

By: Representative Roberson

To: Drug Policy

COMMITTEE SUBSTITUTE  
FOR  
HOUSE BILL NO. 249

1 AN ACT TO AMEND SECTION 25-9-107, MISSISSIPPI CODE OF 1972,  
2 TO EXTEND THE DATE OF THE REPEALER ON THE PROVISION OF LAW  
3 EXCLUDING FROM THE STATE SERVICE THOSE EMPLOYEES OF THE STATE  
4 DEPARTMENT OF HEALTH AND THE DEPARTMENT OF REVENUE WHOSE  
5 EMPLOYMENT IS SOLELY RELATED TO THE MISSISSIPPI MEDICAL CANNABIS  
6 ACT; TO AMEND SECTION 25-43-1.103, MISSISSIPPI CODE OF 1972, TO  
7 EXTEND THE DATE OF THE REPEALER ON THOSE DEPARTMENTS' EXEMPTION  
8 FROM THE MISSISSIPPI ADMINISTRATIVE PROCEDURES LAW FOR PURPOSES  
9 RELATED TO THE MISSISSIPPI MEDICAL CANNABIS ACT; TO AMEND SECTIONS  
10 25-53-1 AND 25-53-5, MISSISSIPPI CODE OF 1972, TO EXTEND THE DATE  
11 OF THOSE DEPARTMENTS' EXEMPTION FOR PURPOSES RELATED TO THE  
12 MISSISSIPPI MEDICAL CANNABIS ACT FROM THE BID AND CONTRACT  
13 REQUIREMENTS OF THE MISSISSIPPI DEPARTMENT OF INFORMATION  
14 TECHNOLOGY SERVICES; TO AMEND SECTION 27-104-7, MISSISSIPPI CODE  
15 OF 1972, TO EXTEND THE DATE OF THE EXEMPTION FOR THOSE  
16 DEPARTMENTS' PERSONAL AND PROFESSIONAL SERVICE CONTRACTS RELATING  
17 TO THE MISSISSIPPI MEDICAL CANNABIS ACT FROM THE REQUIREMENTS OF  
18 THE PUBLIC PROCUREMENT REVIEW BOARD; TO AMEND SECTION 31-7-13,  
19 MISSISSIPPI CODE OF 1972, TO EXTEND THE DATE OF THE REPEALER ON  
20 THE EXEMPTION FROM STATE BID REQUIREMENTS FOR PURCHASES MADE BY  
21 THOSE DEPARTMENTS IN CONNECTION WITH THEIR RESPONSIBILITIES UNDER  
22 THE MISSISSIPPI MEDICAL CANNABIS ACT; TO INCLUDE SERVICES PROVIDED  
23 BY THE MISSISSIPPI INDUSTRIES FOR THE BLIND IN THE EXCEPTIONS FROM  
24 BIDDING REQUIREMENTS; AND FOR RELATED PURPOSES.

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

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



28           25-9-107. The following terms, when used in this chapter,  
29 unless a different meaning is plainly required by the context,  
30 shall have the following meanings:

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

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

36           (c) "Nonstate service" means the following officers and  
37 employees excluded from the state service by this chapter. The  
38 following are excluded from the state service:

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

41           (ii) The Governor and staff members of the  
42 immediate Office of the Governor;

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

45           (iv) The Lieutenant Governor, staff members of the  
46 immediate Office of the Lieutenant Governor and officers and  
47 employees directly appointed by the Lieutenant Governor;

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

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



52 (vii) All academic officials, members of the  
53 teaching staffs and employees of the state institutions of higher  
54 learning, the Mississippi Community College Board, and community  
55 and junior colleges;

56 (viii) Officers and enlisted members of the  
57 National Guard of the state;

58 (ix) Prisoners, inmates, student or patient help  
59 working in or about institutions;

60 (x) Contract personnel; provided that any agency  
61 which employs state service employees may enter into contracts for  
62 personal and professional services only if such contracts are  
63 approved in compliance with the rules and regulations promulgated  
64 by the Public Procurement Review Board under Section 27-104-7.  
65 Before paying any warrant for such contractual services in excess  
66 of Seventy-five Thousand Dollars (\$75,000.00), the Auditor of  
67 Public Accounts, or the successor to those duties, shall determine  
68 whether the contract involved was for personal or professional  
69 services, and, if so, was approved by the Public Procurement  
70 Review Board as required by law;

71 (xi) Part-time employees; \* \* \* however, part-time  
72 employees shall only be hired into authorized employment positions  
73 classified by the board, shall meet minimum qualifications as set  
74 by the board, and shall be paid in accordance with the Variable  
75 Compensation Plan as certified by the board;



76 (xii) Persons appointed on an emergency basis for  
77 the duration of the emergency; the effective date of the emergency  
78 appointments shall not be earlier than the date approved by the  
79 State Personnel Director, and shall be limited to thirty (30)  
80 working days. Emergency appointments may be extended to sixty  
81 (60) working days by the State Personnel Board;

82 (xiii) Physicians, dentists, veterinarians, nurse  
83 practitioners and attorneys, while serving in their professional  
84 capacities in authorized employment positions who are required by  
85 statute to be licensed, registered or otherwise certified as such,  
86 provided that the State Personnel Director shall verify that the  
87 statutory qualifications are met prior to issuance of a payroll  
88 warrant by the Auditor;

89 (xiv) Personnel who are employed and paid from  
90 funds received from a federal grant program which has been  
91 approved by the Legislature or the Department of Finance and  
92 Administration whose length of employment has been determined to  
93 be time-limited in nature. This subparagraph shall apply to  
94 personnel employed under the provisions of the Comprehensive  
95 Employment and Training Act of 1973, as amended, and other special  
96 federal grant programs which are not a part of regular federally  
97 funded programs wherein appropriations and employment positions  
98 are appropriated by the Legislature. Such employees shall be paid  
99 in accordance with the Variable Compensation Plan and shall meet



100 all qualifications required by federal statutes or by the  
101 Mississippi Classification Plan;

102 (xv) The administrative head who is in charge of  
103 any state department, agency, institution, board or commission,  
104 wherein the statute specifically authorizes the Governor, board,  
105 commission or other authority to appoint said administrative  
106 head; \* \* \* however, \* \* \* the salary of such administrative head  
107 shall be determined by the State Personnel Board in accordance  
108 with the Variable Compensation Plan unless otherwise fixed by  
109 statute;

110 (xvi) The State Personnel Board shall exclude  
111 top-level positions if the incumbents determine and publicly  
112 advocate substantive program policy and report directly to the  
113 agency head, or the incumbents are required to maintain a direct  
114 confidential working relationship with a key excluded official.

115 \* \* \* Further, a written job classification shall be approved by  
116 the board for each such position, and positions so excluded shall  
117 be paid in conformity with the Variable Compensation Plan;

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

121 (xviii) Repealed;

122 (xix) The associate director, deputy directors and  
123 bureau directors within the Department of Agriculture and  
124 Commerce;



125                   (xx) Personnel employed by the Mississippi  
126 Industries for the Blind; provided that any agency may enter into  
127 contracts for the personal services of MIB employees without the  
128 prior approval of the State Personnel Board or the State Personal  
129 Service Contract Review Board; however, any agency contracting for  
130 the personal services of an MIB employee shall provide the MIB  
131 employee with not less than the entry-level compensation and  
132 benefits that the agency would provide to a full-time employee of  
133 the agency who performs the same services;

134                   (xxi) Personnel employed by the Mississippi  
135 Department of Wildlife, Fisheries and Parks and the Mississippi  
136 Department of Marine Resources as law enforcement trainees  
137 (cadets); such personnel shall be paid in accordance with the  
138 Colonel Guy Groff State Variable Compensation Plan;

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

142                   (xxiii) The President of the Mississippi Lottery  
143 Corporation and personnel employed by the Mississippi Lottery  
144 Corporation;

145                   (xxiv) Employees, excluding administrative  
146 employees, of the State Veterans Affairs Board who are employed at  
147 a veterans home established by the State Veterans Affairs Board  
148 under Section 35-1-19;



149 (xxv) Personnel employed by the Mississippi  
150 Department of Health whose employment is solely in connection with  
151 the department's responsibilities in implementing, administering  
152 and enforcing provisions of the Mississippi Medical Cannabis Act.  
153 This subparagraph shall stand repealed on June 30, \* \* \* 2026; and

154 (xxvi) Personnel employed by the Mississippi  
155 Department of Revenue whose employment is solely in connection  
156 with the department's responsibilities in implementing,  
157 administering and enforcing provisions of the Mississippi Medical  
158 Cannabis Act. This subparagraph shall stand repealed on June  
159 30, \* \* \* 2026.

160 (d) "Agency" means any state board, commission,  
161 committee, council, department or unit thereof created by the  
162 Constitution or statutes if such board, commission, committee,  
163 council, department, unit or the head thereof, is authorized to  
164 appoint subordinate staff by the Constitution or statute, except a  
165 legislative or judicial board, commission, committee, council,  
166 department or unit thereof.

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

169 25-43-1.103. (1) This chapter applies to all agencies and  
170 all proceedings not expressly exempted under this chapter.

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



174 (3) Specific statutory provisions which govern agency  
175 proceedings and which are in conflict with any of the provisions  
176 of this chapter shall continue to be applied to all proceedings of  
177 any such agency to the extent of such conflict only.

178 (4) The provisions of this chapter shall not be construed to  
179 amend, repeal or supersede the provisions of any other law; and,  
180 to the extent that the provisions of any other law conflict or are  
181 inconsistent with the provisions of this chapter, the provisions  
182 of such other law shall govern and control.

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

187 (6) For the purposes of implementing, administering and/or  
188 enforcing the provisions of rules and regulations promulgated  
189 pursuant to the Mississippi Medical Cannabis Act, the Mississippi  
190 State Department of Health and the Mississippi Department of  
191 Revenue shall be exempted from this chapter from February 2, 2022,  
192 through June 30, \* \* \* 2026. This subsection shall stand repealed  
193 on June 30, \* \* \* 2026.

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

196 25-53-1. The Legislature recognizes that in order for the  
197 State of Mississippi to receive the maximum use and benefit from  
198 information technology and services now in operation or which will





199 in the future be placed in operation, there should be full  
200 cooperation and cohesive planning and effort by and between the  
201 several state agencies and that it is the responsibility of the  
202 Legislature to provide statutory authority therefor. The  
203 Legislature, therefore, declares and determines that for these and  
204 other related purposes there is hereby established an agency of  
205 state government to be known as the Mississippi Department of  
206 Information Technology Services (MDITS). The Legislature further  
207 declares that the Mississippi Department of Information Technology  
208 Services (MDITS) shall provide statewide services that facilitate  
209 cost-effective information processing and telecommunication  
210 solutions. State agencies shall work in full cooperation with the  
211 board of MDITS to identify opportunities to minimize duplication,  
212 reduce costs and improve the efficiency of providing common  
213 technology services across agency boundaries. The provisions of  
214 this chapter shall not apply to the Department of Human Services  
215 for a period of three (3) years beginning July 1, 2017. The  
216 provisions of this chapter shall not apply to the Department of  
217 Child Protection Services for a period of three (3) years  
218 beginning July 1, 2017. Through June 30, \* \* \* 2024, the  
219 provisions of this chapter shall not apply to the Department of  
220 Health and the Department of Revenue for the purposes of  
221 implementing, administering and enforcing the provisions of the  
222 Mississippi Medical Cannabis Act.



223           **SECTION 4.** Section 25-53-5, Mississippi Code of 1972, is  
224 amended as follows:

225           25-53-5. The authority shall have the following powers,  
226 duties, and responsibilities:

227           (a) (i) The authority shall provide for the  
228 development of plans for the efficient acquisition and utilization  
229 of computer equipment and services by all agencies of state  
230 government, and provide for their implementation. In so doing,  
231 the authority may use the MDITS' staff, at the discretion of the  
232 executive director of the authority, or the authority may contract  
233 for the services of qualified consulting firms in the field of  
234 information technology and utilize the service of such consultants  
235 as may be necessary for such purposes. Pursuant to Section  
236 25-53-1, the provisions of this section shall not apply to the  
237 Department of Human Services for a period of three (3) years  
238 beginning on July 1, 2017. Pursuant to Section 25-53-1, the  
239 provisions of this section shall not apply to the Department of  
240 Child Protection Services for a period of three (3) years  
241 beginning July 1, 2017.

242           (ii) [Repealed]

243           (b) The authority shall immediately institute  
244 procedures for carrying out the purposes of this chapter and  
245 supervise the efficient execution of the powers and duties of the  
246 office of executive director of the authority. In the execution  
247 of its functions under this chapter, the authority shall maintain



248 as a paramount consideration the successful internal organization  
249 and operation of the several agencies so that efficiency existing  
250 therein shall not be adversely affected or impaired. In executing  
251 its functions in relation to the institutions of higher learning  
252 and junior colleges in the state, the authority shall take into  
253 consideration the special needs of such institutions in relation  
254 to the fields of teaching and scientific research.

255 (c) Title of whatever nature of all computer equipment  
256 now vested in any agency of the State of Mississippi is hereby  
257 vested in the authority, and no such equipment shall be disposed  
258 of in any manner except in accordance with the direction of the  
259 authority or under the provisions of such rules and regulations as  
260 may hereafter be adopted by the authority in relation thereto.

261 (d) The authority shall adopt rules, regulations, and  
262 procedures governing the acquisition of computer and  
263 telecommunications equipment and services which shall, to the  
264 fullest extent practicable, insure the maximum of competition  
265 between all manufacturers of supplies or equipment or services.  
266 In the writing of specifications, in the making of contracts  
267 relating to the acquisition of such equipment and services, and in  
268 the performance of its other duties the authority shall provide  
269 for the maximum compatibility of all information systems hereafter  
270 installed or utilized by all state agencies and may require the  
271 use of common computer languages where necessary to accomplish the  
272 purposes of this chapter. The authority may establish by



273 regulation and charge reasonable fees on a nondiscriminatory basis  
274 for the furnishing to bidders of copies of bid specifications and  
275 other documents issued by the authority.

276 (e) The authority shall adopt rules and regulations  
277 governing the sharing with, or the sale or lease of information  
278 technology services to any nonstate agency or person. Such  
279 regulations shall provide that any such sharing, sale or lease  
280 shall be restricted in that same shall be accomplished only where  
281 such services are not readily available otherwise within the  
282 state, and then only at a charge to the user not less than the  
283 prevailing rate of charge for similar services by private  
284 enterprise within this state.

285 (f) The authority may, in its discretion, establish a  
286 special technical advisory committee or committees to study and  
287 make recommendations on technology matters within the competence  
288 of the authority as the authority may see fit. Persons serving on  
289 the Information Resource Council, its task forces, or any such  
290 technical advisory committees shall be entitled to receive their  
291 actual and necessary expenses actually incurred in the performance  
292 of such duties, together with mileage as provided by law for state  
293 employees, provided the same has been authorized by a resolution  
294 duly adopted by the authority and entered on its minutes prior to  
295 the performance of such duties.

296 (g) The authority may provide for the development and  
297 require the adoption of standardized computer programs and may



298 provide for the dissemination of information to and the  
299 establishment of training programs for the personnel of the  
300 various information technology centers of state agencies and  
301 personnel of the agencies utilizing the services thereof.

302 (h) The authority shall adopt reasonable rules and  
303 regulations requiring the reporting to the authority through the  
304 office of executive director of such information as may be  
305 required for carrying out the purposes of this chapter and may  
306 also establish such reasonable procedures to be followed in the  
307 presentation of bills for payment under the terms of all contracts  
308 for the acquisition of computer equipment and services now or  
309 hereafter in force as may be required by the authority or by the  
310 executive director in the execution of their powers and duties.

311 (i) The authority shall require such adequate  
312 documentation of information technology procedures utilized by the  
313 various state agencies and may require the establishment of such  
314 organizational structures within state agencies relating to  
315 information technology operations as may be necessary to  
316 effectuate the purposes of this chapter.

317 (j) The authority may adopt such further reasonable  
318 rules and regulations as may be necessary to fully implement the  
319 purposes of this chapter. All rules and regulations adopted by  
320 the authority shall be published and disseminated in readily  
321 accessible form to all affected state agencies, and to all current  
322 suppliers of computer equipment and services to the state, and to



323 all prospective suppliers requesting the same. Such rules and  
324 regulations shall be kept current, be periodically revised, and  
325 copies thereof shall be available at all times for inspection by  
326 the public at reasonable hours in the offices of the authority.  
327 Whenever possible no rule, regulation or any proposed amendment to  
328 such rules and regulations shall be finally adopted or enforced  
329 until copies of the proposed rules and regulations have been  
330 furnished to all interested parties for their comment and  
331 suggestions.

332 (k) The authority shall establish rules and regulations  
333 which shall provide for the submission of all contracts proposed  
334 to be executed by the executive director for computer equipment or  
335 services to the authority for approval before final execution, and  
336 the authority may provide that such contracts involving the  
337 expenditure of less than such specified amount as may be  
338 established by the authority may be finally executed by the  
339 executive director without first obtaining such approval by the  
340 authority.

341 (l) The authority is authorized to purchase, lease, or  
342 rent computer equipment or services and to operate that equipment  
343 and use those services in providing services to one or more state  
344 agencies when in its opinion such operation will provide maximum  
345 efficiency and economy in the functions of any such agency or  
346 agencies.



347 (m) Upon the request of the governing body of a  
348 political subdivision or instrumentality, the authority shall  
349 assist the political subdivision or instrumentality in its  
350 development of plans for the efficient acquisition and utilization  
351 of computer equipment and services. An appropriate fee shall be  
352 charged the political subdivision by the authority for such  
353 assistance.

354 (n) The authority shall adopt rules and regulations  
355 governing the protest procedures to be followed by any actual or  
356 prospective bidder, offerer or contractor who is aggrieved in  
357 connection with the solicitation or award of a contract for the  
358 acquisition of computer equipment or services. Such rules and  
359 regulations shall prescribe the manner, time and procedure for  
360 making protests and may provide that a protest not timely filed  
361 shall be summarily denied. The authority may require the  
362 protesting party, at the time of filing the protest, to post a  
363 bond, payable to the state, in an amount that the authority  
364 determines sufficient to cover any expense or loss incurred by the  
365 state, the authority or any state agency as a result of the  
366 protest if the protest subsequently is determined by a court of  
367 competent jurisdiction to have been filed without any substantial  
368 basis or reasonable expectation to believe that the protest was  
369 meritorious; however, in no event may the amount of the bond  
370 required exceed a reasonable estimate of the total project cost.  
371 The authority, in its discretion, also may prohibit any



372 prospective bidder, offerer or contractor who is a party to any  
373 litigation involving any such contract with the state, the  
374 authority or any agency of the state to participate in any other  
375 such bid, offer or contract, or to be awarded any such contract,  
376 during the pendency of the litigation.

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

381 All acquisitions of computer equipment and services involving  
382 the expenditure of funds in excess of the dollar amount  
383 established in Section 31-7-13(c), or rentals or leases in excess  
384 of the dollar amount established in Section 31-7-13(c) for the  
385 term of the contract, shall be based upon competitive and open  
386 specifications, and contracts therefor shall be entered into only  
387 after advertisements for bids are published in one or more daily  
388 newspapers having a general circulation in the state not less than  
389 fourteen (14) days prior to receiving sealed bids therefor. The  
390 authority may reserve the right to reject any or all bids, and if  
391 all bids are rejected, the authority may negotiate a contract  
392 within the limitations of the specifications so long as the terms  
393 of any such negotiated contract are equal to or better than the  
394 comparable terms submitted by the lowest and best bidder, and so  
395 long as the total cost to the State of Mississippi does not exceed  
396 the lowest bid. If the authority accepts one (1) of such bids, it





397 shall be that which is the lowest and best. Through June  
398 30, \* \* \* 2024, the provisions of this paragraph shall not apply  
399 to acquisitions of information technology equipment and services  
400 made by the Mississippi Department of Health \* \* \* and the  
401 Mississippi Department of Revenue for the purposes of  
402 implementing, administering \* \* \* and enforcing the provisions of  
403 the Mississippi Medical Cannabis Act.

404 (p) When applicable, the authority may procure  
405 equipment, systems and related services in accordance with the law  
406 or regulations, or both, which govern the Bureau of Purchasing of  
407 the Office of General Services or which govern the Mississippi  
408 Department of Information Technology Services procurement of  
409 telecommunications equipment, software and services.

410 (q) The authority is authorized to purchase, lease, or  
411 rent information technology and services for the purpose of  
412 establishing pilot projects to investigate emerging technologies.  
413 These acquisitions shall be limited to new technologies and shall  
414 be limited to an amount set by annual appropriation of the  
415 Legislature. These acquisitions shall be exempt from the  
416 advertising and bidding requirement.

417 (r) All fees collected by the Mississippi Department of  
418 Information Technology Services shall be deposited into the  
419 Mississippi Department of Information Technology Services  
420 Revolving Fund unless otherwise specified by the Legislature.



421           (s) The authority shall work closely with the council  
422 to bring about effective coordination of policies, standards and  
423 procedures relating to procurement of remote sensing and  
424 geographic information systems (GIS) resources. In addition, the  
425 authority is responsible for development, operation and  
426 maintenance of a delivery system infrastructure for geographic  
427 information systems data. The authority shall provide a warehouse  
428 for Mississippi's geographic information systems data.

429           (t) The authority shall manage one or more State Data  
430 Centers to provide information technology services on a  
431 cost-sharing basis. In determining the appropriate services to be  
432 provided through the State Data Center, the authority should  
433 consider those services that:

- 434                   (i) Result in savings to the state as a whole;
- 435                   (ii) Improve and enhance the security and  
436 reliability of the state's information and business systems; and
- 437                   (iii) Optimize the efficient use of the state's  
438 information technology assets, including, but not limited to,  
439 promoting partnerships with the state institutions of higher  
440 learning and community colleges to capitalize on advanced  
441 information technology resources.

442           (u) The authority shall increase federal participation  
443 in the cost of the State Data Center to the extent provided by law  
444 and its shared technology infrastructure through providing such  
445 shared services to agencies that receive federal funds. With



446 regard to state institutions of higher learning and community  
447 colleges, the authority may provide shared services when mutually  
448 agreeable, following a determination by both the authority and the  
449 Board of Trustees of State Institutions of Higher Learning or the  
450 Mississippi Community College Board, as the case may be, that the  
451 sharing of services is mutually beneficial.

452 (v) The authority, in its discretion, may require new  
453 or replacement agency business applications to be hosted at the  
454 State Data Center. With regard to state institutions of higher  
455 learning and community colleges, the authority and the Board of  
456 Trustees of State Institutions of Higher Learning or the  
457 Mississippi Community College Board, as the case may be, may agree  
458 that institutions of higher learning or community colleges may  
459 utilize business applications that are hosted at the State Data  
460 Center, following a determination by both the authority and the  
461 applicable board that the hosting of those applications is  
462 mutually beneficial. In addition, the authority may establish  
463 partnerships to capitalize on the advanced technology resources of  
464 the Board of Trustees of State Institutions of Higher Learning or  
465 the Mississippi Community College Board, following a determination  
466 by both the authority and the applicable board that such a  
467 partnership is mutually beneficial.

468 (w) The authority shall provide a periodic update  
469 regarding reform-based information technology initiatives to the



470 Chairmen of the House and Senate Accountability, Efficiency and  
471 Transparency Committees.

472 From and after July 1, 2018, the expenses of this agency  
473 shall be defrayed by appropriation from the State General Fund.  
474 In addition, in order to receive the maximum use and benefit from  
475 information technology and services, expenses for the provision of  
476 statewide shared services that facilitate cost-effective  
477 information processing and telecommunication solutions shall be  
478 defrayed by pass-through funding and shall be deposited into the  
479 Mississippi Department of Information Technology Services  
480 Revolving Fund unless otherwise specified by the Legislature.  
481 These funds shall only be utilized to pay the actual costs  
482 incurred by the Mississippi Department of Information Technology  
483 Services for providing these shared services to state agencies.  
484 Furthermore, state agencies shall work in full cooperation with  
485 the Board of the Mississippi Department of Information Technology  
486 Services to identify computer equipment or services to minimize  
487 duplication, reduce costs, and improve the efficiency of providing  
488 common technology services across agency boundaries.

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

491 27-104-7. (1) (a) There is created the Public Procurement  
492 Review Board, which shall be reconstituted on January 1, 2018, and  
493 shall be composed of the following members:



494 (i) Three (3) individuals appointed by the  
495 Governor with the advice and consent of the Senate;  
496 (ii) Two (2) individuals appointed by the  
497 Lieutenant Governor with the advice and consent of the Senate; and  
498 (iii) The Executive Director of the Department of  
499 Finance and Administration, serving as an ex officio and nonvoting  
500 member.

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

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

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

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

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

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

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

517 (c) When appointing members to the Public Procurement  
518 Review Board, the Governor and Lieutenant Governor shall take into



519 consideration persons who possess at least five (5) years of  
520 management experience in general business, health care or finance  
521 for an organization, corporation or other public or private  
522 entity. Any person, or any employee or owner of a company, who  
523 receives any grants, procurements or contracts that are subject to  
524 approval under this section shall not be appointed to the Public  
525 Procurement Review Board. Any person, or any employee or owner of  
526 a company, who is a principal of the source providing a personal  
527 or professional service shall not be appointed to the Public  
528 Procurement Review Board if the principal owns or controls a  
529 greater than five percent (5%) interest or has an ownership value  
530 of One Million Dollars (\$1,000,000.00) in the source's business,  
531 whichever is smaller. No member shall be an officer or employee  
532 of the State of Mississippi while serving as a voting member on  
533 the Public Procurement Review Board.

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

537 (e) The members of the Public Procurement Review Board  
538 shall elect a chair from among the membership, and he or she shall  
539 preside over the meetings of the board. The board shall annually  
540 elect a vice chair, who shall serve in the absence of the chair.  
541 No business shall be transacted, including adoption of rules of  
542 procedure, without the presence of a quorum of the board. Three  
543 (3) members shall be a quorum. No action shall be valid unless



544 approved by a majority of the members present and voting, entered  
545 upon the minutes of the board and signed by the chair. Necessary  
546 clerical and administrative support for the board shall be  
547 provided by the Department of Finance and Administration. Minutes  
548 shall be kept of the proceedings of each meeting, copies of which  
549 shall be filed on a monthly basis with the chairs of the  
550 Accountability, Efficiency and Transparency Committees of the  
551 Senate and House of Representatives and the chairs of the  
552 Appropriations Committees of the Senate and House of  
553 Representatives.

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

556 (a) Approve all purchasing regulations governing the  
557 purchase or lease by any agency, as defined in Section 31-7-1, of  
558 commodities and equipment, except computer equipment acquired  
559 pursuant to Sections 25-53-1 through 25-53-29;

560 (b) Adopt regulations governing the approval of  
561 contracts let for the construction and maintenance of state  
562 buildings and other state facilities as well as related contracts  
563 for architectural and engineering services.

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



568 (c) Adopt regulations governing any lease or rental  
569 agreement by any state agency or department, including any state  
570 agency financed entirely by federal funds, for space outside the  
571 buildings under the jurisdiction of the Department of Finance and  
572 Administration. These regulations shall require each agency  
573 requesting to lease such space to provide the following  
574 information that shall be published by the Department of Finance  
575 and Administration on its website: the agency to lease the space;  
576 the terms of the lease; the approximate square feet to be leased;  
577 the use for the space; a description of a suitable space; the  
578 general location desired for the leased space; the contact  
579 information for a person from the agency; the deadline date for  
580 the agency to have received a lease proposal; any other specific  
581 terms or conditions of the agency; and any other information  
582 deemed appropriate by the Division of Real Property Management of  
583 the Department of Finance and Administration or the Public  
584 Procurement Review Board. The information shall be provided  
585 sufficiently in advance of the time the space is needed to allow  
586 the Division of Real Property Management of the Department of  
587 Finance and Administration to review and preapprove the lease  
588 before the time for advertisement begins;

589 (d) Adopt, in its discretion, regulations to set aside  
590 at least five percent (5%) of anticipated annual expenditures for  
591 the purchase of commodities from minority businesses; however, all  
592 such set-aside purchases shall comply with all purchasing





593 regulations promulgated by the department and shall be subject to  
594 all bid requirements. Set-aside purchases for which competitive  
595 bids are required shall be made from the lowest and best minority  
596 business bidder; however, if no minority bid is available or if  
597 the minority bid is more than two percent (2%) higher than the  
598 lowest bid, then bids shall be accepted and awarded to the lowest  
599 and best bidder. However, the provisions in this paragraph shall  
600 not be construed to prohibit the rejection of a bid when only one  
601 (1) bid is received. Such rejection shall be placed in the  
602 minutes. For the purposes of this paragraph, the term "minority  
603 business" means a business which is owned by a person who is a  
604 citizen or lawful permanent resident of the United States and who  
605 is:

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

608 (ii) Hispanic: of Mexican, Puerto Rican, Cuban,  
609 Central or South American, or other Spanish or Portuguese culture  
610 or origin regardless of race;

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

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

616 (v) Female;



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

623 (f) Promulgate rules and regulations governing the  
624 solicitation and selection of contractual services personnel,  
625 including personal and professional services contracts for any  
626 form of consulting, policy analysis, public relations, marketing,  
627 public affairs, legislative advocacy services or any other  
628 contract that the board deems appropriate for oversight, with the  
629 exception of:

630 (i) Any personal service contracts entered into by  
631 any agency that employs only nonstate service employees as defined  
632 in Section 25-9-107(c) \* \* \*;

633 (ii) Any personal service contracts entered into  
634 for computer or information technology-related services governed  
635 by the Mississippi Department of Information Technology  
636 Services \* \* \*;

637 (iii) Any personal service contracts entered into  
638 by the individual state institutions of higher learning \* \* \*;

639 (iv) Any personal service contracts entered into  
640 by the Mississippi Department of Transportation \* \* \*;



641                   (v) Any personal service contracts entered into by  
642 the Department of Human Services through June 30, 2019, which the  
643 Executive Director of the Department of Human Services determines  
644 would be useful in establishing and operating the Department of  
645 Child Protection Services \* \* \*;

646                   (vi) Any personal service contracts entered into  
647 by the Department of Child Protection Services through June 30,  
648 2019 \* \* \*;

649                   (vii) Any contracts for entertainers and/or  
650 performers at the Mississippi State Fairgrounds entered into by  
651 the Mississippi Fair Commission \* \* \*;

652                   (viii) Any contracts entered into by the  
653 Department of Finance and Administration when procuring aircraft  
654 maintenance, parts, equipment and/or services \* \* \*;

655                   (ix) Any contract entered into by the Department  
656 of Public Safety for service on specialized equipment and/or  
657 software required for the operation at such specialized equipment  
658 for use by the Office of Forensics Laboratories \* \* \*;

659                   (x) Any personal or professional service contract  
660 entered into by the Mississippi Department of Health \* \* \* or the  
661 Department of Revenue solely in connection with their respective  
662 responsibilities under the Mississippi Medical Cannabis Act from  
663 February 2, 2022, through June 30, \* \* \* 2026;



664                   (xi) Any contract for attorney, accountant,  
665 actuary auditor, architect, engineer, anatomical pathologist, or  
666 utility rate expert services \* \* \*;

667                   (xii) Any personal service contracts approved by  
668 the Executive Director of the Department of Finance and  
669 Administration and entered into by the Coordinator of Mental  
670 Health Accessibility through June 30, 2022 \* \* \*;

671                   (xiii) Any personal or professional services  
672 contract entered into by the State Department of Health in  
673 carrying out its responsibilities under the ARPA Rural Water  
674 Associations Infrastructure Grant Program through June 30,  
675 2026 \* \* \*; and

676                   (xiv) Any personal or professional services  
677 contract entered into by the Mississippi Department of  
678 Environmental Quality in carrying out its responsibilities under  
679 the Mississippi Municipality and County Water Infrastructure Grant  
680 Program Act of 2022, through June 30, 2026.

681           Any such rules and regulations shall provide for maintaining  
682 continuous internal audit covering the activities of such agency  
683 affecting its revenue and expenditures as required under Section  
684 7-7-3(6) (d). Any rules and regulation changes related to personal  
685 and professional services contracts that the Public Procurement  
686 Review Board may propose shall be submitted to the Chairs of the  
687 Accountability, Efficiency and Transparency Committees of the  
688 Senate and House of Representatives and the Chairs of the



689 Appropriation Committees of the Senate and House of  
690 Representatives at least fifteen (15) days before the board votes  
691 on the proposed changes, and those rules and regulation changes,  
692 if adopted, shall be promulgated in accordance with the  
693 Mississippi Administrative Procedures Act;

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

698 (h) Develop mandatory standards with respect to  
699 contractual services personnel that require invitations for public  
700 bid, requests for proposals, record keeping and financial  
701 responsibility of contractors. The Public Procurement Review  
702 Board shall, unless exempted under this paragraph (h) or under  
703 paragraph (i) or (o) of this subsection (2), require the agency  
704 involved to submit the procurement to a competitive procurement  
705 process, and may reserve the right to reject any or all resulting  
706 procurements;

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



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

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

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

732 (k) Present recommendations for governmental  
733 privatization and to evaluate privatization proposals submitted by  
734 any state agency;

735 (l) Authorize personal and professional service  
736 contracts to be effective for more than one (1) year provided a  
737 funding condition is included in any such multiple year contract,  
738 except the State Board of Education, which shall have the



739 authority to enter into contractual agreements for student  
740 assessment for a period up to ten (10) years. The State Board of  
741 Education shall procure these services in accordance with the  
742 Public Procurement Review Board procurement regulations;

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

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

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

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

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

762 (iii) Any agency alleging to have a sole source  
763 for any personal or professional service, other than those



764 exempted under paragraph (f) of this subsection (2) and subsection  
765 (8), shall publish on the procurement portal website established  
766 by Sections 25-53-151 and 27-104-165, for at least fourteen (14)  
767 days, the terms of the proposed contract for those services. In  
768 addition, the publication shall include, but is not limited to,  
769 the following information:

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

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

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

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

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

784                   (iv) If any person or entity objects and proposes  
785 that the personal or professional service published under  
786 subparagraph (iii) of this paragraph (o) is not a sole source  
787 service and can be provided by another person or entity, then the  
788 objecting person or entity shall notify the Public Procurement





789 Review Board and the agency that published the proposed sole  
790 source contract with a detailed explanation of why the personal or  
791 professional service is not a sole source service.

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

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

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



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

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

826           (3) All submissions shall be made sufficiently in advance of  
827 each monthly meeting of the Public Procurement Review Board as  
828 prescribed by the Public Procurement Review Board. If the Public  
829 Procurement Review Board rejects any contract submitted for review  
830 or approval, the Public Procurement Review Board shall clearly set  
831 out the reasons for its action, including, but not limited to, the  
832 policy that the agency has violated in its submitted contract and  
833 any corrective actions that the agency may take to amend the  
834 contract to comply with the rules and regulations of the Public  
835 Procurement Review Board.

836           (4) All sole source contracts for personal and professional  
837 services awarded by state agencies, other than those exempted



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

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

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

851 (c) Explanation of why the price is considered  
852 reasonable; and

853 (d) Description of the efforts that were made to  
854 conduct a noncompetitive negotiation to get the best possible  
855 price for the taxpayers.

856 (5) In conjunction with the State Personnel Board, the  
857 Public Procurement Review Board shall develop and promulgate rules  
858 and regulations to define the allowable legal relationship between  
859 contract employees and the contracting departments, agencies and  
860 institutions of state government under the jurisdiction of the  
861 State Personnel Board, in compliance with the applicable rules and  
862 regulations of the federal Internal Revenue Service (IRS) for



863 federal employment tax purposes. Under these regulations, the  
864 usual common law rules are applicable to determine and require  
865 that such worker is an independent contractor and not an employee,  
866 requiring evidence of lawful behavioral control, lawful financial  
867 control and lawful relationship of the parties. Any state  
868 department, agency or institution shall only be authorized to  
869 contract for personnel services in compliance with those  
870 regulations.

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

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

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



887           (9) Notwithstanding the exemption of personal and  
888 professional services contracts entered into by the Department of  
889 Human Services and personal and professional services contracts  
890 entered into by the Department of Child Protection Services from  
891 the provisions of this section under subsection (2)(f), before the  
892 Department of Human Services or the Department of Child Protection  
893 Services may enter into a personal or professional service  
894 contract, the department(s) shall give notice of the proposed  
895 personal or professional service contract to the Public  
896 Procurement Review Board for any recommendations by the board.  
897 Upon receipt of the notice, the board shall post the notice on its  
898 website and on the procurement portal website established by  
899 Sections 25-53-151 and 27-104-165. If the board does not respond  
900 to the department(s) within seven (7) calendar days after  
901 receiving the notice, the department(s) may enter the proposed  
902 personal or professional service contract. If the board responds  
903 to the department(s) within seven (7) calendar days, then the  
904 board has seven (7) calendar days from the date of its initial  
905 response to provide any additional recommendations. After the end  
906 of the second seven-day period, the department(s) may enter the  
907 proposed personal or professional service contract. The board is  
908 not authorized to disapprove any proposed personal or professional  
909 services contracts. This subsection shall stand repealed on July  
910 1, 2022.



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

913           31-7-13. All agencies and governing authorities shall  
914 purchase their commodities and printing; contract for garbage  
915 collection or disposal; contract for solid waste collection or  
916 disposal; contract for sewage collection or disposal; contract for  
917 public construction; and contract for rentals as herein provided.

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

919 Purchases which do not involve an expenditure of more than Five  
920 Thousand Dollars (\$5,000.00), exclusive of freight or shipping  
921 charges, may be made without advertising or otherwise requesting  
922 competitive bids. However, nothing contained in this paragraph  
923 (a) shall be construed to prohibit any agency or governing  
924 authority from establishing procedures which require competitive  
925 bids on purchases of Five Thousand Dollars (\$5,000.00) or less.

926           (b)   **Bidding procedure for purchases over \$5,000.00 but  
927 not over \$75,000.00.** Purchases which involve an expenditure of

928 more than Five Thousand Dollars (\$5,000.00) but not more than  
929 Seventy-five Thousand Dollars (\$75,000.00), exclusive of freight  
930 and shipping charges, may be made from the lowest and best bidder  
931 without publishing or posting advertisement for bids, provided at  
932 least two (2) competitive written bids have been obtained. Any  
933 state agency or community or junior college purchasing commodities  
934 or procuring construction pursuant to this paragraph (b) may  
935 authorize its purchasing agent, or his designee, to accept the



936 lowest competitive written bid under Seventy-five Thousand Dollars  
937 (\$75,000.00). Any governing authority purchasing commodities  
938 pursuant to this paragraph (b) may authorize its purchasing agent,  
939 or his designee, with regard to governing authorities other than  
940 counties, or its purchase clerk, or his designee, with regard to  
941 counties, to accept the lowest and best competitive written bid.  
942 Such authorization shall be made in writing by the governing  
943 authority and shall be maintained on file in the primary office of  
944 the agency and recorded in the official minutes of the governing  
945 authority, as appropriate. The purchasing agent or the purchase  
946 clerk, or his designee, as the case may be, and not the governing  
947 authority, shall be liable for any penalties and/or damages as may  
948 be imposed by law for any act or omission of the purchasing agent  
949 or purchase clerk, or his designee, constituting a violation of  
950 law in accepting any bid without approval by the governing  
951 authority. The term "competitive written bid" shall mean a bid  
952 submitted on a bid form furnished by the buying agency or  
953 governing authority and signed by authorized personnel  
954 representing the vendor, or a bid submitted on a vendor's  
955 letterhead or identifiable bid form and signed by authorized  
956 personnel representing the vendor. "Competitive" shall mean that  
957 the bids are developed based upon comparable identification of the  
958 needs and are developed independently and without knowledge of  
959 other bids or prospective bids. Any bid item for construction in  
960 excess of Five Thousand Dollars (\$5,000.00) shall be broken down



961 by components to provide detail of component description and  
962 pricing. These details shall be submitted with the written bids  
963 and become part of the bid evaluation criteria. Bids may be  
964 submitted by facsimile, electronic mail or other generally  
965 accepted method of information distribution. Bids submitted by  
966 electronic transmission shall not require the signature of the  
967 vendor's representative unless required by agencies or governing  
968 authorities.

969 (c) **Bidding procedure for purchases over \$75,000.00.**

970 (i) **Publication requirement.**

971 1. Purchases which involve an expenditure of  
972 more than Seventy-five Thousand Dollars (\$75,000.00), exclusive of  
973 freight and shipping charges, may be made from the lowest and best  
974 bidder after advertising for competitive bids once each week for  
975 two (2) consecutive weeks in a regular newspaper published in the  
976 county or municipality in which such agency or governing authority  
977 is located. However, all American Recovery and Reinvestment Act  
978 projects in excess of Twenty-five Thousand Dollars (\$25,000.00)  
979 shall be bid. All references to American Recovery and  
980 Reinvestment Act projects in this section shall not apply to  
981 programs identified in Division B of the American Recovery and  
982 Reinvestment Act.

983 2. Reverse auctions shall be the primary  
984 method for receiving bids during the bidding process. If a  
985 purchasing entity determines that a reverse auction is not in the





986 best interest of the state, then that determination must be  
987 approved by the Public Procurement Review Board. The purchasing  
988 entity shall submit a detailed explanation of why a reverse  
989 auction would not be in the best interest of the state and present  
990 an alternative process to be approved by the Public Procurement  
991 Review Board. If the Public Procurement Review Board authorizes  
992 the purchasing entity to solicit bids with a method other than  
993 reverse auction, then the purchasing entity may designate the  
994 other methods by which the bids will be received, including, but  
995 not limited to, bids sealed in an envelope, bids received  
996 electronically in a secure system, or bids received by any other  
997 method that promotes open competition and has been approved by the  
998 Office of Purchasing and Travel. However, reverse auction shall  
999 not be used for any public contract for design, construction,  
1000 improvement, repair or remodeling of any public facilities,  
1001 including the purchase of materials, supplies, equipment or goods  
1002 for same and including buildings, roads and bridges. The Public  
1003 Procurement Review Board must approve any contract entered into by  
1004 alternative process. The provisions of this item 2 shall not  
1005 apply to the individual state institutions of higher learning.  
1006 The provisions of this item 2 requiring reverse auction as the  
1007 primary method of receiving bids shall not apply to term contract  
1008 purchases as provided in paragraph (n) of this section; however, a  
1009 purchasing entity may, in its discretion, utilize reverse auction  
1010 for such purchases. The provisions of this item 2 shall not apply



1011 to individual public schools, including public charter schools and  
1012 public school districts, only when purchasing copyrighted  
1013 educational supplemental materials and software as a service  
1014 product. For such purchases, a local school board may authorize a  
1015 purchasing entity in its jurisdiction to use a Request for  
1016 Qualifications which promotes open competition and meets the  
1017 requirements of the Office of Purchasing and Travel.

1018                   3. The date as published for the bid opening  
1019 shall not be less than seven (7) working days after the last  
1020 published notice; however, if the purchase involves a construction  
1021 project in which the estimated cost is in excess of Seventy-five  
1022 Thousand Dollars (\$75,000.00), such bids shall not be opened in  
1023 less than fifteen (15) working days after the last notice is  
1024 published and the notice for the purchase of such construction  
1025 shall be published once each week for two (2) consecutive weeks.  
1026 However, all American Recovery and Reinvestment Act projects in  
1027 excess of Twenty-five Thousand Dollars (\$25,000.00) shall be bid.  
1028 For any projects in excess of Twenty-five Thousand Dollars  
1029 (\$25,000.00) under the American Recovery and Reinvestment Act,  
1030 publication shall be made one (1) time and the bid opening for  
1031 construction projects shall not be less than ten (10) working days  
1032 after the date of the published notice. The notice of intention  
1033 to let contracts or purchase equipment shall state the time and  
1034 place at which bids shall be received, list the contracts to be  
1035 made or types of equipment or supplies to be purchased, and, if



1036 all plans and/or specifications are not published, refer to the  
1037 plans and/or specifications on file. If there is no newspaper  
1038 published in the county or municipality, then such notice shall be  
1039 given by posting same at the courthouse, or for municipalities at  
1040 the city hall, and at two (2) other public places in the county or  
1041 municipality, and also by publication once each week for two (2)  
1042 consecutive weeks in some newspaper having a general circulation  
1043 in the county or municipality in the above-provided manner. On  
1044 the same date that the notice is submitted to the newspaper for  
1045 publication, the agency or governing authority involved shall mail  
1046 written notice to, or provide electronic notification to the main  
1047 office of the Mississippi Procurement Technical Assistance Program  
1048 under the Mississippi Development Authority that contains the same  
1049 information as that in the published notice. Submissions received  
1050 by the Mississippi Procurement Technical Assistance Program for  
1051 projects funded by the American Recovery and Reinvestment Act  
1052 shall be displayed on a separate and unique Internet web page  
1053 accessible to the public and maintained by the Mississippi  
1054 Development Authority for the Mississippi Procurement Technical  
1055 Assistance Program. Those American Recovery and Reinvestment Act  
1056 related submissions shall be publicly posted within twenty-four  
1057 (24) hours of receipt by the Mississippi Development Authority and  
1058 the bid opening shall not occur until the submission has been  
1059 posted for ten (10) consecutive days. The Department of Finance  
1060 and Administration shall maintain information regarding contracts



1061 and other expenditures from the American Recovery and Reinvestment  
1062 Act, on a unique Internet web page accessible to the public. The  
1063 Department of Finance and Administration shall promulgate rules  
1064 regarding format, content and deadlines, unless otherwise  
1065 specified by law, of the posting of award notices, contract  
1066 execution and subsequent amendments, links to the contract  
1067 documents, expenditures against the awarded contracts and general  
1068 expenditures of funds from the American Recovery and Reinvestment  
1069 Act. Within one (1) working day of the contract award, the agency  
1070 or governing authority shall post to the designated web page  
1071 maintained by the Department of Finance and Administration, notice  
1072 of the award, including the award recipient, the contract amount,  
1073 and a brief summary of the contract in accordance with rules  
1074 promulgated by the department. Within one (1) working day of the  
1075 contract execution, the agency or governing authority shall post  
1076 to the designated web page maintained by the Department of Finance  
1077 and Administration a summary of the executed contract and make a  
1078 copy of the appropriately redacted contract documents available  
1079 for linking to the designated web page in accordance with the  
1080 rules promulgated by the department. The information provided by  
1081 the agency or governing authority shall be posted to the web page  
1082 for the duration of the American Recovery and Reinvestment Act  
1083 funding or until the project is completed, whichever is longer.

1084 (ii) **Bidding process amendment procedure.** If all  
1085 plans and/or specifications are published in the notification,



1086 then the plans and/or specifications may not be amended. If all  
1087 plans and/or specifications are not published in the notification,  
1088 then amendments to the plans/specifications, bid opening date, bid  
1089 opening time and place may be made, provided that the agency or  
1090 governing authority maintains a list of all prospective bidders  
1091 who are known to have received a copy of the bid documents and all  
1092 such prospective bidders are sent copies of all amendments. This  
1093 notification of amendments may be made via mail, facsimile,  
1094 electronic mail or other generally accepted method of information  
1095 distribution. No addendum to bid specifications may be issued  
1096 within two (2) working days of the time established for the  
1097 receipt of bids unless such addendum also amends the bid opening  
1098 to a date not less than five (5) working days after the date of  
1099 the addendum.

1100 (iii) **Filing requirement.** In all cases involving  
1101 governing authorities, before the notice shall be published or  
1102 posted, the plans or specifications for the construction or  
1103 equipment being sought shall be filed with the clerk of the board  
1104 of the governing authority. In addition to these requirements, a  
1105 bid file shall be established which shall indicate those vendors  
1106 to whom such solicitations and specifications were issued, and  
1107 such file shall also contain such information as is pertinent to  
1108 the bid.

1109 (iv) **Specification restrictions.**



1110                   1. Specifications pertinent to such bidding  
1111 shall be written so as not to exclude comparable equipment of  
1112 domestic manufacture. However, if valid justification is  
1113 presented, the Department of Finance and Administration or the  
1114 board of a governing authority may approve a request for specific  
1115 equipment necessary to perform a specific job. Further, such  
1116 justification, when placed on the minutes of the board of a  
1117 governing authority, may serve as authority for that governing  
1118 authority to write specifications to require a specific item of  
1119 equipment needed to perform a specific job. In addition to these  
1120 requirements, from and after July 1, 1990, vendors of relocatable  
1121 classrooms and the specifications for the purchase of such  
1122 relocatable classrooms published by local school boards shall meet  
1123 all pertinent regulations of the State Board of Education,  
1124 including prior approval of such bid by the State Department of  
1125 Education.

1126                   2. Specifications for construction projects  
1127 may include an allowance for commodities, equipment, furniture,  
1128 construction materials or systems in which prospective bidders are  
1129 instructed to include in their bids specified amounts for such  
1130 items so long as the allowance items are acquired by the vendor in  
1131 a commercially reasonable manner and approved by the  
1132 agency/governing authority. Such acquisitions shall not be made  
1133 to circumvent the public purchasing laws.



1134                   (v) **Electronic bids.** Agencies and governing  
1135 authorities shall provide a secure electronic interactive system  
1136 for the submittal of bids requiring competitive bidding that shall  
1137 be an additional bidding option for those bidders who choose to  
1138 submit their bids electronically. The Department of Finance and  
1139 Administration shall provide, by regulation, the standards that  
1140 agencies must follow when receiving electronic bids. Agencies and  
1141 governing authorities shall make the appropriate provisions  
1142 necessary to accept electronic bids from those bidders who choose  
1143 to submit their bids electronically for all purchases requiring  
1144 competitive bidding under this section. Any special condition or  
1145 requirement for the electronic bid submission shall be specified  
1146 in the advertisement for bids required by this section. Agencies  
1147 or governing authorities that are currently without available high  
1148 speed Internet access shall be exempt from the requirement of this  
1149 subparagraph (v) until such time that high speed Internet access  
1150 becomes available. Any county having a population of less than  
1151 twenty thousand (20,000) shall be exempt from the provisions of  
1152 this subparagraph (v). Any municipality having a population of  
1153 less than ten thousand (10,000) shall be exempt from the  
1154 provisions of this subparagraph (v). The provisions of this  
1155 subparagraph (v) shall not require any bidder to submit bids  
1156 electronically. When construction bids are submitted  
1157 electronically, the requirement for including a certificate of  
1158 responsibility, or a statement that the bid enclosed does not



1159 exceed Fifty Thousand Dollars (\$50,000.00), on the exterior of the  
1160 bid envelope as indicated in Section 31-3-21(1) and (2) shall be  
1161 deemed in compliance with by including same as an attachment with  
1162 the electronic bid submittal.

1163 (d) **Lowest and best bid decision procedure.**

1164 (i) **Decision procedure.** Purchases may be made  
1165 from the lowest and best bidder. In determining the lowest and  
1166 best bid, freight and shipping charges shall be included.  
1167 Life-cycle costing, total cost bids, warranties, guaranteed  
1168 buy-back provisions and other relevant provisions may be included  
1169 in the best bid calculation. All best bid procedures for state  
1170 agencies must be in compliance with regulations established by the  
1171 Department of Finance and Administration. If any governing  
1172 authority accepts a bid other than the lowest bid actually  
1173 submitted, it shall place on its minutes detailed calculations and  
1174 narrative summary showing that the accepted bid was determined to  
1175 be the lowest and best bid, including the dollar amount of the  
1176 accepted bid and the dollar amount of the lowest bid. No agency  
1177 or governing authority shall accept a bid based on items not  
1178 included in the specifications.

1179 (ii) **Decision procedure for Certified Purchasing**  
1180 **Offices.** In addition to the decision procedure set forth in  
1181 subparagraph (i) of this paragraph (d), Certified Purchasing  
1182 Offices may also use the following procedure: Purchases may be  
1183 made from the bidder offering the best value. In determining the





1184 best value bid, freight and shipping charges shall be included.  
1185 Life-cycle costing, total cost bids, warranties, guaranteed  
1186 buy-back provisions, documented previous experience, training  
1187 costs and other relevant provisions, including, but not limited  
1188 to, a bidder having a local office and inventory located within  
1189 the jurisdiction of the governing authority, may be included in  
1190 the best value calculation. This provision shall authorize  
1191 Certified Purchasing Offices to utilize a Request For Proposals  
1192 (RFP) process when purchasing commodities. All best value  
1193 procedures for state agencies must be in compliance with  
1194 regulations established by the Department of Finance and  
1195 Administration. No agency or governing authority shall accept a  
1196 bid based on items or criteria not included in the specifications.

1197 (iii) **Decision procedure for Mississippi**

1198 **Landmarks.** In addition to the decision procedure set forth in  
1199 subparagraph (i) of this paragraph (d), where purchase involves  
1200 renovation, restoration, or both, of the State Capitol Building or  
1201 any other historical building designated for at least five (5)  
1202 years as a Mississippi Landmark by the Board of Trustees of the  
1203 Department of Archives and History under the authority of Sections  
1204 39-7-7 and 39-7-11, the agency or governing authority may use the  
1205 following procedure: Purchases may be made from the lowest and  
1206 best prequalified bidder. Prequalification of bidders shall be  
1207 determined not less than fifteen (15) working days before the  
1208 first published notice of bid opening. Prequalification criteria



1209 shall be limited to bidder's knowledge and experience in  
1210 historical restoration, preservation and renovation. In  
1211 determining the lowest and best bid, freight and shipping charges  
1212 shall be included. Life-cycle costing, total cost bids,  
1213 warranties, guaranteed buy-back provisions and other relevant  
1214 provisions may be included in the best bid calculation. All best  
1215 bid and prequalification procedures for state agencies must be in  
1216 compliance with regulations established by the Department of  
1217 Finance and Administration. If any governing authority accepts a  
1218 bid other than the lowest bid actually submitted, it shall place  
1219 on its minutes detailed calculations and narrative summary showing  
1220 that the accepted bid was determined to be the lowest and best  
1221 bid, including the dollar amount of the accepted bid and the  
1222 dollar amount of the lowest bid. No agency or governing authority  
1223 shall accept a bid based on items not included in the  
1224 specifications.

1225 (iv) **Construction project negotiations authority.**

1226 If the lowest and best bid is not more than ten percent (10%)  
1227 above the amount of funds allocated for a public construction or  
1228 renovation project, then the agency or governing authority shall  
1229 be permitted to negotiate with the lowest bidder in order to enter  
1230 into a contract for an amount not to exceed the funds allocated.

1231 (e) **Lease-purchase authorization.** For the purposes of  
1232 this section, the term "equipment" shall mean equipment, furniture  
1233 and, if applicable, associated software and other applicable



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



1259 agreement entered into pursuant to this paragraph (e) may contain  
1260 any of the terms and conditions which a master lease-purchase  
1261 agreement may contain under the provisions of Section 31-7-10(5),  
1262 and shall contain an annual allocation dependency clause  
1263 substantially similar to that set forth in Section 31-7-10(8).  
1264 Each agency or governing authority entering into a lease-purchase  
1265 transaction pursuant to this paragraph (e) shall maintain with  
1266 respect to each such lease-purchase transaction the same  
1267 information as required to be maintained by the Department of  
1268 Finance and Administration pursuant to Section 31-7-10(13).  
1269 However, nothing contained in this section shall be construed to  
1270 permit agencies to acquire items of equipment with a total  
1271 acquisition cost in the aggregate of less than Ten Thousand  
1272 Dollars (\$10,000.00) by a single lease-purchase transaction. All  
1273 equipment, and the purchase thereof by any lessor, acquired by  
1274 lease-purchase under this paragraph and all lease-purchase  
1275 payments with respect thereto shall be exempt from all Mississippi  
1276 sales, use and ad valorem taxes. Interest paid on any  
1277 lease-purchase agreement under this section shall be exempt from  
1278 State of Mississippi income taxation.

1279           (f) **Alternate bid authorization.** When necessary to  
1280 ensure ready availability of commodities for public works and the  
1281 timely completion of public projects, no more than two (2)  
1282 alternate bids may be accepted by a governing authority for  
1283 commodities. No purchases may be made through use of such



1284 alternate bids procedure unless the lowest and best bidder cannot  
1285 deliver the commodities contained in his bid. In that event,  
1286 purchases of such commodities may be made from one (1) of the  
1287 bidders whose bid was accepted as an alternate.

1288           (g) **Construction contract change authorization.** In the  
1289 event a determination is made by an agency or governing authority  
1290 after a construction contract is let that changes or modifications  
1291 to the original contract are necessary or would better serve the  
1292 purpose of the agency or the governing authority, such agency or  
1293 governing authority may, in its discretion, order such changes  
1294 pertaining to the construction that are necessary under the  
1295 circumstances without the necessity of further public bids;  
1296 provided that such change shall be made in a commercially  
1297 reasonable manner and shall not be made to circumvent the public  
1298 purchasing statutes. In addition to any other authorized person,  
1299 the architect or engineer hired by an agency or governing  
1300 authority with respect to any public construction contract shall  
1301 have the authority, when granted by an agency or governing  
1302 authority, to authorize changes or modifications to the original  
1303 contract without the necessity of prior approval of the agency or  
1304 governing authority when any such change or modification is less  
1305 than one percent (1%) of the total contract amount. The agency or  
1306 governing authority may limit the number, manner or frequency of  
1307 such emergency changes or modifications.



1308           (h) **Petroleum purchase alternative.** In addition to  
1309 other methods of purchasing authorized in this chapter, when any  
1310 agency or governing authority shall have a need for gas, diesel  
1311 fuel, oils and/or other petroleum products in excess of the amount  
1312 set forth in paragraph (a) of this section, such agency or  
1313 governing authority may purchase the commodity after having  
1314 solicited and obtained at least two (2) competitive written bids,  
1315 as defined in paragraph (b) of this section. If two (2)  
1316 competitive written bids are not obtained, the entity shall comply  
1317 with the procedures set forth in paragraph (c) of this section.  
1318 In the event any agency or governing authority shall have  
1319 advertised for bids for the purchase of gas, diesel fuel, oils and  
1320 other petroleum products and coal and no acceptable bids can be  
1321 obtained, such agency or governing authority is authorized and  
1322 directed to enter into any negotiations necessary to secure the  
1323 lowest and best contract available for the purchase of such  
1324 commodities.

1325           (i) **Road construction petroleum products price**  
1326 **adjustment clause authorization.** Any agency or governing  
1327 authority authorized to enter into contracts for the construction,  
1328 maintenance, surfacing or repair of highways, roads or streets,  
1329 may include in its bid proposal and contract documents a price  
1330 adjustment clause with relation to the cost to the contractor,  
1331 including taxes, based upon an industry-wide cost index, of  
1332 petroleum products including asphalt used in the performance or



1333 execution of the contract or in the production or manufacture of  
1334 materials for use in such performance. Such industry-wide index  
1335 shall be established and published monthly by the Mississippi  
1336 Department of Transportation with a copy thereof to be mailed,  
1337 upon request, to the clerks of the governing authority of each  
1338 municipality and the clerks of each board of supervisors  
1339 throughout the state. The price adjustment clause shall be based  
1340 on the cost of such petroleum products only and shall not include  
1341 any additional profit or overhead as part of the adjustment. The  
1342 bid proposals or document contract shall contain the basis and  
1343 methods of adjusting unit prices for the change in the cost of  
1344 such petroleum products.

1345           (j) **State agency emergency purchase procedure.** If the  
1346 governing board or the executive head, or his designees, of any  
1347 agency of the state shall determine that an emergency exists in  
1348 regard to the purchase of any commodities or repair contracts, so  
1349 that the delay incident to giving opportunity for competitive  
1350 bidding would be detrimental to the interests of the state, then  
1351 the head of such agency, or his designees, shall file with the  
1352 Department of Finance and Administration (i) a statement  
1353 explaining the conditions and circumstances of the emergency,  
1354 which shall include a detailed description of the events leading  
1355 up to the situation and the negative impact to the entity if the  
1356 purchase is made following the statutory requirements set forth in  
1357 paragraph (a), (b) or (c) of this section, and (ii) a certified



1358 copy of the appropriate minutes of the board of such agency  
1359 requesting the emergency purchase, if applicable. Upon receipt of  
1360 the statement and applicable board certification, the State Fiscal  
1361 Officer, or his designees, may, in writing, authorize the purchase  
1362 or repair without having to comply with competitive bidding  
1363 requirements.

1364         If the governing board or the executive head, or his  
1365 designees, of any agency determines that an emergency exists in  
1366 regard to the purchase of any commodities or repair contracts, so  
1367 that the delay incident to giving opportunity for competitive  
1368 bidding would threaten the health or safety of any person, or the  
1369 preservation or protection of property, then the provisions in  
1370 this section for competitive bidding shall not apply, and any  
1371 officer or agent of the agency having general or specific  
1372 authority for making the purchase or repair contract shall approve  
1373 the bill presented for payment, and he shall certify in writing  
1374 from whom the purchase was made, or with whom the repair contract  
1375 was made.

1376         Total purchases made under this paragraph (j) shall only be  
1377 for the purpose of meeting needs created by the emergency  
1378 situation. Following the emergency purchase, documentation of the  
1379 purchase, including a description of the commodity purchased, the  
1380 purchase price thereof and the nature of the emergency shall be  
1381 filed with the Department of Finance and Administration. Any





1382 contract awarded pursuant to this paragraph (j) shall not exceed a  
1383 term of one (1) year.

1384 Purchases under the grant program established under Section  
1385 37-68-7 in response to COVID-19 and the directive that school  
1386 districts create a distance learning plan and fulfill technology  
1387 needs expeditiously shall be deemed an emergency purchase for  
1388 purposes of this paragraph (j).

1389 (k) **Governing authority emergency purchase procedure.**

1390 If the governing authority, or the governing authority acting  
1391 through its designee, shall determine that an emergency exists in  
1392 regard to the purchase of any commodities or repair contracts, so  
1393 that the delay incident to giving opportunity for competitive  
1394 bidding would be detrimental to the interest of the governing  
1395 authority, then the provisions herein for competitive bidding  
1396 shall not apply and any officer or agent of such governing  
1397 authority having general or special authority therefor in making  
1398 such purchase or repair shall approve the bill presented therefor,  
1399 and he shall certify in writing thereon from whom such purchase  
1400 was made, or with whom such a repair contract was made. At the  
1401 board meeting next following the emergency purchase or repair  
1402 contract, documentation of the purchase or repair contract,  
1403 including a description of the commodity purchased, the price  
1404 thereof and the nature of the emergency shall be presented to the  
1405 board and shall be placed on the minutes of the board of such  
1406 governing authority. Purchases under the grant program



1407 established under Section 37-68-7 in response to COVID-19 and the  
1408 directive that school districts create a distance learning plan  
1409 and fulfill technology needs expeditiously shall be deemed an  
1410 emergency purchase for purposes of this paragraph (k).

1411 (1) **Hospital purchase, lease-purchase and lease**  
1412 **authorization.**

1413 (i) The commissioners or board of trustees of any  
1414 public hospital may contract with such lowest and best bidder for  
1415 the purchase or lease-purchase of any commodity under a contract  
1416 of purchase or lease-purchase agreement whose obligatory payment  
1417 terms do not exceed five (5) years.

1418 (ii) In addition to the authority granted in  
1419 subparagraph (i) of this paragraph (1), the commissioners or board  
1420 of trustees is authorized to enter into contracts for the lease of  
1421 equipment or services, or both, which it considers necessary for  
1422 the proper care of patients if, in its opinion, it is not  
1423 financially feasible to purchase the necessary equipment or  
1424 services. Any such contract for the lease of equipment or  
1425 services executed by the commissioners or board shall not exceed a  
1426 maximum of five (5) years' duration and shall include a  
1427 cancellation clause based on unavailability of funds. If such  
1428 cancellation clause is exercised, there shall be no further  
1429 liability on the part of the lessee. Any such contract for the  
1430 lease of equipment or services executed on behalf of the  
1431 commissioners or board that complies with the provisions of this



1432 subparagraph (ii) shall be excepted from the bid requirements set  
1433 forth in this section.

1434 (m) **Exceptions from bidding requirements.** Excepted  
1435 from bid requirements are:

1436 (i) **Purchasing agreements approved by department.**  
1437 Purchasing agreements, contracts and maximum price regulations  
1438 executed or approved by the Department of Finance and  
1439 Administration.

1440 (ii) **Outside equipment repairs.** Repairs to  
1441 equipment, when such repairs are made by repair facilities in the  
1442 private sector; however, engines, transmissions, rear axles and/or  
1443 other such components shall not be included in this exemption when  
1444 replaced as a complete unit instead of being repaired and the need  
1445 for such total component replacement is known before disassembly  
1446 of the component; however, invoices identifying the equipment,  
1447 specific repairs made, parts identified by number and name,  
1448 supplies used in such repairs, and the number of hours of labor  
1449 and costs therefor shall be required for the payment for such  
1450 repairs.

1451 (iii) **In-house equipment repairs.** Purchases of  
1452 parts for repairs to equipment, when such repairs are made by  
1453 personnel of the agency or governing authority; however, entire  
1454 assemblies, such as engines or transmissions, shall not be  
1455 included in this exemption when the entire assembly is being  
1456 replaced instead of being repaired.



1457 (iv) **Raw gravel or dirt.** Raw unprocessed deposits  
1458 of gravel or fill dirt which are to be removed and transported by  
1459 the purchaser.

1460 (v) **Governmental equipment auctions.** Motor  
1461 vehicles or other equipment purchased from a federal agency or  
1462 authority, another governing authority or state agency of the  
1463 State of Mississippi, or any governing authority or state agency  
1464 of another state at a public auction held for the purpose of  
1465 disposing of such vehicles or other equipment. Any purchase by a  
1466 governing authority under the exemption authorized by this  
1467 subparagraph (v) shall require advance authorization spread upon  
1468 the minutes of the governing authority to include the listing of  
1469 the item or items authorized to be purchased and the maximum bid  
1470 authorized to be paid for each item or items.

1471 (vi) **Intergovernmental sales and transfers.**  
1472 Purchases, sales, transfers or trades by governing authorities or  
1473 state agencies when such purchases, sales, transfers or trades are  
1474 made by a private treaty agreement or through means of  
1475 negotiation, from any federal agency or authority, another  
1476 governing authority or state agency of the State of Mississippi,  
1477 or any state agency or governing authority of another state.  
1478 Nothing in this section shall permit such purchases through public  
1479 auction except as provided for in subparagraph (v) of this  
1480 paragraph (m). It is the intent of this section to allow  
1481 governmental entities to dispose of and/or purchase commodities



1482 from other governmental entities at a price that is agreed to by  
1483 both parties. This shall allow for purchases and/or sales at  
1484 prices which may be determined to be below the market value if the  
1485 selling entity determines that the sale at below market value is  
1486 in the best interest of the taxpayers of the state. Governing  
1487 authorities shall place the terms of the agreement and any  
1488 justification on the minutes, and state agencies shall obtain  
1489 approval from the Department of Finance and Administration, prior  
1490 to releasing or taking possession of the commodities.

1491 (vii) **Perishable supplies or food.** Perishable  
1492 supplies or food purchased for use in connection with hospitals,  
1493 the school lunch programs, homemaking programs and for the feeding  
1494 of county or municipal prisoners.

1495 (viii) **Single-source items.** Noncompetitive items  
1496 available from one (1) source only. In connection with the  
1497 purchase of noncompetitive items only available from one (1)  
1498 source, a certification of the conditions and circumstances  
1499 requiring the purchase shall be filed by the agency with the  
1500 Department of Finance and Administration and by the governing  
1501 authority with the board of the governing authority. Upon receipt  
1502 of that certification the Department of Finance and Administration  
1503 or the board of the governing authority, as the case may be, may,  
1504 in writing, authorize the purchase, which authority shall be noted  
1505 on the minutes of the body at the next regular meeting thereafter.  
1506 In those situations, a governing authority is not required to



1507 obtain the approval of the Department of Finance and  
1508 Administration. Following the purchase, the executive head of the  
1509 state agency, or his designees, shall file with the Department of  
1510 Finance and Administration, documentation of the purchase,  
1511 including a description of the commodity purchased, the purchase  
1512 price thereof and the source from whom it was purchased.

1513 (ix) **Waste disposal facility construction**  
1514 **contracts.** Construction of incinerators and other facilities for  
1515 disposal of solid wastes in which products either generated  
1516 therein, such as steam, or recovered therefrom, such as materials  
1517 for recycling, are to be sold or otherwise disposed of; however,  
1518 in constructing such facilities, a governing authority or agency  
1519 shall publicly issue requests for proposals, advertised for in the  
1520 same manner as provided herein for seeking bids for public  
1521 construction projects, concerning the design, construction,  
1522 ownership, operation and/or maintenance of such facilities,  
1523 wherein such requests for proposals when issued shall contain  
1524 terms and conditions relating to price, financial responsibility,  
1525 technology, environmental compatibility, legal responsibilities  
1526 and such other matters as are determined by the governing  
1527 authority or agency to be appropriate for inclusion; and after  
1528 responses to the request for proposals have been duly received,  
1529 the governing authority or agency may select the most qualified  
1530 proposal or proposals on the basis of price, technology and other  
1531 relevant factors and from such proposals, but not limited to the



1532 terms thereof, negotiate and enter contracts with one or more of  
1533 the persons or firms submitting proposals.

1534                   (x) **Hospital group purchase contracts.** Supplies,  
1535 commodities and equipment purchased by hospitals through group  
1536 purchase programs pursuant to Section 31-7-38.

1537                   (xi) **Information technology products.** Purchases  
1538 of information technology products made by governing authorities  
1539 under the provisions of purchase schedules, or contracts executed  
1540 or approved by the Mississippi Department of Information  
1541 Technology Services and designated for use by governing  
1542 authorities.

1543                   (xii) **Energy efficiency services and equipment.**  
1544 Energy efficiency services and equipment acquired by school  
1545 districts, community and junior colleges, institutions of higher  
1546 learning and state agencies or other applicable governmental  
1547 entities on a shared-savings, lease or lease-purchase basis  
1548 pursuant to Section 31-7-14.

1549                   (xiii) **Municipal electrical utility system fuel.**  
1550 Purchases of coal and/or natural gas by municipally owned electric  
1551 power generating systems that have the capacity to use both coal  
1552 and natural gas for the generation of electric power.

1553                   (xiv) **Library books and other reference materials.**  
1554 Purchases by libraries or for libraries of books and periodicals;  
1555 processed film, videocassette tapes, filmstrips and slides;  
1556 recorded audiotapes, cassettes and diskettes; and any such items



1557 as would be used for teaching, research or other information  
1558 distribution; however, equipment such as projectors, recorders,  
1559 audio or video equipment, and monitor televisions are not exempt  
1560 under this subparagraph.

1561 (xv) **Unmarked vehicles.** Purchases of unmarked  
1562 vehicles when such purchases are made in accordance with  
1563 purchasing regulations adopted by the Department of Finance and  
1564 Administration pursuant to Section 31-7-9(2).

1565 (xvi) **Election ballots.** Purchases of ballots  
1566 printed pursuant to Section 23-15-351.

1567 (xvii) **Multichannel interactive video systems.**  
1568 From and after July 1, 1990, contracts by Mississippi Authority  
1569 for Educational Television with any private educational  
1570 institution or private nonprofit organization whose purposes are  
1571 educational in regard to the construction, purchase, lease or  
1572 lease-purchase of facilities and equipment and the employment of  
1573 personnel for providing multichannel interactive video systems  
1574 (ITSF) in the school districts of this state.

1575 (xviii) **Purchases of prison industry products by**  
1576 **the Department of Corrections, regional correctional facilities or**  
1577 **privately owned prisons.** Purchases made by the Mississippi  
1578 Department of Corrections, regional correctional facilities or  
1579 privately owned prisons involving any item that is manufactured,  
1580 processed, grown or produced from the state's prison industries.





1581                   (xix)    **Undercover operations equipment.** Purchases  
1582 of surveillance equipment or any other high-tech equipment to be  
1583 used by law enforcement agents in undercover operations, provided  
1584 that any such purchase shall be in compliance with regulations  
1585 established by the Department of Finance and Administration.

1586                   (xx)     **Junior college books for rent.** Purchases by  
1587 community or junior colleges of textbooks which are obtained for  
1588 the purpose of renting such books to students as part of a book  
1589 service system.

1590                   (xxi)   **Certain school district purchases.**  
1591 Purchases of commodities made by school districts from vendors  
1592 with which any levying authority of the school district, as  
1593 defined in Section 37-57-1, has contracted through competitive  
1594 bidding procedures for purchases of the same commodities.

1595                   (xxii)   **Garbage, solid waste and sewage contracts.**  
1596 Contracts for garbage collection or disposal, contracts for solid  
1597 waste collection or disposal and contracts for sewage collection  
1598 or disposal.

1599                   (xxiii)   **Municipal water tank maintenance**  
1600 **contracts.** Professional maintenance program contracts for the  
1601 repair or maintenance of municipal water tanks, which provide  
1602 professional services needed to maintain municipal water storage  
1603 tanks for a fixed annual fee for a duration of two (2) or more  
1604 years.



1605                    (xxiv)    **Purchases of Mississippi Industries for the**  
1606 **Blind products or services.** Purchases made by state agencies or  
1607 governing authorities involving any item that is manufactured,  
1608 processed or produced by, or any services provided by, the  
1609 Mississippi Industries for the Blind.

1610                    (xxv)    **Purchases of state-adopted textbooks.**  
1611 Purchases of state-adopted textbooks by public school districts.

1612                    (xxvi)    **Certain purchases under the Mississippi**  
1613 **Major Economic Impact Act.** Contracts entered into pursuant to the  
1614 provisions of Section 57-75-9(2), (3) and (4).

1615                    (xxvii)   **Used heavy or specialized machinery or**  
1616 **equipment for installation of soil and water conservation**  
1617 **practices purchased at auction.** Used heavy or specialized  
1618 machinery or equipment used for the installation and  
1619 implementation of soil and water conservation practices or  
1620 measures purchased subject to the restrictions provided in  
1621 Sections 69-27-331 through 69-27-341. Any purchase by the State  
1622 Soil and Water Conservation Commission under the exemption  
1623 authorized by this subparagraph shall require advance  
1624 authorization spread upon the minutes of the commission to include  
1625 the listing of the item or items authorized to be purchased and  
1626 the maximum bid authorized to be paid for each item or items.

1627                    (xxviii)   **Hospital lease of equipment or services.**  
1628 Leases by hospitals of equipment or services if the leases are in  
1629 compliance with paragraph (1)(ii).



1630 (xxix) **Purchases made pursuant to qualified**  
1631 **cooperative purchasing agreements.** Purchases made by certified  
1632 purchasing offices of state agencies or governing authorities  
1633 under cooperative purchasing agreements previously approved by the  
1634 Office of Purchasing and Travel and established by or for any  
1635 municipality, county, parish or state government or the federal  
1636 government, provided that the notification to potential  
1637 contractors includes a clause that sets forth the availability of  
1638 the cooperative purchasing agreement to other governmental  
1639 entities. Such purchases shall only be made if the use of the  
1640 cooperative purchasing agreements is determined to be in the best  
1641 interest of the governmental entity.

1642 (xxx) **School yearbooks.** Purchases of school  
1643 yearbooks by state agencies or governing authorities; \* \* \*  
1644 however, \* \* \* state agencies and governing authorities shall use  
1645 for these purchases the RFP process as set forth in the  
1646 Mississippi Procurement Manual adopted by the Office of Purchasing  
1647 and Travel.

1648 (xxxii) **Design-build method of contracting and**  
1649 **certain other contracts.** Contracts entered into under the  
1650 provisions of Section 31-7-13.1, 37-101-44 or 65-1-85.

1651 (xxxiii) **Toll roads and bridge construction**  
1652 **projects.** Contracts entered into under the provisions of Section  
1653 65-43-1 or 65-43-3.



1654 (xxxiii) **Certain purchases under Section 57-1-221.**  
1655 Contracts entered into pursuant to the provisions of Section  
1656 57-1-221.

1657 (xxxiv) **Certain transfers made pursuant to the**  
1658 **provisions of Section 57-105-1(7).** Transfers of public property  
1659 or facilities under Section 57-105-1(7) and construction related  
1660 to such public property or facilities.

1661 (xxxv) **Certain purchases or transfers entered into**  
1662 **with local electrical power associations.** Contracts or agreements  
1663 entered into under the provisions of Section 55-3-33.

1664 (xxxvi) **Certain purchases by an academic medical**  
1665 **center or health sciences school.** Purchases by an academic  
1666 medical center or health sciences school, as defined in Section  
1667 37-115-50, of commodities that are used for clinical purposes and  
1668 1. intended for use in the diagnosis of disease or other  
1669 conditions or in the cure, mitigation, treatment or prevention of  
1670 disease, and 2. medical devices, biological, drugs and  
1671 radiation-emitting devices as defined by the United States Food  
1672 and Drug Administration.

1673 (xxxvii) **Certain purchases made under the Alyce G.**  
1674 **Clarke Mississippi Lottery Law.** Contracts made by the Mississippi  
1675 Lottery Corporation pursuant to the Alyce G. Clarke Mississippi  
1676 Lottery Law.

1677 (xxxviii) **Certain purchases made by the Department**  
1678 **of Health and the Department of Revenue.** Purchases made by the



1679 Department of Health \* \* \* and the Department of Revenue solely  
1680 for the purpose of fulfilling their respective responsibilities  
1681 under the Mississippi Medical Cannabis Act. This subparagraph  
1682 shall stand repealed on June 30, \* \* \* 2026.

1683 (n) **Term contract authorization.** All contracts for the  
1684 purchase of:

1685 (i) All contracts for the purchase of commodities,  
1686 equipment and public construction (including, but not limited to,  
1687 repair and maintenance), may be let for periods of not more than  
1688 sixty (60) months in advance, subject to applicable statutory  
1689 provisions prohibiting the letting of contracts during specified  
1690 periods near the end of terms of office. Term contracts for a  
1691 period exceeding twenty-four (24) months shall also be subject to  
1692 ratification or cancellation by governing authority boards taking  
1693 office subsequent to the governing authority board entering the  
1694 contract.

1695 (ii) Bid proposals and contracts may include price  
1696 adjustment clauses with relation to the cost to the contractor  
1697 based upon a nationally published industry-wide or nationally  
1698 published and recognized cost index. The cost index used in a  
1699 price adjustment clause shall be determined by the Department of  
1700 Finance and Administration for the state agencies and by the  
1701 governing board for governing authorities. The bid proposal and  
1702 contract documents utilizing a price adjustment clause shall  
1703 contain the basis and method of adjusting unit prices for the



1704 change in the cost of such commodities, equipment and public  
1705 construction.

1706           (o) **Purchase law violation prohibition and vendor**  
1707 **penalty.** No contract or purchase as herein authorized shall be  
1708 made for the purpose of circumventing the provisions of this  
1709 section requiring competitive bids, nor shall it be lawful for any  
1710 person or concern to submit individual invoices for amounts within  
1711 those authorized for a contract or purchase where the actual value  
1712 of the contract or commodity purchased exceeds the authorized  
1713 amount and the invoices therefor are split so as to appear to be  
1714 authorized as purchases for which competitive bids are not  
1715 required. Submission of such invoices shall constitute a  
1716 misdemeanor punishable by a fine of not less than Five Hundred  
1717 Dollars (\$500.00) nor more than One Thousand Dollars (\$1,000.00),  
1718 or by imprisonment for thirty (30) days in the county jail, or  
1719 both such fine and imprisonment. In addition, the claim or claims  
1720 submitted shall be forfeited.

1721           (p) **Electrical utility petroleum-based equipment**  
1722 **purchase procedure.** When in response to a proper advertisement  
1723 therefor, no bid firm as to price is submitted to an electric  
1724 utility for power transformers, distribution transformers, power  
1725 breakers, reclosers or other articles containing a petroleum  
1726 product, the electric utility may accept the lowest and best bid  
1727 therefor although the price is not firm.



1728                   (q) **Fuel management system bidding procedure.** Any  
1729 governing authority or agency of the state shall, before  
1730 contracting for the services and products of a fuel management or  
1731 fuel access system, enter into negotiations with not fewer than  
1732 two (2) sellers of fuel management or fuel access systems for  
1733 competitive written bids to provide the services and products for  
1734 the systems. In the event that the governing authority or agency  
1735 cannot locate two (2) sellers of such systems or cannot obtain  
1736 bids from two (2) sellers of such systems, it shall show proof  
1737 that it made a diligent, good-faith effort to locate and negotiate  
1738 with two (2) sellers of such systems. Such proof shall include,  
1739 but not be limited to, publications of a request for proposals and  
1740 letters soliciting negotiations and bids. For purposes of this  
1741 paragraph (q), a fuel management or fuel access system is an  
1742 automated system of acquiring fuel for vehicles as well as  
1743 management reports detailing fuel use by vehicles and drivers, and  
1744 the term "competitive written bid" shall have the meaning as  
1745 defined in paragraph (b) of this section. Governing authorities  
1746 and agencies shall be exempt from this process when contracting  
1747 for the services and products of fuel management or fuel access  
1748 systems under the terms of a state contract established by the  
1749 Office of Purchasing and Travel.

1750                   (r) **Solid waste contract proposal procedure.** Before  
1751 entering into any contract for garbage collection or disposal,  
1752 contract for solid waste collection or disposal or contract for



1753 sewage collection or disposal, which involves an expenditure of  
1754 more than Seventy-five Thousand Dollars (\$75,000.00), a governing  
1755 authority or agency shall issue publicly a request for proposals  
1756 concerning the specifications for such services which shall be  
1757 advertised for in the same manner as provided in this section for  
1758 seeking bids for purchases which involve an expenditure of more  
1759 than the amount provided in paragraph (c) of this section. Any  
1760 request for proposals when issued shall contain terms and  
1761 conditions relating to price, financial responsibility,  
1762 technology, legal responsibilities and other relevant factors as  
1763 are determined by the governing authority or agency to be  
1764 appropriate for inclusion; all factors determined relevant by the  
1765 governing authority or agency or required by this paragraph (r)  
1766 shall be duly included in the advertisement to elicit proposals.  
1767 After responses to the request for proposals have been duly  
1768 received, the governing authority or agency shall select the most  
1769 qualified proposal or proposals on the basis of price, technology  
1770 and other relevant factors and from such proposals, but not  
1771 limited to the terms thereof, negotiate and enter into contracts  
1772 with one or more of the persons or firms submitting proposals. If  
1773 the governing authority or agency deems none of the proposals to  
1774 be qualified or otherwise acceptable, the request for proposals  
1775 process may be reinitiated. Notwithstanding any other provisions  
1776 of this paragraph, where a county with at least thirty-five  
1777 thousand (35,000) nor more than forty thousand (40,000)





1778 population, according to the 1990 federal decennial census, owns  
1779 or operates a solid waste landfill, the governing authorities of  
1780 any other county or municipality may contract with the governing  
1781 authorities of the county owning or operating the landfill,  
1782 pursuant to a resolution duly adopted and spread upon the minutes  
1783 of each governing authority involved, for garbage or solid waste  
1784 collection or disposal services through contract negotiations.

1785           (s) **Minority set-aside authorization.** Notwithstanding  
1786 any provision of this section to the contrary, any agency or  
1787 governing authority, by order placed on its minutes, may, in its  
1788 discretion, set aside not more than twenty percent (20%) of its  
1789 anticipated annual expenditures for the purchase of commodities  
1790 from minority businesses; however, all such set-aside purchases  
1791 shall comply with all purchasing regulations promulgated by the  
1792 Department of Finance and Administration and shall be subject to  
1793 bid requirements under this section. Set-aside purchases for  
1794 which competitive bids are required shall be made from the lowest  
1795 and best minority business bidder. For the purposes of this  
1796 paragraph, the term "minority business" means a business which is  
1797 owned by a majority of persons who are United States citizens or  
1798 permanent resident aliens (as defined by the Immigration and  
1799 Naturalization Service) of the United States, and who are Asian,  
1800 Black, Hispanic or Native American, according to the following  
1801 definitions:



1802 (i) "Asian" means persons having origins in any of  
1803 the original people of the Far East, Southeast Asia, the Indian  
1804 subcontinent, or the Pacific Islands.

1805 (ii) "Black" means persons having origins in any  
1806 black racial group of Africa.

1807 (iii) "Hispanic" means persons of Spanish or  
1808 Portuguese culture with origins in Mexico, South or Central  
1809 America, or the Caribbean Islands, regardless of race.

1810 (iv) "Native American" means persons having  
1811 origins in any of the original people of North America, including  
1812 American Indians, Eskimos and Aleuts.

1813 (t) **Construction punch list restriction.** The  
1814 architect, engineer or other representative designated by the  
1815 agency or governing authority that is contracting for public  
1816 construction or renovation may prepare and submit to the  
1817 contractor only one (1) preliminary punch list of items that do  
1818 not meet the contract requirements at the time of substantial  
1819 completion and one (1) final list immediately before final  
1820 completion and final payment.

1821 (u) **Procurement of construction services by state**  
1822 **institutions of higher learning.** Contracts for privately financed  
1823 construction of auxiliary facilities on the campus of a state  
1824 institution of higher learning may be awarded by the Board of  
1825 Trustees of State Institutions of Higher Learning to the lowest  
1826 and best bidder, where sealed bids are solicited, or to the



1827 offeror whose proposal is determined to represent the best value  
1828 to the citizens of the State of Mississippi, where requests for  
1829 proposals are solicited.

1830 (v) **Insurability of bidders for public construction or**  
1831 **other public contracts.** In any solicitation for bids to perform  
1832 public construction or other public contracts to which this  
1833 section applies, including, but not limited to, contracts for  
1834 repair and maintenance, for which the contract will require  
1835 insurance coverage in an amount of not less than One Million  
1836 Dollars (\$1,000,000.00), bidders shall be permitted to either  
1837 submit proof of current insurance coverage in the specified amount  
1838 or demonstrate ability to obtain the required coverage amount of  
1839 insurance if the contract is awarded to the bidder. Proof of  
1840 insurance coverage shall be submitted within five (5) business  
1841 days from bid acceptance.

1842 (w) **Purchase authorization clarification.** Nothing in  
1843 this section shall be construed as authorizing any purchase not  
1844 authorized by law.

1845 **SECTION 7.** This act shall take effect and be in force from  
1846 and after July 1, 2023.

