may be necessary to the planning, design, construction
4257 and operation of the project.

4258 (i) From and after the date of notification to the
4259 authority by the enterprise that the state has been finally
4260 selected as the site of the project, to acquire by condemnation
4261 and to own, maintain, use, operate and convey or otherwise dispose
4262 of any and all property of any kind, real, personal or mixed, or
4263 any interest or estate therein, within the project area, necessary
4264 for the project or any facility related to the project, with the
4265 concurrence of the affected public agency, and the exercise of the
4266 powers granted by this act, according to the procedures provided



4267 by Chapter 27, Title 11, Mississippi Code of 1972, except as
4268 modified by this act.

4269 (i) Except as otherwise provided in subparagraph
4270 (iii) of this paragraph (i), in acquiring lands by condemnation,
4271 the authority shall not acquire minerals or royalties in minerals
4272 unless a competent registered professional engineer shall have
4273 certified that the acquisition of such minerals and royalties in
4274 minerals is necessary for purposes of the project; provided that
4275 limestone, clay, chalk, sand and gravel shall not be considered as
4276 minerals for the purposes of subparagraphs (i) and (ii) of this
4277 paragraph (i);

4278 (ii) Unless minerals or royalties in minerals have
4279 been acquired by condemnation or otherwise, no person or persons
4280 owning the drilling rights or the right to share in production of
4281 minerals shall be prevented from exploring, developing, or
4282 producing oil or gas with necessary rights-of-way for ingress and
4283 egress, pipelines and other means of transporting interests on any
4284 land or interest therein of the authority held or used for the
4285 purposes of this act; but any such activities shall be under such
4286 reasonable regulation by the authority as will adequately protect
4287 the project contemplated by this act as provided in paragraph (r)
4288 of this section; and

4289 (iii) In acquiring lands by condemnation,
4290 including the exercise of immediate possession, for a project, as



4291 defined in Section 57-75-5(f)(iv)1, the authority may acquire
4292 minerals or royalties in minerals.

4293 (j) To negotiate the necessary relocation or rerouting
4294 of roads and highways, railroad, telephone and telegraph lines and
4295 properties, electric power lines, pipelines and related
4296 facilities, or to require the anchoring or other protection of any
4297 of these, provided due compensation is paid to the owners thereof
4298 or agreement is had with such owners regarding the payment of the
4299 cost of such relocation, and to acquire by condemnation or
4300 otherwise easements or rights-of-way for such relocation or
4301 rerouting and to convey the same to the owners of the facilities
4302 being relocated or rerouted in connection with the purposes of
4303 this act.

4304 (k) To negotiate the necessary relocation of graves and
4305 cemeteries and to pay all reasonable costs thereof.

4306 (l) To perform or have performed any and all acts and
4307 make all payments necessary to comply with all applicable federal
4308 laws, rules or regulations including, but not limited to, the
4309 Uniform Relocation Assistance and Real Property Acquisition
4310 Policies Act of 1970 (42 USCS 4601, 4602, 4621 to 4638, and 4651
4311 to 4655) and relocation rules and regulations promulgated by any
4312 agency or department of the federal government.

4313 (m) To construct, extend, improve, maintain, and
4314 reconstruct, to cause to be constructed, extended, improved,
4315 maintained, and reconstructed, and to use and operate any and all



4316 components of the project or any facility related to the project,
4317 with the concurrence of the affected public agency, within the
4318 project area, necessary to the project and to the exercise of such
4319 powers, rights, and privileges granted the authority.

4320 (n) To incur or defray any designated portion of the
4321 cost of any component of the project or any facility related to
4322 the project acquired or constructed by any public agency.

4323 (o) (i) To lease, sell or convey any or all property
4324 acquired by the authority under the provisions of this act to the
4325 enterprise, its successors or assigns, and/or any entity for
4326 purposes in furtherance of economic development as determined by
4327 the authority, and in connection therewith to pay the costs of
4328 title search, perfection of title, title insurance and recording
4329 fees as may be required. The authority may provide in the
4330 instrument conveying such property a provision that such property
4331 shall revert to the authority if, as and when the property is
4332 declared by the transferee to be no longer needed.

4333 (ii) To lease, sell, transfer or convey on any
4334 terms agreed upon by the authority any or all real and personal
4335 property, improvements, leases, funds and contractual obligations
4336 of a project as defined in Section 57-75-5(f)(vi) and conveyed to
4337 the State of Mississippi by a Quitclaim Deed from the United
4338 States of America dated February 23, 1996, filed of record at
4339 pages 511 to 524, Deed Book Number B179, Chancery Clerk's Office,
4340 Tishomingo County, Mississippi, to any governmental authority



4341 located within the geographic boundaries of the county wherein
4342 such project exists upon agreement of such governmental authority
4343 to undertake and assume from the State of Mississippi all
4344 obligations and responsibilities in connection with ownership and
4345 operation of the project. Property leased, sold, transferred or
4346 otherwise conveyed by the authority under this paragraph (o) shall
4347 be used only for economic development purposes.

4348 (p) To enter into contracts with any person or public
4349 agency, including, but not limited to, contracts authorized by
4350 Section 57-75-17, in furtherance of any of the purposes authorized
4351 by this act upon such consideration as the authority and such
4352 person or public agency may agree. Any such contract may extend
4353 over any period of time, notwithstanding any rule of law to the
4354 contrary, may be upon such terms as the parties thereto shall
4355 agree, and may provide that it shall continue in effect until
4356 bonds specified therein, refunding bonds issued in lieu of such
4357 bonds, and all other obligations specified therein are paid or
4358 terminated. Any such contract shall be binding upon the parties
4359 thereto according to its terms. Such contracts may include an
4360 agreement to reimburse the enterprise, its successors and assigns
4361 for any assistance provided by the enterprise in the acquisition
4362 of real property for the project or any facility related to the
4363 project.

4364 (q) To establish and maintain reasonable rates and
4365 charges for the use of any facility within the project area owned



4366 or operated by the authority, and from time to time, to adjust
4367 such rates and to impose penalties for failure to pay such rates
4368 and charges when due.

4369 (r) To adopt and enforce with the concurrence of the
4370 affected public agency all necessary and reasonable rules and
4371 regulations to carry out and effectuate the implementation of the
4372 project and any land use plan or zoning classification adopted for
4373 the project area, including, but not limited to, rules,
4374 regulations, and restrictions concerning mining, construction,
4375 excavation or any other activity the occurrence of which may
4376 endanger the structure or operation of the project. Such rules
4377 may be enforced within the project area and without the project
4378 area as necessary to protect the structure and operation of the
4379 project. The authority is authorized to plan or replan, zone or
4380 rezone, and make exceptions to any regulations, whether local or
4381 state, with the concurrence of the affected public agency which
4382 are inconsistent with the design, planning, construction or
4383 operation of the project and facilities related to the project.

4384 (s) To plan, design, coordinate and implement measures
4385 and programs to mitigate impacts on the natural environment caused
4386 by the project or any facility related to the project.

4387 (t) To develop plans for technology transfer activities
4388 to ensure private sector conduits for exchange of information,
4389 technology and expertise related to the project to generate
4390 opportunities for commercial development within the state.



4391 (u) To consult with the State Department of Education
4392 and other public agencies for the purpose of improving public
4393 schools and curricula within the project area.

4394 (v) To consult with the State Board of Health and other
4395 public agencies for the purpose of improving medical centers,
4396 hospitals and public health centers in order to provide
4397 appropriate health care facilities within the project area.

4398 (w) To consult with the Office of Minority Business
4399 Enterprise Development and other public agencies for the purpose
4400 of developing plans for technical assistance and loan programs to
4401 maximize the economic impact related to the project for minority
4402 business enterprises within the State of Mississippi.

4403 (x) To deposit into the "Yellow Creek Project Area
4404 Fund" created pursuant to Section 57-75-31:

4405 (i) Any funds or aid received as authorized in
4406 this section for the project described in Section 57-75-5(f)(vi),
4407 and

4408 (ii) Any funds received from the sale or lease of
4409 property from the project described in Section 57-75-5(f)(vi)
4410 pursuant to the powers exercised under this section.

4411 (y) To manage and develop the project described in
4412 Section 57-75-5(f)(vi).

4413 (z) To promulgate rules and regulations necessary to
4414 effectuate the purposes of this act.



4415 (aa) To negotiate a fee-in-lieu with the owners of the
4416 project.

4417 (bb) To enter into contractual agreements to warrant
4418 any site work for a project defined in Section 57-75-5(f)(iv)1;
4419 provided, however, that the aggregate amount of such warranties
4420 shall not exceed Fifteen Million Dollars (\$15,000,000.00).

4421 (cc) To provide grant funds to an enterprise operating
4422 a project defined in Section 57-75-5(f)(iv)1 in an amount not to
4423 exceed Thirty-nine Million Dollars (\$39,000,000.00).

4424 (dd) (i) To own surface water transmission lines
4425 constructed with the proceeds of bonds issued pursuant to this act
4426 and in connection therewith to purchase and provide water to any
4427 project defined in Section 57-75-5(f)(iv) and to certificated
4428 water providers; and

4429 (ii) To lease such surface water transmission
4430 lines to a public agency or public utility to provide water to
4431 such project and to certificated water providers.

4432 (ee) To provide grant funds to an enterprise operating
4433 a project defined in Section 57-75-5(f)(v) or, in connection with
4434 a facility related to such a project, for job training, recruiting
4435 and infrastructure.

4436 (ff) To enter into negotiations with persons proposing
4437 projects defined in Section 57-75-5(f)(xi) and execute acquisition
4438 options and conduct planning, design and environmental impact
4439 studies with regard to such project.



4440 (gg) To establish such guidelines, rules and
4441 regulations as the authority may deem necessary and appropriate
4442 from time to time in its sole discretion, to promote the purposes
4443 of this act.

4444 (hh) In connection with projects defined in Section
4445 57-75-5(f)(ii):

4446 (i) To provide grant funds or loans to a public
4447 agency or an enterprise owning, leasing or operating a project
4448 defined in Section 57-75-5(f)(ii) in amounts not to exceed the
4449 amount authorized in Section 57-75-15(3)(b);

4450 (ii) To supervise the use of all such grant funds
4451 or loans; and

4452 (iii) To requisition money in the Mississippi
4453 Major Economic Impact Authority Revolving Loan Fund in connection
4454 with such loans.

4455 (ii) In connection with projects defined under Section
4456 57-75-5(f)(xiv):

4457 (i) To provide grant funds or loans to an
4458 enterprise owning, leasing or operating a project defined in
4459 Section 57-75-5(f)(xiv); however, the aggregate amount of any such
4460 loans under this paragraph (ii) shall not exceed Eighteen Million
4461 Dollars (\$18,000,000.00) and the aggregate amount of any such
4462 grants under this paragraph (ii) shall not exceed Six Million
4463 Dollars (\$6,000,000.00);



4464 (ii) To supervise the use of all such grant funds
4465 or loans; and

4466 (iii) Notwithstanding any provision of this act to
4467 the contrary, such loans shall be for a term not to exceed twenty
4468 (20) years as may be determined by the authority, shall bear
4469 interest at such rates as may be determined by the authority,
4470 shall, in the sole discretion of the authority, be secured in an
4471 amount and a manner as may be determined by the authority.

4472 (jj) In connection with projects defined under Section
4473 57-75-5(f) (xviii):

4474 (i) To provide grant funds of Twenty-five Million
4475 Dollars (\$25,000,000.00) to an enterprise owning or operating a
4476 project defined in Section 57-75-5(f) (xviii) to be used for real
4477 estate improvements and which may be disbursed as determined by
4478 the authority;

4479 (ii) To provide loans to an enterprise owning or
4480 operating a project defined in Section 57-75-5(f) (xviii) or make
4481 payments to a lender providing financing to the enterprise;
4482 subject to the following provisions:

4483 1. Not more than Ten Million Dollars
4484 (\$10,000,000.00) may be loaned to such an enterprise for the
4485 purpose of defraying costs incurred by the enterprise for site
4486 preparation and real property improvements during the construction
4487 of the project in excess of budgeted costs; however, the amount of



4488 any such loan shall not exceed fifty percent (50%) of such excess
4489 costs;

4490 2. Not more than Sixty Million Dollars
4491 (\$60,000,000.00) may be loaned to such an enterprise or paid to a
4492 lender providing financing to the enterprise for purposes
4493 determined appropriate by the authority, and the enterprise shall
4494 be obligated to repay the amount of the loan or payment plus any
4495 expenses incurred by the state as a result of the issuance of
4496 bonds pursuant to Section 57-75-15(3)(p); however, no such loan or
4497 payment may be made before the beginning of the fifth year after
4498 issuance by the enterprise of debt in like amount the proceeds of
4499 which are to be used in connection with the project;

4500 (iii) To supervise the use of all such loan funds;

4501 (iv) Loans under this paragraph (jj) may be for
4502 any term determined appropriate by the authority provided that the
4503 payments on any loan must be in an amount sufficient to pay the
4504 state's debt service on bonds issued for the purpose of providing
4505 funds for such a loan; and

4506 (v) The repayment obligation of the enterprise for
4507 any loan or payment authorized under this paragraph (jj) shall, in
4508 the discretion of the authority, be secured in an amount and a
4509 manner as may be determined by the authority.

4510 (kk) In connection with projects defined in Section
4511 57-75-5(f)(xxi) or a facility related to such a project:



4512 (i) To provide grant funds to reimburse public
4513 agencies, Itawamba Community College, Northeast Mississippi
4514 Community College, and/or East Mississippi Community College,
4515 public or private nonprofits or an enterprise owning or operating
4516 a project as defined in Section 57-75-5(f)(xxi) for site
4517 preparation, real estate improvements, utilities, railroads,
4518 roads, infrastructure, job training, recruiting and any other
4519 expenses approved by the authority in amounts not to exceed the
4520 amount authorized in Section 57-75-15(3)(s);

4521 (ii) To supervise the use of all such grant funds
4522 so reimbursed; and

4523 (iii) To enter into contractual agreements to
4524 warrant site preparation and availability for a project defined in
4525 Section 57-75-5(f)(xxi).

4526 (11) In connection with a project related to a Tier One
4527 supplier:

4528 (i) To provide grant funds to reimburse public
4529 agencies, public or private nonprofits and Tier One suppliers for
4530 site preparation, real estate improvements, utilities, railroads,
4531 roads, infrastructure, job training, recruiting and any other
4532 expenses approved by the authority in amounts not to exceed the
4533 amount authorized in Section 57-75-15(3)(t);

4534 (ii) To supervise the use of all such grant funds
4535 so reimbursed.



4536 (mm) In connection with projects defined in Section
4537 57-75-5(f)(xxii) or a facility related to such a project:

4538 (i) To provide grant funds to reimburse public
4539 agencies or an enterprise owning or operating a project as defined
4540 in Section 57-75-5(f)(xxii) for site preparation, real estate
4541 improvements, utilities, fire protection, wastewater, railroads,
4542 roads, infrastructure, job training, recruiting and any other
4543 expenses approved by the authority in amounts not to exceed the
4544 amount authorized in Section 57-75-15(3)(u); and

4545 (ii) To supervise the use of all such grant funds
4546 so reimbursed.

4547 (nn) It is the policy of the authority and the
4548 authority is authorized to accommodate and support any enterprise
4549 owning or operating a project defined in Section
4550 57-75-5(f)(xviii), 57-75-5(f)(xxi), 57-75-5(f)(xxii),
4551 57-75-5(f)(xxvi), 57-75-5(f)(xxvii) or 57-75-5(f)(xxviii) or an
4552 enterprise developing or owning a project defined in Section
4553 57-75-5(f)(xx), that wishes to have a program of diversity in
4554 contracting, and/or that wishes to do business with or cause its
4555 prime contractor to do business with Mississippi companies,
4556 including those companies that are small business concerns owned
4557 and controlled by socially and economically disadvantaged
4558 individuals. The term "socially and economically disadvantaged
4559 individuals" shall have the meaning ascribed to such term under
4560 Section 8(d) of the Small Business Act (15 USCS 637(d)) and



4561 relevant subcontracting regulations promulgated pursuant thereto;
4562 except that women shall be presumed to be socially and
4563 economically disadvantaged individuals for the purposes of this
4564 paragraph.

4565 (oo) To provide grant funds to an enterprise developing
4566 or owning a project defined in Section 57-75-5(f)(xx) for
4567 reimbursement of costs incurred by such enterprise for
4568 infrastructure improvements in the initial phase of development of
4569 the project, upon dedication of such improvements to the
4570 appropriate public agency.

4571 (pp) In connection with projects defined in Section
4572 57-75-5(f)(xxiii):

4573 (i) To provide grant funds to reimburse public
4574 agencies or an enterprise operating a project as defined in
4575 Section 57-75-5(f)(xxiii) for site preparation, utilities, real
4576 estate improvements, infrastructure, roads, public works, job
4577 training and any other expenses approved by the authority in
4578 amounts not to exceed the amount authorized in Section
4579 57-75-15(3)(v); and

4580 (ii) To supervise the use of all such grant funds
4581 so reimbursed.

4582 (qq) (i) To provide grant funds for the expansion of a
4583 publicly owned building for the project defined in Section
4584 57-75-5(f)(xxiv) or loans to an enterprise owning, leasing or
4585 operating a project defined in Section 57-75-5(f)(xxiv) for the



4586 purchase and/or relocation of equipment, or for any other purpose
4587 related to the project as approved by the authority; however, the
4588 aggregate amount of any such loans under this paragraph (qq) shall
4589 not exceed Six Million Dollars (\$6,000,000.00) and the aggregate
4590 amount of any such grants under this paragraph (qq) shall not
4591 exceed Seven Million Dollars (\$7,000,000.00);

4592 (ii) To supervise the use of all such grant funds
4593 or loans; and

4594 (iii) Notwithstanding any provision of this act to
4595 the contrary, such loans shall be for a term not to exceed ten
4596 (10) years as may be determined by the authority, shall bear a
4597 rate of interest to be determined by the authority, and shall be
4598 secured in an amount and a manner as may be determined by the
4599 authority.

4600 (rr) (i) To provide grant funds to an enterprise
4601 owning or operating a project defined in Section 57-75-5(f) (xxv)
4602 for reimbursement of costs incurred by the enterprise in
4603 reconfiguring the manufacturing plant and for the purchase of
4604 equipment, or for any other purpose related to the project as
4605 approved by the authority;

4606 (ii) To supervise the use of all such grant funds.

4607 (ss) In connection with projects defined under Section
4608 57-75-5(f) (xxvi):

4609 (i) To provide grant funds and/or loans to a
4610 public agency in an amount not to exceed Fifteen Million Dollars



4611 (\$15,000,000.00) for the construction of a publicly owned building
4612 to be leased by the enterprise owning or operating the project;

4613 (ii) To provide loan guarantees in an amount not
4614 to exceed the total cost of the project for which financing is
4615 sought or Twenty Million Dollars (\$20,000,000.00), whichever is
4616 less, for the purpose of encouraging the extension of conventional
4617 financing and the issuance of letters of credit to the enterprise
4618 owning or operating the project;

4619 (iii) In connection with any loan guarantee made
4620 pursuant to this paragraph, to make payments to lenders providing
4621 financing to the enterprise owning or operating the project and
4622 the enterprise shall be obligated to repay the amount of the
4623 payment plus any expenses incurred by the state as a result of the
4624 issuance of bonds pursuant to Section 57-75-15(3)(y);

4625 (iv) To supervise the use of all such grant funds,
4626 loan funds or payments; and

4627 (v) To require the enterprise owning or operating
4628 the project to provide security for the repayment obligation for
4629 any loan guarantee authorized under this paragraph in an amount
4630 and in a manner as may be determined by the authority.

4631 (tt) In connection with projects defined under Section
4632 57-75-5(f)(xxvii):

4633 (i) To provide loans to a public agency in an
4634 amount not to exceed Fifty Million Dollars (\$50,000,000.00) for
4635 the construction of a publicly owned building and acquisition of



4636 equipment to be leased by the enterprise owning or operating the
4637 project; and

4638 (ii) To supervise the use of all such loan funds.

4639 (uu) In connection with projects defined under Section
4640 57-75-5(f) (xxviii):

4641 (i) To provide grant funds to reimburse public
4642 agencies or an enterprise operating a project for site
4643 preparation, utilities, real estate purchase and improvements,
4644 infrastructure, roads, rail improvements, public works, job
4645 training and any other expenses approved by the authority in
4646 amounts not to exceed the amount authorized in Section
4647 57-75-15(3) (aa); and

4648 (ii) To supervise the use of all such grant funds
4649 so reimbursed.

4650 (vv) (i) In addition to any other requirements or
4651 conditions under this chapter, the authority shall require that
4652 any application for assistance regarding a project under this
4653 chapter include, at a minimum:

4654 1. A two-year business plan (which shall
4655 include pro forma balance sheets, income statements and monthly
4656 cash flow statements);

4657 2. Financial statements or tax returns for
4658 the three (3) years immediately prior to the application (if the
4659 project is a new company or enterprise, personal financial
4660 statements or tax returns will be required);



3. Credit reports on all persons or entities with a twenty percent (20%) or greater interest in the project;

4. Data supporting the expertise of the project's principals;

5. A cost-benefit analysis of the project performed by a state institution of higher learning or other entity selected by the authority; and

6. Any other information required by the authority.

(ii) The authority shall require that binding commitments be entered into requiring that:

1. The applicable minimum requirements of this chapter and such other requirements as the authority considers proper shall be met; and

2. If the agreed upon commitments are not met, all or a portion of the funds provided under this chapter as determined by the authority shall be repaid.

(iii) Where appropriate, in the discretion of the authority, the authority shall acquire a security interest in or other lien upon any applicable collateral.

(iv) The provisions of this paragraph (vv) shall not apply to a project defined in Section 57-75-5(f)(xxiii).

SECTION 41. Section 57-85-5, Mississippi Code of 1972, is amended as follows:



4685 57-85-5. (1) For the purposes of this section, the
4686 following words and phrases shall have the meanings ascribed in
4687 this section unless the context clearly indicates otherwise:

4688 (a) "MDA" means the Mississippi Development Authority.

4689 (b) "Project" means construction, rehabilitation or
4690 repair of buildings; sewer systems and transportation directly
4691 affecting the site of the proposed rural business; sewer
4692 facilities, acquisition of real property, development of real
4693 property, improvements to real property, and any other project
4694 approved by the Mississippi Development Authority.

4695 (c) "Rural business" means a new or existing business
4696 located or to be located in a rural community or a business or
4697 industry located or to be located within five (5) miles of a rural
4698 community. "Rural business" does not include gaming businesses or
4699 utility businesses.

4700 (d) "Rural community" means a county in the State of
4701 Mississippi that meets the population criteria for the term
4702 "limited population county" as provided in Section 57-1-18.
4703 "Rural community" also means a municipality in the State of
4704 Mississippi that meets the population criteria for the term "small
4705 municipality" as provided in Section 57-1-18.

4706 (2) (a) There is created in the State Treasury a special
4707 fund to be designated as the "Mississippi Rural Impact Fund,"
4708 which shall consist of funds appropriated or otherwise made
4709 available by the Legislature in any manner and funds from any



4710 other source designated for deposit into such fund. Unexpended
4711 amounts remaining in the fund at the end of a fiscal year shall
4712 not lapse into the State General Fund, and any investment earnings
4713 or interest earned on amounts in the fund shall be deposited to
4714 the credit of the fund. Monies in the fund shall be used to make
4715 grants and loans to rural communities and loan guaranties on
4716 behalf of rural businesses to assist in completing projects under
4717 this section.

4718 (b) Monies in the fund which are derived from proceeds
4719 of bonds issued after April 15, 2003, may be used to reimburse
4720 reasonable actual and necessary costs incurred by the MDA in
4721 providing assistance related to a project for which funding is
4722 provided under this section from the use of proceeds of such
4723 bonds. An accounting of actual costs incurred for which
4724 reimbursement is sought shall be maintained for each project by
4725 the MDA. Reimbursement of reasonable actual and necessary costs
4726 for a project shall not exceed three percent (3%) of the proceeds
4727 of bonds issued for such project. Monies authorized for a
4728 particular project may not be used to reimburse administrative
4729 costs for unrelated projects. Reimbursements under this paragraph
4730 (b) shall satisfy any applicable federal tax law requirements.

4731 (c) The MDA may use monies in the fund to pay for the
4732 services, in accordance with the provisions of Section 25-9-120,
4733 of architects, engineers, attorneys and such other advisors,
4734 consultants and agents that the MDA determines are necessary to



4735 review loan and grant applications and to implement and administer
4736 the program established under this section.

4737 (d) The State Auditor may conduct performance and
4738 compliance audits under this chapter according to Section
4739 7-7-211(o) and may bill the oversight agency.

4740 (3) The MDA shall establish a program to make grants and
4741 loans to rural communities and loan guaranties on behalf of rural
4742 businesses from the Mississippi Rural Impact Fund. A rural
4743 community may apply to the MDA for a grant or loan under this
4744 section in the manner provided for in this section. A rural
4745 business may apply to the MDA for a loan guaranty under this
4746 section in the manner provided in this section.

4747 (4) A rural community desiring assistance under this section
4748 must submit an application to the MDA. The application must
4749 include a description of the project for which assistance is
4750 requested, the cost of the project for which assistance is
4751 requested and any other information required by the MDA. A rural
4752 business desiring assistance under this section must submit an
4753 application to the MDA. The application must include a
4754 description of the purpose for which assistance is requested and
4755 any other information required by the MDA. The MDA may waive any
4756 requirements of the program established under this section in
4757 order to expedite funding for unique projects.

4758 (5) The MDA shall have all powers necessary to implement and
4759 administer the program established under this section, and the MDA



4760 shall promulgate rules and regulations, in accordance with the
4761 Mississippi Administrative Procedures Law, necessary for the
4762 implementation of this section.

4763 **SECTION 42.** Section 61-4-11, Mississippi Code of 1972, is
4764 amended as follows:

4765 61-4-11. The Authority, in addition to any and all powers
4766 now or hereafter granted to it, is hereby empowered:

4767 (a) To maintain an office at a place or places in the
4768 state.

4769 (b) To employ or contract, in accordance with the
4770 provisions of Section 25-9-120, with architects, engineers,
4771 attorneys, accountants, construction and financial experts and
4772 such other advisors, consultants and agents as may be necessary in
4773 its judgment and to fix and pay their compensation.

4774 (c) To make such applications and enter into such
4775 contracts for financial assistance as may be appropriate under
4776 applicable federal or state law.

4777 (d) To apply for, accept and utilize grants, gifts and
4778 other funds or aid from any source for any purpose contemplated by
4779 this chapter, and to comply, subject to the provisions of this
4780 chapter, with the terms and conditions thereof.

4781 (e) To acquire by purchase, lease, gift, or in other
4782 manner other than by eminent domain, or obtain options to acquire,
4783 and to own, maintain, use, operate and convey any and all property
4784 of any kind, real, personal or mixed, or any interest or estate



4785 therein, (including easements, rights-of-way, air rights or
4786 subsurface rights, or a stratified fee estate in a specified
4787 volume of land located below, at or above the surface) within or
4788 without the project area, necessary or convenient for the project
4789 or any facility related to the project or necessary or convenient
4790 for any enhancement offered to secure the siting of the project in
4791 the state or for the exercise of the powers granted by this
4792 chapter.

4793 (f) To acquire by purchase or lease any public lands
4794 and public property, including sixteenth section lands and lieu
4795 lands, and including not more than fifteen thousand (15,000) acres
4796 of state-owned land at Parchman, Sunflower County, Mississippi,
4797 within the project area, which are necessary or convenient for the
4798 project. Sixteenth section lands or lieu lands acquired under
4799 this chapter shall be deemed to be acquired for the purposes of
4800 industrial development thereon and such acquisition will serve a
4801 higher public interest in accordance with the purposes of this
4802 chapter. With the approval of the Secretary of State and the
4803 assistance of the Office of Attorney General, any part of, up to
4804 fifteen thousand (15,000) acres of state-owned land at Parchman
4805 may either be dedicated for the project, leased or sold to the
4806 federal or state government agency or creation thereof for a
4807 nominal consideration, or may be managed by the Authority for the
4808 purposes specified in this chapter.



4809 (g) To make or cause to be made such examinations and
4810 surveys as may be necessary to the planning, design, construction
4811 and operation of the project; and for such purpose the Authority,
4812 its agents, servants or any public agency involved in the project
4813 selection, design, construction or operation, shall have immediate
4814 and full right of entry upon the lands and waters of any person
4815 for the purposes of survey and exploration.

4816 (h) From and after the date of notification to the
4817 Authority by the federal government agency or creation thereof
4818 that the state has been finally selected as the site of the
4819 project, with the concurrence of the affected public agency, to
4820 acquire by condemnation and to own, maintain, use, operate and
4821 convey or otherwise dispose of any and all property of any kind,
4822 real, personal or mixed, or any interest or estate therein,
4823 (including easements, rights-of-way, air rights or subsurface
4824 rights, or a stratified fee estate in a specified volume of land
4825 located below, at or above the surface), within the project area,
4826 necessary or convenient for the project or any facility related to
4827 the project and the exercise of the powers granted by this
4828 chapter, according to the procedures provided by Chapter 27, Title
4829 11, Mississippi Code of 1972, except as modified by this chapter.
4830 For the purposes of this chapter, the right of eminent domain
4831 shall be superior and dominant to the right of eminent domain of
4832 other public agencies and of railroad, telephone, telegraph, gas,
4833 power and other companies or corporations and shall extend to



4834 public and private lands including sixteenth section lands. The
4835 amount and character of interest in land, other property and
4836 easements thus to be acquired shall be determined by the
4837 Authority, and its determination shall be conclusive and shall not
4838 be subject to attack in the absence of manifest abuse of
4839 discretion or fraud on the part of the Authority in making such
4840 determination. However,

4841 (i) In acquiring lands by condemnation, the
4842 Authority shall not acquire minerals or royalties in minerals
4843 unless a competent registered professional engineer shall have
4844 certified that the acquisition of such minerals and royalties in
4845 minerals is necessary for purposes of the project; provided that
4846 limestone, clay, chalk, sand and gravel shall not be considered as
4847 minerals within the meaning of this section; and

4848 (ii) Unless minerals or royalties in minerals have
4849 been acquired by condemnation or otherwise, no person or persons
4850 owning the drilling rights or the right to share in production of
4851 minerals shall be prevented from exploring, developing or
4852 producing oil or gas with necessary rights-of-way for ingress and
4853 egress, pipelines and other means of transporting interests on any
4854 land or interest therein of the Authority held or used for the
4855 purposes of this chapter; but any such activities shall be under
4856 such reasonable regulation by the Authority as will adequately
4857 protect the project contemplated by this chapter as provided in
4858 (s) of this section. For the purpose of acquiring by condemnation



4859 land and easements for the project or any facility related to the
4860 project located within the project area, the Authority shall have
4861 the right of immediate possession pursuant to Sections 11-27-81
4862 through 11-27-89, Mississippi Code of 1972.

4863 (i) In any proceeding in any court which has been or
4864 may be instituted by and in the name of the Authority for the
4865 acquisition of any land or easement or right-of-way in land for
4866 the public use as provided in (h) of this section, the Authority
4867 may file in the cause, with the petition or at any time before
4868 judgment, a declaration of taking signed by the Authority,
4869 declaring that said lands are thereby taken for the use of the
4870 Authority in connection with the location of the project. Said
4871 declaration of taking shall contain or have annexed thereto:

4872 (i) A statement of the statutory authority under
4873 which and the public use for which said lands are taken.

4874 (ii) A description of the lands taken sufficient
4875 for the identification thereof.

4876 (iii) A statement of the estate or interest in
4877 said lands taken for said public use.

4878 (iv) A statement of the necessity of the immediate
4879 vesting of title in the Authority in order to convey such property
4880 to the United States for the use in connection with the project.

4881 (v) A statement of the sum of money estimated by
4882 the Authority to be due compensation for the land taken. Upon
4883 filing the declaration of taking and of the deposit in the court,



4884 to the use of the persons entitled thereto, of the amount of the
4885 estimated compensation stated in the declaration, title to such
4886 lands in fee simple absolute, or such less estate or interest
4887 therein as is specified in the declaration, shall vest in the
4888 Authority, and such lands shall be deemed to be condemned and
4889 taken for the use of the Authority, and the right to due
4890 compensation for the same shall vest in the persons entitled
4891 thereto; and compensation shall be ascertained and awarded in the
4892 proceeding and established by judgment therein, and the judgment
4893 shall include, as part of the due compensation awarded, interest
4894 in accordance with law on the amount finally awarded as the value
4895 of the property as of the date of taking, from such date to the
4896 date of payment; but interest shall not be allowed on so much
4897 thereof as shall have been paid into the court. No sum so paid
4898 into the court shall be charged with commissions or poundage.

4899 Upon the application of the parties in interest, the court
4900 may order that the money deposited in the court, or any part
4901 thereof, be paid forthwith for or on account of the due
4902 compensation to be awarded in the proceeding. If the compensation
4903 finally awarded in respect of such lands, or any parcel thereof,
4904 shall exceed the amount of the money so received by any person
4905 entitled, the court shall enter judgment against the Authority for
4906 the amount of the deficiency.

4907 Upon the filing of a declaration of taking, the court shall
4908 have power to fix the time within which and the terms upon which



4909 the parties in possession shall be required to surrender
4910 possession to the petitioner. The court shall have power to make
4911 such orders in respect of encumbrances, liens, rents, taxes,
4912 assessments, insurance, and other charges, if any, as shall be
4913 just and equitable. No appeal in any cause under this (i) of this
4914 section nor any bond or undertaking given therein shall operate to
4915 prevent or delay the vesting of title to such lands in the
4916 Authority.

4917 (j) With the concurrence of the affected public agency,
4918 to construct and maintain or require the necessary relocation or
4919 rerouting of roads and highways, railroad, telephone and telegraph
4920 lines and properties, electric power lines, pipelines and related
4921 facilities, or to require the anchoring or other protection of any
4922 of these, provided due compensation is paid to the owners thereof
4923 or agreement is had with such owners regarding the payment of the
4924 cost of such relocation, and to acquire by condemnation or
4925 otherwise easements or rights-of-way for such relocation or
4926 rerouting and to convey the same to the owners of the facilities
4927 being relocated or rerouted in connection with the purposes of
4928 this chapter.

4929 (k) To require the necessary relocation of cemeteries
4930 and to pay all reasonable costs thereof.

4931 (l) To perform or have performed any and all acts and
4932 make all payments necessary to comply with all applicable federal
4933 laws, rules or regulations including but not limited to the



4934 Uniform Relocation Assistance and Real Property Acquisition
4935 Policies Act of 1970 (42 U.S.C. 4601, 4602, 4621 to 4638, and 4651
4936 to 4655) and relocation rules and regulations promulgated by the
4937 U.S. Department of Transportation.

4938 (m) To construct, extend, improve, maintain and
4939 reconstruct, to cause to be constructed, extended, improved,
4940 maintained and reconstructed, and to use and operate any and all
4941 components of the project or any facility related to the project,
4942 within the project area, necessary or convenient to the project
4943 and to the exercise of such powers, rights and privileges granted
4944 the Authority.

4945 (n) To incur or defray any designated portion of the
4946 cost of any component of the project or any facility related to
4947 the project acquired or constructed by any public agency.

4948 (o) To lease, sell, give, donate, convey or otherwise
4949 transfer any or all property acquired by the Authority under the
4950 provisions of this chapter to the federal or state government
4951 agency or creation thereof, their successors or assigns, and in
4952 connection therewith to pay the costs of title search, perfection
4953 of title, title insurance and recording fees as may be required.
4954 The Authority shall provide in the instrument conveying such
4955 property a provision reserving all minerals, other than limestone,
4956 clay, chalk, sand and gravel, and a provision that such property
4957 shall revert to the Authority if, as and when the property is



4958 declared by the federal government agency or creation thereof to
4959 be no longer needed for the Wayport facility.

4960 (p) To enter into contracts with any person, public
4961 agency or political subdivision in furtherance of any of the
4962 purposes authorized by this chapter upon such consideration as the
4963 Authority and such person, public agency or political subdivision
4964 may agree. Any such contract may extend over any period of time,
4965 notwithstanding any rule of law to the contrary, may be upon such
4966 terms as the parties thereto shall agree. Any such contract shall
4967 be binding upon the parties thereto according to its terms. Such
4968 contracts may include an agreement to reimburse the federal
4969 government agency or creation thereof, its successors and assigns
4970 for any assistance provided by the federal government agency or
4971 creation thereof in the acquisition of real property for the
4972 project or any facility related to the project.

4973 (q) To establish and maintain reasonable rates and
4974 charges for the use of any facility within the project area owned
4975 or operated by the Authority, and from time to time, to adjust
4976 such rates and to impose penalties for failure to pay such rates
4977 and charges when due.

4978 (r) To make and enforce, and from time to time amend
4979 and repeal, rules and regulations for the construction, use,
4980 maintenance and operation of any facility related to the project
4981 under its management and control and any other of its properties.



4982 (s) To adopt and enforce with the concurrence of the
4983 affected public agency all necessary and reasonable rules and
4984 regulations to carry out and effectuate the implementation of the
4985 project and any land use plan or zoning classification adopted for
4986 the project area, including, but not limited to, rules,
4987 regulations, and restrictions concerning mining, construction,
4988 excavation or any other activity the occurrence of which may
4989 endanger the structure or operation of the project. Such rules
4990 may be enforced within the project area and without the project
4991 area as necessary to protect the structure and operation of the
4992 project. The Authority is authorized to plan or replan, zone or
4993 rezone, and make exceptions to any regulations, whether local or
4994 state, which are inconsistent with the design, planning,
4995 construction or operation of the project and facilities related to
4996 the project.

4997 (t) To plan, design, coordinate and implement measures
4998 and programs to mitigate impacts on the natural environment caused
4999 by the project or any facility related to the project.

5000 (u) To assist any public agency involved with the
5001 project design, construction or operation in securing any state or
5002 local permits and approval required for the project or any
5003 facility related to the project.

5004 (v) To do any and all things necessary or convenient to
5005 carry out the Authority's purposes and to exercise the powers
5006 given and granted in this chapter.



5007 **SECTION 43.** Section 65-31-1, Mississippi Code of 1972, is
5008 amended as follows:

5009 65-31-1. The Mississippi Transportation Commission is hereby
5010 authorized to locate, design, construct, operate, and maintain
5011 hospitality stations on trunkline highways at or near points of
5012 entry into this state from other states. In carrying out the
5013 provisions of this chapter, the commission shall have authority to
5014 employ, in accordance with the provisions of Section 25-9-120,
5015 such engineers, architects, skilled and unskilled labor as may be
5016 determined necessary by the commission, for the preparation of
5017 plans for such hospitality stations and their proper location,
5018 design, construction, maintenance, and operation. The commission
5019 also may employ full-time security officers, as authorized under
5020 Section 65-1-131, and/or may contract for the employment of
5021 private security officers, as authorized under Section 65-1-136,
5022 to patrol and protect the property of hospitality stations and
5023 visitors, patrons and other employees of hospitality stations.

5024 Prior to the location of such hospitality stations the
5025 commission shall afford the opportunity for a public hearing in
5026 the county wherein such hospitality station is to be located for
5027 the purpose of receiving testimony regarding the most feasible and
5028 advantageous location for such hospitality station, at which
5029 hearing all interested persons may appear and present testimony in
5030 regard thereto. A notice of such proposed location shall be given
5031 in some newspaper published or having general circulation in the



5032 county wherein such hospitality station is proposed to be located.
5033 Should a public hearing be requested thereon, notice by
5034 publication shall be given at least ten (10) days prior to the
5035 date upon which public hearing is to be held and written notice
5036 thereof shall likewise be given, within said time, to the
5037 governing authorities of all municipalities within such county and
5038 the governing authority of such county.

5039 Each hospitality station constructed under the provisions of
5040 this chapter shall be maintained and kept in a neat and attractive
5041 condition.

5042 **SECTION 44.** Section 65-43-3, Mississippi Code of 1972, is
5043 amended as follows:

5044 65-43-3. (1) (a) In addition to and as an alternative to
5045 any other authority granted by law, including, but not limited to,
5046 Section 65-43-1, any governmental entities, as defined in Section
5047 65-43-1, in their discretion, may contract, individually or
5048 jointly with other governmental entities, with any persons,
5049 corporations, partnerships or other businesses licensed to do
5050 business in the State of Mississippi (hereinafter referred to as
5051 "companies" or "company") for the purpose of designing, financing,
5052 constructing, operating and maintaining one or more new toll roads
5053 or toll bridges in the state for motor vehicle traffic, including
5054 tollbooths and related facilities, at those locations where an
5055 alternate untolled route exists. Such contracts may provide that
5056 the governmental entities may grant certain rights (including, but



5057 not limited to, the right to exclusively operate and maintain) in
5058 land held by the governmental entities, whether in fee simple, as
5059 an easement or other interest, to a company for design,
5060 construction, operation and/or maintenance of roadways, highways
5061 or bridges for motor vehicle traffic, tollbooths and related
5062 facilities. All such highways, pavement, bridges,
5063 drainage-related structures and other infrastructure comprising
5064 the projects shall be built and maintained in accordance with not
5065 less than the minimum highway design, construction and maintenance
5066 standards established by the contracting governmental entity for
5067 such highways, infrastructure and facilities. The contracting
5068 governmental entity shall conduct periodic inspections of any such
5069 project throughout the term of the contract to ensure compliance
5070 by the company. Failure of a company to comply with minimum
5071 standards established for the project by the contracting
5072 governmental entity shall constitute a breach and shall subject
5073 the company to liability on its bond or security or to rescission
5074 of the contract in accordance with the terms and provisions of the
5075 contract.

5076 (b) A governmental entity may not enter into a contract
5077 under this section with (i) any company designated as a foreign
5078 terrorist organization pursuant to Presidential Executive Order
5079 13224 or Section 302 of the federal Antiterrorism or Effective
5080 Death Penalty Act of 1996, (ii) any company under the control of a
5081 so-designated foreign terrorist organization, or (iii) any company



5082 controlled by a foreign person if to do so would violate any order
5083 of the Committee on Foreign Investment in the United States under
5084 the Foreign Investment and National Security Act of 2007, H.R.
5085 566, 110th Cong. (2007), Public Law 110-49, 121 Stat. 246. These
5086 requirements also shall apply to any proposed transfer or
5087 assignment of any contract entered into under this section.

5088 (2) (a) Every contract entered into by a governmental
5089 entity under this section (except for contracts entered into with
5090 another governmental entity or following termination of a
5091 predecessor contract entered into under this section), at a
5092 minimum, must provide for the design and construction of a new
5093 toll road or toll bridge project and may also provide for the
5094 financing, acquisition, lease, maintenance, and/or operation of a
5095 new toll road or toll bridge project.

5096 (b) If a governmental entity enters into a contract
5097 with a company as authorized by this section, such governmental
5098 entity shall use a competitive procurement process that provides
5099 the best value for the governmental entity. The governmental
5100 entity may accept unsolicited proposals for a proposed new toll
5101 road or solicit proposals in accordance with this section.

5102 (c) A governmental entity shall publish a request for
5103 competing proposals and qualifications in a newspaper having a
5104 general circulation within such governmental entity or, if the
5105 governmental entity is the Mississippi Transportation Commission,
5106 shall publish the request in a newspaper having a general



5107 circulation at the seat of government and, if the governmental
5108 entity has a website, shall post the request on such website.
5109 Such request shall include the criteria used to evaluate the
5110 proposals, the relative weight given to the criteria and a
5111 deadline by which proposals must be received. At a minimum, a
5112 proposal submitted in response to such request must contain:

5113 (i) Information regarding the proposed project
5114 location, scope and limits;

5115 (ii) Information regarding the company's
5116 qualifications, experience, technical competence, and capability
5117 to develop the project; and

5118 (iii) A proposed financial plan for the proposed
5119 project that includes, at a minimum, the projected project costs,
5120 projected revenues and proposed sources of funds.

5121 A governmental entity may interview a company submitting a
5122 solicited or unsolicited proposal. In evaluating such proposals,
5123 a governmental entity may solicit input from other sources
5124 regarding such proposals.

5125 (d) The governmental entity shall rank each proposal
5126 based on the criteria described in the request for proposals and
5127 select the company whose proposal offers the best value to the
5128 governmental entity. The governmental entity may enter into
5129 discussions with the company whose proposal offers the best value.
5130 If at any point during the discussions it appears to the
5131 governmental entity that the highest ranking proposal will not



5132 provide the governmental entity with the overall best value, the
5133 governmental entity may enter into discussions with the company
5134 submitting the next highest ranking proposal.

5135 (e) The governmental entity may withdraw a request for
5136 competing proposals and qualifications at any time and for any
5137 reason and may reject any one (1) or all proposals. In either
5138 case, the governmental entity may then publish a new request for
5139 competing proposals and qualifications. A governmental entity
5140 shall not be required to pay any company for the costs of
5141 preparing or submitting proposals.

5142 (f) The governmental entity shall prescribe the general
5143 form of a contract authorized by this section and may include any
5144 matter the governmental entity considers advantageous to it. The
5145 governmental entity and the company shall negotiate the specific
5146 terms of the contract.

5147 (g) Except as provided under this subsection (2), no
5148 such contract entered into hereunder shall be subject to the
5149 provisions of Section 65-1-8, Section 31-7-13 or any other public
5150 bid or public procurement laws of this state. However, a contract
5151 for any personal or professional service shall be subject to the
5152 requirements of Section 25-9-120.

5153 (h) The Transportation Commission shall evaluate each
5154 proposal based on the criteria established by the commission. The
5155 Transportation Commission shall approve or disapprove a proposal
5156 within ninety (90) days after receipt of the proposal. If the



5157 Transportation Commission needs additional information, it may
5158 delay approval for an additional sixty (60) days.

5159 (i) Any right or interest arising under or as a result
5160 of any contract entered into under this section by a governmental
5161 entity with a company involving a franchise, license agreement,
5162 concession agreement, operating agreement, construction agreement,
5163 design agreement and/or any other similar contractual arrangement
5164 in connection with the financing, design, construction,
5165 acquisition, maintenance and/or operation of a toll road or toll
5166 bridge project shall not constitute any right, title or interest
5167 in land or other real property or real estate or in personal
5168 property within the meaning of Article 1, Chapter 35, Title 27,
5169 Mississippi Code of 1972, in the toll road or toll bridge project,
5170 including tollbooths and related toll facilities (including, but
5171 not limited to, land, pavement, drainage-related structures, and
5172 other infrastructure and property related thereto) in which a
5173 governmental entity is the title owner of such property and/or
5174 holder of easements, rights-of-way and/or other interests for such
5175 toll road or toll bridge project.

5176 (3) Every contract entered into by a governmental entity
5177 under this section shall require a company to enter into bond and
5178 provide such security as the governmental entity determines may be
5179 necessary or advisable to ensure timely completion and proper
5180 execution and performance of the contract. The term of the
5181 contract shall not exceed fifty (50) years and shall not be



5182 extended or renewed. The governmental entities are authorized to
5183 acquire such property or interests in property as may be
5184 necessary, by gift, purchase or eminent domain, for construction
5185 and maintenance of the highways or bridges built pursuant to
5186 contracts entered into under this section. Upon expiration,
5187 termination or rescission of the contract, any and all rights
5188 and/or interests that the company may have in the land,
5189 infrastructure, facilities or other improvements to the property
5190 subject to contract shall terminate and automatically, by
5191 operation of law, be returned or conveyed to and vested in the
5192 State of Mississippi or the contracting governmental entity. Upon
5193 termination, expiration or rescission of the contract, the
5194 collection of tolls shall cease.

5195 (4) The governmental entity having jurisdiction over the
5196 toll highway or bridge may, after notice and public hearing,
5197 establish, charge and collect motor vehicle operator tolls for use
5198 of the highway or bridge and its facilities. Alternatively,
5199 during the term of any contract entered into under this section,
5200 the company may establish, charge and collect motor vehicle
5201 operators tolls for use of the highway or bridge and its
5202 facilities. The amount of such tolls, and any modification
5203 thereto, shall be subject to approval by the contracting
5204 governmental entity after notice and public hearing. All such
5205 contracts entered into with the Mississippi Transportation
5206 Commission may require a company to pay a percentage or other



5207 specified portion of all tolls collected to the Mississippi
5208 Department of Transportation. If bonds are issued pursuant to
5209 Section 65-43-13, then all such tolls paid to the department shall
5210 be deposited into the special bond sinking fund under Section
5211 65-43-11, and may be expended only as authorized by the
5212 Legislature. If bonds are not issued pursuant to Section
5213 65-43-13, then all such tolls paid to the department shall be
5214 deposited into the department's highway fund to be used by the
5215 department for the construction and maintenance of highways.

5216 (5) If a toll road is a designated evacuation route and a
5217 declaration of a state of emergency is issued by the President of
5218 the United States or by the Governor, the collection of tolls
5219 shall cease until the termination of the state of emergency.

5220 (6) All statutes of this state relating to vehicle and
5221 traffic regulation and control shall be applicable to motor
5222 vehicles operated upon highways and bridges constructed under this
5223 section and shall be enforceable by the Mississippi Department of
5224 Public Safety, the Mississippi Highway Safety Patrol or any other
5225 law enforcement agency having jurisdiction over such highways and
5226 bridges.

5227 (7) The State of Mississippi, the Mississippi Transportation
5228 Commission, the Mississippi Department of Transportation,
5229 counties, municipalities or any other agency or political
5230 subdivision, or any officer or employee thereof, shall not be
5231 liable for any tortious act or omission arising out of the



5232 construction, maintenance or operation of any highway or bridge
5233 project under the provisions of this section where the act or
5234 omission occurs during the term of any such contract entered into
5235 by the Mississippi Transportation Commission or other governmental
5236 entity and a company.

5237 **SECTION 45.** Section 69-1-14, Mississippi Code of 1972, is
5238 amended as follows:

5239 69-1-14. (1) The Commissioner of Agriculture and Commerce
5240 is hereby authorized and empowered to employ, in accordance with
5241 the provisions of Section 25-9-120, an attorney to represent the
5242 Department of Agriculture and Commerce and to fix his compensation
5243 subject to the approval of the State Personnel Board. Said
5244 attorney shall be a full-time employee of the Department of
5245 Agriculture and Commerce and shall be furnished such office space
5246 and clerical assistance as shall be necessary. In addition to his
5247 duties with the Department of Agriculture and Commerce, said
5248 attorney shall represent the Board of Animal Health, the
5249 Mississippi State Fair Commission and the Mississippi Central
5250 Market Board. The salary and expenses of said attorney shall be
5251 paid from any funds available to the Department of Agriculture and
5252 Commerce, the Board of Animal Health, the Mississippi Fair
5253 Commission and the Mississippi Central Market Board in a ratio
5254 commensurate with the services provided by said attorney to each
5255 of the said agencies.



5256 (2) The Department of Agriculture and Commerce, the Board of
5257 Animal Health, the Mississippi Fair Commission and the Mississippi
5258 Central Market Board are hereby authorized and empowered to expend
5259 such sums from any funds available for the purposes of paying the
5260 salary and expenses of the attorney provided for in subsection
5261 (1).

5262 **SECTION 46.** Section 69-15-7, Mississippi Code of 1972, is
5263 amended as follows:

5264 69-15-7. The State Veterinarian is authorized and empowered
5265 to employ the necessary professional, technical and clerical
5266 personnel as he deems necessary to carry out the powers and duties
5267 of the board, and to fix their compensation. The board shall
5268 appoint from a written list of not less than three (3) licensed
5269 veterinarians submitted by the Commissioner of Agriculture and
5270 Commerce, a duly licensed and practicing veterinarian as the State
5271 Veterinarian, who shall hold a Degree of Veterinary Medicine from
5272 a recognized college or university and shall have been engaged in
5273 the practice of veterinary science for not less than ten (10)
5274 years prior to his appointment. The State Veterinarian shall
5275 serve at the will and pleasure of the board and shall enter into a
5276 surety bond for the faithful performance of his duties, and the
5277 premium therefor shall be paid by the board. The board shall also
5278 be authorized to employ, in accordance with the provisions of
5279 Section 25-9-120, an attorney as authorized in Section 69-1-14,
5280 Mississippi Code of 1972.



SECTION 47. Section 69-15-201, Mississippi Code of 1972, is amended as follows:

69-15-201. The State Veterinarian, with the approval and consent of the Board of Animal Health is directed to employ, in accordance with the provisions of Section 25-9-120, one or more qualified veterinarians to be paid from the funds at the disposal of said board, who shall cooperate with the veterinarians of the U.S. Department of Agriculture, Bureau of Animal Industry, in testing cattle for tuberculosis in this state.

SECTION 48. Section 71-5-121, Mississippi Code of 1972, is amended as follows:

71-5-121. Subject to other provisions of this chapter, the executive director is authorized to appoint, in accordance with the provisions of Section 25-9-120, fix the compensation, and prescribe the duties and powers of such officers, accountants, attorneys, experts and other persons as may be necessary in the performance of department duties; however, all personnel who were former members of the Armed Forces of the United States of America shall be given credit regardless of rate, rank or commission. All positions shall be filled by persons selected and appointed on a nonpartisan merit basis, in accordance with Section 25-9-101 et seq., that provides for a state service personnel system. The executive director shall not employ any person who is an officer or committee member of any political party organization. The executive director may delegate to any such person so appointed



5306 such power and authority as he deems reasonable and proper for the
5307 effective administration of this chapter, and may in his
5308 discretion bond any person handling monies or signing checks
5309 hereunder. The veteran status of an individual shall be
5310 considered and preference given in accordance with the provisions
5311 of the State Personnel Board.

5312 The department and its employees are exempt from Sections
5313 25-15-101 and 25-15-103.

5314 The department may use federal granted funds to provide such
5315 group health, life, accident and hospitalization insurance for its
5316 employees as may be agreed upon by the department and the federal
5317 granting authorities.

5318 The department shall adopt a "layoff formula" to be used
5319 wherever it is determined that, because of reduced workload,
5320 budget reductions or in order to effect a more economical
5321 operation, a reduction in force shall occur in any group.

5322 In establishing this formula, the department shall give
5323 effect to the principle of seniority and shall provide that
5324 seniority points may be added for disabled veterans and veterans,
5325 with due regard to the efficiency of the service. Any such layoff
5326 formula shall be implemented according to the policies, rules and
5327 regulations of the State Personnel Board.

5328 **SECTION 49.** Section 73-13-15, Mississippi Code of 1972, is
5329 amended as follows:



5330 73-13-15. The board shall have the power to adopt and amend
5331 all regulations and rules of procedure, not inconsistent with the
5332 Constitution and laws of this state, which may be reasonably
5333 necessary for the proper performance of its duties and the
5334 regulations of the proceedings before it. The board shall adopt
5335 and have an official seal. It shall not be required to post bond
5336 on appeals. The board shall have the further power and authority
5337 to:

5338 (a) Establish standards of conduct and ethics;
5339 (b) Institute proceedings in its own name;
5340 (c) Promulgate rules restricting competitive bidding;
5341 however, any such rules shall not conflict with the provisions of
5342 Section 25-9-120;

5343 (d) Promulgate rules limiting or restricting
5344 advertising;

5345 (e) Promulgate rules requiring a demonstration of
5346 continuing education;

5347 (f) Adopt and promulgate reasonable bylaws and rules
5348 and regulations necessary or appropriate for the proper
5349 fulfillment of its duties under state laws pertaining thereto;

5350 (g) Provide for the enforcement of and to enforce the
5351 laws of the State of Mississippi and, in particular, the
5352 provisions of this chapter, and the bylaws, rules and regulations
5353 of the board;



5354 (h) Provide by appropriate rules and regulations,
5355 within the provisions of this chapter, a system for taking the
5356 disciplinary actions provided for in Section 73-13-37, including
5357 the imposition of fines as provided therein;

5358 (i) Investigate, prosecute or initiate prosecution for
5359 violation of the laws of this state pertaining to the practices of
5360 engineering and surveying, or matters affecting the rights and
5361 duties or otherwise related thereto; and

5362 (j) Adopt rules setting forth qualifications and
5363 standards of practice for firms.

5364 In carrying into effect the provisions of Sections 73-13-1
5365 through 73-13-105, the board, under the hand of its president or
5366 secretary and the seal of the board may subpoena witnesses and
5367 compel their attendance, and also may require the production of
5368 books, papers, documents, etc., in any case involving the
5369 disciplinary actions provided for in Section 73-13-37 or 73-13-89
5370 or practicing or offering to practice without licensure. Any
5371 member of the board may administer oaths or affirmations to
5372 witnesses appearing before the board. If any person shall refuse
5373 to obey any subpoena so issued, or shall refuse to testify or
5374 produce any books, papers or documents, the board may present its
5375 petition to such authority as may have jurisdiction, setting forth
5376 the facts, and thereupon such authority shall, in a proper case,
5377 issue its subpoena to such person, requiring his attendance before
5378 such authority and there to testify or to produce such books,



papers, and documents, as may be deemed necessary and pertinent by the board. Any person failing or refusing to obey the subpoena or order of the said authority may be proceeded against in the same manner as for refusal to obey any other subpoena or order of the authority.

SECTION 50. Section 73-33-5, Mississippi Code of 1972, is amended as follows:

73-33-5. The Mississippi State Board of Public Accountancy is hereby authorized with the following powers and duties:

- (a) To adopt a seal;
- (b) To govern its proceedings;
- (c) To set the fees and to regulate the time, manner and place of conducting examinations to be held under this chapter. Beginning February 1, 1995, a total of one hundred fifty (150) collegiate-level semester hours of education including a baccalaureate degree or its equivalent at a college or university acceptable to the board shall be required in order to sit for the examination by candidates who have not previously sat for the examination. The education program shall include an accounting concentration or the equivalent as determined by the board to be appropriate by rules and regulations. The examination shall cover branches of knowledge pertaining to accountancy as the board may deem proper;
- (d) To initiate investigations of certified public accountant and certified public accountant firm practices;



5404 (e) To notify applicants who have failed an examination
5405 of such failure and in what branch or branches deficiency was
5406 found;

5407 (f) To adopt and enforce such rules and regulations
5408 concerning certified public accountant examinee and licensee
5409 qualifications and practices and certified public accountant firm
5410 permits and practices as the board considers necessary to maintain
5411 the highest standard of proficiency in the profession of certified
5412 public accounting and for the protection of the public interest.
5413 The standards of practice by certified public accountants and
5414 certified public accountant firms shall include generally accepted
5415 auditing and accounting standards as recognized by the Mississippi
5416 State Board of Public Accountancy;

5417 (g) To issue certified public accountant licenses under
5418 the signature and the official seal of the board as provided in
5419 this chapter; and to issue permits to practice public accounting
5420 to certified public accountant firms pursuant to such rules and
5421 regulations as may be promulgated by the board;

5422 (h) To employ personnel;

5423 (i) To contract for services in accordance with the
5424 provisions of Section 25-9-120 and rent; and

5425 (j) To adopt and enforce all such rules and regulations
5426 as shall be necessary for the administration of this chapter;
5427 provided, however, no adoption or modification of any rules or
5428 regulations of the board shall become effective unless any final



5429 action of the board approving such adoption or modification shall
5430 occur at a time and place which is open to the public and for
5431 which notice by mail of such time and place and the rules and
5432 regulations proposed to be adopted or modified has been given at
5433 least thirty (30) days prior thereto to every person who is
5434 licensed and registered with the board.

5435 Each application or filing made under this section shall
5436 include the social security number(s) of the applicant in
5437 accordance with Section 93-11-64, Mississippi Code of 1972.

5438 **SECTION 51.** Section 73-53-8, Mississippi Code of 1972, is
5439 amended as follows:

5440 73-53-8. (1) There is created the Board of Examiners for
5441 Social Workers and Marriage and Family Therapists to license and
5442 regulate social workers and marriage and family therapists. The
5443 board shall be composed of ten (10) members, six (6) of which
5444 shall be social workers and four (4) of which shall be marriage
5445 and family therapists.

5446 (2) Of the social worker members of the board, two (2) must
5447 be licensed social workers, and four (4) must be licensed master
5448 social workers or licensed certified social workers or a
5449 combination thereof. The marriage and family therapist members of
5450 the board must be licensed marriage and family therapists. For at
5451 least two (2) years immediately preceding his or her appointment,
5452 each marriage and family therapist appointee must have been
5453 actively engaged as a marriage and family therapist in rendering



5454 professional services in marriage and family therapy, or in the
5455 education and training of master's, doctoral or post-doctoral
5456 students of marriage and family therapy, or in marriage and family
5457 therapy research, and during the two (2) years preceding his or
5458 her appointment, must have spent the majority of the time devoted
5459 to that activity in this state. The initial marriage and family
5460 therapist appointees shall be deemed to be and shall become
5461 licensed practicing marriage and family therapists immediately
5462 upon their appointment and qualification as members of the board.
5463 All subsequent marriage and family therapist appointees to the
5464 board must be licensed marriage and family therapists before their
5465 appointment.

5466 (3) The Governor shall appoint six (6) members of the board,
5467 four (4) of which shall be social workers and two (2) of which
5468 shall be marriage and family therapists, and the Lieutenant
5469 Governor shall appoint four (4) members of the board, two (2) of
5470 which shall be social workers and two (2) of which shall be
5471 marriage and family therapists. Social worker members of the
5472 board shall be appointed from nominations submitted by the
5473 Mississippi Chapter of the National Association of Social Workers,
5474 and marriage and family therapist members of the board shall be
5475 appointed from nominations submitted by the Mississippi
5476 Association for Marriage and Family Therapy. All appointments
5477 shall be made with the advice and consent of the Senate.



5478 (4) The initial appointments to the board shall be made as
5479 follows: The Governor shall appoint one (1) social worker member
5480 for a term that expires on June 30, 1999, one (1) social worker
5481 member for a term that expires on June 30, 2001, two (2) social
5482 worker members for terms that expire on June 30, 2002, one (1)
5483 marriage and family therapist member for a term that expires on
5484 June 30, 1998, and one (1) marriage and family therapist member
5485 for a term that expires on June 30, 2000. The Lieutenant Governor
5486 shall appoint one (1) social worker member for a term that expires
5487 on June 30, 1998, one (1) social worker member for a term that
5488 expires on June 30, 2000, one (1) marriage and family therapist
5489 member for a term that expires on June 30, 1999, and one (1)
5490 marriage and family therapist member of the board for a term that
5491 expires on June 30, 2001. After the expiration of the initial
5492 terms, all subsequent appointments shall be made by the original
5493 appointing authorities for terms of four (4) years from the
5494 expiration date of the previous term. Upon the expiration of his
5495 or her term of office, a board member shall continue to serve
5496 until his or her successor has been appointed and has qualified.
5497 No person may be appointed more than once to fill an unexpired
5498 term or more than two (2) consecutive full terms.

5499 (5) Any vacancy on the board before the expiration of a term
5500 shall be filled by appointment of the original appointing
5501 authority for the remainder of the unexpired term. Appointments
5502 to fill vacancies shall be made from nominations submitted by the



5503 appropriate organization as specified in subsection (2) of this
5504 section for the position being filled.

5505 (6) The appointing authorities shall give due regard to
5506 geographic distribution, race and sex in making all appointments
5507 to the board.

5508 (7) The board shall select one (1) of its members to serve
5509 as chairman during the term of his or her appointment to the
5510 board. No person may serve as chairman for more than four (4)
5511 years. The board may remove any member of the board or the
5512 chairman from his or her position as chairman for (a) malfeasance
5513 in office, or (b) conviction of a felony or a crime of moral
5514 turpitude while in office, or (c) failure to attend three (3)
5515 consecutive board meetings. However, no member may be removed
5516 until after a public hearing of the charges against him or her,
5517 and at least thirty (30) days' prior written notice to the accused
5518 member of the charges against him or her and of the date fixed for
5519 such hearing. No board member shall participate in any matter
5520 before the board in which he has a pecuniary interest, personal
5521 bias or other similar conflict of interest.

5522 (8) Board members shall receive no compensation for their
5523 services, but shall be reimbursed for their actual and necessary
5524 expenses incurred in the performance of official board business as
5525 provided in Section 25-3-41.

5526 (9) Four (4) social worker members and three (3) marriage
5527 and family therapist members of the board shall constitute a



5528 quorum of the board. In making its decisions and taking actions
5529 affecting the members of one (1) of the professions regulated by
5530 the board, the board shall consider the recommendations of the
5531 board members who are members of that profession. If the board is
5532 unable to have a quorum present at a regularly scheduled meeting
5533 location, the board may allow other members to participate in the
5534 meeting by telephone or other electronic means. In the case of an
5535 administrative hearing, when recusals from the process are
5536 necessary, a quorum may consist of a simple majority of six (6)
5537 members.

5538 (10) The principal office of the board shall be in the City
5539 of Jackson, but the board may act and exercise all of its powers
5540 at any other place. The board shall adopt an official seal, which
5541 shall be judicially noticed and which shall be affixed to all
5542 licenses issued by the board.

5543 (11) The board is authorized to employ, subject to the
5544 approval of the State Personnel Board, an executive director and
5545 such attorneys, in accordance with the provisions of Section
5546 25-9-120, experts and other employees as it may, from time to
5547 time, find necessary for the proper performance of its duties and
5548 for which the necessary funds are available, and to set the salary
5549 of the executive director, subject to the approval of the State
5550 Personnel Board.

5551 (12) The board, by a majority vote, from time to time, may
5552 make such provisions as it deems appropriate to authorize the



5553 performance by any board member or members, employee or other
5554 agent of the board of any function given the board in this chapter
5555 or Sections 73-54-1 through 73-54-39.

5556 **SECTION 52.** Section 75-76-21, Mississippi Code of 1972, is
5557 amended as follows:

5558 75-76-21. (1) The executive director in pursuit of the
5559 attainment of the objectives and the purposes of this chapter may:

5560 (a) Sue and be sued on behalf of the commission;

5561 (b) Acquire real property in accordance with statutory
5562 procedure and make improvements thereon on behalf of the
5563 commission;

5564 (c) Make, execute and effectuate any and all agreements
5565 or contracts, including contracts for the purchase of goods and
5566 services as are necessary;

5567 (d) Employ the services of such persons as he considers
5568 necessary for the purposes of consultation or investigation and
5569 fix the salaries of or contract for the services of such legal,
5570 professional, technical and operational personnel and consultants,
5571 subject to applicable provisions of the State Personnel Board and
5572 the Personal Service Contract Review Board under Section 25-9-120.

5573 For the purpose of implementing the provisions of this chapter,
5574 additional legal assistance may be retained only with the approval
5575 of the Attorney General;



5576 (e) Acquire such furnishings, equipment, supplies,
5577 stationery, books, and all other things as he may deem necessary
5578 or desirable in carrying out his functions; and

5579 (f) Perform such other duties which he may deem
5580 necessary to effectuate the purposes of this chapter.

5581 (2) Except as otherwise provided in this chapter, all costs
5582 of administration incurred by the executive director and his
5583 employees shall be paid out on claims from the State Treasury in
5584 the same manner as other claims against the state are paid.

5585 (3) [Repealed]

5586 **SECTION 53.** Section 77-9-531, Mississippi Code of 1972, is
5587 amended as follows:

5588 77-9-531. The Governor, on behalf of this state, is hereby
5589 authorized and directed to execute a compact, in substantially the
5590 following form, with the State of Alabama; and the Legislature
5591 hereby signifies in advance its approval and ratification of such
5592 compact, which compact is as follows:

5593 MISSISSIPPI-ALABAMA RAILROAD AUTHORITY COMPACT

5594 The contracting states solemnly agree:

5595 ARTICLE I.

5596 The purpose of this compact is to promote and develop trade,
5597 commerce, industry and employment opportunities for the public
5598 good and welfare in Mississippi and Alabama through the
5599 establishment of a joint interstate authority to acquire certain
5600 railroad properties and facilities which the operator thereof has



5601 notified the Interstate Commerce Commission of an intention to
5602 abandon and which are located in Mississippi or Alabama.

5603 ARTICLE II.

5604 For the purposes of this compact the following terms shall
5605 have the following meanings unless the context clearly indicates
5606 otherwise:

5607 (a) "Person" means an individual, a corporation, a
5608 partnership or any other entity.

5609 (b) "Railroad" means a common carried by railroad as
5610 defined in Section 1(3) of Part I of the Interstate Commerce Act
5611 (codified as 49 U.S.C.S. Section 1(3)).

5612 (c) "Railroad properties and facilities" means any real
5613 or personal property or interest in such property which is owned,
5614 leased or otherwise controlled by a railroad or other person,
5615 including the authority, and which is used or is useful in rail
5616 transportation service, including the foregoing:

5617 (i) Track, roadbed and related structures,
5618 including rail, ties, ballast, other track materials, grading,
5619 tunnels, bridges, trestles, culverts, elevated structures,
5620 station, office buildings used for operating purposes only, repair
5621 shops, engine houses and public improvements used or useful in
5622 providing rail transportation service;

5623 (ii) Communication and power transmission systems
5624 for use by railroads;

5625 (iii) Signals and interlockers;



5626 (iv) Terminal or yard facilities and services to
5627 express companies, railroads and their shippers, including
5628 ferries, tugs, car floats and related shoreside facilities
5629 designed for the transportation of equipment by water; and

5630 (v) Shop or repair facilities or any other
5631 property used or capable of being used in providing rail
5632 transportation service or in connection with such service or for
5633 originating, terminating, improving and expediting the movement of
5634 equipment or goods.

5635 (d) "Rail transportation service" means freight and/or
5636 passenger rail service.

5637 ARTICLE III.

5638 The states which are parties to this compact (hereinafter
5639 referred to as the "party states") do hereby establish and create
5640 a joint interstate authority which shall be known as the
5641 "Mississippi-Alabama Railroad Authority" (hereinafter referred to
5642 as the "authority"). The authority shall be governed and all
5643 powers thereof exercised by a board of directors (hereinafter
5644 referred as the "board"). The membership of the board shall
5645 consist of the Mayor of the Town of Belmont, Mississippi; two (2)
5646 other citizens of the State of Mississippi to be appointed by the
5647 governing authorities of the Town of Belmont, Mississippi; the
5648 Mayor of the City of Red Bay, Alabama, and two (2) other citizens
5649 of the State of Alabama to be appointed by the governing
5650 authorities of the City of Red Bay, Alabama. Each of the



5651 appointive members of the board shall be a qualified elector in a
5652 state named in Article I and shall serve for a term of four (4)
5653 years. Directors shall be eligible for reelection. If any
5654 director should die, resign or become incapable or ineligible to
5655 act as a director, a successor thereto for the remaining portion
5656 of the unexpired term shall be appointed by the governing body
5657 which appointed the director whose unexpired term is to be filled.
5658 The board shall hold such regular and special meetings as its
5659 business may require and as the board may determine. Any meeting
5660 of the board may be adjourned from time to time by a majority of
5661 the members present. A majority of the members of the board shall
5662 constitute a quorum for the transaction of any business. No
5663 vacancy in the membership of the board shall impair the right of a
5664 quorum to exercise all powers and duties of the authority.
5665 Members of the board shall receive no compensation for their
5666 services as directors; however, each member may be reimbursed for
5667 expenses actually incurred in the performance of his duties as
5668 provided by law. The authority shall adopt rules and regulations
5669 for the transaction of its business and the secretary shall keep a
5670 record of all its business and furnish copies thereof to each
5671 member of the board. The meetings and records of the board and of
5672 the authority shall be open to the public. The board shall
5673 establish the location of the principal office of the authority,
5674 which shall be in one (1) of the states named in Article I. The
5675 officers of the authority shall consist of a chairman, a vice



chairman, a secretary, a treasurer and such other officers as the board shall deem necessary. The chairman and vice chairman shall be elected by the board from its membership and the chairmanship shall rotate each year among the party states in order of their acceptance of this compact. Neither the secretary nor the treasurer nor any other officer of the authority need be a member of the board. Each officer shall be elected by the board for a term of one (1) year. Officers shall be eligible for reelection. The duties of the officers of the authority shall be such as are customarily performed by such officers and as may be prescribed by the board.

ARTICLE IV.

(1) Subject to the provisions hereof, the authority shall have and may exercise all powers as may be necessary or appropriate to enable it to carry out the purposes of this compact, including the following powers:

- (a) To have succession by its corporate name;
- (b) To sue and be sued in its own name in civil suit and actions;
- (c) To adopt and make use of a corporate seal and to alter the same at pleasure;
- (d) To adopt and alter bylaws for the regulation and conduct of its affairs and business;
- (e) To acquire, receive, take and hold, whether by purchase, gift, lease, devise, or otherwise, property of every



5701 description, whether real, personal or mixed, wherever located in
5702 any party state, and to manage such property, and to develop any
5703 undeveloped property owned, leased or controlled by it in a manner
5704 necessary or convenient to carry out the purposes of this compact;

5705 (f) To make, enter into, execute and deliver such
5706 contracts, agreements, leases, applications, permits,
5707 notifications, security documents and other instruments and
5708 documents as may be necessary, proper, convenient or incidental to
5709 accomplish any purpose for which the authority was created or to
5710 carry out the purposes of this compact or to exercise any power
5711 granted hereunder, including contracts, agreements and other
5712 documents and instruments containing such covenants, terms and
5713 conditions as in the judgment of the board may be necessary,
5714 proper or advisable for the purpose of obtaining grants, loans or
5715 other financial assistance from any federal or state government or
5716 any department, branch or agency thereof for or in the aid of the
5717 acquisition or improvement of railroad properties and facilities
5718 and any and all licenses, leases, mortgages and deeds of trust and
5719 other agreements relating to the railroad properties and
5720 facilities and the construction, operation, maintenance, repair
5721 and improvement thereof, and to carry out and perform the
5722 covenants, terms and conditions of all such contracts, agreements
5723 and other documents or instruments;

5724 (g) To plan, establish, acquire (by purchase, gift,
5725 lease or devise), construct, enlarge, reconstruct, improve,



5726 operate, maintain, replace, repair, extend, improve, regulate and
5727 protect railroad properties and facilities (whether or not then
5728 existing) wherever located or to be located within the boundaries
5729 of either or both of the party states;

5730 (h) To make the use and services of its railroad
5731 properties and facilities available to others in furtherance of
5732 the purposes of this compact and upon such terms and conditions as
5733 the board shall deem proper, and to lease such railroad properties
5734 and facilities to others upon such terms and conditions as the
5735 board may determine;

5736 (i) To establish schedules of tolls, fees, rates,
5737 charges and rentals for the use of its railroad properties and
5738 facilities and to charge, alter and collect such tolls, fees,
5739 rates, charges and rentals in carrying out the provisions of this
5740 compact;

5741 (j) To issue revenue bonds and notes at any time and
5742 from time to time, for any corporate purpose or purposes or in aid
5743 of any power under this compact, payable from the limited sources
5744 hereinafter referenced and to pledge for payment of such bonds and
5745 notes any revenues and funds from which such bonds and notes are
5746 made payable;

5747 (k) To exercise, with respect to property located in
5748 Mississippi in the manner provided by the laws of Mississippi and
5749 with respect to property located in Alabama in the manner provided
5750 by the laws of Alabama, the power of eminent domain with respect



5751 to any property, real, personal or mixed; provided, the authority
5752 may not acquire by eminent domain any real property or rights
5753 owned or held by railroads, transportation companies or utilities,
5754 either public or private;

5755 (l) To appoint, employ, contract with and provide for
5756 compensation of such officers, employees and agents, including
5757 engineers, attorneys, consultants, fiscal advisers and such other
5758 employees as the business of the authority may require, including
5759 the power to fix working conditions by general rule and other
5760 conditions of employment, and at its option to provide a system of
5761 disability pay, retirement compensation and pensions, or any of
5762 them, and to hire and fire servants, agents, employees and
5763 officers at will;

5764 (m) To provide for such insurance, including use and
5765 occupancy insurance, as the authority may deem advisable;

5766 (n) To invest any funds of the authority that the board
5767 may determine are not presently needed for its corporate purposes
5768 in any obligations which are direct general obligations of the
5769 United States of America or which are unconditionally guaranteed
5770 as to both principal and interest by the United States of America,
5771 or in interest-bearing time deposits of any bank or savings and
5772 loan association organized under the laws of any party state or of
5773 the United States of America;

5774 (o) To cooperate with any party state and any county,
5775 city, town, public corporation, agency, department or political



5776 subdivision of any party state and to make such contracts with
5777 them or any of them as the board may deem advisable to accomplish
5778 the purposes for which the authority was established;

5779 (p) To sell and convey any of its properties that may
5780 have become obsolete or worn out or that may no longer be needed
5781 or useful;

5782 (q) To accept, receive, receipt for, disburse and
5783 expend moneys or other financial assistance from the United States
5784 of America or any department or agency thereof, and from any party
5785 state or any department, agency or political subdivision thereof,
5786 and to receive and accept money, property, labor or other thing of
5787 value, from any source whatever, public or private, to be used for
5788 or in aid of the acquisition, construction, extension,
5789 improvement, maintenance and operation of railroad properties and
5790 facilities or to be used in furtherance or to accomplish (in whole
5791 or in part) any of the purposes of this compact. All federal
5792 moneys shall be accepted and expended by the authority upon such
5793 terms and conditions as are prescribed by the United States of
5794 America and as are not inconsistent with the laws of any party
5795 state, and all state moneys shall be accepted and expended by the
5796 authority upon such terms and conditions as are prescribed by the
5797 laws of the state making the same available;

5798 (r) To purchase equipment and supplies necessary or
5799 convenient for the exercise of any power of the authority; and



5800 (s) To take such action and do all things as may be
5801 necessary or convenient to carry out the purposes of this compact
5802 or the exercise of any power hereunder.

5803 (2) Nothing contained in this compact shall operate or be
5804 construed to (a) permit or require any person to avoid or refuse
5805 compliance with any law, rule, regulation, order or other
5806 controlling directive or administrative guidance, now or hereafter
5807 existing or in force, of any federal or state government,
5808 department, branch, agency or other instrumentality or (b) impair,
5809 limit, diminish or otherwise affect any right, power or
5810 jurisdiction of the United States of America or any department,
5811 branch, agency, court, bureau or other instrumentality thereof
5812 with respect to any matter including commerce between the states,
5813 or (c) grant or confer any right or power to the authority or any
5814 officer, member of the board, or other representative thereof to
5815 regulate commerce between the states. The authority shall be
5816 subject to and shall comply with all applicable laws, regulations,
5817 rules, rulings, orders, decrees, judgments, decisions or other
5818 guidelines of the United States of America or any branch, agency,
5819 department, court or other instrumentality having jurisdiction
5820 over the authority or any of its activities or properties or of
5821 any person acting for the authority and all rights and powers
5822 provided by this compact may be exercised only to the extent the
5823 exercise thereof does not violate any of the foregoing. The
5824 provisions of this compact are subject to all provisions of



5825 federal law and other controlling federal directives applicable in
5826 the premises and to be limited to the extent necessary to comply
5827 therewith.

5828 ARTICLE V.

5829 For the purpose of aiding and cooperating with the authority
5830 in the planning, development, undertaking, construction,
5831 extension, improvement or operation of railroad properties and
5832 facilities, any county, city, town or other political subdivision,
5833 public corporation, agency or instrumentality of a party state
5834 may, upon such terms and with or without consideration, as it may
5835 determine:

5836 (a) Lend or donate money to the authority;

5837 (b) Cause water, sewer or drainage facilities, or any
5838 other facilities which it is empowered to provide, to be furnished
5839 adjacent to or in connection with such railroad properties and
5840 facilities;

5841 (c) Donate, sell, convey, transfer or lease to the
5842 authority any land, property, franchise, grant, easement, license
5843 or lease, which it may own;

5844 (d) Donate, transfer, assign, sell or convey to the
5845 authority any right, title or interest which it may have in any
5846 lease, contract, agreement, license or property;

5847 (e) Furnish, dedicate, close, pave, repair, install,
5848 grade, regrade, plan or replan streets, roads, roadways and walks



from established streets or roads to railroad properties and facilities of the authority; and

(f) Do any and all things whether or not specifically authorized in this compact and not otherwise prohibited by law in the applicable party state that are necessary or convenient to aid and cooperate with the authority in the planning, undertaking, construction, reconstruction, acquisition or operation of railroad properties and facilities.

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



5874 ever constitute or create an obligation or debt of any party
5875 state, or of any county, city or town within any party state or a
5876 charge against the credit or taxing powers of any party state or
5877 of any county, city or town within any party state.

5878 (2) Bonds of the authority may be issued at any time and
5879 from time to time, may be in such form, either in bearer form with
5880 appurtenant coupons (and subject to registration as to principal
5881 or interest, or both, all as the board may determine) or in fully
5882 registered form without coupons, and in such denominations, may be
5883 of such tenor, may be payable in such installments and at such
5884 time or times not exceeding forty (40) years from their date, may
5885 be payable at such place or places whether within or without any
5886 party state, may bear interest at such rate or rates (which may be
5887 fixed or which may float or vary based on some index or other
5888 standard deemed appropriate by the board), and shall be payable
5889 and evidenced in such manner, all as shall not be inconsistent
5890 with the provisions of this compact and as may be provided in the
5891 proceedings of the board wherein the bonds shall be authorized to
5892 be issued. Any bond may be made subject to redemption at the
5893 option of the authority at such time or times and at such price or
5894 prices and upon such notice or notices and on such terms and in
5895 such manner as may be provided in the proceedings of the board
5896 wherein the bonds shall be authorized to be issued. Bonds of the
5897 authority may be sold at public or private sale in such manner and
5898 from time to time as may be determined by the board. The



5899 authority may pay all reasonable expenses, premiums, fees and
5900 commissions that the board may deem necessary or advantageous in
5901 connection with the authorization, sale and issuance of its bonds.
5902 All bonds shall contain a recital that they are issued pursuant to
5903 the provisions of this compact, which recital shall be conclusive
5904 that they have been duly authorized pursuant to the provisions of
5905 this compact. Neither a public hearing nor the consent of any
5906 agency of any party state or any political subdivision thereof
5907 shall be prerequisite to the issuance of bonds by the authority.
5908 All bonds issued under the provisions of this compact are hereby
5909 made and shall be deemed negotiable instruments.

5910 (3) All bonds shall be signed (either manually or by
5911 facsimile) by the chairman or the vice chairman and the secretary
5912 or the treasurer of the authority and the seal of the authority
5913 shall be affixed (either manually or by facsimile) thereto.
5914 Delivery of bonds so executed shall be valid notwithstanding any
5915 changes in said officers or in the seal of the authority after the
5916 signing and sealing of the bonds.

5917 (4) Any bonds may be issued under and secured by an
5918 indenture between the authority and a trustee. Such trustee may
5919 be a private person or corporation, including any trust company or
5920 bank having trust powers, whether such bank or trust company is
5921 located within or without any party state. In such indenture or
5922 resolution providing for the issuance of bonds, the authority may
5923 pledge, for payment of the principal of and the interest on such



5924 bonds, any of its revenues to which its right then exists or may
5925 thereafter come into existence and may assign, as security for
5926 such payment, any of its leases, franchises, permits and
5927 contracts; and in any such indenture, the authority may mortgage
5928 or grant security interests in any of its properties, including
5929 any that may be thereafter acquired by it. Any such pledge of
5930 revenues shall be valid and binding from the time it is made and
5931 the revenues so pledged and thereafter received by the authority
5932 shall immediately become subject to the lien of such pledge
5933 without any physical delivery thereof or further act. The lien of
5934 such pledge shall be valid and binding against all parties having
5935 claims of any kind in tort, contract or otherwise against the
5936 authority, irrespective of whether the parties have actual notice
5937 thereof, from the time a statement is filed for record in each
5938 county in which is located any part of the property the revenues
5939 from which are so pledged. Such notice need state only the date
5940 on which the resolution authorizing the issuance of the bonds was
5941 adopted by the board, the principal amount of bonds issued, a
5942 brief description of the revenues so pledged and a brief
5943 description of any property the revenues from which are so
5944 pledged.

5945 (5) In any indenture or resolution authorizing the issuance
5946 of bonds and pledging for the benefit thereof revenues from any of
5947 its railroad properties and facilities, the authority shall have
5948 the power to include provisions customarily contained in



5949 instruments securing evidence of indebtedness, including
5950 provisions respecting the collection, segregation and application
5951 of any rental or other revenue due to or to become due to the
5952 authority, the terms to be incorporated in any lease agreement
5953 respecting any property of the authority, the maintenance and
5954 insurance of any building or structure owned by the authority, the
5955 creation and maintenance of special funds from any revenue of the
5956 authority and the rights and remedies available in the event of
5957 default to the holders of the bonds or the trustee under the
5958 indenture, all as the board shall deem advisable. If there be any
5959 default by the authority in payment of the principal of or the
5960 interest on the bonds or in any of the agreements on the part of
5961 the authority that may properly be included in any indenture
5962 securing the bonds, any holder of bonds, or the trustee under any
5963 indenture if so authorized in such indenture, in addition to any
5964 other remedies herein provided or otherwise available, may either
5965 at law or in equity, by suit, action, mandamus or other
5966 proceedings, enforce payment of such principal or interest and
5967 compel performance of all duties of the board and officers of the
5968 authority, and shall be entitled as a matter of right, and
5969 regardless of the sufficiency of any such security, to the
5970 appointment of a receiver in equity with all the powers of such
5971 receiver for the operation and maintenance of the property of the
5972 authority covered by such indenture and the collection,
5973 segregation and application of revenues therefrom. The indenture



5974 may also contain provisions restricting the individual rights of
5975 action of the holders of the bonds.

5976 (6) The proceeds derived from the sale of any bonds other
5977 than refunding bonds may be used only to pay the costs of
5978 acquiring, constructing, improving, enlarging, equipping and
5979 operating the railroad properties and facilities, or other
5980 property with respect to which such bonds were issued, as may be
5981 specified in the proceedings in which the bonds are authorized to
5982 be issued. Such costs shall be deemed to include the following:
5983 the costs of any land or easements forming a part of such railroad
5984 properties and facilities or other property; the cost of labor,
5985 material and supplies used in any such construction, improvement
5986 or enlargement, including architects' and engineers' fees, and the
5987 cost of preparing contract documents and advertising for bids; the
5988 purchase price of and the cost of installing equipment for use in
5989 connection with such railroad properties and facilities or other
5990 property; the cost of constructing and installing roads,
5991 sidewalks, curbs, gutters, utilities and parking places in
5992 connection with such railroad properties and facilities or other
5993 property; the amounts of any debt service, maintenance and capital
5994 improvement and other similar reserves deemed advisable; legal,
5995 fiscal, credit enhancement or insurance, and recording fees,
5996 premiums and expenses incurred in connection with the
5997 authorization, sale and issuance of the bonds issued in connection
5998 with such railroad properties and facilities or other property;



5999 and interest on said bonds for a reasonable period prior to and
6000 during the time required for such construction, improvement,
6001 enlargement and equipment and not to exceed eighteen (18) months
6002 after completion thereof. If any of the proceeds derived from the
6003 sale of said bonds remains undisbursed after completion of such
6004 work and payment of all of the said costs and expenses, such
6005 balance shall be used for retirement of the principal of the bonds
6006 of the same issue.

6007 (7) The authority may at any time and from time to time
6008 issue refunding bonds for the purpose of refunding the principal
6009 of and the interest on any bonds of the authority theretofore
6010 issued hereunder and then outstanding, whether or not such
6011 principal and interest shall have matured at the time of such
6012 refunding, and for the payment of any expenses incurred in
6013 connection with such refunding and any premium necessary to be
6014 paid in order to redeem, retire or purchase for retirement the
6015 bonds to be refunded. The proceeds derived from the sale of any
6016 refunding bonds shall be used only for the purposes for which the
6017 refunding bonds were authorized to be issued. Any such refunding
6018 may be effected either by sale of the refunding bonds and the
6019 application of the proceeds thereof, or by exchange of the
6020 refunding bonds for the bonds to be refunded thereby. All
6021 provisions of this compact pertaining to bonds of the authority
6022 that are not inconsistent with the provisions of this subsection
6023 shall, to the extent applicable, also apply to refunding bonds



6024 issued by the authority. The authority may at any time and from
6025 time to time issue bonds for the purpose of so refunding the
6026 principal of and the interest on any of its bonds and for any
6027 other purpose for which it is authorized to issue bonds, in which
6028 event the provisions hereof respecting refunding bonds shall apply
6029 only to that portion of such combined issue authorized for
6030 refunding purposes and the provisions hereof respecting other
6031 financing shall apply to the remaining portion of such combined
6032 issue.

6033 (8) The authority may, in addition to the other powers
6034 granted herein, borrow money for use for any corporate purpose
6035 described herein and, in evidence of such borrowing, issue from
6036 time to time revenue notes maturing not later than eighteen (18)
6037 months from the date of issuance and bearing such rate or rates of
6038 interest as the board may provide in the proceedings when the same
6039 are authorized to be issued. Such notes may be payable from the
6040 principal proceeds from the sale of bonds and/or, to the extent
6041 necessary, from any revenues of the authority which may be pledged
6042 to the payment of its bonds and such notes may be secured by a
6043 pledge of so much as may be necessary therefor of such revenues.
6044 Any such notes may be refunded or renewed or extended for
6045 additional periods of not more than eighteen (18) months each from
6046 the date of maturity of such notes being refunded or renewed or
6047 extended, but otherwise pursuant to the terms and conditions
6048 hereof. Any such notes may be sold either at public or private



6049 sale as the board may determine. All provisions of this compact
6050 pertaining to bonds of the authority that are not inconsistent
6051 with the provisions of this subsection shall, to the extent
6052 applicable, also apply to notes issued by the authority.

6053 (9) The governing body of any county, city or town within
6054 any party state is authorized in its discretion to invest in bonds
6055 of the authority any money held in its treasury. Bonds issued
6056 under the provisions of this compact are hereby made legal
6057 investments for executors, administrators, trustees and other
6058 fiduciaries, unless otherwise directed by the court having
6059 jurisdiction of the fiduciary relation or by the document that is
6060 the source of the fiduciary's authority. Such bonds shall be
6061 legal investments for savings banks and insurance companies
6062 organized under the laws of any party state.

6063 (10) The directors and officers of the authority shall not
6064 be subject to any personal liability by reason of the issuance of
6065 any bonds or notes of the authority.

6066 ARTICLE VIII.

6067 The authority and all contracts made by it shall be exempt,
6068 except as otherwise provided in Section 25-9-120, from (a) all
6069 laws (i) relating to the advertising and award of construction
6070 contracts and purchase contracts and (ii) limiting the duration of
6071 or requiring competitive bids in connection with any contract to
6072 be entered into by any municipality, county, public corporation or
6073 other instrumentality, and (b) from all laws relating to or



6074 governing usury or prescribing or limiting interest rates. The
6075 authority and its contracts and properties shall be exempt from
6076 all jurisdiction of and all regulation and supervision by the
6077 Public Service Commission or other successor or similar agency of
6078 any party state. All bonds or notes issued by the authority, the
6079 transfer thereof and the income therefrom shall be exempt from all
6080 taxation by each party state and any political subdivision
6081 thereof. The authority and all property and income of the
6082 authority shall be exempt from all state, county, municipal and
6083 other local taxation and from any assessment for public
6084 improvements; provided, however, that this exemption shall not be
6085 construed to exempt concessionaires, licensees, tenants, operators
6086 or lessees of the authority from the payment of any taxes,
6087 including licenses or privilege taxes levied by any party state or
6088 any county or any municipality in any party state. All documents
6089 or instruments of whatever nature or content to which the
6090 authority is a party shall be filed for record in any county in
6091 any party state without the payment of any tax or fee other than
6092 such fee as may be authorized by law for the recording of such
6093 documents and instruments. The authority shall be exempt from all
6094 income, privilege, license or excise taxes levied by any party
6095 state or any county, city, town or other political subdivision
6096 thereof in respect to the income, revenue or profits of the
6097 authority or the privilege of engaging in any of the activities or
6098 powers in which the authority may engage or which the authority



6099 may exercise. The authority shall be exempt from all privilege,
6100 license or excise taxes levied by any party state or any county,
6101 city, town or other political subdivision thereof with respect to
6102 tangible personal property purchased or used by the authority.

6103 ARTICLE IX.

6104 Nothing in this compact shall be construed so as to conflict
6105 with any existing statute, or to limit the powers of any party
6106 state, or to repeal or prevent legislation, or to authorize or
6107 permit curtailment or diminution of any other railroad project, or
6108 to affect any existing or future cooperative arrangement or
6109 relationship between any federal agency and a party state.

6110 ARTICLE X.

6111 This compact shall continue in full force and remain binding
6112 upon each party state. At any time when the authority does not
6113 have any bonds, notes or other obligations outstanding, including
6114 any leases under which the authority is either lessor or lessee,
6115 the Legislature of each or either party state may take action to
6116 withdraw from this compact; provided, that such withdrawal shall
6117 not become effective until six (6) months after the date of the
6118 action taken by the Legislature. Notice of such action shall be
6119 given to the other party state and the authority by the Secretary
6120 of State of the party state which takes such action. Upon
6121 withdrawal of a party state from this compact becoming effective
6122 as to such party state, the authority shall cease to exist and all
6123 rights, title and interest of the authority in property located in



6124 the State of Mississippi shall be vested in the Town of Belmont,
6125 Mississippi, and all rights, title and interest of the authority
6126 in property located in the State of Alabama shall be vested in the
6127 City of Red Bay, Alabama.

6128 ARTICLE XI.

6129 The authority shall be a nonprofit corporation and no part of
6130 its net earnings remaining after payment of its expenses shall
6131 inure to the benefit of any person, except that in the event the
6132 board shall determine that sufficient provision has been made for
6133 the full payment of the expenses, bonds, notes and other
6134 obligations of authority, then any net earnings of the authority
6135 thereafter accruing shall be equally divided between the Town of
6136 Belmont, Mississippi, and the City of Red Bay, Alabama. The
6137 authority shall not be appropriated any monies nor shall the
6138 authority expend any monies from the State General Fund of
6139 Mississippi.

6140 ARTICLE XII.

6141 There is hereby granted to the Governor, to the members of
6142 the board of the authority for Mississippi and to any executives
6143 or administrators of this compact all the powers provided for in
6144 such compact. All officers of the State of Mississippi are hereby
6145 authorized and directed to do all things falling within their
6146 respective jurisdictions which are necessary or incidental to
6147 carrying out the purposes of such compact.

6148 ARTICLE XIII.



6149 The provisions of this compact are severable. If any part of
6150 this compact is declared invalid or unconstitutional, such
6151 declaration shall not affect the remaining parts thereof.

6152 **SECTION 54.** Section 81-27-8.115, Mississippi Code of 1972,
6153 is amended as follows:

6154 81-27-8.115. The commissioner, for the purpose of
6155 liquidating state trust companies as herein provided, shall
6156 employ, in accordance with the provisions of Section 25-9-120,
6157 such liquidating agents, competent local attorneys, accountants
6158 and clerks as may be necessary to properly liquidate and
6159 distribute the assets of a state trust company, and shall fix the
6160 compensation for all such agents, attorneys, accountants and
6161 clerks, and shall pay the same out of the funds derived from the
6162 liquidation of the assets of the state trust company. However,
6163 all expenditure for the purpose herein provided shall be approved
6164 by the presiding chancellor in the pending action at such time as
6165 the same may be reported, and such charges shall be a proper
6166 charge and lien on the assets of the state trust company until
6167 paid.

6168 **SECTION 55.** Section 5-8-5, Mississippi Code of 1972, is
6169 brought forward as follows:

6170 5-8-5. (1) Except as otherwise provided in Section 5-8-7 of
6171 this chapter and in addition to reports required by Sections 5-8-9
6172 and 5-8-11 of this chapter, every lobbyist and every lobbyist's
6173 client shall file a registration statement with the Secretary of



6174 State within five (5) calendar days after becoming a lobbyist,
6175 becoming a lobbyist's client or beginning to lobby for a new
6176 client. The filing of every registration statement shall be
6177 accompanied by the payment of a registration fee of Twenty-five
6178 Dollars (\$25.00) to the Secretary of State. The lobbyist shall
6179 file the registration statement and pay the fees to the Secretary
6180 of State for each lobbyist's client whom the lobbyist represents.

6181 (2) The registration statement shall include the following:

6182 (a) The name, address, occupation and telephone number
6183 of the lobbyist;

6184 (b) The name, address, telephone number and principal
6185 place of business of the lobbyist's client;

6186 (c) The kind of business of the lobbyist's client;

6187 (d) The full name of the person or persons who control
6188 the lobbyist's client, the partners, if any, and officers of the
6189 lobbyist's client;

6190 (e) The full name, address and telephone number of each
6191 lobbyist employed by or representing the lobbyist's client; and

6192 (f) A statement or statements by the lobbyist and
6193 lobbyist's client indicating the specific nature of the issues
6194 being advocated for or against on behalf of the lobbyist's client,
6195 with sufficient detail so that the precise nature of the
6196 lobbyist's advocacy is evident from the statement itself.

6197 (3) Registration shall be valid for one (1) calendar year,
6198 commencing January 1 and ending December 31 of each year. If the



lobbyist or lobbyist's client shall register after January 1, the registration shall be effective upon actual receipt by the Secretary of State and shall cease on December 31 of each year.

(4) A lobbyist or lobbyist's client may terminate his registration by filing an expenditure report required under this chapter. Such report shall include information through the last day of lobbying activity. The termination report must indicate that the lobbyist intends to use the report as the final accounting of lobbying activity.

(5) The Secretary of State shall prescribe and make available to every lobbyist and lobbyist's client appropriate forms for filing registration statements as required by Sections 5-8-1 through 5-8-19 of this chapter.

SECTION 56. Section 5-8-9, Mississippi Code of 1972, is brought forward as follows:

5-8-9. (1) Except as otherwise provided in Section 5-8-7 of this chapter and in subsection (7) of this section, no later than January 30 of each year, a lobbyist's client shall file a report of expenditures with the Secretary of State. The report must contain information on all expenditures paid by the lobbyist's client during the preceding twelve (12) calendar months.

(2) The report must list expenditures for the purpose of lobbying according to the following categories:

(a) A payment to a lobbyist for salary, fee, compensation for expenses, or other purpose by a person employing,



6224 retaining or contracting for the services of the lobbyist
6225 separately or jointly with other persons;

6226 (b) A payment for those portions of office rent,
6227 utilities, supplies and compensation of support personnel
6228 attributable to lobbying activities;

6229 (c) A payment in support of or assistance to a lobbyist
6230 or the lobbyist's activities, including the direct payment of
6231 expenses incurred at the request or suggestion of the lobbyist;

6232 (d) A payment, including compensation, payment or
6233 reimbursement for the services, time or expenses of an employee
6234 for or in connection with direct communication with an executive,
6235 legislative or public official or public employee, where such
6236 communication is made at the request, suggestion or direction of
6237 the lobbyist's client;

6238 (e) A payment for or in connection with soliciting or
6239 urging other persons to enter into direct communication with an
6240 executive, legislative or public official or public employee,
6241 where such communication is made at the request, suggestion or
6242 direction of the lobbyist's client;

6243 (f) A payment or reimbursement for food, beverages,
6244 travel, lodging, entertainment or sporting activities; or

6245 (g) A purchase, payment, distribution, loan,
6246 forgiveness of a loan or payment of a loan by a third party,
6247 advance, deposit, transfer of funds, a promise to make a payment,
6248 or a gift of money or anything of value for any purpose.



6249 (3) For each executive, legislative or public official or
6250 public employee who was paid, given or promised to be paid
6251 anything of value in full or in part from the lobbyist's client,
6252 the report must also include:

6253 (a) The name of the executive, legislative or public
6254 official or public employee who was paid, given or promised
6255 anything of value;

6256 (b) A description and the monetary value of anything of
6257 value paid, given or promised to such official or employee, with
6258 sufficient detail so that the nature of the transfer is clear;

6259 (c) The place and date anything of value was paid,
6260 given or promised; and

6261 (d) The name of the person who paid, gave or promised
6262 to pay anything of value.

6263 (4) Each expenditure for the purpose of lobbying must be
6264 reported in accordance with the category of the expenditure
6265 required in this section and with any additional categories as may
6266 be required by rule or regulation of the Secretary of State.

6267 (5) The report due January 30 shall include a cumulative
6268 total for the calendar year for all reportable categories.

6269 (6) A lobbyist's client shall maintain contemporaneous
6270 records of all expenditures reportable under Sections 5-8-1
6271 through 5-8-19 of this chapter and shall retain such records for a
6272 period of two (2) years.



6273 (7) If the State of Mississippi is a lobbyist's client, the
6274 State of Mississippi shall be exempt from filing an annual report.

6275 (8) (a) If the entire Legislature and all statewide elected
6276 officials are individually invited to a single function, which is
6277 sponsored by a lobbyist's client, or a lobbyist on behalf of such
6278 client, and is to begin and end within one (1) day, then it shall
6279 not be necessary to report the costs related to food and beverages
6280 offered for immediate consumption required in subsection (3) of
6281 this section, so long as food and beverages provided at such
6282 functions are offered equally to all invitees; however, in all
6283 such cases, the amount expended for such functions shall be
6284 reported in accordance with the provisions of this subsection.

6285 (b) The report of the expenditure connected with a
6286 single function as described in paragraph (a) of this subsection
6287 shall be made by the lobbyist's client and shall include the
6288 following:

6289 (i) The total amount of money expended for the
6290 function;

6291 (ii) The estimated total number of persons in
6292 attendance at the function;

6293 (iii) The estimated total number of public
6294 officials in attendance at the function.

6295 **SECTION 57.** Section 5-8-11, Mississippi Code of 1972, is
6296 brought forward as follows:



6297 5-8-11. (1) Except as otherwise provided in Section 5-8-7
6298 of this chapter, a lobbyist shall file with the Secretary of State
6299 a separate report for each lobbyist's client. The report shall
6300 specifically list all payments received from the lobbyist's client
6301 and all expenditures that were initiated or paid by the lobbyist
6302 on behalf of each lobbyist's client during each reporting period
6303 required herein.

6304 (2) The report must list expenditures for the purpose of
6305 lobbying according to the following categories:

6306 (a) A payment to the lobbyist for salary, fee,
6307 compensation for expenses, or other purpose by the person
6308 employing, retaining or contracting for the services of the
6309 lobbyist separately or jointly with other persons;

6310 (b) A payment for those portions of office rent,
6311 utilities, supplies and compensation of support personnel
6312 attributable to lobbying activities;

6313 (c) A payment in support of or assistance to a lobbyist
6314 or the lobbyist's activities, including the direct payment of
6315 expenses incurred at the request or suggestion of the lobbyist;

6316 (d) A payment, including compensation, payment or
6317 reimbursement for the services, time or expenses of an employee
6318 for or in connection with direct communication with an executive,
6319 legislative or public official or public employee, where such
6320 communication is made at the request, suggestion or direction of
6321 the lobbyist;



6322 (e) A payment for or in connection with soliciting or
6323 urging other persons to enter into direct communication with an
6324 executive, legislative or public official or public employee,
6325 where such communication is made at the request, suggestion or
6326 direction of the lobbyist;

6327 (f) A payment or reimbursement for food, beverages,
6328 travel, lodging, entertainment or sporting activities;

6329 (g) A purchase, payment, distribution, loan, or
6330 forgiveness of a loan or payment of a loan by a third party,
6331 advance, deposit, transfer of funds, a promise to make a payment,
6332 or a gift of money or anything of value for any purpose.

6333 (3) For each executive, legislative or public official or
6334 public employee who was paid, given or promised to be paid
6335 anything of value in full or in part from the lobbyist, the report
6336 must also include:

6337 (a) The name of the executive, legislative or public
6338 official or employee who was paid, given or promised anything of
6339 value;

6340 (b) A description and the monetary value of anything of
6341 value paid, given or promised to such official or employee, with
6342 sufficient detail so that the nature of the transfer is clear;

6343 (c) The place and date anything of value was paid,
6344 given or promised; and

6345 (d) The name of the person who paid, gave or promised
6346 to pay anything of value.



6347 (4) Each expenditure for the purpose of lobbying must be
6348 reported in accordance with the category of the expenditure
6349 required in this section and with any additional categories as may
6350 be required by rule or regulation of the Secretary of State.

6351 (5) A report of expenditures must be filed with the
6352 Secretary of State no later than January 30 of each year. The
6353 report shall contain information on all expenditures paid or
6354 initiated by the lobbyist on behalf of each lobbyist's client
6355 during the preceding twelve (12) calendar months, and it shall
6356 include a cumulative total for the calendar year of all reportable
6357 categories.

6358 (6) In addition to the annual report required above, a
6359 lobbyist shall file two (2) reports during regular sessions of the
6360 Legislature with the Secretary of State on February 25 and within
6361 ten (10) days after the Legislature's adjournment sine die. Such
6362 additional report shall include the name of the executive,
6363 legislative, or public official or public employee who receives
6364 anything of value from the lobbyist or from the lobbyist on behalf
6365 of the lobbyist's client, the name of the person receiving the
6366 payment, the name of the person making the payment, the amount of
6367 the payment and the date of the payment. However, any lobbyist
6368 who lobbies local government exclusively shall be exempt from the
6369 requirement of filing the reports required by this paragraph.

6370 (7) (a) If the entire Legislature and all statewide elected
6371 officials are individually invited to a single function which is



6372 sponsored by a lobbyist on behalf of one or more lobbyist's
6373 clients and is to begin and end within one (1) day, then it shall
6374 not be necessary to report the costs related to food and beverages
6375 offered for immediate consumption as required in subsection (3) of
6376 this section, so long as food and beverages provided at such
6377 functions are offered equally to all invitees; however, in all
6378 such cases, the amount expended for such functions shall be
6379 reported in accordance with the provisions of this subsection.

6380 (b) The report of the expenditure connected with a
6381 single function as described in paragraph (a) of this subsection
6382 shall be made by the lobbyist and shall include the following:

6383 (i) The total amount of money expended for the
6384 function, reception or meal;

6385 (ii) The total number of persons in attendance at
6386 the function, reception or meal;

6387 (iii) The total number of legislators in
6388 attendance at the function, reception or meal.

6389 (8) A lobbyist shall maintain contemporaneous records of all
6390 expenditures reportable under Sections 5-8-1 through 5-8-19 of
6391 this chapter, and shall retain such records for a period of two
6392 (2) years.

6393 **SECTION 58.** Section 5-8-13, Mississippi Code of 1972, is
6394 brought forward as follows:



6395 5-8-13. (1) A lobbyist shall not contract to receive or
6396 accept compensation dependent upon the success or failure of a
6397 legislative or executive action.

6398 (2) A lobbyist or lobbyist's client shall not knowingly or
6399 willfully make or cause to be made a false statement or
6400 misrepresentation of facts to an executive, legislative or public
6401 official or public employee, or to the public in general with the
6402 intent to affect the outcome of a legislative or executive action.

6403 (3) A lobbyist or lobbyist's client shall not cause a
6404 legislative or executive action for the purpose of obtaining
6405 employment to lobby in support of or in opposition to the
6406 legislative or executive action.

6407 (4) An executive, legislative or public official or public
6408 employee shall not be a lobbyist, except that he may act as a
6409 lobbyist when acting in his official capacity.

6410 (5) A lobbyist must disclose anything of value given in
6411 whole or in part to any executive, legislative or public official
6412 or public employee.

6413 **SECTION 59.** Section 5-8-17, Mississippi Code of 1972, is
6414 brought forward as follows:

6415 5-8-17. (1) In addition to any other penalty permitted by
6416 law, the Secretary of State shall require any person who fails to
6417 file a report as required under Sections 5-8-1 through 5-8-19 of
6418 this chapter, or who shall file a report which fails to comply
6419 with the material particulars of Sections 5-8-1 through 5-8-19 of



6420 this chapter or any rules, regulations or procedures implemented
6421 pursuant to Sections 5-8-1 through 5-8-19 of this chapter, to be
6422 assessed a civil penalty as follows:

6423 (a) Within five (5) calendar days after any deadline
6424 for filing a report pursuant to Sections 5-8-1 through 5-8-19 of
6425 this chapter, the Secretary of State shall compile a list of those
6426 lobbyists and lobbyists' clients who have failed to file a
6427 required report. The Secretary of State shall provide each
6428 lobbyist or lobbyist's client who has failed to file such a report
6429 notice of such failure by certified mail.

6430 (b) Beginning with the tenth calendar day after which
6431 any report shall be due, the Secretary of State shall assess the
6432 delinquent lobbyist and delinquent lobbyist's client a civil
6433 penalty of Fifty Dollars (\$50.00) per day and part of any day
6434 until a valid report is delivered to the Secretary of State, up to
6435 a maximum of ten (10) days. However, in the discretion of the
6436 Secretary of State, the assessing of such fine may be waived if
6437 the Secretary of State shall determine that unforeseeable
6438 mitigating circumstances, such as the health of the lobbyist,
6439 shall interfere with timely filing of a required report.

6440 (c) Filing of the required report and payment of the
6441 fine within ten (10) calendar days of notice by the Secretary of
6442 State that a required statement has not been filed constitutes
6443 compliance with Sections 5-8-1 through 5-8-19 of this chapter.



6444 (d) Payment of the fine without filing the required
6445 report does not in any way excuse or exempt any person required to
6446 file from the filing requirements of Sections 5-8-1 through 5-8-19
6447 of this chapter.

6448 (2) (a) Upon the sworn application of a lobbyist or
6449 lobbyist's client against whom a civil penalty has been assessed
6450 pursuant to subsection (1), the Secretary of State shall forward
6451 the application to the Mississippi Ethics Commission. The
6452 commission shall fix a time and place for a hearing and shall
6453 cause a written notice specifying the civil penalties that have
6454 been assessed against the lobbyist or lobbyist's client and notice
6455 of the time and place of the hearing to be served upon the
6456 lobbyist or lobbyist's client at least twenty (20) calendar days
6457 prior to the hearing date. Such notice may be served by mailing a
6458 copy thereof by certified mail, postage prepaid, to the last known
6459 business address of the lobbyist or lobbyist's client.

6460 (b) The commission is authorized to issue subpoenas for
6461 the attendance of witnesses and the production of books and papers
6462 at such hearing. Process issued by the commission shall extend to
6463 all parts of the state and shall be served by any person
6464 designated by the commission for such service.

6465 (c) The lobbyist or lobbyist's client shall have the
6466 right to appear either personally or by counsel, or both, to
6467 produce witnesses or evidence in his behalf, to cross-examine
6468 witnesses and to have subpoenas issued by the commission.



6469 (d) A hearing officer shall be appointed by the
6470 commission to conduct the hearing. At the hearing, the hearing
6471 officer shall administer oaths as may be necessary for the proper
6472 conduct of the hearing. All hearings shall be conducted by the
6473 commission, who shall not be bound by strict rules of procedure or
6474 by the laws of evidence in the conduct of the proceedings, but the
6475 determination shall be based upon sufficient evidence to sustain
6476 it.

6477 (e) Where, in any proceeding before the commission, any
6478 witness fails or refuses to attend upon a subpoena issued by the
6479 commission, refuses to testify, or refuses to produce any books
6480 and papers the production of which is called for by a subpoena,
6481 the attendance of such witness, the giving of his testimony or the
6482 production of the books and papers shall be enforced by any court
6483 of competent jurisdiction of this state in the manner provided for
6484 the enforcement of attendance and testimony of witnesses in civil
6485 cases in the courts of this state.

6486 (f) Within fifteen (15) calendar days after conclusion
6487 of the hearing, the commission shall reduce its decision to
6488 writing and forward an attested true copy thereof to the last
6489 known business address of the lobbyist or lobbyist's client by way
6490 of United States first-class, certified mail, postage prepaid.

6491 (3) (a) The right to appeal from the decision of the
6492 commission in an administrative hearing concerning the assessment
6493 of civil penalties authorized pursuant to this section is hereby



6494 granted. Such appeal shall be to the Circuit Court of Hinds
6495 County and shall include a verbatim transcript of the testimony at
6496 the hearing. The appeal shall be taken within thirty (30)
6497 calendar days after notice of the decision of the commission
6498 following an administrative hearing. The appeal shall be
6499 perfected upon filing notice of the appeal and by the prepayment
6500 of all costs, including the cost of the preparation of the record
6501 of the proceedings by the commission, and the filing of a bond in
6502 the sum of Two Hundred Dollars (\$200.00), conditioned that if the
6503 decision of the commission be affirmed by the court, the lobbyist
6504 or lobbyist's client will pay the costs of the appeal and the
6505 action in court. If the decision is reversed by the court, the
6506 Secretary of State will pay the costs of the appeal and the action
6507 in court.

6508 (b) If there is an appeal, such appeal shall act as a
6509 supersedeas. The court shall dispose of the appeal and enter its
6510 decision promptly. The hearing on the appeal may be tried in
6511 vacation, in the court's discretion. The scope of review of the
6512 court shall be limited to a review of the record made before the
6513 commission to determine if the action of the commission is
6514 unlawful for the reason that it was (i) not supported by
6515 substantial evidence, (ii) arbitrary or capricious, (iii) beyond
6516 the power of the commission to make, or (iv) in violation of some
6517 statutory or constitutional right of the appellant. The decision



6518 of the court may be appealed to the Supreme Court in the manner
6519 provided by law.

6520 (4) If, after forty-five (45) calendar days of the date of
6521 the administrative hearing procedure set forth in subsection (2),
6522 the lobbyist or lobbyist's client shall not file a valid report as
6523 required by law, the commission shall notify the Attorney General
6524 of the delinquency. The Attorney General shall investigate said
6525 offense in accordance with the provisions of this chapter.

6526 **SECTION 60.** Section 5-8-19, Mississippi Code of 1972, is
6527 brought forward as follows:

6528 5-8-19. The Secretary of State shall:

6529 (a) Provide forms for registration and for statements
6530 required by Sections 5-8-1 through 5-8-19 of this chapter to all
6531 persons required to file.

6532 (b) Issue a certificate of registration to a lobbyist
6533 registered under the provisions of Sections 5-8-1 through 5-8-19
6534 of this chapter.

6535 (c) Make all statements and reports filed available for
6536 public inspection and copying, at a reasonable cost, during
6537 regular office hours.

6538 (d) Publish an annual report summarizing the financial
6539 activities of lobbyists and lobbyists' clients, and such annual
6540 report shall not include amounts reported pursuant to Sections
6541 5-8-9(8) and 5-8-11(7) for single functions in the calculation of



6542 the cumulative total amount of money expended for lobbying
6543 purposes.

6544 **SECTION 61.** Section 5-8-21, Mississippi Code of 1972, is
6545 brought forward as follows:

6546 5-8-21. Any person who, with intent, violates any of the
6547 provisions of this chapter whether acting either individually or
6548 as an officer, agent, employee, or counsel of a person, firm,
6549 corporation or association, or any person whether acting
6550 individually or as the officer, employee, agent or counsel of a
6551 firm, corporation or association, who, with intent, causes or
6552 participates, either directly or indirectly, in any violation of
6553 the provisions of this chapter shall upon conviction for the first
6554 offense be fined not more than One Thousand Dollars (\$1,000.00) or
6555 imprisoned in the county jail not more than six (6) months or both
6556 and upon conviction for a second or any subsequent offense be
6557 fined not more than Five Thousand Dollars (\$5,000.00) or
6558 imprisoned in the Penitentiary not more than three (3) years or
6559 both. Any association or corporation which, with intent,
6560 violates, or causes or participates, either directly or
6561 indirectly, in any violation of any of the provisions of this
6562 chapter shall, for each offense, upon conviction, be fined not
6563 more than Five Thousand Dollars (\$5,000.00). The prosecution or
6564 conviction of one or more of the officers or employees of such
6565 corporation or association shall not be a bar to the prosecution
6566 and conviction of the corporation or association for such offense.



6567 **SECTION 62.** Section 5-8-23, Mississippi Code of 1972, is
6568 brought forward as follows:

6569 5-8-23. If any section, paragraph, sentence, clause, phrase
6570 or any part of this chapter passed hereafter is declared to be
6571 unconstitutional or void, or if for any reason is declared to be
6572 invalid or of no effect, the remaining sections, paragraphs,
6573 sentences, clauses, phrases or parts thereof shall be in no manner
6574 affected thereby but shall remain in full force and effect.

6575 **SECTION 63.** Section 25-53-21, Mississippi Code of 1972, is
6576 brought forward as follows:

6577 25-53-21. The executive director shall have the following
6578 duties, responsibilities and authority:

6579 (a) He shall conduct continuing studies of all
6580 information technology activities carried out by all agencies of
6581 the state and shall develop a long-range plan for the efficient
6582 and economical performance of such activities in state government.
6583 Such plan shall be submitted to the authority for its approval
6584 and, having been approved by the authority, shall be implemented
6585 by the executive director and all state agencies. Such plan shall
6586 be continuously reviewed and modifications thereof shall be
6587 proposed to the authority by the executive director as
6588 developments in information technology techniques and changes in
6589 the structure, activities, and functions of state government may
6590 require.



6591 (b) He shall review the purchasing practices of all
6592 state agencies in the area of the purchasing of supplies for
6593 information technology and make recommendations to the authority
6594 and to the Public Procurement Review Board for the institution of
6595 purchasing procedures which will insure the most economical
6596 procurement of such supplies commensurate with the efficient
6597 operation of all departments and agencies of state government.

6598 (c) He shall see that all reports required of all
6599 agencies are promptly and accurately made in accordance with the
6600 rules and regulations adopted by the authority. Either in person
6601 or through his authorized agents, he shall make such inspections
6602 of information technology operations being conducted by any of the
6603 agencies of the state as may be necessary for the performance of
6604 his duties.

6605 (d) He shall suggest and cause to be brought about
6606 cooperation between the several state agencies in order to provide
6607 efficiency in information technology operation. He shall,
6608 together with the heads of the agencies involved, reduce to
6609 writing and execute cooperative plans for the acquisition and
6610 operation of information technology equipment, and any such plan
6611 so adopted shall be carried out in accordance with the provisions
6612 of such plan unless the same shall be amended by the joint action
6613 of the executive director and the heads of agencies involved. The
6614 executive director shall report to the authority the details of
6615 any plan so adopted and all amendments or modifications thereof,



6616 and shall otherwise report to the authority and to the Public
6617 Procurement Review Board any failure on the part of any agency to
6618 carry out the provisions of such plan. In the event the head of
6619 any agency involved or the executive director shall propose
6620 amendments to a plan so adopted and such amendment is disapproved
6621 by the head of another agency involved or the executive director,
6622 an appeal may be taken to the authority which may, after full
6623 consideration thereof, order the adoption of the proposed
6624 amendment or any modification thereof. The executive director
6625 shall make decisions on all questions of the division of the cost
6626 of information technology operations among the several agencies,
6627 but his findings shall be subject to the approval or modification
6628 by the authority on appeal to it.

6629 (e) He shall review all contracts for acquisition of
6630 computer equipment or services now or hereafter in force and may
6631 require the renegotiation, termination, amendment or execution of
6632 any such contracts in proper form and in accordance with the
6633 policies and rules and regulations and subject to the direction of
6634 the authority. In the negotiation and execution of such
6635 contracts, the executive director may negotiate a limitation on
6636 the liability to the state of prospective contractors provided
6637 such limitation affords the state reasonable protection.

6638 (f) He shall act as the purchasing and contracting
6639 agent for the State of Mississippi in the negotiation and
6640 execution of all contracts for the acquisition of computer



6641 equipment or services. He shall receive, review, and promptly
6642 approve or disapprove all requests of agencies of the state for
6643 the acquisition of computer equipment or services, which are
6644 submitted in accordance with rules and regulations of the
6645 authority. In the event that any such request is disapproved, he
6646 shall immediately notify the requesting agency and the members of
6647 the authority in writing of such disapproval, stating his reasons
6648 therefor. The disapproval of any request by the executive
6649 director of the authority may be appealed to the authority or to
6650 the Public Procurement Review Board, respectively, in such manner
6651 as may be authorized by such reasonable rules and regulations
6652 hereby authorized to be adopted by the authority and by the Public
6653 Procurement Review Board to govern the same. The executive
6654 director shall report the approval of all such requests to the
6655 authority in such manner as may be directed by the authority, and
6656 shall execute any such contracts only after complying with rules
6657 and regulations which may be adopted by the authority in relation
6658 thereto. Any contracts for personal or professional services
6659 entered into by the executive director shall be exempted from the
6660 requirements of Section 25-9-120(3) relating to submission of such
6661 contract to the State Personal Service Contract Review Board.

6662 (g) He shall suggest and cause to be brought about
6663 cooperation between the several state agencies, departments and
6664 institutions in order that work may be done by one agency for
6665 another agency, and equipment in one agency may be made available



6666 to another agency, and suggest and cause to be brought about such
6667 improvements as may be necessary in joint or cooperative
6668 information technology operations.

6669 (h) He shall be designated as the "Chief Information
6670 Confidentiality Officer" after being duly sworn to the oath of
6671 this office by the chairman of the authority and shall be
6672 responsible for administering the oath to other qualified officers
6673 he may designate.

6674 (i) He shall appoint employees of the Mississippi
6675 Department of Information Technology Services, or at his
6676 discretion, employees of other state agencies and institutions
6677 that are responsible for handling or processing data for any
6678 agency or institution other than that for which they are employed,
6679 to a position of information custodial care that shall be known as
6680 "Information Confidentiality Officer." The selection and swearing
6681 of all officers shall be reported to the authority at the next
6682 regular meeting and names, affirmation dates and employment dates
6683 shall be recorded in the permanent minutes of the authority.

6684 **SECTION 64.** Section 25-53-25, Mississippi Code of 1972, is
6685 brought forward as follows:

6686 25-53-25. (1) Nothing in this chapter shall be construed to
6687 imply exemption from the public purchases law, being Section
6688 31-7-1 et seq.

6689 (2) The authority may establish policies and procedures for
6690 the purpose of delegating the bidding and contracting



6691 responsibilities related to the procurement of computer equipment
6692 or services to the purchasing agency. Such policies and
6693 procedures must address the following issues:

6694 (a) Establish categories of equipment or services
6695 affected;

6696 (b) Establish maximum unit and/or ceiling prices of
6697 such procurements;

6698 (c) Establish reporting, monitoring and control of such
6699 procurements; and

6700 (d) Establish other such rules and regulations as
6701 necessary to fully implement the purposes of this section.

6702 Nothing in this subsection shall be construed to imply exemption
6703 from the public purchases law, being Section 31-7-1 et seq.

6704 (3) Acquisitions of computer equipment and services by
6705 institutions of higher learning or junior colleges wholly with
6706 federal funds and not with state general funds shall be exempt
6707 from the provisions of this chapter; however, nothing in this
6708 subsection shall be construed to imply an exemption of such
6709 acquisitions from the public purchases law, being Section 31-7-1
6710 et seq.

6711 (4) [Repealed]

6712 **SECTION 65.** Section 65-1-85, Mississippi Code of 1972, is
6713 brought forward as follows:

6714 65-1-85. (1) All contracts by or on behalf of the
6715 commission for the purchase of materials, equipment and supplies



6716 shall be made in compliance with Section 31-7-1 et seq. All
6717 contracts by or on behalf of the commission for construction,
6718 reconstruction or other public work authorized to be done under
6719 the provisions of this chapter, except maintenance, shall be made
6720 by the executive director, subject to the approval of the
6721 commission, only upon competitive bids after due advertisement as
6722 follows, to wit:

6723 (a) Advertisement for bids shall be in accordance with
6724 such rules and regulations, in addition to those herein provided,
6725 as may be adopted therefor by the commission, and the commission
6726 is authorized and empowered to make and promulgate such rules and
6727 regulations as it may deem proper, to provide and adopt standard
6728 specifications for road and bridge construction, and to amend such
6729 rules and regulations from time to time.

6730 (b) The advertisement shall be inserted twice, being
6731 once a week for two (2) successive weeks in a newspaper published
6732 at the seat of government in Jackson, Mississippi, having a
6733 general circulation throughout the state, and no letting shall be
6734 less than fourteen (14) days nor more than sixty (60) days after
6735 the publication of the first notice of such letting, and notices
6736 of such letting may be placed in a metropolitan paper or national
6737 trade publication.

6738 (c) Before advertising for such work, the executive
6739 director shall cause to be prepared and filed in the department
6740 detailed plans and specifications covering the work proposed to be



6741 done and copies of the plans and specifications shall be subject
6742 to inspection by any citizen during all office hours and made
6743 available to all prospective bidders upon such reasonable terms
6744 and conditions as may be required by the commission. A fee shall
6745 be charged equal to the cost of producing a copy of any such plans
6746 and specifications.

6747 (d) All such contracts shall be let to a responsible
6748 bidder with the lowest and best bid, and a record of all bids
6749 received for construction and reconstruction shall be preserved.

6750 (e) Each bid for such a construction and reconstruction
6751 contract must be accompanied by a cashier's check, a certified
6752 check or bidders bond executed by a surety company authorized to
6753 do business in the State of Mississippi, in the principal amount
6754 of not less than five percent (5%) of the bid, guaranteeing that
6755 the bidder will give bond and enter into a contract for the
6756 faithful performance of the contract according to plans and
6757 specifications on file.

6758 (f) Bonds shall be required of the successful bidder in
6759 an amount equal to the contract price. The contract price shall
6760 mean the entire cost of the particular contract let. In the event
6761 change orders are made after the execution of a contract which
6762 results in increasing the total contract price, additional bond in
6763 the amount of the increased cost may be required. The surety or
6764 sureties on such bonds shall be a surety company or surety
6765 companies authorized to do business in the State of Mississippi,



6766 all bonds to be payable to the State of Mississippi and to be
6767 conditioned for the prompt, faithful and efficient performance of
6768 the contract according to plans and specifications, and for the
6769 prompt payment of all persons furnishing labor, material,
6770 equipment and supplies therefor. Such bonds shall be subject to
6771 the additional obligation that the principal and surety or
6772 sureties executing the same shall be liable to the state in a
6773 civil action instituted by the state at the instance of the
6774 commission or any officer of the state authorized in such cases,
6775 for double any amount in money or property the state may lose or
6776 be overcharged or otherwise defrauded of by reason of any wrongful
6777 or criminal act, if any, of the contractor, his agent or
6778 employees.

6779 (2) With respect to equipment used in the construction,
6780 reconstruction or other public work authorized to be done under
6781 the provisions of this chapter: the word "equipment," in addition
6782 to all equipment incorporated into or fully consumed in connection
6783 with such project, shall include the reasonable value of the use
6784 of all equipment of every kind and character and all accessories
6785 and attachments thereto which are reasonably necessary to be used
6786 and which are used in carrying out the performance of the
6787 contract, and the reasonable value of the use thereof, during the
6788 period of time the same are used in carrying out the performance
6789 of the contract, shall be the amount as agreed upon by the persons
6790 furnishing the equipment and those using the same to be paid



6791 therefor, which amount, however, shall not be in excess of the
6792 maximum current rates and charges allowable for leasing or renting
6793 as specified in Section 65-7-95; the word "labor" shall include
6794 all work performed in repairing equipment used in carrying out the
6795 performance of the contract, which repair labor is reasonably
6796 necessary to the efficient operation of said equipment; and the
6797 words "materials" and "supplies" shall include all repair parts
6798 installed in or on equipment used in carrying out the performance
6799 of the contract, which repair parts are reasonably necessary to
6800 the efficient operation of said equipment.

6801 (3) The executive director, subject to the approval of the
6802 commission, shall have the right to reject any and all bids,
6803 whether such right is reserved in the notice or not.

6804 (4) The commission may require the prequalification of any
6805 and all bidders and the failure to comply with prequalification
6806 requirements may be the basis for the rejection of any bid by the
6807 commission. The commission may require the prequalification of
6808 any and all subcontractors before they are approved to participate
6809 in any contract awarded under this section.

6810 (5) The commission may adopt rules and regulations for the
6811 termination of any previously awarded contract which is not timely
6812 proceeding toward completion. The failure of a contractor to
6813 comply with such rules and regulations shall be a lawful basis for
6814 the commission to terminate the contract with such contractor. In
6815 the event of a termination under such rules and regulations, the



6816 contractor shall not be entitled to any payment, benefit or
6817 damages beyond the cost of the work actually completed.

6818 (6) Any contract for construction or paving of any highway
6819 may be entered into for any cost which does not exceed the amount
6820 of funds that may be made available therefor through bond issues
6821 or from other sources of revenue, and the letting of contracts for
6822 such construction or paving shall not necessarily be delayed until
6823 the funds are actually on hand, provided authorization for the
6824 issuance of necessary bonds has been granted by law to supplement
6825 other anticipated revenue, or when the department certifies to the
6826 Department of Finance and Administration and the Legislative
6827 Budget Office that projected receipts of funds by the department
6828 will be sufficient to pay such contracts as they become due and
6829 the Department of Finance and Administration determines that the
6830 projections are reasonable and receipts will be sufficient to pay
6831 the contracts as they become due. The Department of Finance and
6832 Administration shall spread such determination on its minutes
6833 prior to the letting of any contracts based on projected receipts.
6834 Nothing in this subsection shall prohibit the issuance of bonds,
6835 which have been authorized, at any time in the discretion of the
6836 State Bond Commission, nor to prevent investment of surplus funds
6837 in United States government bonds or State of Mississippi bonds as
6838 presently authorized by Section 12, Chapter 312, Laws of 1956.

6839 (7) All other contracts for work to be done under the
6840 provisions of this chapter and for the purchase of materials,



6841 equipment and supplies to be used as provided for in this chapter
6842 shall be made in compliance with Section 31-7-1 et seq.

6843 (8) The commission shall not empower or authorize the
6844 executive director, or any one or more of its members, or any
6845 engineer or other person to let or make contracts for the
6846 construction or repair of public roads, or building bridges, or
6847 for the purchase of material, equipment or supplies contrary to
6848 the provisions of this chapter as set forth in this section,
6849 except in cases of flood or other cases of emergency where the
6850 public interest requires that the work be done or the materials,
6851 equipment or supplies be purchased without the delay incident to
6852 advertising for competitive bids. Such emergency contracts may be
6853 made without advertisement under such rules and regulations as the
6854 commission may prescribe.

6855 (9) The executive director, subject to the approval of the
6856 commission, is authorized to negotiate and make agreements with
6857 communities and/or civic organizations for landscaping,
6858 beautification and maintenance of highway rights-of-way; however,
6859 nothing in this subsection shall be construed as authorization for
6860 the executive director or commission to participate in such a
6861 project to an extent greater than the average cost for maintenance
6862 of shoulders, backslopes and median areas with respect thereto.

6863 (10) The executive director may negotiate and enter into
6864 contracts with private parties for the mowing of grass and



6865 trimming of vegetation on the rights-of-way of state highways
6866 whenever such practice is possible and cost effective.

6867 (11) (a) As an alternative to the method of awarding
6868 contracts as otherwise provided in this section, the commission
6869 may use the design-build method of contracting for the following:

6870 (i) Projects for the Mississippi Development
6871 Authority pursuant to agreements between both governmental
6872 entities;

6873 (ii) Any project with an estimated cost of not
6874 more than Ten Million Dollars (\$10,000,000.00), not to exceed two
6875 (2) projects per fiscal year; and

6876 (iii) Any project which has an estimated cost of
6877 more than Ten Million Dollars (\$10,000,000.00), not to exceed one
6878 (1) project per fiscal year.

6879 (b) As used in this subsection, the term "design-build"
6880 method of contracting means a contract that combines the design
6881 and construction phases of a project into a single contract and
6882 the contractor is required to satisfactorily perform, at a
6883 minimum, both the design and construction of the project.

6884 (c) The commission shall establish detailed criteria
6885 for the selection of the successful design-build contractor in
6886 each request for design-build proposals. The evaluation of the
6887 selection committee is a public record and shall be maintained for
6888 a minimum of ten (10) years after project completion.



6889 (d) The commission shall maintain detailed records on
6890 projects separate and apart from its regular record keeping. The
6891 commission shall file a report to the Legislature evaluating the
6892 design-build method of contracting by comparing it to the low-bid
6893 method of contracting. At a minimum, the report must include:

6894 (i) The management goals and objectives for the
6895 design-build system of management;

6896 (ii) A complete description of the components of
6897 the design-build management system, including a description of the
6898 system the department put into place on all projects managed under
6899 the system to insure that it has the complete information on
6900 highway segment costs and to insure proper analysis of any
6901 proposal the commission receives from a highway contractor;

6902 (iii) The accountability systems the
6903 Transportation Department established to monitor any design-build
6904 project's compliance with specific goals and objectives for the
6905 project;

6906 (iv) The outcome of any project or any interim
6907 report on an ongoing project let under a design-build management
6908 system showing compliance with the goals, objectives, policies and
6909 procedures the department set for the project; and

6910 (v) The method used by the department to select
6911 projects to be let under the design-build system of management and
6912 all other systems, policies and procedures that the department



6913 considered as necessary components to a design-build management
6914 system.

6915 (e) All contracts let under the provisions of this
6916 subsection shall be subject to oversight and review by the State
6917 Auditor. The State Auditor shall file a report with the
6918 Legislature on or before January 1 of each year detailing his
6919 findings with regard to any contract let or project performed in
6920 violation of the provisions of this subsection. The actual and
6921 necessary expenses incurred by the State Auditor in complying with
6922 this paragraph (e) shall be paid for and reimbursed by the
6923 Mississippi Department of Transportation out of funds made
6924 available for the contract or contracts let and project or
6925 projects performed.

6926 (12) The provisions of this section shall not be construed
6927 to prohibit the commission from awarding or entering into
6928 contracts for the design, construction and financing of toll
6929 roads, highways and bridge projects as provided under Sections
6930 65-43-1 and 65-43-3.

6931 **SECTION 66.** Section 65-1-141, Mississippi Code of 1972, is
6932 brought forward as follows:

6933 65-1-141. (1) (a) The Highway Commission shall annually
6934 have the Highway Department prepare a three-year plan for the
6935 maintenance, construction, reconstruction and relocation of the
6936 State Highway System. The plan shall include:



6937 (i) For each interstate, primary, secondary and
6938 other highway or road system under the jurisdiction of the Highway
6939 Commission, a list and detailed description of those highways, or
6940 segments thereof, on the highway system which are determined to
6941 have the highest priority for maintenance and which can be
6942 maintained within the three-year period from funds available or
6943 estimated to be made available for such purpose;

6944 (ii) For each interstate, primary, secondary and
6945 other highway or road system under the jurisdiction of the Highway
6946 Commission, a list and detailed description of those highways, or
6947 segments thereof, on the highway system which are determined to
6948 have the highest priority for construction, reconstruction or
6949 relocation and for which contracts can be let for construction,
6950 reconstruction or relocation within the three-year period from
6951 funds available or estimated to be available for such purpose;

6952 (iii) The reasons for the priority assigned to
6953 highways, or segments thereof, pursuant to the criteria
6954 established in the following subsection (1)(b), and the annual
6955 cost and total estimated cost of completion for each such project;
6956 and

6957 (iv) A synopsis of any analyses or studies
6958 considered by the commission to develop the criteria in
6959 determining priorities.

6960 (b) The Highway Commission shall determine the criteria
6961 on which the Highway Department shall assign priority for



6962 maintenance, construction, reconstruction and relocation of
6963 highways, or segments thereof, on each highway or road system
6964 under its jurisdiction, taking into consideration all of the
6965 following criteria:

- 6966 (i) Public necessity and public safety;
- 6967 (ii) Present and future economic benefit and
6968 commercial value;
- 6969 (iii) Present and future traffic census; and
- 6970 (iv) Route continuity.

6971 Additionally, the Highway Commission shall take into
6972 consideration conditions potentially hazardous to the public
6973 safety at points on highways having substantial truck traffic
6974 entering and leaving the highway. In setting priorities for
6975 construction, the department shall take into consideration the
6976 construction of turning lanes at such points on highways to
6977 facilitate the safe movement of traffic.

6978 (c) To develop the criteria to be used in determining
6979 priorities, the State Highway Commission may conduct public
6980 hearings; shall conduct analyses or studies of highway needs,
6981 utilizing highway department personnel; and shall consider highway
6982 needs analyses or studies submitted to them by the University
6983 Research Center, which is hereby directed to develop such highway
6984 needs analyses or studies with respect to the criteria set forth
6985 in subsection (1)(b)(ii) above and to timely submit or present
6986 such analyses or studies to the State Highway Commission.



6987 (2) All funds appropriated and made available to the
6988 State Highway Department from any source within the state for
6989 maintenance, construction, reconstruction and relocation of the
6990 state highway system shall be expended on order of the
6991 State Highway Commission according to the priorities herein set
6992 forth and without regard to the provisions of Sections 65-3-29
6993 through 65-3-33. The commission shall spread upon its minutes,
6994 from time to time, the priority of roads for application of such
6995 funds, the specific reasons for each priority so assigned, and the
6996 source and amount of funds applied to each project.

6997 (a) All interstate funds apportioned to the
6998 State Highway Commission under the Federal Aid Highway Act of 1956
6999 shall be allocated on the basis of need to complete the interstate
7000 system of highways to provide for the maximum commercial benefit
7001 to the state.

7002 (b) All primary road construction money shall be used
7003 in the priorities established pursuant to subsection (1)(b)
7004 hereof.

7005 (c) The State Highway Department shall match all
7006 available federal money for highways.

7007 (d) Federal aid primary system as constituted. Priority
7008 of use of these funds shall be determined by roads meeting most of
7009 the criteria receiving priority established pursuant to subsection
7010 (1)(b) hereof.



7011 (e) Secondary road construction money shall be used
7012 with priorities established by roads meeting most of the following
7013 criteria receiving priority:

7014 (i) Roads in the order of the relative use and
7015 importance of such highways, as may be determined by the present
7016 and future traffic censuses thereof, taking into consideration
7017 their present and future use, convenience, public necessity and
7018 public safety, the connecting of Mississippi towns, cities and
7019 population centers and the economic contribution to the state
7020 should a specific highway be improved, the recorded maintenance
7021 expense and their continuity as highways through the state.

7022 (ii) Roads which carry the most traffic.

7023 (iii) Roads which connect the federal aid primary
7024 or interstate system in a uniform manner.

7025 (iv) Roads which serve the most commercial value.

7026 (v) Roads which are arterial in nature.

7027 (vi) Roads which connect the major rural
7028 communities with similar communities in adjoining counties.

7029 (f) The State Highway Department shall when funds are
7030 available match all available federal money for highways.

7031 (3) Projects eligible for reimbursement under the provisions
7032 of Public Law 97-424 shall be exempt from the requirements of
7033 subsection (1)(a) of this section, but the State Highway
7034 Commission shall expend funds available to it for such projects in
7035 the priorities established pursuant to subsection (1)(b) hereof.



7036 (4) All highway construction, reconstruction and relocation
7037 shall be by contract, let on competitive bid in the manner
7038 provided by statute. On any one (1) reconstruction project the
7039 total cost of which does not exceed Two Hundred Thousand Dollars
7040 (\$200,000.00), reconstruction may be accomplished by Highway
7041 Department labor, equipment or materials. Nothing herein shall be
7042 construed to affect maintenance and repair work done or to be done
7043 on existing roads. When new programs require the utilization of
7044 professional services, the Mississippi State Highway Department
7045 may contract with, engage, or retain available, competent firms
7046 actively offering such professional services as a primary source
7047 of livelihood. "Professional services" is defined as services
7048 normally performed on a fee basis or contract by engineers,
7049 architects, business management, administrative and consulting
7050 firms.

7051 **SECTION 67.** Section 77-3-105, Mississippi Code of 1972, is
7052 brought forward as follows:

7053 77-3-105. (1) (a) The commission is fully empowered and
7054 authorized to include in an electric public utility's rate base
7055 and rates, as used and useful components of furnishing electric
7056 service, all expenditures determined to be prudently incurred
7057 preconstruction, construction, operating and related costs that
7058 the utility incurs in connection with a generating facility
7059 (including but not limited to all such costs contained in the
7060 utility's "Construction Work in Progress" or "CWIP" accounts),



7061 whether or not the construction of any generating facility is ever
7062 commenced or completed, or the generating facility is placed into
7063 commercial operation. However, all costs incurred before May 9,
7064 2008, may be reflected in rates only upon an order of the Public
7065 Service Commission after a finding of prudence.

7066 (b) The commission is further empowered and authorized
7067 to allow a public utility to accrue a just and reasonable rate of
7068 return to be determined by the commission on the unrecovered
7069 balance of any preconstruction or construction costs which shall
7070 include all costs incurred before May 9, 2008, and such costs may
7071 be reflected in rates only upon an order of the Public Service
7072 Commission after a finding of prudence.

7073 (c) The commission may order that preconstruction,
7074 construction, operating and related costs be reflected in rates
7075 either as a part of base rates or through the operation of a rider
7076 schedule or other similar rate mechanism, or through a combination
7077 thereof, as the commission deems appropriate and in the public
7078 interest, and such costs incurred before May 9, 2008, may be
7079 reflected in rates only upon an order of the Public Service
7080 Commission after a finding of prudence.

7081 (d) Notwithstanding other provisions of this section,
7082 recovery of any construction costs incurred in excess of the
7083 amount estimated by the public utility in a certificate proceeding
7084 will be addressed by the commission in a proceeding after the



7085 generating facility is completed and commences commercial
7086 operation, upon petition by the public utility.

7087 (e) Once the commission grants a facilities
7088 certificate, no public utility shall abandon or cancel
7089 construction of a generating facility without approval from the
7090 commission based on a finding that the construction is no longer
7091 in the public interest. Notwithstanding any provisions of this
7092 article to the contrary, if the generating facility is abandoned
7093 or cancelled without the approval of the commission, the
7094 commission shall determine whether the public interest will be
7095 served to allow (i) the recovery of all or part of the prudently
7096 incurred preconstruction, construction and related costs in
7097 connection with the generating facility and related facilities,
7098 (ii) the recovery of a return on the unrecovered balance of the
7099 utility's prudently incurred costs at a just and reasonable rate
7100 of return to be determined by the commission, or (iii) the
7101 implementation of credits, refunds or rebates to ratepayers to
7102 defray costs incurred for the generating facility.

7103 (2) (a) The commission is authorized to conduct prudence
7104 reviews on a periodic or ongoing basis with regard to any
7105 preconstruction, construction, operating and related costs
7106 associated with a generating facility, to hold hearings thereon,
7107 and to reflect the outcome of such commission reviews, including
7108 commission prudence determinations, in the public utility's rates.
7109 The commission is authorized to make and issue such prudence



7110 determinations as frequently as each calendar quarter. The
7111 commission is authorized to set a procedural schedule for such
7112 commission determinations. Any such prudence determinations shall
7113 be binding in all future regulatory proceedings affecting such
7114 generating facility, unless the generating facility is imprudently
7115 abandoned or cancelled.

7116 (b) The Executive Director of the Public Utilities
7117 Staff and the commission may enter into professional services
7118 contracts with one or more consultants to audit preconstruction,
7119 construction and related costs incurred for a generating facility
7120 and to make such reports and provide testimony thereon as may be
7121 required by the executive director or the commission, as
7122 applicable. Such contracts shall be considered to be for auditor
7123 or utility rate expert services under Section 25-9-120. Costs
7124 associated with such professional service contracts shall not
7125 exceed Three Hundred Fifty Thousand Dollars (\$350,000.00) for work
7126 performed on any given nuclear generating facility and Two Hundred
7127 Thousand Dollars (\$200,000.00) on any given non-nuclear generating
7128 facility, in any twelve-month period; provided, however, the
7129 Public Utilities Staff and the commission may by rule, after
7130 notice and hearing, modify these amounts. The consultants shall
7131 submit periodically to the executive director or the commission,
7132 as applicable, for approval of payment, itemized bills detailing
7133 the work performed. The executive director or the chairman of the
7134 commission, as applicable, shall requisition the audited public



7135 utility to make the requisite payments to such consultants.
7136 Payments by the audited public utility shall be considered as
7137 preconstruction, construction, operating or related costs and
7138 recoverable pursuant to paragraph (c) of subsection (1).

7139 (c) The provisions of Sections 77-3-37(7)(b) and
7140 77-3-39(10) and (15) shall not apply to any proceeding for the
7141 change in rates by the commission in connection with a generating
7142 facility.

7143 (3) Any party aggrieved by any final order of the commission
7144 relating to any generating facility shall have a right of direct
7145 appeal to the Mississippi Supreme Court. The procedures set out
7146 in Section 77-3-72 for direct appeal, including those provisions
7147 relating to periods of time in which filings are to be made, shall
7148 apply to any commission final order promulgated, in whole or in
7149 part, pursuant to this article.

7150 **SECTION 68.** This act shall take effect and be in force from
7151 and after its passage.

