

By: Representative White

To: Public Health and Human  
Services; Ways and Means

## HOUSE BILL NO. 926

1 AN ACT TO BE KNOWN AS THE HEALTH CARE COLLABORATION ACT OF  
2 2017; TO DEFINE CERTAIN TERMS; TO AUTHORIZE THE BOARD OF TRUSTEES  
3 OF STATE INSTITUTIONS OF HIGHER LEARNING AND THE UNIVERSITY OF  
4 MISSISSIPPI MEDICAL CENTER TO INCORPORATE HEALTH CARE  
5 COLLABORATIVES AND TO SPECIFY THE PROCEDURE FOR INCORPORATION  
6 UNDER THE MISSISSIPPI NONPROFIT CORPORATION ACT; TO SPECIFY THE  
7 POWERS OF HEALTH CARE COLLABORATIVES; TO AUTHORIZE HEALTH CARE  
8 COLLABORATIVES TO BORROW MONEY OR INCUR INDEBTEDNESS AND ISSUE  
9 BONDS, NOTES OR OTHER EVIDENCE OF INDEBTEDNESS; TO EXEMPT THE  
10 PROPERTY AND CERTAIN ACTIVITIES OF HEALTH CARE COLLABORATIVES FROM  
11 SALES TAX, AD VALOREM TAX AND FRANCHISE TAX; TO AUTHORIZE THE  
12 STATE, ANY GOVERNMENTAL ENTITY, ANY UNIVERSITY OR ANY PUBLIC  
13 CORPORATION TO PLEDGE ITS FULL FAITH AND CREDIT TO OR FOR THE  
14 BENEFIT OF A HEALTH CARE COLLABORATIVE OR PLEDGE ANY REVENUES THAT  
15 IT IS LEGALLY ENTITLED TO PLEDGE TO OR FOR THE BENEFIT OF A HEALTH  
16 CARE COLLABORATIVE; TO PROVIDE THAT HEALTH CARE COLLABORATIVES  
17 SHALL BE IMMUNIZED FROM LIABILITY UNDER THE FEDERAL AND STATE  
18 ANTITRUST OR COMPETITION LAWS TO THE FULLEST EXTENT ALLOWED BY  
19 LAW; TO EXEMPT HEALTH CARE COLLABORATIVES FROM THE ETHICS IN  
20 GOVERNMENT LAWS, THE STATE PERSONNEL SYSTEM LAWS, THE OPEN  
21 MEETINGS ACT, THE ADMINISTRATIVE PROCEDURES LAW, THE INFORMATION  
22 TECHNOLOGY SERVICES LAWS, THE MISSISSIPPI PUBLIC RECORDS ACT, THE  
23 MISSISSIPPI ACCOUNTABILITY AND TRANSPARENCY ACT AND THE PUBLIC  
24 PURCHASING LAWS; TO PROVIDE THAT HEALTH CARE COLLABORATIVES SHALL  
25 NOT HAVE THE RIGHT TO ACQUIRE ANY REAL PROPERTY BY THE EXERCISE OF  
26 THE POWER OF EMINENT DOMAIN; TO SPECIFY THE PROCEDURE FOR  
27 DISSOLVING A HEALTH CARE COLLABORATIVE; TO ESTABLISH WITHIN THE  
28 BOARD OF TRUSTEES OF STATE INSTITUTIONS OF HIGHER LEARNING THE  
29 UNIVERSITY OF MISSISSIPPI MEDICAL CENTER HEALTH SYSTEM AUTHORITY  
30 TO ASSIST THE TRUSTEES IN THEIR MANAGEMENT AND CONTROL OF THE  
31 UNIVERSITY OF MISSISSIPPI MEDICAL CENTER; TO AMEND SECTIONS  
32 41-13-15, 41-13-35, 11-46-1, 25-4-103, 25-9-107, 25-41-3,  
33 25-43-1.102, 25-53-3, 25-61-3, 27-7-15, 27-13-5, 27-31-1,  
34 27-65-19, 27-65-105, 27-104-153, 31-7-1 AND 41-7-205, MISSISSIPPI



35 CODE OF 1972, TO CONFORM TO THE PRECEDING PROVISIONS; AND FOR  
36 RELATED PURPOSES.

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

38 **SECTION 1.** This act shall be known and may be cited as the  
39 "Health Care Collaboration Act of 2017."

40 **SECTION 2.** For purposes of this act, the following terms  
41 shall have the following meanings:

42 (a) "Academic medical center" means the teaching,  
43 research, and clinical facilities and services provided,  
44 established, or operated by a public university under Chapter 115,  
45 Title 37, Mississippi Code of 1972.

46 (b) "Board" means the board of directors of a health  
47 care collaborative.

48 (c) "Director" means a member of the board of a health  
49 care collaborative.

50 (d) "Governmental entity" means the state, a county, a  
51 municipality, or any agency, department, board or commission of  
52 the state, a county or a municipality.

53 (e) "Health care collaborative" means a public  
54 corporation organized under the provisions of this act.

55 (f) "Health care facility" means all property or rights  
56 in property, real or personal, tangible or intangible, useful to a  
57 health care collaborative in its operations, including without  
58 limitation, the following:

59 (i) Facilities, sites of service or functions  
60 necessary or desirable to the operation of an academic medical



center, one or more health sciences schools, hospitals, public health care clinics, treatment centers, emergency facilities, outpatient facilities, laboratories, service or support facilities, and any other facilities or sites of service or functions related to the operation of any of the foregoing or any networks with which a health collaborative is associated or any collaborative relationships among providers involving a health care collaborative.

(ii) Biomedical or public health research establishments of any type.

(iii) Ambulance, helicopter and other similar facilities and services for the transportation of sick or injured persons.

(iv) Land necessary or desirable to any of the foregoing, whether presently or in the future.

(v) Machinery, equipment, furniture, and fixtures useful or desirable in the operation of any of the foregoing.

Health care facilities may serve or address physical or mental health. A determination by a board that an asset constitutes a health care facility shall be conclusive, absent manifest error.

(g) "Health sciences school" means any school of medicine, dentistry, nursing, pharmacy and any other health care related educational program operated or provided by an academic medical center in this state.



(h) "Health system authority" or "authority" means the University of Mississippi Medical Center Health System Authority created under this act within the Board of Trustees of State Institutions of Higher Learning, as provided for in Article 8, Section 213-A of the Mississippi Constitution of 1890.

(i) "Indebtedness" means bonds, notes, certificates of indebtedness, debt securities, capital lease agreements or any other evidence of indebtedness.

(j) "Nonprofit organization" means any nonprofit corporation, limited liability company, partnership, or other form of business organization in which no part of the income or profit is distributable to any individual or entity other than a university, a health care collaborative, a governmental entity, a public corporation, or a nonprofit corporation that is an organization described in Section 501(c)(3) of the Internal Revenue Code.

(k) "Public corporation" means a (i) nonmember, nonprofit corporation organized under the Mississippi Nonprofit Corporation Act, Section 101 et seq. of Chapter 11, Title 79, Mississippi Code of 1972, that is subject to the limitations on distributions set forth in Section 79-11-336(c), or (ii) a nonstock corporation organized for public purposes under any other statutory authority created by the Legislature of the State of Mississippi, which, in either case, is organized by the state, a county, a municipality or any political subdivision of any of the



foregoing, or any public board, bureau, commission or authority created by the Legislature, whether acting alone or jointly, under state law.

(l) "Security document" means a trust indenture, loan agreement, lease agreement, mortgage, security instrument or agreement, or other document securing any indebtedness or other obligation of a health care collaborative or by which its assets or revenues are pledged or encumbered in favor of the holder or holders of any such indebtedness or other obligation or a trustee for such holders.

(m) "Sponsoring university" or "university" means the University of Mississippi Medical Center, a department of the University of Mississippi under the management and control of the Board of Trustees of State Institutions of Higher Learning.

(n) "Trustees" means the Board of Trustees of State Institutions of Higher Learning, as provided for in Article 8, Section 213-A of the Mississippi Constitution, or an authority appointed by the trustees, under this act.

**SECTION 3.** (1) In order to incorporate a health care collaborative, the trustees shall adopt a resolution containing at least the following provisions:

(a) A finding that it is necessary, desirable and in the best interests of the sponsoring university that the proposed collaborative be incorporated.



(b) Approval of the form of articles of incorporation, which shall comply with the provisions of Section 4 of this act.

(c) Approval of bylaws.

(d) Approval of the members of the initial board of directors.

(e) Authorization to proceed to form the proposed collaborative by executing the articles of incorporation approved by the institutional executive officer of the sponsoring university and filing the same with the Secretary of State.

(2) A university, with the approval of the trustees, may incorporate more than one (1) collaborative if it determines that each collaborative promotes the health care mission of the university.

**SECTION 4.** (1) In addition to the contents of the articles of incorporation required or permitted under Section 79-11-137, other applicable requirements of the Mississippi Nonprofit Corporation Act, Section 101 et seq. of Chapter 11, Title 79, Mississippi Code of 1972, and other matters relating to the health care collaborative that the sponsoring university recommends and the trustees choose to insert and that are not inconsistent with state law, the articles of incorporation of a health care collaborative shall include the following provisions:

(a) The name of the collaborative shall include the word "collaborative" and shall include words identifying the sponsoring university.



(b) A statement that the health care collaborative is organized under the provisions of this act.

(c) If not specified in the collaborative's bylaws, the number of directors, which shall be an odd number not less than three (3), and the duration of their respective terms of office, each of which shall not be in excess of three (3) years. Directors may serve multiple terms, consecutive or otherwise, if duly appointed or reappointed in accordance with this act.

(d) If not specified in the collaborative's bylaws, provisions for appointing or removing directors of the health care collaborative, subject to the provisions of Section 6 of this act. In addition, and notwithstanding any provision in this section to the contrary, the initial directors of a health care collaborative shall be selected by the sponsoring university and listed in the initial articles of incorporation submitted to the trustees for its consideration as provided in Section 3 of this act. That list shall expressly classify the directors into three (3) groups, one (1) of which shall serve an initial term of one (1) year, one (1) of which shall serve an initial term of two (2) years and one (1) of which shall serve an initial term of three (3) years.

(2) Consistent with the provisions of Section 79-11-139, upon the filing for record of the articles of incorporation with the Secretary of State, the health care collaborative shall come into existence and, subject to the requirements of this act, it shall constitute a public corporation under the name set forth in



its articles of incorporation. The sponsoring university shall provide a copy of the articles of incorporation and bylaws to the trustees within thirty (30) days of filing with the Secretary of State.

**SECTION 5.** (1) In addition to the applicable requirements for amendment of the articles of incorporation set forth in the Mississippi Nonprofit Corporation Act, Section 101 et seq. of Chapter 11, Title 79, Mississippi Code of 1972, the articles of incorporation or the bylaws of any health care collaborative may be amended by filing articles of amendment or amended bylaws with the Secretary of State, but only with the approval of the board of the health care collaborative, the sponsoring university and the trustees in the manner provided in this section.

(2) In order to amend the articles of incorporation or the bylaws, the following steps shall be completed:

(a) The board of the health care collaborative shall first adopt a resolution approving articles of amendment or amendment of the bylaws and recommending approval thereof by the sponsoring university.

(b) After adoption of a resolution approving articles of amendment or amendment of the bylaws by the board of the health care collaborative, the collaborative shall file a written request for approval of the articles of amendment or amendment of the bylaws by the sponsoring university.





208 (c) As soon as may be practicable after receipt of the  
209 request from the health care collaborative, the sponsoring  
210 university shall review the application and shall either approve  
211 or reject the articles of amendment or amendment of the bylaws as  
212 approved and recommended to it by the health care collaborative.

213 (d) If the proposed articles of amendment or amendment  
214 of the bylaws are approved by the sponsoring university, then as  
215 soon as may be practicable after the approval of the articles of  
216 amendment, the sponsoring university shall submit the articles of  
217 amendment or amendment of the bylaws to the Commissioner of Higher  
218 Education for his review. The Commissioner of Higher Education  
219 shall submit the articles of amendment or amendment of the bylaws  
220 to the trustees for further action.

221 (3) If no objection is communicated in writing to the health  
222 care collaborative within sixty (60) days of the submission of the  
223 articles of amendment or the amendment of the bylaws to the  
224 trustees, the president or vice president of the health care  
225 collaborative shall file for record in the Office of the Secretary  
226 of State the articles of amendment or amended bylaws.

227 (4) Upon the filing for record of the articles of amendment  
228 in accordance with the foregoing procedures, the articles of  
229 amendment or amended bylaws shall become effective.

230 (5) In addition to the applicable requirements for the  
231 amendment and restatement of the articles of incorporation set  
232 forth in the Mississippi Nonprofit Corporation Act, Section 101 et



seq. of Chapter 11, Title 79, Mississippi Code of 1972, the articles of amendment of a health care collaborative may amend and restate the articles of incorporation of a health care collaborative if approved in accordance with this section.

(6) Notwithstanding the provisions of this section, the name and address of the registered agent of a health care collaborative may be changed by the health care collaborative without following the procedure set forth in this section. A health care collaborative shall use any appropriate form promulgated by the Secretary of State for this purpose.

**SECTION 6.** (1) Subject to the requirements of Section 4(1)(c) of this act, each health care collaborative shall have a board of directors composed of the number of director positions provided in the articles of incorporation or bylaws of the health care collaborative, as applicable.

(2) Consistent with the Mississippi Nonprofit Corporation Act, Section 101 et seq. of Chapter 11, Title 79, Mississippi Code of 1972, all powers of a health care collaborative shall be exercised by or under the direction of its board of directors; however, except for (a) duly appointed officers exercising authority delegated to them in the collaborative's bylaws, and (b) duly constituted committees of the board meeting the requirements of Section 79-11-265 and consisting of no less than three (3) directors, a majority of which were appointed (without nomination by any other person) by the sponsoring university, the board shall



not be permitted to authorize any person or persons to exercise some or all of its powers under Section 11-79-231(3).

(3) Except for ex-officio directors specified in the articles of incorporation, all directors of a health care collaborative shall be appointed by the sponsoring university, subject to the approval of the trustees. The articles of incorporation or bylaws may provide that specified officers or employees of the sponsoring university shall be ex-officio directors of a health care collaborative, so long as a majority of the directors are appointed by the sponsoring university and approved by the trustees.

(4) The articles of incorporation may provide that a business organization, governmental entity, public corporation, or nonprofit organization may nominate one or more directors of a health care collaborative, provided that the number of directors appointed by the sponsoring university and approved by the trustees without nomination may never be less than a majority of the directors, and the sponsoring university shall not be required to appoint any such nominee and the trustees shall not be required to approve any such nominee. If the sponsoring university does not appoint a nominee or if a nominee is not approved by the trustees, the nominating entity shall provide an alternate nominee for consideration by the sponsoring university.



281 (5) The appointed membership of the board of a health care  
282 collaborative shall be inclusive and reflect the racial, gender,  
283 geographic and economic diversity of the state.

284 (6) All directors appointed by the sponsoring university may  
285 be removed by the sponsoring university or the trustees at any  
286 time, with or without cause.

287 (7) If, at the expiration of any term of office of any  
288 director, a successor has not been appointed as provided in the  
289 articles of incorporation or the bylaws, then the director whose  
290 term of office has expired shall continue to hold office until his  
291 or her successor is appointed.

292 (8) Each director shall serve without compensation but may  
293 be reimbursed for expenses actually incurred by him or her in  
294 connection with the performance of his or her duties.

295 (9) No vacancy in the membership of the board shall impair  
296 the right of a quorum to exercise all the powers and perform all  
297 the duties of the board.

298 (10) The composition of the board of directors of a health  
299 care collaborative shall be presumed valid absent a final  
300 determination by a court of competent jurisdiction that the board  
301 is not constituted in good faith by the sponsoring university.

302 **SECTION 7.** A health care collaborative may duly constitute  
303 offices of the collaborative and appoint officers to hold such  
304 positions so created, in the manner and for any purpose provided



in the Mississippi Nonprofit Corporation Act, Section 101 et seq.  
of Chapter 11, Title 79, Mississippi Code of 1972.

**SECTION 8.** (1) Subject to the approval of the sponsoring  
university and the trustees, as specified by regulation or  
otherwise, a health care collaborative shall have and may exercise  
any power granted nonprofit corporations under the Mississippi  
Nonprofit Corporation Act, Section 101 et seq. of Chapter 11,  
Title 79, Mississippi Code of 1972, together with all powers  
incidental thereto or necessary or desirable to the discharge  
thereof, including, without limitation, the following specific  
powers:

(a) To adopt, maintain, and amend bylaws and a  
corporate seal.

(b) To sue and, subject to the limitations in this  
paragraph, be sued; however, any action against a health care  
collaborative, or a person acting in its capacity as a board  
member, officer or employee of the health care collaborative to  
recover damages as compensation for injuries shall be subject to  
the provisions of Chapter 46, Title 11, Mississippi Code of 1972.

(c) To acquire, construct, equip, lease, manage,  
operate, engage in a joint venture or joint operating agreement  
regarding, or otherwise deal in those health care facilities it  
considers necessary or desirable.

(d) To enter into contracts and agreements, with  
contractual terms or respect to such periods of time as the health



care collaborative deems necessary or advisable without regard to restrictions associated with terms of public officials or members of public bodies, including contracts or agreements to borrow money, incur indebtedness, and issue bonds, notes, debt securities, or any other evidence of indebtedness.

(e) To pledge the general credit of the health care collaborative or any revenues or income of the health care collaborative to repayment of any of its indebtedness.

(f) To mortgage or pledge its health care facilities or its other assets or any part thereof, whether then owned or thereafter acquired, as security for its indebtedness.

(g) To lend money to, to assume the indebtedness of, or to guarantee the indebtedness of any other health care collaborative, governmental entity, public corporation or nonprofit organization.

(h) To create, establish, acquire, operate or support subsidiaries, networks, joint ventures, and affiliates, either for-profit or nonprofit, to assist a health care collaborative in fulfilling its purposes.

(i) To participate in joint ventures, affiliations, management agreements, or similar endeavors that provide health care or engage in activities related thereto.

(j) To make and arrange for loans, contributions to capital, and other debt and equity financing for the activities of any lawful form of business organization of which the health care



collaborative is a member, and to guarantee loans and any other obligations for such purpose.

(k) To enter into any swap agreement.

(l) To provide for and support the educational programs of any university or any other two-year college or four-year college or university in the state.

(m) To establish, collect, and alter charges for services rendered and supplies furnished by it.

(n) To contract for or to accept any gifts, grants, endowments, or any other aid in any form from the federal government, a governmental entity, or any public corporation, or any other source, or any combination thereof, and to comply with the terms and conditions thereof.

(o) To invest its funds in any investment authorized by the sponsoring university for investment of its own funds or in any investment permitted or authorized for state-regulated insurance companies, including, without limitation, investments permitted for domestic insurers and health maintenance organizations under Section 83-19-51.

(p) To seek protection of the federal bankruptcy laws by filing a petition in any United States Bankruptcy Court located in the state.

(q) To organize, or to own an interest in, any other corporation, partnership, limited liability company, joint venture, or other form of business organization, whether



for-profit or nonprofit, in furtherance of its health, education,  
or research mission.

(r) To engage in arrangements, contracts, information sharing, and other collaborative activities with public or private entities and individuals, including, without limitation: joint ventures, joint purchasing arrangements, joint negotiations with physicians, hospitals and payors (whether those negotiations result in separate or combined agreements), leases and agreements that involve delivery system network creation or operation.

(s) To provide such insurance, retirement, and other benefits to employees and other servants as it determines necessary or desirable.

(t) To purchase, sell, exchange, lease, accept, receive or hold title or leasehold interest in real, personal and mixed property from any source whatsoever or to otherwise deal with any such property to the extent reasonable or necessary to accomplish the purposes of the collaborative.

(2) Nothing in this section shall be construed as granting to a health care collaborative the power to levy any taxes.

(3) Nothing in this section shall be construed as authorizing a health care collaborative to convey substantial assets in a single transaction or series of transactions without authorization from the sponsoring university and trustees.

(4) Any of the powers granted under this section may be exercised by a health care collaborative in such manner as it may





determine to be consistent with the purposes of this act,  
notwithstanding that, as a consequence of the exercise of powers  
it engages in, activities (a) may be deemed anticompetitive, or  
(b) may result in the acquisition or maintenance of monopoly power  
in some relevant market, in either case within the meaning of  
state or federal antitrust or competition laws and notwithstanding  
that these activities may have the effect of displacing  
competition in the provision of hospital, physician or other  
health care or financing related services.

**SECTION 9.** (1) With approval of the sponsoring university  
and the trustees, a health care collaborative from time to time  
may borrow money or incur indebtedness and issue bonds, notes or  
other evidence of indebtedness in such principal amounts as the  
board determines by resolution to be necessary, desirable and in  
the best interests of the health care collaborative in order to  
provide funds to carry out its corporate powers. Indebtedness may  
be incurred for any lawful purpose of the health care  
collaborative, including, without limitation, any of the  
following:

(a) Indebtedness to finance the acquisition,  
construction, expansion, renovation and equipping of health care  
facilities and related improvements thereto.

(b) Indebtedness to provide working capital or funds  
for operating expenses.



429           (c) Indebtedness to refund, extend, refinance or  
430 restructure any indebtedness of the health care collaborative or  
431 any indebtedness assumed or guaranteed by the health care  
432 collaborative.

433           (2) Indebtedness may be any of the following or any  
434 combination thereof, or any similar financing structures or  
435 instruments common in the market at the time that the indebtedness  
436 is incurred, issued, modified, renewed or considered:

437           (a) A general obligation of the health care  
438 collaborative to the payment of which its full faith and credit is  
439 pledged.

440           (b) Payable solely out of specific revenues of the  
441 health care collaborative or any of its facilities.

442           (c) Secured by a pledge of any tax levied by a  
443 governmental entity that has been made available to a health care  
444 collaborative or any of its facilities.

445           (3) Indebtedness may provide for any of the following or any  
446 combination thereof:

447           (a) Provide for no interest.

448           (b) Provide for current interest.

449           (c) Provide for capitalized interest.

450           (d) Provide for accretion or other increase in  
451 principal amount in lieu of interest.



(4) Any resolution authorizing the issuance of any indebtedness shall create a contract with the holders of the indebtedness issued by the resolution.

(5) Evidence of indebtedness shall be executed and delivered as provided in the resolution of the board authorizing the same.

(6) Indebtedness may be sold at public or private sale or in exchange for indebtedness of the health care collaborative at such price or on such terms as the board may determine.

(7) All indebtedness of a health care collaborative shall be subject to redemption or prepayment on such terms as the board may determine.

(8) No indebtedness of a health care collaborative shall mature more than forty (40) years from the date of issuance, without regard to whether the indebtedness is refunding, extending, refinancing or restructuring existing indebtedness.

(9) The health care collaborative may, subject to security documents or other agreements with holders as may then exist, purchase its indebtedness in the open market, through intermediaries or directly from the holder of an obligation, with any funds available for that purpose. Any obligation so purchased may be cancelled by the health care collaborative or may be resold, as authorized by the board.

**SECTION 10.** (1) With approval of the sponsoring university and the trustees, any pledge of any revenues of a health care collaborative including, without limitation, tax revenues made



available to a health care collaborative, shall be valid and binding from the time it is made, and the revenues or taxes so pledged and thereafter received by the health care collaborative shall immediately become subject to the lien of that pledge without any physical delivery thereof or further act. The lien of that pledge shall be valid and binding against all parties having claims of any kind against the health care collaborative, irrespective of whether the parties have actual notice thereof. The resolution or security document establishing a pledge of revenues may provide that the lien established extends, on a pari passu (equal footing) basis, to any additional indebtedness issued as a parity obligation in accordance with the terms of the financing document.

(2) Any security document relating to any real property, personal property, fixtures, or other tangible property of a health care collaborative may be filed in the office of the chancery clerk of the county in which the property to be secured is located, and the lien of the security document shall be valid and binding against all parties having claims of any kind against the health care collaborative, irrespective of whether any person has actual notice thereof, from the time the security document is so filed, with respect to all property subject to the lien, including, without limitation, after-acquired property.

**SECTION 11.** (1) With approval of the sponsoring university and the trustees, all agreements and covenants undertaken, and all



indebtedness issued, by a health care collaborative shall be solely and exclusively an obligation of the health care collaborative and, except as otherwise provided in a written agreement in accordance with Section 17 of this act, shall not create an obligation or debt of the state, any university or any other governmental entity or public corporation within the meaning of any constitutional or statutory provision.

(2) Neither the directors nor any officer of a health care collaborative executing indebtedness issued under this act shall be personally liable for that indebtedness by reason of the execution or issuance thereof.

(3) The state and the sponsoring university pledge to and agree with the holders of any indebtedness issued under this act that neither the state nor the sponsoring university will limit or alter the rights vested in the health care collaborative to fulfill the terms of any indebtedness or related security documents made with the holders thereof or in any way impair the rights and remedies of the holders until such indebtedness, together with the interest thereon, and all costs and expenses in connection with any action or proceeding by or on behalf of the holders, are fully met and discharged. A health care collaborative is authorized to include this pledge and agreement of this state or sponsoring university in any agreement with the holders of its indebtedness.



**SECTION 12.**

With approval of the sponsoring university and the trustees, indebtedness issued under the provisions of this act is made a legal investment for savings banks and insurance companies organized under state law and for trustees, executors, administrators, guardians, persons or organizations acting in a fiduciary capacity, unless otherwise directed by a court having jurisdiction or by a document providing fiduciary health care collaborative. Any governmental entity or public corporation is authorized, in its discretion, to invest any available funds in securities of the health care collaborative.

**SECTION 13.**

(1) If there is any default in the payment of the principal of, or interest on, any indebtedness issued under this act or of any agreements contained in any security document, and the period for cure of the default has passed, then the holder of the indebtedness and the trustee under any security document, or any one or more of them, subject to the terms of the financing documents authorizing the indebtedness or any security document applicable thereto:

(a) May, by mandamus, injunction or other proceedings, compel performance of any covenant or agreement of the health care collaborative contained in any applicable resolution or security document by its board or its officers.

(b) May be entitled to a judgment against the health care collaborative for the principal of and interest on the



indebtedness so in default, together with all reasonable costs of collection.

(c) May, if the indebtedness is secured by a mortgage on, or security interest in, any physical properties of the health care collaborative, foreclose the mortgage or pledge, exercise any powers of sale contained in the security documents, or exercise any possessory or other similar rights as are provided for in the financing documents or security document applicable to the indebtedness.

(d) Regardless of the sufficiency of the security for the obligation in default, may be entitled to the appointment of a receiver upon order of a court of competent jurisdiction who shall, upon that appointment, assume all powers granted in the applicable financing documents or security document applicable to the obligation in default, provided that the income derived from any activity undertaken by a receiver under this section shall be expended solely in accordance with the applicable provisions of any orders of the court by which such receiver is appointed, and absent judicial direction, of the applicable financing documents or security document applicable to the obligation in default.

(2) The remedies specified in this section shall be cumulative to all other remedies that may otherwise be available, by law or contract, for the benefit of the holders of indebtedness of a health care collaborative.



**SECTION 14.**

(1) Notwithstanding any provision of law to the contrary:

(a) Any indebtedness issued by a health care collaborative or any entity controlled by a health care collaborative and the income derived therefrom, including any profit from the sale thereof, shall be exempt from taxation by the state or by any political subdivision, agency or other governmental unit of or within the state.

(b) All properties of a health care collaborative or any entity controlled by a health care collaborative, including all leases, leaseholds or leasehold interests of or with respect to any such properties, whether real, personal, or mixed, and the derived income therefrom, shall be exempt from any and all taxation by the state or by any political subdivision, agency or other governmental unit of or within the state.

(c) The sales and use taxes, franchise taxes, provider taxes or other taxes of similar type levied by this state, or any political subdivision of this state, shall not apply to sales or leases to a health care collaborative or any entity controlled by a health care collaborative of the following when acquired for or used in establishing or operating a health care facility or otherwise carrying on the business and activities of a health care collaborative or any entity controlled by a health care collaborative:





598 (i) Any personal property or fixtures, including  
599 without limitation, sales or leases to such entities of:  
600 1. Furniture, fixtures and equipment  
601 (inclusive of all communications, computer, server, software and  
602 other hardware equipment);  
603 2. All replacements of, repair parts for or  
604 services to repair items described in item 1 of this subparagraph  
605 (i);  
606 3. Office and operating materials and  
607 supplies;  
608 4. Electricity, current, power, natural gas,  
609 liquefied petroleum gas or other fuel for heating, lighting or  
610 other use, and potable water; and  
611 5. All services taxable under Section  
612 27-65-23 required to establish, support, operate and/or maintain a  
613 health care facility or otherwise operate or carry on the business  
614 and activities of a health care collaborative or any entity  
615 controlled by a health care collaborative; or  
616 (ii) Any component building materials, machinery  
617 and equipment used:  
618 1. In the construction of a health care  
619 facility building or other building owned by a health care  
620 collaborative or any entity controlled by a health care  
621 collaborative; or



2. In making any additions or improvements to such properties.

(2) Notwithstanding the foregoing, no exemption provided in this section shall apply to taxes levied by Section 27-65-21.

**SECTION 15.** (1) Each health care collaborative shall engage a firm or firms of certified public accountants to conduct an annual audit of the financial affairs of the health care collaborative. Each audit shall be conducted in accordance with generally accepted accounting principles.

(2) The board shall submit all audits required by subsection (1) of this section to the sponsoring university and the trustees as promptly as practicable after the end of each fiscal year of the health care collaborative.

**SECTION 16.** (1) With approval of the sponsoring university and the trustees, notwithstanding anything to the contrary contained in Chapter 13, Title 41, Mississippi Code of 1972, the state, any university, any governmental entity, any governmental subdivision, any community hospital and any public corporation is authorized to give, transfer, convey or sell to any health care collaborative, on terms and conditions that are fair, just and reasonable to the health care collaborative and the party or parties involved:

(a) Any of its health care facilities, community hospitals and other properties, real or personal, and any funds and assets, tangible or intangible, relative to the ownership or



647 operation of any such health care facilities or community  
648 hospitals, including any certificates of need, licenses, or other  
649 similar rights appertaining or ancillary thereto, irrespective of  
650 whether they have been exercised; and

651 (b) Any taxes, revenues, or funds owned or controlled  
652 by it.

653 (2) The state, any governmental entity, any university, or  
654 any public corporation, with approval of the trustees, may pledge  
655 its full faith and credit to or for the benefit of a health care  
656 collaborative or may pledge any revenues that it is legally  
657 entitled to pledge to or for the benefit of a health care  
658 collaborative.

659 **SECTION 17.** In support of and in furtherance of the powers  
660 granted in Section 8 of this act, the Legislature finds and  
661 declares all of the following:

662 (a) Health care collaboratives organized under this act  
663 are performing essential public functions on behalf of the state,  
664 the sponsoring university, and other governmental entities in the  
665 state.

666 (b) The nature and scope of the powers conferred on  
667 health care collaboratives by this act are such as may compel each  
668 health care collaborative, in the course of exercising its powers  
669 or by virtue of the exercise of those powers, to engage in  
670 activities itself or in collaboration with public or private  
671 entities and individuals that may be characterized as



672 anticompetitive or may result in the acquisition or maintenance of  
673 monopoly power within the meaning of state and federal antitrust  
674 laws or otherwise may have the effect of displacing competition in  
675 the provision of hospital, physician, or other health care or  
676 finance-related service.

677 (c) In carrying out its public health mission through  
678 the exercise of the powers granted by this act, including, without  
679 limitation, the collaborative activities expressly authorized by  
680 this act, a health care collaborative, as well as the public or  
681 private entities and individuals with which they collaborate,  
682 shall be immunized from liability under the federal and state  
683 antitrust or competition laws to the fullest extent allowed by  
684 law.

685 (d) As an expression of the public policy of the state  
686 with respect to the displacement of competition in the field of  
687 health care, each health care collaborative, when exercising its  
688 powers under this act, acts as an agency or instrumentality of its  
689 university and as a political subdivision of the state, and as  
690 such, a health care collaborative shall be subject to what has  
691 come to be known in relevant antitrust jurisprudence as "active  
692 supervision" by the state in order to enjoy immunity from the  
693 application of state and federal antitrust laws.

694 **SECTION 18.** Notwithstanding any other provision of law to  
695 the contrary:



696           (a) All members of boards of directors of health care  
697 collaboratives shall be subject to the provisions of the  
698 Mississippi Nonprofit Corporation Act, Section 101 et seq. of  
699 Chapter 11, Title 79, Mississippi Code of 1972, governing ethical  
700 conduct, including, but not limited to, Section 79-11-269. Health  
701 care collaboratives, members of the governing bodies of health  
702 care collaboratives, and officers and employees of health care  
703 collaboratives shall not be subject to state ethics laws that  
704 apply to public employees, public officials and public servants,  
705 including, without limitation, the provisions of Chapter 4, Title  
706 25, Mississippi Code of 1972 [Ethics in Government].

707           (b) All health care collaboratives shall provide copies  
708 of all minutes of meetings of the board of directors to the  
709 sponsoring university as soon as practical, but not more than  
710 thirty (30) days after adoption, and all records of health care  
711 collaboratives shall be subject to inspection by the sponsoring  
712 university and the trustees. Notwithstanding the foregoing, a  
713 health care collaborative shall not be considered a public body  
714 for purposes of Chapter 61, Title 25, Mississippi Code of 1972  
715 [Mississippi Public Records Act], including, but not limited to,  
716 Section 25-61-3, and Chapter 41, Title 25, Mississippi Code of  
717 1972 [Open Meetings], including, but not limited to, Section  
718 25-41-3.

719           (c) Deposits of health care collaboratives, supported  
720 wholly or in part by the state, shall be made in conformity with



Section 7-9-41 [Treasury Withdrawals by Warrant] and Section 7-9-43 [Contracts With Selected State Depositories].

(d) Health care collaboratives, academic medical centers, and health sciences schools shall not be subject to the procurement laws of the state, including, without limitation, the provisions of Chapter 7, Title 31, Mississippi Code of 1972 [Public Purchases]; Chapter 9, Title 25, Mississippi Code of 1972 [Statewide Personnel System]; and Chapter 53, Title 25, Mississippi Code of 1972 [Mississippi Department of Information Technology Services]. However, erection of all buildings, additions, or repairs by a health care collaborative using funds provided by legislative appropriation shall be subject to Chapter 11, Title 31, Mississippi Code of 1972 [State Construction Projects]. Notwithstanding the foregoing, the provisions of this paragraph (d) shall not apply to any architectural or engineering service contract fully paid for by self-generated funds of any of the state institutions of higher learning or funds generated by the health care collaborative, nor shall they apply to health care collaborative projects that are fully funded from local funds or other nonstate sources that are outside the Department of Finance and Administration's appropriations or as directed by the Legislature.

(e) Health care collaboratives shall have the authority to secure accounting, legal and all such personal and professional services on such terms as the board of the health care



collaborative deems appropriate; however, all contracts for those services shall be submitted to the sponsoring university within thirty (30) days of approval by the board. Notwithstanding the foregoing, health care collaboratives shall not be subject to the provisions of Chapter 104, Title 27, Mississippi Code of 1972 [Mississippi Accountability and Transparency Act].

(f) All requests for copies of minutes, contracts, audits, or other records of a health care collaborative made to a public body under the Mississippi Public Records Act of 1983 shall be handled in the manner provide for in Section 25-61-9.

(g) No expenditure authorized or permitted by the provisions of this act shall be considered to be a donation, lending of credit or a granting of public money or thing of value to or in aid of any individual, association, or corporation within the meaning of any constitutional or statutory provision.

(h) Nothing in this act shall be construed as allowing a health care collaborative to be exempt from compliance with all applicable laws and regulations of the State Department of Health as they pertain to licensure and the Mississippi Health Care Certificate of Need Law of 1979, Section 171 et seq. of Chapter 7, Title 41, Mississippi Code of 1972; however, the department may determine that no certificate of need is required if the activity, otherwise subject to regulation, is justified by the sponsoring university or health care collaborative's teaching or research mission.



(i) Health care collaboratives shall not be subject to the provisions of Chapter 43, Title 25, Mississippi Code of 1972 [Administrative Procedures Law].

(j) Health care collaboratives shall not have the right to acquire any real property by the exercise of the power of eminent domain, including, but not limited to, those powers conferred by Chapter 27, Title 11, Mississippi Code of 1972 [Eminent Domain].

**SECTION 19.** No part of the net earnings of a health care collaborative remaining after payment of its expenses shall inure to the benefit of any person other than a university, a governmental entity, or any nonprofit corporation that is an organization described in Section 501(c)(3) of the Internal Revenue Code.

**SECTION 20.** (1) A health care collaborative may be dissolved in accordance with the applicable provisions and requirements of the Mississippi Nonprofit Corporation Act, Section 101 et seq. of Chapter 11, Title 79, Mississippi Code of 1972, but only with the approval of the board of the health care collaborative, the sponsoring university, and the trustees in the manner provided in this section.

(2) In addition to the requirements for dissolution as set forth in the Mississippi Nonprofit Corporation Act, Section 101 et seq. of Chapter 11, Title 79, Mississippi Code of 1972, in order





to dissolve a health care collaborative, the following steps shall be completed:

(a) The board shall first adopt a resolution approving proposed articles of dissolution and a related plan of dissolution of the health care collaborative.

(b) After the adoption by the board of a resolution approving articles of dissolution and the related plan of dissolution, the health care collaborative shall file a written request to the sponsoring university that it approve the articles of dissolution and related plan of dissolution of the health care collaborative.

(c) As soon as may be practicable after the receipt of the application from the health care collaborative, the sponsoring university shall review the application, and it shall either approve or reject the proposed articles of dissolution and related plan of dissolution of the health care collaborative as approved and recommended to it by the health care collaborative.

(d) As soon as may be practicable after the sponsoring university approves the proposed articles of dissolution and related plan of dissolution of the health care collaborative the trustees shall review the application, and it shall either approve or reject the proposed articles of dissolution and related plan of dissolution of the health care collaborative as approved and recommended to it by the sponsoring university.



(3) Within thirty (30) days following the approval of dissolution of a health care collaborative by the sponsoring university and the trustees, an authorized representative of the health care collaborative shall file for record in the Office of Secretary of State the articles of dissolution (including the plan of dissolution).

(4) Upon the filing for record of the articles of dissolution (including the plan of dissolution) approved in accordance with the procedures contained in this section, the articles of dissolution shall become effective.

(5) Upon dissolution of the health care collaborative, subject to any contractual obligation the health care collaborative may have entered into for fair disposition of assets and liabilities upon dissolution, title to all assets after provision for liabilities of the health care collaborative shall vest in the sponsoring university.

**SECTION 21.** (1) There is established within the Board of Trustees of State Institutions of Higher Learning the University of Mississippi Medical Center Health System Authority to assist the trustees in their management and control of the University of Mississippi Medical Center and to, generally, promote the public welfare of the people of Mississippi by forging links between the University of Mississippi Medical Center and other health care stakeholders, including, but not limited to, health care collaboratives, community hospitals, health care providers,



accountable care organizations and similar entities, and private health care companies and facilities.

(2) The health system authority shall be composed of twelve (12) or fewer members appointed by the trustees, to serve for staggered three-year terms, with one-third (1/3) expressly specified to serve a one-year term, one-third (1/3) expressly specified to serve a two-year term and the remaining one-third (1/3) expressly specified to serve a three-year term. Thereafter, subject to the authority of the trustees with respect to the membership of the health system authority as set forth above, members of the health system authority shall serve three-year terms. Members of the authority may be appointed to an unlimited number of successive terms. In case of a vacancy among the membership of the authority caused by death, resignation, or removal, the trustees shall appoint his or her successor to serve for the remainder of the unexpired term.

(3) Qualifications for membership in or chair of the authority shall be as provided for by regulation promulgated by the trustees. Trustees or employees of the Board of Trustees of Institutions of Higher Learning shall not be disqualified for membership, solely because of their office or employment status.

(4) Authority members shall receive per diem and reimbursement of travel expenses commensurate with that provided for members of the trustees in Section 37-101-9. All expenses of



the authority shall be deducted from the appropriations or the current expenses of the University of Mississippi Medical Center.

(5) The trustees may authorize the employment of such other personnel as may be required from time to time to carry out the functions of the authority and may assign to the personnel so employed such functions and duties and may delegate to the Commissioner of Higher Education or other personnel such powers of the trustees as may be necessary to accomplish the purposes for which the authority was established. All such personnel shall be employed by the commissioner with the approval of the trustees and shall hold office at the pleasure of the commissioner. The trustees shall also have the power to employ on a fee basis such technical and professional assistance as may be necessary to carry out the powers, duties and purposes of the authority.

(6) The trustees, in their discretion, may delegate to the authority such powers of the trustees as may be necessary for the management and control of the University of Mississippi Medical Center and to accomplish the purposes of this act. The trustees may promulgate regulations defining the duties and responsibilities of the authority, including those matters that shall be reserved to the trustees for decision.

**SECTION 22.** Section 41-13-15, Mississippi Code of 1972, is amended as follows:

41-13-15. (1) Any county and/or any political or judicial subdivision of a county and/or any municipality of the State of



Mississippi, acting individually or jointly, may acquire and hold real estate for a community hospital either recognized and/or licensed as such by either the State of Mississippi or the United States Government, and may, after complying with applicable health planning and licensure statutes, construct a community hospital thereon and/or appropriate funds according to the provisions of this chapter for the construction, remodeling, maintaining, equipping, furnishing and expansion of such facilities by the board of trustees upon such real estate.

(2) Where joint ownership of a community hospital is involved, the owners are hereby authorized to contract with each other for determining the pro rata ownership of such community hospital, the proportionate cost of maintenance and operation, and the proportionate financing that each will contribute to the community hospital.

(3) The owners may likewise contract with each other, or on behalf of any subordinate political or judicial subdivision, or with the board of trustees of a community hospital, and/or any agency of the State of Mississippi or the United States Government, or any health care collaborative as defined in Section 2 of this act, for necessary purposes related to the establishment, operation or maintenance of community hospitals and related programs wherever located, and may either accept from, sell or contribute to the other entities, monies, personal property or existing health facilities. The owners or the board



of trustees may also receive monies, property or any other valuables of any kind through gifts, donations, devises or other recognized means from any source for the purpose of hospital use.

(4) Owners and boards of trustees, acting jointly or severally, may acquire and hold real estate for offices for physicians and other health care practitioners and related health care or support facilities, provided that any contract for the purchase of real property must be ratified by the owner, and may thereon construct and equip, maintain and remodel or expand such offices and related facilities, and the board of trustees may lease same to members of the hospital staff or others at a rate deemed to be in the best interest of the community hospital.

(5) If any political or judicial subdivision of a county is obligated hereunder, the boundaries of such district shall not be altered in such a manner as to relieve any portion thereof of its obligation hereunder.

(6) Owners may convey to any other owner, or any health care collaborative as defined in Section 2 of this act, any or all property, real or personal, comprising any existing community hospital, including related facilities, wherever located, owned by such conveying owner. Such conveyance shall be upon such terms and conditions as may be agreed upon and may make such provisions for transfers of operating funds and/or for the assumption of liabilities of the community hospital as may be deemed appropriate by the respective owners.



943           (7)   (a)   Except as provided for in subsection (11) of this  
944   section, owners may lease all or part of the property, real or  
945   personal, comprising a community hospital, including any related  
946   facilities, wherever located, and/or assets of such community  
947   hospital, to any individual, partnership or corporation, whether  
948   operating on a nonprofit basis or on a profit basis, or to the  
949   board of trustees of such community hospital or any other owner or  
950   board of trustees, subject to the applicable provisions of  
951   subsections (8), (9) and (10) of this section. The term of such  
952   lease shall not exceed fifty (50) years. Such lease shall be  
953   conditioned upon (i) the leased facility continuing to operate in  
954   a manner safeguarding community health interests; (ii) the  
955   proceeds from the lease being first applied against such bonds,  
956   notes or other evidence of indebtedness as are issued pursuant to  
957   Section 41-13-19 as and when they are due, provided that the terms  
958   of the lease shall cover any indebtedness pursuant to Section  
959   41-13-19; and (iii) any surplus proceeds from the lease being  
960   deposited in the general fund of the owner, which proceeds may be  
961   used for any lawful purpose. Such lease shall be subject to the  
962   express approval of the board of trustees of the community  
963   hospital, except in the case where the board of trustees of the  
964   community hospital will be the lessee. However, owners may not  
965   lease any community hospital to the University of Mississippi  
966   Medical Center unless first the University of Mississippi Medical  
967   Center has obtained authority to lease such hospital under



968 specific terms and conditions from the Board of Trustees of State  
969 Institutions of Higher Learning.

970       If the owner wishes to lease a community hospital without an  
971 option to sell it and the approval of the board of trustees of the  
972 community hospital is required but is not given within thirty (30)  
973 days of the request for its approval by the owner, then the owner  
974 may enter such lease as described herein on the following  
975 conditions: A resolution by the owner describing its intention to  
976 enter such lease shall be published once a week for at least three  
977 (3) consecutive weeks in at least one (1) newspaper published in  
978 the county or city, as the case may be, or if none be so  
979 published, in a newspaper having a general circulation therein.  
980 The first publication of such notice shall be made not less than  
981 twenty-one (21) days prior to the date fixed in such resolution  
982 for the lease of the community hospital and the last publication  
983 shall be made not more than seven (7) days prior to such date.  
984 If, on or prior to the date fixed in such resolution for the lease  
985 of the community hospital, there shall be filed with the clerk of  
986 the owner a petition signed by twenty percent (20%) or fifteen  
987 hundred (1500), whichever is less, of the qualified voters of such  
988 owner, requesting that an election be called and held on the  
989 question of the lease of the community hospital, then it shall be  
990 the duty of the owner to call and provide for the holding of an  
991 election as petitioned for. In such case, no such lease shall be  
992 entered into unless authorized by the affirmative vote of the





993 majority of the qualified voters of such owner who vote on the  
994 proposition at such election. Notice of such election shall be  
995 given by publication in like manner as hereinabove provided for  
996 the publication of the initial resolution. Such election shall be  
997 conducted and the return thereof made, canvassed and declared as  
998 nearly as may be in like manner as is now or may hereafter be  
999 provided by law in the case of general elections in such owner.  
1000 If, on or prior to the date fixed in the owner's resolution for  
1001 the lease of the community hospital, no such petition as described  
1002 above is filed with the clerk of the owner, then the owner may  
1003 proceed with the lease subject to the other requirements of this  
1004 section. Subject to the above conditions, the lease agreement  
1005 shall be upon such terms and conditions as may be agreed upon and  
1006 may make such provision for transfers of tangible and intangible  
1007 personal property and operating funds and/or for the assumption of  
1008 liabilities of the community hospital and for such lease payments,  
1009 all as may be deemed appropriate by the owners.

1010 (b) Owners may sell and convey all or part of the  
1011 property, real or personal, comprising a community hospital,  
1012 including any related facilities, wherever located, and/or assets  
1013 of such community hospital, to any individual, partnership or  
1014 corporation, whether operating on a nonprofit basis or on a profit  
1015 basis, or to the board of trustees of such community hospital or  
1016 any other owner or board of trustees, subject to the applicable  
1017 provisions of subsections (8) and (10) of this section. Such sale



and conveyance shall be upon such terms and conditions as may be agreed upon by the owner and the purchaser that are consistent with the requirements of this section, and the parties may make such provisions for the transfer of operating funds or for the assumption of liabilities of the facility, or both, as they deem appropriate. However, such sale and conveyance shall be conditioned upon (i) the facility continuing to operate in a manner safeguarding community health interests; (ii) the proceeds from such sale being first applied against such bonds, notes or other evidence of indebtedness as are issued pursuant to Section 41-13-19 as and when they are due, provided that the terms of the sale shall cover any indebtedness pursuant to Section 41-13-19; and (iii) any surplus proceeds from the sale being deposited in the general fund of the owner, which proceeds may be used for any lawful purpose. However, owners may not sell or convey any community hospital to the University of Mississippi Medical Center unless first the University of Mississippi Medical Center has obtained authority to purchase such hospital under specific terms and conditions from the Board of Trustees of State Institutions of Higher Learning.

(8) Whenever any owner decides that it may be in its best interests to sell or lease a community hospital as provided for under subsection (7) of this section, the owner shall first contract with a certified public accounting firm, a law firm or competent professional health care or management consultants to



1043 review the current operating condition of the community hospital.

1044 The review shall consist of, at minimum, the following:

1045 (a) A review of the community's inpatient facility  
1046 needs based on current workload, historical trends and  
1047 projections, based on demographic data, of future needs.

1048 (b) A review of the competitive market for services,  
1049 including other hospitals which serve the same area, the services  
1050 provided and the market perception of the competitive hospitals.

1051 (c) A review of the hospital's strengths relative to  
1052 the competition and its capacity to compete in light of projected  
1053 trends and competition.

1054 (d) An analysis of the hospital's options, including  
1055 service mix and pricing strategies. If the study concludes that a  
1056 sale or lease should occur, the study shall include an analysis of  
1057 which option would be best for the community and how much revenues  
1058 should be derived from the lease or sale.

1059 (9) After the review and analysis under subsection (8) of  
1060 this section, an owner may choose to sell or lease the community  
1061 hospital. If an owner chooses to sell such hospital or lease the  
1062 hospital with an option to sell it, the owner shall follow the  
1063 procedure specified in subsection (10) of this section. If an  
1064 owner chooses to lease the hospital without an option to sell it,  
1065 it shall first spread upon its minutes why such a lease is in the  
1066 best interests of the persons living in the area served by the  
1067 facility to be leased, and it shall make public any and all



1068 findings and recommendations made in the review required under  
1069 proposals for the lease, which shall state clearly the minimum  
1070 required terms of all respondents and the evaluation process that  
1071 will be used when the owner reviews the proposals. The owner  
1072 shall lease to the respondent submitting the highest and best  
1073 proposal. In no case may the owner deviate from the process  
1074 provided for in the request for proposals.

1075       (10) If an owner wishes to sell such community hospital or  
1076 lease the hospital with an option to sell it, the owner first  
1077 shall conduct a public hearing on the issue of the proposed sale  
1078 or lease with an option to sell the hospital. Notice of the date,  
1079 time, location and purpose of the public hearing shall be  
1080 published once a week for at least three (3) consecutive weeks in  
1081 at least one (1) newspaper published in the county or city, as the  
1082 case may be, or if none be so published, in a newspaper having a  
1083 general circulation therein. The first publication of the notice  
1084 shall be made not less than twenty-one (21) days before the date  
1085 of the public hearing and the last publication shall be made not  
1086 more than seven (7) days before that date. If, after the public  
1087 hearing, the owner chooses to sell or lease with an option to sell  
1088 the hospital, the owner shall adopt a resolution describing its  
1089 intention to sell or lease with an option to sell the hospital,  
1090 which shall include the owner's reasons why such a sale or lease  
1091 is in the best interests of the persons living in the area served  
1092 by the facility to be sold or leased. The owner then shall



1093 publish a copy of the resolution; the requirements for proposals  
1094 for the sale or lease with an option to sell the hospital, which  
1095 shall state clearly the minimum required terms of all respondents  
1096 and the evaluation process that will be used when the owner  
1097 reviews the proposals; and the date proposed by the owner for the  
1098 sale or lease with an option to sell the hospital. Such  
1099 publication shall be made once a week for at least three (3)  
1100 consecutive weeks in at least one (1) newspaper published in the  
1101 county or city, as the case may be, or if none be so published, in  
1102 a newspaper having a general circulation therein. The first  
1103 publication of the notice shall be made not less than twenty-one  
1104 (21) days before the date proposed for the sale or lease with an  
1105 option to sell the hospital and the last publication shall be made  
1106 not more than seven (7) days before that date. If, on or before  
1107 the date proposed for the sale or lease of the hospital, there is  
1108 filed with the clerk of the owner a petition signed by twenty  
1109 percent (20%) or fifteen hundred (1500), whichever is less, of the  
1110 qualified voters of the owner, requesting that an election be  
1111 called and held on the question of the sale or lease with an  
1112 option to sell the hospital, then it shall be the duty of the  
1113 owner to call and provide for the holding of an election as  
1114 petitioned for. In that case, no such sale or lease shall be  
1115 entered into unless authorized by the affirmative vote of the  
1116 majority of the qualified voters of the owner who vote on the  
1117 proposition at such election. Notice of the election shall be



1118 given by publication in the same manner as provided for the  
1119 publication of the initial resolution. The election shall be  
1120 conducted and the return thereof made, canvassed and declared in  
1121 the same manner as provided by law in the case of general  
1122 elections in the owner. If, on or before the date proposed for  
1123 the sale or lease of the hospital, no such petition is filed with  
1124 the clerk of the owner, then the owner may sell or lease with an  
1125 option to sell the hospital. Such sale or lease shall be made to  
1126 the respondent submitting the highest and best proposal. In no  
1127 case may the owner deviate from the process provided for in the  
1128 request for proposals.

1129 (11) A lessee of a community hospital, under a lease entered  
1130 into under the authority of Section 41-13-15, in effect prior to  
1131 July 15, 1993, or an affiliate thereof, may extend or renew such  
1132 lease whether or not an option to renew or extend the lease is  
1133 contained in the lease, for a term not to exceed fifteen (15)  
1134 years, conditioned upon (a) the leased facility continuing to  
1135 operate in a manner safeguarding community health interest; (b)  
1136 proceeds from the lease being first applied against such bonds,  
1137 notes or other evidence of indebtedness as are issued pursuant to  
1138 Section 41-13-19; (c) surplus proceeds from the lease being used  
1139 for health related purposes; (d) subject to the express approval  
1140 of the board of trustees of the community hospital; and (e)  
1141 subject to the express approval of the owner. If no board of  
1142 trustees is then existing, the owner shall have the right to enter



1143 into a lease upon such terms and conditions as agreed upon by the  
1144 parties. Any lease entered into under this subsection (11) may  
1145 contain an option to purchase the hospital, on such terms as the  
1146 parties shall agree.

1147       **SECTION 23.** Section 41-13-35, Mississippi Code of 1972, is  
1148 amended as follows:

1149       41-13-35. (1) The board of trustees of any community  
1150 hospital shall have full authority to appoint an administrator,  
1151 who shall not be a member of the board of trustees, and to  
1152 delegate reasonable authority to such administrator for the  
1153 operation and maintenance of such hospital and all property and  
1154 facilities otherwise appertaining thereto.

1155       (2) The board of trustees shall have full authority to  
1156 select from its members, officers and committees and, by  
1157 resolution or through the board bylaws, to delegate to such  
1158 officers and committees reasonable authority to carry out and  
1159 enforce the powers and duties of the board of trustees during the  
1160 interim periods between regular meetings of the board of trustees;  
1161 provided, however, that any such action taken by an officer or  
1162 committee shall be subject to review by the board, and actions may  
1163 be withdrawn or nullified at the next subsequent meeting of the  
1164 board of trustees if the action is in excess of delegated  
1165 authority.

1166       (3) The board of trustees shall be responsible for governing  
1167 the community hospital under its control and shall make and



1168 enforce staff and hospital bylaws and/or rules and regulations  
1169 necessary for the administration, government, maintenance and/or  
1170 expansion of such hospitals. The board of trustees shall keep  
1171 minutes of its official business and shall comply with Section  
1172 41-9-68.

1173 (4) The decisions of said board of trustees of the community  
1174 hospital shall be valid and binding unless expressly prohibited by  
1175 applicable statutory or constitutional provisions.

1176 (5) The power of the board of trustees shall specifically  
1177 include, but not be limited to, the following authority:

1178 (a) To deposit and invest funds of the community  
1179 hospital in accordance with Section 27-105-365;

1180 (b) To establish such equitable wage and salary  
1181 programs and other employment benefits as may be deemed expedient  
1182 or proper, and in so doing, to expend reasonable funds for such  
1183 employee salary and benefits. Allowable employee programs shall  
1184 specifically include, but not be limited to, medical benefit,  
1185 life, accidental death and dismemberment, disability, retirement  
1186 and other employee coverage plans. The hospital may offer and  
1187 fund such programs directly or by contract with any third party  
1188 and shall be authorized to take all actions necessary to  
1189 implement, administer and operate such plans, including payroll  
1190 deductions for such plans;





1191           (c) To authorize employees to attend and to pay actual  
1192 expenses incurred by employees while engaged in hospital business  
1193 or in attending recognized educational or professional meetings;

1194           (d) To enter into loan or scholarship agreements with  
1195 employees or students to provide educational assistance where such  
1196 student or employee agrees to work for a stipulated period of time  
1197 for the hospital;

1198           (e) To devise and implement employee incentive  
1199 programs;

1200           (f) To recruit and financially assist physicians and  
1201 other health care practitioners in establishing, or relocating  
1202 practices within the service area of the community hospital  
1203 including, without limitation, direct and indirect financial  
1204 assistance, loan agreements, agreements guaranteeing minimum  
1205 incomes for a stipulated period from opening of the practice and  
1206 providing free office space or reduced rental rates for office  
1207 space where such recruitment would directly benefit the community  
1208 hospital and/or the health and welfare of the citizens of the  
1209 service area;

1210           (g) To contract by way of lease, lease-purchase or  
1211 otherwise, with any agency, department or other office of  
1212 government or any individual, partnership, corporation, owner,  
1213 other board of trustees, or other health care facility, for the  
1214 providing of property, equipment or services by or to the  
1215 community hospital or other entity or regarding any facet of the



1216 construction, management, funding or operation of the community  
1217 hospital or any division or department thereof, or any related  
1218 activity, including, without limitation, shared management  
1219 expertise or employee insurance and retirement programs, and to  
1220 terminate said contracts when deemed in the best interests of the  
1221 community hospital;

1222 (h) To file suit on behalf of the community hospital to  
1223 enforce any right or claims accruing to the hospital and to defend  
1224 and/or settle claims against the community hospital and/or its  
1225 board of trustees;

1226 (i) To sell or otherwise dispose of any chattel  
1227 property of the community hospital by any method deemed  
1228 appropriate by the board where such disposition is consistent with  
1229 the hospital purposes or where such property is deemed by the  
1230 board to be surplus or otherwise unneeded;

1231 (j) To let contracts for the construction, remodeling,  
1232 expansion or acquisition, by lease or purchase, of hospital or  
1233 health care facilities, including real property, within the  
1234 service area for community hospital purposes where such may be  
1235 done with operational funds without encumbrancing the general  
1236 funds of the county or municipality, provided that any contract  
1237 for the purchase of real property must be ratified by the owner;

1238 (k) To borrow money and enter other financing  
1239 arrangements for community hospital and related purposes and to  
1240 grant security interests in hospital equipment and other hospital



1241 assets and to pledge a percentage of hospital revenues as security  
1242 for such financings where needed; provided that the owner shall  
1243 specify by resolution the maximum borrowing authority and maximum  
1244 percent of revenue which may be pledged by the board of trustees  
1245 during any given fiscal year;

1246           (1) To expend hospital funds for public relations or  
1247 advertising programs;

1248           (m) To offer the following inpatient and outpatient  
1249 services, after complying with applicable health planning,  
1250 licensure statutes and regulations, whether or not heretofore  
1251 offered by such hospital or other similar hospitals in this state  
1252 and whether or not heretofore authorized to be offered, long-term  
1253 care, extended care, home care, after-hours clinic services,  
1254 ambulatory surgical clinic services, preventative health care  
1255 services including wellness services, health education,  
1256 rehabilitation and diagnostic and treatment services; to promote,  
1257 develop, operate and maintain a center providing care or  
1258 residential facilities for the aged, convalescent or handicapped;  
1259 and to promote, develop and institute any other services having an  
1260 appropriate place in the operation of a hospital offering complete  
1261 community health care;

1262           (n) To promote, develop, acquire, operate and maintain  
1263 on a nonprofit basis, or on a profit basis if the community  
1264 hospital's share of profits is used solely for community hospital  
1265 and related purposes in accordance with this chapter, either



1266 separately or jointly with one or more other hospitals or  
1267 health-related organizations, facilities and equipment for  
1268 providing goods, services and programs for hospitals, other health  
1269 care providers, and other persons or entities in need of such  
1270 goods, services and programs and, in doing so, to provide for  
1271 contracts of employment or contracts for services and ownership of  
1272 property on terms that will protect the public interest;

1273           (o) To establish and operate medical offices, child  
1274 care centers, wellness or fitness centers and other facilities and  
1275 programs which the board determines are appropriate in the  
1276 operation of a community hospital for the benefit of its  
1277 employees, personnel and/or medical staff which shall be operated  
1278 as an integral part of the hospital and which may, in the  
1279 direction of the board of trustees, be offered to the general  
1280 public. If such programs are not established in existing  
1281 facilities or constructed on real estate previously acquired by  
1282 the owners, the board of trustees shall also have authority to  
1283 acquire, by lease or purchase, such facilities and real property  
1284 within the service area, whether or not adjacent to existing  
1285 facilities, provided that any contract for the purchase of real  
1286 property shall be ratified by the owner. The trustees shall lease  
1287 any such medical offices to members of the medical staff at rates  
1288 deemed appropriate and may, in its discretion, establish rates to  
1289 be paid for the use of other facilities or programs by its



1290 employees or personnel or members of the public whom the trustees  
1291 may determine may properly use such other facilities or programs;

1292 (p) Provide, at its discretion, ambulance service  
1293 and/or to contract with any third party, public or private, for  
1294 the providing of such service;

1295 (q) Establish a fair and equitable system for the  
1296 billing of patients for care or users of services received through  
1297 the community hospital, which in the exercise of the board of  
1298 trustees' prudent fiscal discretion, may allow for rates to be  
1299 classified according to the potential usage by an identified group  
1300 or groups of patients of the community hospital's services and may  
1301 allow for standard discounts where the discount is designed to  
1302 reduce the operating costs or increase the revenues of the  
1303 community hospital. Such billing system may also allow for the  
1304 payment of charges by means of a credit card or similar device and  
1305 allow for payment of administrative fees as may be regularly  
1306 imposed by a banking institution or other credit service  
1307 organization for the use of such cards;

1308 (r) To establish as an organizational part of the  
1309 hospital or to aid in establishing as a separate entity from the  
1310 hospital, hospital auxiliaries designed to aid the hospital, its  
1311 patients, and/or families and visitors of patients, and when the  
1312 auxiliary is established as a separate entity from the hospital,  
1313 the board of trustees may cooperate with the auxiliary in its  
1314 operations as the board of trustees deems appropriate; \* \* \*



1315           (s) To make any agreements or contracts with the  
1316 federal government or any agency thereof, the State of Mississippi  
1317 or any agency thereof, and any county, city, town, supervisors  
1318 district or election district within this state, jointly or  
1319 separately, for the maintenance of charity facilities \* \* \*;

1320           (t) To negotiate and enter into contracts and  
1321 agreements on behalf of the community hospital for the community  
1322 hospital to become a member of a limited liability company, a  
1323 joint venturer in a joint venture, or a member in a nonprofit  
1324 corporation, in furtherance of providing health care services to  
1325 the public; and

1326           (u) To enter into joint ventures, joint operating  
1327 agreements, or similar arrangements with other public or private  
1328 health-related organizations, or with for-profit or nonprofit  
1329 corporations or other organizations, either directly or through a  
1330 nonprofit corporation formed by the community hospital, for the  
1331 joint operation of all or part of the community hospital, or the  
1332 joint operation of any services or facilities of the community  
1333 hospital, and in doing so, to agree to an allocation of revenue,  
1334 income and/or expenses, to convey any community hospital assets,  
1335 services lines or facilities to the joint venture or to any other  
1336 organization or entity for fair market value, to establish  
1337 arrangements for the community hospital to participate in  
1338 financial integration and/or clinical integration or clinically  
1339 integrated networks with a joint venture, with other public or



private health-related organizations, or with other for-profit or  
nonprofit corporations or other organizations, or through a joint  
operating agreement, and to provide for contracts of employment or  
contracts for services and ownership of property on terms that  
will protect the public interest.

(6) No board of trustees of any community hospital may accept any grant of money or other thing of value from any not-for-profit or for-profit organization established for the purpose of supporting health care in the area served by the facility unless two-thirds (2/3) of the trustees vote to accept the grant.

(7) No board of trustees, individual trustee or any other person who is an agent or servant of the trustees of any community hospital shall have any personal financial interest in any not-for-profit or for-profit organization which, regardless of its stated purpose of incorporation, provides assistance in the form of grants of money or property to community hospitals or provides services to community hospitals in the form of performance of functions normally associated with the operations of a hospital.

**SECTION 24.** Section 11-46-1, Mississippi Code of 1972, is amended as follows:

11-46-1. As used in this chapter, the following terms shall have the meanings ascribed unless the context otherwise requires:

(a) "Claim" means any demand to recover damages from a governmental entity as compensation for injuries.



1365           (b) "Claimant" means any person seeking compensation  
1366 under the provisions of this chapter, whether by administrative  
1367 remedy or through the courts.

1368           (c) "Board" means the Mississippi Tort Claims Board.

1369           (d) "Department" means the Department of Finance and  
1370 Administration.

1371           (e) "Director" means the executive director of the  
1372 department who is also the executive director of the board.

1373           (f) "Employee" means any officer, employee or servant  
1374 of the State of Mississippi or a political subdivision of the  
1375 state, including elected or appointed officials and persons acting  
1376 on behalf of the state or a political subdivision in any official  
1377 capacity, temporarily or permanently, in the service of the state  
1378 or a political subdivision whether with or without compensation,  
1379 including firefighters who are members of a volunteer fire  
1380 department that is a political subdivision. The term "employee"  
1381 shall not mean a person or other legal entity while acting in the  
1382 capacity of an independent contractor under contract to the state  
1383 or a political subdivision; and

1384           (i) For purposes of the limits of liability  
1385 provided for in Section 11-46-15, the term "employee" shall  
1386 include:

1387                       1. Physicians under contract to provide  
1388 health services with the State Board of Health, the State Board of





1389 Mental Health or any county or municipal jail facility while  
1390 rendering services under the contract;

1391                   2. Any physician, dentist or other health  
1392 care practitioner employed by the University of Mississippi  
1393 Medical Center (UMMC) and its departmental practice plans who is a  
1394 faculty member and provides health care services only for patients  
1395 at UMMC or its affiliated practice sites;

1396                   3. Any physician, dentist or other health  
1397 care practitioner employed by any university under the control of  
1398 the Board of Trustees of State Institutions of Higher Learning who  
1399 practices only on the campus of any university under the control  
1400 of the Board of Trustees of State Institutions of Higher Learning;

1401                   4. Any physician, dentist or other health  
1402 care practitioner employed by the State Veterans Affairs Board and  
1403 who provides health care services for patients for the State  
1404 Veterans Affairs Board;

1405                   (ii) The term "employee" shall also include  
1406 Mississippi Department of Human Services licensed foster parents  
1407 for the limited purposes of coverage under the Tort Claims Act as  
1408 provided in Section 11-46-8; and

1409                   (iii) The term "employee" also shall include any  
1410 employee or member of the governing board of a charter school but  
1411 shall not include any person or entity acting in the capacity of  
1412 an independent contractor to provide goods or services under a  
1413 contract with a charter school.



1414           (g) "Governmental entity" means the state and political  
1415 subdivisions.

1416           (h) "Injury" means death, injury to a person, damage to  
1417 or loss of property or any other injury that a person may suffer  
1418 that is actionable at law or in equity.

1419           (i) "Political subdivision" means any body politic or  
1420 body corporate other than the state responsible for governmental  
1421 activities only in geographic areas smaller than that of the  
1422 state, including, but not limited to, any county, municipality,  
1423 school district, charter school, volunteer fire department that is  
1424 a chartered nonprofit corporation providing emergency services  
1425 under contract with a county or municipality, community hospital  
1426 as defined in Section 41-13-10, airport authority, or other  
1427 instrumentality of the state, whether or not the body or  
1428 instrumentality has the authority to levy taxes or to sue or be  
1429 sued in its own name.

1430           (j) "State" means the State of Mississippi and any  
1431 office, department, agency, division, bureau, commission, board,  
1432 institution, hospital, college, university, airport authority,  
1433 health care collaborative as defined in Section 2 of this act or  
1434 other instrumentality thereof, whether or not the body or  
1435 instrumentality has the authority to levy taxes or to sue or be  
1436 sued in its own name.

1437           (k) "Law" means all species of law, including, but not  
1438 limited to, any and all constitutions, statutes, case law, common



1439 law, customary law, court order, court rule, court decision, court  
1440 opinion, court judgment or mandate, administrative rule or  
1441 regulation, executive order, or principle or rule of equity.

1442       **SECTION 25.** Section 25-4-103, Mississippi Code of 1972, is  
1443 amended as follows:

1444       25-4-103. The following definitions apply in this article  
1445 unless the context otherwise requires:

1446               (a) "Authority" means any component unit of a  
1447 governmental entity.

1448               (b) "Benefit" means any gain or advantage to the  
1449 beneficiary, including any gain or advantage to a third person  
1450 pursuant to the desire or consent of the beneficiary.

1451               (c) "Business" means any corporation, partnership, sole  
1452 proprietorship, firm, enterprise, franchise, association,  
1453 organization, holding company, self-employed individual,  
1454 joint-stock company, receivership, trust or other legal entity or  
1455 undertaking organized for economic gain, a nonprofit corporation  
1456 or other such entity, association or organization receiving public  
1457 funds.

1458               (d) "Business with which he is associated" means any  
1459 business of which a public servant or his relative is an officer,  
1460 director, owner, partner, employee or is a holder of more than ten  
1461 percent (10%) of the fair market value or from which he or his  
1462 relative derives more than Two Thousand Five Hundred Dollars



1463 (\$2,500.00) in annual income or over which such public servant or  
1464 his relative exercises control.

1465 (e) "Compensation" means money or thing of value  
1466 received, or to be received, from any person for services  
1467 rendered.

1468 (f) "Contract" means:

1469 (i) Any agreement to which the government is a  
1470 party; or

1471 (ii) Any agreement on behalf of the government  
1472 which involves the payment of public funds.

1473 (g) "Government" means the state and all political  
1474 entities thereof, both collectively and separately, including, but  
1475 not limited to:

1476 (i) Counties;

1477 (ii) Municipalities;

1478 (iii) All school districts;

1479 (iv) All courts; and

1480 (v) Any department, agency, board, commission,  
1481 institution, instrumentality, or legislative or administrative  
1482 body of the state, counties or municipalities created by statute,  
1483 ordinance or executive order including all units that expend  
1484 public funds.

1485 (h) "Governmental entity" means the state, a county, a  
1486 municipality or any other separate political subdivision  
1487 authorized by law to exercise a part of the sovereign power of the



1488 state. However, this term does not include a health care  
1489 collaborative as defined in Section 2 of this act.

1490 (i) "Income" means money or thing of value received, or  
1491 to be received, from any source derived, including, but not  
1492 limited to, any salary, wage, advance, payment, dividend,  
1493 interest, rent, forgiveness of debt, fee, royalty, commission or  
1494 any combination thereof.

1495 (j) "Intellectual property" means any formula, pattern,  
1496 compilation, program, device, method, technique or process created  
1497 primarily as a result of the research effort of an employee or  
1498 employees of an institution of higher learning of the State of  
1499 Mississippi.

1500 (k) "Material financial interest" means a personal and  
1501 pecuniary interest, direct or indirect, accruing to a public  
1502 servant or spouse, either individually or in combination with each  
1503 other. Notwithstanding the foregoing, the following shall not be  
1504 deemed to be a material financial interest with respect to a  
1505 business with which a public servant may be associated:

1506 (i) Ownership of any interest of less than ten  
1507 percent (10%) in a business where the aggregate annual net income  
1508 to the public servant therefrom is less than One Thousand Dollars  
1509 (\$1,000.00);

1510 (ii) Ownership of any interest of less than two  
1511 percent (2%) in a business where the aggregate annual net income



1512 to the public servant therefrom is less than Five Thousand Dollars  
1513 (\$5,000.00);

1514 (iii) The income as an employee of a relative if  
1515 neither the public servant or relative is an officer, director or  
1516 partner in the business and any ownership interest would not be  
1517 deemed material pursuant to subparagraph (i) or (ii) herein; or

1518 (iv) The income of the spouse of a public servant  
1519 when such spouse is a contractor, subcontractor or vendor with the  
1520 governmental entity that employs the public servant and the public  
1521 servant exercises no control, direct or indirect, over the  
1522 contract between the spouse and such governmental entity.

1523 (l) "Pecuniary benefit" means benefit in the form of  
1524 money, property, commercial interests or anything else the primary  
1525 significance of which is economic gain. Expenses associated with  
1526 social occasions afforded public servants shall not be deemed a  
1527 pecuniary benefit.

1528 (m) "Person" means any individual, firm, business,  
1529 corporation, association, partnership, union or other legal  
1530 entity, and where appropriate a governmental entity.

1531 (n) "Property" means all real or personal property.

1532 (o) "Public funds" means money belonging to the  
1533 government.

1534 (p) "Public servant" means:

1535 (i) Any elected or appointed official of the  
1536 government;



1537                   (ii) Any officer, director, commissioner,  
1538 supervisor, chief, head, agent or employee of the government or  
1539 any agency thereof, or of any public entity created by or under  
1540 the laws of the State of Mississippi or created by an agency or  
1541 governmental entity thereof, any of which is funded by public  
1542 funds or which expends, authorizes or recommends the use of public  
1543 funds; or

1544                   (iii) Any individual who receives a salary, per  
1545 diem or expenses paid in whole or in part out of funds authorized  
1546 to be expended by the government.

1547       The term "public servant" does not include a member of the  
1548 board of directors of or an officer or employee of a health care  
1549 collaborative as defined in Section 2 of this act.

1550                   (q) "Relative" means:

1551                   (i) The spouse of the public servant;  
1552                   (ii) The child of the public servant;  
1553                   (iii) The parent of the public servant;  
1554                   (iv) The sibling of the public servant; and  
1555                   (v) The spouse of any of the relatives of the  
1556 public servant specified in subparagraphs (ii) through (iv).

1557                   (r) "Securities" means stocks, bonds, notes,  
1558 convertible debentures, warrants, evidences of debts or property  
1559 or other such documents.

1560       **SECTION 26.** Section 25-9-107, Mississippi Code of 1972, is  
1561 amended as follows:



1562           25-9-107. The following terms, when used in this chapter,  
1563 unless a different meaning is plainly required by the context,  
1564 shall have the following meanings:

1565           (a) "Board" means the State Personnel Board created  
1566 under the provisions of this chapter.

1567           (b) "State service" means all employees of state  
1568 departments, agencies and institutions as defined herein, except  
1569 those officers and employees excluded by this chapter.

1570           (c) "Nonstate service" means the following officers and  
1571 employees excluded from the state service by this chapter. The  
1572 following are excluded from the state service:

1573           (i) Members of the State Legislature, their staff  
1574 and other employees of the legislative branch;

1575           (ii) The Governor and staff members of the  
1576 immediate Office of the Governor;

1577           (iii) Justices and judges of the judicial branch  
1578 or members of appeals boards on a per diem basis;

1579           (iv) The Lieutenant Governor, staff members of the  
1580 immediate Office of the Lieutenant Governor and officers and  
1581 employees directly appointed by the Lieutenant Governor;

1582           (v) Officers and officials elected by popular vote  
1583 and persons appointed to fill vacancies in elective offices;

1584           (vi) Members of boards and commissioners appointed  
1585 by the Governor, Lieutenant Governor or the State Legislature;





1586                   (vii) All academic officials, members of the  
1587 teaching staffs and employees of the state institutions of higher  
1588 learning, the Mississippi Community College Board, and community  
1589 and junior colleges;

1590                   (viii) Officers and enlisted members of the  
1591 National Guard of the state;

1592                   (ix) Prisoners, inmates, student or patient help  
1593 working in or about institutions;

1594                   (x) Contract personnel; provided, that any agency  
1595 which employs state service employees may enter into contracts for  
1596 personal and professional services only if such contracts are  
1597 approved in compliance with the rules and regulations promulgated  
1598 by the State Personal Service Contract Review Board under Section  
1599 25-9-120(3). Before paying any warrant for such contractual  
1600 services in excess of One Hundred Thousand Dollars (\$100,000.00),  
1601 the Auditor of Public Accounts, or the successor to those duties,  
1602 shall determine whether the contract involved was for personal or  
1603 professional services, and, if so, was approved by the State  
1604 Personal Service Contract Review Board;

1605                   (xi) Part-time employees; provided, however,  
1606 part-time employees shall only be hired into authorized employment  
1607 positions classified by the board, shall meet minimum  
1608 qualifications as set by the board, and shall be paid in  
1609 accordance with the Variable Compensation Plan as certified by the  
1610 board;



1611                   (xii) Persons appointed on an emergency basis for  
1612 the duration of the emergency; the effective date of the emergency  
1613 appointments shall not be earlier than the date approved by the  
1614 State Personnel Director, and shall be limited to thirty (30)  
1615 working days. Emergency appointments may be extended to sixty  
1616 (60) working days by the State Personnel Board;

1617                   (xiii) Physicians, dentists, veterinarians, nurse  
1618 practitioners and attorneys, while serving in their professional  
1619 capacities in authorized employment positions who are required by  
1620 statute to be licensed, registered or otherwise certified as such,  
1621 provided that the State Personnel Director shall verify that the  
1622 statutory qualifications are met prior to issuance of a payroll  
1623 warrant by the Auditor;

1624                   (xiv) Personnel who are employed and paid from  
1625 funds received from a federal grant program which has been  
1626 approved by the Legislature or the Department of Finance and  
1627 Administration whose length of employment has been determined to  
1628 be time-limited in nature. This subparagraph shall apply to  
1629 personnel employed under the provisions of the Comprehensive  
1630 Employment and Training Act of 1973, as amended, and other special  
1631 federal grant programs which are not a part of regular federally  
1632 funded programs wherein appropriations and employment positions  
1633 are appropriated by the Legislature. Such employees shall be paid  
1634 in accordance with the Variable Compensation Plan and shall meet



1635 all qualifications required by federal statutes or by the  
1636 Mississippi Classification Plan;

1637 (xv) The administrative head who is in charge of  
1638 any state department, agency, institution, board or commission,  
1639 wherein the statute specifically authorizes the Governor, board,  
1640 commission or other authority to appoint said administrative head;  
1641 provided, however, that the salary of such administrative head  
1642 shall be determined by the State Personnel Board in accordance  
1643 with the Variable Compensation Plan unless otherwise fixed by  
1644 statute;

1645 (xvi) The State Personnel Board shall exclude  
1646 top-level positions if the incumbents determine and publicly  
1647 advocate substantive program policy and report directly to the  
1648 agency head, or the incumbents are required to maintain a direct  
1649 confidential working relationship with a key excluded official.  
1650 Provided further, a written job classification shall be approved  
1651 by the board for each such position, and positions so excluded  
1652 shall be paid in conformity with the Variable Compensation Plan;

1653 (xvii) Employees whose employment is solely in  
1654 connection with an agency's contract to produce, store or  
1655 transport goods, and whose compensation is derived therefrom;

1656 (xviii) Repealed;

1657 (xix) The associate director, deputy directors and  
1658 bureau directors within the Department of Agriculture and  
1659 Commerce;



1660 (xx) Personnel employed by the Mississippi  
1661 Industries for the Blind; provided, that any agency may enter into  
1662 contracts for the personal services of MIB employees without the  
1663 prior approval of the State Personnel Board or the State Personal  
1664 Service Contract Review Board; however, any agency contracting for  
1665 the personal services of an MIB employee shall provide the MIB  
1666 employee with not less than the entry-level compensation and  
1667 benefits that the agency would provide to a full-time employee of  
1668 the agency who performs the same services;

1669 (xxi) Personnel employed by the Mississippi  
1670 Department of Wildlife, Fisheries and Parks and the Mississippi  
1671 Department of Marine Resources as law enforcement trainees  
1672 (cadets); such personnel shall be paid in accordance with the  
1673 Colonel Guy Groff State Variable Compensation Plan.

1674 (d) "Agency" means any state board, commission,  
1675 committee, council, department or unit thereof created by the  
1676 Constitution or statutes if such board, commission, committee,  
1677 council, department, unit or the head thereof, is authorized to  
1678 appoint subordinate staff by the Constitution or statute, except a  
1679 legislative or judicial board, commission, committee, council,  
1680 department or unit thereof. The term "agency" does not include a  
1681 health care collaborative as defined by Section 2 of this act.

1682 **SECTION 27.** Section 25-41-3, Mississippi Code of 1972, is  
1683 amended as follows:



25-41-3. For purposes of this chapter, the following words shall have the meaning ascribed herein, to wit:

(a) "Public body" means any executive or administrative board, commission, authority, council, department, agency, bureau or any other policymaking entity, or committee thereof, of the State of Mississippi, or any political subdivision or municipal corporation of the state, whether the entity be created by statute or executive order, which is supported wholly or in part by public funds or expends public funds, and any standing, interim or special committee of the Mississippi Legislature. The term "public body" includes the governing board of a charter school authorized by the Mississippi Charter School Authorizer Board and the board of trustees of a community hospital as defined in Section 41-13-10. There shall be exempted from the provisions of this chapter:

- (i) The judiciary, including all jury deliberations;
- (ii) Law enforcement officials;
- (iii) The military;
- (iv) The State Probation and Parole Board;
- (v) The Workers' Compensation Commission;
- (vi) Legislative subcommittees and legislative conference committees;
- (vii) The arbitration council established in Section 69-3-19;



1709 (viii) License revocation, suspension and  
1710 disciplinary proceedings held by the Mississippi State Board of  
1711 Dental Examiners; \* \* \*

1712 (ix) Hearings and meetings of the Board of Tax  
1713 Appeals and of the hearing officers and the board of review of the  
1714 Department of Revenue as provided in Section 27-77-15 \* \* \*;

1715 (x) Any health care collaborative as defined in  
1716 Section 2 of this act.

1717 (b) "Meeting" means an assemblage of members of a  
1718 public body at which official acts may be taken upon a matter over  
1719 which the public body has supervision, control, jurisdiction or  
1720 advisory power, including an assemblage through the use of video  
1721 or teleconference devices that conforms to Section 25-41-5.

1722 **SECTION 28.** Section 25-43-1.102, Mississippi Code of 1972,  
1723 is amended as follows:

1724 25-43-1.102. As used in this chapter, the following terms  
1725 shall have the meanings ascribed to them in this section unless  
1726 the context otherwise requires:

1727 (a) "Agency" means a board, commission, department,  
1728 officer or other administrative unit of this state, including the  
1729 agency head, and one or more members of the agency head or agency  
1730 employees directly or indirectly purporting to act on behalf or  
1731 under the authority of the agency head. The term does not include  
1732 the Legislature or any of its component units, the judiciary or  
1733 any of its component units or the Governor. The term does not



1734 include a political subdivision of the state or any of the  
1735 administrative units of a political subdivision. The term does  
1736 not include a health care collaborative as defined in Section 2 of  
1737 this act. To the extent it purports to exercise authority subject  
1738 to any provision of this chapter, an administrative unit otherwise  
1739 qualifying as an "agency" must be treated as a separate agency  
1740 even if the unit is located within or subordinate to another  
1741 agency.

1742 (b) "Agency head" or "head of the agency" means an  
1743 individual or body of individuals in whom the ultimate legal  
1744 authority of the agency is vested by any provision of law.

1745 (c) "Agency proceeding" or "proceeding" means the  
1746 process by which an agency considers:

1747 (i) A declaratory opinion pursuant to Section  
1748 25-43-2.103, or

1749 (ii) A rule pursuant to Article III of this  
1750 chapter.

1751 (d) "Agency record" means the official rule-making  
1752 record of an agency pursuant to Section 25-43-3.112.

1753 (e) "Declaratory opinion" means an agency opinion  
1754 rendered in accordance with the provisions of Section 25-43-2.103.

1755 (f) "Order" means an agency action of particular  
1756 applicability that determines the legal rights, duties,  
1757 privileges, immunities or other legal interests of one or more  
1758 specific persons. An order shall be in writing signed by a person



1759 with authority to render the order, or if more than one (1) person  
1760 has such authority by at least that number of such persons as  
1761 jointly have the authority to render the order, or by a person  
1762 authorized to render the order on behalf of all such persons. The  
1763 term does not include an executive order issued by the Governor  
1764 pursuant to Section 25-43-1.104, an opinion issued by the Attorney  
1765 General pursuant to Section 7-5-25, an opinion issued by the  
1766 Ethics Commission pursuant to Section 25-4-17, or a declaratory  
1767 opinion rendered in accordance with Section 25-43-2.103.

1768 (g) "Person" means an individual, partnership,  
1769 corporation, association, governmental subdivision or unit  
1770 thereof, or public or private organization or entity of any  
1771 character, and includes another agency.

1772 (h) "Provision of law" or "law" means the whole or a  
1773 part of the federal or state Constitution, or of any federal or  
1774 state (i) statute, (ii) case law or common law, (iii) rule of  
1775 court, (iv) executive order, or (v) rule or order of an  
1776 administrative agency.

1777 (i) "Rule" means the whole or a part of an agency  
1778 regulation or other statement of general applicability that  
1779 implements, interprets or prescribes:

1780 (i) Law or policy, or

1781 (ii) The organization, procedure or practice  
1782 requirements of an agency. The term includes the amendment,





1783 repeal or suspension of an existing rule. "Rule" does not  
1784 include:

1785                   1. A regulation or statement concerning only  
1786 the internal management of an agency which does not directly and  
1787 substantially affect the procedural or substantive rights or  
1788 duties of any segment of the public;

1789                   2. A regulation or statement that establishes  
1790 criteria or guidelines to be used by the staff of an agency in  
1791 performing audits, investigations or inspections, settling  
1792 commercial disputes, negotiating commercial arrangements or in the  
1793 defense, prosecution or settlement of cases, if disclosure of the  
1794 criteria or guidelines would:

1795                         a. Enable law violators to avoid  
1796 detection;

1797                         b. Facilitate disregard of requirements  
1798 imposed by law; or

1799                         c. Give a clearly improper advantage to  
1800 persons who are in an adverse position to the state;

1801                   3. A regulation or statement that only  
1802 establishes specific prices to be charged for particular goods or  
1803 services sold by an agency;

1804                   4. A regulation or statement concerning only  
1805 the physical servicing, maintenance or care of agency owned or  
1806 operated facilities or property;



1807                   5. A regulation or statement relating only to  
1808 the use of a particular facility or property owned, operated or  
1809 maintained by the state or any of its subdivisions, if the  
1810 substance of the regulation or statement is adequately indicated  
1811 by means of signs or signals to persons who use the facility or  
1812 property;

1813                   6. A regulation or statement directly related  
1814 only to inmates of a correctional or detention facility, students  
1815 enrolled in an educational institution or patients admitted to a  
1816 hospital, if adopted by that facility, institution or hospital;

1817                   7. A form whose contents or substantive  
1818 requirements are prescribed by rule or statute, and instructions  
1819 for the execution or use of the form;

1820                   8. An agency budget;

1821                   9. A compact or agreement between an agency  
1822 of this state and one or more agencies of another state or states;  
1823 or

1824                   10. An opinion of the Attorney General  
1825 pursuant to Section 7-5-25, an opinion of the Ethics Commission  
1826 pursuant to Section 25-4-17, or an Executive Order of the  
1827 Governor.

1828                   (j) "Rule-making" means the process for formulation and  
1829 adoption of a rule.

1830                   **SECTION 29.** Section 25-53-3, Mississippi Code of 1972, is  
1831 amended as follows:



1832           25-53-3. (1) Whenever the term "Central Data Processing  
1833 Authority" or the term "authority," when referring to the Central  
1834 Data Processing Authority, is used in any law, rule, regulation,  
1835 document or elsewhere, it shall be construed to mean the  
1836 Mississippi Department of Information Technology Services.

1837           (2) For the purposes of this chapter the following terms  
1838 shall have the meanings ascribed in this section unless the  
1839 context otherwise requires:

1840                 (a) "Central Data Processing Authority" and "CDPA" mean  
1841 "Mississippi Department of Information Technology Services  
1842 (MDITS)" and the term "authority" means "board of the MDITS."

1843                 (b) "Bureau of Systems Policy and Planning," "Bureau of  
1844 Telecommunications," "Bureau of Central Data Processing" and  
1845 "bureau" mean "Mississippi Department of Information Technology  
1846 Services."

1847                 (c) "Computer equipment or services" means any  
1848 information technology, computer or computer related  
1849 telecommunications equipment, electronic word processing and  
1850 office systems, or services utilized in connection therewith,  
1851 including, but not limited to, all phases of computer software and  
1852 consulting services, and insurance on all state-owned computer  
1853 equipment.

1854                 (d) "Acquisition" of computer or telecommunications  
1855 equipment or services means the purchase, lease, rental, or



1856 acquisition in any other manner of any such computer or  
1857 telecommunications equipment or services.

1858 (e) "Agency" means and includes all the various state  
1859 agencies, officers, departments, boards, commissions, offices and  
1860 institutions of the state. The term "agency" does not include a  
1861 health care collaborative as defined under Section 2 of this act.

1862 (f) "Governing authority" means boards of supervisors,  
1863 governing boards of all school districts, all boards of directors  
1864 of public water supply districts, boards of directors of master  
1865 public water supply districts, municipal public utility  
1866 commissions, governing authorities of all municipalities, port  
1867 authorities, commissioners and boards of trustees of any public  
1868 hospitals and any political subdivision of the state supported,  
1869 wholly or in part, by public funds of the state or political  
1870 subdivisions thereof.

1871 (g) "Bid" means any of the valid source selection  
1872 techniques and competitive procurement methods appropriate to  
1873 information technology procurement in the public sector,  
1874 including, but not limited to, competitive sealed bidding,  
1875 competitive sealed proposals, simplified small purchase  
1876 procedures, sole source procurements, and emergency procurements.

1877 (h) "Telecommunications transmission facility" means  
1878 any transmission medium, switch, instrument, inside wiring system  
1879 or other facility which is used, in whole or in part, to provide  
1880 any transmission.



1881           (i) "Equipment support contract" means a contract which  
1882 covers a single, specific class or classes of telecommunications  
1883 equipment or service and all features associated with that class,  
1884 through which state agencies may purchase or lease the item of  
1885 equipment or service specified by issuing a purchase order under  
1886 the terms of the contract without the necessity of further  
1887 competitive bidding.

1888           (j) "Inside wiring system" means any wiring which:

1889               (i) Directly or indirectly, interconnects any  
1890 terminal equipment with any other terminal equipment or with any  
1891 regulated facility or common carrier services; and

1892               (ii) Is located at the premises of the customer  
1893 and is not inside any terminal equipment.

1894           (k) "Procurement" means the selling, buying,  
1895 purchasing, renting, leasing or otherwise obtaining  
1896 telecommunications equipment, system or related services, as well  
1897 as activities engaged in, resulting in or expected to result in  
1898 selling, buying, purchasing, renting, leasing or otherwise  
1899 obtaining telecommunications equipment.

1900           (l) "Telecommunications equipment, systems, related  
1901 services" are limited to the equipment and means to provide:

1902               (i) Telecommunications transmission facilities.

1903               (ii) Telephone systems, including voice processing  
1904 systems.

1905               (iii) Facsimile systems.



1906 (iv) Radio paging services.

1907 (v) Mobile telephone services, including cellular

1908 mobile telephone service.

1909 (vi) Intercom and paging systems.

1910 (vii) Video teleconferencing systems.

1911 (viii) Personal communications networks and

1912 services.

1913 (ix) Any and all systems based on emerging and

1914 future telecommunications technologies relative to (i) through

1915 (viii) above.

1916 (m) "Telecommunications system lease contract" means a

1917 contract between a supplier of telecommunications systems,

1918 including equipment and related services, and the Mississippi

1919 Department of Information Technology Services through which

1920 telecommunications systems, including equipment and related

1921 services, may be leased for a term which shall not exceed sixty

1922 (60) months for a system lease valued less than One Million

1923 Dollars (\$1,000,000.00) and shall not exceed one hundred twenty

1924 (120) months for a system lease valued One Million Dollars

1925 (\$1,000,000.00) or more.

1926 (n) "Tariffed or regulated service" means

1927 telecommunications service offered by common carriers and subject

1928 to control by the Mississippi Public Service Commission or the

1929 Federal Communications Commission.



(o) "State Data Center" means one or more facilities operated by the Mississippi Department of Information Technology Services to provide information technology resources requiring enterprise computing resources or any other centrally managed information resources.

**SECTION 30.** Section 25-61-3, Mississippi Code of 1972, is amended as follows:

25-61-3. The following words shall have the meanings ascribed herein unless the context clearly requires otherwise:

(a) "Public body" shall mean any department, bureau, division, council, commission, committee, subcommittee, board, agency and any other entity of the state or a political subdivision thereof, and any municipal corporation and any other entity created by the Constitution or by law, executive order, ordinance or resolution. The term "public body" includes the governing board of a charter school authorized by the Mississippi Charter School Authorizer Board. Within the meaning of this chapter, the term "entity" shall not be construed to include individuals employed by a public body or any appointed or elected public official. The term "public body" does not include a health care collaborative as defined in Section 2 of this act.

(b) "Public records" shall mean all books, records, papers, accounts, letters, maps, photographs, films, cards, tapes, recordings or reproductions thereof, and any other documentary materials, regardless of physical form or characteristics, having



1955 been used, being in use, or prepared, possessed or retained for  
1956 use in the conduct, transaction or performance of any business,  
1957 transaction, work, duty or function of any public body, or  
1958 required to be maintained by any public body.

1959 (c) "Data processing software" means the programs and  
1960 routines used to employ and control the capabilities of data  
1961 processing hardware, including, but not limited to, operating  
1962 systems, compilers, assemblers, utilities, library routines,  
1963 maintenance routines, applications and computer networking  
1964 programs.

1965 (d) "Proprietary software" means data processing  
1966 software that is obtained under a licensing agreement and is  
1967 protected by copyright or trade secret laws.

1968 (e) "Incident report" means a narrative description, if  
1969 such narrative description exists and if such narrative  
1970 description does not contain investigative information, of an  
1971 alleged offense, and at a minimum shall include the name and  
1972 identification of each person charged with and arrested for the  
1973 alleged offense, the time, date and location of the alleged  
1974 offense, and the property involved, to the extent this information  
1975 is known.

1976 (f) "Investigative report" means records of a law  
1977 enforcement agency containing information beyond the scope of the  
1978 matters contained in an incident report, and generally will





1979 include, but not be limited to, the following matters if beyond  
1980 the scope of the matters contained in an incident report:

1981 (i) Records that are compiled in the process of  
1982 detecting and investigating any unlawful activity or alleged  
1983 unlawful activity, the disclosure of which would harm the  
1984 investigation which may include crime scene reports and  
1985 demonstrative evidence;

1986 (ii) Records that would reveal the identity of  
1987 informants and/or witnesses;

1988 (iii) Records that would prematurely release  
1989 information that would impede the public body's enforcement,  
1990 investigative or detection efforts;

1991 (iv) Records that would disclose investigatory  
1992 techniques and/or results of investigative techniques;

1993 (v) Records that would deprive a person of a right  
1994 to a fair trial or an impartial adjudication;

1995 (vi) Records that would endanger the life or  
1996 safety of a public official or law enforcement personnel, or  
1997 confidential informants or witnesses;

1998 (vii) Records pertaining to quality control or  
1999 PEER review activities; or

2000 (viii) Records that would impede or jeopardize a  
2001 prosecutor's ability to prosecute the alleged offense.

2002 (g) "Law enforcement agency" means a public body that  
2003 performs as one (1) of its principal functions activities



2004 pertaining to the enforcement of criminal laws, the apprehension  
2005 and investigation of criminal offenders, or the investigation of  
2006 criminal activities.

2007       **SECTION 31.** Section 27-7-15, Mississippi Code of 1972, is  
2008 amended as follows:

2009       27-7-15. (1) For the purposes of this article, except as  
2010 otherwise provided, the term "gross income" means and includes the  
2011 income of a taxpayer derived from salaries, wages, fees or  
2012 compensation for service, of whatever kind and in whatever form  
2013 paid, including income from governmental agencies and subdivisions  
2014 thereof; or from professions, vocations, trades, businesses,  
2015 commerce or sales, or renting or dealing in property, or  
2016 reacquired property; also from annuities, interest, rents,  
2017 dividends, securities, insurance premiums, reinsurance premiums,  
2018 considerations for supplemental insurance contracts, or the  
2019 transaction of any business carried on for gain or profit, or  
2020 gains, or profits, and income derived from any source whatever and  
2021 in whatever form paid. The amount of all such items of income  
2022 shall be included in the gross income for the taxable year in  
2023 which received by the taxpayer. The amount by which an eligible  
2024 employee's salary is reduced pursuant to a salary reduction  
2025 agreement authorized under Section 25-17-5 shall be excluded from  
2026 the term "gross income" within the meaning of this article.



(2) In determining gross income for the purpose of this section, the following, under regulations prescribed by the commissioner, shall be applicable:

(a) **Dealers in property.** Federal rules, regulations and revenue procedures shall be followed with respect to installment sales unless a transaction results in the shifting of income from inside the state to outside the state.

(b) **Casual sales of property.**

(i) Prior to January 1, 2001, federal rules, regulations and revenue procedures shall be followed with respect to installment sales except they shall be applied and administered as if H.R. 3594, the Installment Tax Correction Act of 2000 of the 106th Congress, had not been enacted. This provision will generally affect taxpayers, reporting on the accrual method of accounting, entering into installment note agreements on or after December 17, 1999. Any gain or profit resulting from the casual sale of property will be recognized in the year of sale.

(ii) From and after January 1, 2001, federal rules, regulations and revenue procedures shall be followed with respect to installment sales except as provided in this subparagraph (ii). Gain or profit from the casual sale of property shall be recognized in the year of sale. When a taxpayer recognizes gain on the casual sale of property in which the gain is deferred for federal income tax purposes, a taxpayer may elect to defer the payment of tax resulting from the gain as allowed and



2052 to the extent provided under regulations prescribed by the  
2053 commissioner. If the payment of the tax is made on a deferred  
2054 basis, the tax shall be computed based on the applicable rate for  
2055 the income reported in the year the payment is made. Except as  
2056 otherwise provided in subparagraph (iii) of this paragraph (b),  
2057 deferring the payment of the tax shall not affect the liability  
2058 for the tax. If at any time the installment note is sold,  
2059 contributed, transferred or disposed of in any manner and for any  
2060 purpose by the original note holder, or the original note holder  
2061 is merged, liquidated, dissolved or withdrawn from this state,  
2062 then all deferred tax payments under this section shall  
2063 immediately become due and payable.

2064 (iii) If the selling price of the property is  
2065 reduced by any alteration in the terms of an installment note,  
2066 including default by the purchaser, the gain to be recognized is  
2067 recomputed based on the adjusted selling price in the same manner  
2068 as for federal income tax purposes. The tax on this amount, less  
2069 the previously paid tax on the recognized gain, is payable over  
2070 the period of the remaining installments. If the tax on the  
2071 previously recognized gain has been paid in full to this state,  
2072 the return on which the payment was made may be amended for this  
2073 purpose only. The statute of limitations in Section 27-7-49 shall  
2074 not bar an amended return for this purpose.



2075                   (c)   **Reserves of insurance companies.**   In the case of  
2076 insurance companies, any amounts in excess of the legally required  
2077 reserves shall be included as gross income.

2078                   (d)   **Affiliated companies or persons.**   As regards sales,  
2079 exchanges or payments for services from one to another of  
2080 affiliated companies or persons or under other circumstances where  
2081 the relation between the buyer and seller is such that gross  
2082 proceeds from the sale or the value of the exchange or the payment  
2083 for services are not indicative of the true value of the subject  
2084 matter of the sale, exchange or payment for services, the  
2085 commissioner shall prescribe uniform and equitable rules for  
2086 determining the true value of the gross income, gross sales,  
2087 exchanges or payment for services, or require consolidated returns  
2088 of affiliates.

2089                   (e)   **Alimony and separate maintenance payments.**   The  
2090 federal rules, regulations and revenue procedures in determining  
2091 the deductibility and taxability of alimony payments shall be  
2092 followed in this state.

2093                   (f)   **Reimbursement for expenses of moving.**   There shall  
2094 be included in gross income (as compensation for services) any  
2095 amount received or accrued, directly or indirectly, by an  
2096 individual as a payment for or reimbursement of expenses of moving  
2097 from one residence to another residence which is attributable to  
2098 employment or self-employment.



2099           (3) In the case of taxpayers other than residents, gross  
2100 income includes gross income from sources within this state.

2101           (4) The words "gross income" do not include the following  
2102 items of income which shall be exempt from taxation under this  
2103 article:

2104                 (a) The proceeds of life insurance policies and  
2105 contracts paid upon the death of the insured. However, the income  
2106 from the proceeds of such policies or contracts shall be included  
2107 in the gross income.

2108                 (b) The amount received by the insured as a return of  
2109 premium or premiums paid by him under life insurance policies,  
2110 endowment, or annuity contracts, either during the term or at  
2111 maturity or upon surrender of the contract.

2112                 (c) The value of property acquired by gift, bequest,  
2113 devise or descent, but the income from such property shall be  
2114 included in the gross income.

2115                 (d) Interest upon the obligations of the United States  
2116 or its possessions, or securities issued under the provisions of  
2117 the Federal Farm Loan Act of 1916, or bonds issued by the War  
2118 Finance Corporation, or obligations of the State of Mississippi or  
2119 political subdivisions thereof.

2120                 (e) The amounts received through accident or health  
2121 insurance as compensation for personal injuries or sickness, plus  
2122 the amount of any damages received for such injuries or such  
2123 sickness or injuries, or through the War Risk Insurance Act, or



2124 any law for the benefit or relief of injured or disabled members  
2125 of the military or naval forces of the United States.

2126 (f) Income received by any religious denomination or by  
2127 any institution or trust for moral or mental improvements,  
2128 religious, Bible, tract, charitable, benevolent, fraternal,  
2129 missionary, hospital, infirmary, educational, scientific,  
2130 literary, library, patriotic, historical or cemetery purposes or  
2131 for two (2) or more of such purposes, if such income be used  
2132 exclusively for carrying out one or more of such purposes.

2133 (g) Income received by a domestic corporation which is  
2134 "taxable in another state" as this term is defined in this  
2135 article, derived from business activity conducted outside this  
2136 state. Domestic corporations taxable both within and without the  
2137 state shall determine Mississippi income on the same basis as  
2138 provided for foreign corporations under the provisions of this  
2139 article.

2140 (h) In case of insurance companies, there shall be  
2141 excluded from gross income such portion of actual premiums  
2142 received from an individual policyholder as is paid back or  
2143 credited to or treated as an abatement of premiums of such  
2144 policyholder within the taxable year.

2145 (i) Income from dividends that has already borne a tax  
2146 as dividend income under the provisions of this article, when such  
2147 dividends may be specifically identified in the possession of the  
2148 recipient.



2149           (j) Amounts paid by the United States to a person as  
2150 added compensation for hazardous duty pay as a member of the Armed  
2151 Forces of the United States in a combat zone designated by  
2152 Executive Order of the President of the United States.

2153           (k) Amounts received as retirement allowances,  
2154 pensions, annuities or optional retirement allowances paid under  
2155 the federal Social Security Act, the Railroad Retirement Act, the  
2156 Federal Civil Service Retirement Act, or any other retirement  
2157 system of the United States government, retirement allowances paid  
2158 under the Mississippi Public Employees' Retirement System,  
2159 Mississippi Highway Safety Patrol Retirement System or any other  
2160 retirement system of the State of Mississippi or any political  
2161 subdivision thereof. The exemption allowed under this paragraph  
2162 (k) shall be available to the spouse or other beneficiary at the  
2163 death of the primary retiree.

2164           (l) Amounts received as retirement allowances,  
2165 pensions, annuities or optional retirement allowances paid by any  
2166 public or governmental retirement system not designated in  
2167 paragraph (k) or any private retirement system or plan of which  
2168 the recipient was a member at any time during the period of his  
2169 employment. Amounts received as a distribution under a Roth  
2170 Individual Retirement Account shall be treated in the same manner  
2171 as provided under the Internal Revenue Code of 1986, as amended.  
2172 The exemption allowed under this paragraph (l) shall be available





2173 to the spouse or other beneficiary at the death of the primary  
2174 retiree.

2175 (m) National Guard or Reserve Forces of the United  
2176 States compensation not to exceed the aggregate sum of Five  
2177 Thousand Dollars (\$5,000.00) for any taxable year through the 2005  
2178 taxable year, and not to exceed the aggregate sum of Fifteen  
2179 Thousand Dollars (\$15,000.00) for any taxable year thereafter.

2180 (n) Compensation received for active service as a  
2181 member below the grade of commissioned officer and so much of the  
2182 compensation as does not exceed the maximum enlisted amount  
2183 received for active service as a commissioned officer in the Armed  
2184 Forces of the United States for any month during any part of which  
2185 such members of the Armed Forces (i) served in a combat zone as  
2186 designated by Executive Order of the President of the United  
2187 States or a qualified hazardous duty area as defined by federal  
2188 law, or both; or (ii) was hospitalized as a result of wounds,  
2189 disease or injury incurred while serving in such combat zone. For  
2190 the purposes of this paragraph (n), the term "maximum enlisted  
2191 amount" means and has the same definition as that term has in 26  
2192 USCS 112.

2193 (o) The proceeds received from federal and state  
2194 forestry incentive programs.

2195 (p) The amount representing the difference between the  
2196 increase of gross income derived from sales for export outside the  
2197 United States as compared to the preceding tax year wherein gross



2198 income from export sales was highest, and the net increase in  
2199 expenses attributable to such increased exports. In the absence  
2200 of direct accounting, the ratio of net profits to total sales may  
2201 be applied to the increase in export sales. This paragraph (p)  
2202 shall only apply to businesses located in this state engaging in  
2203 the international export of Mississippi goods and services. Such  
2204 goods or services shall have at least fifty percent (50%) of value  
2205 added at a location in Mississippi.

2206 (q) Amounts paid by the federal government for the  
2207 construction of soil conservation systems as required by a  
2208 conservation plan adopted pursuant to 16 USCS 3801 et seq.

2209 (r) The amount deposited in a medical savings account,  
2210 and any interest accrued thereon, that is a part of a medical  
2211 savings account program as specified in the Medical Savings  
2212 Account Act under Sections 71-9-1 through 71-9-9; provided,  
2213 however, that any amount withdrawn from such account for purposes  
2214 other than paying eligible medical expense or to procure health  
2215 coverage shall be included in gross income.

2216 (s) Amounts paid by the Mississippi Soil and Water  
2217 Conservation Commission from the Mississippi Soil and Water  
2218 Cost-Share Program for the installation of water quality best  
2219 management practices.

2220 (t) Dividends received by a holding corporation, as  
2221 defined in Section 27-13-1, from a subsidiary corporation, as  
2222 defined in Section 27-13-1.



2223           (u) Interest, dividends, gains or income of any kind on  
2224 any account in the Mississippi Affordable College Savings Trust  
2225 Fund, as established in Sections 37-155-101 through 37-155-125, to  
2226 the extent that such amounts remain on deposit in the MACS Trust  
2227 Fund or are withdrawn pursuant to a qualified withdrawal, as  
2228 defined in Section 37-155-105.

2229           (v) Interest, dividends or gains accruing on the  
2230 payments made pursuant to a prepaid tuition contract, as provided  
2231 for in Section 37-155-17.

2232           (w) Income resulting from transactions with a related  
2233 member where the related member subject to tax under this chapter  
2234 was required to, and did in fact, add back the expense of such  
2235 transactions as required by Section 27-7-17(2). Under no  
2236 circumstances may the exclusion from income exceed the deduction  
2237 add-back of the related member, nor shall the exclusion apply to  
2238 any income otherwise excluded under this chapter.

2239           (x) Amounts that are subject to the tax levied pursuant  
2240 to Section 27-7-901, and are paid to patrons by gaming  
2241 establishments licensed under the Mississippi Gaming Control Act.

2242           (y) Amounts that are subject to the tax levied pursuant  
2243 to Section 27-7-903, and are paid to patrons by gaming  
2244 establishments not licensed under the Mississippi Gaming Control  
2245 Act.

2246           (z) Interest, dividends, gains or income of any kind on  
2247 any account in a qualified tuition program and amounts received as



2248 distributions under a qualified tuition program shall be treated  
2249 in the same manner as provided under the United States Internal  
2250 Revenue Code, as amended. For the purposes of this paragraph (z),  
2251 the term "qualified tuition program" means and has the same  
2252 definition as that term has in 26 USCS 529.

2253           (aa) The amount deposited in a health savings account,  
2254 and any interest accrued thereon, that is a part of a health  
2255 savings account program as specified in the Health Savings  
2256 Accounts Act created in Sections 83-62-1 through 83-62-9; however,  
2257 any amount withdrawn from such account for purposes other than  
2258 paying qualified medical expenses or to procure health coverage  
2259 shall be included in gross income, except as otherwise provided by  
2260 Sections 83-62-7 and 83-62-9.

2261           (bb) Amounts received as qualified disaster relief  
2262 payments shall be treated in the same manner as provided under the  
2263 United States Internal Revenue Code, as amended.

2264           (cc) Amounts received as a "qualified Hurricane Katrina  
2265 distribution" as defined in the United States Internal Revenue  
2266 Code, as amended.

2267           (dd) Amounts received by an individual which may be  
2268 excluded from income as foreign earned income for federal income  
2269 tax purposes.

2270           (ee) Amounts received by a qualified individual,  
2271 directly or indirectly, from an employer or nonprofit housing  
2272 organization that are qualified housing expenses associated with



2273 an employer-assisted housing program. For purposes of this  
2274 paragraph (ee):

2275 (i) "Qualified individual" means any individual  
2276 whose household income does not exceed one hundred twenty percent  
2277 (120%) of the area median gross income (as defined by the United  
2278 States Department of Housing and Urban Development), adjusted for  
2279 household size, for the area in which the housing is located.

2280 (ii) "Nonprofit housing organization" means an  
2281 organization that is organized as a not-for-profit organization  
2282 under the laws of this state or another state and has as one of  
2283 its purposes:

2284 1. Homeownership education or counseling;  
2285 2. The development of affordable housing; or  
2286 3. The development or administration of  
2287 employer-assisted housing programs.

2288 (iii) "Employer-assisted housing program" means a  
2289 separate written plan of any employer (including, without  
2290 limitation, tax-exempt organizations and public employers) for the  
2291 exclusive benefit of the employer's employees to pay qualified  
2292 housing expenses to assist the employer's employees in securing  
2293 affordable housing.

2294 (iv) "Qualified housing expenses" means:

2295 1. With respect to rental assistance, an  
2296 amount not to exceed Two Thousand Dollars (\$2,000.00) paid for the



2297 purpose of assisting employees with security deposits and rental  
2298 subsidies; and

2299                   2. With respect to homeownership assistance,  
2300 an amount not to exceed the lesser of Ten Thousand Dollars  
2301 (\$10,000.00) or six percent (6%) of the purchase price of the  
2302 employee's principal residence that is paid for the purpose of  
2303 assisting employees with down payments, payment of closing costs,  
2304 reduced interest mortgages, mortgage guarantee programs, mortgage  
2305 forgiveness programs, equity contribution programs, or  
2306 contributions to home buyer education and/or homeownership  
2307 counseling of eligible employees.

2308                   (ff) For the 2010 taxable year and any taxable year  
2309 thereafter, amounts converted in accordance with the United States  
2310 Internal Revenue Code, as amended, from a traditional Individual  
2311 Retirement Account to a Roth Individual Retirement Account. The  
2312 exemption allowed under this paragraph (ff) shall be available to  
2313 the spouse or other beneficiary at the death of the primary  
2314 retiree.

2315                   (gg) Amounts received for the performance of disaster  
2316 or emergency-related work as defined in Section 27-113-5.

2317                   (hh) The amount deposited in a catastrophe savings  
2318 account established under Sections 27-7-1001 through 27-7-1007,  
2319 interest income earned on the catastrophe savings account, and  
2320 distributions from the catastrophe savings account; however, any  
2321 amount withdrawn from a catastrophe savings account for purposes



2322 other than paying qualified catastrophe expenses shall be included  
2323 in gross income, except as otherwise provided by Sections  
2324 27-7-1001 through 27-7-1007.

2325 (ii) Amounts received from the activities described in  
2326 Section 14(a) and (b) of this act by a health care collaborative  
2327 as defined in Section 2 of this act or an entity controlled by a  
2328 health care collaborative, except amounts that are subject to the  
2329 tax levied under Section 27-65-21.

2330 (5) Prisoners of war, missing in action-taxable status.

2331 (a) **Members of the Armed Forces.** Gross income does not  
2332 include compensation received for active service as a member of  
2333 the Armed Forces of the United States for any month during any  
2334 part of which such member is in a missing status, as defined in  
2335 paragraph (d) of this subsection, during the Vietnam Conflict as a  
2336 result of such conflict.

2337 (b) **Civilian employees.** Gross income does not include  
2338 compensation received for active service as an employee for any  
2339 month during any part of which such employee is in a missing  
2340 status during the Vietnam Conflict as a result of such conflict.

2341 (c) **Period of conflict.** For the purpose of this  
2342 subsection, the Vietnam Conflict began February 28, 1961, and ends  
2343 on the date designated by the President by Executive Order as the  
2344 date of the termination of combatant activities in Vietnam. For  
2345 the purpose of this subsection, an individual is in a missing  
2346 status as a result of the Vietnam Conflict if immediately before



2347 such status began he was performing service in Vietnam or was  
2348 performing service in Southeast Asia in direct support of military  
2349 operations in Vietnam. "Southeast Asia," as used in this  
2350 paragraph, is defined to include Cambodia, Laos, Thailand and  
2351 waters adjacent thereto.

2352 (d) "Missing status" means the status of an employee or  
2353 member of the Armed Forces who is in active service and is  
2354 officially carried or determined to be absent in a status of (i)  
2355 missing; (ii) missing in action; (iii) interned in a foreign  
2356 country; (iv) captured, beleaguered or besieged by a hostile  
2357 force; or (v) detained in a foreign country against his will; but  
2358 does not include the status of an employee or member of the Armed  
2359 Forces for a period during which he is officially determined to be  
2360 absent from his post of duty without authority.

2361 (e) "Active service" means active federal service by an  
2362 employee or member of the Armed Forces of the United States in an  
2363 active duty status.

2364 (f) "Employee" means one who is a citizen or national  
2365 of the United States or an alien admitted to the United States for  
2366 permanent residence and is a resident of the State of Mississippi  
2367 and is employed in or under a federal executive agency or  
2368 department of the Armed Forces.

2369 (g) "Compensation" means (i) basic pay; (ii) special  
2370 pay; (iii) incentive pay; (iv) basic allowance for quarters; (v)





2371 basic allowance for subsistence; and (vi) station per diem  
2372 allowances for not more than ninety (90) days.

2373 (h) If refund or credit of any overpayment of tax for  
2374 any taxable year resulting from the application of this subsection  
2375 (5) is prevented by the operation of any law or rule of law, such  
2376 refund or credit of such overpayment of tax may, nevertheless, be  
2377 made or allowed if claim therefor is filed with the Department of  
2378 Revenue within three (3) years after the date of the enactment of  
2379 this subsection.

2380 (i) The provisions of this subsection shall be  
2381 effective for taxable years ending on or after February 28, 1961.

2382 (6) A shareholder of an S corporation, as defined in Section  
2383 27-8-3(1)(g), shall take into account the income, loss, deduction  
2384 or credit of the S corporation only to the extent provided in  
2385 Section 27-8-7(2).

2386 **SECTION 32.** Section 27-13-5, Mississippi Code of 1972, is  
2387 amended as follows:

2388 27-13-5. (1) (a) **Franchise tax levy.** Except as otherwise  
2389 provided in subsections (3), (4), (5), \* \* \* (7) and (8) of this  
2390 section, there is hereby imposed, to be paid and collected as  
2391 hereinafter provided, a franchise or excise tax upon every  
2392 corporation, association or joint-stock company or partnership  
2393 treated as a corporation under the income tax laws or regulations,  
2394 organized or created for pecuniary gain, having privileges not  
2395 possessed by individuals, and having authorized capital stock now



2396 existing in this state, or hereafter organized, created or  
2397 established, under and by virtue of the laws of the State of  
2398 Mississippi, equal to:

2399 (i) For tax years beginning before January 1,  
2400 2018, Two Dollars and Fifty Cents (\$2.50) for each One Thousand  
2401 Dollars (\$1,000.00), or fraction thereof, of the value of the  
2402 capital used, invested or employed in the exercise of any power,  
2403 privilege or right enjoyed by such organization within this state,  
2404 except as hereinafter provided.

2405 (ii) For tax years beginning on or after January  
2406 1, 2018, but before January 1, 2019, Two Dollars and Fifty Cents  
2407 (\$2.50) for each One Thousand Dollars (\$1,000.00), or fraction  
2408 thereof, in excess of One Hundred Thousand Dollars (\$100,000.00),  
2409 of the value of the capital used, invested or employed in the  
2410 exercise of any power, privilege or right enjoyed by such  
2411 organization within this state, except as hereinafter provided.

2412 (iii) For tax years beginning on or after January  
2413 1, 2019, but before January 1, 2020, Two Dollars and Twenty-five  
2414 Cents (\$2.25) for each One Thousand Dollars (\$1,000.00), or  
2415 fraction thereof, in excess of One Hundred Thousand Dollars  
2416 (\$100,000.00), of the value of the capital used, invested or  
2417 employed in the exercise of any power, privilege or right enjoyed  
2418 by such organization within this state, except as hereinafter  
2419 provided.



2420 (iv) For tax years beginning on or after January  
2421 1, 2020, but before January 1, 2021, Two Dollars (\$2.00) for each  
2422 One Thousand Dollars (\$1,000.00), or fraction thereof, in excess  
2423 of One Hundred Thousand Dollars (\$100,000.00), of the value of the  
2424 capital used, invested or employed in the exercise of any power,  
2425 privilege or right enjoyed by such organization within this state,  
2426 except as hereinafter provided.

2427 (v) For tax years beginning on or after January 1,  
2428 2021, but before January 1, 2022, One Dollar and Seventy-five  
2429 Cents (\$1.75) for each One Thousand Dollars (\$1,000.00), or  
2430 fraction thereof, in excess of One Hundred Thousand Dollars  
2431 (\$100,000.00), of the value of the capital used, invested or  
2432 employed in the exercise of any power, privilege or right enjoyed  
2433 by such organization within this state, except as hereinafter  
2434 provided.

2435 (vi) For tax years beginning on or after January  
2436 1, 2022, but before January 1, 2023, One Dollar and Fifty Cents  
2437 (\$1.50) for each One Thousand Dollars (\$1,000.00), or fraction  
2438 thereof, in excess of One Hundred Thousand Dollars (\$100,000.00),  
2439 of the value of the capital used, invested or employed in the  
2440 exercise of any power, privilege or right enjoyed by such  
2441 organization within this state, except as hereinafter provided.

2442 (vii) For tax years beginning on or after January  
2443 1, 2023, but before January 1, 2024, One Dollar and Twenty-five  
2444 Cents (\$1.25) for each One Thousand Dollars (\$1,000.00), or



2445 fraction thereof, in excess of One Hundred Thousand Dollars  
2446 (\$100,000.00), of the value of the capital used, invested or  
2447 employed in the exercise of any power, privilege or right enjoyed  
2448 by such organization within this state, except as hereinafter  
2449 provided.

2450 (viii) For tax years beginning on or after January  
2451 1, 2024, but before January 1, 2025, One Dollar (\$1.00) for each  
2452 One Thousand Dollars (\$1,000.00), or fraction thereof, in excess  
2453 of One Hundred Thousand Dollars (\$100,000.00), of the value of the  
2454 capital used, invested or employed in the exercise of any power,  
2455 privilege or right enjoyed by such organization within this state,  
2456 except as hereinafter provided.

2457 (ix) For tax years beginning on or after January  
2458 1, 2025, but before January 1, 2026, Seventy-five Cents (75¢) for  
2459 each One Thousand Dollars (\$1,000.00), or fraction thereof, in  
2460 excess of One Hundred Thousand Dollars (\$100,000.00), of the value  
2461 of the capital used, invested or employed in the exercise of any  
2462 power, privilege or right enjoyed by such organization within this  
2463 state, except as hereinafter provided.

2464 (x) For tax years beginning on or after January 1,  
2465 2026, but before January 1, 2027, Fifty Cents (50¢) for each One  
2466 Thousand Dollars (\$1,000.00), or fraction thereof, in excess of  
2467 One Hundred Thousand Dollars (\$100,000.00), of the value of the  
2468 capital used, invested or employed in the exercise of any power,



2469 privilege or right enjoyed by such organization within this state,  
2470 except as hereinafter provided.

2471 (xi) For tax years beginning on or after January  
2472 1, 2027, but before January 1, 2028, Twenty-five Cents (25¢) for  
2473 each One Thousand Dollars (\$1,000.00), or fraction thereof, in  
2474 excess of One Hundred Thousand Dollars (\$100,000.00), of the value  
2475 of the capital used, invested or employed in the exercise of any  
2476 power, privilege or right enjoyed by such organization within this  
2477 state, except as hereinafter provided.

2478 (b) In no case shall the franchise tax due for the  
2479 accounting period be less than Twenty-five Dollars (\$25.00).

2480 (c) It is the purpose of this section to require the  
2481 payment to the State of Mississippi of this tax for the right  
2482 granted by the laws of this state to exist as such organization,  
2483 and to enjoy, under the protection of the laws of this state, the  
2484 powers, rights, privileges and immunities derived from the state  
2485 by the form of such existence.

2486 (2) **Annual report of domestic corporations.** Each domestic  
2487 corporation shall file an annual report as required by the  
2488 provisions of Section 79-4-16.22.

2489 (3) (a) A corporation that has negotiated a fee-in-lieu as  
2490 defined in Section 57-75-5 shall not be subject to the tax levied  
2491 by this section on such project; however, the fee-in-lieu payment  
2492 shall be otherwise treated in the same manner as the payment of  
2493 franchise taxes.



2494 (b) (i) As used in this paragraph:

2495 1. "Authority" shall have the meaning  
2496 ascribed to such term in Section 57-75-5(b);

2497 2. "Project" shall have the meaning ascribed  
2498 to such term in Section 57-75-5(f)(xxix); and

2499 3. "Enterprise" shall mean the corporation  
2500 authorized for the project pursuant to Section 57-75-5(f)(xxix).

2501 (ii) The term of the franchise tax fee-in-lieu  
2502 agreement negotiated under this subsection and authorized by  
2503 Section 57-75-5(j), between the authority and the enterprise for  
2504 the project shall not exceed twenty-five (25) years. The  
2505 franchise tax fee-in-lieu agreement shall apply only to new  
2506 franchise tax liability attributable to the project, and shall not  
2507 apply to any existing franchise tax liability of the enterprise in  
2508 connection with any current operations in this state.

2509 (iii) In the event that the annual number of  
2510 full-time jobs maintained by the enterprise falls below the  
2511 minimum annual number of full-time jobs required by the authority  
2512 pursuant to a written agreement between the authority and the  
2513 enterprise for two (2) consecutive years, the franchise tax  
2514 fee-in-lieu for the project shall be suspended until the first tax  
2515 year during which the annual number of full-time jobs maintained  
2516 by the enterprise reaches the minimum annual number of full-time  
2517 jobs required by the authority pursuant to a written agreement  
2518 between the authority and the enterprise.



2519                   (iv) The enterprise shall be entitled to utilize a  
2520 single sales apportionment factor in the calculation of its  
2521 liability for franchise tax imposed by this chapter which is  
2522 attributable to the project for any year for which it files a  
2523 Mississippi franchise tax return. The enterprise shall be  
2524 entitled to continue to utilize such single sales apportionment  
2525 factor notwithstanding a suspension of the franchise tax  
2526 fee-in-lieu pursuant to subparagraph (iii) of this paragraph.

2527           (4) An approved business enterprise as defined in the Growth  
2528 and Prosperity Act shall not be subject to the tax levied by this  
2529 section on the value of capital used, invested or employed by the  
2530 approved business enterprise in a growth and prosperity county or  
2531 supervisors district as provided in the Growth and Prosperity Act.

2532           (5) A business enterprise operating a project as defined in  
2533 Section 57-64-33, in a county that is a member of a regional  
2534 economic development alliance created under the Regional Economic  
2535 Development Act shall not be subject to the tax levied by this  
2536 section on the value of capital used, invested or employed by the  
2537 business enterprise in such a county as provided in Section  
2538 57-64-33.

2539           (6) The tax levied by this chapter and paid by a business  
2540 enterprise located in a redevelopment project area under Sections  
2541 57-91-1 through 57-91-11 shall be deposited into the Redevelopment  
2542 Project Incentive Fund created in Section 57-91-9.



2543           (7) A business enterprise as defined in Section 57-113-1  
2544 that is exempt from certain state taxes under Section 57-113-5  
2545 shall not be subject to the tax levied by this section on the  
2546 value of capital used, invested or employed by the business  
2547 enterprise.

2548           (8) A health care collaborative as defined in Section 2 of  
2549 this act or an entity controlled by a health care collaborative  
2550 shall not be subject to the tax levied by this section on the  
2551 value of capital used, invested or employed by the health care  
2552 collaborative or entity in establishing, operating or otherwise  
2553 carrying on the business and activities of the health care  
2554 collaborative or entity.

2555           **SECTION 33.** Section 27-31-1, Mississippi Code of 1972, is  
2556 amended as follows:

2557           27-31-1. The following shall be exempt from taxation:

2558                   (a) All cemeteries used exclusively for burial  
2559 purposes.

2560                   (b) All property, real or personal, belonging to the  
2561 State of Mississippi or any of its political subdivisions, except  
2562 property of a municipality not being used for a proper municipal  
2563 purpose and located outside the county or counties in which such  
2564 municipality is located. A proper municipal purpose within the  
2565 meaning of this section shall be any authorized governmental or  
2566 corporate function of a municipality.





2567           (c) All property, real or personal, owned by units of  
2568 the Mississippi National Guard, or title to which is vested in  
2569 trustees for the benefit of any unit of the Mississippi National  
2570 Guard; provided such property is used exclusively for such unit,  
2571 or for public purposes, and not for profit.

2572           (d) All property, real or personal, belonging to any  
2573 religious society, or ecclesiastical body, or any congregation  
2574 thereof, or to any charitable society, or to any historical or  
2575 patriotic association or society, or to any garden or pilgrimage  
2576 club or association and used exclusively for such society or  
2577 association and not for profit; not exceeding, however, the amount  
2578 of land which such association or society may own as provided in  
2579 Section 79-11-33. All property, real or personal, belonging to  
2580 any rural waterworks system or rural sewage disposal system  
2581 incorporated under the provisions of Section 79-11-1. All  
2582 property, real or personal, belonging to any college or  
2583 institution for the education of youths, used directly and  
2584 exclusively for such purposes, provided that no such college or  
2585 institution for the education of youths shall have exempt from  
2586 taxation more than six hundred forty (640) acres of land;  
2587 provided, however, this exemption shall not apply to commercial  
2588 schools and colleges or trade institutions or schools where the  
2589 profits of same inure to individuals, associations or  
2590 corporations. All property, real or personal, belonging to an  
2591 individual, institution or corporation and used for the operation



2592 of a grammar school, junior high school, high school or military  
2593 school. All property, real or personal, owned and occupied by a  
2594 fraternal and benevolent organization, when used by such  
2595 organization, and from which no rentals or other profits accrue to  
2596 the organization, but any part rented or from which revenue is  
2597 received shall be taxed.

2598 (e) All property, real or personal, held and occupied  
2599 by trustees of public schools, and school lands of the respective  
2600 townships for the use of public schools, and all property kept in  
2601 storage for the convenience and benefit of the State of  
2602 Mississippi in warehouses owned or leased by the State of  
2603 Mississippi, wherein said property is to be sold by the Alcoholic  
2604 Beverage Control Division of the Department of Revenue of the  
2605 State of Mississippi.

2606 (f) All property, real or personal, whether belonging  
2607 to religious or charitable or benevolent organizations, which is  
2608 used for hospital purposes, and nurses' homes where a part  
2609 thereof, and which maintain one or more charity wards that are for  
2610 charity patients, and where all the income from said hospitals and  
2611 nurses' homes is used entirely for the purposes thereof and no  
2612 part of the same for profit.

2613 (g) The wearing apparel of every person; and also  
2614 jewelry and watches kept by the owner for personal use to the  
2615 extent of One Hundred Dollars (\$100.00) in value for each owner.

2616 (h) Provisions on hand for family consumption.



2617           (i) All farm products grown in this state for a period  
2618 of two (2) years after they are harvested, when in the possession  
2619 of or the title to which is in the producer, except the tax of  
2620 one-fifth of one percent (1/5 of 1%) per pound on lint cotton now  
2621 levied by the Board of Commissioners of the Mississippi Levee  
2622 District; and lint cotton for five (5) years, and cottonseed,  
2623 soybeans, oats, rice and wheat for one (1) year regardless of  
2624 ownership.

2625           (j) All guns and pistols kept by the owner for private  
2626 use.

2627           (k) All poultry in the hands of the producer.

2628           (l) Household furniture, including all articles kept in  
2629 the home by the owner for his own personal or family use; but this  
2630 shall not apply to hotels, rooming houses or rented or leased  
2631 apartments.

2632           (m) All cattle and oxen.

2633           (n) All sheep, goats and hogs.

2634           (o) All horses, mules and asses.

2635           (p) Farming tools, implements and machinery, when used  
2636 exclusively in the cultivation or harvesting of crops or timber.

2637           (q) All property of agricultural and mechanical  
2638 associations and fairs used for promoting their objects, and where  
2639 no part of the proceeds is used for profit.

2640           (r) The libraries of all persons.



2641           (s) All pictures and works of art, not kept for or  
2642 offered for sale as merchandise.

2643           (t) The tools of any mechanic necessary for carrying on  
2644 his trade.

2645           (u) All state, county, municipal, levee, drainage and  
2646 all school bonds or other governmental obligations, and all bonds  
2647 and/or evidences of debts issued by any church or church  
2648 organization in this state, and all notes and evidences of  
2649 indebtedness which bear a rate of interest not greater than the  
2650 maximum rate per annum applicable under the law; and all money  
2651 loaned at a rate of interest not exceeding the maximum rate per  
2652 annum applicable under the law; and all stock in or bonds of  
2653 foreign corporations or associations shall be exempt from all ad  
2654 valorem taxes.

2655           (v) All lands and other property situated or located  
2656 between the Mississippi River and the levee shall be exempt from  
2657 the payment of any and all road taxes levied or assessed under any  
2658 road laws of this state.

2659           (w) Any and all money on deposit in either national  
2660 banks, state banks or trust companies, on open account, savings  
2661 account or time deposit.

2662           (x) All wagons, carts, drays, carriages and other  
2663 horse-drawn vehicles, kept for the use of the owner.



2664           (y)   (i)   Boats, seines and fishing equipment used in  
2665 fishing and shrimping operations and in the taking or catching of  
2666 oysters.

2667                   (ii)   All towboats, tugboats and barges documented  
2668 under the laws of the United States, except watercraft of every  
2669 kind and character used in connection with gaming operations.

2670           (z)   All materials used in the construction and/or  
2671 conversion of vessels in this state; vessels while under  
2672 construction and/or conversion; vessels while in the possession of  
2673 the manufacturer, builder or converter, for a period of twelve  
2674 (12) months after completion of construction and/or conversion,  
2675 and as used herein the term "vessel" shall include ships, offshore  
2676 drilling equipment, dry docks, boats and barges, except watercraft  
2677 of every kind and character used in connection with gaming  
2678 operations.

2679           (aa)   Sixty-six and two-thirds percent (66-2/3%) of  
2680 nuclear fuel and reprocessed, recycled or residual nuclear fuel  
2681 by-products, fissionable or otherwise, used or to be used in  
2682 generation of electricity by persons defined as public utilities  
2683 in Section 77-3-3.

2684           (bb)   All growing nursery stock.

2685           (cc)   A semitrailer used in interstate commerce.

2686           (dd)   All property, real or personal, used exclusively  
2687 for the housing of and provision of services to elderly persons,  
2688 disabled persons, mentally impaired persons or as a nursing home,



2689 which is owned, operated and managed by a not-for-profit  
2690 corporation, qualified under Section 501(c)(3) of the Internal  
2691 Revenue Code, whose membership or governing body is appointed or  
2692 confirmed by a religious society or ecclesiastical body or any  
2693 congregation thereof.

2694 (ee) All vessels while in the hands of bona fide  
2695 dealers as merchandise and which are not being operated upon the  
2696 waters of this state shall be exempt from ad valorem taxes. As  
2697 used in this paragraph, the terms "vessel" and "waters of this  
2698 state" shall have the meaning ascribed to such terms in Section  
2699 59-21-3.

2700 (ff) All property, real or personal, owned by a  
2701 nonprofit organization that: (i) is qualified as tax exempt under  
2702 Section 501(c)(4) of the Internal Revenue Code of 1986, as  
2703 amended; (ii) assists in the implementation of the national  
2704 contingency plan or area contingency plan, and which is created in  
2705 response to the requirements of Title IV, Subtitle B of the Oil  
2706 Pollution Act of 1990, Public Law 101-380; (iii) engages primarily  
2707 in programs to contain, clean up and otherwise mitigate spills of  
2708 oil or other substances occurring in the United States coastal or  
2709 tidal waters; and (iv) is used for the purposes of the  
2710 organization.

2711 (gg) If a municipality changes its boundaries so as to  
2712 include within the boundaries of such municipality the project  
2713 site of any project as defined in Section 57-75-5(f)(iv)1, Section



2714 57-75-5(f)(xxi) or Section 57-75-5(f)(xxviii) or Section  
2715 57-75-5(f)(xxix), all real and personal property located on the  
2716 project site within the boundaries of such municipality that is  
2717 owned by a business enterprise operating such project, shall be  
2718 exempt from ad valorem taxation for a period of time not to exceed  
2719 thirty (30) years upon receiving approval for such exemption by  
2720 the Mississippi Major Economic Impact Authority. The provisions  
2721 of this paragraph shall not be construed to authorize a breach of  
2722 any agreement entered into pursuant to Section 21-1-59.

2723 (hh) All leases, lease contracts or lease agreements  
2724 (including, but not limited to, subleases, sublease contracts and  
2725 sublease agreements), and leaseholds or leasehold interests  
2726 (including, but not limited to, subleaseholds and subleasehold  
2727 interests), of or with respect to any and all property (real,  
2728 personal or mixed) constituting all or any part of a facility for  
2729 the manufacture, production, generation, transmission and/or  
2730 distribution of electricity, and any real property related  
2731 thereto, shall be exempt from ad valorem taxation during the  
2732 period as the United States is both the title owner of the  
2733 property and a sublessee of or with respect to the property;  
2734 however, the exemption authorized by this paragraph (hh) shall not  
2735 apply to any entity to whom the United States sub-subleases its  
2736 interest in the property nor to any entity to whom the United  
2737 States assigns its sublease interest in the property. As used in  
2738 this paragraph, the term "United States" includes an agency or



instrumentality of the United States of America. This paragraph (hh) shall apply to all assessments for ad valorem taxation for the 2003 calendar year and each calendar year thereafter.

(ii) All property, real, personal or mixed, including fixtures and leaseholds, used by Mississippi nonprofit entities qualified, on or before January 1, 2005, under Section 501(c)(3) of the Internal Revenue Code to provide support and operate technology incubators for research and development start-up companies, telecommunication start-up companies and/or other technology start-up companies, utilizing technology spun-off from research and development activities of the public colleges and universities of this state, State of Mississippi governmental research or development activities resulting therefrom located within the State of Mississippi.

(jj) All property, real, personal or mixed, including fixtures and leaseholds, of start-up companies (as described in paragraph (ii) of this section) for the period of time, not to exceed five (5) years, that the start-up company remains a tenant of a technology incubator (as described in paragraph (ii) of this section).

(kk) All leases, lease contracts or lease agreements (including, but not limited to, subleases, sublease contracts and sublease agreements), and leaseholds or leasehold interests, of or with respect to any and all property (real, personal or mixed) constituting all or any part of an auxiliary facility, and any





2764 real property related thereto, constructed or renovated pursuant  
2765 to Section 37-101-41, Mississippi Code of 1972.

2766 (ll) Equipment brought into the state temporarily for  
2767 use during a disaster response period as provided in Sections  
2768 27-113-1 through 27-113-9 and subsequently removed from the state  
2769 on or before the end of the disaster response period as defined in  
2770 Section 27-113-5.

2771 (mm) All property of a health care collaborative as  
2772 defined in Section 2 of this act or an entity controlled by a  
2773 health care collaborative, as provided in Section 14(b) of this  
2774 act.

2775 **SECTION 34.** Section 27-65-19, Mississippi Code of 1972, is  
2776 amended as follows:

2777 27-65-19. (1) (a) (i) Except as otherwise provided in  
2778 this subsection, upon every person selling to consumers,  
2779 electricity, current, power, potable water, steam, coal, natural  
2780 gas, liquefied petroleum gas or other fuel, there is hereby  
2781 levied, assessed and shall be collected a tax equal to seven  
2782 percent (7%) of the gross income of the business. Provided, gross  
2783 income from sales to consumers of electricity, current, power,  
2784 natural gas, liquefied petroleum gas or other fuel for residential  
2785 heating, lighting or other residential noncommercial or  
2786 nonagricultural use, and sales of potable water for residential,  
2787 noncommercial or nonagricultural use shall be excluded from  
2788 taxable gross income of the business. Provided further, upon



2789 every such seller using electricity, current, power, potable  
2790 water, steam, coal, natural gas, liquefied petroleum gas or other  
2791 fuel for nonindustrial purposes, there is hereby levied, assessed  
2792 and shall be collected a tax equal to seven percent (7%) of the  
2793 cost or value of the product or service used.

2794 (ii) Gross income from sales to a church that is  
2795 exempt from federal income taxation under 26 USCS Section  
2796 501(c)(3) of electricity, current, power, natural gas, liquefied  
2797 petroleum gas or other fuel for heating, lighting or other use,  
2798 and sales of potable water to such a church shall be excluded from  
2799 taxable gross income of the business if the electricity, current,  
2800 power, natural gas, liquefied petroleum gas or potable water is  
2801 utilized on property that is primarily used for religious or  
2802 educational purposes.

2803 (iii) Gross income from sales of electricity,  
2804 current, power, natural gas, liquefied petroleum gas or other fuel  
2805 for heating, lighting or other use, and sales of potable water to  
2806 a health care collaborative as defined in Section 2 of this act or  
2807 an entity controlled by a health care collaborative, as provided  
2808 in Section 14(c) of this act.

2809 (b) (i) There is hereby levied, assessed and shall be  
2810 collected a tax equal to one and one-half percent (1-1/2%) of the  
2811 gross income of the business from the sale of naturally occurring  
2812 carbon dioxide and anthropogenic carbon dioxide lawfully injected  
2813 into the earth for:



2814                   1. Use in an enhanced oil recovery project,  
2815 including, but not limited to, use for cycling, repressuring or  
2816 lifting of oil; or

2817                   2. Permanent sequestration in a geological  
2818 formation.

2819                   (ii) The one and one-half percent (1-1/2%) rate  
2820 provided for in this subsection shall apply to electricity,  
2821 current, power, steam, coal, natural gas, liquefied petroleum gas  
2822 or other fuel that is sold to a producer of oil and gas for use  
2823 directly in enhanced oil recovery using carbon dioxide and/or the  
2824 permanent sequestration of carbon dioxide in a geological  
2825 formation.

2826                   (c) The one and one-half percent (1-1/2%) rate provided  
2827 for in this subsection shall not apply to sales of fuel for  
2828 automobiles, trucks, truck-tractors, buses, farm tractors or  
2829 airplanes.

2830                   (d) (i) Upon every person providing services in this  
2831 state, there is hereby levied, assessed and shall be collected:

2832                   1. A tax equal to seven percent (7%) of the  
2833 gross income received from all charges for intrastate  
2834 telecommunications services.

2835                   2. A tax equal to seven percent (7%) of the  
2836 gross income received from all charges for interstate  
2837 telecommunications services.



2838                   3. A tax equal to seven percent (7%) of the  
2839 gross income received from all charges for international  
2840 telecommunications services.

2841                   4. A tax equal to seven percent (7%) of the  
2842 gross income received from all charges for ancillary services.

2843                   5. A tax equal to seven percent (7%) of the  
2844 gross income received from all charges for products delivered  
2845 electronically, including, but not limited to, software, music,  
2846 games, reading materials or ring tones.

2847                   (ii) A person, upon proof that he has paid a tax  
2848 in another state on an event described in subparagraph (i) of this  
2849 paragraph (d), shall be allowed a credit against the tax imposed  
2850 in this paragraph (d) on interstate telecommunications service  
2851 charges to the extent that the amount of such tax is properly due  
2852 and actually paid in such other state and to the extent that the  
2853 rate of sales tax imposed by and paid in such other state does not  
2854 exceed the rate of sales tax imposed by this paragraph (d).

2855                   (iii) Charges by one (1) telecommunications  
2856 provider to another telecommunications provider holding a permit  
2857 issued under Section 27-65-27 for services that are resold by such  
2858 other telecommunications provider, including, but not limited to,  
2859 access charges, shall not be subject to the tax levied pursuant to  
2860 this paragraph (d).

2861                   (iv) For purposes of this paragraph (d):



2862                   1. "Telecommunications service" means the  
2863 electronic transmission, conveyance or routing of voice, data,  
2864 audio, video or any other information or signals to a point, or  
2865 between points. The term "telecommunications service" includes  
2866 such transmission, conveyance or routing in which computer  
2867 processing applications are used to act on the form, code or  
2868 protocol of the content for purposes of transmission, conveyance  
2869 or routing without regard to whether such service is referred to  
2870 as voice over Internet protocol services or is classified by the  
2871 Federal Communications Commission as enhanced or value added. The  
2872 term "telecommunications service" shall not include:

2873                   a. Data processing and information  
2874 services that allow data to be generated, acquired, stored,  
2875 processed or retrieved and delivered by an electronic transmission  
2876 to a purchaser where such purchaser's primary purpose for the  
2877 underlying transaction is the processed data or information;

2878                   b. Installation or maintenance of wiring  
2879 or equipment on a customer's premises;

2880                   c. Tangible personal property;

2881                   d. Advertising, including, but not  
2882 limited to, directory advertising;

2883                   e. Billing and collection services  
2884 provided to third parties;

2885                   f. Internet access service;



2886 g. Radio and television audio and video  
2887 programming services regardless of the medium, including the  
2888 furnishing of transmission, conveyance and routing of such  
2889 services by the programming service provider. Radio and  
2890 television audio and video programming services shall include, but  
2891 not be limited to, cable service as defined in 47 USCS 522(6) and  
2892 audio and video programming services delivered by commercial  
2893 mobile radio service providers, as defined in 47 CFR 20.3;

2894 h. Ancillary services; or

2895 i. Digital products delivered  
2896 electronically, including, but not limited to, software, music,  
2897 video, reading materials or ring tones.

2898 2. "Ancillary services" means services that  
2899 are associated with or incidental to the provision of  
2900 telecommunications services, including, but not limited to,  
2901 detailed telecommunications billing, directory assistance,  
2902 vertical service and voice mail service.

2903 a. "Conference bridging" means an  
2904 ancillary service that links two (2) or more participants of an  
2905 audio or video conference call and may include the provision of a  
2906 telephone number. Conference bridging does not include the  
2907 telecommunications services used to reach the conference bridge.

2908 b. "Detailed telecommunications billing  
2909 service" means an ancillary service of separately stating



2910 information pertaining to individual calls on a customer's billing  
2911 statement.

2912 c. "Directory assistance" means an  
2913 ancillary service of providing telephone number information and/or  
2914 address information.

2915 d. "Vertical service" means an ancillary  
2916 service that is offered in connection with one or more  
2917 telecommunications services, which offers advanced calling  
2918 features that allow customers to identify callers and to manage  
2919 multiple calls and call connections, including conference bridging  
2920 services.

2921 e. "Voice mail service" means an  
2922 ancillary service that enables the customer to store, send or  
2923 receive recorded messages. Voice mail service does not include  
2924 any vertical services that the customer may be required to have in  
2925 order to utilize the voice mail service.

2926 3. "Intrastate" means telecommunications  
2927 service that originates in one (1) United States state or United  
2928 States territory or possession, and terminates in the same United  
2929 States state or United States territory or possession.

2930 4. "Interstate" means a telecommunications  
2931 service that originates in one (1) United States state or United  
2932 States territory or possession, and terminates in a different  
2933 United States state or United States territory or possession.



2934                   5. "International" means a telecommunications  
2935 service that originates or terminates in the United States and  
2936 terminates or originates outside the United States, respectively.

2937                   (v) For purposes of paragraph (d), the following  
2938 sourcing rules shall apply:

2939                   1. Except for the defined telecommunications  
2940 services in item 3 of this subparagraph, the sales of  
2941 telecommunications services sold on a call-by-call basis shall be  
2942 sourced to:

2943                   a. Each level of taxing jurisdiction  
2944 where the call originates and terminates in that jurisdiction, or

2945                   b. Each level of taxing jurisdiction  
2946 where the call either originates or terminates and in which the  
2947 service address is also located.

2948                   2. Except for the defined telecommunications  
2949 services in item 3 of this subparagraph, a sale of  
2950 telecommunications services sold on a basis other than a  
2951 call-by-call basis, is sourced to the customer's place of primary  
2952 use.

2953                   3. The sale of the following  
2954 telecommunications services shall be sourced to each level of  
2955 taxing jurisdiction as follows:

2956                   a. A sale of mobile telecommunications  
2957 services other than air-to-ground radiotelephone service and  
2958 prepaid calling service is sourced to the customer's place of





primary use as required by the Mobile Telecommunication Sourcing Act.

A. A home service provider shall be responsible for obtaining and maintaining the customer's place of primary use. The home service provider shall be entitled to rely on the applicable residential or business street address supplied by such customer, if the home service provider's reliance is in good faith; and the home service provider shall be held harmless from liability for any additional taxes based on a different determination of the place of primary use for taxes that are customarily passed on to the customer as a separate itemized charge. A home service provider shall be allowed to treat the address used for purposes of the tax levied by this chapter for any customer under a service contract in effect on August 1, 2002, as that customer's place of primary use for the remaining term of such service contract or agreement, excluding any extension or renewal of such service contract or agreement. Month-to-month services provided after the expiration of a contract shall be treated as an extension or renewal of such contract or agreement.

B. If the commissioner determines that the address used by a home service provider as a customer's place of primary use does not meet the definition of the term "place of primary use" as defined in subitem a.A. of this item 3, the commissioner shall give binding notice to the home service provider to change the place of primary use on a prospective basis



2984 from the date of notice of determination; however, the customer  
2985 shall have the opportunity, prior to such notice of determination,  
2986 to demonstrate that such address satisfies the definition.

2987 C. The department has the right to  
2988 collect any taxes due directly from the home service provider's  
2989 customer that has failed to provide an address that meets the  
2990 definition of the term "place of primary use" which resulted in a  
2991 failure of tax otherwise due being remitted.

2992 b. A sale of postpaid calling service is  
2993 sourced to the origination point of the telecommunications signal  
2994 as first identified by either:

2995 A. The seller's telecommunications  
2996 system; or

2997 B. Information received by the  
2998 seller from its service provider, where the system used to  
2999 transport such signals is not that of the seller.

3000 c. A sale of a prepaid calling service  
3001 or prepaid wireless calling service shall be subject to the tax  
3002 imposed by this paragraph if the sale takes place in this state.  
3003 If the customer physically purchases a prepaid calling service or  
3004 prepaid wireless calling service at the vendor's place of  
3005 business, the sale is deemed to take place at the vendor's place  
3006 of business. If the customer does not physically purchase the  
3007 service at the vendor's place of business, the sale of a prepaid  
3008 calling card or prepaid wireless calling card is deemed to take



3009 place at the first of the following locations that applies to the  
3010 sale:

3011                                   A. The customer's shipping address,  
3012 if the sale involves a shipment;

3013                                   B. The customer's billing address;

3014                                   C. Any other address of the  
3015 customer that is known by the vendor; or

3016                                   D. The address of the vendor, or  
3017 alternatively, in the case of a prepaid wireless calling service,  
3018 the location associated with the mobile telephone number.

3019                                   4. A sale of a private communication service  
3020 is sourced as follows:

3021                                   a. Service for a separate charge related  
3022 to a customer channel termination point is sourced to each level  
3023 of jurisdiction in which such customer channel termination point  
3024 is located.

3025                                   b. Service where all customer  
3026 termination points are located entirely within one (1)  
3027 jurisdiction or levels of jurisdiction is sourced in such  
3028 jurisdiction in which the customer channel termination points are  
3029 located.

3030                                   c. Service for segments of a channel  
3031 between two (2) customer channel termination points located in  
3032 different jurisdictions and which segments of a channel are  
3033 separately charged is sourced fifty percent (50%) in each level of



3034 jurisdiction in which the customer channel termination points are  
3035 located.

3036 d. Service for segments of a channel  
3037 located in more than one (1) jurisdiction or levels of  
3038 jurisdiction and which segments are not separately billed is  
3039 sourced in each jurisdiction based on the percentage determined by  
3040 dividing the number of customer channel termination points in such  
3041 jurisdiction by the total number of customer channel termination  
3042 points.

3043 5. A sale of ancillary services is sourced to  
3044 the customer's place of primary use.

3045 (vi) For purposes of subparagraph (v) of this  
3046 paragraph (d):

3047 1. "Air-to-ground radiotelephone service"  
3048 means a radio service, as that term is defined in 47 CFR 22.99, in  
3049 which common carriers are authorized to offer and provide radio  
3050 telecommunications service for hire to subscribers in aircraft.

3051 2. "Call-by-call basis" means any method of  
3052 charging for telecommunications services where the price is  
3053 measured by individual calls.

3054 3. "Communications channel" means a physical  
3055 or virtual path of communications over which signals are  
3056 transmitted between or among customer channel termination points.

3057 4. "Customer" means the person or entity that  
3058 contracts with the seller of telecommunications services. If the



3059 end user of telecommunications services is not the contracting  
3060 party, the end user of the telecommunications service is the  
3061 customer of the telecommunications service. Customer does not  
3062 include a reseller of telecommunications service or for mobile  
3063 telecommunications service of a serving carrier under an agreement  
3064 to serve the customer outside the home service provider's licensed  
3065 service area.

3066                   5. "Customer channel termination point" means  
3067 the location where the customer either inputs or receives the  
3068 communications.

3069                   6. "End user" means the person who utilizes  
3070 the telecommunications service. In the case of an entity, "end  
3071 user" means the individual who utilizes the service on behalf of  
3072 the entity.

3073                   7. "Home service provider" has the meaning  
3074 ascribed to such term in Section 124(5) of Public Law 106-252  
3075 (Mobile Telecommunications Sourcing Act).

3076                   8. "Mobile telecommunications service" has  
3077 the meaning ascribed to such term in Section 124(7) of Public Law  
3078 106-252 (Mobile Telecommunications Sourcing Act).

3079                   9. "Place of primary use" means the street  
3080 address representative of where the customer's use of the  
3081 telecommunications service primarily occurs, which must be the  
3082 residential street address or the primary business street address  
3083 of the customer. In the case of mobile telecommunications



3084 services, the place of primary use must be within the licensed  
3085 service area of the home service provider.

3086                   10. "Post-paid calling service" means the  
3087 telecommunications service obtained by making a payment on a  
3088 call-by-call basis either through the use of a credit card or  
3089 payment mechanism such as a bank card, travel card, credit card or  
3090 debit card, or by charge made to a telephone number which is not  
3091 associated with the origination or termination of the  
3092 telecommunications service. A post-paid calling service includes  
3093 a telecommunications service, except a prepaid wireless calling  
3094 service that would be a prepaid calling service except it is not  
3095 exclusively a telecommunications service.

3096                   11. "Prepaid calling service" means the right  
3097 to access exclusively telecommunications services, which must be  
3098 paid for in advance and which enables the origination of calls  
3099 using an access number or authorization code, whether manually or  
3100 electronically dialed, and that is sold in predetermined units or  
3101 dollars of which the number declines with use in a known amount.

3102                   12. "Prepaid wireless calling service" means  
3103 a telecommunications service that provides the right to utilize  
3104 mobile wireless service as well as other nontelecommunications  
3105 services, including the download of digital products delivered  
3106 electronically, content and ancillary service, which must be paid  
3107 for in advance that is sold in predetermined units or dollars of  
3108 which the number declines with use in a known amount.



3109                   13. "Private communication service" means a  
3110 telecommunications service that entitles the customer to exclusive  
3111 or priority use of a communications channel or group of channels  
3112 between or among termination points, regardless of the manner in  
3113 which such channel or channels are connected, and includes  
3114 switching capacity, extension lines, stations and any other  
3115 associated services that are provided in connection with the use  
3116 of such channel or channels.

3117                   14. "Service address" means:

3118                   a. The location of the  
3119 telecommunications equipment to which a customer's call is charged  
3120 and from which the call originates or terminates, regardless of  
3121 where the call is billed or paid.

3122                   b. If the location in subitem a of this  
3123 item 14 is not known, the origination point of the signal of the  
3124 telecommunications services first identified by either the  
3125 seller's telecommunications system or in information received by  
3126 the seller from its service provider, where the system used to  
3127 transport such signals is not that of the seller.

3128                   c. If the location in subitems a and b  
3129 of this item 14 are not known, the location of the customer's  
3130 place of primary use.

3131                   (vii) 1. For purposes of this subparagraph (vii),  
3132 "bundled transaction" means a transaction that consists of  
3133 distinct and identifiable properties or services which are sold



3134 for a single nonitemized price but which are treated differently  
3135 for tax purposes.

3136                   2. In the case of a bundled transaction that  
3137 includes telecommunications services, ancillary services, Internet  
3138 access, or audio or video programming services taxed under this  
3139 chapter in which the price of the bundled transaction is  
3140 attributable to properties or services that are taxable and  
3141 nontaxable, the portion of the price that is attributable to any  
3142 nontaxable property or service shall be subject to the tax unless  
3143 the provider can reasonably identify that portion from its books  
3144 and records kept in the regular course of business.

3145                   3. In the case of a bundled transaction that  
3146 includes telecommunications services, ancillary services, Internet  
3147 access, audio or video programming services subject to tax under  
3148 this chapter in which the price is attributable to properties or  
3149 services that are subject to the tax but the tax revenue from the  
3150 different properties or services are dedicated to different funds  
3151 or purposes, the provider shall allocate the price among the  
3152 properties or services:

3153                   a. By reasonably identifying the portion  
3154 of the price attributable to each of the properties and services  
3155 from its books and records kept in the regular course of business;  
3156 or

3157                   b. Based on a reasonable allocation  
3158 methodology approved by the department.





3159                   4. This subparagraph (vii) shall not create a  
3160 right of action for a customer to require that the provider or the  
3161 department, for purposes of determining the amount of tax  
3162 applicable to a bundled transaction, allocate the price to the  
3163 different portions of the transaction in order to minimize the  
3164 amount of tax charged to the customer. A customer shall not be  
3165 entitled to rely on the fact that a portion of the price is  
3166 attributable to properties or services not subject to tax unless  
3167 the provider elects, after receiving a written request from the  
3168 customer in the form required by the provider, to provide  
3169 verifiable data based upon the provider's books and records that  
3170 are kept in the regular course of business that reasonably  
3171 identifies the portion of the price attributable to the properties  
3172 or services not subject to the tax.

3173           (2) Persons making sales to consumers of electricity,  
3174 current, power, natural gas, liquefied petroleum gas or other fuel  
3175 for residential heating, lighting or other residential  
3176 noncommercial or nonagricultural use or sales of potable water for  
3177 residential, noncommercial or nonagricultural use shall indicate  
3178 on each statement rendered to customers that such charges are  
3179 exempt from sales taxes.

3180           (3) There is hereby levied, assessed and shall be paid on  
3181 transportation charges on shipments moving between points within  
3182 this state when paid directly by the consumer, a tax equal to the  
3183 rate applicable to the sale of the property being transported.



3184 Such tax shall be reported and paid directly to the Department of  
3185 Revenue by the consumer.

3186       **SECTION 35.** Section 27-65-105, Mississippi Code of 1972, is  
3187 amended as follows:

3188       27-65-105. The exemption from the provisions of this chapter  
3189 which are of a governmental nature or which are more properly  
3190 classified as governmental exemptions than any other exemption  
3191 classification of this chapter shall be confined to those persons  
3192 or property exempted by this section or by provisions of the  
3193 Constitutions of the United States or the State of Mississippi.  
3194 No governmental exemption as now provided by any other section  
3195 shall be valid as against the tax herein levied. Any subsequent  
3196 governmental exemption from the tax levied hereunder shall be  
3197 provided by amendment to this section.

3198       No exemption provided in this section shall apply to taxes  
3199 levied by Section 27-65-15 or 27-65-21, Mississippi Code of 1972,  
3200 except as provided by paragraph (f) of this section.

3201       The tax levied by this chapter shall not apply to the  
3202 following:

3203               (a) Sales of property, labor, services or products  
3204 taxable under Sections 27-65-17, 27-65-19, 27-65-23 and 27-19-26,  
3205 when sold to and billed directly to and payment therefor is made  
3206 directly by the United States government, the State of Mississippi  
3207 and its departments, institutions, counties and municipalities or



3208 departments or school districts of said counties and  
3209 municipalities.

3210       The exemption from the tax imposed under this chapter shall  
3211 not apply to sales of tangible personal property or specified  
3212 digital products, labor or services to contractors purchasing in  
3213 the performance of contracts with the United States, the State of  
3214 Mississippi, counties and municipalities.

3215       (b) Sales to schools, when such schools are supported  
3216 wholly or in part by funds provided by the State of Mississippi,  
3217 provided that this exemption does not apply to sales of property  
3218 which is not to be used in the ordinary operation of the school,  
3219 or which is to be resold to the students or the public.

3220       (c) Amounts received from the sale of school textbooks  
3221 to students.

3222       (d) Sales to the Mississippi Band of Choctaw Indians,  
3223 but not to Indians individually.

3224       (e) Sales of firefighting equipment to governmental  
3225 fire departments or volunteer fire departments for their use.

3226       (f) Sales of any gas from any project, as defined in  
3227 the Municipal Gas Authority of Mississippi Law, to any  
3228 municipality shall not be subject to sales, use or other tax.

3229       (g) Sales of home medical equipment and home medical  
3230 supplies listed as eligible for payment under Title XVIII of the  
3231 Social Security Act or under the state plan for medical assistance  
3232 under Title XIX of the Social Security Act, prosthetics,



3233 orthotics, hearing aids, hearing devices, prescription eyeglasses,  
3234 oxygen and oxygen equipment, when ordered or prescribed by a  
3235 licensed physician for medical purposes of a patient, and when  
3236 payment for such equipment or supplies, or both, is made, in part  
3237 or in whole, under the provisions of the Medicare or Medicaid  
3238 program, then the entire sale shall be exempt from the taxes  
3239 imposed by this chapter. Payment does not have to be made, in  
3240 whole or in part, by any particular person to be eligible for this  
3241 exemption. Purchases of home medical equipment and supplies by a  
3242 provider of home health services or a provider of hospice services  
3243 are eligible for this exemption if the purchases otherwise meet  
3244 the requirements of this paragraph.

3245           (h) Sales to regional educational service agencies  
3246 established under Section 37-7-345.

3247           (i) Sales of buses and other motor vehicles, and parts  
3248 and labor used to maintain and/or repair such buses and motor  
3249 vehicles, to an entity that (a) has entered into a contract with a  
3250 school board under Section 37-41-31 for the purpose of  
3251 transporting students to and from schools and (b) uses or will use  
3252 the buses and other motor vehicles for such transportation  
3253 purposes. This paragraph (i) shall apply to contracts entered  
3254 into or renewed on or after July 1, 2010.

3255           (j) Parking at events held solely for religious or  
3256 charitable purposes at livestock facilities, agriculture  
3257 facilities or other facilities constructed, renovated or expanded



3258 with funds for the grant program authorized under Section 18,  
3259 Chapter 530, Laws of 1995.

3260 (k) Sales of tangible personal property, labor,  
3261 services or products to schools and school districts under a  
3262 program that is administered by or coordinated with an agency,  
3263 commission, department or other instrumentality of the United  
3264 States government when payment for the tangible personal property,  
3265 labor, services or products is made by or through a nonprofit  
3266 organization or other entity established by or for the benefit of  
3267 the agency, commission, department or other instrumentality of the  
3268 United States government administering or coordinating such  
3269 program.

3270 (l) Sales to a health care collaborative as defined in  
3271 Section 2 of this act or an entity controlled by a health care  
3272 collaborative, as provided in Section 14(c) of this act.

3273 **SECTION 36.** Section 27-104-153, Mississippi Code of 1972, is  
3274 amended as follows:

3275 27-104-153. As used in Sections 27-104-151 through  
3276 27-104-159:

3277 (a) "Searchable website" means an Internet site that:

3278 (i) Allows the public to access information  
3279 identified in Sections 27-104-151 through 27-104-159 without any  
3280 fee or charge to the public for that access;

3281 (ii) Provides keyword or other efficient search  
3282 capability to support the public's ability to find, aggregate and



3283 display that information with reasonable ease by accessing a  
3284 single website; and

3285 (iii) Allows the public to programmatically search  
3286 and access all data in a serialized machine readable format, such  
3287 as XML, via a Web-services application programming interface.

3288 (b) "Agency" means a state agency, department,  
3289 institution, board, commission, council, office, bureau, division,  
3290 committee or subcommittee of the state. The term "agency"  
3291 includes individual agencies and programs as well as multiple  
3292 agencies whenever programs and activities involve more than one  
3293 (1) agency. The term "agency" includes all elective offices in  
3294 the executive, legislative and judicial branches of state  
3295 government. The term "agency" does not include counties or  
3296 municipalities, and does not include a health care collaborative  
3297 as defined in Section 2 of this act.

3298 (c) "Entity" or "recipient" means a corporation,  
3299 association, union, limited liability company, limited liability  
3300 partnership, grantee, contractor, county, municipality or other  
3301 local government entity, or any other legal business entity,  
3302 including a nonprofit entity. The term "entity" or "recipient"  
3303 does not include an individual recipient of state public  
3304 assistance.

3305 (d) "Expenditure of state funds" means the disbursement  
3306 or transfer of any funds, from any source or funds, whether  
3307 appropriated or nonappropriated, from any agency. The term



3308 "expenditure of state funds" includes the expenditures from bond  
3309 proceeds.

3310 (e) "Funding action" means the transfer of funds from a  
3311 state agency to another entity for a specific purpose. These  
3312 would include subgranting of funds for specific purposes or the  
3313 funding through bonds or other authority specific projects and  
3314 actions.

3315 (f) "Funding source" means the state account against  
3316 which an expenditure is recorded.

3317 (g) "State audit or report" means any audit or report  
3318 issued by the State Auditor, Joint Legislative Committee on  
3319 Performance Evaluation and Expenditure Review (PEER) or an  
3320 executive body relating to the entity or recipient of funds or to  
3321 the budget program or activity or agency.

3322 **SECTION 37.** Section 31-7-1, Mississippi Code of 1972, is  
3323 amended as follows:

3324 31-7-1. The following terms are defined for the purposes of  
3325 this chapter to have the following meanings:

3326 (a) "Agency" means any state board, commission,  
3327 committee, council, university, department or unit thereof created  
3328 by the Constitution or statutes if such board, commission,  
3329 committee, council, university, department, unit or the head  
3330 thereof is authorized to appoint subordinate staff by the  
3331 Constitution or statute, except a legislative or judicial board,  
3332 commission, committee, council, department or unit thereof; except



3333 a charter school authorized by the Mississippi Charter School  
3334 Authorizer Board; and except the Mississippi State Port Authority.  
3335 The term "agency" does not include a health care collaborative as  
3336 defined in Section 2 of this act.

3337 (b) "Governing authority" means boards of supervisors,  
3338 governing boards of all school districts, all boards of directors  
3339 of public water supply districts, boards of directors of master  
3340 public water supply districts, municipal public utility  
3341 commissions, governing authorities of all municipalities, port  
3342 authorities, Mississippi State Port Authority, commissioners and  
3343 boards of trustees of any public hospitals, boards of trustees of  
3344 public library systems, district attorneys, school attendance  
3345 officers and any political subdivision of the state supported  
3346 wholly or in part by public funds of the state or political  
3347 subdivisions thereof, including commissions, boards and agencies  
3348 created or operated under the authority of any county or  
3349 municipality of this state. The term "governing authority" shall  
3350 not include economic development authorities supported in part by  
3351 private funds, or commissions appointed to hold title to and  
3352 oversee the development and management of lands and buildings  
3353 which are donated by private individuals to the public for the use  
3354 and benefit of the community and which are supported in part by  
3355 private funds. The term "governing authority" also shall not  
3356 include the governing board of a charter school.





3357           (c) "Purchasing agent" means any administrator,  
3358 superintendent, purchase clerk or other chief officer so  
3359 designated having general or special authority to negotiate for  
3360 and make private contract for or purchase for any governing  
3361 authority or agency, including issue purchase orders, invitations  
3362 for bid, requests for proposals, and receive and accept bids.

3363           (d) "Public funds" means and includes any appropriated  
3364 funds, special funds, fees or any other emoluments received by an  
3365 agency or governing authority.

3366           (e) "Commodities" means and includes the various  
3367 commodities, goods, merchandise, furniture, equipment, automotive  
3368 equipment of every kind, and other personal property purchased by  
3369 the agencies of the state and governing authorities, but not  
3370 commodities purchased for resale or raw materials converted into  
3371 products for resale.

3372           (i) "Equipment" shall be construed to include:  
3373 automobiles, trucks, tractors, office appliances and all other  
3374 equipment of every kind and description.

3375           (ii) "Furniture" shall be construed to include:  
3376 desks, chairs, tables, seats, filing cabinets, bookcases and all  
3377 other items of a similar nature as well as dormitory furniture,  
3378 appliances, carpets and all other items of personal property  
3379 generally referred to as home, office or school furniture.

3380           (f) "Emergency" means any circumstances caused by fire,  
3381 flood, explosion, storm, earthquake, epidemic, riot, insurrection



or caused by any inherent defect due to defective construction, or  
when the immediate preservation of order or of public health is  
necessary by reason of unforeseen emergency, or when the immediate  
restoration of a condition of usefulness of any public building,  
equipment, road or bridge appears advisable, or in the case of a  
public utility when there is a failure of any machine or other  
thing used and useful in the generation, production or  
distribution of electricity, water or natural gas, or in the  
transportation or treatment of sewage; or when the delay incident  
to obtaining competitive bids could cause adverse impact upon the  
governing authorities or agency, its employees or its citizens; or  
in the case of a public airport, when the delay incident to  
publishing an advertisement for competitive bids would endanger  
public safety in a specific (not general) manner, result in or  
perpetuate a specific breach of airport security, or prevent the  
airport from providing specific air transportation services.

(g) "Construction" means the process of building,  
altering, improving, renovating or demolishing a public structure,  
public building, or other public real property. It does not  
include routine operation, routine repair or regularly scheduled  
maintenance of existing public structures, public buildings or  
other public real property.

(h) "Purchase" means buying, renting, leasing or  
otherwise acquiring.



3406           (i) "Certified purchasing office" means any purchasing  
3407 office in which fifty percent (50%) or more of the purchasing  
3408 agents hold a certification from the Universal Public Purchasing  
3409 Certification Council or other nationally recognized purchasing  
3410 certification, and in which, in the case of a state agency  
3411 purchasing office, in addition to the national certification, one  
3412 hundred percent (100%) of the purchasing officials hold a  
3413 certification from the State of Mississippi's Basic or Advanced  
3414 Purchasing Certification Program.

3415           (j) "Certified Mississippi Purchasing Agent" means a  
3416 state agency purchasing official who holds a certification from  
3417 the Mississippi Basic Purchasing Certification Program as  
3418 established by the Office of Purchasing, Travel and Fleet  
3419 Management.

3420           (k) "Certified Mississippi Procurement Manager" means a  
3421 state agency purchasing official who holds a certification from  
3422 the Mississippi Advanced Purchasing Certification Program as  
3423 established by the Office of Purchasing, Travel and Fleet  
3424 Management.

3425           **SECTION 38.** Section 41-7-205, Mississippi Code of 1972, is  
3426 amended as follows:

3427           41-7-205. An applicant proposing a project which may be  
3428 governed by the provisions of Section 41-7-171 et seq. may submit  
3429 a determination of reviewability request to obtain a written  
3430 declaratory opinion regarding the reviewability of the proposed



3431 project. If such opinion is sought, the requestor and department  
3432 shall abide by the provisions of Section 25-43-2.103 as they are  
3433 effective on July 1, 2016, except that the department's response  
3434 shall be provided within forty-five (45) days of the request. A  
3435 health care collaborative as defined in Section 2 of this act may  
3436 seek an opinion from the department about whether a certificate of  
3437 need is not required for a project of the health care  
3438 collaborative because of the sponsoring university or health care  
3439 collaborative's teaching or research mission, as provided in  
3440 Section 18(8) of this act.

3441       **SECTION 39.** The provisions of this act are cumulative and  
3442 shall not be deemed to repeal existing laws, except to the extent  
3443 such laws are clearly inconsistent with the provisions of this  
3444 act.

3445       **SECTION 40.** This act shall take effect and be in force from  
3446 and after July 1, 2017.

