

By: Representatives Turner, Ladner, Hopkins

To: Appropriations

HOUSE BILL NO. 540

1 AN ACT TO AMEND SECTION 27-104-7, MISSISSIPPI CODE OF 1972,  
 2 TO REQUIRE THE DEPARTMENT OF FINANCE AND ADMINISTRATION TO CONDUCT  
 3 PERSONAL AND PROFESSIONAL SERVICES SOLICITATIONS IN EXCESS OF  
 4 SEVENTY-FIVE THOUSAND DOLLARS FOR THE DEPARTMENT OF MARINE  
 5 RESOURCES, THE DEPARTMENT OF WILDLIFE, FISHERIES AND PARKS, THE  
 6 MISSISSIPPI EMERGENCY MANAGEMENT AGENCY, THE DEPARTMENT OF PUBLIC  
 7 SAFETY AND THE MISSISSIPPI DEVELOPMENT AUTHORITY; TO AMEND SECTION  
 8 27-104-103, MISSISSIPPI CODE OF 1972, TO REVISE THE POWER AND  
 9 DUTIES OF THE DEPARTMENT OF FINANCE AND ADMINISTRATION TO CONFORM;  
 10 AND FOR RELATED PURPOSES.

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

12 **SECTION 1.** Section 27-104-7, Mississippi Code of 1972, is  
 13 amended as follows:

14 27-104-7. (1) (a) There is created the Public Procurement  
 15 Review Board, which shall be reconstituted on January 1, 2018, and  
 16 shall be composed of the following members:

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

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



21 (iii) The Executive Director of the Department of  
22 Finance and Administration, serving as an ex officio and nonvoting  
23 member.

24 (b) The initial terms of each appointee shall be as  
25 follows:

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

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

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

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

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

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

40 (c) When appointing members to the Public Procurement  
41 Review Board, the Governor and Lieutenant Governor shall take into  
42 consideration persons who possess at least five (5) years of  
43 management experience in general business, health care or finance  
44 for an organization, corporation or other public or private  
45 entity. Any person, or any employee or owner of a company, who



46 receives any grants, procurements or contracts that are subject to  
47 approval under this section shall not be appointed to the Public  
48 Procurement Review Board. Any person, or any employee or owner of  
49 a company, who is a principal of the source providing a personal  
50 or professional service shall not be appointed to the Public  
51 Procurement Review Board if the principal owns or controls a  
52 greater than five percent (5%) interest or has an ownership value  
53 of One Million Dollars (\$1,000,000.00) in the source's business,  
54 whichever is smaller. No member shall be an officer or employee  
55 of the State of Mississippi while serving as a voting member on  
56 the Public Procurement Review Board.

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

60 (e) The members of the Public Procurement Review Board  
61 shall elect a chair from among the membership, and he or she shall  
62 preside over the meetings of the board. The board shall annually  
63 elect a vice chair, who shall serve in the absence of the chair.  
64 No business shall be transacted, including adoption of rules of  
65 procedure, without the presence of a quorum of the board. Three  
66 (3) members shall be a quorum. No action shall be valid unless  
67 approved by a majority of the members present and voting, entered  
68 upon the minutes of the board and signed by the chair. Necessary  
69 clerical and administrative support for the board shall be  
70 provided by the Department of Finance and Administration. Minutes



71 shall be kept of the proceedings of each meeting, copies of which  
72 shall be filed on a monthly basis with the chairs of the  
73 Accountability, Efficiency and Transparency Committees of the  
74 Senate and House of Representatives and the chairs of the  
75 Appropriations Committees of the Senate and House of  
76 Representatives.

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

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

83 (b) Adopt regulations governing the approval of  
84 contracts let for the construction and maintenance of state  
85 buildings and other state facilities as well as related contracts  
86 for architectural and engineering services.

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

91 (c) Adopt regulations governing any lease or rental  
92 agreement by any state agency or department, including any state  
93 agency financed entirely by federal funds, for space outside the  
94 buildings under the jurisdiction of the Department of Finance and  
95 Administration. These regulations shall require each agency



96 requesting to lease such space to provide the following  
97 information that shall be published by the Department of Finance  
98 and Administration on its website: the agency to lease the space;  
99 the terms of the lease; the approximate square feet to be leased;  
100 the use for the space; a description of a suitable space; the  
101 general location desired for the leased space; the contact  
102 information for a person from the agency; the deadline date for  
103 the agency to have received a lease proposal; any other specific  
104 terms or conditions of the agency; and any other information  
105 deemed appropriate by the Division of Real Property Management of  
106 the Department of Finance and Administration or the Public  
107 Procurement Review Board. The information shall be provided  
108 sufficiently in advance of the time the space is needed to allow  
109 the Division of Real Property Management of the Department of  
110 Finance and Administration to review and preapprove the lease  
111 before the time for advertisement begins;

112 (d) Adopt, in its discretion, regulations to set aside  
113 at least five percent (5%) of anticipated annual expenditures for  
114 the purchase of commodities from minority businesses; however, all  
115 such set-aside purchases shall comply with all purchasing  
116 regulations promulgated by the department and shall be subject to  
117 all bid requirements. Set-aside purchases for which competitive  
118 bids are required shall be made from the lowest and best minority  
119 business bidder; however, if no minority bid is available or if  
120 the minority bid is more than two percent (2%) higher than the



121 lowest bid, then bids shall be accepted and awarded to the lowest  
122 and best bidder. However, the provisions in this paragraph shall  
123 not be construed to prohibit the rejection of a bid when only one  
124 (1) bid is received. Such rejection shall be placed in the  
125 minutes. For the purposes of this paragraph, the term "minority  
126 business" means a business which is owned by a person who is a  
127 citizen or lawful permanent resident of the United States and who  
128 is:

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

131 (ii) Hispanic: of Mexican, Puerto Rican, Cuban,  
132 Central or South American, or other Spanish or Portuguese culture  
133 or origin regardless of race;

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

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

139 (v) Female;

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



146           (f) (i) Except as otherwise provided in subparagraph  
147 (ii) of this paragraph, promulgate rules and regulations governing  
148 the solicitation and selection of contractual services personnel,  
149 including personal and professional services contracts for any  
150 form of consulting, policy analysis, public relations, marketing,  
151 public affairs, legislative advocacy services or any other  
152 contract that the board deems appropriate for oversight, with the  
153 exception of any personal service contracts entered into by any  
154 agency that employs only nonstate service employees as defined in  
155 Section 25-9-107(c), any personal service contracts entered into  
156 for computer or information technology-related services governed  
157 by the Mississippi Department of Information Technology Services,  
158 any personal service contracts entered into by the individual  
159 state institutions of higher learning, any personal service  
160 contracts entered into by the Mississippi Department of  
161 Transportation, any personal service contracts entered into by the  
162 Department of Human Services through June 30, 2019, which the  
163 Executive Director of the Department of Human Services determines  
164 would be useful in establishing and operating the Department of  
165 Child Protection Services, any personal service contracts entered  
166 into by the Department of Child Protection Services through June  
167 30, 2019, any contracts for entertainers and/or performers at the  
168 Mississippi State Fairgrounds entered into by the Mississippi Fair  
169 Commission, any contracts entered into by the Department of  
170 Finance and Administration when procuring aircraft maintenance,



171 parts, equipment and/or services, any contract entered into by the  
172 Department of Public Safety for service on specialized equipment  
173 and/or software required for the operation at such specialized  
174 equipment for use by the Office of Forensics Laboratories, any  
175 personal or professional service contract entered into by the  
176 Mississippi Department of Health and/or the Department of Revenue  
177 solely in connection with their respective responsibilities under  
178 the Mississippi Medical Cannabis Act from February 2, 2022,  
179 through June 30, 2023, any contract for attorney, accountant,  
180 actuary auditor, architect, engineer, anatomical pathologist,  
181 utility rate expert services, any personal service contracts  
182 approved by the Executive Director of the Department of Finance  
183 and Administration and entered into by the Coordinator of Mental  
184 Health Accessibility through June 30, 2022, any personal or  
185 professional services contract entered into by the State  
186 Department of Health in carrying out its responsibilities under  
187 the ARPA Rural Water Associations Infrastructure Grant Program  
188 through June 30, 2026, and any personal or professional services  
189 contract entered into by the Mississippi Department of  
190 Environmental Quality in carrying out its responsibilities under  
191 the Mississippi Municipality and County Water Infrastructure Grant  
192 Program Act of 2022, through June 30, 2026. Any such rules and  
193 regulations shall provide for maintaining continuous internal  
194 audit covering the activities of such agency affecting its revenue  
195 and expenditures as required under Section 7-7-3(6)(d). Any rules





196 and regulation changes related to personal and professional  
197 services contracts that the Public Procurement Review Board may  
198 propose shall be submitted to the Chairs of the Accountability,  
199 Efficiency and Transparency Committees of the Senate and House of  
200 Representatives and the Chairs of the Appropriation Committees of  
201 the Senate and House of Representatives at least fifteen (15) days  
202 before the board votes on the proposed changes, and those rules  
203 and regulation changes, if adopted, shall be promulgated in  
204 accordance with the Mississippi Administrative Procedures Act;

205 (ii) From and after July 1, 2024, the Public  
206 Procurement Review Board shall promulgate rules and regulations  
207 that require the Department of Finance and Administration to  
208 conduct personal and professional services solicitations as  
209 provided in subparagraph (i) of this paragraph for those services  
210 in excess of Seventy-five Thousand Dollars (\$75,000.00) for the  
211 Department of Marine Resources, the Department of Wildlife,  
212 Fisheries and Parks, the Mississippi Emergency Management Agency,  
213 the Department of Public Safety and the Mississippi Development  
214 Authority, with assistance to be provided from these entities.  
215 Any powers that have been conferred upon agencies in order to  
216 comply with the provisions of this section for personal and  
217 professional services solicitations shall be conferred upon the  
218 Department of Finance and Administration to conduct personal and  
219 professional services solicitations for the Department of Marine  
220 Resources, the Department of Wildlife, Fisheries and Parks, the



221 Mississippi Emergency Management Agency, the Department of Public  
222 Safety and the Mississippi Development Authority for those  
223 services in excess of Seventy-five Thousand Dollars (\$75,000.00).  
224 The Department of Finance and Administration shall make any  
225 submissions that are required to be made by other agencies to the  
226 Public Procurement Review Board for the Department of Marine  
227 Resources, the Department of Wildlife, Fisheries and Parks, the  
228 Mississippi Emergency Management Agency, the Department of Public  
229 Safety and the Mississippi Development Authority.

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

234 (h) Develop mandatory standards with respect to  
235 contractual services personnel that require invitations for public  
236 bid, requests for proposals, record keeping and financial  
237 responsibility of contractors. The Public Procurement Review  
238 Board shall, unless exempted under this paragraph (h) or under  
239 paragraph (i) or (o) of this subsection (2), require the agency  
240 involved to submit the procurement to a competitive procurement  
241 process, and may reserve the right to reject any or all resulting  
242 procurements;

243 (i) Prescribe certain circumstances by which agency  
244 heads may enter into contracts for personal and professional  
245 services without receiving prior approval from the Public



246 Procurement Review Board. The Public Procurement Review Board may  
247 establish a preapproved list of providers of various personal and  
248 professional services for set prices with which state agencies may  
249 contract without bidding or prior approval from the board;

250 (i) Agency requirements may be fulfilled by  
251 procuring services performed incident to the state's own programs.  
252 The agency head shall determine in writing whether the price  
253 represents a fair market value for the services. When the  
254 procurements are made from other governmental entities, the  
255 private sector need not be solicited; however, these contracts  
256 shall still be submitted for approval to the Public Procurement  
257 Review Board.

258 (ii) Contracts between two (2) state agencies,  
259 both under Public Procurement Review Board purview, shall not  
260 require Public Procurement Review Board approval. However, the  
261 contracts shall still be entered into the enterprise resource  
262 planning system;

263 (j) Provide standards for the issuance of requests for  
264 proposals, the evaluation of proposals received, consideration of  
265 costs and quality of services proposed, contract negotiations, the  
266 administrative monitoring of contract performance by the agency  
267 and successful steps in terminating a contract;

268 (k) Present recommendations for governmental  
269 privatization and to evaluate privatization proposals submitted by  
270 any state agency;



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

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

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

285 (o) Develop and implement the following standards and  
286 procedures for the approval of any sole source contract for  
287 personal and professional services regardless of the value of the  
288 procurement:

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

292 (ii) An agency that has been issued a binding,  
293 valid court order mandating that a particular source or provider  
294 must be used for the required service must include a copy of the  
295 applicable court order in all future sole source contract reviews



296 for the particular personal or professional service referenced in  
297 the court order.

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

306 1. The personal or professional service  
307 offered in the contract;

308 2. An explanation of why the personal or  
309 professional service is the only one that can meet the needs of  
310 the agency;

311 3. An explanation of why the source is the  
312 only person or entity that can provide the required personal or  
313 professional service;

314 4. An explanation of why the amount to be  
315 expended for the personal or professional service is reasonable;  
316 and

317 5. The efforts that the agency went through  
318 to obtain the best possible price for the personal or professional  
319 service.



320 (iv) If any person or entity objects and proposes  
321 that the personal or professional service published under  
322 subparagraph (iii) of this paragraph (o) is not a sole source  
323 service and can be provided by another person or entity, then the  
324 objecting person or entity shall notify the Public Procurement  
325 Review Board and the agency that published the proposed sole  
326 source contract with a detailed explanation of why the personal or  
327 professional service is not a sole source service.

328 (v) 1. If the agency determines after review that  
329 the personal or professional service in the proposed sole source  
330 contract can be provided by another person or entity, then the  
331 agency must withdraw the sole source contract publication from the  
332 procurement portal website and submit the procurement of the  
333 personal or professional service to an advertised competitive bid  
334 or selection process.

335 2. If the agency determines after review that  
336 there is only one (1) source for the required personal or  
337 professional service, then the agency may appeal to the Public  
338 Procurement Review Board. The agency has the burden of proving  
339 that the personal or professional service is only provided by one  
340 (1) source.

341 3. If the Public Procurement Review Board has  
342 any reasonable doubt as to whether the personal or professional  
343 service can only be provided by one (1) source, then the agency  
344 must submit the procurement of the personal or professional



345 service to an advertised competitive bid or selection process. No  
346 action taken by the Public Procurement Review Board in this appeal  
347 process shall be valid unless approved by a majority of the  
348 members of the Public Procurement Review Board present and voting.

349 (vi) The Public Procurement Review Board shall  
350 prepare and submit a quarterly report to the House of  
351 Representatives and Senate Accountability, Efficiency and  
352 Transparency Committees that details the sole source contracts  
353 presented to the Public Procurement Review Board and the reasons  
354 that the Public Procurement Review Board approved or rejected each  
355 contract. These quarterly reports shall also include the  
356 documentation and memoranda required in subsection (4) of this  
357 section. An agency that submitted a sole source contract shall be  
358 prepared to explain the sole source contract to each committee by  
359 December 15 of each year upon request by the committee;

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

362 (3) All submissions shall be made sufficiently in advance of  
363 each monthly meeting of the Public Procurement Review Board as  
364 prescribed by the Public Procurement Review Board. If the Public  
365 Procurement Review Board rejects any contract submitted for review  
366 or approval, the Public Procurement Review Board shall clearly set  
367 out the reasons for its action, including, but not limited to, the  
368 policy that the agency has violated in its submitted contract and  
369 any corrective actions that the agency may take to amend the



370 contract to comply with the rules and regulations of the Public  
371 Procurement Review Board.

372 (4) All sole source contracts for personal and professional  
373 services awarded by state agencies, other than those exempted  
374 under Section 27-104-7(2)(f) and (8), whether approved by an  
375 agency head or the Public Procurement Review Board, shall contain  
376 in the procurement file a written determination for the approval,  
377 using a request form furnished by the Public Procurement Review  
378 Board. The written determination shall document the basis for the  
379 determination, including any market analysis conducted in order to  
380 ensure that the service required was practicably available from  
381 only one (1) source. A memorandum shall accompany the request  
382 form and address the following four (4) points:

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

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

387 (c) Explanation of why the price is considered  
388 reasonable; and

389 (d) Description of the efforts that were made to  
390 conduct a noncompetitive negotiation to get the best possible  
391 price for the taxpayers.

392 (5) In conjunction with the State Personnel Board, the  
393 Public Procurement Review Board shall develop and promulgate rules  
394 and regulations to define the allowable legal relationship between





395 contract employees and the contracting departments, agencies and  
396 institutions of state government under the jurisdiction of the  
397 State Personnel Board, in compliance with the applicable rules and  
398 regulations of the federal Internal Revenue Service (IRS) for  
399 federal employment tax purposes. Under these regulations, the  
400 usual common law rules are applicable to determine and require  
401 that such worker is an independent contractor and not an employee,  
402 requiring evidence of lawful behavioral control, lawful financial  
403 control and lawful relationship of the parties. Any state  
404 department, agency or institution shall only be authorized to  
405 contract for personnel services in compliance with those  
406 regulations.

407 (6) No member of the Public Procurement Review Board shall  
408 use his or her official authority or influence to coerce, by  
409 threat of discharge from employment, or otherwise, the purchase of  
410 commodities, the contracting for personal or professional  
411 services, or the contracting for public construction under this  
412 chapter.

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

416 (8) Nothing in this section shall impair or limit the  
417 authority of the Board of Trustees of the Public Employees'  
418 Retirement System to enter into any personal or professional  
419 services contracts directly related to their constitutional



420 obligation to manage the trust funds, including, but not limited  
421 to, actuarial, custodial banks, cash management, investment  
422 consultant and investment management contracts.

423 (9) Notwithstanding the exemption of personal and  
424 professional services contracts entered into by the Department of  
425 Human Services and personal and professional services contracts  
426 entered into by the Department of Child Protection Services from  
427 the provisions of this section under subsection (2)(f), before the  
428 Department of Human Services or the Department of Child Protection  
429 Services may enter into a personal or professional service  
430 contract, the department(s) shall give notice of the proposed  
431 personal or professional service contract to the Public  
432 Procurement Review Board for any recommendations by the board.  
433 Upon receipt of the notice, the board shall post the notice on its  
434 website and on the procurement portal website established by  
435 Sections 25-53-151 and 27-104-165. If the board does not respond  
436 to the department(s) within seven (7) calendar days after  
437 receiving the notice, the department(s) may enter the proposed  
438 personal or professional service contract. If the board responds  
439 to the department(s) within seven (7) calendar days, then the  
440 board has seven (7) calendar days from the date of its initial  
441 response to provide any additional recommendations. After the end  
442 of the second seven-day period, the department(s) may enter the  
443 proposed personal or professional service contract. The board is  
444 not authorized to disapprove any proposed personal or professional



445 services contracts. This subsection shall stand repealed on July  
446 1, 2022.

447 **SECTION 2.** Section 27-104-103, Mississippi Code of 1972, is  
448 amended as follows:

449 27-104-103. (1) The Department of Finance and  
450 Administration shall have the following duties and powers:

451 (a) To provide administrative guidance to the various  
452 departments and agencies of state government;

453 (b) To facilitate the expedient delivery of services  
454 and programs for the benefit of the citizens of the state;

455 (c) To analyze and develop efficient management  
456 practices and assist departments and agencies in implementing  
457 effective and efficient work management systems;

458 (d) To conduct management review of state agencies and  
459 departments and recommend a management plan to state departments  
460 and agencies when corrective action is required;

461 (e) To, at least annually, report to the Governor and  
462 the Legislature on programs and actions taken to improve the  
463 conduct of state operations and to prepare and recommend  
464 management programs for effective and efficient management of the  
465 operations of state government;

466 (f) To allocate the federal-state programs funds to the  
467 departments responsible for the delivery of the programs and  
468 services for which the appropriation was made;



469 (g) To coordinate the planning functions of all  
470 agencies in the executive branch of government and review any and  
471 all plans which are developed by those agencies and departments;

472 (h) To collect and maintain the necessary data on which  
473 to base budget and policy development issues;

474 (i) To develop and analyze policy recommendations to  
475 the Governor;

476 (j) To develop and manage the executive budget process;

477 (k) To prepare the executive branch budget  
478 recommendations;

479 (l) To review and monitor the expenditures of the  
480 executive agencies and departments of government;

481 (m) To manage the state's fiscal affairs;

482 (n) To administer programs relating to general  
483 services, public procurement, insurance and the Bond Advisory  
484 Division;

485 (o) To administer the state's aircraft operation.

486 (2) The department shall have the following additional  
487 powers and duties under Chapter 18 of Title 17:

488 (a) It shall acquire the site submitted by the  
489 Mississippi Hazardous Waste Facility Siting Authority and, if  
490 determined necessary, design, finance, construct and operate a  
491 state commercial hazardous waste management facility;

492 (b) It may acquire by deed, purchase, lease, contract,  
493 gift, devise or otherwise any real or personal property,



494 structures, rights-of-way, franchises, easements and other  
495 interest in land which is necessary and convenient for the  
496 construction or operation of the state commercial hazardous waste  
497 management facility, upon such terms and conditions as it deems  
498 advisable, hold, mortgage, pledge or otherwise encumber the same,  
499 and lease, sell, convey or otherwise dispose of the same in such a  
500 manner as may be necessary or advisable to carry out the purposes  
501 of Chapter 18 of Title 17;

502 (c) It shall develop and implement, in consultation  
503 with the Department of Environmental Quality, schedules of user  
504 fees, franchise fees and other charges, including nonregulatory  
505 penalties and surcharges applicable to the state commercial  
506 hazardous waste management facility;

507 (d) It may employ consultants and contractors to  
508 provide services including site acquisition, design, construction,  
509 operation, closure, post-closure and perpetual care of the state  
510 commercial hazardous waste management facility;

511 (e) It may apply for and accept loans, grants and gifts  
512 from any federal or state agency or any political subdivision or  
513 any private or public organization;

514 (f) It shall make plans, surveys, studies and  
515 investigations as may be necessary or desirable with respect to  
516 the acquisition, development and use of real property and the  
517 design, construction, operation, closure and long-term care of the  
518 state commercial hazardous waste management facility;



519 (g) It shall have the authority to preempt any local  
520 ordinance or restriction which prohibits or has the effect of  
521 prohibiting the establishment or operation of the state commercial  
522 hazardous waste management facility;

523 (h) It may negotiate any agreement for site  
524 acquisition, design, construction, operation, closure,  
525 post-closure and perpetual care of the state commercial hazardous  
526 waste management facility and may negotiate any agreement with any  
527 local governmental unit pursuant to Chapter 18 of Title 17;

528 (i) It may promulgate rules and regulations necessary  
529 to effectuate the purposes of Chapter 18 of Title 17 not  
530 inconsistent therewith;

531 (j) If funds are not appropriated or if the  
532 appropriated funds are insufficient to carry out the provisions of  
533 Chapter 18 of Title 17, the department shall expend any funds  
534 available to it from any source to defray its costs to implement  
535 Chapter 18 of Title 17 through February 1, 1991 \* \* \*;

536 (k) To carry out such duties and responsibilities  
537 assigned to it by the Public Procurement Review Board as provided  
538 in Section 27-104-7(2) (f);

539 (l) To establish, with the approval of the Public  
540 Procurement Review Board, rules that ensure that vendors may  
541 compete for personal and professional services and other contracts  
542 provided that they have an office in the state without regard to  
543 the office's location in the state.



544 (3) From and after July 1, 2016, the expenses of the  
545 Department of Finance and Administration shall be defrayed by  
546 appropriation from the State General Fund and all user charges and  
547 fees authorized under law such as rents, MAGIC fees, and other  
548 fees for services shall be deposited into the State General Fund  
549 as authorized by law.

550 (4) From and after July 1, 2016, the Department of Finance  
551 and Administration shall not charge another state agency a fee,  
552 assessment, rent or other charge for services or resources  
553 received by that state agency from the department.

554 **SECTION 3.** This act shall take effect and be in force from  
555 and after July 1, 2023.

