

By: Senator(s) Parks

To: Public Health and
Welfare; Appropriations

SENATE BILL NO. 2818
(As Sent to Governor)

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 TO AUTHORIZE THE EXECUTIVE DIRECTORS OF THE DEPARTMENT OF HEALTH
47 AND THE DEPARTMENT OF REVENUE NEGOTIATE A LIMITATION ON THE
48 LIABILITY OF PROSPECTIVE CONTRACTORS TO THE STATE IN THE
49 NEGOTIATION AND EXECUTION OF ALL INFORMATION TECHNOLOGY CONTRACTS
50 AS NECESSARY UNDER THE MISSISSIPPI MEDICAL CANNABIS ACT; AND FOR
51 RELATED PURPOSES.

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

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

55 25-9-107. The following terms, when used in this chapter,
56 unless a different meaning is plainly required by the context,
57 shall have the following meanings:

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

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

63 (c) "Nonstate service" means the following officers and
64 employees excluded from the state service by this chapter. The
65 following are excluded from the state service:

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



68 (ii) The Governor and staff members of the
69 immediate Office of the Governor;

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

72 (iv) The Lieutenant Governor, staff members of the
73 immediate Office of the Lieutenant Governor and officers and
74 employees directly appointed by the Lieutenant Governor;

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

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

79 (vii) All academic officials, members of the
80 teaching staffs and employees of the state institutions of higher
81 learning, the Mississippi Community College Board, and community
82 and junior colleges;

83 (viii) Officers and enlisted members of the
84 National Guard of the state;

85 (ix) Prisoners, inmates, student or patient help
86 working in or about institutions;

87 (x) Contract personnel; provided that any agency
88 which employs state service employees may enter into contracts for
89 personal and professional services only if such contracts are
90 approved in compliance with the rules and regulations promulgated
91 by the Public Procurement Review Board under Section 27-104-7.
92 Before paying any warrant for such contractual services in excess



93 of Seventy-five Thousand Dollars (\$75,000.00), the Auditor of
94 Public Accounts, or the successor to those duties, shall determine
95 whether the contract involved was for personal or professional
96 services, and, if so, was approved by the Public Procurement
97 Review Board as required by law;

98 (xi) Part-time employees; provided, however,
99 part-time employees shall only be hired into authorized employment
100 positions classified by the board, shall meet minimum
101 qualifications as set by the board, and shall be paid in
102 accordance with the Variable Compensation Plan as certified by the
103 board;

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

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



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

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

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



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

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

149 (xviii) Repealed;

150 (xix) The associate director, deputy directors and
151 bureau directors within the Department of Agriculture and
152 Commerce;

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

162 (xxi) Personnel employed by the Mississippi
163 Department of Wildlife, Fisheries and Parks and the Mississippi
164 Department of Marine Resources as law enforcement trainees
165 (cadets); such personnel shall be paid in accordance with the
166 Colonel Guy Groff State Variable Compensation Plan;



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

170 (xxiii) The President of the Mississippi Lottery
171 Corporation and personnel employed by the Mississippi Lottery
172 Corporation; * * *

173 (xxiv) Employees, excluding administrative
174 employees, of the State Veterans Affairs Board who are employed at
175 a veterans home established by the State Veterans Affairs Board
176 under Section 35-1-19 * * *;

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

182 (xxvi) Personnel employed by the Mississippi
183 Department of Revenue whose employment is solely in connection
184 with the Department's responsibilities in implementing,
185 administering and enforcing provisions of the Mississippi Medical
186 Cannabis Act. This subparagraph shall stand repealed on June 30,
187 2023.

188 (d) "Agency" means any state board, commission,
189 committee, council, department or unit thereof created by the
190 Constitution or statutes if such board, commission, committee,
191 council, department, unit or the head thereof, is authorized to



192 appoint subordinate staff by the Constitution or statute, except a
193 legislative or judicial board, commission, committee, council,
194 department or unit thereof.

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

197 25-43-1.103. (1) This chapter applies to all agencies and
198 all proceedings not expressly exempted under this chapter.

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

202 (3) Specific statutory provisions which govern agency
203 proceedings and which are in conflict with any of the provisions
204 of this chapter shall continue to be applied to all proceedings of
205 any such agency to the extent of such conflict only.

206 (4) The provisions of this chapter shall not be construed to
207 amend, repeal or supersede the provisions of any other law; and,
208 to the extent that the provisions of any other law conflict or are
209 inconsistent with the provisions of this chapter, the provisions
210 of such other law shall govern and control.

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

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



217 pursuant to the Mississippi Medical Cannabis Act, the Mississippi
218 State Department of Health and the Mississippi Department of
219 Revenue shall be exempted from this chapter from February 2, 2022,
220 through June 30, 2023. This subsection shall stand repealed on
221 June 30, 2023.

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

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



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

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

254 25-53-5. The authority shall have the following powers,
255 duties, and responsibilities:

256 (a) (i) The authority shall provide for the
257 development of plans for the efficient acquisition and utilization
258 of computer equipment and services by all agencies of state
259 government, and provide for their implementation. In so doing,
260 the authority may use the MDITS' staff, at the discretion of the
261 executive director of the authority, or the authority may contract
262 for the services of qualified consulting firms in the field of
263 information technology and utilize the service of such consultants
264 as may be necessary for such purposes. Pursuant to Section
265 25-53-1, the provisions of this section shall not apply to the
266 Department of Human Services for a period of three (3) years



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

271 (ii) [Repealed]

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

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

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



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

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

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



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

325 (g) The authority may provide for the development and
326 require the adoption of standardized computer programs and may
327 provide for the dissemination of information to and the
328 establishment of training programs for the personnel of the
329 various information technology centers of state agencies and
330 personnel of the agencies utilizing the services thereof.

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

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



342 various state agencies and may require the establishment of such
343 organizational structures within state agencies relating to
344 information technology operations as may be necessary to
345 effectuate the purposes of this chapter.

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

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



367 established by the authority may be finally executed by the
368 executive director without first obtaining such approval by the
369 authority.

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

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

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



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

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

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



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

433 (p) When applicable, the authority may procure
434 equipment, systems and related services in accordance with the law
435 or regulations, or both, which govern the Bureau of Purchasing of
436 the Office of General Services or which govern the Mississippi
437 Department of Information Technology Services procurement of
438 telecommunications equipment, software and services.

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



442 These acquisitions shall be limited to new technologies and shall
443 be limited to an amount set by annual appropriation of the
444 Legislature. These acquisitions shall be exempt from the
445 advertising and bidding requirement.

446 (r) All fees collected by the Mississippi Department of
447 Information Technology Services shall be deposited into the
448 Mississippi Department of Information Technology Services
449 Revolving Fund unless otherwise specified by the Legislature.

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

458 (t) The authority shall manage one or more State Data
459 Centers to provide information technology services on a
460 cost-sharing basis. In determining the appropriate services to be
461 provided through the State Data Center, the authority should
462 consider those services that:

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

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



466 (iii) Optimize the efficient use of the state's
467 information technology assets, including, but not limited to,
468 promoting partnerships with the state institutions of higher
469 learning and community colleges to capitalize on advanced
470 information technology resources.

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

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



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

497 (w) The authority shall provide a periodic update
498 regarding reform-based information technology initiatives to the
499 Chairmen of the House and Senate Accountability, Efficiency and
500 Transparency Committees.

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



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

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

520 27-104-7. (1) (a) There is created the Public Procurement
521 Review Board, which shall be reconstituted on January 1, 2018, and
522 shall be composed of the following members:

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

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

527 (iii) The Executive Director of the Department of
528 Finance and Administration, serving as an ex officio and nonvoting
529 member.

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

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

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

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

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



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

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

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



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

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

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

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



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

589 (b) Adopt regulations governing the approval of
590 contracts let for the construction and maintenance of state
591 buildings and other state facilities as well as related contracts
592 for architectural and engineering services.

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

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



612 the Department of Finance and Administration or the Public
613 Procurement Review Board. The information shall be provided
614 sufficiently in advance of the time the space is needed to allow
615 the Division of Real Property Management of the Department of
616 Finance and Administration to review and preapprove the lease
617 before the time for advertisement begins;

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

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



637 (ii) Hispanic: of Mexican, Puerto Rican, Cuban,
638 Central or South American, or other Spanish or Portuguese culture
639 or origin regardless of race;

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

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

645 (v) Female;

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

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



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



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

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

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



712 involved to submit the procurement to a competitive procurement
713 process, and may reserve the right to reject any or all resulting
714 procurements;

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

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

730 (ii) Contracts between two (2) state agencies,
731 both under Public Procurement Review Board purview, shall not
732 require Public Procurement Review Board approval. However, the
733 contracts shall still be entered into the enterprise resource
734 planning system;

735 (j) Provide standards for the issuance of requests for
736 proposals, the evaluation of proposals received, consideration of



737 costs and quality of services proposed, contract negotiations, the
738 administrative monitoring of contract performance by the agency
739 and successful steps in terminating a contract;

740 (k) Present recommendations for governmental
741 privatization and to evaluate privatization proposals submitted by
742 any state agency;

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

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

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

757 (o) Develop and implement the following standards and
758 procedures for the approval of any sole source contract for
759 personal and professional services regardless of the value of the
760 procurement:



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

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

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

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

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

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



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

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

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

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

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



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

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

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

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

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



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

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

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

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

859 (c) Explanation of why the price is considered
860 reasonable; and



861 (d) Description of the efforts that were made to
862 conduct a noncompetitive negotiation to get the best possible
863 price for the taxpayers.

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

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



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

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

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



910 personal or professional service contract. If the board responds
911 to the department(s) within seven (7) calendar days, then the
912 board has seven (7) calendar days from the date of its initial
913 response to provide any additional recommendations. After the end
914 of the second seven-day period, the department(s) may enter the
915 proposed personal or professional service contract. The board is
916 not authorized to disapprove any proposed personal or professional
917 services contracts. This subsection shall stand repealed on July
918 1, 2022.

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

921 31-7-13. All agencies and governing authorities shall
922 purchase their commodities and printing; contract for garbage
923 collection or disposal; contract for solid waste collection or
924 disposal; contract for sewage collection or disposal; contract for
925 public construction; and contract for rentals as herein provided.

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

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

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



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



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

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

978 (i) **Publication requirement.**

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



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

991 2. Reverse auctions shall be the primary
992 method for receiving bids during the bidding process. If a
993 purchasing entity determines that a reverse auction is not in the
994 best interest of the state, then that determination must be
995 approved by the Public Procurement Review Board. The purchasing
996 entity shall submit a detailed explanation of why a reverse
997 auction would not be in the best interest of the state and present
998 an alternative process to be approved by the Public Procurement
999 Review Board. If the Public Procurement Review Board authorizes
1000 the purchasing entity to solicit bids with a method other than
1001 reverse auction, then the purchasing entity may designate the
1002 other methods by which the bids will be received, including, but
1003 not limited to, bids sealed in an envelope, bids received
1004 electronically in a secure system, or bids received by any other
1005 method that promotes open competition and has been approved by the
1006 Office of Purchasing and Travel. However, reverse auction shall
1007 not be used for any public contract for design or construction of
1008 public facilities, including buildings, roads and bridges and term



1009 contracts as provided in paragraph (n) of this section. The
1010 Public Procurement Review Board must approve any contract entered
1011 into by alternative process. The provisions of this item 2 shall
1012 not apply to the individual state institutions of higher learning.

1013 3. The date as published for the bid opening
1014 shall not be less than seven (7) working days after the last
1015 published notice; however, if the purchase involves a construction
1016 project in which the estimated cost is in excess of Fifty Thousand
1017 Dollars (\$50,000.00), such bids shall not be opened in less than
1018 fifteen (15) working days after the last notice is published and
1019 the notice for the purchase of such construction shall be
1020 published once each week for two (2) consecutive weeks. However,
1021 all American Recovery and Reinvestment Act projects in excess of
1022 Twenty-five Thousand Dollars (\$25,000.00) shall be bid. For any
1023 projects in excess of Twenty-five Thousand Dollars (\$25,000.00)
1024 under the American Recovery and Reinvestment Act, publication
1025 shall be made one (1) time and the bid opening for construction
1026 projects shall not be less than ten (10) working days after the
1027 date of the published notice. The notice of intention to let
1028 contracts or purchase equipment shall state the time and place at
1029 which bids shall be received, list the contracts to be made or
1030 types of equipment or supplies to be purchased, and, if all plans
1031 and/or specifications are not published, refer to the plans and/or
1032 specifications on file. If there is no newspaper published in the
1033 county or municipality, then such notice shall be given by posting



1034 same at the courthouse, or for municipalities at the city hall,
1035 and at two (2) other public places in the county or municipality,
1036 and also by publication once each week for two (2) consecutive
1037 weeks in some newspaper having a general circulation in the county
1038 or municipality in the above-provided manner. On the same date
1039 that the notice is submitted to the newspaper for publication, the
1040 agency or governing authority involved shall mail written notice
1041 to, or provide electronic notification to the main office of the
1042 Mississippi Procurement Technical Assistance Program under the
1043 Mississippi Development Authority that contains the same
1044 information as that in the published notice. Submissions received
1045 by the Mississippi Procurement Technical Assistance Program for
1046 projects funded by the American Recovery and Reinvestment Act
1047 shall be displayed on a separate and unique Internet web page
1048 accessible to the public and maintained by the Mississippi
1049 Development Authority for the Mississippi Procurement Technical
1050 Assistance Program. Those American Recovery and Reinvestment Act
1051 related submissions shall be publicly posted within twenty-four
1052 (24) hours of receipt by the Mississippi Development Authority and
1053 the bid opening shall not occur until the submission has been
1054 posted for ten (10) consecutive days. The Department of Finance
1055 and Administration shall maintain information regarding contracts
1056 and other expenditures from the American Recovery and Reinvestment
1057 Act, on a unique Internet web page accessible to the public. The
1058 Department of Finance and Administration shall promulgate rules



1059 regarding format, content and deadlines, unless otherwise
1060 specified by law, of the posting of award notices, contract
1061 execution and subsequent amendments, links to the contract
1062 documents, expenditures against the awarded contracts and general
1063 expenditures of funds from the American Recovery and Reinvestment
1064 Act. Within one (1) working day of the contract award, the agency
1065 or governing authority shall post to the designated web page
1066 maintained by the Department of Finance and Administration, notice
1067 of the award, including the award recipient, the contract amount,
1068 and a brief summary of the contract in accordance with rules
1069 promulgated by the department. Within one (1) working day of the
1070 contract execution, the agency or governing authority shall post
1071 to the designated web page maintained by the Department of Finance
1072 and Administration a summary of the executed contract and make a
1073 copy of the appropriately redacted contract documents available
1074 for linking to the designated web page in accordance with the
1075 rules promulgated by the department. The information provided by
1076 the agency or governing authority shall be posted to the web page
1077 for the duration of the American Recovery and Reinvestment Act
1078 funding or until the project is completed, whichever is longer.

1079 (ii) **Bidding process amendment procedure.** If all
1080 plans and/or specifications are published in the notification,
1081 then the plans and/or specifications may not be amended. If all
1082 plans and/or specifications are not published in the notification,
1083 then amendments to the plans/specifications, bid opening date, bid



1084 opening time and place may be made, provided that the agency or
1085 governing authority maintains a list of all prospective bidders
1086 who are known to have received a copy of the bid documents and all
1087 such prospective bidders are sent copies of all amendments. This
1088 notification of amendments may be made via mail, facsimile,
1089 electronic mail or other generally accepted method of information
1090 distribution. No addendum to bid specifications may be issued
1091 within two (2) working days of the time established for the
1092 receipt of bids unless such addendum also amends the bid opening
1093 to a date not less than five (5) working days after the date of
1094 the addendum.

1095 (iii) **Filing requirement.** In all cases involving
1096 governing authorities, before the notice shall be published or
1097 posted, the plans or specifications for the construction or
1098 equipment being sought shall be filed with the clerk of the board
1099 of the governing authority. In addition to these requirements, a
1100 bid file shall be established which shall indicate those vendors
1101 to whom such solicitations and specifications were issued, and
1102 such file shall also contain such information as is pertinent to
1103 the bid.

1104 (iv) **Specification restrictions.**

1105 1. Specifications pertinent to such bidding
1106 shall be written so as not to exclude comparable equipment of
1107 domestic manufacture. However, if valid justification is
1108 presented, the Department of Finance and Administration or the



1109 board of a governing authority may approve a request for specific
1110 equipment necessary to perform a specific job. Further, such
1111 justification, when placed on the minutes of the board of a
1112 governing authority, may serve as authority for that governing
1113 authority to write specifications to require a specific item of
1114 equipment needed to perform a specific job. In addition to these
1115 requirements, from and after July 1, 1990, vendors of relocatable
1116 classrooms and the specifications for the purchase of such
1117 relocatable classrooms published by local school boards shall meet
1118 all pertinent regulations of the State Board of Education,
1119 including prior approval of such bid by the State Department of
1120 Education.

1121 2. Specifications for construction projects
1122 may include an allowance for commodities, equipment, furniture,
1123 construction materials or systems in which prospective bidders are
1124 instructed to include in their bids specified amounts for such
1125 items so long as the allowance items are acquired by the vendor in
1126 a commercially reasonable manner and approved by the
1127 agency/governing authority. Such acquisitions shall not be made
1128 to circumvent the public purchasing laws.

1129 (v) **Electronic bids.** Agencies and governing
1130 authorities shall provide a secure electronic interactive system
1131 for the submittal of bids requiring competitive bidding that shall
1132 be an additional bidding option for those bidders who choose to
1133 submit their bids electronically. The Department of Finance and



1134 Administration shall provide, by regulation, the standards that
1135 agencies must follow when receiving electronic bids. Agencies and
1136 governing authorities shall make the appropriate provisions
1137 necessary to accept electronic bids from those bidders who choose
1138 to submit their bids electronically for all purchases requiring
1139 competitive bidding under this section. Any special condition or
1140 requirement for the electronic bid submission shall be specified
1141 in the advertisement for bids required by this section. Agencies
1142 or governing authorities that are currently without available high
1143 speed Internet access shall be exempt from the requirement of this
1144 subparagraph (v) until such time that high speed Internet access
1145 becomes available. Any county having a population of less than
1146 twenty thousand (20,000) shall be exempt from the provisions of
1147 this subparagraph (v). Any municipality having a population of
1148 less than ten thousand (10,000) shall be exempt from the
1149 provisions of this subparagraph (v). The provisions of this
1150 subparagraph (v) shall not require any bidder to submit bids
1151 electronically. When construction bids are submitted
1152 electronically, the requirement for including a certificate of
1153 responsibility, or a statement that the bid enclosed does not
1154 exceed Fifty Thousand Dollars (\$50,000.00), on the exterior of the
1155 bid envelope as indicated in Section 31-3-21(1) and (2) shall be
1156 deemed in compliance with by including same as an attachment with
1157 the electronic bid submittal.

1158 (d) **Lowest and best bid decision procedure.**



1159 (i) **Decision procedure.** Purchases may be made
1160 from the lowest and best bidder. In determining the lowest and
1161 best bid, freight and shipping charges shall be included.
1162 Life-cycle costing, total cost bids, warranties, guaranteed
1163 buy-back provisions and other relevant provisions may be included
1164 in the best bid calculation. All best bid procedures for state
1165 agencies must be in compliance with regulations established by the
1166 Department of Finance and Administration. If any governing
1167 authority accepts a bid other than the lowest bid actually
1168 submitted, it shall place on its minutes detailed calculations and
1169 narrative summary showing that the accepted bid was determined to
1170 be the lowest and best bid, including the dollar amount of the
1171 accepted bid and the dollar amount of the lowest bid. No agency
1172 or governing authority shall accept a bid based on items not
1173 included in the specifications.

1174 (ii) **Decision procedure for Certified Purchasing**
1175 **Offices.** In addition to the decision procedure set forth in
1176 subparagraph (i) of this paragraph (d), Certified Purchasing
1177 Offices may also use the following procedure: Purchases may be
1178 made from the bidder offering the best value. In determining the
1179 best value bid, freight and shipping charges shall be included.
1180 Life-cycle costing, total cost bids, warranties, guaranteed
1181 buy-back provisions, documented previous experience, training
1182 costs and other relevant provisions, including, but not limited
1183 to, a bidder having a local office and inventory located within



1184 the jurisdiction of the governing authority, may be included in
1185 the best value calculation. This provision shall authorize
1186 Certified Purchasing Offices to utilize a Request For Proposals
1187 (RFP) process when purchasing commodities. All best value
1188 procedures for state agencies must be in compliance with
1189 regulations established by the Department of Finance and
1190 Administration. No agency or governing authority shall accept a
1191 bid based on items or criteria not included in the specifications.

1192 (iii) **Decision procedure for Mississippi**

1193 **Landmarks.** In addition to the decision procedure set forth in
1194 subparagraph (i) of this paragraph (d), where purchase involves
1195 renovation, restoration, or both, of the State Capitol Building or
1196 any other historical building designated for at least five (5)
1197 years as a Mississippi Landmark by the Board of Trustees of the
1198 Department of Archives and History under the authority of Sections
1199 39-7-7 and 39-7-11, the agency or governing authority may use the
1200 following procedure: Purchases may be made from the lowest and
1201 best prequalified bidder. Prequalification of bidders shall be
1202 determined not less than fifteen (15) working days before the
1203 first published notice of bid opening. Prequalification criteria
1204 shall be limited to bidder's knowledge and experience in
1205 historical restoration, preservation and renovation. In
1206 determining the lowest and best bid, freight and shipping charges
1207 shall be included. Life-cycle costing, total cost bids,
1208 warranties, guaranteed buy-back provisions and other relevant



1209 provisions may be included in the best bid calculation. All best
1210 bid and prequalification procedures for state agencies must be in
1211 compliance with regulations established by the Department of
1212 Finance and Administration. If any governing authority accepts a
1213 bid other than the lowest bid actually submitted, it shall place
1214 on its minutes detailed calculations and narrative summary showing
1215 that the accepted bid was determined to be the lowest and best
1216 bid, including the dollar amount of the accepted bid and the
1217 dollar amount of the lowest bid. No agency or governing authority
1218 shall accept a bid based on items not included in the
1219 specifications.

1220 (iv) **Construction project negotiations authority.**

1221 If the lowest and best bid is not more than ten percent (10%)
1222 above the amount of funds allocated for a public construction or
1223 renovation project, then the agency or governing authority shall
1224 be permitted to negotiate with the lowest bidder in order to enter
1225 into a contract for an amount not to exceed the funds allocated.

1226 (e) **Lease-purchase authorization.** For the purposes of
1227 this section, the term "equipment" shall mean equipment, furniture
1228 and, if applicable, associated software and other applicable
1229 direct costs associated with the acquisition. Any lease-purchase
1230 of equipment which an agency is not required to lease-purchase
1231 under the master lease-purchase program pursuant to Section
1232 31-7-10 and any lease-purchase of equipment which a governing
1233 authority elects to lease-purchase may be acquired by a



1234 lease-purchase agreement under this paragraph (e). Lease-purchase
1235 financing may also be obtained from the vendor or from a
1236 third-party source after having solicited and obtained at least
1237 two (2) written competitive bids, as defined in paragraph (b) of
1238 this section, for such financing without advertising for such
1239 bids. Solicitation for the bids for financing may occur before or
1240 after acceptance of bids for the purchase of such equipment or,
1241 where no such bids for purchase are required, at any time before
1242 the purchase thereof. No such lease-purchase agreement shall be
1243 for an annual rate of interest which is greater than the overall
1244 maximum interest rate to maturity on general obligation
1245 indebtedness permitted under Section 75-17-101, and the term of
1246 such lease-purchase agreement shall not exceed the useful life of
1247 equipment covered thereby as determined according to the upper
1248 limit of the asset depreciation range (ADR) guidelines for the
1249 Class Life Asset Depreciation Range System established by the
1250 Internal Revenue Service pursuant to the United States Internal
1251 Revenue Code and regulations thereunder as in effect on December
1252 31, 1980, or comparable depreciation guidelines with respect to
1253 any equipment not covered by ADR guidelines. Any lease-purchase
1254 agreement entered into pursuant to this paragraph (e) may contain
1255 any of the terms and conditions which a master lease-purchase
1256 agreement may contain under the provisions of Section 31-7-10(5),
1257 and shall contain an annual allocation dependency clause
1258 substantially similar to that set forth in Section 31-7-10(8).



1259 Each agency or governing authority entering into a lease-purchase
1260 transaction pursuant to this paragraph (e) shall maintain with
1261 respect to each such lease-purchase transaction the same
1262 information as required to be maintained by the Department of
1263 Finance and Administration pursuant to Section 31-7-10(13).
1264 However, nothing contained in this section shall be construed to
1265 permit agencies to acquire items of equipment with a total
1266 acquisition cost in the aggregate of less than Ten Thousand
1267 Dollars (\$10,000.00) by a single lease-purchase transaction. All
1268 equipment, and the purchase thereof by any lessor, acquired by
1269 lease-purchase under this paragraph and all lease-purchase
1270 payments with respect thereto shall be exempt from all Mississippi
1271 sales, use and ad valorem taxes. Interest paid on any
1272 lease-purchase agreement under this section shall be exempt from
1273 State of Mississippi income taxation.

1274 (f) **Alternate bid authorization.** When necessary to
1275 ensure ready availability of commodities for public works and the
1276 timely completion of public projects, no more than two (2)
1277 alternate bids may be accepted by a governing authority for
1278 commodities. No purchases may be made through use of such
1279 alternate bids procedure unless the lowest and best bidder cannot
1280 deliver the commodities contained in his bid. In that event,
1281 purchases of such commodities may be made from one (1) of the
1282 bidders whose bid was accepted as an alternate.



1283 (g) **Construction contract change authorization.** In the
1284 event a determination is made by an agency or governing authority
1285 after a construction contract is let that changes or modifications
1286 to the original contract are necessary or would better serve the
1287 purpose of the agency or the governing authority, such agency or
1288 governing authority may, in its discretion, order such changes
1289 pertaining to the construction that are necessary under the
1290 circumstances without the necessity of further public bids;
1291 provided that such change shall be made in a commercially
1292 reasonable manner and shall not be made to circumvent the public
1293 purchasing statutes. In addition to any other authorized person,
1294 the architect or engineer hired by an agency or governing
1295 authority with respect to any public construction contract shall
1296 have the authority, when granted by an agency or governing
1297 authority, to authorize changes or modifications to the original
1298 contract without the necessity of prior approval of the agency or
1299 governing authority when any such change or modification is less
1300 than one percent (1%) of the total contract amount. The agency or
1301 governing authority may limit the number, manner or frequency of
1302 such emergency changes or modifications.

1303 (h) **Petroleum purchase alternative.** In addition to
1304 other methods of purchasing authorized in this chapter, when any
1305 agency or governing authority shall have a need for gas, diesel
1306 fuel, oils and/or other petroleum products in excess of the amount
1307 set forth in paragraph (a) of this section, such agency or



1308 governing authority may purchase the commodity after having
1309 solicited and obtained at least two (2) competitive written bids,
1310 as defined in paragraph (b) of this section. If two (2)
1311 competitive written bids are not obtained, the entity shall comply
1312 with the procedures set forth in paragraph (c) of this section.
1313 In the event any agency or governing authority shall have
1314 advertised for bids for the purchase of gas, diesel fuel, oils and
1315 other petroleum products and coal and no acceptable bids can be
1316 obtained, such agency or governing authority is authorized and
1317 directed to enter into any negotiations necessary to secure the
1318 lowest and best contract available for the purchase of such
1319 commodities.

1320 (i) **Road construction petroleum products price**
1321 **adjustment clause authorization.** Any agency or governing
1322 authority authorized to enter into contracts for the construction,
1323 maintenance, surfacing or repair of highways, roads or streets,
1324 may include in its bid proposal and contract documents a price
1325 adjustment clause with relation to the cost to the contractor,
1326 including taxes, based upon an industry-wide cost index, of
1327 petroleum products including asphalt used in the performance or
1328 execution of the contract or in the production or manufacture of
1329 materials for use in such performance. Such industry-wide index
1330 shall be established and published monthly by the Mississippi
1331 Department of Transportation with a copy thereof to be mailed,
1332 upon request, to the clerks of the governing authority of each



1333 municipality and the clerks of each board of supervisors
1334 throughout the state. The price adjustment clause shall be based
1335 on the cost of such petroleum products only and shall not include
1336 any additional profit or overhead as part of the adjustment. The
1337 bid proposals or document contract shall contain the basis and
1338 methods of adjusting unit prices for the change in the cost of
1339 such petroleum products.

1340 (j) **State agency emergency purchase procedure.** If the
1341 governing board or the executive head, or his designees, of any
1342 agency of the state shall determine that an emergency exists in
1343 regard to the purchase of any commodities or repair contracts, so
1344 that the delay incident to giving opportunity for competitive
1345 bidding would be detrimental to the interests of the state, then
1346 the head of such agency, or his designees, shall file with the
1347 Department of Finance and Administration (i) a statement
1348 explaining the conditions and circumstances of the emergency,
1349 which shall include a detailed description of the events leading
1350 up to the situation and the negative impact to the entity if the
1351 purchase is made following the statutory requirements set forth in
1352 paragraph (a), (b) or (c) of this section, and (ii) a certified
1353 copy of the appropriate minutes of the board of such agency
1354 requesting the emergency purchase, if applicable. Upon receipt of
1355 the statement and applicable board certification, the State Fiscal
1356 Officer, or his designees, may, in writing, authorize the purchase



1357 or repair without having to comply with competitive bidding
1358 requirements.

1359 If the governing board or the executive head, or his
1360 designees, of any agency determines that an emergency exists in
1361 regard to the purchase of any commodities or repair contracts, so
1362 that the delay incident to giving opportunity for competitive
1363 bidding would threaten the health or safety of any person, or the
1364 preservation or protection of property, then the provisions in
1365 this section for competitive bidding shall not apply, and any
1366 officer or agent of the agency having general or specific
1367 authority for making the purchase or repair contract shall approve
1368 the bill presented for payment, and he shall certify in writing
1369 from whom the purchase was made, or with whom the repair contract
1370 was made.

1371 Total purchases made under this paragraph (j) shall only be
1372 for the purpose of meeting needs created by the emergency
1373 situation. Following the emergency purchase, documentation of the
1374 purchase, including a description of the commodity purchased, the
1375 purchase price thereof and the nature of the emergency shall be
1376 filed with the Department of Finance and Administration. Any
1377 contract awarded pursuant to this paragraph (j) shall not exceed a
1378 term of one (1) year.

1379 Purchases under the grant program established under Section
1380 37-68-7 in response to COVID-19 and the directive that school
1381 districts create a distance learning plan and fulfill technology



1382 needs expeditiously shall be deemed an emergency purchase for
1383 purposes of this paragraph (j).

1384 (k) **Governing authority emergency purchase procedure.**

1385 If the governing authority, or the governing authority acting
1386 through its designee, shall determine that an emergency exists in
1387 regard to the purchase of any commodities or repair contracts, so
1388 that the delay incident to giving opportunity for competitive
1389 bidding would be detrimental to the interest of the governing
1390 authority, then the provisions herein for competitive bidding
1391 shall not apply and any officer or agent of such governing
1392 authority having general or special authority therefor in making
1393 such purchase or repair shall approve the bill presented therefor,
1394 and he shall certify in writing thereon from whom such purchase
1395 was made, or with whom such a repair contract was made. At the
1396 board meeting next following the emergency purchase or repair
1397 contract, documentation of the purchase or repair contract,
1398 including a description of the commodity purchased, the price
1399 thereof and the nature of the emergency shall be presented to the
1400 board and shall be placed on the minutes of the board of such
1401 governing authority. Purchases under the grant program
1402 established under Section 37-68-7 in response to COVID-19 and the
1403 directive that school districts create a distance learning plan
1404 and fulfill technology needs expeditiously shall be deemed an
1405 emergency purchase for purposes of this paragraph (k).



1406 (1) **Hospital purchase, lease-purchase and lease**
1407 **authorization.**

1408 (i) The commissioners or board of trustees of any
1409 public hospital may contract with such lowest and best bidder for
1410 the purchase or lease-purchase of any commodity under a contract
1411 of purchase or lease-purchase agreement whose obligatory payment
1412 terms do not exceed five (5) years.

1413 (ii) In addition to the authority granted in
1414 subparagraph (i) of this paragraph (1), the commissioners or board
1415 of trustees is authorized to enter into contracts for the lease of
1416 equipment or services, or both, which it considers necessary for
1417 the proper care of patients if, in its opinion, it is not
1418 financially feasible to purchase the necessary equipment or
1419 services. Any such contract for the lease of equipment or
1420 services executed by the commissioners or board shall not exceed a
1421 maximum of five (5) years' duration and shall include a
1422 cancellation clause based on unavailability of funds. If such
1423 cancellation clause is exercised, there shall be no further
1424 liability on the part of the lessee. Any such contract for the
1425 lease of equipment or services executed on behalf of the
1426 commissioners or board that complies with the provisions of this
1427 subparagraph (ii) shall be excepted from the bid requirements set
1428 forth in this section.

1429 (m) **Exceptions from bidding requirements.** Excepted
1430 from bid requirements are:



1431 (i) **Purchasing agreements approved by department.**

1432 Purchasing agreements, contracts and maximum price regulations
1433 executed or approved by the Department of Finance and
1434 Administration.

1435 (ii) **Outside equipment repairs.** Repairs to
1436 equipment, when such repairs are made by repair facilities in the
1437 private sector; however, engines, transmissions, rear axles and/or
1438 other such components shall not be included in this exemption when
1439 replaced as a complete unit instead of being repaired and the need
1440 for such total component replacement is known before disassembly
1441 of the component; however, invoices identifying the equipment,
1442 specific repairs made, parts identified by number and name,
1443 supplies used in such repairs, and the number of hours of labor
1444 and costs therefor shall be required for the payment for such
1445 repairs.

1446 (iii) **In-house equipment repairs.** Purchases of
1447 parts for repairs to equipment, when such repairs are made by
1448 personnel of the agency or governing authority; however, entire
1449 assemblies, such as engines or transmissions, shall not be
1450 included in this exemption when the entire assembly is being
1451 replaced instead of being repaired.

1452 (iv) **Raw gravel or dirt.** Raw unprocessed deposits
1453 of gravel or fill dirt which are to be removed and transported by
1454 the purchaser.



1455 (v) **Governmental equipment auctions.** Motor
1456 vehicles or other equipment purchased from a federal agency or
1457 authority, another governing authority or state agency of the
1458 State of Mississippi, or any governing authority or state agency
1459 of another state at a public auction held for the purpose of
1460 disposing of such vehicles or other equipment. Any purchase by a
1461 governing authority under the exemption authorized by this
1462 subparagraph (v) shall require advance authorization spread upon
1463 the minutes of the governing authority to include the listing of
1464 the item or items authorized to be purchased and the maximum bid
1465 authorized to be paid for each item or items.

1466 (vi) **Intergovernmental sales and transfers.**
1467 Purchases, sales, transfers or trades by governing authorities or
1468 state agencies when such purchases, sales, transfers or trades are
1469 made by a private treaty agreement or through means of
1470 negotiation, from any federal agency or authority, another
1471 governing authority or state agency of the State of Mississippi,
1472 or any state agency or governing authority of another state.
1473 Nothing in this section shall permit such purchases through public
1474 auction except as provided for in subparagraph (v) of this
1475 paragraph (m). It is the intent of this section to allow
1476 governmental entities to dispose of and/or purchase commodities
1477 from other governmental entities at a price that is agreed to by
1478 both parties. This shall allow for purchases and/or sales at
1479 prices which may be determined to be below the market value if the



1480 selling entity determines that the sale at below market value is
1481 in the best interest of the taxpayers of the state. Governing
1482 authorities shall place the terms of the agreement and any
1483 justification on the minutes, and state agencies shall obtain
1484 approval from the Department of Finance and Administration, prior
1485 to releasing or taking possession of the commodities.

1486 (vii) **Perishable supplies or food.** Perishable
1487 supplies or food purchased for use in connection with hospitals,
1488 the school lunch programs, homemaking programs and for the feeding
1489 of county or municipal prisoners.

1490 (viii) **Single-source items.** Noncompetitive items
1491 available from one (1) source only. In connection with the
1492 purchase of noncompetitive items only available from one (1)
1493 source, a certification of the conditions and circumstances
1494 requiring the purchase shall be filed by the agency with the
1495 Department of Finance and Administration and by the governing
1496 authority with the board of the governing authority. Upon receipt
1497 of that certification the Department of Finance and Administration
1498 or the board of the governing authority, as the case may be, may,
1499 in writing, authorize the purchase, which authority shall be noted
1500 on the minutes of the body at the next regular meeting thereafter.
1501 In those situations, a governing authority is not required to
1502 obtain the approval of the Department of Finance and
1503 Administration. Following the purchase, the executive head of the
1504 state agency, or his designees, shall file with the Department of



1505 Finance and Administration, documentation of the purchase,
1506 including a description of the commodity purchased, the purchase
1507 price thereof and the source from whom it was purchased.

1508 (ix) **Waste disposal facility construction**
1509 **contracts.** Construction of incinerators and other facilities for
1510 disposal of solid wastes in which products either generated
1511 therein, such as steam, or recovered therefrom, such as materials
1512 for recycling, are to be sold or otherwise disposed of; however,
1513 in constructing such facilities, a governing authority or agency
1514 shall publicly issue requests for proposals, advertised for in the
1515 same manner as provided herein for seeking bids for public
1516 construction projects, concerning the design, construction,
1517 ownership, operation and/or maintenance of such facilities,
1518 wherein such requests for proposals when issued shall contain
1519 terms and conditions relating to price, financial responsibility,
1520 technology, environmental compatibility, legal responsibilities
1521 and such other matters as are determined by the governing
1522 authority or agency to be appropriate for inclusion; and after
1523 responses to the request for proposals have been duly received,
1524 the governing authority or agency may select the most qualified
1525 proposal or proposals on the basis of price, technology and other
1526 relevant factors and from such proposals, but not limited to the
1527 terms thereof, negotiate and enter contracts with one or more of
1528 the persons or firms submitting proposals.



1529 (x) **Hospital group purchase contracts.** Supplies,
1530 commodities and equipment purchased by hospitals through group
1531 purchase programs pursuant to Section 31-7-38.

1532 (xi) **Information technology products.** Purchases
1533 of information technology products made by governing authorities
1534 under the provisions of purchase schedules, or contracts executed
1535 or approved by the Mississippi Department of Information
1536 Technology Services and designated for use by governing
1537 authorities.

1538 (xii) **Energy efficiency services and equipment.**
1539 Energy efficiency services and equipment acquired by school
1540 districts, community and junior colleges, institutions of higher
1541 learning and state agencies or other applicable governmental
1542 entities on a shared-savings, lease or lease-purchase basis
1543 pursuant to Section 31-7-14.

1544 (xiii) **Municipal electrical utility system fuel.**
1545 Purchases of coal and/or natural gas by municipally owned electric
1546 power generating systems that have the capacity to use both coal
1547 and natural gas for the generation of electric power.

1548 (xiv) **Library books and other reference materials.**
1549 Purchases by libraries or for libraries of books and periodicals;
1550 processed film, videocassette tapes, filmstrips and slides;
1551 recorded audiotapes, cassettes and diskettes; and any such items
1552 as would be used for teaching, research or other information
1553 distribution; however, equipment such as projectors, recorders,



1554 audio or video equipment, and monitor televisions are not exempt
1555 under this subparagraph.

1556 (xv) **Unmarked vehicles.** Purchases of unmarked
1557 vehicles when such purchases are made in accordance with
1558 purchasing regulations adopted by the Department of Finance and
1559 Administration pursuant to Section 31-7-9(2).

1560 (xvi) **Election ballots.** Purchases of ballots
1561 printed pursuant to Section 23-15-351.

1562 (xvii) **Multichannel interactive video systems.**
1563 From and after July 1, 1990, contracts by Mississippi Authority
1564 for Educational Television with any private educational
1565 institution or private nonprofit organization whose purposes are
1566 educational in regard to the construction, purchase, lease or
1567 lease-purchase of facilities and equipment and the employment of
1568 personnel for providing multichannel interactive video systems
1569 (ITSF) in the school districts of this state.

1570 (xviii) **Purchases of prison industry products by**
1571 **the Department of Corrections, regional correctional facilities or**
1572 **privately owned prisons.** Purchases made by the Mississippi
1573 Department of Corrections, regional correctional facilities or
1574 privately owned prisons involving any item that is manufactured,
1575 processed, grown or produced from the state's prison industries.

1576 (xix) **Undercover operations equipment.** Purchases
1577 of surveillance equipment or any other high-tech equipment to be
1578 used by law enforcement agents in undercover operations, provided



1579 that any such purchase shall be in compliance with regulations
1580 established by the Department of Finance and Administration.

1581 (xx) **Junior college books for rent.** Purchases by
1582 community or junior colleges of textbooks which are obtained for
1583 the purpose of renting such books to students as part of a book
1584 service system.

1585 (xxi) **Certain school district purchases.**
1586 Purchases of commodities made by school districts from vendors
1587 with which any levying authority of the school district, as
1588 defined in Section 37-57-1, has contracted through competitive
1589 bidding procedures for purchases of the same commodities.

1590 (xxii) **Garbage, solid waste and sewage contracts.**
1591 Contracts for garbage collection or disposal, contracts for solid
1592 waste collection or disposal and contracts for sewage collection
1593 or disposal.

1594 (xxiii) **Municipal water tank maintenance**
1595 **contracts.** Professional maintenance program contracts for the
1596 repair or maintenance of municipal water tanks, which provide
1597 professional services needed to maintain municipal water storage
1598 tanks for a fixed annual fee for a duration of two (2) or more
1599 years.

1600 (xxiv) **Purchases of Mississippi Industries for the**
1601 **Blind products.** Purchases made by state agencies or governing
1602 authorities involving any item that is manufactured, processed or
1603 produced by the Mississippi Industries for the Blind.



1604 (xxv) **Purchases of state-adopted textbooks.**
1605 Purchases of state-adopted textbooks by public school districts.

1606 (xxvi) **Certain purchases under the Mississippi**
1607 **Major Economic Impact Act.** Contracts entered into pursuant to the
1608 provisions of Section 57-75-9(2), (3) and (4).

1609 (xxvii) **Used heavy or specialized machinery or**
1610 **equipment for installation of soil and water conservation**
1611 **practices purchased at auction.** Used heavy or specialized
1612 machinery or equipment used for the installation and
1613 implementation of soil and water conservation practices or
1614 measures purchased subject to the restrictions provided in
1615 Sections 69-27-331 through 69-27-341. Any purchase by the State
1616 Soil and Water Conservation Commission under the exemption
1617 authorized by this subparagraph shall require advance
1618 authorization spread upon the minutes of the commission to include
1619 the listing of the item or items authorized to be purchased and
1620 the maximum bid authorized to be paid for each item or items.

1621 (xxviii) **Hospital lease of equipment or services.**
1622 Leases by hospitals of equipment or services if the leases are in
1623 compliance with paragraph (1)(ii).

1624 (xxix) **Purchases made pursuant to qualified**
1625 **cooperative purchasing agreements.** Purchases made by certified
1626 purchasing offices of state agencies or governing authorities
1627 under cooperative purchasing agreements previously approved by the
1628 Office of Purchasing and Travel and established by or for any



1629 municipality, county, parish or state government or the federal
1630 government, provided that the notification to potential
1631 contractors includes a clause that sets forth the availability of
1632 the cooperative purchasing agreement to other governmental
1633 entities. Such purchases shall only be made if the use of the
1634 cooperative purchasing agreements is determined to be in the best
1635 interest of the governmental entity.

1636 (xxx) **School yearbooks.** Purchases of school
1637 yearbooks by state agencies or governing authorities; provided,
1638 however, that state agencies and governing authorities shall use
1639 for these purchases the RFP process as set forth in the
1640 Mississippi Procurement Manual adopted by the Office of Purchasing
1641 and Travel.

1642 (xxxi) **Design-build method of contracting and**
1643 **certain other contracts.** Contracts entered into under the
1644 provisions of Section 31-7-13.1, 37-101-44 or 65-1-85.

1645 (xxxii) **Toll roads and bridge construction**
1646 **projects.** Contracts entered into under the provisions of Section
1647 65-43-1 or 65-43-3.

1648 (xxxiii) **Certain purchases under Section 57-1-221.**
1649 Contracts entered into pursuant to the provisions of Section
1650 57-1-221.

1651 (xxxiv) **Certain transfers made pursuant to the**
1652 **provisions of Section 57-105-1(7).** Transfers of public property



1653 or facilities under Section 57-105-1(7) and construction related
1654 to such public property or facilities.

1655 (xxxv) **Certain purchases or transfers entered into**
1656 **with local electrical power associations.** Contracts or agreements
1657 entered into under the provisions of Section 55-3-33.

1658 (xxxvi) **Certain purchases by an academic medical**
1659 **center or health sciences school.** Purchases by an academic
1660 medical center or health sciences school, as defined in Section
1661 37-115-50, of commodities that are used for clinical purposes and
1662 1. intended for use in the diagnosis of disease or other
1663 conditions or in the cure, mitigation, treatment or prevention of
1664 disease, and 2. medical devices, biological, drugs and
1665 radiation-emitting devices as defined by the United States Food
1666 and Drug Administration.

1667 (xxxvii) **Certain purchases made under the Alyce G.**
1668 **Clarke Mississippi Lottery Law.** Contracts made by the Mississippi
1669 Lottery Corporation pursuant to the Alyce G. Clarke Mississippi
1670 Lottery Law.

1671 (xxxviii) **Certain purchases made by the Department**
1672 **of Health and the Department of Revenue.** Purchases made by the
1673 Department of Health and/or the Department of Revenue solely for
1674 the purpose of fulfilling their respective responsibilities under
1675 the Mississippi Medical Cannabis Act. This subparagraph shall
1676 stand repealed on June 30, 2023.



1677 (n) **Term contract authorization.** All contracts for the
1678 purchase of:

1679 (i) All contracts for the purchase of commodities,
1680 equipment and public construction (including, but not limited to,
1681 repair and maintenance), may be let for periods of not more than
1682 sixty (60) months in advance, subject to applicable statutory
1683 provisions prohibiting the letting of contracts during specified
1684 periods near the end of terms of office. Term contracts for a
1685 period exceeding twenty-four (24) months shall also be subject to
1686 ratification or cancellation by governing authority boards taking
1687 office subsequent to the governing authority board entering the
1688 contract.

1689 (ii) Bid proposals and contracts may include price
1690 adjustment clauses with relation to the cost to the contractor
1691 based upon a nationally published industry-wide or nationally
1692 published and recognized cost index. The cost index used in a
1693 price adjustment clause shall be determined by the Department of
1694 Finance and Administration for the state agencies and by the
1695 governing board for governing authorities. The bid proposal and
1696 contract documents utilizing a price adjustment clause shall
1697 contain the basis and method of adjusting unit prices for the
1698 change in the cost of such commodities, equipment and public
1699 construction.

1700 (o) **Purchase law violation prohibition and vendor**
1701 **penalty.** No contract or purchase as herein authorized shall be



1702 made for the purpose of circumventing the provisions of this
1703 section requiring competitive bids, nor shall it be lawful for any
1704 person or concern to submit individual invoices for amounts within
1705 those authorized for a contract or purchase where the actual value
1706 of the contract or commodity purchased exceeds the authorized
1707 amount and the invoices therefor are split so as to appear to be
1708 authorized as purchases for which competitive bids are not
1709 required. Submission of such invoices shall constitute a
1710 misdemeanor punishable by a fine of not less than Five Hundred
1711 Dollars (\$500.00) nor more than One Thousand Dollars (\$1,000.00),
1712 or by imprisonment for thirty (30) days in the county jail, or
1713 both such fine and imprisonment. In addition, the claim or claims
1714 submitted shall be forfeited.

1715 (p) **Electrical utility petroleum-based equipment**
1716 **purchase procedure.** When in response to a proper advertisement
1717 therefor, no bid firm as to price is submitted to an electric
1718 utility for power transformers, distribution transformers, power
1719 breakers, reclosers or other articles containing a petroleum
1720 product, the electric utility may accept the lowest and best bid
1721 therefor although the price is not firm.

1722 (q) **Fuel management system bidding procedure.** Any
1723 governing authority or agency of the state shall, before
1724 contracting for the services and products of a fuel management or
1725 fuel access system, enter into negotiations with not fewer than
1726 two (2) sellers of fuel management or fuel access systems for



1727 competitive written bids to provide the services and products for
1728 the systems. In the event that the governing authority or agency
1729 cannot locate two (2) sellers of such systems or cannot obtain
1730 bids from two (2) sellers of such systems, it shall show proof
1731 that it made a diligent, good-faith effort to locate and negotiate
1732 with two (2) sellers of such systems. Such proof shall include,
1733 but not be limited to, publications of a request for proposals and
1734 letters soliciting negotiations and bids. For purposes of this
1735 paragraph (q), a fuel management or fuel access system is an
1736 automated system of acquiring fuel for vehicles as well as
1737 management reports detailing fuel use by vehicles and drivers, and
1738 the term "competitive written bid" shall have the meaning as
1739 defined in paragraph (b) of this section. Governing authorities
1740 and agencies shall be exempt from this process when contracting
1741 for the services and products of fuel management or fuel access
1742 systems under the terms of a state contract established by the
1743 Office of Purchasing and Travel.

1744 (r) **Solid waste contract proposal procedure.** Before
1745 entering into any contract for garbage collection or disposal,
1746 contract for solid waste collection or disposal or contract for
1747 sewage collection or disposal, which involves an expenditure of
1748 more than Fifty Thousand Dollars (\$50,000.00), a governing
1749 authority or agency shall issue publicly a request for proposals
1750 concerning the specifications for such services which shall be
1751 advertised for in the same manner as provided in this section for



1752 seeking bids for purchases which involve an expenditure of more
1753 than the amount provided in paragraph (c) of this section. Any
1754 request for proposals when issued shall contain terms and
1755 conditions relating to price, financial responsibility,
1756 technology, legal responsibilities and other relevant factors as
1757 are determined by the governing authority or agency to be
1758 appropriate for inclusion; all factors determined relevant by the
1759 governing authority or agency or required by this paragraph (r)
1760 shall be duly included in the advertisement to elicit proposals.
1761 After responses to the request for proposals have been duly
1762 received, the governing authority or agency shall select the most
1763 qualified proposal or proposals on the basis of price, technology
1764 and other relevant factors and from such proposals, but not
1765 limited to the terms thereof, negotiate and enter into contracts
1766 with one or more of the persons or firms submitting proposals. If
1767 the governing authority or agency deems none of the proposals to
1768 be qualified or otherwise acceptable, the request for proposals
1769 process may be reinitiated. Notwithstanding any other provisions
1770 of this paragraph, where a county with at least thirty-five
1771 thousand (35,000) nor more than forty thousand (40,000)
1772 population, according to the 1990 federal decennial census, owns
1773 or operates a solid waste landfill, the governing authorities of
1774 any other county or municipality may contract with the governing
1775 authorities of the county owning or operating the landfill,
1776 pursuant to a resolution duly adopted and spread upon the minutes



1777 of each governing authority involved, for garbage or solid waste
1778 collection or disposal services through contract negotiations.

1779 (s) **Minority set-aside authorization.** Notwithstanding
1780 any provision of this section to the contrary, any agency or
1781 governing authority, by order placed on its minutes, may, in its
1782 discretion, set aside not more than twenty percent (20%) of its
1783 anticipated annual expenditures for the purchase of commodities
1784 from minority businesses; however, all such set-aside purchases
1785 shall comply with all purchasing regulations promulgated by the
1786 Department of Finance and Administration and shall be subject to
1787 bid requirements under this section. Set-aside purchases for
1788 which competitive bids are required shall be made from the lowest
1789 and best minority business bidder. For the purposes of this
1790 paragraph, the term "minority business" means a business which is
1791 owned by a majority of persons who are United States citizens or
1792 permanent resident aliens (as defined by the Immigration and
1793 Naturalization Service) of the United States, and who are Asian,
1794 Black, Hispanic or Native American, according to the following
1795 definitions:

1796 (i) "Asian" means persons having origins in any of
1797 the original people of the Far East, Southeast Asia, the Indian
1798 subcontinent, or the Pacific Islands.

1799 (ii) "Black" means persons having origins in any
1800 black racial group of Africa.



1801 (iii) "Hispanic" means persons of Spanish or
1802 Portuguese culture with origins in Mexico, South or Central
1803 America, or the Caribbean Islands, regardless of race.

1804 (iv) "Native American" means persons having
1805 origins in any of the original people of North America, including
1806 American Indians, Eskimos and Aleuts.

1807 (t) **Construction punch list restriction.** The
1808 architect, engineer or other representative designated by the
1809 agency or governing authority that is contracting for public
1810 construction or renovation may prepare and submit to the
1811 contractor only one (1) preliminary punch list of items that do
1812 not meet the contract requirements at the time of substantial
1813 completion and one (1) final list immediately before final
1814 completion and final payment.

1815 (u) **Procurement of construction services by state**
1816 **institutions of higher learning.** Contracts for privately financed
1817 construction of auxiliary facilities on the campus of a state
1818 institution of higher learning may be awarded by the Board of
1819 Trustees of State Institutions of Higher Learning to the lowest
1820 and best bidder, where sealed bids are solicited, or to the
1821 offeror whose proposal is determined to represent the best value
1822 to the citizens of the State of Mississippi, where requests for
1823 proposals are solicited.

1824 (v) **Insurability of bidders for public construction or**
1825 **other public contracts.** In any solicitation for bids to perform



1826 public construction or other public contracts to which this
1827 section applies, including, but not limited to, contracts for
1828 repair and maintenance, for which the contract will require
1829 insurance coverage in an amount of not less than One Million
1830 Dollars (\$1,000,000.00), bidders shall be permitted to either
1831 submit proof of current insurance coverage in the specified amount
1832 or demonstrate ability to obtain the required coverage amount of
1833 insurance if the contract is awarded to the bidder. Proof of
1834 insurance coverage shall be submitted within five (5) business
1835 days from bid acceptance.

1836 (w) **Purchase authorization clarification.** Nothing in
1837 this section shall be construed as authorizing any purchase not
1838 authorized by law.

1839 **SECTION 7.** Section 45-27-7, Mississippi Code of 1972, is
1840 amended as follows:

1841 45-27-7. (1) The Mississippi Justice Information Center
1842 shall:

1843 (a) Develop, operate and maintain an information system
1844 which will support the collection, storage, retrieval and
1845 dissemination of all data described in this chapter, consistent
1846 with those principles of scope, security and responsiveness
1847 prescribed by this chapter.

1848 (b) Cooperate with all criminal justice agencies within
1849 the state in providing those forms, procedures, standards and



1850 related training assistance necessary for the uniform operation of
1851 the statewide center.

1852 (c) Offer assistance and, when practicable, instruction
1853 to all local law enforcement agencies in establishing efficient
1854 local records systems.

1855 (d) Make available, upon request, to all local and
1856 state criminal justice agencies, to all federal criminal justice
1857 agencies and to criminal justice agencies in other states any
1858 information in the files of the center which will aid such
1859 agencies in the performance of their official duties. For this
1860 purpose the center shall operate on a twenty-four-hour basis,
1861 seven (7) days a week. Such information, when authorized by the
1862 director of the center, may also be made available to any other
1863 agency of this state or any political subdivision thereof and to
1864 any federal agency, upon assurance by the agency concerned that
1865 the information is to be used for official purposes only in the
1866 prevention or detection of crime or the apprehension of criminal
1867 offenders.

1868 (e) Cooperate with other agencies of this state, the
1869 crime information agencies of other states, and the national crime
1870 information center systems of the Federal Bureau of Investigation
1871 in developing and conducting an interstate, national and
1872 international system of criminal identification and records.



1873 (f) Make available, upon request, to nongovernmental
1874 entities or employers certain information for noncriminal justice
1875 purposes as specified in Section 45-27-12.

1876 (g) Institute necessary measures in the design,
1877 implementation and continued operation of the justice information
1878 system to ensure the privacy and security of the system. Such
1879 measures shall include establishing complete control over use of
1880 and access to the system and restricting its integral resources
1881 and facilities and those either possessed or procured and
1882 controlled by criminal justice agencies. Such security measures
1883 must meet standards developed by the center as well as those set
1884 by the nationally operated systems for interstate sharing of
1885 information.

1886 (h) Provide data processing for files listing motor
1887 vehicle drivers' license numbers, motor vehicle registration
1888 numbers, wanted and stolen motor vehicles, outstanding warrants,
1889 identifiable stolen property and such other files as may be of
1890 general assistance to law enforcement agencies; provided, however,
1891 that the purchase, lease, rental or acquisition in any manner of
1892 "computer equipment or services," as defined in Section 25-53-3,
1893 Mississippi Code of 1972, shall be subject to the approval of the
1894 Mississippi Information Technology Services.

1895 (i) Maintain a field coordination and support unit
1896 which shall have all the power conferred by law upon any peace
1897 officer of this state.



1898 (2) The department, including the investigative division or
1899 the center, may:

1900 (a) Obtain and store fingerprints, descriptions,
1901 photographs and any other pertinent identifying data from crime
1902 scenes and on persons who:

1903 (i) Have been or are hereafter arrested or taken
1904 into custody in this state:

- 1905 1. For an offense which is a felony;
1906 2. For an offense which is a misdemeanor;
1907 3. As a fugitive from justice; or

1908 (ii) Are or become habitual offenders; or

1909 (iii) Are currently or become confined to any
1910 prison, penitentiary or other penal institution; or

1911 (iv) Are unidentified human corpses found in the
1912 state; or

1913 (v) Have submitted fingerprints for conducting
1914 criminal history record checks.

1915 (b) Compare all fingerprint and other identifying data
1916 received with that already on file and determine whether or not a
1917 criminal record is found for such person, and at once inform the
1918 requesting agency or arresting officer of those facts that may be
1919 disseminated consistent with applicable security and privacy laws
1920 and regulations. A record shall be maintained for a minimum of
1921 one (1) year of the dissemination of each individual criminal



1922 history, including at least the date and recipient of such
1923 information.

1924 (c) Establish procedures to respond to those
1925 individuals who file requests to review their own records,
1926 pursuant to Sections 45-27-11 and 45-27-12, and to cooperate in
1927 the correction of the central center records and those of
1928 contributing agencies when their accuracy has been successfully
1929 challenged either through the related contributing agencies or by
1930 court order issued on behalf of an individual.

1931 (d) Retain in the system the fingerprints of all law
1932 enforcement officers and part-time law enforcement officers, as
1933 those terms are defined in Section 45-6-3, any fingerprints sent
1934 by the Mississippi State Department of Health, and of all
1935 applicants to law enforcement agencies.

1936 (3) There shall be a presumption that a copy of any document
1937 submitted to the center in accordance with the provisions of
1938 Section 45-27-9 that has been processed as set forth in this
1939 chapter and subsequently certified and provided by the center to a
1940 law enforcement agency or a court shall be admissible in any
1941 proceeding without further authentication unless a person
1942 objecting to that admissibility has successfully challenged the
1943 document under the provisions of Section 45-27-11.

1944 **SECTION 8.** Section 45-27-12, Mississippi Code of 1972, is
1945 amended as follows:



1946 45-27-12. (1) State conviction information and arrest
1947 information which is contained in the center's database or the
1948 nonexistence of such information in the center's database shall be
1949 made available for the following noncriminal justice purposes:

1950 (a) To any local, state or federal governmental agency
1951 that requests the information for the enforcement of a local,
1952 state or federal law;

1953 (b) To any individual, nongovernmental entity or any
1954 employer authorized either by the subject of record in writing or
1955 by state or federal law to receive such information; and

1956 (c) To any federal agency or central repository in
1957 another state requesting the information for purposes authorized
1958 by law.

1959 (2) Information disseminated for noncriminal justice
1960 purposes as specified in this section shall be used only for the
1961 purpose for which it was made available and may not be
1962 re-disseminated.

1963 (3) No agency or individual shall confirm the existence or
1964 nonexistence of criminal history record information to any person
1965 or organization that would not be eligible to receive the
1966 information pursuant to this section.

1967 (4) Upon request for a check pursuant to this section, the
1968 nongovernmental entity or employer must provide proper
1969 identification and authorization information from the subject of



1970 the record to be checked and adhere to policies established by the
1971 center for such record checks.

1972 (5) Any individual or his attorney who is the subject of the
1973 record to be checked, upon positive verification of the
1974 individual's identity, may request to review the disseminated
1975 information and shall follow the procedure set forth in Section
1976 45-27-11. If the individual wishes to correct the record as it
1977 appears in the center's system, the person shall follow the
1978 procedure set forth in Section 45-27-11. The right of a person to
1979 review the person's criminal history record information shall not
1980 be used by a prospective employer or others as a means to
1981 circumvent procedures or fees for accessing records for
1982 noncriminal justice purposes.

1983 (6) The center may impose procedures, including the
1984 submission of fingerprints, fees or restrictions, as are
1985 reasonably necessary to assure the record's security, to verify
1986 the identities of those who seek to inspect them, and to maintain
1987 an orderly and efficient mechanism for access. All fees shall be
1988 assessed and deposited in accordance with the provisions of
1989 Section 45-27-8.

1990 (7) The center shall (a) retain, separate from other
1991 division records, personal information, including any
1992 fingerprints, sent to it by the Mississippi Department of Health;
1993 and (b) notify the Department of Health upon receiving notice that
1994 an individual for whom personal information has been retained is



1995 the subject of: (i) a warrant for arrest; (ii) an arrest; (iii) a
1996 conviction, including a plea in abeyance; or (iv) a pending
1997 diversion agreement.

1998 (8) The center is authorized to implement the Rap-Back
1999 criminal history records check system, and the Department of
2000 Health is authorized to implement and to utilize the state/federal
2001 Rap-Back criminal history system as a method of ongoing monitoring
2002 of individuals providing such care to Mississippi's vulnerable
2003 population in "covered" entities including prospective designated
2004 caregivers and entities named in the Mississippi Medical Cannabis
2005 Act and to apply for and provide matching funds in order for
2006 Mississippi to receive federal grants to make necessary upgrades
2007 to the department's data systems to accommodate Rap-Back
2008 capabilities.

2009 (* * *9) Local agencies may release their own agency
2010 records according to their own policies.

2011 (* * *10) Release of the above-described information for
2012 noncriminal justice purposes shall be made only by the center,
2013 under the limitations of this section, and such compiled records
2014 will not be released or disclosed for noncriminal justice purposes
2015 by other agencies in the state.

2016 **SECTION 9.** In the negotiation and execution of all
2017 information technology contracts as necessary under the
2018 Mississippi Medical Cannabis Act, the executive director of the
2019 State Department of Health and the executive director of the



2020 Department of Revenue may negotiate a limitation on the liability
2021 of prospective contractors to the state, provided that such
2022 limitation affords the state reasonable protection.

2023 **SECTION 10.** This act shall take effect and be in force from
2024 and after its passage.

