

By: Representatives Bell (21st), Stamps

To: Ways and Means

HOUSE BILL NO. 1475

1 AN ACT TO AMEND SECTION 31-7-13, MISSISSIPPI CODE OF 1972, TO  
 2 REVISE THE REVERSE AUCTION METHOD FOR RECEIVING BIDS TO  
 3 DIFFERENTIATE BETWEEN AGENCIES AND GOVERNING AUTHORITIES; TO  
 4 PROVIDE THAT IF AN AGENCY DETERMINES THAT A REVERSE AUCTION IS NOT  
 5 IN THE BEST INTEREST OF THE AGENCY, THEN THAT DETERMINATION MUST  
 6 BE APPROVED BY THE PUBLIC PROCUREMENT REVIEW BOARD; TO PROVIDE  
 7 THAT IF A GOVERNING AUTHORITY DETERMINES THAT A REVERSE AUCTION IS  
 8 NOT IN THE BEST INTEREST OF THE GOVERNING AUTHORITY, THEN THAT  
 9 DETERMINATION MUST BE APPROVED BY THE GOVERNING BOARD OF THE  
 10 GOVERNING AUTHORITY; TO PROVIDE THAT THE AGENCY AND GOVERNING  
 11 AUTHORITY MUST SUBMIT AN EXPLANATION AS TO WHY A REVERSE AUCTION  
 12 IS NOT IN THE BEST INTEREST OF THE AGENCY OR GOVERNING AUTHORITY;  
 13 AND FOR RELATED PURPOSES.

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

15 **SECTION 1.** Section 31-7-13, Mississippi Code of 1972, is  
 16 amended as follows:

17 31-7-13. All agencies and governing authorities shall  
 18 purchase their commodities and printing; contract for garbage  
 19 collection or disposal; contract for solid waste collection or  
 20 disposal; contract for sewage collection or disposal; contract for  
 21 public construction; and contract for rentals as herein provided.

22 (a) **Bidding procedure for purchases not over \$5,000.00.**

23 Purchases which do not involve an expenditure of more than Five



24 Thousand Dollars (\$5,000.00), exclusive of freight or shipping  
25 charges, may be made without advertising or otherwise requesting  
26 competitive bids. However, nothing contained in this paragraph  
27 (a) shall be construed to prohibit any agency or governing  
28 authority from establishing procedures which require competitive  
29 bids on purchases of Five Thousand Dollars (\$5,000.00) or less.

30 (b) **Bidding procedure for purchases over \$5,000.00 but**  
31 **not over \$50,000.00.** Purchases which involve an expenditure of  
32 more than Five Thousand Dollars (\$5,000.00) but not more than  
33 Fifty Thousand Dollars (\$50,000.00), exclusive of freight and  
34 shipping charges, may be made from the lowest and best bidder  
35 without publishing or posting advertisement for bids, provided at  
36 least two (2) competitive written bids have been obtained. Any  
37 state agency or community/junior college purchasing commodities or  
38 procuring construction pursuant to this paragraph (b) may  
39 authorize its purchasing agent, or his designee, to accept the  
40 lowest competitive written bid under Fifty Thousand Dollars  
41 (\$50,000.00). Any governing authority purchasing commodities  
42 pursuant to this paragraph (b) may authorize its purchasing agent,  
43 or his designee, with regard to governing authorities other than  
44 counties, or its purchase clerk, or his designee, with regard to  
45 counties, to accept the lowest and best competitive written bid.  
46 Such authorization shall be made in writing by the governing  
47 authority and shall be maintained on file in the primary office of  
48 the agency and recorded in the official minutes of the governing



49 authority, as appropriate. The purchasing agent or the purchase  
50 clerk, or his designee, as the case may be, and not the governing  
51 authority, shall be liable for any penalties and/or damages as may  
52 be imposed by law for any act or omission of the purchasing agent  
53 or purchase clerk, or his designee, constituting a violation of  
54 law in accepting any bid without approval by the governing  
55 authority. The term "competitive written bid" shall mean a bid  
56 submitted on a bid form furnished by the buying agency or  
57 governing authority and signed by authorized personnel  
58 representing the vendor, or a bid submitted on a vendor's  
59 letterhead or identifiable bid form and signed by authorized  
60 personnel representing the vendor. "Competitive" shall mean that  
61 the bids are developed based upon comparable identification of the  
62 needs and are developed independently and without knowledge of  
63 other bids or prospective bids. Any bid item for construction in  
64 excess of Five Thousand Dollars (\$5,000.00) shall be broken down  
65 by components to provide detail of component description and  
66 pricing. These details shall be submitted with the written bids  
67 and become part of the bid evaluation criteria. Bids may be  
68 submitted by facsimile, electronic mail or other generally  
69 accepted method of information distribution. Bids submitted by  
70 electronic transmission shall not require the signature of the  
71 vendor's representative unless required by agencies or governing  
72 authorities.

73 (c) **Bidding procedure for purchases over \$50,000.00.**



74 (i) **Publication requirement.**

75 1. Purchases which involve an expenditure of  
76 more than Fifty Thousand Dollars (\$50,000.00), exclusive of  
77 freight and shipping charges, may be made from the lowest and best  
78 bidder after advertising for competitive bids once each week for  
79 two (2) consecutive weeks in a regular newspaper published in the  
80 county or municipality in which such agency or governing authority  
81 is located. However, all American Recovery and Reinvestment Act  
82 projects in excess of Twenty-five Thousand Dollars (\$25,000.00)  
83 shall be bid. All references to American Recovery and  
84 Reinvestment Act projects in this section shall not apply to  
85 programs identified in Division B of the American Recovery and  
86 Reinvestment Act.

87 2. Reverse auctions shall be the primary  
88 method for receiving bids during the bidding process. If \* \* \* an  
89 agency or governing authority determines that a reverse auction is  
90 not in the best interest of the \* \* \* agency or governing  
91 authority, then with respect to the agency, that determination  
92 must be approved by the Public Procurement Review Board, and with  
93 respect to a governing authority, that determination must be  
94 approved by the governing body of the governing authority. \* \* \*  
95 An agency shall submit a detailed explanation of why a reverse  
96 auction would not be in the best interest of the \* \* \* agency and  
97 present an alternative process to be approved by the Public  
98 Procurement Review Board. A governing authority shall make



99 findings in its minutes of why a reverse auction would not be in  
100 the best interest of the governing authority. If as to an agency,  
101 the Public Procurement Review Board authorizes the purchasing  
102 entity to solicit bids with a method other than reverse auction,  
103 or if as to a governing authority, the governing board thereof  
104 authorizes the purchasing entity to solicit bids with a method  
105 other than reverse auction, then the purchasing entity may  
106 designate the other methods by which the bids will be received,  
107 including, but not limited to, bids sealed in an envelope, bids  
108 received electronically in a secure system, or bids received by  
109 any other method that promotes open competition and has been  
110 approved by the Office of Purchasing and Travel. However, reverse  
111 auction shall not be used for any public contract for design or  
112 construction of public facilities, including buildings, roads and  
113 bridges and term contracts as provided in paragraph (n) of this  
114 section. As to an agency, the Public Procurement Review Board  
115 must approve any contract entered into by alternative process.  
116 The provisions of this item 2 shall not apply to the individual  
117 state institutions of higher learning.

118                   3. The date as published for the bid opening  
119 shall not be less than seven (7) working days after the last  
120 published notice; however, if the purchase involves a construction  
121 project in which the estimated cost is in excess of Fifty Thousand  
122 Dollars (\$50,000.00), such bids shall not be opened in less than  
123 fifteen (15) working days after the last notice is published and



124 the notice for the purchase of such construction shall be  
125 published once each week for two (2) consecutive weeks. However,  
126 all American Recovery and Reinvestment Act projects in excess of  
127 Twenty-five Thousand Dollars (\$25,000.00) shall be bid. For any  
128 projects in excess of Twenty-five Thousand Dollars (\$25,000.00)  
129 under the American Recovery and Reinvestment Act, publication  
130 shall be made one (1) time and the bid opening for construction  
131 projects shall not be less than ten (10) working days after the  
132 date of the published notice. The notice of intention to let  
133 contracts or purchase equipment shall state the time and place at  
134 which bids shall be received, list the contracts to be made or  
135 types of equipment or supplies to be purchased, and, if all plans  
136 and/or specifications are not published, refer to the plans and/or  
137 specifications on file. If there is no newspaper published in the  
138 county or municipality, then such notice shall be given by posting  
139 same at the courthouse, or for municipalities at the city hall,  
140 and at two (2) other public places in the county or municipality,  
141 and also by publication once each week for two (2) consecutive  
142 weeks in some newspaper having a general circulation in the county  
143 or municipality in the above-provided manner. On the same date  
144 that the notice is submitted to the newspaper for publication, the  
145 agency or governing authority involved shall mail written notice  
146 to, or provide electronic notification to the main office of the  
147 Mississippi Procurement Technical Assistance Program under the  
148 Mississippi Development Authority that contains the same



149 information as that in the published notice. Submissions received  
150 by the Mississippi Procurement Technical Assistance Program for  
151 projects funded by the American Recovery and Reinvestment Act  
152 shall be displayed on a separate and unique Internet web page  
153 accessible to the public and maintained by the Mississippi  
154 Development Authority for the Mississippi Procurement Technical  
155 Assistance Program. Those American Recovery and Reinvestment Act  
156 related submissions shall be publicly posted within twenty-four  
157 (24) hours of receipt by the Mississippi Development Authority and  
158 the bid opening shall not occur until the submission has been  
159 posted for ten (10) consecutive days. The Department of Finance  
160 and Administration shall maintain information regarding contracts  
161 and other expenditures from the American Recovery and Reinvestment  
162 Act, on a unique Internet web page accessible to the public. The  
163 Department of Finance and Administration shall promulgate rules  
164 regarding format, content and deadlines, unless otherwise  
165 specified by law, of the posting of award notices, contract  
166 execution and subsequent amendments, links to the contract  
167 documents, expenditures against the awarded contracts and general  
168 expenditures of funds from the American Recovery and Reinvestment  
169 Act. Within one (1) working day of the contract award, the agency  
170 or governing authority shall post to the designated web page  
171 maintained by the Department of Finance and Administration, notice  
172 of the award, including the award recipient, the contract amount,  
173 and a brief summary of the contract in accordance with rules



174 promulgated by the department. Within one (1) working day of the  
175 contract execution, the agency or governing authority shall post  
176 to the designated web page maintained by the Department of Finance  
177 and Administration a summary of the executed contract and make a  
178 copy of the appropriately redacted contract documents available  
179 for linking to the designated web page in accordance with the  
180 rules promulgated by the department. The information provided by  
181 the agency or governing authority shall be posted to the web page  
182 for the duration of the American Recovery and Reinvestment Act  
183 funding or until the project is completed, whichever is longer.

184 (ii) **Bidding process amendment procedure.** If all  
185 plans and/or specifications are published in the notification,  
186 then the plans and/or specifications may not be amended. If all  
187 plans and/or specifications are not published in the notification,  
188 then amendments to the plans/specifications, bid opening date, bid  
189 opening time and place may be made, provided that the agency or  
190 governing authority maintains a list of all prospective bidders  
191 who are known to have received a copy of the bid documents and all  
192 such prospective bidders are sent copies of all amendments. This  
193 notification of amendments may be made via mail, facsimile,  
194 electronic mail or other generally accepted method of information  
195 distribution. No addendum to bid specifications may be issued  
196 within two (2) working days of the time established for the  
197 receipt of bids unless such addendum also amends the bid opening





198 to a date not less than five (5) working days after the date of  
199 the addendum.

200 (iii) **Filing requirement.** In all cases involving  
201 governing authorities, before the notice shall be published or  
202 posted, the plans or specifications for the construction or  
203 equipment being sought shall be filed with the clerk of the board  
204 of the governing authority. In addition to these requirements, a  
205 bid file shall be established which shall indicate those vendors  
206 to whom such solicitations and specifications were issued, and  
207 such file shall also contain such information as is pertinent to  
208 the bid.

209 (iv) **Specification restrictions.**

210 1. Specifications pertinent to such bidding  
211 shall be written so as not to exclude comparable equipment of  
212 domestic manufacture. However, if valid justification is  
213 presented, the Department of Finance and Administration or the  
214 board of a governing authority may approve a request for specific  
215 equipment necessary to perform a specific job. Further, such  
216 justification, when placed on the minutes of the board of a  
217 governing authority, may serve as authority for that governing  
218 authority to write specifications to require a specific item of  
219 equipment needed to perform a specific job. In addition to these  
220 requirements, from and after July 1, 1990, vendors of relocatable  
221 classrooms and the specifications for the purchase of such  
222 relocatable classrooms published by local school boards shall meet



223 all pertinent regulations of the State Board of Education,  
224 including prior approval of such bid by the State Department of  
225 Education.

226                   2. Specifications for construction projects  
227 may include an allowance for commodities, equipment, furniture,  
228 construction materials or systems in which prospective bidders are  
229 instructed to include in their bids specified amounts for such  
230 items so long as the allowance items are acquired by the vendor in  
231 a commercially reasonable manner and approved by the  
232 agency/governing authority. Such acquisitions shall not be made  
233 to circumvent the public purchasing laws.

234                   (v) **Electronic bids.** Agencies and governing  
235 authorities shall provide a secure electronic interactive system  
236 for the submittal of bids requiring competitive bidding that shall  
237 be an additional bidding option for those bidders who choose to  
238 submit their bids electronically. The Department of Finance and  
239 Administration shall provide, by regulation, the standards that  
240 agencies must follow when receiving electronic bids. Agencies and  
241 governing authorities shall make the appropriate provisions  
242 necessary to accept electronic bids from those bidders who choose  
243 to submit their bids electronically for all purchases requiring  
244 competitive bidding under this section. Any special condition or  
245 requirement for the electronic bid submission shall be specified  
246 in the advertisement for bids required by this section. Agencies  
247 or governing authorities that are currently without available high



248 speed Internet access shall be exempt from the requirement of this  
249 subparagraph (v) until such time that high speed Internet access  
250 becomes available. Any county having a population of less than  
251 twenty thousand (20,000) shall be exempt from the provisions of  
252 this subparagraph (v). Any municipality having a population of  
253 less than ten thousand (10,000) shall be exempt from the  
254 provisions of this subparagraph (v). The provisions of this  
255 subparagraph (v) shall not require any bidder to submit bids  
256 electronically. When construction bids are submitted  
257 electronically, the requirement for including a certificate of  
258 responsibility, or a statement that the bid enclosed does not  
259 exceed Fifty Thousand Dollars (\$50,000.00), on the exterior of the  
260 bid envelope as indicated in Section 31-3-21(1) and (2) shall be  
261 deemed in compliance with by including same as an attachment with  
262 the electronic bid submittal.

263 (d) **Lowest and best bid decision procedure.**

264 (i) **Decision procedure.** Purchases may be made  
265 from the lowest and best bidder. In determining the lowest and  
266 best bid, freight and shipping charges shall be included.  
267 Life-cycle costing, total cost bids, warranties, guaranteed  
268 buy-back provisions and other relevant provisions may be included  
269 in the best bid calculation. All best bid procedures for state  
270 agencies must be in compliance with regulations established by the  
271 Department of Finance and Administration. If any governing  
272 authority accepts a bid other than the lowest bid actually



273 submitted, it shall place on its minutes detailed calculations and  
274 narrative summary showing that the accepted bid was determined to  
275 be the lowest and best bid, including the dollar amount of the  
276 accepted bid and the dollar amount of the lowest bid. No agency  
277 or governing authority shall accept a bid based on items not  
278 included in the specifications.

279 (ii) **Decision procedure for Certified Purchasing**  
280 **Offices.** In addition to the decision procedure set forth in  
281 subparagraph (i) of this paragraph (d), Certified Purchasing  
282 Offices may also use the following procedure: Purchases may be  
283 made from the bidder offering the best value. In determining the  
284 best value bid, freight and shipping charges shall be included.  
285 Life-cycle costing, total cost bids, warranties, guaranteed  
286 buy-back provisions, documented previous experience, training  
287 costs and other relevant provisions, including, but not limited  
288 to, a bidder having a local office and inventory located within  
289 the jurisdiction of the governing authority, may be included in  
290 the best value calculation. This provision shall authorize  
291 Certified Purchasing Offices to utilize a Request For Proposals  
292 (RFP) process when purchasing commodities. All best value  
293 procedures for state agencies must be in compliance with  
294 regulations established by the Department of Finance and  
295 Administration. No agency or governing authority shall accept a  
296 bid based on items or criteria not included in the specifications.



297 (iii) **Decision procedure for Mississippi**

298 **Landmarks.** In addition to the decision procedure set forth in  
299 subparagraph (i) of this paragraph (d), where purchase involves  
300 renovation, restoration, or both, of the State Capitol Building or  
301 any other historical building designated for at least five (5)  
302 years as a Mississippi Landmark by the Board of Trustees of the  
303 Department of Archives and History under the authority of Sections  
304 39-7-7 and 39-7-11, the agency or governing authority may use the  
305 following procedure: Purchases may be made from the lowest and  
306 best prequalified bidder. Prequalification of bidders shall be  
307 determined not less than fifteen (15) working days before the  
308 first published notice of bid opening. Prequalification criteria  
309 shall be limited to bidder's knowledge and experience in  
310 historical restoration, preservation and renovation. In  
311 determining the lowest and best bid, freight and shipping charges  
312 shall be included. Life-cycle costing, total cost bids,  
313 warranties, guaranteed buy-back provisions and other relevant  
314 provisions may be included in the best bid calculation. All best  
315 bid and prequalification procedures for state agencies must be in  
316 compliance with regulations established by the Department of  
317 Finance and Administration. If any governing authority accepts a  
318 bid other than the lowest bid actually submitted, it shall place  
319 on its minutes detailed calculations and narrative summary showing  
320 that the accepted bid was determined to be the lowest and best  
321 bid, including the dollar amount of the accepted bid and the



322 dollar amount of the lowest bid. No agency or governing authority  
323 shall accept a bid based on items not included in the  
324 specifications.

325 (iv) **Construction project negotiations authority.**

326 If the lowest and best bid is not more than ten percent (10%)  
327 above the amount of funds allocated for a public construction or  
328 renovation project, then the agency or governing authority shall  
329 be permitted to negotiate with the lowest bidder in order to enter  
330 into a contract for an amount not to exceed the funds allocated.

331 (e) **Lease-purchase authorization.** For the purposes of  
332 this section, the term "equipment" shall mean equipment, furniture  
333 and, if applicable, associated software and other applicable  
334 direct costs associated with the acquisition. Any lease-purchase  
335 of equipment which an agency is not required to lease-purchase  
336 under the master lease-purchase program pursuant to Section  
337 31-7-10 and any lease-purchase of equipment which a governing  
338 authority elects to lease-purchase may be acquired by a  
339 lease-purchase agreement under this paragraph (e). Lease-purchase  
340 financing may also be obtained from the vendor or from a  
341 third-party source after having solicited and obtained at least  
342 two (2) written competitive bids, as defined in paragraph (b) of  
343 this section, for such financing without advertising for such  
344 bids. Solicitation for the bids for financing may occur before or  
345 after acceptance of bids for the purchase of such equipment or,  
346 where no such bids for purchase are required, at any time before



347 the purchase thereof. No such lease-purchase agreement shall be  
348 for an annual rate of interest which is greater than the overall  
349 maximum interest rate to maturity on general obligation  
350 indebtedness permitted under Section 75-17-101, and the term of  
351 such lease-purchase agreement shall not exceed the useful life of  
352 equipment covered thereby as determined according to the upper  
353 limit of the asset depreciation range (ADR) guidelines for the  
354 Class Life Asset Depreciation Range System established by the  
355 Internal Revenue Service pursuant to the United States Internal  
356 Revenue Code and regulations thereunder as in effect on December  
357 31, 1980, or comparable depreciation guidelines with respect to  
358 any equipment not covered by ADR guidelines. Any lease-purchase  
359 agreement entered into pursuant to this paragraph (e) may contain  
360 any of the terms and conditions which a master lease-purchase  
361 agreement may contain under the provisions of Section 31-7-10(5),  
362 and shall contain an annual allocation dependency clause  
363 substantially similar to that set forth in Section 31-7-10(8).  
364 Each agency or governing authority entering into a lease-purchase  
365 transaction pursuant to this paragraph (e) shall maintain with  
366 respect to each such lease-purchase transaction the same  
367 information as required to be maintained by the Department of  
368 Finance and Administration pursuant to Section 31-7-10(13).  
369 However, nothing contained in this section shall be construed to  
370 permit agencies to acquire items of equipment with a total  
371 acquisition cost in the aggregate of less than Ten Thousand



372 Dollars (\$10,000.00) by a single lease-purchase transaction. All  
373 equipment, and the purchase thereof by any lessor, acquired by  
374 lease-purchase under this paragraph and all lease-purchase  
375 payments with respect thereto shall be exempt from all Mississippi  
376 sales, use and ad valorem taxes. Interest paid on any  
377 lease-purchase agreement under this section shall be exempt from  
378 State of Mississippi income taxation.

379 (f) **Alternate bid authorization.** When necessary to  
380 ensure ready availability of commodities for public works and the  
381 timely completion of public projects, no more than two (2)  
382 alternate bids may be accepted by a governing authority for  
383 commodities. No purchases may be made through use of such  
384 alternate bids procedure unless the lowest and best bidder cannot  
385 deliver the commodities contained in his bid. In that event,  
386 purchases of such commodities may be made from one (1) of the  
387 bidders whose bid was accepted as an alternate.

388 (g) **Construction contract change authorization.** In the  
389 event a determination is made by an agency or governing authority  
390 after a construction contract is let that changes or modifications  
391 to the original contract are necessary or would better serve the  
392 purpose of the agency or the governing authority, such agency or  
393 governing authority may, in its discretion, order such changes  
394 pertaining to the construction that are necessary under the  
395 circumstances without the necessity of further public bids;  
396 provided that such change shall be made in a commercially





397 reasonable manner and shall not be made to circumvent the public  
398 purchasing statutes. In addition to any other authorized person,  
399 the architect or engineer hired by an agency or governing  
400 authority with respect to any public construction contract shall  
401 have the authority, when granted by an agency or governing  
402 authority, to authorize changes or modifications to the original  
403 contract without the necessity of prior approval of the agency or  
404 governing authority when any such change or modification is less  
405 than one percent (1%) of the total contract amount. The agency or  
406 governing authority may limit the number, manner or frequency of  
407 such emergency changes or modifications.

408 (h) **Petroleum purchase alternative.** In addition to  
409 other methods of purchasing authorized in this chapter, when any  
410 agency or governing authority shall have a need for gas, diesel  
411 fuel, oils and/or other petroleum products in excess of the amount  
412 set forth in paragraph (a) of this section, such agency or  
413 governing authority may purchase the commodity after having  
414 solicited and obtained at least two (2) competitive written bids,  
415 as defined in paragraph (b) of this section. If two (2)  
416 competitive written bids are not obtained, the entity shall comply  
417 with the procedures set forth in paragraph (c) of this section.  
418 In the event any agency or governing authority shall have  
419 advertised for bids for the purchase of gas, diesel fuel, oils and  
420 other petroleum products and coal and no acceptable bids can be  
421 obtained, such agency or governing authority is authorized and



422 directed to enter into any negotiations necessary to secure the  
423 lowest and best contract available for the purchase of such  
424 commodities.

425           (i) **Road construction petroleum products price**  
426 **adjustment clause authorization.** Any agency or governing  
427 authority authorized to enter into contracts for the construction,  
428 maintenance, surfacing or repair of highways, roads or streets,  
429 may include in its bid proposal and contract documents a price  
430 adjustment clause with relation to the cost to the contractor,  
431 including taxes, based upon an industry-wide cost index, of  
432 petroleum products including asphalt used in the performance or  
433 execution of the contract or in the production or manufacture of  
434 materials for use in such performance. Such industry-wide index  
435 shall be established and published monthly by the Mississippi  
436 Department of Transportation with a copy thereof to be mailed,  
437 upon request, to the clerks of the governing authority of each  
438 municipality and the clerks of each board of supervisors  
439 throughout the state. The price adjustment clause shall be based  
440 on the cost of such petroleum products only and shall not include  
441 any additional profit or overhead as part of the adjustment. The  
442 bid proposals or document contract shall contain the basis and  
443 methods of adjusting unit prices for the change in the cost of  
444 such petroleum products.

445           (j) **State agency emergency purchase procedure.** If the  
446 governing board or the executive head, or his designees, of any



447 agency of the state shall determine that an emergency exists in  
448 regard to the purchase of any commodities or repair contracts, so  
449 that the delay incident to giving opportunity for competitive  
450 bidding would be detrimental to the interests of the state, then  
451 the head of such agency, or his designees, shall file with the  
452 Department of Finance and Administration (i) a statement  
453 explaining the conditions and circumstances of the emergency,  
454 which shall include a detailed description of the events leading  
455 up to the situation and the negative impact to the entity if the  
456 purchase is made following the statutory requirements set forth in  
457 paragraph (a), (b) or (c) of this section, and (ii) a certified  
458 copy of the appropriate minutes of the board of such agency  
459 requesting the emergency purchase, if applicable. Upon receipt of  
460 the statement and applicable board certification, the State Fiscal  
461 Officer, or his designees, may, in writing, authorize the purchase  
462 or repair without having to comply with competitive bidding  
463 requirements.

464       If the governing board or the executive head, or his  
465 designees, of any agency determines that an emergency exists in  
466 regard to the purchase of any commodities or repair contracts, so  
467 that the delay incident to giving opportunity for competitive  
468 bidding would threaten the health or safety of any person, or the  
469 preservation or protection of property, then the provisions in  
470 this section for competitive bidding shall not apply, and any  
471 officer or agent of the agency having general or specific



472 authority for making the purchase or repair contract shall approve  
473 the bill presented for payment, and he shall certify in writing  
474 from whom the purchase was made, or with whom the repair contract  
475 was made.

476 Total purchases made under this paragraph (j) shall only be  
477 for the purpose of meeting needs created by the emergency  
478 situation. Following the emergency purchase, documentation of the  
479 purchase, including a description of the commodity purchased, the  
480 purchase price thereof and the nature of the emergency shall be  
481 filed with the Department of Finance and Administration. Any  
482 contract awarded pursuant to this paragraph (j) shall not exceed a  
483 term of one (1) year.

484 Purchases under the grant program established under Section  
485 37-68-7 in response to COVID-19 and the directive that school  
486 districts create a distance learning plan and fulfill technology  
487 needs expeditiously shall be deemed an emergency purchase for  
488 purposes of this paragraph (j).

489 (k) **Governing authority emergency purchase procedure.**

490 If the governing authority, or the governing authority acting  
491 through its designee, shall determine that an emergency exists in  
492 regard to the purchase of any commodities or repair contracts, so  
493 that the delay incident to giving opportunity for competitive  
494 bidding would be detrimental to the interest of the governing  
495 authority, then the provisions herein for competitive bidding  
496 shall not apply and any officer or agent of such governing



497 authority having general or special authority therefor in making  
498 such purchase or repair shall approve the bill presented therefor,  
499 and he shall certify in writing thereon from whom such purchase  
500 was made, or with whom such a repair contract was made. At the  
501 board meeting next following the emergency purchase or repair  
502 contract, documentation of the purchase or repair contract,  
503 including a description of the commodity purchased, the price  
504 thereof and the nature of the emergency shall be presented to the  
505 board and shall be placed on the minutes of the board of such  
506 governing authority. Purchases under the grant program  
507 established under Section 37-68-7 in response to COVID-19 and the  
508 directive that school districts create a distance learning plan  
509 and fulfill technology needs expeditiously shall be deemed an  
510 emergency purchase for purposes of this paragraph (k).

511 (1) **Hospital purchase, lease-purchase and lease**  
512 **authorization.**

513 (i) The commissioners or board of trustees of any  
514 public hospital may contract with such lowest and best bidder for  
515 the purchase or lease-purchase of any commodity under a contract  
516 of purchase or lease-purchase agreement whose obligatory payment  
517 terms do not exceed five (5) years.

518 (ii) In addition to the authority granted in  
519 subparagraph (i) of this paragraph (1), the commissioners or board  
520 of trustees is authorized to enter into contracts for the lease of  
521 equipment or services, or both, which it considers necessary for



522 the proper care of patients if, in its opinion, it is not  
523 financially feasible to purchase the necessary equipment or  
524 services. Any such contract for the lease of equipment or  
525 services executed by the commissioners or board shall not exceed a  
526 maximum of five (5) years' duration and shall include a  
527 cancellation clause based on unavailability of funds. If such  
528 cancellation clause is exercised, there shall be no further  
529 liability on the part of the lessee. Any such contract for the  
530 lease of equipment or services executed on behalf of the  
531 commissioners or board that complies with the provisions of this  
532 subparagraph (ii) shall be excepted from the bid requirements set  
533 forth in this section.

534 (m) **Exceptions from bidding requirements.** Excepted  
535 from bid requirements are:

536 (i) **Purchasing agreements approved by department.**  
537 Purchasing agreements, contracts and maximum price regulations  
538 executed or approved by the Department of Finance and  
539 Administration.

540 (ii) **Outside equipment repairs.** Repairs to  
541 equipment, when such repairs are made by repair facilities in the  
542 private sector; however, engines, transmissions, rear axles and/or  
543 other such components shall not be included in this exemption when  
544 replaced as a complete unit instead of being repaired and the need  
545 for such total component replacement is known before disassembly  
546 of the component; however, invoices identifying the equipment,



547 specific repairs made, parts identified by number and name,  
548 supplies used in such repairs, and the number of hours of labor  
549 and costs therefor shall be required for the payment for such  
550 repairs.

551 (iii) **In-house equipment repairs.** Purchases of  
552 parts for repairs to equipment, when such repairs are made by  
553 personnel of the agency or governing authority; however, entire  
554 assemblies, such as engines or transmissions, shall not be  
555 included in this exemption when the entire assembly is being  
556 replaced instead of being repaired.

557 (iv) **Raw gravel or dirt.** Raw unprocessed deposits  
558 of gravel or fill dirt which are to be removed and transported by  
559 the purchaser.

560 (v) **Governmental equipment auctions.** Motor  
561 vehicles or other equipment purchased from a federal agency or  
562 authority, another governing authority or state agency of the  
563 State of Mississippi, or any governing authority or state agency  
564 of another state at a public auction held for the purpose of  
565 disposing of such vehicles or other equipment. Any purchase by a  
566 governing authority under the exemption authorized by this  
567 subparagraph (v) shall require advance authorization spread upon  
568 the minutes of the governing authority to include the listing of  
569 the item or items authorized to be purchased and the maximum bid  
570 authorized to be paid for each item or items.



571                   (vi)   **Intergovernmental sales and transfers.**  
572 Purchases, sales, transfers or trades by governing authorities or  
573 state agencies when such purchases, sales, transfers or trades are  
574 made by a private treaty agreement or through means of  
575 negotiation, from any federal agency or authority, another  
576 governing authority or state agency of the State of Mississippi,  
577 or any state agency or governing authority of another state.  
578 Nothing in this section shall permit such purchases through public  
579 auction except as provided for in subparagraph (v) of this  
580 paragraph (m). It is the intent of this section to allow  
581 governmental entities to dispose of and/or purchase commodities  
582 from other governmental entities at a price that is agreed to by  
583 both parties. This shall allow for purchases and/or sales at  
584 prices which may be determined to be below the market value if the  
585 selling entity determines that the sale at below market value is  
586 in the best interest of the taxpayers of the state. Governing  
587 authorities shall place the terms of the agreement and any  
588 justification on the minutes, and state agencies shall obtain  
589 approval from the Department of Finance and Administration, prior  
590 to releasing or taking possession of the commodities.

591                   (vii)   **Perishable supplies or food.** Perishable  
592 supplies or food purchased for use in connection with hospitals,  
593 the school lunch programs, homemaking programs and for the feeding  
594 of county or municipal prisoners.





595 (viii) **Single source items.** Noncompetitive items  
596 available from one (1) source only. In connection with the  
597 purchase of noncompetitive items only available from one (1)  
598 source, a certification of the conditions and circumstances  
599 requiring the purchase shall be filed by the agency with the  
600 Department of Finance and Administration and by the governing  
601 authority with the board of the governing authority. Upon receipt  
602 of that certification the Department of Finance and Administration  
603 or the board of the governing authority, as the case may be, may,  
604 in writing, authorize the purchase, which authority shall be noted  
605 on the minutes of the body at the next regular meeting thereafter.  
606 In those situations, a governing authority is not required to  
607 obtain the approval of the Department of Finance and  
608 Administration. Following the purchase, the executive head of the  
609 state agency, or his designees, shall file with the Department of  
610 Finance and Administration, documentation of the purchase,  
611 including a description of the commodity purchased, the purchase  
612 price thereof and the source from whom it was purchased.

613 (ix) **Waste disposal facility construction**  
614 **contracts.** Construction of incinerators and other facilities for  
615 disposal of solid wastes in which products either generated  
616 therein, such as steam, or recovered therefrom, such as materials  
617 for recycling, are to be sold or otherwise disposed of; however,  
618 in constructing such facilities, a governing authority or agency  
619 shall publicly issue requests for proposals, advertised for in the



620 same manner as provided herein for seeking bids for public  
621 construction projects, concerning the design, construction,  
622 ownership, operation and/or maintenance of such facilities,  
623 wherein such requests for proposals when issued shall contain  
624 terms and conditions relating to price, financial responsibility,  
625 technology, environmental compatibility, legal responsibilities  
626 and such other matters as are determined by the governing  
627 authority or agency to be appropriate for inclusion; and after  
628 responses to the request for proposals have been duly received,  
629 the governing authority or agency may select the most qualified  
630 proposal or proposals on the basis of price, technology and other  
631 relevant factors and from such proposals, but not limited to the  
632 terms thereof, negotiate and enter contracts with one or more of  
633 the persons or firms submitting proposals.

634 (x) **Hospital group purchase contracts.** Supplies,  
635 commodities and equipment purchased by hospitals through group  
636 purchase programs pursuant to Section 31-7-38.

637 (xi) **Information technology products.** Purchases  
638 of information technology products made by governing authorities  
639 under the provisions of purchase schedules, or contracts executed  
640 or approved by the Mississippi Department of Information  
641 Technology Services and designated for use by governing  
642 authorities.

643 (xii) **Energy efficiency services and equipment.**  
644 Energy efficiency services and equipment acquired by school



645 districts, community and junior colleges, institutions of higher  
646 learning and state agencies or other applicable governmental  
647 entities on a shared-savings, lease or lease-purchase basis  
648 pursuant to Section 31-7-14.

649 (xiii) **Municipal electrical utility system fuel.**

650 Purchases of coal and/or natural gas by municipally owned electric  
651 power generating systems that have the capacity to use both coal  
652 and natural gas for the generation of electric power.

653 (xiv) **Library books and other reference materials.**

654 Purchases by libraries or for libraries of books and periodicals;  
655 processed film, videocassette tapes, filmstrips and slides;  
656 recorded audiotapes, cassettes and diskettes; and any such items  
657 as would be used for teaching, research or other information  
658 distribution; however, equipment such as projectors, recorders,  
659 audio or video equipment, and monitor televisions are not exempt  
660 under this subparagraph.

661 (xv) **Unmarked vehicles.** Purchases of unmarked  
662 vehicles when such purchases are made in accordance with  
663 purchasing regulations adopted by the Department of Finance and  
664 Administration pursuant to Section 31-7-9(2).

665 (xvi) **Election ballots.** Purchases of ballots  
666 printed pursuant to Section 23-15-351.

667 (xvii) **Multichannel interactive video systems.**

668 From and after July 1, 1990, contracts by Mississippi Authority  
669 for Educational Television with any private educational



670 institution or private nonprofit organization whose purposes are  
671 educational in regard to the construction, purchase, lease or  
672 lease-purchase of facilities and equipment and the employment of  
673 personnel for providing multichannel interactive video systems  
674 (ITSF) in the school districts of this state.

675                   (xviii) **Purchases of prison industry products by**  
676 **the Department of Corrections, regional correctional facilities or**  
677 **privately owned prisons.** Purchases made by the Mississippi  
678 Department of Corrections, regional correctional facilities or  
679 privately owned prisons involving any item that is manufactured,  
680 processed, grown or produced from the state's prison industries.

681                   (xix) **Undercover operations equipment.** Purchases  
682 of surveillance equipment or any other high-tech equipment to be  
683 used by law enforcement agents in undercover operations, provided  
684 that any such purchase shall be in compliance with regulations  
685 established by the Department of Finance and Administration.

686                   (xx) **Junior college books for rent.** Purchases by  
687 community or junior colleges of textbooks which are obtained for  
688 the purpose of renting such books to students as part of a book  
689 service system.

690                   (xxi) **Certain school district purchases.**  
691 Purchases of commodities made by school districts from vendors  
692 with which any levying authority of the school district, as  
693 defined in Section 37-57-1, has contracted through competitive  
694 bidding procedures for purchases of the same commodities.



695 (xxii) **Garbage, solid waste and sewage contracts.**  
696 Contracts for garbage collection or disposal, contracts for solid  
697 waste collection or disposal and contracts for sewage collection  
698 or disposal.

699 (xxiii) **Municipal water tank maintenance**  
700 **contracts.** Professional maintenance program contracts for the  
701 repair or maintenance of municipal water tanks, which provide  
702 professional services needed to maintain municipal water storage  
703 tanks for a fixed annual fee for a duration of two (2) or more  
704 years.

705 (xxiv) **Purchases of Mississippi Industries for the**  
706 **Blind products.** Purchases made by state agencies or governing  
707 authorities involving any item that is manufactured, processed or  
708 produced by the Mississippi Industries for the Blind.

709 (xxv) **Purchases of state-adopted textbooks.**  
710 Purchases of state-adopted textbooks by public school districts.

711 (xxvi) **Certain purchases under the Mississippi**  
712 **Major Economic Impact Act.** Contracts entered into pursuant to the  
713 provisions of Section 57-75-9(2), (3) and (4).

714 (xxvii) **Used heavy or specialized machinery or**  
715 **equipment for installation of soil and water conservation**  
716 **practices purchased at auction.** Used heavy or specialized  
717 machinery or equipment used for the installation and  
718 implementation of soil and water conservation practices or  
719 measures purchased subject to the restrictions provided in



720 Sections 69-27-331 through 69-27-341. Any purchase by the State  
721 Soil and Water Conservation Commission under the exemption  
722 authorized by this subparagraph shall require advance  
723 authorization spread upon the minutes of the commission to include  
724 the listing of the item or items authorized to be purchased and  
725 the maximum bid authorized to be paid for each item or items.

726 (xxviii) **Hospital lease of equipment or services.**

727 Leases by hospitals of equipment or services if the leases are in  
728 compliance with paragraph (1)(ii).

729 (xxix) **Purchases made pursuant to qualified**

730 **cooperative purchasing agreements.** Purchases made by certified  
731 purchasing offices of state agencies or governing authorities  
732 under cooperative purchasing agreements previously approved by the  
733 Office of Purchasing and Travel and established by or for any  
734 municipality, county, parish or state government or the federal  
735 government, provided that the notification to potential  
736 contractors includes a clause that sets forth the availability of  
737 the cooperative purchasing agreement to other governmental  
738 entities. Such purchases shall only be made if the use of the  
739 cooperative purchasing agreements is determined to be in the best  
740 interest of the governmental entity.

741 (xxx) **School yearbooks.** Purchases of school

742 yearbooks by state agencies or governing authorities; provided,  
743 however, that state agencies and governing authorities shall use  
744 for these purchases the RFP process as set forth in the



745 Mississippi Procurement Manual adopted by the Office of Purchasing  
746 and Travel.

747 (xxxii) **Design-build method of contracting and**  
748 **certain other contracts.** Contracts entered into under the  
749 provisions of Section 31-7-13.1, 37-101-44 or 65-1-85.

750 (xxxiii) **Toll roads and bridge construction**  
751 **projects.** Contracts entered into under the provisions of Section  
752 65-43-1 or 65-43-3.

753 (xxxiiii) **Certain purchases under Section 57-1-221.**  
754 Contracts entered into pursuant to the provisions of Section  
755 57-1-221.

756 (xxxiv) **Certain transfers made pursuant to the**  
757 **provisions of Section 57-105-1(7).** Transfers of public property  
758 or facilities under Section 57-105-1(7) and construction related  
759 to such public property or facilities.

760 (xxxv) **Certain purchases or transfers entered into**  
761 **with local electrical power associations.** Contracts or agreements  
762 entered into under the provisions of Section 55-3-33.

763 (xxxvi) **Certain purchases by an academic medical**  
764 **center or health sciences school.** Purchases by an academic  
765 medical center or health sciences school, as defined in Section  
766 37-115-50, of commodities that are used for clinical purposes and  
767 1. intended for use in the diagnosis of disease or other  
768 conditions or in the cure, mitigation, treatment or prevention of  
769 disease, and 2. medical devices, biological, drugs and



770 radiation-emitting devices as defined by the United States Food  
771 and Drug Administration.

772 (xxxvii) **Certain purchases made under the Alyce G.**  
773 **Clarke Mississippi Lottery Law.** Contracts made by the Mississippi  
774 Lottery Corporation pursuant to the Alyce G. Clarke Mississippi  
775 Lottery Law.

776 (n) **Term contract authorization.** All contracts for the  
777 purchase of:

778 (i) All contracts for the purchase of commodities,  
779 equipment and public construction (including, but not limited to,  
780 repair and maintenance), may be let for periods of not more than  
781 sixty (60) months in advance, subject to applicable statutory  
782 provisions prohibiting the letting of contracts during specified  
783 periods near the end of terms of office. Term contracts for a  
784 period exceeding twenty-four (24) months shall also be subject to  
785 ratification or cancellation by governing authority boards taking  
786 office subsequent to the governing authority board entering the  
787 contract.

788 (ii) Bid proposals and contracts may include price  
789 adjustment clauses with relation to the cost to the contractor  
790 based upon a nationally published industry-wide or nationally  
791 published and recognized cost index. The cost index used in a  
792 price adjustment clause shall be determined by the Department of  
793 Finance and Administration for the state agencies and by the  
794 governing board for governing authorities. The bid proposal and





795 contract documents utilizing a price adjustment clause shall  
796 contain the basis and method of adjusting unit prices for the  
797 change in the cost of such commodities, equipment and public  
798 construction.

799           (o) **Purchase law violation prohibition and vendor**  
800 **penalty.** No contract or purchase as herein authorized shall be  
801 made for the purpose of circumventing the provisions of this  
802 section requiring competitive bids, nor shall it be lawful for any  
803 person or concern to submit individual invoices for amounts within  
804 those authorized for a contract or purchase where the actual value  
805 of the contract or commodity purchased exceeds the authorized  
806 amount and the invoices therefor are split so as to appear to be  
807 authorized as purchases for which competitive bids are not  
808 required. Submission of such invoices shall constitute a  
809 misdemeanor punishable by a fine of not less than Five Hundred  
810 Dollars (\$500.00) nor more than One Thousand Dollars (\$1,000.00),  
811 or by imprisonment for thirty (30) days in the county jail, or  
812 both such fine and imprisonment. In addition, the claim or claims  
813 submitted shall be forfeited.

814           (p) **Electrical utility petroleum-based equipment**  
815 **purchase procedure.** When in response to a proper advertisement  
816 therefor, no bid firm as to price is submitted to an electric  
817 utility for power transformers, distribution transformers, power  
818 breakers, reclosers or other articles containing a petroleum



819 product, the electric utility may accept the lowest and best bid  
820 therefor although the price is not firm.

821           (q) **Fuel management system bidding procedure.** Any  
822 governing authority or agency of the state shall, before  
823 contracting for the services and products of a fuel management or  
824 fuel access system, enter into negotiations with not fewer than  
825 two (2) sellers of fuel management or fuel access systems for  
826 competitive written bids to provide the services and products for  
827 the systems. In the event that the governing authority or agency  
828 cannot locate two (2) sellers of such systems or cannot obtain  
829 bids from two (2) sellers of such systems, it shall show proof  
830 that it made a diligent, good-faith effort to locate and negotiate  
831 with two (2) sellers of such systems. Such proof shall include,  
832 but not be limited to, publications of a request for proposals and  
833 letters soliciting negotiations and bids. For purposes of this  
834 paragraph (q), a fuel management or fuel access system is an  
835 automated system of acquiring fuel for vehicles as well as  
836 management reports detailing fuel use by vehicles and drivers, and  
837 the term "competitive written bid" shall have the meaning as  
838 defined in paragraph (b) of this section. Governing authorities  
839 and agencies shall be exempt from this process when contracting  
840 for the services and products of fuel management or fuel access  
841 systems under the terms of a state contract established by the  
842 Office of Purchasing and Travel.



843           (r) **Solid waste contract proposal procedure.** Before  
844 entering into any contract for garbage collection or disposal,  
845 contract for solid waste collection or disposal or contract for  
846 sewage collection or disposal, which involves an expenditure of  
847 more than Fifty Thousand Dollars (\$50,000.00), a governing  
848 authority or agency shall issue publicly a request for proposals  
849 concerning the specifications for such services which shall be  
850 advertised for in the same manner as provided in this section for  
851 seeking bids for purchases which involve an expenditure of more  
852 than the amount provided in paragraph (c) of this section. Any  
853 request for proposals when issued shall contain terms and  
854 conditions relating to price, financial responsibility,  
855 technology, legal responsibilities and other relevant factors as  
856 are determined by the governing authority or agency to be  
857 appropriate for inclusion; all factors determined relevant by the  
858 governing authority or agency or required by this paragraph (r)  
859 shall be duly included in the advertisement to elicit proposals.  
860 After responses to the request for proposals have been duly  
861 received, the governing authority or agency shall select the most  
862 qualified proposal or proposals on the basis of price, technology  
863 and other relevant factors and from such proposals, but not  
864 limited to the terms thereof, negotiate and enter into contracts  
865 with one or more of the persons or firms submitting proposals. If  
866 the governing authority or agency deems none of the proposals to  
867 be qualified or otherwise acceptable, the request for proposals



868 process may be reinitiated. Notwithstanding any other provisions  
869 of this paragraph, where a county with at least thirty-five  
870 thousand (35,000) nor more than forty thousand (40,000)  
871 population, according to the 1990 federal decennial census, owns  
872 or operates a solid waste landfill, the governing authorities of  
873 any other county or municipality may contract with the governing  
874 authorities of the county owning or operating the landfill,  
875 pursuant to a resolution duly adopted and spread upon the minutes  
876 of each governing authority involved, for garbage or solid waste  
877 collection or disposal services through contract negotiations.

878 (s) **Minority set-aside authorization.** Notwithstanding  
879 any provision of this section to the contrary, any agency or  
880 governing authority, by order placed on its minutes, may, in its  
881 discretion, set aside not more than twenty percent (20%) of its  
882 anticipated annual expenditures for the purchase of commodities  
883 from minority businesses; however, all such set-aside purchases  
884 shall comply with all purchasing regulations promulgated by the  
885 Department of Finance and Administration and shall be subject to  
886 bid requirements under this section. Set-aside purchases for  
887 which competitive bids are required shall be made from the lowest  
888 and best minority business bidder. For the purposes of this  
889 paragraph, the term "minority business" means a business which is  
890 owned by a majority of persons who are United States citizens or  
891 permanent resident aliens (as defined by the Immigration and  
892 Naturalization Service) of the United States, and who are Asian,



893 Black, Hispanic or Native American, according to the following  
894 definitions:

895 (i) "Asian" means persons having origins in any of  
896 the original people of the Far East, Southeast Asia, the Indian  
897 subcontinent, or the Pacific Islands.

898 (ii) "Black" means persons having origins in any  
899 black racial group of Africa.

900 (iii) "Hispanic" means persons of Spanish or  
901 Portuguese culture with origins in Mexico, South or Central  
902 America, or the Caribbean Islands, regardless of race.

903 (iv) "Native American" means persons having  
904 origins in any of the original people of North America, including  
905 American Indians, Eskimos and Aleuts.

906 (t) **Construction punch list restriction.** The  
907 architect, engineer or other representative designated by the  
908 agency or governing authority that is contracting for public  
909 construction or renovation may prepare and submit to the  
910 contractor only one (1) preliminary punch list of items that do  
911 not meet the contract requirements at the time of substantial  
912 completion and one (1) final list immediately before final  
913 completion and final payment.

914 (u) **Procurement of construction services by state**  
915 **institutions of higher learning.** Contracts for privately financed  
916 construction of auxiliary facilities on the campus of a state  
917 institution of higher learning may be awarded by the Board of



918 Trustees of State Institutions of Higher Learning to the lowest  
919 and best bidder, where sealed bids are solicited, or to the  
920 offeror whose proposal is determined to represent the best value  
921 to the citizens of the State of Mississippi, where requests for  
922 proposals are solicited.

923           (v) **Insurability of bidders for public construction or**  
924 **other public contracts.** In any solicitation for bids to perform  
925 public construction or other public contracts to which this  
926 section applies, including, but not limited to, contracts for  
927 repair and maintenance, for which the contract will require  
928 insurance coverage in an amount of not less than One Million  
929 Dollars (\$1,000,000.00), bidders shall be permitted to either  
930 submit proof of current insurance coverage in the specified amount  
931 or demonstrate ability to obtain the required coverage amount of  
932 insurance if the contract is awarded to the bidder. Proof of  
933 insurance coverage shall be submitted within five (5) business  
934 days from bid acceptance.

935           (w) **Purchase authorization clarification.** Nothing in  
936 this section shall be construed as authorizing any purchase not  
937 authorized by law.

938           **SECTION 2.** This act shall take effect and be in force from  
939 and after July 1, 2022.

