

By: Senator(s) Parks

To: Public Health and  
Welfare; Appropriations

SENATE BILL NO. 2818  
(As Passed the Senate)

1 AN ACT TO AMEND SECTION 25-9-107, MISSISSIPPI CODE OF 1972,  
2 TO PROVIDE THAT PERSONNEL EMPLOYED BY THE MISSISSIPPI DEPARTMENT  
3 OF HEALTH AND/OR THE DEPARTMENT OF REVENUE WHOSE EMPLOYMENT IS  
4 SOLELY IN CONNECTION WITH EITHER DEPARTMENT'S RESPONSIBILITIES IN  
5 IMPLEMENTING, ADMINISTERING AND ENFORCING PROVISIONS OF THE  
6 MISSISSIPPI MEDICAL CANNABIS ACT SHALL BE EXEMPT FROM BEING  
7 CONSIDERED AS STATE SERVICE EMPLOYEES FOR PURPOSES OF THE STATE  
8 PERSONNEL BOARD; TO SET A DATE OF REPEAL FOR THIS PROVISION; TO  
9 AMEND SECTION 25-43-1.103, MISSISSIPPI CODE OF 1972, TO PROVIDE  
10 THAT FOR THE PURPOSES OF IMPLEMENTING, ADMINISTERING AND/OR  
11 ENFORCING THE PROVISIONS OF THE RULES AND REGULATIONS PROMULGATED  
12 PURSUANT TO THE MISSISSIPPI MEDICAL CANNABIS ACT, THE MISSISSIPPI  
13 STATE DEPARTMENT OF HEALTH AND THE MISSISSIPPI DEPARTMENT OF  
14 REVENUE SHALL BE EXEMPTED FROM THE ADMINISTRATIVE PROCEDURE ACT  
15 FROM FEBRUARY 2, 2022, THROUGH JUNE 30, 2023; TO AMEND SECTION  
16 25-53-1, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THROUGH JUNE  
17 30, 2023, THE PROVISIONS OF THE MISSISSIPPI DEPARTMENT OF  
18 INFORMATION TECHNOLOGY SERVICES BID AND CONTRACT REQUIREMENTS  
19 SHALL NOT APPLY TO THE DEPARTMENT OF HEALTH AND THE DEPARTMENT OF  
20 REVENUE FOR THE PURPOSES OF IMPLEMENTING, ADMINISTERING AND  
21 ENFORCING THE PROVISIONS OF THE MISSISSIPPI MEDICAL CANNABIS ACT;  
22 TO AMEND SECTION 25-53-5, MISSISSIPPI CODE OF 1972, AS AMENDED BY  
23 SENATE BILL 2095, 2022 REGULAR SESSION, TO PROVIDE THAT THROUGH  
24 JUNE 30, 2023, THE PROVISIONS OF THE MISSISSIPPI DEPARTMENT OF  
25 INFORMATION TECHNOLOGY SERVICES BID AND CONTRACT REQUIREMENTS  
26 SHALL NOT APPLY TO THE DEPARTMENT OF HEALTH AND THE DEPARTMENT OF  
27 REVENUE FOR THE PURPOSES OF IMPLEMENTING, ADMINISTERING AND  
28 ENFORCING THE PROVISIONS OF THE MISSISSIPPI MEDICAL CANNABIS ACT;  
29 TO AMEND SECTION 27-104-7, MISSISSIPPI CODE OF 1972, TO PROVIDE  
30 THAT ANY PERSONAL OR PROFESSIONAL SERVICE CONTRACT ENTERED INTO BY  
31 THE MISSISSIPPI DEPARTMENT OF HEALTH AND/OR THE DEPARTMENT OF  
32 REVENUE SOLELY IN CONNECTION WITH THEIR RESPECTIVE  
33 RESPONSIBILITIES UNDER THE MISSISSIPPI MEDICAL CANNABIS ACT FROM  
34 FEBRUARY 2, 2022, THROUGH JUNE 30, 2023, SHALL BE EXEMPT FROM THE



35 PUBLIC PROCUREMENT REVIEW BOARD; TO AMEND SECTION 31-7-13,  
36 MISSISSIPPI CODE OF 1972, TO PROVIDE THAT CERTAIN PURCHASES MADE  
37 BY THE DEPARTMENT OF HEALTH AND/OR THE DEPARTMENT OF REVENUE  
38 SOLELY FOR THE PURPOSE OF FULFILLING THEIR RESPECTIVE  
39 RESPONSIBILITIES UNDER THE MISSISSIPPI MEDICAL CANNABIS ACT TO BE  
40 EXEMPT FROM CERTAIN BIDDING REQUIREMENTS; TO AMEND SECTION  
41 45-27-7, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE MISSISSIPPI  
42 DEPARTMENT OF PUBLIC SAFETY SHALL RETAIN ANY FINGERPRINTS SENT BY  
43 THE DEPARTMENT OF HEALTH PURSUANT TO THE MISSISSIPPI MEDICAL  
44 CANNABIS ACT; TO AMEND SECTION 45-27-12, MISSISSIPPI CODE OF 1972,  
45 TO CONFORM TO THIS ACT AND THE MISSISSIPPI MEDICAL CANNABIS ACT;  
46 AND FOR RELATED PURPOSES.

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

48 **SECTION 1.** Section 25-9-107, Mississippi Code of 1972, is  
49 amended as follows:

50 25-9-107. The following terms, when used in this chapter,  
51 unless a different meaning is plainly required by the context,  
52 shall have the following meanings:

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

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

58 (c) "Nonstate service" means the following officers and  
59 employees excluded from the state service by this chapter. The  
60 following are excluded from the state service:

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

63 (ii) The Governor and staff members of the  
64 immediate Office of the Governor;



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

67 (iv) The Lieutenant Governor, staff members of the  
68 immediate Office of the Lieutenant Governor and officers and  
69 employees directly appointed by the Lieutenant Governor;

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

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

74 (vii) All academic officials, members of the  
75 teaching staffs and employees of the state institutions of higher  
76 learning, the Mississippi Community College Board, and community  
77 and junior colleges;

78 (viii) Officers and enlisted members of the  
79 National Guard of the state;

80 (ix) Prisoners, inmates, student or patient help  
81 working in or about institutions;

82 (x) Contract personnel; provided that any agency  
83 which employs state service employees may enter into contracts for  
84 personal and professional services only if such contracts are  
85 approved in compliance with the rules and regulations promulgated  
86 by the Public Procurement Review Board under Section 27-104-7.  
87 Before paying any warrant for such contractual services in excess  
88 of Seventy-five Thousand Dollars (\$75,000.00), the Auditor of  
89 Public Accounts, or the successor to those duties, shall determine



90 whether the contract involved was for personal or professional  
91 services, and, if so, was approved by the Public Procurement  
92 Review Board as required by law;

93 (xi) Part-time employees; provided, however,  
94 part-time employees shall only be hired into authorized employment  
95 positions classified by the board, shall meet minimum  
96 qualifications as set by the board, and shall be paid in  
97 accordance with the Variable Compensation Plan as certified by the  
98 board;

99 (xii) Persons appointed on an emergency basis for  
100 the duration of the emergency; the effective date of the emergency  
101 appointments shall not be earlier than the date approved by the  
102 State Personnel Director, and shall be limited to thirty (30)  
103 working days. Emergency appointments may be extended to sixty  
104 (60) working days by the State Personnel Board;

105 (xiii) Physicians, dentists, veterinarians, nurse  
106 practitioners and attorneys, while serving in their professional  
107 capacities in authorized employment positions who are required by  
108 statute to be licensed, registered or otherwise certified as such,  
109 provided that the State Personnel Director shall verify that the  
110 statutory qualifications are met prior to issuance of a payroll  
111 warrant by the Auditor;

112 (xiv) Personnel who are employed and paid from  
113 funds received from a federal grant program which has been  
114 approved by the Legislature or the Department of Finance and



115 Administration whose length of employment has been determined to  
116 be time-limited in nature. This subparagraph shall apply to  
117 personnel employed under the provisions of the Comprehensive  
118 Employment and Training Act of 1973, as amended, and other special  
119 federal grant programs which are not a part of regular federally  
120 funded programs wherein appropriations and employment positions  
121 are appropriated by the Legislature. Such employees shall be paid  
122 in accordance with the Variable Compensation Plan and shall meet  
123 all qualifications required by federal statutes or by the  
124 Mississippi Classification Plan;

125 (xv) The administrative head who is in charge of  
126 any state department, agency, institution, board or commission,  
127 wherein the statute specifically authorizes the Governor, board,  
128 commission or other authority to appoint said administrative head;  
129 provided, however, that the salary of such administrative head  
130 shall be determined by the State Personnel Board in accordance  
131 with the Variable Compensation Plan unless otherwise fixed by  
132 statute;

133 (xvi) The State Personnel Board shall exclude  
134 top-level positions if the incumbents determine and publicly  
135 advocate substantive program policy and report directly to the  
136 agency head, or the incumbents are required to maintain a direct  
137 confidential working relationship with a key excluded official.  
138 Provided further, a written job classification shall be approved



139 by the board for each such position, and positions so excluded  
140 shall be paid in conformity with the Variable Compensation Plan;

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

144 (xviii) Repealed;

145 (xix) The associate director, deputy directors and  
146 bureau directors within the Department of Agriculture and  
147 Commerce;

148 (xx) Personnel employed by the Mississippi  
149 Industries for the Blind; provided that any agency may enter into  
150 contracts for the personal services of MIB employees without the  
151 prior approval of the State Personnel Board or the State Personal  
152 Service Contract Review Board; however, any agency contracting for  
153 the personal services of an MIB employee shall provide the MIB  
154 employee with not less than the entry-level compensation and  
155 benefits that the agency would provide to a full-time employee of  
156 the agency who performs the same services;

157 (xxi) Personnel employed by the Mississippi  
158 Department of Wildlife, Fisheries and Parks and the Mississippi  
159 Department of Marine Resources as law enforcement trainees  
160 (cadets); such personnel shall be paid in accordance with the  
161 Colonel Guy Groff State Variable Compensation Plan;



162 (xxii) Administrators and instructional employees  
163 under contract or employed by the Mississippi School of the Arts  
164 (MSA) established in Section 37-140-1 et seq.;

165 (xxiii) The President of the Mississippi Lottery  
166 Corporation and personnel employed by the Mississippi Lottery  
167 Corporation; and

168 (xxiv) Employees, excluding administrative  
169 employees, of the State Veterans Affairs Board who are employed at  
170 a veterans home established by the State Veterans Affairs Board  
171 under Section 35-1-19.

172 (xxv) Personnel employed by the Mississippi  
173 Department of Health whose employment is solely in connection with  
174 the Department's responsibilities in implementing, administering  
175 and enforcing provisions of the Mississippi Medical Cannabis Act.  
176 This subparagraph shall stand repealed on June 30, 2023.

177 (xxvi) Personnel employed by the Mississippi  
178 Department of Revenue whose employment is solely in connection  
179 with the Department's responsibilities in implementing,  
180 administering and enforcing provisions of the Mississippi Medical  
181 Cannabis Act. This subparagraph shall stand repealed on June 30,  
182 2023.

183 (d) "Agency" means any state board, commission,  
184 committee, council, department or unit thereof created by the  
185 Constitution or statutes if such board, commission, committee,  
186 council, department, unit or the head thereof, is authorized to



187 appoint subordinate staff by the Constitution or statute, except a  
188 legislative or judicial board, commission, committee, council,  
189 department or unit thereof.

190 **SECTION 2.** Section 25-43-1.103, Mississippi Code of 1972, is  
191 amended as follows:

192 25-43-1.103. (1) This chapter applies to all agencies and  
193 all proceedings not expressly exempted under this chapter.

194 (2) This chapter creates only procedural rights and imposes  
195 only procedural duties. They are in addition to those created and  
196 imposed by other statutes.

197 (3) Specific statutory provisions which govern agency  
198 proceedings and which are in conflict with any of the provisions  
199 of this chapter shall continue to be applied to all proceedings of  
200 any such agency to the extent of such conflict only.

201 (4) The provisions of this chapter shall not be construed to  
202 amend, repeal or supersede the provisions of any other law; and,  
203 to the extent that the provisions of any other law conflict or are  
204 inconsistent with the provisions of this chapter, the provisions  
205 of such other law shall govern and control.

206 (5) An agency may grant procedural rights to persons in  
207 addition to those conferred by this chapter so long as rights  
208 conferred upon other persons by any provision of law are not  
209 substantially prejudiced.

210 (6) For the purposes of implementing, administering and/or  
211 enforcing the provisions of rules and regulations promulgated





212 pursuant to the Mississippi Medical Cannabis Act, the Mississippi  
213 State Department of Health and the Mississippi Department of  
214 Revenue shall be exempted from this chapter from February 2, 2022,  
215 through June 30, 2023. This subsection shall stand repealed on  
216 June 30, 2023.

217         **SECTION 3.** Section 25-53-1, Mississippi Code of 1972, is  
218 amended as follows:

219         25-53-1. The Legislature recognizes that in order for the  
220 State of Mississippi to receive the maximum use and benefit from  
221 information technology and services now in operation or which will  
222 in the future be placed in operation, there should be full  
223 cooperation and cohesive planning and effort by and between the  
224 several state agencies and that it is the responsibility of the  
225 Legislature to provide statutory authority therefor. The  
226 Legislature, therefore, declares and determines that for these and  
227 other related purposes there is hereby established an agency of  
228 state government to be known as the Mississippi Department of  
229 Information Technology Services (MDITS). The Legislature further  
230 declares that the Mississippi Department of Information Technology  
231 Services (MDITS) shall provide statewide services that facilitate  
232 cost-effective information processing and telecommunication  
233 solutions. State agencies shall work in full cooperation with the  
234 board of MDITS to identify opportunities to minimize duplication,  
235 reduce costs and improve the efficiency of providing common  
236 technology services across agency boundaries. The provisions of



237 this chapter shall not apply to the Department of Human Services  
238 for a period of three (3) years beginning July 1, 2017. The  
239 provisions of this chapter shall not apply to the Department of  
240 Child Protection Services for a period of three (3) years  
241 beginning July 1, 2017. Through June 30, 2023, the provisions of  
242 this chapter shall not apply to the Department of Health and the  
243 Department of Revenue for the purposes of implementing,  
244 administering and enforcing the provisions of the Mississippi  
245 Medical Cannabis Act.

246 **SECTION 4.** Section 25-53-5, Mississippi Code of 1972, as  
247 amended by Senate Bill 2095, 2022 Regular Session, is amended as  
248 follows:

249 25-53-5. The authority shall have the following powers,  
250 duties, and responsibilities:

251 (a) (i) The authority shall provide for the  
252 development of plans for the efficient acquisition and utilization  
253 of computer equipment and services by all agencies of state  
254 government, and provide for their implementation. In so doing,  
255 the authority may use the MDITS' staff, at the discretion of the  
256 executive director of the authority, or the authority may contract  
257 for the services of qualified consulting firms in the field of  
258 information technology and utilize the service of such consultants  
259 as may be necessary for such purposes. Pursuant to Section  
260 25-53-1, the provisions of this section shall not apply to the  
261 Department of Human Services for a period of three (3) years



262 beginning on July 1, 2017. Pursuant to Section 25-53-1, the  
263 provisions of this section shall not apply to the Department of  
264 Child Protection Services for a period of three (3) years  
265 beginning July 1, 2017.

266 (ii) [Repealed]

267 (b) The authority shall immediately institute  
268 procedures for carrying out the purposes of this chapter and  
269 supervise the efficient execution of the powers and duties of the  
270 office of executive director of the authority. In the execution  
271 of its functions under this chapter, the authority shall maintain  
272 as a paramount consideration the successful internal organization  
273 and operation of the several agencies so that efficiency existing  
274 therein shall not be adversely affected or impaired. In executing  
275 its functions in relation to the institutions of higher learning  
276 and junior colleges in the state, the authority shall take into  
277 consideration the special needs of such institutions in relation  
278 to the fields of teaching and scientific research.

279 (c) Title of whatever nature of all computer equipment  
280 now vested in any agency of the State of Mississippi is hereby  
281 vested in the authority, and no such equipment shall be disposed  
282 of in any manner except in accordance with the direction of the  
283 authority or under the provisions of such rules and regulations as  
284 may hereafter be adopted by the authority in relation thereto.

285 (d) The authority shall adopt rules, regulations, and  
286 procedures governing the acquisition of computer and



287 telecommunications equipment and services which shall, to the  
288 fullest extent practicable, insure the maximum of competition  
289 between all manufacturers of supplies or equipment or services.  
290 In the writing of specifications, in the making of contracts  
291 relating to the acquisition of such equipment and services, and in  
292 the performance of its other duties the authority shall provide  
293 for the maximum compatibility of all information systems hereafter  
294 installed or utilized by all state agencies and may require the  
295 use of common computer languages where necessary to accomplish the  
296 purposes of this chapter. The authority may establish by  
297 regulation and charge reasonable fees on a nondiscriminatory basis  
298 for the furnishing to bidders of copies of bid specifications and  
299 other documents issued by the authority.

300 (e) The authority shall adopt rules and regulations  
301 governing the sharing with, or the sale or lease of information  
302 technology services to any nonstate agency or person. Such  
303 regulations shall provide that any such sharing, sale or lease  
304 shall be restricted in that same shall be accomplished only where  
305 such services are not readily available otherwise within the  
306 state, and then only at a charge to the user not less than the  
307 prevailing rate of charge for similar services by private  
308 enterprise within this state.

309 (f) The authority may, in its discretion, establish a  
310 special technical advisory committee or committees to study and  
311 make recommendations on technology matters within the competence



312 of the authority as the authority may see fit. Persons serving on  
313 the Information Resource Council, its task forces, or any such  
314 technical advisory committees shall be entitled to receive their  
315 actual and necessary expenses actually incurred in the performance  
316 of such duties, together with mileage as provided by law for state  
317 employees, provided the same has been authorized by a resolution  
318 duly adopted by the authority and entered on its minutes prior to  
319 the performance of such duties.

320 (g) The authority may provide for the development and  
321 require the adoption of standardized computer programs and may  
322 provide for the dissemination of information to and the  
323 establishment of training programs for the personnel of the  
324 various information technology centers of state agencies and  
325 personnel of the agencies utilizing the services thereof.

326 (h) The authority shall adopt reasonable rules and  
327 regulations requiring the reporting to the authority through the  
328 office of executive director of such information as may be  
329 required for carrying out the purposes of this chapter and may  
330 also establish such reasonable procedures to be followed in the  
331 presentation of bills for payment under the terms of all contracts  
332 for the acquisition of computer equipment and services now or  
333 hereafter in force as may be required by the authority or by the  
334 executive director in the execution of their powers and duties.

335 (i) The authority shall require such adequate  
336 documentation of information technology procedures utilized by the



337 various state agencies and may require the establishment of such  
338 organizational structures within state agencies relating to  
339 information technology operations as may be necessary to  
340 effectuate the purposes of this chapter.

341 (j) The authority may adopt such further reasonable  
342 rules and regulations as may be necessary to fully implement the  
343 purposes of this chapter. All rules and regulations adopted by  
344 the authority shall be published and disseminated in readily  
345 accessible form to all affected state agencies, and to all current  
346 suppliers of computer equipment and services to the state, and to  
347 all prospective suppliers requesting the same. Such rules and  
348 regulations shall be kept current, be periodically revised, and  
349 copies thereof shall be available at all times for inspection by  
350 the public at reasonable hours in the offices of the authority.  
351 Whenever possible no rule, regulation or any proposed amendment to  
352 such rules and regulations shall be finally adopted or enforced  
353 until copies of the proposed rules and regulations have been  
354 furnished to all interested parties for their comment and  
355 suggestions.

356 (k) The authority shall establish rules and regulations  
357 which shall provide for the submission of all contracts proposed  
358 to be executed by the executive director for computer equipment or  
359 services to the authority for approval before final execution, and  
360 the authority may provide that such contracts involving the  
361 expenditure of less than such specified amount as may be



362 established by the authority may be finally executed by the  
363 executive director without first obtaining such approval by the  
364 authority.

365 (l) The authority is authorized to purchase, lease, or  
366 rent computer equipment or services and to operate that equipment  
367 and use those services in providing services to one or more state  
368 agencies when in its opinion such operation will provide maximum  
369 efficiency and economy in the functions of any such agency or  
370 agencies.

371 (m) Upon the request of the governing body of a  
372 political subdivision or instrumentality, the authority shall  
373 assist the political subdivision or instrumentality in its  
374 development of plans for the efficient acquisition and utilization  
375 of computer equipment and services. An appropriate fee shall be  
376 charged the political subdivision by the authority for such  
377 assistance.

378 (n) The authority shall adopt rules and regulations  
379 governing the protest procedures to be followed by any actual or  
380 prospective bidder, offerer or contractor who is aggrieved in  
381 connection with the solicitation or award of a contract for the  
382 acquisition of computer equipment or services. Such rules and  
383 regulations shall prescribe the manner, time and procedure for  
384 making protests and may provide that a protest not timely filed  
385 shall be summarily denied. The authority may require the  
386 protesting party, at the time of filing the protest, to post a



387 bond, payable to the state, in an amount that the authority  
388 determines sufficient to cover any expense or loss incurred by the  
389 state, the authority or any state agency as a result of the  
390 protest if the protest subsequently is determined by a court of  
391 competent jurisdiction to have been filed without any substantial  
392 basis or reasonable expectation to believe that the protest was  
393 meritorious; however, in no event may the amount of the bond  
394 required exceed a reasonable estimate of the total project cost.  
395 The authority, in its discretion, also may prohibit any  
396 prospective bidder, offerer or contractor who is a party to any  
397 litigation involving any such contract with the state, the  
398 authority or any agency of the state to participate in any other  
399 such bid, offer or contract, or to be awarded any such contract,  
400 during the pendency of the litigation.

401 (o) The authority shall make a report in writing to the  
402 Legislature each year in the month of January. Such report shall  
403 contain a full and detailed account of the work of the authority  
404 for the preceding year as specified in Section 25-53-29(3).

405 All acquisitions of computer equipment and services involving  
406 the expenditure of funds in excess of the dollar amount  
407 established in Section 31-7-13(c), or rentals or leases in excess  
408 of the dollar amount established in Section 31-7-13(c) for the  
409 term of the contract, shall be based upon competitive and open  
410 specifications, and contracts therefor shall be entered into only  
411 after advertisements for bids are published in one or more daily





412 newspapers having a general circulation in the state not less than  
413 fourteen (14) days prior to receiving sealed bids therefor. The  
414 authority may reserve the right to reject any or all bids, and if  
415 all bids are rejected, the authority may negotiate a contract  
416 within the limitations of the specifications so long as the terms  
417 of any such negotiated contract are equal to or better than the  
418 comparable terms submitted by the lowest and best bidder, and so  
419 long as the total cost to the State of Mississippi does not exceed  
420 the lowest bid. If the authority accepts one (1) of such bids, it  
421 shall be that which is the lowest and best. Through \* \* \* June  
422 30, 2023, the provisions of this paragraph shall not apply to  
423 acquisitions of information technology equipment and services made  
424 by the Mississippi Department of Health and/or the Mississippi  
425 Department of Revenue for the purposes of implementing,  
426 administering and/or enforcing the provisions of the Mississippi  
427 Medical Cannabis Act.

428 (p) When applicable, the authority may procure  
429 equipment, systems and related services in accordance with the law  
430 or regulations, or both, which govern the Bureau of Purchasing of  
431 the Office of General Services or which govern the Mississippi  
432 Department of Information Technology Services procurement of  
433 telecommunications equipment, software and services.

434 (q) The authority is authorized to purchase, lease, or  
435 rent information technology and services for the purpose of  
436 establishing pilot projects to investigate emerging technologies.



437 These acquisitions shall be limited to new technologies and shall  
438 be limited to an amount set by annual appropriation of the  
439 Legislature. These acquisitions shall be exempt from the  
440 advertising and bidding requirement.

441 (r) All fees collected by the Mississippi Department of  
442 Information Technology Services shall be deposited into the  
443 Mississippi Department of Information Technology Services  
444 Revolving Fund unless otherwise specified by the Legislature.

445 (s) The authority shall work closely with the council  
446 to bring about effective coordination of policies, standards and  
447 procedures relating to procurement of remote sensing and  
448 geographic information systems (GIS) resources. In addition, the  
449 authority is responsible for development, operation and  
450 maintenance of a delivery system infrastructure for geographic  
451 information systems data. The authority shall provide a warehouse  
452 for Mississippi's geographic information systems data.

453 (t) The authority shall manage one or more State Data  
454 Centers to provide information technology services on a  
455 cost-sharing basis. In determining the appropriate services to be  
456 provided through the State Data Center, the authority should  
457 consider those services that:

458 (i) Result in savings to the state as a whole;

459 (ii) Improve and enhance the security and  
460 reliability of the state's information and business systems; and



461 (iii) Optimize the efficient use of the state's  
462 information technology assets, including, but not limited to,  
463 promoting partnerships with the state institutions of higher  
464 learning and community colleges to capitalize on advanced  
465 information technology resources.

466 (u) The authority shall increase federal participation  
467 in the cost of the State Data Center to the extent provided by law  
468 and its shared technology infrastructure through providing such  
469 shared services to agencies that receive federal funds. With  
470 regard to state institutions of higher learning and community  
471 colleges, the authority may provide shared services when mutually  
472 agreeable, following a determination by both the authority and the  
473 Board of Trustees of State Institutions of Higher Learning or the  
474 Mississippi Community College Board, as the case may be, that the  
475 sharing of services is mutually beneficial.

476 (v) The authority, in its discretion, may require new  
477 or replacement agency business applications to be hosted at the  
478 State Data Center. With regard to state institutions of higher  
479 learning and community colleges, the authority and the Board of  
480 Trustees of State Institutions of Higher Learning or the  
481 Mississippi Community College Board, as the case may be, may agree  
482 that institutions of higher learning or community colleges may  
483 utilize business applications that are hosted at the State Data  
484 Center, following a determination by both the authority and the  
485 applicable board that the hosting of those applications is



486 mutually beneficial. In addition, the authority may establish  
487 partnerships to capitalize on the advanced technology resources of  
488 the Board of Trustees of State Institutions of Higher Learning or  
489 the Mississippi Community College Board, following a determination  
490 by both the authority and the applicable board that such a  
491 partnership is mutually beneficial.

492 (w) The authority shall provide a periodic update  
493 regarding reform-based information technology initiatives to the  
494 Chairmen of the House and Senate Accountability, Efficiency and  
495 Transparency Committees.

496 From and after July 1, 2018, the expenses of this agency  
497 shall be defrayed by appropriation from the State General Fund.  
498 In addition, in order to receive the maximum use and benefit from  
499 information technology and services, expenses for the provision of  
500 statewide shared services that facilitate cost-effective  
501 information processing and telecommunication solutions shall be  
502 defrayed by pass-through funding and shall be deposited into the  
503 Mississippi Department of Information Technology Services  
504 Revolving Fund unless otherwise specified by the Legislature.  
505 These funds shall only be utilized to pay the actual costs  
506 incurred by the Mississippi Department of Information Technology  
507 Services for providing these shared services to state agencies.  
508 Furthermore, state agencies shall work in full cooperation with  
509 the Board of the Mississippi Department of Information Technology  
510 Services to identify computer equipment or services to minimize



511 duplication, reduce costs, and improve the efficiency of providing  
512 common technology services across agency boundaries.

513         **SECTION 5.** Section 27-104-7, Mississippi Code of 1972, is  
514 amended as follows:

515         27-104-7. (1) (a) There is created the Public Procurement  
516 Review Board, which shall be reconstituted on January 1, 2018, and  
517 shall be composed of the following members:

518                 (i) Three (3) individuals appointed by the  
519 Governor with the advice and consent of the Senate;

520                 (ii) Two (2) individuals appointed by the  
521 Lieutenant Governor with the advice and consent of the Senate; and

522                 (iii) The Executive Director of the Department of  
523 Finance and Administration, serving as an ex officio and nonvoting  
524 member.

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

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

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

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

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



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

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

541 (c) When appointing members to the Public Procurement  
542 Review Board, the Governor and Lieutenant Governor shall take into  
543 consideration persons who possess at least five (5) years of  
544 management experience in general business, health care or finance  
545 for an organization, corporation or other public or private  
546 entity. Any person, or any employee or owner of a company, who  
547 receives any grants, procurements or contracts that are subject to  
548 approval under this section shall not be appointed to the Public  
549 Procurement Review Board. Any person, or any employee or owner of  
550 a company, who is a principal of the source providing a personal  
551 or professional service shall not be appointed to the Public  
552 Procurement Review Board if the principal owns or controls a  
553 greater than five percent (5%) interest or has an ownership value  
554 of One Million Dollars (\$1,000,000.00) in the source's business,  
555 whichever is smaller. No member shall be an officer or employee  
556 of the State of Mississippi while serving as a voting member on  
557 the Public Procurement Review Board.



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

561 (e) The members of the Public Procurement Review Board  
562 shall elect a chair from among the membership, and he or she shall  
563 preside over the meetings of the board. The board shall annually  
564 elect a vice chair, who shall serve in the absence of the chair.  
565 No business shall be transacted, including adoption of rules of  
566 procedure, without the presence of a quorum of the board. Three  
567 (3) members shall be a quorum. No action shall be valid unless  
568 approved by a majority of the members present and voting, entered  
569 upon the minutes of the board and signed by the chair. Necessary  
570 clerical and administrative support for the board shall be  
571 provided by the Department of Finance and Administration. Minutes  
572 shall be kept of the proceedings of each meeting, copies of which  
573 shall be filed on a monthly basis with the chairs of the  
574 Accountability, Efficiency and Transparency Committees of the  
575 Senate and House of Representatives and the chairs of the  
576 Appropriations Committees of the Senate and House of  
577 Representatives.

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

580 (a) Approve all purchasing regulations governing the  
581 purchase or lease by any agency, as defined in Section 31-7-1, of



582 commodities and equipment, except computer equipment acquired  
583 pursuant to Sections 25-53-1 through 25-53-29;

584 (b) Adopt regulations governing the approval of  
585 contracts let for the construction and maintenance of state  
586 buildings and other state facilities as well as related contracts  
587 for architectural and engineering services.

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

592 (c) Adopt regulations governing any lease or rental  
593 agreement by any state agency or department, including any state  
594 agency financed entirely by federal funds, for space outside the  
595 buildings under the jurisdiction of the Department of Finance and  
596 Administration. These regulations shall require each agency  
597 requesting to lease such space to provide the following  
598 information that shall be published by the Department of Finance  
599 and Administration on its website: the agency to lease the space;  
600 the terms of the lease; the approximate square feet to be leased;  
601 the use for the space; a description of a suitable space; the  
602 general location desired for the leased space; the contact  
603 information for a person from the agency; the deadline date for  
604 the agency to have received a lease proposal; any other specific  
605 terms or conditions of the agency; and any other information  
606 deemed appropriate by the Division of Real Property Management of





607 the Department of Finance and Administration or the Public  
608 Procurement Review Board. The information shall be provided  
609 sufficiently in advance of the time the space is needed to allow  
610 the Division of Real Property Management of the Department of  
611 Finance and Administration to review and preapprove the lease  
612 before the time for advertisement begins;

613 (d) Adopt, in its discretion, regulations to set aside  
614 at least five percent (5%) of anticipated annual expenditures for  
615 the purchase of commodities from minority businesses; however, all  
616 such set-aside purchases shall comply with all purchasing  
617 regulations promulgated by the department and shall be subject to  
618 all bid requirements. Set-aside purchases for which competitive  
619 bids are required shall be made from the lowest and best minority  
620 business bidder; however, if no minority bid is available or if  
621 the minority bid is more than two percent (2%) higher than the  
622 lowest bid, then bids shall be accepted and awarded to the lowest  
623 and best bidder. However, the provisions in this paragraph shall  
624 not be construed to prohibit the rejection of a bid when only one  
625 (1) bid is received. Such rejection shall be placed in the  
626 minutes. For the purposes of this paragraph, the term "minority  
627 business" means a business which is owned by a person who is a  
628 citizen or lawful permanent resident of the United States and who  
629 is:

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



632 (ii) Hispanic: of Mexican, Puerto Rican, Cuban,  
633 Central or South American, or other Spanish or Portuguese culture  
634 or origin regardless of race;

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

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

640 (v) Female;

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

647 (f) Promulgate rules and regulations governing the  
648 solicitation and selection of contractual services personnel,  
649 including personal and professional services contracts for any  
650 form of consulting, policy analysis, public relations, marketing,  
651 public affairs, legislative advocacy services or any other  
652 contract that the board deems appropriate for oversight, with the  
653 exception of any personal service contracts entered into by any  
654 agency that employs only nonstate service employees as defined in  
655 Section 25-9-107(c), any personal service contracts entered into  
656 for computer or information technology-related services governed



657 by the Mississippi Department of Information Technology Services,  
658 any personal service contracts entered into by the individual  
659 state institutions of higher learning, any personal service  
660 contracts entered into by the Mississippi Department of  
661 Transportation, any personal service contracts entered into by the  
662 Department of Human Services through June 30, 2019, which the  
663 Executive Director of the Department of Human Services determines  
664 would be useful in establishing and operating the Department of  
665 Child Protection Services, any personal service contracts entered  
666 into by the Department of Child Protection Services through June  
667 30, 2019, any contracts for entertainers and/or performers at the  
668 Mississippi State Fairgrounds entered into by the Mississippi Fair  
669 Commission, any contracts entered into by the Department of  
670 Finance and Administration when procuring aircraft maintenance,  
671 parts, equipment and/or services, any contract entered into by the  
672 Department of Public Safety for service on specialized equipment  
673 and/or software required for the operation at such specialized  
674 equipment for use by the Office of Forensics Laboratories, any  
675 personal or professional service contract entered into by the  
676 Mississippi Department of Health and/or the Department of Revenue  
677 solely in connection with their respective responsibilities under  
678 the Mississippi Medical Cannabis Act from February 2, 2022,  
679 through June 30, 2023, and any contract for attorney, accountant,  
680 actuary auditor, architect, engineer, anatomical pathologist,  
681 utility rate expert services, and any personal service contracts



682 approved by the Executive Director of the Department of Finance  
683 and Administration and entered into by the Coordinator of Mental  
684 Health Accessibility through June 30, 2022. Any such rules and  
685 regulations shall provide for maintaining continuous internal  
686 audit covering the activities of such agency affecting its revenue  
687 and expenditures as required under Section 7-7-3(6)(d). Any rules  
688 and regulation changes related to personal and professional  
689 services contracts that the Public Procurement Review Board may  
690 propose shall be submitted to the Chairs of the Accountability,  
691 Efficiency and Transparency Committees of the Senate and House of  
692 Representatives and the Chairs of the Appropriation Committees of  
693 the Senate and House of Representatives at least fifteen (15) days  
694 before the board votes on the proposed changes, and those rules  
695 and regulation changes, if adopted, shall be promulgated in  
696 accordance with the Mississippi Administrative Procedures Act;

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

701 (h) Develop mandatory standards with respect to  
702 contractual services personnel that require invitations for public  
703 bid, requests for proposals, record keeping and financial  
704 responsibility of contractors. The Public Procurement Review  
705 Board shall, unless exempted under this paragraph (h) or under  
706 paragraph (i) or (o) of this subsection (2), require the agency



707 involved to submit the procurement to a competitive procurement  
708 process, and may reserve the right to reject any or all resulting  
709 procurements;

710 (i) Prescribe certain circumstances by which agency  
711 heads may enter into contracts for personal and professional  
712 services without receiving prior approval from the Public  
713 Procurement Review Board. The Public Procurement Review Board may  
714 establish a preapproved list of providers of various personal and  
715 professional services for set prices with which state agencies may  
716 contract without bidding or prior approval from the board;

717 (i) Agency requirements may be fulfilled by  
718 procuring services performed incident to the state's own programs.  
719 The agency head shall determine in writing whether the price  
720 represents a fair market value for the services. When the  
721 procurements are made from other governmental entities, the  
722 private sector need not be solicited; however, these contracts  
723 shall still be submitted for approval to the Public Procurement  
724 Review Board.

725 (ii) Contracts between two (2) state agencies,  
726 both under Public Procurement Review Board purview, shall not  
727 require Public Procurement Review Board approval. However, the  
728 contracts shall still be entered into the enterprise resource  
729 planning system;

730 (j) Provide standards for the issuance of requests for  
731 proposals, the evaluation of proposals received, consideration of



732 costs and quality of services proposed, contract negotiations, the  
733 administrative monitoring of contract performance by the agency  
734 and successful steps in terminating a contract;

735 (k) Present recommendations for governmental  
736 privatization and to evaluate privatization proposals submitted by  
737 any state agency;

738 (l) Authorize personal and professional service  
739 contracts to be effective for more than one (1) year provided a  
740 funding condition is included in any such multiple year contract,  
741 except the State Board of Education, which shall have the  
742 authority to enter into contractual agreements for student  
743 assessment for a period up to ten (10) years. The State Board of  
744 Education shall procure these services in accordance with the  
745 Public Procurement Review Board procurement regulations;

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

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

752 (o) Develop and implement the following standards and  
753 procedures for the approval of any sole source contract for  
754 personal and professional services regardless of the value of the  
755 procurement:



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

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

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

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

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

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



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

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

787                   (iv) If any person or entity objects and proposes  
788 that the personal or professional service published under  
789 subparagraph (iii) of this paragraph (o) is not a sole source  
790 service and can be provided by another person or entity, then the  
791 objecting person or entity shall notify the Public Procurement  
792 Review Board and the agency that published the proposed sole  
793 source contract with a detailed explanation of why the personal or  
794 professional service is not a sole source service.

795                   (v) 1. If the agency determines after review that  
796 the personal or professional service in the proposed sole source  
797 contract can be provided by another person or entity, then the  
798 agency must withdraw the sole source contract publication from the  
799 procurement portal website and submit the procurement of the  
800 personal or professional service to an advertised competitive bid  
801 or selection process.

802                   2. If the agency determines after review that  
803 there is only one (1) source for the required personal or  
804 professional service, then the agency may appeal to the Public  
805 Procurement Review Board. The agency has the burden of proving





806 that the personal or professional service is only provided by one  
807 (1) source.

808                   3. If the Public Procurement Review Board has  
809 any reasonable doubt as to whether the personal or professional  
810 service can only be provided by one (1) source, then the agency  
811 must submit the procurement of the personal or professional  
812 service to an advertised competitive bid or selection process. No  
813 action taken by the Public Procurement Review Board in this appeal  
814 process shall be valid unless approved by a majority of the  
815 members of the Public Procurement Review Board present and voting.

816                   (vi) The Public Procurement Review Board shall  
817 prepare and submit a quarterly report to the House of  
818 Representatives and Senate Accountability, Efficiency and  
819 Transparency Committees that details the sole source contracts  
820 presented to the Public Procurement Review Board and the reasons  
821 that the Public Procurement Review Board approved or rejected each  
822 contract. These quarterly reports shall also include the  
823 documentation and memoranda required in subsection (4) of this  
824 section. An agency that submitted a sole source contract shall be  
825 prepared to explain the sole source contract to each committee by  
826 December 15 of each year upon request by the committee;

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

829                   (3) All submissions shall be made sufficiently in advance of  
830 each monthly meeting of the Public Procurement Review Board as



831 prescribed by the Public Procurement Review Board. If the Public  
832 Procurement Review Board rejects any contract submitted for review  
833 or approval, the Public Procurement Review Board shall clearly set  
834 out the reasons for its action, including, but not limited to, the  
835 policy that the agency has violated in its submitted contract and  
836 any corrective actions that the agency may take to amend the  
837 contract to comply with the rules and regulations of the Public  
838 Procurement Review Board.

839 (4) All sole source contracts for personal and professional  
840 services awarded by state agencies, other than those exempted  
841 under Section 27-104-7(2)(f) and (8), whether approved by an  
842 agency head or the Public Procurement Review Board, shall contain  
843 in the procurement file a written determination for the approval,  
844 using a request form furnished by the Public Procurement Review  
845 Board. The written determination shall document the basis for the  
846 determination, including any market analysis conducted in order to  
847 ensure that the service required was practicably available from  
848 only one (1) source. A memorandum shall accompany the request  
849 form and address the following four (4) points:

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

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

854 (c) Explanation of why the price is considered  
855 reasonable; and



856 (d) Description of the efforts that were made to  
857 conduct a noncompetitive negotiation to get the best possible  
858 price for the taxpayers.

859 (5) In conjunction with the State Personnel Board, the  
860 Public Procurement Review Board shall develop and promulgate rules  
861 and regulations to define the allowable legal relationship between  
862 contract employees and the contracting departments, agencies and  
863 institutions of state government under the jurisdiction of the  
864 State Personnel Board, in compliance with the applicable rules and  
865 regulations of the federal Internal Revenue Service (IRS) for  
866 federal employment tax purposes. Under these regulations, the  
867 usual common law rules are applicable to determine and require  
868 that such worker is an independent contractor and not an employee,  
869 requiring evidence of lawful behavioral control, lawful financial  
870 control and lawful relationship of the parties. Any state  
871 department, agency or institution shall only be authorized to  
872 contract for personnel services in compliance with those  
873 regulations.

874 (6) No member of the Public Procurement Review Board shall  
875 use his or her official authority or influence to coerce, by  
876 threat of discharge from employment, or otherwise, the purchase of  
877 commodities, the contracting for personal or professional  
878 services, or the contracting for public construction under this  
879 chapter.



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

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

890 (9) Notwithstanding the exemption of personal and  
891 professional services contracts entered into by the Department of  
892 Human Services and personal and professional services contracts  
893 entered into by the Department of Child Protection Services from  
894 the provisions of this section under subsection (2)(f), before the  
895 Department of Human Services or the Department of Child Protection  
896 Services may enter into a personal or professional service  
897 contract, the department(s) shall give notice of the proposed  
898 personal or professional service contract to the Public  
899 Procurement Review Board for any recommendations by the board.  
900 Upon receipt of the notice, the board shall post the notice on its  
901 website and on the procurement portal website established by  
902 Sections 25-53-151 and 27-104-165. If the board does not respond  
903 to the department(s) within seven (7) calendar days after  
904 receiving the notice, the department(s) may enter the proposed



905 personal or professional service contract. If the board responds  
906 to the department(s) within seven (7) calendar days, then the  
907 board has seven (7) calendar days from the date of its initial  
908 response to provide any additional recommendations. After the end  
909 of the second seven-day period, the department(s) may enter the  
910 proposed personal or professional service contract. The board is  
911 not authorized to disapprove any proposed personal or professional  
912 services contracts. This subsection shall stand repealed on July  
913 1, 2022.

914       **SECTION 6.** Section 31-7-13, Mississippi Code of 1972, is  
915 amended as follows:

916       31-7-13. All agencies and governing authorities shall  
917 purchase their commodities and printing; contract for garbage  
918 collection or disposal; contract for solid waste collection or  
919 disposal; contract for sewage collection or disposal; contract for  
920 public construction; and contract for rentals as herein provided.

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

922 Purchases which do not involve an expenditure of more than Five  
923 Thousand Dollars (\$5,000.00), exclusive of freight or shipping  
924 charges, may be made without advertising or otherwise requesting  
925 competitive bids. However, nothing contained in this paragraph

926 (a) shall be construed to prohibit any agency or governing  
927 authority from establishing procedures which require competitive  
928 bids on purchases of Five Thousand Dollars (\$5,000.00) or less.



929                   (b)   **Bidding procedure for purchases over \$5,000.00 but**  
930 **not over \$50,000.00.** Purchases which involve an expenditure of  
931 more than Five Thousand Dollars (\$5,000.00) but not more than  
932 Fifty Thousand Dollars (\$50,000.00), exclusive of freight and  
933 shipping charges, may be made from the lowest and best bidder  
934 without publishing or posting advertisement for bids, provided at  
935 least two (2) competitive written bids have been obtained. Any  
936 state agency or community/junior college purchasing commodities or  
937 procuring construction pursuant to this paragraph (b) may  
938 authorize its purchasing agent, or his designee, to accept the  
939 lowest competitive written bid under Fifty Thousand Dollars  
940 (\$50,000.00). Any governing authority purchasing commodities  
941 pursuant to this paragraph (b) may authorize its purchasing agent,  
942 or his designee, with regard to governing authorities other than  
943 counties, or its purchase clerk, or his designee, with regard to  
944 counties, to accept the lowest and best competitive written bid.  
945 Such authorization shall be made in writing by the governing  
946 authority and shall be maintained on file in the primary office of  
947 the agency and recorded in the official minutes of the governing  
948 authority, as appropriate. The purchasing agent or the purchase  
949 clerk, or his designee, as the case may be, and not the governing  
950 authority, shall be liable for any penalties and/or damages as may  
951 be imposed by law for any act or omission of the purchasing agent  
952 or purchase clerk, or his designee, constituting a violation of  
953 law in accepting any bid without approval by the governing



954 authority. The term "competitive written bid" shall mean a bid  
955 submitted on a bid form furnished by the buying agency or  
956 governing authority and signed by authorized personnel  
957 representing the vendor, or a bid submitted on a vendor's  
958 letterhead or identifiable bid form and signed by authorized  
959 personnel representing the vendor. "Competitive" shall mean that  
960 the bids are developed based upon comparable identification of the  
961 needs and are developed independently and without knowledge of  
962 other bids or prospective bids. Any bid item for construction in  
963 excess of Five Thousand Dollars (\$5,000.00) shall be broken down  
964 by components to provide detail of component description and  
965 pricing. These details shall be submitted with the written bids  
966 and become part of the bid evaluation criteria. Bids may be  
967 submitted by facsimile, electronic mail or other generally  
968 accepted method of information distribution. Bids submitted by  
969 electronic transmission shall not require the signature of the  
970 vendor's representative unless required by agencies or governing  
971 authorities.

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

973 (i) **Publication requirement.**

974 1. Purchases which involve an expenditure of  
975 more than Fifty Thousand Dollars (\$50,000.00), exclusive of  
976 freight and shipping charges, may be made from the lowest and best  
977 bidder after advertising for competitive bids once each week for  
978 two (2) consecutive weeks in a regular newspaper published in the



979 county or municipality in which such agency or governing authority  
980 is located. However, all American Recovery and Reinvestment Act  
981 projects in excess of Twenty-five Thousand Dollars (\$25,000.00)  
982 shall be bid. All references to American Recovery and  
983 Reinvestment Act projects in this section shall not apply to  
984 programs identified in Division B of the American Recovery and  
985 Reinvestment Act.

986                   2. Reverse auctions shall be the primary  
987 method for receiving bids during the bidding process. If a  
988 purchasing entity determines that a reverse auction is not in the  
989 best interest of the state, then that determination must be  
990 approved by the Public Procurement Review Board. The purchasing  
991 entity shall submit a detailed explanation of why a reverse  
992 auction would not be in the best interest of the state and present  
993 an alternative process to be approved by the Public Procurement  
994 Review Board. If the Public Procurement Review Board authorizes  
995 the purchasing entity to solicit bids with a method other than  
996 reverse auction, then the purchasing entity may designate the  
997 other methods by which the bids will be received, including, but  
998 not limited to, bids sealed in an envelope, bids received  
999 electronically in a secure system, or bids received by any other  
1000 method that promotes open competition and has been approved by the  
1001 Office of Purchasing and Travel. However, reverse auction shall  
1002 not be used for any public contract for design or construction of  
1003 public facilities, including buildings, roads and bridges and term





1004 contracts as provided in paragraph (n) of this section. The  
1005 Public Procurement Review Board must approve any contract entered  
1006 into by alternative process. The provisions of this item 2 shall  
1007 not apply to the individual state institutions of higher learning.

1008           3. The date as published for the bid opening  
1009 shall not be less than seven (7) working days after the last  
1010 published notice; however, if the purchase involves a construction  
1011 project in which the estimated cost is in excess of Fifty Thousand  
1012 Dollars (\$50,000.00), such bids shall not be opened in less than  
1013 fifteen (15) working days after the last notice is published and  
1014 the notice for the purchase of such construction shall be  
1015 published once each week for two (2) consecutive weeks. However,  
1016 all American Recovery and Reinvestment Act projects in excess of  
1017 Twenty-five Thousand Dollars (\$25,000.00) shall be bid. For any  
1018 projects in excess of Twenty-five Thousand Dollars (\$25,000.00)  
1019 under the American Recovery and Reinvestment Act, publication  
1020 shall be made one (1) time and the bid opening for construction  
1021 projects shall not be less than ten (10) working days after the  
1022 date of the published notice. The notice of intention to let  
1023 contracts or purchase equipment shall state the time and place at  
1024 which bids shall be received, list the contracts to be made or  
1025 types of equipment or supplies to be purchased, and, if all plans  
1026 and/or specifications are not published, refer to the plans and/or  
1027 specifications on file. If there is no newspaper published in the  
1028 county or municipality, then such notice shall be given by posting



1029 same at the courthouse, or for municipalities at the city hall,  
1030 and at two (2) other public places in the county or municipality,  
1031 and also by publication once each week for two (2) consecutive  
1032 weeks in some newspaper having a general circulation in the county  
1033 or municipality in the above-provided manner. On the same date  
1034 that the notice is submitted to the newspaper for publication, the  
1035 agency or governing authority involved shall mail written notice  
1036 to, or provide electronic notification to the main office of the  
1037 Mississippi Procurement Technical Assistance Program under the  
1038 Mississippi Development Authority that contains the same  
1039 information as that in the published notice. Submissions received  
1040 by the Mississippi Procurement Technical Assistance Program for  
1041 projects funded by the American Recovery and Reinvestment Act  
1042 shall be displayed on a separate and unique Internet web page  
1043 accessible to the public and maintained by the Mississippi  
1044 Development Authority for the Mississippi Procurement Technical  
1045 Assistance Program. Those American Recovery and Reinvestment Act  
1046 related submissions shall be publicly posted within twenty-four  
1047 (24) hours of receipt by the Mississippi Development Authority and  
1048 the bid opening shall not occur until the submission has been  
1049 posted for ten (10) consecutive days. The Department of Finance  
1050 and Administration shall maintain information regarding contracts  
1051 and other expenditures from the American Recovery and Reinvestment  
1052 Act, on a unique Internet web page accessible to the public. The  
1053 Department of Finance and Administration shall promulgate rules



1054 regarding format, content and deadlines, unless otherwise  
1055 specified by law, of the posting of award notices, contract  
1056 execution and subsequent amendments, links to the contract  
1057 documents, expenditures against the awarded contracts and general  
1058 expenditures of funds from the American Recovery and Reinvestment  
1059 Act. Within one (1) working day of the contract award, the agency  
1060 or governing authority shall post to the designated web page  
1061 maintained by the Department of Finance and Administration, notice  
1062 of the award, including the award recipient, the contract amount,  
1063 and a brief summary of the contract in accordance with rules  
1064 promulgated by the department. Within one (1) working day of the  
1065 contract execution, the agency or governing authority shall post  
1066 to the designated web page maintained by the Department of Finance  
1067 and Administration a summary of the executed contract and make a  
1068 copy of the appropriately redacted contract documents available  
1069 for linking to the designated web page in accordance with the  
1070 rules promulgated by the department. The information provided by  
1071 the agency or governing authority shall be posted to the web page  
1072 for the duration of the American Recovery and Reinvestment Act  
1073 funding or until the project is completed, whichever is longer.

1074 (ii) **Bidding process amendment procedure.** If all  
1075 plans and/or specifications are published in the notification,  
1076 then the plans and/or specifications may not be amended. If all  
1077 plans and/or specifications are not published in the notification,  
1078 then amendments to the plans/specifications, bid opening date, bid



1079 opening time and place may be made, provided that the agency or  
1080 governing authority maintains a list of all prospective bidders  
1081 who are known to have received a copy of the bid documents and all  
1082 such prospective bidders are sent copies of all amendments. This  
1083 notification of amendments may be made via mail, facsimile,  
1084 electronic mail or other generally accepted method of information  
1085 distribution. No addendum to bid specifications may be issued  
1086 within two (2) working days of the time established for the  
1087 receipt of bids unless such addendum also amends the bid opening  
1088 to a date not less than five (5) working days after the date of  
1089 the addendum.

1090 (iii) **Filing requirement.** In all cases involving  
1091 governing authorities, before the notice shall be published or  
1092 posted, the plans or specifications for the construction or  
1093 equipment being sought shall be filed with the clerk of the board  
1094 of the governing authority. In addition to these requirements, a  
1095 bid file shall be established which shall indicate those vendors  
1096 to whom such solicitations and specifications were issued, and  
1097 such file shall also contain such information as is pertinent to  
1098 the bid.

1099 (iv) **Specification restrictions.**

1100 1. Specifications pertinent to such bidding  
1101 shall be written so as not to exclude comparable equipment of  
1102 domestic manufacture. However, if valid justification is  
1103 presented, the Department of Finance and Administration or the



1104 board of a governing authority may approve a request for specific  
1105 equipment necessary to perform a specific job. Further, such  
1106 justification, when placed on the minutes of the board of a  
1107 governing authority, may serve as authority for that governing  
1108 authority to write specifications to require a specific item of  
1109 equipment needed to perform a specific job. In addition to these  
1110 requirements, from and after July 1, 1990, vendors of relocatable  
1111 classrooms and the specifications for the purchase of such  
1112 relocatable classrooms published by local school boards shall meet  
1113 all pertinent regulations of the State Board of Education,  
1114 including prior approval of such bid by the State Department of  
1115 Education.

1116                   2. Specifications for construction projects  
1117 may include an allowance for commodities, equipment, furniture,  
1118 construction materials or systems in which prospective bidders are  
1119 instructed to include in their bids specified amounts for such  
1120 items so long as the allowance items are acquired by the vendor in  
1121 a commercially reasonable manner and approved by the  
1122 agency/governing authority. Such acquisitions shall not be made  
1123 to circumvent the public purchasing laws.

1124                   (v) **Electronic bids.** Agencies and governing  
1125 authorities shall provide a secure electronic interactive system  
1126 for the submittal of bids requiring competitive bidding that shall  
1127 be an additional bidding option for those bidders who choose to  
1128 submit their bids electronically. The Department of Finance and



1129 Administration shall provide, by regulation, the standards that  
1130 agencies must follow when receiving electronic bids. Agencies and  
1131 governing authorities shall make the appropriate provisions  
1132 necessary to accept electronic bids from those bidders who choose  
1133 to submit their bids electronically for all purchases requiring  
1134 competitive bidding under this section. Any special condition or  
1135 requirement for the electronic bid submission shall be specified  
1136 in the advertisement for bids required by this section. Agencies  
1137 or governing authorities that are currently without available high  
1138 speed Internet access shall be exempt from the requirement of this  
1139 subparagraph (v) until such time that high speed Internet access  
1140 becomes available. Any county having a population of less than  
1141 twenty thousand (20,000) shall be exempt from the provisions of  
1142 this subparagraph (v). Any municipality having a population of  
1143 less than ten thousand (10,000) shall be exempt from the  
1144 provisions of this subparagraph (v). The provisions of this  
1145 subparagraph (v) shall not require any bidder to submit bids  
1146 electronically. When construction bids are submitted  
1147 electronically, the requirement for including a certificate of  
1148 responsibility, or a statement that the bid enclosed does not  
1149 exceed Fifty Thousand Dollars (\$50,000.00), on the exterior of the  
1150 bid envelope as indicated in Section 31-3-21(1) and (2) shall be  
1151 deemed in compliance with by including same as an attachment with  
1152 the electronic bid submittal.

1153 (d) **Lowest and best bid decision procedure.**



1154 (i) **Decision procedure.** Purchases may be made  
1155 from the lowest and best bidder. In determining the lowest and  
1156 best bid, freight and shipping charges shall be included.  
1157 Life-cycle costing, total cost bids, warranties, guaranteed  
1158 buy-back provisions and other relevant provisions may be included  
1159 in the best bid calculation. All best bid procedures for state  
1160 agencies must be in compliance with regulations established by the  
1161 Department of Finance and Administration. If any governing  
1162 authority accepts a bid other than the lowest bid actually  
1163 submitted, it shall place on its minutes detailed calculations and  
1164 narrative summary showing that the accepted bid was determined to  
1165 be the lowest and best bid, including the dollar amount of the  
1166 accepted bid and the dollar amount of the lowest bid. No agency  
1167 or governing authority shall accept a bid based on items not  
1168 included in the specifications.

1169 (ii) **Decision procedure for Certified Purchasing**  
1170 **Offices.** In addition to the decision procedure set forth in  
1171 subparagraph (i) of this paragraph (d), Certified Purchasing  
1172 Offices may also use the following procedure: Purchases may be  
1173 made from the bidder offering the best value. In determining the  
1174 best value bid, freight and shipping charges shall be included.  
1175 Life-cycle costing, total cost bids, warranties, guaranteed  
1176 buy-back provisions, documented previous experience, training  
1177 costs and other relevant provisions, including, but not limited  
1178 to, a bidder having a local office and inventory located within



1179 the jurisdiction of the governing authority, may be included in  
1180 the best value calculation. This provision shall authorize  
1181 Certified Purchasing Offices to utilize a Request For Proposals  
1182 (RFP) process when purchasing commodities. All best value  
1183 procedures for state agencies must be in compliance with  
1184 regulations established by the Department of Finance and  
1185 Administration. No agency or governing authority shall accept a  
1186 bid based on items or criteria not included in the specifications.

1187 (iii) **Decision procedure for Mississippi**

1188 **Landmarks.** In addition to the decision procedure set forth in  
1189 subparagraph (i) of this paragraph (d), where purchase involves  
1190 renovation, restoration, or both, of the State Capitol Building or  
1191 any other historical building designated for at least five (5)  
1192 years as a Mississippi Landmark by the Board of Trustees of the  
1193 Department of Archives and History under the authority of Sections  
1194 39-7-7 and 39-7-11, the agency or governing authority may use the  
1195 following procedure: Purchases may be made from the lowest and  
1196 best prequalified bidder. Prequalification of bidders shall be  
1197 determined not less than fifteen (15) working days before the  
1198 first published notice of bid opening. Prequalification criteria  
1199 shall be limited to bidder's knowledge and experience in  
1200 historical restoration, preservation and renovation. In  
1201 determining the lowest and best bid, freight and shipping charges  
1202 shall be included. Life-cycle costing, total cost bids,  
1203 warranties, guaranteed buy-back provisions and other relevant





1204 provisions may be included in the best bid calculation. All best  
1205 bid and prequalification procedures for state agencies must be in  
1206 compliance with regulations established by the Department of  
1207 Finance and Administration. If any governing authority accepts a  
1208 bid other than the lowest bid actually submitted, it shall place  
1209 on its minutes detailed calculations and narrative summary showing  
1210 that the accepted bid was determined to be the lowest and best  
1211 bid, including the dollar amount of the accepted bid and the  
1212 dollar amount of the lowest bid. No agency or governing authority  
1213 shall accept a bid based on items not included in the  
1214 specifications.

1215 (iv) **Construction project negotiations authority.**

1216 If the lowest and best bid is not more than ten percent (10%)  
1217 above the amount of funds allocated for a public construction or  
1218 renovation project, then the agency or governing authority shall  
1219 be permitted to negotiate with the lowest bidder in order to enter  
1220 into a contract for an amount not to exceed the funds allocated.

1221 (e) **Lease-purchase authorization.** For the purposes of  
1222 this section, the term "equipment" shall mean equipment, furniture  
1223 and, if applicable, associated software and other applicable  
1224 direct costs associated with the acquisition. Any lease-purchase  
1225 of equipment which an agency is not required to lease-purchase  
1226 under the master lease-purchase program pursuant to Section  
1227 31-7-10 and any lease-purchase of equipment which a governing  
1228 authority elects to lease-purchase may be acquired by a



1229 lease-purchase agreement under this paragraph (e). Lease-purchase  
1230 financing may also be obtained from the vendor or from a  
1231 third-party source after having solicited and obtained at least  
1232 two (2) written competitive bids, as defined in paragraph (b) of  
1233 this section, for such financing without advertising for such  
1234 bids. Solicitation for the bids for financing may occur before or  
1235 after acceptance of bids for the purchase of such equipment or,  
1236 where no such bids for purchase are required, at any time before  
1237 the purchase thereof. No such lease-purchase agreement shall be  
1238 for an annual rate of interest which is greater than the overall  
1239 maximum interest rate to maturity on general obligation  
1240 indebtedness permitted under Section 75-17-101, and the term of  
1241 such lease-purchase agreement shall not exceed the useful life of  
1242 equipment covered thereby as determined according to the upper  
1243 limit of the asset depreciation range (ADR) guidelines for the  
1244 Class Life Asset Depreciation Range System established by the  
1245 Internal Revenue Service pursuant to the United States Internal  
1246 Revenue Code and regulations thereunder as in effect on December  
1247 31, 1980, or comparable depreciation guidelines with respect to  
1248 any equipment not covered by ADR guidelines. Any lease-purchase  
1249 agreement entered into pursuant to this paragraph (e) may contain  
1250 any of the terms and conditions which a master lease-purchase  
1251 agreement may contain under the provisions of Section 31-7-10(5),  
1252 and shall contain an annual allocation dependency clause  
1253 substantially similar to that set forth in Section 31-7-10(8).



1254 Each agency or governing authority entering into a lease-purchase  
1255 transaction pursuant to this paragraph (e) shall maintain with  
1256 respect to each such lease-purchase transaction the same  
1257 information as required to be maintained by the Department of  
1258 Finance and Administration pursuant to Section 31-7-10(13).  
1259 However, nothing contained in this section shall be construed to  
1260 permit agencies to acquire items of equipment with a total  
1261 acquisition cost in the aggregate of less than Ten Thousand  
1262 Dollars (\$10,000.00) by a single lease-purchase transaction. All  
1263 equipment, and the purchase thereof by any lessor, acquired by  
1264 lease-purchase under this paragraph and all lease-purchase  
1265 payments with respect thereto shall be exempt from all Mississippi  
1266 sales, use and ad valorem taxes. Interest paid on any  
1267 lease-purchase agreement under this section shall be exempt from  
1268 State of Mississippi income taxation.

1269           (f) **Alternate bid authorization.** When necessary to  
1270 ensure ready availability of commodities for public works and the  
1271 timely completion of public projects, no more than two (2)  
1272 alternate bids may be accepted by a governing authority for  
1273 commodities. No purchases may be made through use of such  
1274 alternate bids procedure unless the lowest and best bidder cannot  
1275 deliver the commodities contained in his bid. In that event,  
1276 purchases of such commodities may be made from one (1) of the  
1277 bidders whose bid was accepted as an alternate.



1278                   (g) **Construction contract change authorization.** In the  
1279 event a determination is made by an agency or governing authority  
1280 after a construction contract is let that changes or modifications  
1281 to the original contract are necessary or would better serve the  
1282 purpose of the agency or the governing authority, such agency or  
1283 governing authority may, in its discretion, order such changes  
1284 pertaining to the construction that are necessary under the  
1285 circumstances without the necessity of further public bids;  
1286 provided that such change shall be made in a commercially  
1287 reasonable manner and shall not be made to circumvent the public  
1288 purchasing statutes. In addition to any other authorized person,  
1289 the architect or engineer hired by an agency or governing  
1290 authority with respect to any public construction contract shall  
1291 have the authority, when granted by an agency or governing  
1292 authority, to authorize changes or modifications to the original  
1293 contract without the necessity of prior approval of the agency or  
1294 governing authority when any such change or modification is less  
1295 than one percent (1%) of the total contract amount. The agency or  
1296 governing authority may limit the number, manner or frequency of  
1297 such emergency changes or modifications.

1298                   (h) **Petroleum purchase alternative.** In addition to  
1299 other methods of purchasing authorized in this chapter, when any  
1300 agency or governing authority shall have a need for gas, diesel  
1301 fuel, oils and/or other petroleum products in excess of the amount  
1302 set forth in paragraph (a) of this section, such agency or



1303 governing authority may purchase the commodity after having  
1304 solicited and obtained at least two (2) competitive written bids,  
1305 as defined in paragraph (b) of this section. If two (2)  
1306 competitive written bids are not obtained, the entity shall comply  
1307 with the procedures set forth in paragraph (c) of this section.  
1308 In the event any agency or governing authority shall have  
1309 advertised for bids for the purchase of gas, diesel fuel, oils and  
1310 other petroleum products and coal and no acceptable bids can be  
1311 obtained, such agency or governing authority is authorized and  
1312 directed to enter into any negotiations necessary to secure the  
1313 lowest and best contract available for the purchase of such  
1314 commodities.

1315           (i) **Road construction petroleum products price**  
1316 **adjustment clause authorization.** Any agency or governing  
1317 authority authorized to enter into contracts for the construction,  
1318 maintenance, surfacing or repair of highways, roads or streets,  
1319 may include in its bid proposal and contract documents a price  
1320 adjustment clause with relation to the cost to the contractor,  
1321 including taxes, based upon an industry-wide cost index, of  
1322 petroleum products including asphalt used in the performance or  
1323 execution of the contract or in the production or manufacture of  
1324 materials for use in such performance. Such industry-wide index  
1325 shall be established and published monthly by the Mississippi  
1326 Department of Transportation with a copy thereof to be mailed,  
1327 upon request, to the clerks of the governing authority of each



1328 municipality and the clerks of each board of supervisors  
1329 throughout the state. The price adjustment clause shall be based  
1330 on the cost of such petroleum products only and shall not include  
1331 any additional profit or overhead as part of the adjustment. The  
1332 bid proposals or document contract shall contain the basis and  
1333 methods of adjusting unit prices for the change in the cost of  
1334 such petroleum products.

1335           (j) **State agency emergency purchase procedure.** If the  
1336 governing board or the executive head, or his designees, of any  
1337 agency of the state shall determine that an emergency exists in  
1338 regard to the purchase of any commodities or repair contracts, so  
1339 that the delay incident to giving opportunity for competitive  
1340 bidding would be detrimental to the interests of the state, then  
1341 the head of such agency, or his designees, shall file with the  
1342 Department of Finance and Administration (i) a statement  
1343 explaining the conditions and circumstances of the emergency,  
1344 which shall include a detailed description of the events leading  
1345 up to the situation and the negative impact to the entity if the  
1346 purchase is made following the statutory requirements set forth in  
1347 paragraph (a), (b) or (c) of this section, and (ii) a certified  
1348 copy of the appropriate minutes of the board of such agency  
1349 requesting the emergency purchase, if applicable. Upon receipt of  
1350 the statement and applicable board certification, the State Fiscal  
1351 Officer, or his designees, may, in writing, authorize the purchase



1352 or repair without having to comply with competitive bidding  
1353 requirements.

1354         If the governing board or the executive head, or his  
1355 designees, of any agency determines that an emergency exists in  
1356 regard to the purchase of any commodities or repair contracts, so  
1357 that the delay incident to giving opportunity for competitive  
1358 bidding would threaten the health or safety of any person, or the  
1359 preservation or protection of property, then the provisions in  
1360 this section for competitive bidding shall not apply, and any  
1361 officer or agent of the agency having general or specific  
1362 authority for making the purchase or repair contract shall approve  
1363 the bill presented for payment, and he shall certify in writing  
1364 from whom the purchase was made, or with whom the repair contract  
1365 was made.

1366         Total purchases made under this paragraph (j) shall only be  
1367 for the purpose of meeting needs created by the emergency  
1368 situation. Following the emergency purchase, documentation of the  
1369 purchase, including a description of the commodity purchased, the  
1370 purchase price thereof and the nature of the emergency shall be  
1371 filed with the Department of Finance and Administration. Any  
1372 contract awarded pursuant to this paragraph (j) shall not exceed a  
1373 term of one (1) year.

1374         Purchases under the grant program established under Section  
1375 37-68-7 in response to COVID-19 and the directive that school  
1376 districts create a distance learning plan and fulfill technology



1377 needs expeditiously shall be deemed an emergency purchase for  
1378 purposes of this paragraph (j).

1379 (k) **Governing authority emergency purchase procedure.**

1380 If the governing authority, or the governing authority acting  
1381 through its designee, shall determine that an emergency exists in  
1382 regard to the purchase of any commodities or repair contracts, so  
1383 that the delay incident to giving opportunity for competitive  
1384 bidding would be detrimental to the interest of the governing  
1385 authority, then the provisions herein for competitive bidding  
1386 shall not apply and any officer or agent of such governing  
1387 authority having general or special authority therefor in making  
1388 such purchase or repair shall approve the bill presented therefor,  
1389 and he shall certify in writing thereon from whom such purchase  
1390 was made, or with whom such a repair contract was made. At the  
1391 board meeting next following the emergency purchase or repair  
1392 contract, documentation of the purchase or repair contract,  
1393 including a description of the commodity purchased, the price  
1394 thereof and the nature of the emergency shall be presented to the  
1395 board and shall be placed on the minutes of the board of such  
1396 governing authority. Purchases under the grant program  
1397 established under Section 37-68-7 in response to COVID-19 and the  
1398 directive that school districts create a distance learning plan  
1399 and fulfill technology needs expeditiously shall be deemed an  
1400 emergency purchase for purposes of this paragraph (k).





1401                   (1) **Hospital purchase, lease-purchase and lease**  
1402 **authorization.**

1403                   (i) The commissioners or board of trustees of any  
1404 public hospital may contract with such lowest and best bidder for  
1405 the purchase or lease-purchase of any commodity under a contract  
1406 of purchase or lease-purchase agreement whose obligatory payment  
1407 terms do not exceed five (5) years.

1408                   (ii) In addition to the authority granted in  
1409 subparagraph (i) of this paragraph (1), the commissioners or board  
1410 of trustees is authorized to enter into contracts for the lease of  
1411 equipment or services, or both, which it considers necessary for  
1412 the proper care of patients if, in its opinion, it is not  
1413 financially feasible to purchase the necessary equipment or  
1414 services. Any such contract for the lease of equipment or  
1415 services executed by the commissioners or board shall not exceed a  
1416 maximum of five (5) years' duration and shall include a  
1417 cancellation clause based on unavailability of funds. If such  
1418 cancellation clause is exercised, there shall be no further  
1419 liability on the part of the lessee. Any such contract for the  
1420 lease of equipment or services executed on behalf of the  
1421 commissioners or board that complies with the provisions of this  
1422 subparagraph (ii) shall be excepted from the bid requirements set  
1423 forth in this section.

1424                   (m) **Exceptions from bidding requirements.** Excepted  
1425 from bid requirements are:



1426 (i) **Purchasing agreements approved by department.**

1427 Purchasing agreements, contracts and maximum price regulations  
1428 executed or approved by the Department of Finance and  
1429 Administration.

1430 (ii) **Outside equipment repairs.** Repairs to  
1431 equipment, when such repairs are made by repair facilities in the  
1432 private sector; however, engines, transmissions, rear axles and/or  
1433 other such components shall not be included in this exemption when  
1434 replaced as a complete unit instead of being repaired and the need  
1435 for such total component replacement is known before disassembly  
1436 of the component; however, invoices identifying the equipment,  
1437 specific repairs made, parts identified by number and name,  
1438 supplies used in such repairs, and the number of hours of labor  
1439 and costs therefor shall be required for the payment for such  
1440 repairs.

1441 (iii) **In-house equipment repairs.** Purchases of  
1442 parts for repairs to equipment, when such repairs are made by  
1443 personnel of the agency or governing authority; however, entire  
1444 assemblies, such as engines or transmissions, shall not be  
1445 included in this exemption when the entire assembly is being  
1446 replaced instead of being repaired.

1447 (iv) **Raw gravel or dirt.** Raw unprocessed deposits  
1448 of gravel or fill dirt which are to be removed and transported by  
1449 the purchaser.



1450                   (v)   **Governmental equipment auctions.** Motor  
1451 vehicles or other equipment purchased from a federal agency or  
1452 authority, another governing authority or state agency of the  
1453 State of Mississippi, or any governing authority or state agency  
1454 of another state at a public auction held for the purpose of  
1455 disposing of such vehicles or other equipment. Any purchase by a  
1456 governing authority under the exemption authorized by this  
1457 subparagraph (v) shall require advance authorization spread upon  
1458 the minutes of the governing authority to include the listing of  
1459 the item or items authorized to be purchased and the maximum bid  
1460 authorized to be paid for each item or items.

1461                   (vi)   **Intergovernmental sales and transfers.**  
1462 Purchases, sales, transfers or trades by governing authorities or  
1463 state agencies when such purchases, sales, transfers or trades are  
1464 made by a private treaty agreement or through means of  
1465 negotiation, from any federal agency or authority, another  
1466 governing authority or state agency of the State of Mississippi,  
1467 or any state agency or governing authority of another state.  
1468 Nothing in this section shall permit such purchases through public  
1469 auction except as provided for in subparagraph (v) of this  
1470 paragraph (m). It is the intent of this section to allow  
1471 governmental entities to dispose of and/or purchase commodities  
1472 from other governmental entities at a price that is agreed to by  
1473 both parties. This shall allow for purchases and/or sales at  
1474 prices which may be determined to be below the market value if the



1475 selling entity determines that the sale at below market value is  
1476 in the best interest of the taxpayers of the state. Governing  
1477 authorities shall place the terms of the agreement and any  
1478 justification on the minutes, and state agencies shall obtain  
1479 approval from the Department of Finance and Administration, prior  
1480 to releasing or taking possession of the commodities.

1481 (vii) **Perishable supplies or food.** Perishable  
1482 supplies or food purchased for use in connection with hospitals,  
1483 the school lunch programs, homemaking programs and for the feeding  
1484 of county or municipal prisoners.

1485 (viii) **Single-source items.** Noncompetitive items  
1486 available from one (1) source only. In connection with the  
1487 purchase of noncompetitive items only available from one (1)  
1488 source, a certification of the conditions and circumstances  
1489 requiring the purchase shall be filed by the agency with the  
1490 Department of Finance and Administration and by the governing  
1491 authority with the board of the governing authority. Upon receipt  
1492 of that certification the Department of Finance and Administration  
1493 or the board of the governing authority, as the case may be, may,  
1494 in writing, authorize the purchase, which authority shall be noted  
1495 on the minutes of the body at the next regular meeting thereafter.  
1496 In those situations, a governing authority is not required to  
1497 obtain the approval of the Department of Finance and  
1498 Administration. Following the purchase, the executive head of the  
1499 state agency, or his designees, shall file with the Department of



1500 Finance and Administration, documentation of the purchase,  
1501 including a description of the commodity purchased, the purchase  
1502 price thereof and the source from whom it was purchased.

1503                   (ix) **Waste disposal facility construction**  
1504 **contracts.** Construction of incinerators and other facilities for  
1505 disposal of solid wastes in which products either generated  
1506 therein, such as steam, or recovered therefrom, such as materials  
1507 for recycling, are to be sold or otherwise disposed of; however,  
1508 in constructing such facilities, a governing authority or agency  
1509 shall publicly issue requests for proposals, advertised for in the  
1510 same manner as provided herein for seeking bids for public  
1511 construction projects, concerning the design, construction,  
1512 ownership, operation and/or maintenance of such facilities,  
1513 wherein such requests for proposals when issued shall contain  
1514 terms and conditions relating to price, financial responsibility,  
1515 technology, environmental compatibility, legal responsibilities  
1516 and such other matters as are determined by the governing  
1517 authority or agency to be appropriate for inclusion; and after  
1518 responses to the request for proposals have been duly received,  
1519 the governing authority or agency may select the most qualified  
1520 proposal or proposals on the basis of price, technology and other  
1521 relevant factors and from such proposals, but not limited to the  
1522 terms thereof, negotiate and enter contracts with one or more of  
1523 the persons or firms submitting proposals.



1524                   (x)   **Hospital group purchase contracts.**  Supplies,  
1525 commodities and equipment purchased by hospitals through group  
1526 purchase programs pursuant to Section 31-7-38.

1527                   (xi)   **Information technology products.**  Purchases  
1528 of information technology products made by governing authorities  
1529 under the provisions of purchase schedules, or contracts executed  
1530 or approved by the Mississippi Department of Information  
1531 Technology Services and designated for use by governing  
1532 authorities.

1533                   (xii)   **Energy efficiency services and equipment.**  
1534 Energy efficiency services and equipment acquired by school  
1535 districts, community and junior colleges, institutions of higher  
1536 learning and state agencies or other applicable governmental  
1537 entities on a shared-savings, lease or lease-purchase basis  
1538 pursuant to Section 31-7-14.

1539                   (xiii)   **Municipal electrical utility system fuel.**  
1540 Purchases of coal and/or natural gas by municipally owned electric  
1541 power generating systems that have the capacity to use both coal  
1542 and natural gas for the generation of electric power.

1543                   (xiv)   **Library books and other reference materials.**  
1544 Purchases by libraries or for libraries of books and periodicals;  
1545 processed film, videocassette tapes, filmstrips and slides;  
1546 recorded audiotapes, cassettes and diskettes; and any such items  
1547 as would be used for teaching, research or other information  
1548 distribution; however, equipment such as projectors, recorders,



1549 audio or video equipment, and monitor televisions are not exempt  
1550 under this subparagraph.

1551 (xv) **Unmarked vehicles.** Purchases of unmarked  
1552 vehicles when such purchases are made in accordance with  
1553 purchasing regulations adopted by the Department of Finance and  
1554 Administration pursuant to Section 31-7-9(2).

1555 (xvi) **Election ballots.** Purchases of ballots  
1556 printed pursuant to Section 23-15-351.

1557 (xvii) **Multichannel interactive video systems.**  
1558 From and after July 1, 1990, contracts by Mississippi Authority  
1559 for Educational Television with any private educational  
1560 institution or private nonprofit organization whose purposes are  
1561 educational in regard to the construction, purchase, lease or  
1562 lease-purchase of facilities and equipment and the employment of  
1563 personnel for providing multichannel interactive video systems  
1564 (ITSF) in the school districts of this state.

1565 (xviii) **Purchases of prison industry products by**  
1566 **the Department of Corrections, regional correctional facilities or**  
1567 **privately owned prisons.** Purchases made by the Mississippi  
1568 Department of Corrections, regional correctional facilities or  
1569 privately owned prisons involving any item that is manufactured,  
1570 processed, grown or produced from the state's prison industries.

1571 (xix) **Undercover operations equipment.** Purchases  
1572 of surveillance equipment or any other high-tech equipment to be  
1573 used by law enforcement agents in undercover operations, provided



1574 that any such purchase shall be in compliance with regulations  
1575 established by the Department of Finance and Administration.

1576 (xx) **Junior college books for rent.** Purchases by  
1577 community or junior colleges of textbooks which are obtained for  
1578 the purpose of renting such books to students as part of a book  
1579 service system.

1580 (xxi) **Certain school district purchases.**  
1581 Purchases of commodities made by school districts from vendors  
1582 with which any levying authority of the school district, as  
1583 defined in Section 37-57-1, has contracted through competitive  
1584 bidding procedures for purchases of the same commodities.

1585 (xxii) **Garbage, solid waste and sewage contracts.**  
1586 Contracts for garbage collection or disposal, contracts for solid  
1587 waste collection or disposal and contracts for sewage collection  
1588 or disposal.

1589 (xxiii) **Municipal water tank maintenance**  
1590 **contracts.** Professional maintenance program contracts for the  
1591 repair or maintenance of municipal water tanks, which provide  
1592 professional services needed to maintain municipal water storage  
1593 tanks for a fixed annual fee for a duration of two (2) or more  
1594 years.

1595 (xxiv) **Purchases of Mississippi Industries for the**  
1596 **Blind products.** Purchases made by state agencies or governing  
1597 authorities involving any item that is manufactured, processed or  
1598 produced by the Mississippi Industries for the Blind.





1599                    (xxv)    **Purchases of state-adopted textbooks.**  
1600 Purchases of state-adopted textbooks by public school districts.  
1601                    (xxvi)    **Certain purchases under the Mississippi**  
1602 **Major Economic Impact Act.** Contracts entered into pursuant to the  
1603 provisions of Section 57-75-9(2), (3) and (4).  
1604                    (xxvii)    **Used heavy or specialized machinery or**  
1605 **equipment for installation of soil and water conservation**  
1606 **practices purchased at auction.** Used heavy or specialized  
1607 machinery or equipment used for the installation and  
1608 implementation of soil and water conservation practices or  
1609 measures purchased subject to the restrictions provided in  
1610 Sections 69-27-331 through 69-27-341. Any purchase by the State  
1611 Soil and Water Conservation Commission under the exemption  
1612 authorized by this subparagraph shall require advance  
1613 authorization spread upon the minutes of the commission to include  
1614 the listing of the item or items authorized to be purchased and  
1615 the maximum bid authorized to be paid for each item or items.  
1616                    (xxviii)    **Hospital lease of equipment or services.**  
1617 Leases by hospitals of equipment or services if the leases are in  
1618 compliance with paragraph (1)(ii).  
1619                    (xxix)    **Purchases made pursuant to qualified**  
1620 **cooperative purchasing agreements.** Purchases made by certified  
1621 purchasing offices of state agencies or governing authorities  
1622 under cooperative purchasing agreements previously approved by the  
1623 Office of Purchasing and Travel and established by or for any



1624 municipality, county, parish or state government or the federal  
1625 government, provided that the notification to potential  
1626 contractors includes a clause that sets forth the availability of  
1627 the cooperative purchasing agreement to other governmental  
1628 entities. Such purchases shall only be made if the use of the  
1629 cooperative purchasing agreements is determined to be in the best  
1630 interest of the governmental entity.

1631                    (xxx) **School yearbooks.** Purchases of school  
1632 yearbooks by state agencies or governing authorities; provided,  
1633 however, that state agencies and governing authorities shall use  
1634 for these purchases the RFP process as set forth in the  
1635 Mississippi Procurement Manual adopted by the Office of Purchasing  
1636 and Travel.

1637                    (xxxii) **Design-build method of contracting and**  
1638 **certain other contracts.** Contracts entered into under the  
1639 provisions of Section 31-7-13.1, 37-101-44 or 65-1-85.

1640                    (xxxiii) **Toll roads and bridge construction**  
1641 **projects.** Contracts entered into under the provisions of Section  
1642 65-43-1 or 65-43-3.

1643                    (xxxiiii) **Certain purchases under Section 57-1-221.**  
1644 Contracts entered into pursuant to the provisions of Section  
1645 57-1-221.

1646                    (xxxiv) **Certain transfers made pursuant to the**  
1647 **provisions of Section 57-105-1(7).** Transfers of public property



1648 or facilities under Section 57-105-1(7) and construction related  
1649 to such public property or facilities.

1650 (xxxv) **Certain purchases or transfers entered into**  
1651 **with local electrical power associations.** Contracts or agreements  
1652 entered into under the provisions of Section 55-3-33.

1653 (xxxvi) **Certain purchases by an academic medical**  
1654 **center or health sciences school.** Purchases by an academic  
1655 medical center or health sciences school, as defined in Section  
1656 37-115-50, of commodities that are used for clinical purposes and  
1657 1. intended for use in the diagnosis of disease or other  
1658 conditions or in the cure, mitigation, treatment or prevention of  
1659 disease, and 2. medical devices, biological, drugs and  
1660 radiation-emitting devices as defined by the United States Food  
1661 and Drug Administration.

1662 (xxxvii) **Certain purchases made under the Alyce G.**  
1663 **Clarke Mississippi Lottery Law.** Contracts made by the Mississippi  
1664 Lottery Corporation pursuant to the Alyce G. Clarke Mississippi  
1665 Lottery Law.

1666 (xxxviii) **Certain purchases made by the Department**  
1667 **of Health and the Department of Revenue.** Purchases made by the  
1668 Department of Health and/or the Department of Revenue solely for  
1669 the purpose of fulfilling their respective responsibilities under  
1670 the Mississippi Medical Cannabis Act. This subparagraph shall  
1671 stand repealed on June 30, 2023.



1672 (n) **Term contract authorization.** All contracts for the  
1673 purchase of:

1674 (i) All contracts for the purchase of commodities,  
1675 equipment and public construction (including, but not limited to,  
1676 repair and maintenance), may be let for periods of not more than  
1677 sixty (60) months in advance, subject to applicable statutory  
1678 provisions prohibiting the letting of contracts during specified  
1679 periods near the end of terms of office. Term contracts for a  
1680 period exceeding twenty-four (24) months shall also be subject to  
1681 ratification or cancellation by governing authority boards taking  
1682 office subsequent to the governing authority board entering the  
1683 contract.

1684 (ii) Bid proposals and contracts may include price  
1685 adjustment clauses with relation to the cost to the contractor  
1686 based upon a nationally published industry-wide or nationally  
1687 published and recognized cost index. The cost index used in a  
1688 price adjustment clause shall be determined by the Department of  
1689 Finance and Administration for the state agencies and by the  
1690 governing board for governing authorities. The bid proposal and  
1691 contract documents utilizing a price adjustment clause shall  
1692 contain the basis and method of adjusting unit prices for the  
1693 change in the cost of such commodities, equipment and public  
1694 construction.

1695 (o) **Purchase law violation prohibition and vendor**  
1696 **penalty.** No contract or purchase as herein authorized shall be



1697 made for the purpose of circumventing the provisions of this  
1698 section requiring competitive bids, nor shall it be lawful for any  
1699 person or concern to submit individual invoices for amounts within  
1700 those authorized for a contract or purchase where the actual value  
1701 of the contract or commodity purchased exceeds the authorized  
1702 amount and the invoices therefor are split so as to appear to be  
1703 authorized as purchases for which competitive bids are not  
1704 required. Submission of such invoices shall constitute a  
1705 misdemeanor punishable by a fine of not less than Five Hundred  
1706 Dollars (\$500.00) nor more than One Thousand Dollars (\$1,000.00),  
1707 or by imprisonment for thirty (30) days in the county jail, or  
1708 both such fine and imprisonment. In addition, the claim or claims  
1709 submitted shall be forfeited.

1710 (p) **Electrical utility petroleum-based equipment**  
1711 **purchase procedure.** When in response to a proper advertisement  
1712 therefor, no bid firm as to price is submitted to an electric  
1713 utility for power transformers, distribution transformers, power  
1714 breakers, reclosers or other articles containing a petroleum  
1715 product, the electric utility may accept the lowest and best bid  
1716 therefor although the price is not firm.

1717 (q) **Fuel management system bidding procedure.** Any  
1718 governing authority or agency of the state shall, before  
1719 contracting for the services and products of a fuel management or  
1720 fuel access system, enter into negotiations with not fewer than  
1721 two (2) sellers of fuel management or fuel access systems for



1722 competitive written bids to provide the services and products for  
1723 the systems. In the event that the governing authority or agency  
1724 cannot locate two (2) sellers of such systems or cannot obtain  
1725 bids from two (2) sellers of such systems, it shall show proof  
1726 that it made a diligent, good-faith effort to locate and negotiate  
1727 with two (2) sellers of such systems. Such proof shall include,  
1728 but not be limited to, publications of a request for proposals and  
1729 letters soliciting negotiations and bids. For purposes of this  
1730 paragraph (q), a fuel management or fuel access system is an  
1731 automated system of acquiring fuel for vehicles as well as  
1732 management reports detailing fuel use by vehicles and drivers, and  
1733 the term "competitive written bid" shall have the meaning as  
1734 defined in paragraph (b) of this section. Governing authorities  
1735 and agencies shall be exempt from this process when contracting  
1736 for the services and products of fuel management or fuel access  
1737 systems under the terms of a state contract established by the  
1738 Office of Purchasing and Travel.

1739 (r) **Solid waste contract proposal procedure.** Before  
1740 entering into any contract for garbage collection or disposal,  
1741 contract for solid waste collection or disposal or contract for  
1742 sewage collection or disposal, which involves an expenditure of  
1743 more than Fifty Thousand Dollars (\$50,000.00), a governing  
1744 authority or agency shall issue publicly a request for proposals  
1745 concerning the specifications for such services which shall be  
1746 advertised for in the same manner as provided in this section for



1747 seeking bids for purchases which involve an expenditure of more  
1748 than the amount provided in paragraph (c) of this section. Any  
1749 request for proposals when issued shall contain terms and  
1750 conditions relating to price, financial responsibility,  
1751 technology, legal responsibilities and other relevant factors as  
1752 are determined by the governing authority or agency to be  
1753 appropriate for inclusion; all factors determined relevant by the  
1754 governing authority or agency or required by this paragraph (r)  
1755 shall be duly included in the advertisement to elicit proposals.  
1756 After responses to the request for proposals have been duly  
1757 received, the governing authority or agency shall select the most  
1758 qualified proposal or proposals on the basis of price, technology  
1759 and other relevant factors and from such proposals, but not  
1760 limited to the terms thereof, negotiate and enter into contracts  
1761 with one or more of the persons or firms submitting proposals. If  
1762 the governing authority or agency deems none of the proposals to  
1763 be qualified or otherwise acceptable, the request for proposals  
1764 process may be reinitiated. Notwithstanding any other provisions  
1765 of this paragraph, where a county with at least thirty-five  
1766 thousand (35,000) nor more than forty thousand (40,000)  
1767 population, according to the 1990 federal decennial census, owns  
1768 or operates a solid waste landfill, the governing authorities of  
1769 any other county or municipality may contract with the governing  
1770 authorities of the county owning or operating the landfill,  
1771 pursuant to a resolution duly adopted and spread upon the minutes



1772 of each governing authority involved, for garbage or solid waste  
1773 collection or disposal services through contract negotiations.

1774 (s) **Minority set-aside authorization.** Notwithstanding  
1775 any provision of this section to the contrary, any agency or  
1776 governing authority, by order placed on its minutes, may, in its  
1777 discretion, set aside not more than twenty percent (20%) of its  
1778 anticipated annual expenditures for the purchase of commodities  
1779 from minority businesses; however, all such set-aside purchases  
1780 shall comply with all purchasing regulations promulgated by the  
1781 Department of Finance and Administration and shall be subject to  
1782 bid requirements under this section. Set-aside purchases for  
1783 which competitive bids are required shall be made from the lowest  
1784 and best minority business bidder. For the purposes of this  
1785 paragraph, the term "minority business" means a business which is  
1786 owned by a majority of persons who are United States citizens or  
1787 permanent resident aliens (as defined by the Immigration and  
1788 Naturalization Service) of the United States, and who are Asian,  
1789 Black, Hispanic or Native American, according to the following  
1790 definitions:

1791 (i) "Asian" means persons having origins in any of  
1792 the original people of the Far East, Southeast Asia, the Indian  
1793 subcontinent, or the Pacific Islands.

1794 (ii) "Black" means persons having origins in any  
1795 black racial group of Africa.





1796 (iii) "Hispanic" means persons of Spanish or  
1797 Portuguese culture with origins in Mexico, South or Central  
1798 America, or the Caribbean Islands, regardless of race.

1799 (iv) "Native American" means persons having  
1800 origins in any of the original people of North America, including  
1801 American Indians, Eskimos and Aleuts.

1802 (t) **Construction punch list restriction.** The  
1803 architect, engineer or other representative designated by the  
1804 agency or governing authority that is contracting for public  
1805 construction or renovation may prepare and submit to the  
1806 contractor only one (1) preliminary punch list of items that do  
1807 not meet the contract requirements at the time of substantial  
1808 completion and one (1) final list immediately before final  
1809 completion and final payment.

1810 (u) **Procurement of construction services by state**  
1811 **institutions of higher learning.** Contracts for privately financed  
1812 construction of auxiliary facilities on the campus of a state  
1813 institution of higher learning may be awarded by the Board of  
1814 Trustees of State Institutions of Higher Learning to the lowest  
1815 and best bidder, where sealed bids are solicited, or to the  
1816 offeror whose proposal is determined to represent the best value  
1817 to the citizens of the State of Mississippi, where requests for  
1818 proposals are solicited.

1819 (v) **Insurability of bidders for public construction or**  
1820 **other public contracts.** In any solicitation for bids to perform



1821 public construction or other public contracts to which this  
1822 section applies, including, but not limited to, contracts for  
1823 repair and maintenance, for which the contract will require  
1824 insurance coverage in an amount of not less than One Million  
1825 Dollars (\$1,000,000.00), bidders shall be permitted to either  
1826 submit proof of current insurance coverage in the specified amount  
1827 or demonstrate ability to obtain the required coverage amount of  
1828 insurance if the contract is awarded to the bidder. Proof of  
1829 insurance coverage shall be submitted within five (5) business  
1830 days from bid acceptance.

1831 (w) **Purchase authorization clarification.** Nothing in  
1832 this section shall be construed as authorizing any purchase not  
1833 authorized by law.

1834 **SECTION 7.** Section 45-27-7, Mississippi Code of 1972, is  
1835 amended as follows:

1836 45-27-7. (1) The Mississippi Justice Information Center  
1837 shall:

1838 (a) Develop, operate and maintain an information system  
1839 which will support the collection, storage, retrieval and  
1840 dissemination of all data described in this chapter, consistent  
1841 with those principles of scope, security and responsiveness  
1842 prescribed by this chapter.

1843 (b) Cooperate with all criminal justice agencies within  
1844 the state in providing those forms, procedures, standards and



1845 related training assistance necessary for the uniform operation of  
1846 the statewide center.

1847 (c) Offer assistance and, when practicable, instruction  
1848 to all local law enforcement agencies in establishing efficient  
1849 local records systems.

1850 (d) Make available, upon request, to all local and  
1851 state criminal justice agencies, to all federal criminal justice  
1852 agencies and to criminal justice agencies in other states any  
1853 information in the files of the center which will aid such  
1854 agencies in the performance of their official duties. For this  
1855 purpose the center shall operate on a twenty-four-hour basis,  
1856 seven (7) days a week. Such information, when authorized by the  
1857 director of the center, may also be made available to any other  
1858 agency of this state or any political subdivision thereof and to  
1859 any federal agency, upon assurance by the agency concerned that  
1860 the information is to be used for official purposes only in the  
1861 prevention or detection of crime or the apprehension of criminal  
1862 offenders.

1863 (e) Cooperate with other agencies of this state, the  
1864 crime information agencies of other states, and the national crime  
1865 information center systems of the Federal Bureau of Investigation  
1866 in developing and conducting an interstate, national and  
1867 international system of criminal identification and records.



1868           (f) Make available, upon request, to nongovernmental  
1869 entities or employers certain information for noncriminal justice  
1870 purposes as specified in Section 45-27-12.

1871           (g) Institute necessary measures in the design,  
1872 implementation and continued operation of the justice information  
1873 system to ensure the privacy and security of the system. Such  
1874 measures shall include establishing complete control over use of  
1875 and access to the system and restricting its integral resources  
1876 and facilities and those either possessed or procured and  
1877 controlled by criminal justice agencies. Such security measures  
1878 must meet standards developed by the center as well as those set  
1879 by the nationally operated systems for interstate sharing of  
1880 information.

1881           (h) Provide data processing for files listing motor  
1882 vehicle drivers' license numbers, motor vehicle registration  
1883 numbers, wanted and stolen motor vehicles, outstanding warrants,  
1884 identifiable stolen property and such other files as may be of  
1885 general assistance to law enforcement agencies; provided, however,  
1886 that the purchase, lease, rental or acquisition in any manner of  
1887 "computer equipment or services," as defined in Section 25-53-3,  
1888 Mississippi Code of 1972, shall be subject to the approval of the  
1889 Mississippi Information Technology Services.

1890           (i) Maintain a field coordination and support unit  
1891 which shall have all the power conferred by law upon any peace  
1892 officer of this state.



1893 (2) The department, including the investigative division or  
1894 the center, may:

1895 (a) Obtain and store fingerprints, descriptions,  
1896 photographs and any other pertinent identifying data from crime  
1897 scenes and on persons who:

1898 (i) Have been or are hereafter arrested or taken  
1899 into custody in this state:

- 1900 1. For an offense which is a felony;  
1901 2. For an offense which is a misdemeanor;  
1902 3. As a fugitive from justice; or

1903 (ii) Are or become habitual offenders; or

1904 (iii) Are currently or become confined to any  
1905 prison, penitentiary or other penal institution; or

1906 (iv) Are unidentified human corpses found in the  
1907 state; or

1908 (v) Have submitted fingerprints for conducting  
1909 criminal history record checks.

1910 (b) Compare all fingerprint and other identifying data  
1911 received with that already on file and determine whether or not a  
1912 criminal record is found for such person, and at once inform the  
1913 requesting agency or arresting officer of those facts that may be  
1914 disseminated consistent with applicable security and privacy laws  
1915 and regulations. A record shall be maintained for a minimum of  
1916 one (1) year of the dissemination of each individual criminal



1917 history, including at least the date and recipient of such  
1918 information.

1919 (c) Establish procedures to respond to those  
1920 individuals who file requests to review their own records,  
1921 pursuant to Sections 45-27-11 and 45-27-12, and to cooperate in  
1922 the correction of the central center records and those of  
1923 contributing agencies when their accuracy has been successfully  
1924 challenged either through the related contributing agencies or by  
1925 court order issued on behalf of an individual.

1926 (d) Retain in the system the fingerprints of all law  
1927 enforcement officers and part-time law enforcement officers, as  
1928 those terms are defined in Section 45-6-3, any fingerprints sent  
1929 by the Mississippi State Department of Health, and of all  
1930 applicants to law enforcement agencies.

1931 (3) There shall be a presumption that a copy of any document  
1932 submitted to the center in accordance with the provisions of  
1933 Section 45-27-9 that has been processed as set forth in this  
1934 chapter and subsequently certified and provided by the center to a  
1935 law enforcement agency or a court shall be admissible in any  
1936 proceeding without further authentication unless a person  
1937 objecting to that admissibility has successfully challenged the  
1938 document under the provisions of Section 45-27-11.

1939 **SECTION 8.** Section 45-27-12, Mississippi Code of 1972, is  
1940 amended as follows:



1941           45-27-12. (1) State conviction information and arrest  
1942 information which is contained in the center's database or the  
1943 nonexistence of such information in the center's database shall be  
1944 made available for the following noncriminal justice purposes:

1945           (a) To any local, state or federal governmental agency  
1946 that requests the information for the enforcement of a local,  
1947 state or federal law;

1948           (b) To any individual, nongovernmental entity or any  
1949 employer authorized either by the subject of record in writing or  
1950 by state or federal law to receive such information; and

1951           (c) To any federal agency or central repository in  
1952 another state requesting the information for purposes authorized  
1953 by law.

1954           (2) Information disseminated for noncriminal justice  
1955 purposes as specified in this section shall be used only for the  
1956 purpose for which it was made available and may not be  
1957 re-disseminated.

1958           (3) No agency or individual shall confirm the existence or  
1959 nonexistence of criminal history record information to any person  
1960 or organization that would not be eligible to receive the  
1961 information pursuant to this section.

1962           (4) Upon request for a check pursuant to this section, the  
1963 nongovernmental entity or employer must provide proper  
1964 identification and authorization information from the subject of



1965 the record to be checked and adhere to policies established by the  
1966 center for such record checks.

1967 (5) Any individual or his attorney who is the subject of the  
1968 record to be checked, upon positive verification of the  
1969 individual's identity, may request to review the disseminated  
1970 information and shall follow the procedure set forth in Section  
1971 45-27-11. If the individual wishes to correct the record as it  
1972 appears in the center's system, the person shall follow the  
1973 procedure set forth in Section 45-27-11. The right of a person to  
1974 review the person's criminal history record information shall not  
1975 be used by a prospective employer or others as a means to  
1976 circumvent procedures or fees for accessing records for  
1977 noncriminal justice purposes.

1978 (6) The center may impose procedures, including the  
1979 submission of fingerprints, fees or restrictions, as are  
1980 reasonably necessary to assure the record's security, to verify  
1981 the identities of those who seek to inspect them, and to maintain  
1982 an orderly and efficient mechanism for access. All fees shall be  
1983 assessed and deposited in accordance with the provisions of  
1984 Section 45-27-8.

1985 (7) The center shall (a) retain, separate from other  
1986 division records, personal information, including any  
1987 fingerprints, sent to it by the Mississippi Department of Health;  
1988 and (b) notify the Department of Health upon receiving notice that  
1989 an individual for whom personal information has been retained is





1990 the subject of: (i) a warrant for arrest; (ii) an arrest; (iii) a  
1991 conviction, including a plea in abeyance; or (iv) a pending  
1992 diversion agreement.

1993 (8) The center is authorized to implement the Rap-Back  
1994 criminal history records check system and the Department of Health  
1995 is authorized to implement and to utilize the state/federal  
1996 Rap-Back criminal history system as a method of ongoing monitoring  
1997 of individuals providing such care to Mississippi's vulnerable  
1998 population in "covered" entities including prospective designated  
1999 caregivers and entities named in the Mississippi Medical Cannabis  
2000 Act and to apply for and provide matching funds in order for  
2001 Mississippi to receive federal grants to make necessary upgrades  
2002 to the department's data systems to accommodate Rap-Back  
2003 capabilities.

2004 ( \* \* \*9) Local agencies may release their own agency  
2005 records according to their own policies.

2006 ( \* \* \*10) Release of the above-described information for  
2007 noncriminal justice purposes shall be made only by the center,  
2008 under the limitations of this section, and such compiled records  
2009 will not be released or disclosed for noncriminal justice purposes  
2010 by other agencies in the state.

2011 **SECTION 9.** This act shall take effect and be in force from  
2012 and after its passage.

