

By: Representatives Busby, Stamps

To: Transportation; Ways and Means

HOUSE BILL NO. 986

1 AN ACT TO ESTABLISH THE "MISSISSIPPI ELECTRIC VEHICLE  
2 CHARGING INFRASTRUCTURE PUBLIC-PRIVATE PARTNERSHIP ACT OF 2023";  
3 TO ALLOW FOR PUBLIC/PRIVATE PARTNERSHIPS TO ESTABLISH ELECTRIC  
4 VEHICLE CHARGING STATIONS AND TO ALLOW THE MISSISSIPPI  
5 TRANSPORTATION COMMISSION TO PROVIDE GRANTS TO PRIVATE COMPANIES  
6 FOR THE PURPOSE OF PROVIDING ELECTRIC VEHICLE CHARGING STATIONS;  
7 TO SPECIFY THE INTENT OF THE LEGISLATURE REGARDING ELECTRIC  
8 VEHICLE CHARGING INFRASTRUCTURE PUBLIC-PRIVATE PARTNERSHIPS; TO  
9 PROVIDE CERTAIN DEFINITIONS TO TERMS USED HEREIN; TO AUTHORIZE THE  
10 MISSISSIPPI TRANSPORTATION COMMISSION TO ENTER INTO CERTAIN  
11 AGREEMENTS TO DEVELOP QUALIFYING ELECTRIC VEHICLE CHARGING  
12 INFRASTRUCTURE PROJECTS; TO PROVIDE THE COMMISSION OR THE  
13 MISSISSIPPI DEPARTMENT OF TRANSPORTATION REQUESTS, RECEIVES AND  
14 RESPONDS TO PROPOSALS FOR QUALIFYING ELECTRIC VEHICLE CHARGING  
15 INFRASTRUCTURE PROJECTS; TO REQUIRE THE EXECUTIVE DIRECTOR OF THE  
16 MISSISSIPPI DEPARTMENT OF TRANSPORTATION TO MAKE A FINDING OF  
17 PUBLIC INTEREST BEFORE ENTERING INTO A PARTNERSHIP AGREEMENT; TO  
18 REQUIRE NOTICE OF PROPOSED PROJECTS BE GIVEN TO AFFECTED  
19 JURISDICTIONS; TO SPECIFY HOW A QUALIFYING PROJECT MAY BE  
20 FINANCED; TO REQUIRE PUBLIC-PRIVATE PARTNERSHIP AGREEMENTS FOR  
21 QUALIFYING ELECTRIC VEHICLE CHARGING INFRASTRUCTURE PROJECTS TO BE  
22 VALIDATED IN THE SAME MANNER AS BONDS; TO EXEMPT BONDS AND  
23 OBLIGATIONS OF A RESPONSIBLE PUBLIC ENTITY IN CONNECTION WITH A  
24 QUALIFYING PROJECT FROM TAXATION IN ADDITION TO THE PROPERTY AND  
25 INCOME OF A QUALIFYING PROJECT; TO PROVIDE THAT PROJECTS TO  
26 INSTALL ELECTRIC VEHICLE CHARGING INFRASTRUCTURE USING FUNDS  
27 PROVIDED UNDER THE INFRASTRUCTURE INVESTMENT AND JOBS ACT SHALL BE  
28 TREATED AS IF THE PROJECT IS LOCATED ON A FEDERAL-AID HIGHWAY; TO  
29 PROVIDE A SEVERANCE CLAUSE; TO AMEND SECTION 31-7-13, MISSISSIPPI  
30 CODE OF 1972, TO REMOVE PUBLIC-PRIVATE PARTNERSHIPS FROM CERTAIN  
31 PROVISIONS OF THE PUBLIC BIDDING LAWS; TO AMEND SECTION 65-1-8,  
32 MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE MISSISSIPPI  
33 TRANSPORTATION COMMISSION TO ENTER INTO CONTRACT WITH CERTAIN  
34 ENTITIES FOR PURPOSES OF PROVIDING ELECTRIC VEHICLE CHARGING



35 STATIONS; TO AMEND SECTION 65-1-85, MISSISSIPPI CODE OF 1972, TO  
36 EXEMPT PUBLIC-PRIVATE PARTNERSHIP AGREEMENTS FROM CERTAIN  
37 PROVISIONS RELATING TO THE TRANSPORTATION COMMISSION; TO BRING  
38 FORWARD SECTIONS 27-31-1, 27-13-5, 27-7-15, 31-7-1, 31-7-3,  
39 31-3-5, 31-3-21, 31-5-51, 31-7-5, 31-7-7, 31-7-9, 31-7-10,  
40 31-7-11, 31-7-12, 31-7-13.1, 31-7-13.2, 31-7-14, 31-7-15, 31-7-16,  
41 31-7-18, 31-7-21, 31-7-23, 31-7-38, 31-7-47, 31-7-49, 31-7-53,  
42 31-7-55, 31-7-57, 31-7-59, 31-7-61, 31-7-63, 31-7-65, 31-7-73,  
43 31-7-301, 31-7-303, 31-7-305, 31-7-307, 31-7-309, 31-7-311,  
44 31-7-313, 31-7-315, 31-17-3, 31-7-317, 57-62-13, 65-1-181,  
45 65-11-9, 65-11-19 AND 73-13-45, MISSISSIPPI CODE OF 1972, FOR THE  
46 PURPOSE OF POSSIBLE AMENDMENT; AND FOR RELATED PURPOSES.

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

48 **SECTION 1.** This act shall be known and may be cited as the  
49 "Mississippi Electric Vehicle Charging Infrastructure  
50 Public-Private Partnership Act of 2023."

51 **SECTION 2.** It is the intent of this act by encouraging  
52 public-private partnerships to:

53 (a) Promote the development and operation of quality  
54 infrastructure projects that expand upon the national electric  
55 vehicle network within the State of Mississippi;

56 (b) Provide a well-defined mechanism to facilitate  
57 collaboration between the Mississippi Transportation Commission  
58 and companies in public electric vehicle charging infrastructure  
59 development and operation and enable increased investment of  
60 private capital;

61 (c) Promote innovation with respect to the delivery and  
62 financing of electric vehicle charging station projects;

63 (d) Provide flexibility in contracting and delivering  
64 public electric vehicle charging infrastructure projects;



65 (e) Reduce total life-cycle costs of public electric  
66 vehicle charging infrastructure; and

67 (f) Allow for cost and risk sharing between the  
68 Mississippi Transportation Commission and companies.

69 **SECTION 3.** As used in this act, the following terms shall  
70 have the meanings ascribed unless the context clearly indicates  
71 otherwise:

72 (a) "Affected jurisdiction" means any county,  
73 municipality, city, town or special district in which all or a  
74 portion of the qualifying electric vehicle charging infrastructure  
75 project is located.

76 (b) "Commission" means the Mississippi Transportation  
77 Commission, which shall review and approve public-partnership  
78 agreements and administer the program through the Mississippi  
79 Department of Transportation with the promulgation of guidelines  
80 and regulations for the governance of such agreements.

81 (c) "Department" means the Mississippi Department of  
82 Transportation.

83 (d) "Develop" means to plan, design, develop, improve,  
84 equip, modify, repair, operate, maintain, finance, lease, acquire,  
85 install, construct and/or expand a qualifying electric vehicle  
86 charging infrastructure project.

87 (e) "Electric vehicle charging station" means an  
88 electric vehicle charging infrastructure that, at a minimum  
89 provides:



90 (i) Non-proprietary charging connectors that meet  
91 applicable industry safety standards; and

92 (ii) Open access to payment methods that are  
93 available to all members of the public to ensure secure,  
94 convenient, and equal access to the electric vehicle charging  
95 infrastructure that shall not be limited by membership to a  
96 particular payment provider.

97 (f) "Eligible costs" means, to the extent determined by  
98 the Mississippi Transportation Commission and the Mississippi  
99 Department of Transportation, a percentage of the estimated costs  
100 incurred by a company, not to exceed fifteen percent (15%), in  
101 responding to a request for proposals issued by the Mississippi  
102 Transportation Commission and the Mississippi Department of  
103 Transportation pursuant to this act.

104 (g) "Fees" means rates, fees, rents, leases or other  
105 charges or funds imposed by the company or the Mississippi  
106 Transportation Commission and the Mississippi Department of  
107 Transportation for use of all or a portion of a qualifying  
108 electric vehicle charging infrastructure project pursuant to a  
109 public-partnership agreement.

110 (h) "Company" means any natural person, corporation,  
111 general partnership, limited liability company, limited  
112 partnership, joint venture, business trust, public benefit  
113 corporation, nonprofit entity, other private business entity or  
114 any combination thereof, who has entered into a public-partnership



115 agreement for the construction of a qualifying electric vehicle  
116 charging infrastructure project using:

117 (i) Contractors who are licensed in Mississippi,  
118 but may be licensed in another state, and has satisfied the  
119 requirements of Sections 31-3-5, 31-3-21 and 31-5-51 for  
120 certificates of responsibility, performance and payments of bonds,  
121 and proof of insurance for public construction contracts; and

122 (ii) Engineers who are licensed in Mississippi,  
123 but may be licensed in another state, and have satisfied the  
124 requirements of Section 73-13-45 for construction contracts of any  
125 public works.

126 (i) "Proposal" means a plan to develop a qualifying  
127 electric vehicle charging infrastructure project submitted by a  
128 company with detail beyond a conceptual level for which all terms  
129 determined to be necessary by the Mississippi Transportation  
130 Commission and the Mississippi Department of Transportation are  
131 defined and specified in a request for proposals, costs, payment  
132 schedules, plans, designs, operation, maintenance arrangements,  
133 financing, deliverables and project schedule.

134 (j) "Public-partnership" means when the Mississippi  
135 Transportation Commission and the Mississippi Department of  
136 Transportation enter into a public-partnership agreement with a  
137 company to develop a qualifying electric vehicle charging  
138 infrastructure project for the benefit of the public.



139           (k) "Public-partnership agreement" means an agreement  
140 between one or more companies and the Mississippi Transportation  
141 Commission contractually providing for and allocating the  
142 responsibilities of and among all parties to develop and/or  
143 operate a qualifying electric vehicle charging infrastructure  
144 project in a public-partnership.

145           (l) "Qualifying electric vehicle charging  
146 infrastructure project" means any public electric vehicle charging  
147 infrastructure or improvement to any public electric vehicle  
148 charging infrastructure that supports the operation of electric  
149 vehicle charging stations that are used or will be used by the  
150 public.

151           (m) "Request for proposals" means the process for  
152 soliciting proposals to develop a qualifying electric vehicle  
153 charging infrastructure project.

154           (n) "Request for qualifications" means the process for  
155 soliciting the qualifications of companies by the Mississippi  
156 Transportation Commission and the Mississippi Department of  
157 Transportation in anticipation of issuing a request for proposals  
158 to develop a qualifying electric vehicle charging infrastructure  
159 project.

160           (o) "State" means the State of Mississippi.

161           **SECTION 4.** (1) The Mississippi Transportation Commission  
162 may, in its discretion, design, construct, operate, maintain,  
163 regulate, and/or control, individually or jointly with other



164 governmental entities, one or more new electric vehicle charging  
165 stations in the state for electric motor vehicle traffic. All  
166 such electric vehicle charging station structures and other  
167 related electric vehicle charging infrastructure comprising the  
168 projects shall be built and maintained in accordance with  
169 standards established by the commission for such stations and  
170 related facilities, but in no instance shall such construction and  
171 maintenance adhere to standards less stringent than the minimum  
172 standards established by the commission.

173       (2) (a) The commission may enter into contract,  
174 individually or jointly with any persons, corporations,  
175 partnerships or other businesses licensed to do business in the  
176 State of Mississippi (hereinafter referred to as "companies" or  
177 "company") for the purpose of designing, financing, constructing,  
178 operating and maintaining one or more new electric vehicle  
179 charging stations.

180       (b) Any contract entered into under the authority of  
181 paragraph (a) of this subsection may provide that the commission  
182 may grant funds from the Electric Vehicle Charging Infrastructure  
183 Fund, established in Section 65-1-181, to a company for design,  
184 construction, operation and/or maintenance of new electric vehicle  
185 charging stations.

186       (3) All such structures and other infrastructure comprising  
187 the projects shall be built and maintained in accordance with not  
188 less than the minimum design, construction and maintenance



189 standards established by the commission and the Mississippi  
190 Department of Transportation for such charging stations,  
191 infrastructure and facilities, in compliance with the standards  
192 prescribed under the National Electric Vehicle Infrastructure  
193 (NEVI) Formula Program. The commission may have the department to  
194 conduct periodic inspections of any such charging station  
195 throughout the term of the contract to ensure compliance by the  
196 company. Failure of a company to comply with minimum standards  
197 established for the project by the contracting governmental entity  
198 shall constitute a breach and shall subject the company to  
199 liability on its bond or security or to rescission of the contract  
200 in accordance with the terms and provisions of the contract.

201       **SECTION 5.** (1) Mississippi Transportation Commission may  
202 not enter into a contract under this section with (i) any company  
203 designated as a foreign terrorist organization pursuant to  
204 Presidential Executive Order 13224 or Section 302 of the federal  
205 Antiterrorism or Effective Death Penalty Act of 1996, (ii) any  
206 company under the control of a so-designated foreign terrorist  
207 organization, or (iii) any company controlled by a foreign person  
208 if to do so would violate any order of the Committee on Foreign  
209 Investment in the United States under the Foreign Investment and  
210 National Security Act of 2007, H.R. 566, 110th Cong. (2007),  
211 Public Law 110-49, 121 Stat. 246. These requirements also shall  
212 apply to any proposed transfer or assignment of any contract  
213 entered into under this section.





214           (2) Every contract entered into by the commission under this  
215 section (except for contracts entered into with another  
216 governmental entity or following termination of a predecessor  
217 contract entered into under this section), at a minimum, must  
218 provide for the design and construction of a new qualifying  
219 electric vehicle charging infrastructure project and may also  
220 provide for the financing, acquisition, lease, maintenance, and/or  
221 operation of a new qualifying electric vehicle charging  
222 infrastructure project.

223           (3) Every contract entered into by the commission under this  
224 section shall require a company to enter into bond and provide  
225 such security as the governmental entity determines may be  
226 necessary or advisable to ensure timely completion and proper  
227 execution and performance of the contract. The commission and  
228 Mississippi Department of Transportation are authorized to acquire  
229 such property or interests in property as may be necessary, by  
230 gift, purchase or eminent domain, for construction and maintenance  
231 of the highways or bridges built pursuant to contracts entered  
232 into under this section. Upon expiration, termination or  
233 rescission of the contract, any and all rights and/or interests  
234 that the company may have in the land, infrastructure or other  
235 improvements to the property subject to contract shall terminate  
236 and automatically, by operation of law, be returned or conveyed to  
237 and vested in the State of Mississippi. Upon termination,



238 expiration or rescission of the contract, the collection of fees  
239 shall cease.

240 (4) The commission may, after notice and public hearing,  
241 establish, charge and collect fees for use of the electric vehicle  
242 charging stations. Alternatively, during the term of any contract  
243 entered into under this section, the company may establish, charge  
244 and collect motor vehicle operators fees for use of the electric  
245 vehicle charging stations. The amount of such fees, and any  
246 modification thereto, shall be subject to approval by the  
247 commission after notice and public hearing. All such contracts  
248 entered into with the commission may require a company to pay a  
249 percentage or other specified portion of all fees collected to the  
250 Mississippi Department of Transportation. If bonds are issued,  
251 then all such fees paid to the department shall be deposited into  
252 a special bond sinking fund established to be expended only as  
253 authorized by the Legislature. If bonds are not issued, then all  
254 such fees paid to the department shall be deposited into the  
255 Electric Vehicle Charging Infrastructure Fund, established in  
256 Section 65-1-181 to be used by the department for the construction  
257 and maintenance of qualifying electric vehicle charging  
258 infrastructure.

259 (5) As set forth in the declaration of finding and purpose  
260 herein, the commission will be performing an essential  
261 governmental function in the exercise of the powers conferred upon  
262 the commission and the department under this act, and any bonds or



263 other obligations of the commission in connection with a  
264 qualifying electric vehicle charging infrastructure project and  
265 the income therefrom, including any profit made on the sale  
266 thereof, and all its fees, charges, gifts, grants, revenues,  
267 receipts and other monies received, pledged to pay or secure the  
268 payment of such bonds shall at all times be free from taxation of  
269 every kind by the state and by the municipalities and all other  
270 political subdivisions of the state.

271 (6) The property and materials contained therein  
272 constituting a qualifying project and its income and operation  
273 shall be exempt from taxation and assessments.

274 (7) The State of Mississippi, the Mississippi Transportation  
275 Commission, the Mississippi Department of Transportation,  
276 counties, municipalities or any other agency or political  
277 subdivision, or any officer or employee thereof, shall not be  
278 liable for any tortious act or omission arising out of the  
279 construction, maintenance or operation of any qualifying electric  
280 vehicle charging infrastructure project under the provisions of  
281 this section where the act or omission occurs during the term of  
282 any such contract entered into by the commission and a company.

283 **SECTION 6.** (1) The Mississippi Transportation Commission  
284 and the Mississippi Department of Transportation may request  
285 proposals from companies for the development of a qualifying  
286 electric vehicle charging infrastructure project. Companies who  
287 respond to requests for proposals from the commission but who are



288 not selected to perform the services described in such request may  
289 be recompensed for eligible costs incurred as part of the response  
290 to proposal process, but only to the extent provided in the  
291 request for proposal issued by the commission and the department.

292 (2) Upon submitting a proposal, a company shall identify  
293 those portions of a proposal that the company considers to be a  
294 trade secret or confidential commercial, financial, or proprietary  
295 information and provide any justification as to why these  
296 materials, upon request, should not be disclosed by the commission  
297 and the department. A company shall fully comply with any  
298 applicable state laws for such materials to be exempt from  
299 disclosure. Patent information will be exempt from disclosure  
300 until the patent expires. Records of negotiation are exempt from  
301 disclosure under the Mississippi Public Records Act of 1983.  
302 Other information such as originality of design may only be  
303 protected under this section until a public-partnership agreement  
304 is reached. Projects under federal jurisdiction or using federal  
305 funds must conform to federal regulations under the Freedom of  
306 Information Act. Subject to the foregoing requirements, the  
307 commission and the department shall determine what is exempt from  
308 disclosure and shall otherwise comply with the Mississippi Public  
309 Records Act of 1983.

310 (3) For any selected proposal for a qualifying electric  
311 vehicle charging infrastructure project, the commission and the  
312 department shall obtain an independent audit of the proposed



313 private-public partnership, including an assessment of projected  
314 usage and public costs, before the public-partnership agreement is  
315 executed. The analysis shall be disclosed to the public prior to  
316 execution of a public-partnership agreement. In addition to  
317 disclosing the independent audit to the public, the commission and  
318 the department shall provide a copy of the audit to the State Bond  
319 Commission, the chairmen of the House of Representatives  
320 Transportation, Ways and Means and Appropriations Committees, and  
321 to the chairmen of the Senate Transportation, Finance and  
322 Appropriations Committees prior to the execution of a  
323 public-partnership agreement.

324 (6) After the commission and the department make a  
325 determination of a qualifying electric vehicle charging  
326 infrastructure project as provided in subsection (1) of this  
327 section, the commission and the department shall:

328 (a) Seek competing companies for the qualifying  
329 electric vehicle charging infrastructure project by issuing a  
330 request for qualifications for not less than ninety (90) days.

331 (b) Review all qualifications submitted in response to  
332 such request for qualifications based on the criteria established  
333 in such request for qualifications.

334 (c) If exactly one (1) company responds to the request  
335 for qualifications and such company meets the criteria defined in  
336 such request for qualifications, the commission and the department  
337 may:



338 (i) Begin negotiations with such company to enter  
339 into a public-partnership agreement and submit a request for  
340 proposals to such company under the processes and procedures  
341 described in this act;

342 (ii) Reject the private-partner applicant and  
343 re-submit its request for qualifications; or

344 (iii) Cancel its request for qualifications and  
345 reject all private-partner applicants.

346 (d) If more than one (1) company submits qualifications  
347 meeting the criteria defined in such request for qualifications,  
348 the commission and the department shall seek competing proposals  
349 for the qualifying electric vehicle charging infrastructure  
350 project by issuing a request for proposals for not less than  
351 ninety (90) days. Thereafter, the commission shall review all  
352 proposals submitted in response to such request for competing  
353 proposals based on the criteria established in such request for  
354 competing proposals.

355 (7) When the time for receiving proposals expires, the  
356 commission shall first rank the proposals in accordance with the  
357 factors set forth in the request for proposals. The commission  
358 and the department shall not be required to select the proposal  
359 with the lowest price offer, but it may consider price as one (1)  
360 of various factors in evaluating the proposals received in  
361 response to the request for proposals for a qualifying electric



362 vehicle charging infrastructure project. Factors that may be  
363 considered include:

364 (a) The proposed cost to develop the qualifying  
365 electric vehicle charging infrastructure project;

366 (b) The estimated life-cycle cost of the qualifying  
367 electric vehicle charging infrastructure project;

368 (c) The general reputation, industry experience, and  
369 financial capacity of the company;

370 (d) The proposed design of the qualifying electric  
371 vehicle charging infrastructure project;

372 (e) The eligibility of the qualifying electric vehicle  
373 charging infrastructure project for accelerated selection, review,  
374 and documentation timelines under the commission's guidelines;

375 (f) Estimated benefits to the public;

376 (g) The company's compliance with a minority business  
377 enterprise participation plan;

378 (h) The company's plans to employ local contractors and  
379 residents; and

380 (i) Other criteria that the commission and the  
381 department deem appropriate.

382 (8) After ranking the proposals the commission and the  
383 department shall begin simultaneous negotiations with all  
384 potentially eligible ranked companies before requesting best and  
385 final offers from eligible companies. If the commission and the  
386 department and the potentially eligible ranked company submitting



387 the best and final offer do not reach a public-partnership  
388 agreement, then the commission and the department may conduct  
389 negotiations with another potentially eligible ranked company.  
390 This process shall continue until the commission and the  
391 department either voluntarily abandons the process or executes a  
392 public-partnership agreement with a company.

393 (9) At any time during the process outlined in this act, but  
394 before the full execution of a public-partnership agreement, the  
395 commission and the department may, without liability to any  
396 company or third party (except to the extent of eligible costs, if  
397 any, provided for in the request for qualifications and/or request  
398 for proposals), cancel its request for proposals or reject all  
399 proposals received in response to its request for proposals, for  
400 any reason whatsoever.

401 (10) The commission, when utilizing the processes and  
402 procedures described in this act shall not be subject to Chapter  
403 7, Title 31, Mississippi Code of 1972, or any other public bidding  
404 laws of this state.

405 **SECTION 7.** (1) The Mississippi Transportation Commission  
406 may enter into a public-partnership agreement to develop a  
407 qualifying project only after the executive director of the  
408 Mississippi Department of Transportation makes a finding of public  
409 interest and statewide compatibility plan consistent with the  
410 State of Mississippi's Electric Vehicle Infrastructure Deployment  
411 Plan approved in compliance with the National Electric Vehicle





412 Infrastructure (NEVI) Formula Program. Such findings shall, at a  
413 minimum, consider the following:

414 (a) Benefits to the public;

415 (b) Advantages or disadvantages to develop the  
416 qualifying project as a public-partnership versus a traditional  
417 procurement, including the anticipated cost over the project  
418 life-cycle, adjusted for risk and risk transfers;

419 (c) Sources of funding and financing for the qualifying  
420 project;

421 (d) The general reputation, qualifications, industry  
422 experience and financial capacity of the company or companies;

423 (e) The proposal's compatibility with the State of  
424 Mississippi's Electric Vehicle Infrastructure Deployment Plan  
425 approved in compliance with the National Electric Vehicle  
426 Infrastructure (NEVI) Formula Program; and

427 (f) Other criteria that the commission deems  
428 appropriate.

429 (2) The commission shall publicly disclose all findings of  
430 public interest and regional compatibility made pursuant to the  
431 requirements of subsection (1) (a) and (b) of this section in a  
432 public report which shall be available on the Mississippi  
433 Department of Transportation's website and, which shall include a  
434 detailed discussion of all considerations on which the findings  
435 are based followed by fourteen (14) days of public comment before  
436 execution of a public-partnership agreement.



437           **SECTION 8.** (1) Before entering into a public-partnership  
438 agreement, the Mississippi Transportation Commission shall notify  
439 affected jurisdictions in writing of such proposal from the  
440 company and may furnish a copy of the proposal from the company to  
441 each affected jurisdiction.

442           (2) Each affected jurisdiction may, within sixty (60) days  
443 after receiving the notice required under subsection (1) of this  
444 section, submit in writing any comments to the commission on the  
445 project's potential impact and compatibility with local and  
446 regional budgets and infrastructure plans.

447           (3) The commission shall consider the comments of the  
448 affected jurisdiction before entering into a public-partnership  
449 agreement with a company.

450           **SECTION 9.** (1) All public-private partnership agreements  
451 completed under the authority of this chapter shall be validated  
452 in the Chancery Court of the First Judicial District of Hinds  
453 County, Mississippi, with all public agencies involved in such  
454 approved qualifying electric vehicle charging infrastructure  
455 project being parties to the validation proceedings, with the full  
456 right to any party in interest to file objections thereto, in the  
457 manner provided now by Chapter 13, Title 31, Mississippi Code of  
458 1972, and the validation decree of the chancellor validating the  
459 conditions and obligations of the public-private partnership  
460 agreement and its approval shall carry the same force and effect  
461 therein. All objections to any matters relating to such



462 public-private partnership agreement shall be adjudicated and  
463 determined by the chancery court in the validation proceedings and  
464 in no other manner, and all rights of the parties shall be  
465 preserved and not foreclosed, for the hearing before the chancery  
466 court or the chancellor in vacation.

467 (2) All such public-private partnership agreements may be  
468 completed without any other proceedings or the happening of any  
469 other conditions or things other than those proceedings,  
470 conditions and things which are specified or required by this act.

471 **SECTION 10.** Notwithstanding any other provision of law, a  
472 project to install electric vehicle charging infrastructure using  
473 funds provided under the Infrastructure Investment and Jobs Act  
474 shall be treated as if the project is located on a Federal-aid  
475 highway.

476 **SECTION 11.** If any section, subsection, paragraph, sentence,  
477 clause or provision of this act shall be unconstitutional or  
478 ineffective, in whole or in part, to the extent that it is not  
479 unconstitutional or ineffective, it shall be valid and effective  
480 and no other section, subdivision, paragraph, sentence, clause or  
481 provision shall on account thereof be deemed invalid or  
482 ineffective.

483 **SECTION 12.** Section 65-1-8, Mississippi Code of 1972, is  
484 amended as follows:

485 65-1-8. (1) The Mississippi Transportation Commission shall  
486 have the following general powers, duties and responsibilities:



487 (a) To coordinate and develop a comprehensive, balanced  
488 transportation policy for the State of Mississippi;

489 (b) To promote the coordinated and efficient use of all  
490 available and future modes of transportation;

491 (c) To make recommendations to the Legislature  
492 regarding alterations or modifications in any existing  
493 transportation policies;

494 (d) To study means of encouraging travel and  
495 transportation of goods by the combination of motor vehicle and  
496 other modes of transportation;

497 (e) To take such actions as are necessary and proper to  
498 discharge its duties pursuant to the provisions of Chapter 496,  
499 Laws of 1992, and any other provision of law;

500 (f) To receive and provide for the expenditure of any  
501 funds made available to it by the Legislature, the federal  
502 government or any other source.

503 (2) In addition to the general powers, duties and  
504 responsibilities listed in subsection (1) of this section, the  
505 Mississippi Transportation Commission shall have the following  
506 specific powers:

507 (a) To make rules and regulations whereby the  
508 Transportation Department shall change or relocate any and all  
509 highways herein or hereafter fixed as constituting a part of the  
510 state highway system, as may be deemed necessary or economical in  
511 the construction or maintenance thereof; to acquire by gift,



512 purchase, condemnation or otherwise, land or other property  
513 whatsoever that may be necessary for a state highway system as  
514 herein provided, with full consideration to be given to the  
515 stimulation of local public and private investment when acquiring  
516 such property in the vicinity of Mississippi towns, cities and  
517 population centers;

518 (b) To enforce by mandamus, or other proper legal  
519 remedies, all legal rights or rights of action of the Mississippi  
520 Transportation Commission with other public bodies, corporations  
521 or persons;

522 (c) To make and publish rules, regulations and  
523 ordinances for the control of and the policing of the traffic on  
524 the state highways, and to prevent their abuse by any or all  
525 persons, natural or artificial, by trucks, tractors, trailers or  
526 any other heavy or destructive vehicles or machines, or by any  
527 other means whatsoever, by establishing weights of loads or of  
528 vehicles, types of tires, width of tire surfaces, length and width  
529 of vehicles, with reasonable variations to meet approximate  
530 weather conditions, and all other proper police and protective  
531 regulations, and to provide ample means for the enforcement of  
532 same. The violation of any of the rules, regulations or  
533 ordinances so prescribed by the commission shall constitute a  
534 misdemeanor. No rule, regulation or ordinance shall be made that  
535 conflicts with any statute now in force or which may hereafter be  
536 enacted, or with any ordinance of municipalities. A monthly



537 publication giving general information to the boards of  
538 supervisors, employees and the public may be issued under such  
539 rules and regulations as the commission may determine;

540 (d) To give suitable numbers to highways and to change  
541 the number of any highway that shall become a part of the state  
542 highway system. However, nothing herein shall authorize the  
543 number of any highway to be changed so as to conflict with any  
544 designation thereof as a U.S. numbered highway. Where, by a  
545 specific act of the Legislature, the commission has been directed  
546 to give a certain number to a highway, the commission shall not  
547 have the authority to change such number;

548 (e) (i) To make proper and reasonable rules,  
549 regulations, and ordinances for the placing, erection, removal or  
550 relocation of telephone, telegraph or other poles, signboards,  
551 fences, gas, water, sewerage, oil or other pipelines, and other  
552 obstructions that may, in the opinion of the commission,  
553 contribute to the hazards upon any of the state highways, or in  
554 any way interfere with the ordinary travel upon such highways, or  
555 the construction, reconstruction or maintenance thereof, and to  
556 make reasonable rules and regulations for the proper control  
557 thereof. Any violation of such rules or regulations or  
558 noncompliance with such ordinances shall constitute a misdemeanor;

559 (ii) Except as otherwise provided for in this  
560 paragraph, whenever the order of the commission shall require the  
561 removal of, or other changes in the location of, telephone,



562 telegraph or other poles, signboards, gas, water, sewerage, oil or  
563 other pipelines \* \* \*, or other similar obstructions on the  
564 right-of-way or such other places where removal is required by  
565 law, the owners thereof shall at their own expense move or change  
566 the same to conform to the order of the commission. Any violation  
567 of such rules or regulations or noncompliance with such orders  
568 shall constitute a misdemeanor;

569 (iii) Rural water districts, rural water systems,  
570 nonprofit water associations and municipal public water systems in  
571 municipalities with a population of ten thousand (10,000) or less,  
572 according to the latest federal decennial census, shall not be  
573 required to bear the cost and expense of removal and relocation of  
574 water and sewer lines and facilities constructed or in place in  
575 the rights-of-way of state highways. The cost and expense of such  
576 removal and relocation, including any unpaid prior to July 1,  
577 2002, shall be paid by the Department of Transportation;

578 (iv) Municipal public sewer systems and municipal  
579 gas systems owned by municipalities with a population of ten  
580 thousand (10,000) or less, according to the latest federal  
581 decennial census, shall not be required to bear the cost and  
582 expense of removal and relocation of lines and facilities  
583 constructed or in place in the rights-of-way of state highways.  
584 The cost and expense of such removal and relocation, including any  
585 unpaid prior to July 1, 2003, shall be paid by the Department of  
586 Transportation;



587           (f) To regulate and abandon grade crossings on any road  
588 fixed as a part of the state highway system, and whenever the  
589 commission, in order to avoid a grade crossing with the railroad,  
590 locates or constructs said road on one side of the railroad, the  
591 commission shall have the power to abandon and close such grade  
592 crossing, and whenever an underpass or overhead bridge is  
593 substituted for a grade crossing, the commission shall have power  
594 to abandon such grade crossing and any other crossing adjacent  
595 thereto. Included in the powers herein granted shall be the power  
596 to require the railroad at grade crossings, where any road of the  
597 state highway system crosses the same, to place signal posts with  
598 lights or other warning devices at such crossings at the expense  
599 of the railroad, and to regulate and abandon underpasses or  
600 overhead bridges and, where abandoned because of the construction  
601 of a new underpass or overhead bridge, to close such old underpass  
602 or overhead bridge, or, in its discretion, to return the same to  
603 the jurisdiction of the county board of supervisors;

604           (g) To make proper and reasonable rules and regulations  
605 to control the cutting or opening of the road surfaces for  
606 subsurface installations;

607           (h) To make proper and reasonable rules and regulations  
608 for the removal from the public rights-of-way of any form of  
609 obstruction, to cooperate in improving their appearance, and to  
610 prescribe minimum clearance heights for seed conveyors, pipes,





611 passageways or other structure of private or other ownership above  
612 the highways;

613 (i) To establish, and have the Transportation  
614 Department maintain and operate, and to cooperate with the state  
615 educational institutions in establishing, enlarging, maintaining  
616 and operating a laboratory or laboratories for testing materials  
617 and for other proper highway purposes;

618 (j) To provide, under the direction and with the  
619 approval of the Department of Finance and Administration, suitable  
620 offices, shops and barns in the City of Jackson;

621 (k) To establish and have enforced set-back  
622 regulations;

623 (l) To cooperate with proper state authorities in  
624 producing limerock for highway purposes and to purchase same at  
625 cost;

626 (m) To provide for the purchase of necessary equipment  
627 and vehicles and to provide for the repair and housing of same, to  
628 acquire by gift, purchase, condemnation or otherwise, land or  
629 lands and buildings in fee simple, and to authorize the  
630 Transportation Department to construct, lease or otherwise provide  
631 necessary and proper permanent district offices for the  
632 construction and maintenance divisions of the department, and for  
633 the repair and housing of the equipment and vehicles of the  
634 department; however, in each Supreme Court district only two (2)  
635 permanent district offices shall be set up, but a permanent status



636 shall not be given to any such offices until so provided by act of  
637 the Legislature and in the meantime, all shops of the department  
638 shall be retained at their present location. As many local or  
639 subdistrict offices, shops or barns may be provided as is  
640 essential and proper to economical maintenance of the state  
641 highway system;

642 (n) To cooperate with the Department of Archives and  
643 History in having placed and maintained suitable historical  
644 markers, including those which have been approved and purchased by  
645 the State Historical Commission, along state highways, and to have  
646 constructed and maintained roadside driveways for convenience and  
647 safety in viewing them when necessary;

648 (o) To cooperate, in its discretion, with the  
649 Mississippi Department of Wildlife, Fisheries and Parks in  
650 planning and constructing roadside parks upon the right-of-way of  
651 state highways, whether constructed, under construction, or  
652 planned; said parks to utilize where practical barrow pits used in  
653 construction of state highways for use as fishing ponds. Said  
654 parks shall be named for abundant flora and fauna existing in the  
655 area or for the first flora or fauna found on the site;

656 (p) Unless otherwise prohibited by law, to make such  
657 contracts and execute such instruments containing such reasonable  
658 and necessary appropriate terms, provisions and conditions as in  
659 its absolute discretion it may deem necessary, proper or  
660 advisable, for the purpose of obtaining or securing financial



661 assistance, grants or loans from the United States of America or  
662 any department or agency thereof, including contracts with several  
663 counties of the state pertaining to the expenditure of such funds;

664 (q) To cooperate with the Federal Highway  
665 Administration in the matter of location, construction and  
666 maintenance of the Great River Road, to expend such funds paid to  
667 the commission by the Federal Highway Administration or other  
668 federal agency, and to authorize the Transportation Department to  
669 erect suitable signs marking this highway, the cost of such signs  
670 to be paid from state highway funds other than earmarked  
671 construction funds;

672 (r) To cooperate, in its discretion, with the  
673 Mississippi Forestry Commission and the School of Forestry,  
674 Mississippi State University, in a forestry management program,  
675 including planting, thinning, cutting and selling, upon the  
676 right-of-way of any highway, constructed, acquired or maintained  
677 by the Transportation Department, and to sell and dispose of any  
678 and all growing timber standing, lying or being on any  
679 right-of-way acquired by the commission for highway purposes in  
680 the future; such sale or sales to be made in accordance with the  
681 sale of personal property which has become unnecessary for public  
682 use as provided for in Section 65-1-123, Mississippi Code of 1972;

683 (s) To expend funds in cooperation with the Division of  
684 Plant Industry, Mississippi Department of Agriculture and  
685 Commerce, the United States government or any department or agency



686 thereof, or with any department or agency of this state, to  
687 control, suppress or eradicate serious insect pests, rodents,  
688 plant parasites and plant diseases on the state highway  
689 rights-of-way;

690 (t) To provide for the placement, erection and  
691 maintenance of motorist services business signs and supports  
692 within state highway rights-of-way in accordance with current  
693 state and federal laws and regulations governing the placement of  
694 traffic control devices on state highways, and to establish and  
695 collect reasonable fees from the businesses having information on  
696 such signs;

697 (u) To request and to accept the use of persons  
698 convicted of an offense, whether a felony or a misdemeanor, for  
699 work on any road construction, repair or other project of the  
700 Transportation Department. The commission is also authorized to  
701 request and to accept the use of persons who have not been  
702 convicted of an offense but who are required to fulfill certain  
703 court-imposed conditions pursuant to Section 41-29-150(d)(1) or  
704 99-15-26, Mississippi Code of 1972, or the Pretrial Intervention  
705 Act, being Sections 99-15-101 through 99-15-127, Mississippi Code  
706 of 1972. The commission is authorized to enter into any  
707 agreements with the Department of Corrections, the State Parole  
708 Board, any criminal court of this state, and any other proper  
709 official regarding the working, guarding, safekeeping, clothing  
710 and subsistence of such persons performing work for the



711 Transportation Department. Such persons shall not be deemed  
712 agents, employees or involuntary servants of the Transportation  
713 Department while performing such work or while going to and from  
714 work or other specified areas;

715 (v) To provide for the administration of the railroad  
716 revitalization program pursuant to Section 57-43-1 et seq.;

717 (w) The Mississippi Transportation Commission is  
718 further authorized, in its discretion, to expend funds for the  
719 purchase of service pins for employees of the Mississippi  
720 Transportation Department;

721 (x) To cooperate with the State Tax Commission by  
722 providing for weight enforcement field personnel to collect and  
723 assess taxes, fees and penalties and to perform all duties as  
724 required pursuant to Section 27-55-501 et seq., Sections 27-19-1  
725 et seq., 27-55-1 et seq., 27-59-1 et seq. and 27-61-1 et seq.,  
726 Mississippi Code of 1972, with regard to vehicles subject to the  
727 jurisdiction of the Office of Weight Enforcement. All collections  
728 and assessments shall be transferred daily to the State Tax  
729 Commission;

730 (y) The Mississippi Transportation Commission may  
731 delegate the authority to enter into a supplemental agreement to a  
732 contract previously approved by the commission if the supplemental  
733 agreement involves an additional expenditure not to exceed One  
734 Hundred Thousand Dollars (\$100,000.00);



735           (z)   (i)   The Mississippi Transportation Commission, in  
736 its discretion, may enter into agreements with any county,  
737 municipality, county transportation commission, business,  
738 corporation, partnership, association, individual or other legal  
739 entity, for the purpose of accelerating the completion date of  
740 scheduled highway construction projects.

741           (ii)   Such an agreement may permit the cost of a  
742 highway construction project to be advanced to the commission by a  
743 county, municipality, county transportation commission, business,  
744 corporation, partnership, association, individual or other legal  
745 entity, and repaid to such entity by the commission when highway  
746 construction funds become available; provided, however, that  
747 repayment of funds advanced to the Mississippi Transportation  
748 Commission shall be made no sooner than the commission's  
749 identified projected revenue schedule for funding of that  
750 particular construction project, and no other scheduled highway  
751 construction project established by statute or by the commission  
752 may be delayed by an advanced funding project authorized under  
753 this paragraph (z). Repayments to a public or private entity that  
754 advances funds to the Mississippi Transportation Commission under  
755 this paragraph (z) may not include interest or other fees or  
756 charges, and the total amount repaid shall not exceed the total  
757 amount of funds advanced to the commission by the entity; however,  
758 the inclusion of public entities in this provision does not  
759 invalidate any existing agreements authorized under this paragraph



760 (z) before April 19, 2022. The commission shall retain the  
761 ability to service, refinance or restructure any indebtedness  
762 incurred through any such existing agreements.

763 (iii) In considering whether to enter into such an  
764 agreement, the commission shall consider the availability of  
765 financial resources, the effect of such agreement on other ongoing  
766 highway construction, the urgency of the public's need for swift  
767 completion of the project and any other relevant factors.

768 (iv) Such an agreement shall be executed only upon  
769 a finding by the commission, spread upon its minutes, that the  
770 acceleration of the scheduled project is both feasible and  
771 beneficial. The commission shall also spread upon its minutes its  
772 findings with regard to the factors required to be considered  
773 pursuant to subparagraph (iii) of this paragraph (z);

774 (aa) The Mississippi Transportation Commission, in its  
775 discretion, may purchase employment practices liability insurance,  
776 and may purchase an excess policy to cover catastrophic losses  
777 incurred under the commission's self-insured workers' compensation  
778 program authorized under Section 71-3-5. Such policies shall be  
779 written by the agent or agents of a company or companies  
780 authorized to do business in the State of Mississippi. The  
781 deductibles shall be in an amount deemed reasonable and prudent by  
782 the commission, and the premiums thereon shall be paid from the  
783 State Highway Fund. Purchase of insurance under this paragraph  
784 shall not serve as an actual or implied waiver of sovereign



785 immunity or of any protection afforded the commission under the  
786 Mississippi Tort Claims Act;

787 (bb) The Mississippi Transportation Commission is  
788 further authorized, in its discretion, to expend funds for the  
789 purchase of promotional materials for safety purposes, highway  
790 beautification purposes and recruitment purposes;

791 (cc) To lease antenna space on communication towers  
792 which it owns;

793 (dd) To receive funds from the Southeastern Association  
794 of Transportation Officials and from other nonstate sources and  
795 expend those funds for educational scholarships in transportation  
796 related fields of study. The commission may adopt rules or  
797 regulations as necessary for the implementation of the program. A  
798 strict accounting shall be made of all funds deposited with the  
799 commission and all funds dispersed;

800 (ee) To contract with any county, if the county chooses  
801 to enter such contract, to perform any maintenance on the state  
802 highways and interstate highways in that county and any  
803 rights-of-way to such highways \* \* \*;

804 (ff) To enter into contract, individually or jointly  
805 with any persons, corporations, partnerships or other businesses  
806 licensed to do business in the State of Mississippi (hereinafter  
807 referred to as "companies" or "company") for the purpose of  
808 designing, financing, constructing, operating and maintaining one  
809 or more new electric vehicle charging stations.





810           **SECTION 13.** Section 65-1-85, Mississippi Code of 1972, is  
811 amended as follows:

812           65-1-85. (1) All contracts by or on behalf of the  
813 commission for the purchase of materials, equipment and supplies  
814 shall be made in compliance with Section 31-7-1 et seq. All  
815 contracts by or on behalf of the commission for construction,  
816 reconstruction or other public work authorized to be done under  
817 the provisions of this chapter, except maintenance, shall be made  
818 by the executive director, subject to the approval of the  
819 commission, only upon competitive bids after due advertisement as  
820 follows, to wit:

821           (a) Advertisement for bids shall be in accordance with  
822 such rules and regulations, in addition to those herein provided,  
823 as may be adopted therefor by the commission, and the commission  
824 is authorized and empowered to make and promulgate such rules and  
825 regulations as it may deem proper, to provide and adopt standard  
826 specifications for road and bridge construction, and to amend such  
827 rules and regulations from time to time.

828           (b) The advertisement shall be inserted twice, being  
829 once a week for two (2) successive weeks in a newspaper published  
830 at the seat of government in Jackson, Mississippi, having a  
831 general circulation throughout the state, and no letting shall be  
832 less than fourteen (14) days nor more than sixty (60) days after  
833 the publication of the first notice of such letting, and notices



834 of such letting may be placed in a metropolitan paper or national  
835 trade publication.

836 (c) Before advertising for such work, the executive  
837 director shall cause to be prepared and filed in the department  
838 detailed plans and specifications covering the work proposed to be  
839 done and copies of the plans and specifications shall be subject  
840 to inspection by any citizen during all office hours and made  
841 available to all prospective bidders upon such reasonable terms  
842 and conditions as may be required by the commission. A fee shall  
843 be charged equal to the cost of producing a copy of any such plans  
844 and specifications.

845 (d) All such contracts shall be let to a responsible  
846 bidder with the lowest and best bid, and a record of all bids  
847 received for construction and reconstruction shall be preserved.

848 (e) Each bid for such a construction and reconstruction  
849 contract must be accompanied by a cashier's check, a certified  
850 check or bidders bond executed by a surety company authorized to  
851 do business in the State of Mississippi, in the principal amount  
852 of not less than five percent (5%) of the bid, guaranteeing that  
853 the bidder will give bond and enter into a contract for the  
854 faithful performance of the contract according to plans and  
855 specifications on file.

856 (f) Bonds shall be required of the successful bidder in  
857 an amount equal to the contract price. The contract price shall  
858 mean the entire cost of the particular contract let. In the event



859 change orders are made after the execution of a contract which  
860 results in increasing the total contract price, additional bond in  
861 the amount of the increased cost may be required. The surety or  
862 sureties on such bonds shall be a surety company or surety  
863 companies authorized to do business in the State of Mississippi,  
864 all bonds to be payable to the State of Mississippi and to be  
865 conditioned for the prompt, faithful and efficient performance of  
866 the contract according to plans and specifications, and for the  
867 prompt payment of all persons furnishing labor, material,  
868 equipment and supplies therefor. Such bonds shall be subject to  
869 the additional obligation that the principal and surety or  
870 sureties executing the same shall be liable to the state in a  
871 civil action instituted by the state at the instance of the  
872 commission or any officer of the state authorized in such cases,  
873 for double any amount in money or property the state may lose or  
874 be overcharged or otherwise defrauded of by reason of any wrongful  
875 or criminal act, if any, of the contractor, his agent or  
876 employees.

877 (2) With respect to equipment used in the construction,  
878 reconstruction or other public work authorized to be done under  
879 the provisions of this chapter: the word "equipment," in addition  
880 to all equipment incorporated into or fully consumed in connection  
881 with such project, shall include the reasonable value of the use  
882 of all equipment of every kind and character and all accessories  
883 and attachments thereto which are reasonably necessary to be used



884 and which are used in carrying out the performance of the  
885 contract, and the reasonable value of the use thereof, during the  
886 period of time the same are used in carrying out the performance  
887 of the contract, shall be the amount as agreed upon by the persons  
888 furnishing the equipment and those using the same to be paid  
889 therefor, which amount, however, shall not be in excess of the  
890 maximum current rates and charges allowable for leasing or renting  
891 as specified in Section 65-7-95; the word "labor" shall include  
892 all work performed in repairing equipment used in carrying out the  
893 performance of the contract, which repair labor is reasonably  
894 necessary to the efficient operation of said equipment; and the  
895 words "materials" and "supplies" shall include all repair parts  
896 installed in or on equipment used in carrying out the performance  
897 of the contract, which repair parts are reasonably necessary to  
898 the efficient operation of said equipment.

899 (3) The executive director, subject to the approval of the  
900 commission, shall have the right to reject any and all bids,  
901 whether such right is reserved in the notice or not.

902 (4) The commission may require the prequalification of any  
903 and all bidders and the failure to comply with prequalification  
904 requirements may be the basis for the rejection of any bid by the  
905 commission. The commission may require the prequalification of  
906 any and all subcontractors before they are approved to participate  
907 in any contract awarded under this section.



908 (5) The commission may adopt rules and regulations for the  
909 termination of any previously awarded contract which is not timely  
910 proceeding toward completion. The failure of a contractor to  
911 comply with such rules and regulations shall be a lawful basis for  
912 the commission to terminate the contract with such contractor. In  
913 the event of a termination under such rules and regulations, the  
914 contractor shall not be entitled to any payment, benefit or  
915 damages beyond the cost of the work actually completed.

916 (6) Any contract for construction or paving of any highway  
917 may be entered into for any cost which does not exceed the amount  
918 of funds that may be made available therefor through bond issues  
919 or from other sources of revenue, and the letting of contracts for  
920 such construction or paving shall not necessarily be delayed until  
921 the funds are actually on hand, provided authorization for the  
922 issuance of necessary bonds has been granted by law to supplement  
923 other anticipated revenue, or when the department certifies to the  
924 Department of Finance and Administration and the Legislative  
925 Budget Office that projected receipts of funds by the department  
926 will be sufficient to pay such contracts as they become due and  
927 the Department of Finance and Administration determines that the  
928 projections are reasonable and receipts will be sufficient to pay  
929 the contracts as they become due. The Department of Finance and  
930 Administration shall spread such determination on its minutes  
931 prior to the letting of any contracts based on projected receipts.  
932 Nothing in this subsection shall prohibit the issuance of bonds,



933 which have been authorized, at any time in the discretion of the  
934 State Bond Commission, nor to prevent investment of surplus funds  
935 in United States government bonds or State of Mississippi bonds as  
936 presently authorized by Section 12, Chapter 312, Laws of 1956.

937 (7) All other contracts for work to be done under the  
938 provisions of this chapter and for the purchase of materials,  
939 equipment and supplies to be used as provided for in this chapter  
940 shall be made in compliance with Section 31-7-1 et seq.

941 (8) The commission shall not empower or authorize the  
942 executive director, or any one or more of its members, or any  
943 engineer or other person to let or make contracts for the  
944 construction or repair of public roads, or building bridges, or  
945 for the purchase of material, equipment or supplies contrary to  
946 the provisions of this chapter as set forth in this section,  
947 except in cases of flood or other cases of emergency where the  
948 public interest requires that the work be done or the materials,  
949 equipment or supplies be purchased without the delay incident to  
950 advertising for competitive bids. Such emergency contracts may be  
951 made without advertisement under such rules and regulations as the  
952 commission may prescribe.

953 (9) The executive director, subject to the approval of the  
954 commission, is authorized to negotiate and make agreements with  
955 communities and/or civic organizations for landscaping,  
956 beautification and maintenance of highway rights-of-way; however,  
957 nothing in this subsection shall be construed as authorization for



958 the executive director or commission to participate in such a  
959 project to an extent greater than the average cost for maintenance  
960 of shoulders, backslopes and median areas with respect thereto.

961 (10) The executive director may negotiate and enter into  
962 contracts with private parties for the mowing of grass and  
963 trimming of vegetation on the rights-of-way of state highways  
964 whenever such practice is possible and cost effective.

965 (11) (a) As an alternative to the method of awarding  
966 contracts as otherwise provided in this section, the commission  
967 may use the design-build method of contracting for the following:

968 (i) Projects for the Mississippi Development  
969 Authority pursuant to agreements between both governmental  
970 entities;

971 (ii) Any project with an estimated cost of not  
972 more than Ten Million Dollars (\$10,000,000.00), not to exceed two  
973 (2) projects per fiscal year; and

974 (iii) Any project which has an estimated cost of  
975 more than Ten Million Dollars (\$10,000,000.00), not to exceed one  
976 (1) project per fiscal year.

977 (b) As used in this subsection, the term "design-build"  
978 method of contracting means a contract that combines the design  
979 and construction phases of a project into a single contract and  
980 the contractor is required to satisfactorily perform, at a  
981 minimum, both the design and construction of the project.



982 (c) The commission shall establish detailed criteria  
983 for the selection of the successful design-build contractor in  
984 each request for design-build proposals. The evaluation of the  
985 selection committee is a public record and shall be maintained for  
986 a minimum of ten (10) years after project completion.

987 (d) The commission shall maintain detailed records on  
988 projects separate and apart from its regular record keeping. The  
989 commission shall file a report to the Legislature evaluating the  
990 design-build method of contracting by comparing it to the low-bid  
991 method of contracting. At a minimum, the report must include:

992 (i) The management goals and objectives for the  
993 design-build system of management;

994 (ii) A complete description of the components of  
995 the design-build management system, including a description of the  
996 system the department put into place on all projects managed under  
997 the system to insure that it has the complete information on  
998 highway segment costs and to insure proper analysis of any  
999 proposal the commission receives from a highway contractor;

1000 (iii) The accountability systems the  
1001 Transportation Department established to monitor any design-build  
1002 project's compliance with specific goals and objectives for the  
1003 project;

1004 (iv) The outcome of any project or any interim  
1005 report on an ongoing project let under a design-build management





1006 system showing compliance with the goals, objectives, policies and  
1007 procedures the department set for the project; and

1008 (v) The method used by the department to select  
1009 projects to be let under the design-build system of management and  
1010 all other systems, policies and procedures that the department  
1011 considered as necessary components to a design-build management  
1012 system.

1013 (e) All contracts let under the provisions of this  
1014 subsection shall be subject to oversight and review by the State  
1015 Auditor. The State Auditor shall file a report with the  
1016 Legislature on or before January 1 of each year detailing his  
1017 findings with regard to any contract let or project performed in  
1018 violation of the provisions of this subsection. The actual and  
1019 necessary expenses incurred by the State Auditor in complying with  
1020 this paragraph (e) shall be paid for and reimbursed by the  
1021 Mississippi Department of Transportation out of funds made  
1022 available for the contract or contracts let and project or  
1023 projects performed.

1024 (12) The provisions of this section shall not be construed  
1025 to prohibit the commission from awarding or entering into  
1026 contracts for the design, construction and financing of toll  
1027 roads, highways and bridge projects as provided under Sections  
1028 65-43-1 and 65-43-3.

1029 (13) The provisions of this section shall not be construed  
1030 to prohibit the commission from awarding or entering into



1031 contracts under the provisions of Sections 1 through 11 of this  
1032 act.

1033 **SECTION 14.** Section 31-7-13, Mississippi Code of 1972, is  
1034 amended as follows:

1035 31-7-13. All agencies and governing authorities shall  
1036 purchase their commodities and printing; contract for garbage  
1037 collection or disposal; contract for solid waste collection or  
1038 disposal; contract for sewage collection or disposal; contract for  
1039 public construction; and contract for rentals as herein provided.

1040 (a) **Bidding procedure for purchases not over \$5,000.00.**

1041 Purchases which do not involve an expenditure of more than Five  
1042 Thousand Dollars (\$5,000.00), exclusive of freight or shipping  
1043 charges, may be made without advertising or otherwise requesting  
1044 competitive bids. However, nothing contained in this paragraph

1045 (a) shall be construed to prohibit any agency or governing  
1046 authority from establishing procedures which require competitive  
1047 bids on purchases of Five Thousand Dollars (\$5,000.00) or less.

1048 (b) **Bidding procedure for purchases over \$5,000.00 but**

1049 **not over \$75,000.00.** Purchases which involve an expenditure of  
1050 more than Five Thousand Dollars (\$5,000.00) but not more than  
1051 Seventy-five Thousand Dollars (\$75,000.00), exclusive of freight  
1052 and shipping charges, may be made from the lowest and best bidder  
1053 without publishing or posting advertisement for bids, provided at  
1054 least two (2) competitive written bids have been obtained. Any  
1055 state agency or community/junior college purchasing commodities or



1056 procuring construction pursuant to this paragraph (b) may  
1057 authorize its purchasing agent, or his designee, to accept the  
1058 lowest competitive written bid under Seventy-five Thousand Dollars  
1059 (\$75,000.00). Any governing authority purchasing commodities  
1060 pursuant to this paragraph (b) may authorize its purchasing agent,  
1061 or his designee, with regard to governing authorities other than  
1062 counties, or its purchase clerk, or his designee, with regard to  
1063 counties, to accept the lowest and best competitive written bid.  
1064 Such authorization shall be made in writing by the governing  
1065 authority and shall be maintained on file in the primary office of  
1066 the agency and recorded in the official minutes of the governing  
1067 authority, as appropriate. The purchasing agent or the purchase  
1068 clerk, or his designee, as the case may be, and not the governing  
1069 authority, shall be liable for any penalties and/or damages as may  
1070 be imposed by law for any act or omission of the purchasing agent  
1071 or purchase clerk, or his designee, constituting a violation of  
1072 law in accepting any bid without approval by the governing  
1073 authority. The term "competitive written bid" shall mean a bid  
1074 submitted on a bid form furnished by the buying agency or  
1075 governing authority and signed by authorized personnel  
1076 representing the vendor, or a bid submitted on a vendor's  
1077 letterhead or identifiable bid form and signed by authorized  
1078 personnel representing the vendor. "Competitive" shall mean that  
1079 the bids are developed based upon comparable identification of the  
1080 needs and are developed independently and without knowledge of



1081 other bids or prospective bids. Any bid item for construction in  
1082 excess of Five Thousand Dollars (\$5,000.00) shall be broken down  
1083 by components to provide detail of component description and  
1084 pricing. These details shall be submitted with the written bids  
1085 and become part of the bid evaluation criteria. Bids may be  
1086 submitted by facsimile, electronic mail or other generally  
1087 accepted method of information distribution. Bids submitted by  
1088 electronic transmission shall not require the signature of the  
1089 vendor's representative unless required by agencies or governing  
1090 authorities.

1091 (c) **Bidding procedure for purchases over \$75,000.00.**

1092 (i) **Publication requirement.**

1093 1. Purchases which involve an expenditure of  
1094 more than Seventy-five Thousand Dollars (\$75,000.00), exclusive of  
1095 freight and shipping charges, may be made from the lowest and best  
1096 bidder after advertising for competitive bids once each week for  
1097 two (2) consecutive weeks in a regular newspaper published in the  
1098 county or municipality in which such agency or governing authority  
1099 is located. However, all American Recovery and Reinvestment Act  
1100 projects in excess of Twenty-five Thousand Dollars (\$25,000.00)  
1101 shall be bid. All references to American Recovery and  
1102 Reinvestment Act projects in this section shall not apply to  
1103 programs identified in Division B of the American Recovery and  
1104 Reinvestment Act.



1105                   2. Reverse auctions shall be the primary  
1106 method for receiving bids during the bidding process. If a  
1107 purchasing entity determines that a reverse auction is not in the  
1108 best interest of the state, then that determination must be  
1109 approved by the Public Procurement Review Board. The purchasing  
1110 entity shall submit a detailed explanation of why a reverse  
1111 auction would not be in the best interest of the state and present  
1112 an alternative process to be approved by the Public Procurement  
1113 Review Board. If the Public Procurement Review Board authorizes  
1114 the purchasing entity to solicit bids with a method other than  
1115 reverse auction, then the purchasing entity may designate the  
1116 other methods by which the bids will be received, including, but  
1117 not limited to, bids sealed in an envelope, bids received  
1118 electronically in a secure system, or bids received by any other  
1119 method that promotes open competition and has been approved by the  
1120 Office of Purchasing and Travel. However, reverse auction shall  
1121 not be used for any public contract for design, construction,  
1122 improvement, repair or remodeling of any public facilities,  
1123 including the purchase of materials, supplies, equipment or goods  
1124 for same and including buildings, roads and bridges. The Public  
1125 Procurement Review Board must approve any contract entered into by  
1126 alternative process. The provisions of this item 2 shall not  
1127 apply to the individual state institutions of higher learning.  
1128 The provisions of this item 2 requiring reverse auction as the  
1129 primary method of receiving bids shall not apply to term contract



1130 purchases as provided in paragraph (n) of this section; however, a  
1131 purchasing entity may, in its discretion, utilize reverse auction  
1132 for such purchases. The provisions of this item 2 shall not apply  
1133 to individual public schools, including public charter schools and  
1134 public school districts, only when purchasing copyrighted  
1135 educational supplemental materials and software as a service  
1136 product. For such purchases, a local school board may authorize a  
1137 purchasing entity in its jurisdiction to use a Request for  
1138 Qualifications which promotes open competition and meets the  
1139 requirements of the Office of Purchasing and Travel.

1140                   3. The date as published for the bid opening  
1141 shall not be less than seven (7) working days after the last  
1142 published notice; however, if the purchase involves a construction  
1143 project in which the estimated cost is in excess of Seventy-five  
1144 Thousand Dollars (\$75,000.00), such bids shall not be opened in  
1145 less than fifteen (15) working days after the last notice is  
1146 published and the notice for the purchase of such construction  
1147 shall be published once each week for two (2) consecutive weeks.  
1148 However, all American Recovery and Reinvestment Act projects in  
1149 excess of Twenty-five Thousand Dollars (\$25,000.00) shall be bid.  
1150 For any projects in excess of Twenty-five Thousand Dollars  
1151 (\$25,000.00) under the American Recovery and Reinvestment Act,  
1152 publication shall be made one (1) time and the bid opening for  
1153 construction projects shall not be less than ten (10) working days  
1154 after the date of the published notice. The notice of intention



1155 to let contracts or purchase equipment shall state the time and  
1156 place at which bids shall be received, list the contracts to be  
1157 made or types of equipment or supplies to be purchased, and, if  
1158 all plans and/or specifications are not published, refer to the  
1159 plans and/or specifications on file. If there is no newspaper  
1160 published in the county or municipality, then such notice shall be  
1161 given by posting same at the courthouse, or for municipalities at  
1162 the city hall, and at two (2) other public places in the county or  
1163 municipality, and also by publication once each week for two (2)  
1164 consecutive weeks in some newspaper having a general circulation  
1165 in the county or municipality in the above-provided manner. On  
1166 the same date that the notice is submitted to the newspaper for  
1167 publication, the agency or governing authority involved shall mail  
1168 written notice to, or provide electronic notification to the main  
1169 office of the Mississippi Procurement Technical Assistance Program  
1170 under the Mississippi Development Authority that contains the same  
1171 information as that in the published notice. Submissions received  
1172 by the Mississippi Procurement Technical Assistance Program for  
1173 projects funded by the American Recovery and Reinvestment Act  
1174 shall be displayed on a separate and unique Internet web page  
1175 accessible to the public and maintained by the Mississippi  
1176 Development Authority for the Mississippi Procurement Technical  
1177 Assistance Program. Those American Recovery and Reinvestment Act  
1178 related submissions shall be publicly posted within twenty-four  
1179 (24) hours of receipt by the Mississippi Development Authority and



1180 the bid opening shall not occur until the submission has been  
1181 posted for ten (10) consecutive days. The Department of Finance  
1182 and Administration shall maintain information regarding contracts  
1183 and other expenditures from the American Recovery and Reinvestment  
1184 Act, on a unique Internet web page accessible to the public. The  
1185 Department of Finance and Administration shall promulgate rules  
1186 regarding format, content and deadlines, unless otherwise  
1187 specified by law, of the posting of award notices, contract  
1188 execution and subsequent amendments, links to the contract  
1189 documents, expenditures against the awarded contracts and general  
1190 expenditures of funds from the American Recovery and Reinvestment  
1191 Act. Within one (1) working day of the contract award, the agency  
1192 or governing authority shall post to the designated web page  
1193 maintained by the Department of Finance and Administration, notice  
1194 of the award, including the award recipient, the contract amount,  
1195 and a brief summary of the contract in accordance with rules  
1196 promulgated by the department. Within one (1) working day of the  
1197 contract execution, the agency or governing authority shall post  
1198 to the designated web page maintained by the Department of Finance  
1199 and Administration a summary of the executed contract and make a  
1200 copy of the appropriately redacted contract documents available  
1201 for linking to the designated web page in accordance with the  
1202 rules promulgated by the department. The information provided by  
1203 the agency or governing authority shall be posted to the web page





1204 for the duration of the American Recovery and Reinvestment Act  
1205 funding or until the project is completed, whichever is longer.

1206 (ii) **Bidding process amendment procedure.** If all  
1207 plans and/or specifications are published in the notification,  
1208 then the plans and/or specifications may not be amended. If all  
1209 plans and/or specifications are not published in the notification,  
1210 then amendments to the plans/specifications, bid opening date, bid  
1211 opening time and place may be made, provided that the agency or  
1212 governing authority maintains a list of all prospective bidders  
1213 who are known to have received a copy of the bid documents and all  
1214 such prospective bidders are sent copies of all amendments. This  
1215 notification of amendments may be made via mail, facsimile,  
1216 electronic mail or other generally accepted method of information  
1217 distribution. No addendum to bid specifications may be issued  
1218 within two (2) working days of the time established for the  
1219 receipt of bids unless such addendum also amends the bid opening  
1220 to a date not less than five (5) working days after the date of  
1221 the addendum.

1222 (iii) **Filing requirement.** In all cases involving  
1223 governing authorities, before the notice shall be published or  
1224 posted, the plans or specifications for the construction or  
1225 equipment being sought shall be filed with the clerk of the board  
1226 of the governing authority. In addition to these requirements, a  
1227 bid file shall be established which shall indicate those vendors  
1228 to whom such solicitations and specifications were issued, and



1229 such file shall also contain such information as is pertinent to  
1230 the bid.

1231 (iv) **Specification restrictions.**

1232 1. Specifications pertinent to such bidding  
1233 shall be written so as not to exclude comparable equipment of  
1234 domestic manufacture. However, if valid justification is  
1235 presented, the Department of Finance and Administration or the  
1236 board of a governing authority may approve a request for specific  
1237 equipment necessary to perform a specific job. Further, such  
1238 justification, when placed on the minutes of the board of a  
1239 governing authority, may serve as authority for that governing  
1240 authority to write specifications to require a specific item of  
1241 equipment needed to perform a specific job. In addition to these  
1242 requirements, from and after July 1, 1990, vendors of relocatable  
1243 classrooms and the specifications for the purchase of such  
1244 relocatable classrooms published by local school boards shall meet  
1245 all pertinent regulations of the State Board of Education,  
1246 including prior approval of such bid by the State Department of  
1247 Education.

1248 2. Specifications for construction projects  
1249 may include an allowance for commodities, equipment, furniture,  
1250 construction materials or systems in which prospective bidders are  
1251 instructed to include in their bids specified amounts for such  
1252 items so long as the allowance items are acquired by the vendor in  
1253 a commercially reasonable manner and approved by the



1254 agency/governing authority. Such acquisitions shall not be made  
1255 to circumvent the public purchasing laws.

1256 (v) **Electronic bids.** Agencies and governing  
1257 authorities shall provide a secure electronic interactive system  
1258 for the submittal of bids requiring competitive bidding that shall  
1259 be an additional bidding option for those bidders who choose to  
1260 submit their bids electronically. The Department of Finance and  
1261 Administration shall provide, by regulation, the standards that  
1262 agencies must follow when receiving electronic bids. Agencies and  
1263 governing authorities shall make the appropriate provisions  
1264 necessary to accept electronic bids from those bidders who choose  
1265 to submit their bids electronically for all purchases requiring  
1266 competitive bidding under this section. Any special condition or  
1267 requirement for the electronic bid submission shall be specified  
1268 in the advertisement for bids required by this section. Agencies  
1269 or governing authorities that are currently without available high  
1270 speed Internet access shall be exempt from the requirement of this  
1271 subparagraph (v) until such time that high speed Internet access  
1272 becomes available. Any county having a population of less than  
1273 twenty thousand (20,000) shall be exempt from the provisions of  
1274 this subparagraph (v). Any municipality having a population of  
1275 less than ten thousand (10,000) shall be exempt from the  
1276 provisions of this subparagraph (v). The provisions of this  
1277 subparagraph (v) shall not require any bidder to submit bids  
1278 electronically. When construction bids are submitted



1279 electronically, the requirement for including a certificate of  
1280 responsibility, or a statement that the bid enclosed does not  
1281 exceed Fifty Thousand Dollars (\$50,000.00), on the exterior of the  
1282 bid envelope as indicated in Section 31-3-21(1) and (2) shall be  
1283 deemed in compliance with by including same as an attachment with  
1284 the electronic bid submittal.

1285 (d) **Lowest and best bid decision procedure.**

1286 (i) **Decision procedure.** Purchases may be made  
1287 from the lowest and best bidder. In determining the lowest and  
1288 best bid, freight and shipping charges shall be included.  
1289 Life-cycle costing, total cost bids, warranties, guaranteed  
1290 buy-back provisions and other relevant provisions may be included  
1291 in the best bid calculation. All best bid procedures for state  
1292 agencies must be in compliance with regulations established by the  
1293 Department of Finance and Administration. If any governing  
1294 authority accepts a bid other than the lowest bid actually  
1295 submitted, it shall place on its minutes detailed calculations and  
1296 narrative summary showing that the accepted bid was determined to  
1297 be the lowest and best bid, including the dollar amount of the  
1298 accepted bid and the dollar amount of the lowest bid. No agency  
1299 or governing authority shall accept a bid based on items not  
1300 included in the specifications.

1301 (ii) **Decision procedure for Certified Purchasing**  
1302 **Offices.** In addition to the decision procedure set forth in  
1303 subparagraph (i) of this paragraph (d), Certified Purchasing



1304 Offices may also use the following procedure: Purchases may be  
1305 made from the bidder offering the best value. In determining the  
1306 best value bid, freight and shipping charges shall be included.  
1307 Life-cycle costing, total cost bids, warranties, guaranteed  
1308 buy-back provisions, documented previous experience, training  
1309 costs and other relevant provisions, including, but not limited  
1310 to, a bidder having a local office and inventory located within  
1311 the jurisdiction of the governing authority, may be included in  
1312 the best value calculation. This provision shall authorize  
1313 Certified Purchasing Offices to utilize a Request For Proposals  
1314 (RFP) process when purchasing commodities. All best value  
1315 procedures for state agencies must be in compliance with  
1316 regulations established by the Department of Finance and  
1317 Administration. No agency or governing authority shall accept a  
1318 bid based on items or criteria not included in the specifications.

1319 (iii) **Decision procedure for Mississippi**

1320 **Landmarks.** In addition to the decision procedure set forth in  
1321 subparagraph (i) of this paragraph (d), where purchase involves  
1322 renovation, restoration, or both, of the State Capitol Building or  
1323 any other historical building designated for at least five (5)  
1324 years as a Mississippi Landmark by the Board of Trustees of the  
1325 Department of Archives and History under the authority of Sections  
1326 39-7-7 and 39-7-11, the agency or governing authority may use the  
1327 following procedure: Purchases may be made from the lowest and  
1328 best prequalified bidder. Prequalification of bidders shall be



1329 determined not less than fifteen (15) working days before the  
1330 first published notice of bid opening. Prequalification criteria  
1331 shall be limited to bidder's knowledge and experience in  
1332 historical restoration, preservation and renovation. In  
1333 determining the lowest and best bid, freight and shipping charges  
1334 shall be included. Life-cycle costing, total cost bids,  
1335 warranties, guaranteed buy-back provisions and other relevant  
1336 provisions may be included in the best bid calculation. All best  
1337 bid and prequalification procedures for state agencies must be in  
1338 compliance with regulations established by the Department of  
1339 Finance and Administration. If any governing authority accepts a  
1340 bid other than the lowest bid actually submitted, it shall place  
1341 on its minutes detailed calculations and narrative summary showing  
1342 that the accepted bid was determined to be the lowest and best  
1343 bid, including the dollar amount of the accepted bid and the  
1344 dollar amount of the lowest bid. No agency or governing authority  
1345 shall accept a bid based on items not included in the  
1346 specifications.

1347 (iv) **Construction project negotiations authority.**  
1348 If the lowest and best bid is not more than ten percent (10%)  
1349 above the amount of funds allocated for a public construction or  
1350 renovation project, then the agency or governing authority shall  
1351 be permitted to negotiate with the lowest bidder in order to enter  
1352 into a contract for an amount not to exceed the funds allocated.



1353                   (e) **Lease-purchase authorization.** For the purposes of  
1354 this section, the term "equipment" shall mean equipment, furniture  
1355 and, if applicable, associated software and other applicable  
1356 direct costs associated with the acquisition. Any lease-purchase  
1357 of equipment which an agency is not required to lease-purchase  
1358 under the master lease-purchase program pursuant to Section  
1359 31-7-10 and any lease-purchase of equipment which a governing  
1360 authority elects to lease-purchase may be acquired by a  
1361 lease-purchase agreement under this paragraph (e). Lease-purchase  
1362 financing may also be obtained from the vendor or from a  
1363 third-party source after having solicited and obtained at least  
1364 two (2) written competitive bids, as defined in paragraph (b) of  
1365 this section, for such financing without advertising for such  
1366 bids. Solicitation for the bids for financing may occur before or  
1367 after acceptance of bids for the purchase of such equipment or,  
1368 where no such bids for purchase are required, at any time before  
1369 the purchase thereof. No such lease-purchase agreement shall be  
1370 for an annual rate of interest which is greater than the overall  
1371 maximum interest rate to maturity on general obligation  
1372 indebtedness permitted under Section 75-17-101, and the term of  
1373 such lease-purchase agreement shall not exceed the useful life of  
1374 equipment covered thereby as determined according to the upper  
1375 limit of the asset depreciation range (ADR) guidelines for the  
1376 Class Life Asset Depreciation Range System established by the  
1377 Internal Revenue Service pursuant to the United States Internal



1378 Revenue Code and regulations thereunder as in effect on December  
1379 31, 1980, or comparable depreciation guidelines with respect to  
1380 any equipment not covered by ADR guidelines. Any lease-purchase  
1381 agreement entered into pursuant to this paragraph (e) may contain  
1382 any of the terms and conditions which a master lease-purchase  
1383 agreement may contain under the provisions of Section 31-7-10(5),  
1384 and shall contain an annual allocation dependency clause  
1385 substantially similar to that set forth in Section 31-7-10(8).  
1386 Each agency or governing authority entering into a lease-purchase  
1387 transaction pursuant to this paragraph (e) shall maintain with  
1388 respect to each such lease-purchase transaction the same  
1389 information as required to be maintained by the Department of  
1390 Finance and Administration pursuant to Section 31-7-10(13).  
1391 However, nothing contained in this section shall be construed to  
1392 permit agencies to acquire items of equipment with a total  
1393 acquisition cost in the aggregate of less than Ten Thousand  
1394 Dollars (\$10,000.00) by a single lease-purchase transaction. All  
1395 equipment, and the purchase thereof by any lessor, acquired by  
1396 lease-purchase under this paragraph and all lease-purchase  
1397 payments with respect thereto shall be exempt from all Mississippi  
1398 sales, use and ad valorem taxes. Interest paid on any  
1399 lease-purchase agreement under this section shall be exempt from  
1400 State of Mississippi income taxation.

1401 (f) **Alternate bid authorization.** When necessary to  
1402 ensure ready availability of commodities for public works and the





1403 timely completion of public projects, no more than two (2)  
1404 alternate bids may be accepted by a governing authority for  
1405 commodities. No purchases may be made through use of such  
1406 alternate bids procedure unless the lowest and best bidder cannot  
1407 deliver the commodities contained in his bid. In that event,  
1408 purchases of such commodities may be made from one (1) of the  
1409 bidders whose bid was accepted as an alternate.

1410 (g) **Construction contract change authorization.** In the  
1411 event a determination is made by an agency or governing authority  
1412 after a construction contract is let that changes or modifications  
1413 to the original contract are necessary or would better serve the  
1414 purpose of the agency or the governing authority, such agency or  
1415 governing authority may, in its discretion, order such changes  
1416 pertaining to the construction that are necessary under the  
1417 circumstances without the necessity of further public bids;  
1418 provided that such change shall be made in a commercially  
1419 reasonable manner and shall not be made to circumvent the public  
1420 purchasing statutes. In addition to any other authorized person,  
1421 the architect or engineer hired by an agency or governing  
1422 authority with respect to any public construction contract shall  
1423 have the authority, when granted by an agency or governing  
1424 authority, to authorize changes or modifications to the original  
1425 contract without the necessity of prior approval of the agency or  
1426 governing authority when any such change or modification is less  
1427 than one percent (1%) of the total contract amount. The agency or



1428 governing authority may limit the number, manner or frequency of  
1429 such emergency changes or modifications.

1430           (h) **Petroleum purchase alternative.** In addition to  
1431 other methods of purchasing authorized in this chapter, when any  
1432 agency or governing authority shall have a need for gas, diesel  
1433 fuel, oils and/or other petroleum products in excess of the amount  
1434 set forth in paragraph (a) of this section, such agency or  
1435 governing authority may purchase the commodity after having  
1436 solicited and obtained at least two (2) competitive written bids,  
1437 as defined in paragraph (b) of this section. If two (2)  
1438 competitive written bids are not obtained, the entity shall comply  
1439 with the procedures set forth in paragraph (c) of this section.  
1440 In the event any agency or governing authority shall have  
1441 advertised for bids for the purchase of gas, diesel fuel, oils and  
1442 other petroleum products and coal and no acceptable bids can be  
1443 obtained, such agency or governing authority is authorized and  
1444 directed to enter into any negotiations necessary to secure the  
1445 lowest and best contract available for the purchase of such  
1446 commodities.

1447           (i) **Road construction petroleum products price**  
1448 **adjustment clause authorization.** Any agency or governing  
1449 authority authorized to enter into contracts for the construction,  
1450 maintenance, surfacing or repair of highways, roads or streets,  
1451 may include in its bid proposal and contract documents a price  
1452 adjustment clause with relation to the cost to the contractor,



1453 including taxes, based upon an industry-wide cost index, of  
1454 petroleum products including asphalt used in the performance or  
1455 execution of the contract or in the production or manufacture of  
1456 materials for use in such performance. Such industry-wide index  
1457 shall be established and published monthly by the Mississippi  
1458 Department of Transportation with a copy thereof to be mailed,  
1459 upon request, to the clerks of the governing authority of each  
1460 municipality and the clerks of each board of supervisors  
1461 throughout the state. The price adjustment clause shall be based  
1462 on the cost of such petroleum products only and shall not include  
1463 any additional profit or overhead as part of the adjustment. The  
1464 bid proposals or document contract shall contain the basis and  
1465 methods of adjusting unit prices for the change in the cost of  
1466 such petroleum products.

1467           (j) **State agency emergency purchase procedure.** If the  
1468 governing board or the executive head, or his designees, of any  
1469 agency of the state shall determine that an emergency exists in  
1470 regard to the purchase of any commodities or repair contracts, so  
1471 that the delay incident to giving opportunity for competitive  
1472 bidding would be detrimental to the interests of the state, then  
1473 the head of such agency, or his designees, shall file with the  
1474 Department of Finance and Administration (i) a statement  
1475 explaining the conditions and circumstances of the emergency,  
1476 which shall include a detailed description of the events leading  
1477 up to the situation and the negative impact to the entity if the



1478 purchase is made following the statutory requirements set forth in  
1479 paragraph (a), (b) or (c) of this section, and (ii) a certified  
1480 copy of the appropriate minutes of the board of such agency  
1481 requesting the emergency purchase, if applicable. Upon receipt of  
1482 the statement and applicable board certification, the State Fiscal  
1483 Officer, or his designees, may, in writing, authorize the purchase  
1484 or repair without having to comply with competitive bidding  
1485 requirements.

1486         If the governing board or the executive head, or his  
1487 designees, of any agency determines that an emergency exists in  
1488 regard to the purchase of any commodities or repair contracts, so  
1489 that the delay incident to giving opportunity for competitive  
1490 bidding would threaten the health or safety of any person, or the  
1491 preservation or protection of property, then the provisions in  
1492 this section for competitive bidding shall not apply, and any  
1493 officer or agent of the agency having general or specific  
1494 authority for making the purchase or repair contract shall approve  
1495 the bill presented for payment, and he shall certify in writing  
1496 from whom the purchase was made, or with whom the repair contract  
1497 was made.

1498         Total purchases made under this paragraph (j) shall only be  
1499 for the purpose of meeting needs created by the emergency  
1500 situation. Following the emergency purchase, documentation of the  
1501 purchase, including a description of the commodity purchased, the  
1502 purchase price thereof and the nature of the emergency shall be



1503 filed with the Department of Finance and Administration. Any  
1504 contract awarded pursuant to this paragraph (j) shall not exceed a  
1505 term of one (1) year.

1506 Purchases under the grant program established under Section  
1507 37-68-7 in response to COVID-19 and the directive that school  
1508 districts create a distance learning plan and fulfill technology  
1509 needs expeditiously shall be deemed an emergency purchase for  
1510 purposes of this paragraph (j).

1511 (k) **Governing authority emergency purchase procedure.**

1512 If the governing authority, or the governing authority acting  
1513 through its designee, shall determine that an emergency exists in  
1514 regard to the purchase of any commodities or repair contracts, so  
1515 that the delay incident to giving opportunity for competitive  
1516 bidding would be detrimental to the interest of the governing  
1517 authority, then the provisions herein for competitive bidding  
1518 shall not apply and any officer or agent of such governing  
1519 authority having general or special authority therefor in making  
1520 such purchase or repair shall approve the bill presented therefor,  
1521 and he shall certify in writing thereon from whom such purchase  
1522 was made, or with whom such a repair contract was made. At the  
1523 board meeting next following the emergency purchase or repair  
1524 contract, documentation of the purchase or repair contract,  
1525 including a description of the commodity purchased, the price  
1526 thereof and the nature of the emergency shall be presented to the  
1527 board and shall be placed on the minutes of the board of such



1528 governing authority. Purchases under the grant program  
1529 established under Section 37-68-7 in response to COVID-19 and the  
1530 directive that school districts create a distance learning plan  
1531 and fulfill technology needs expeditiously shall be deemed an  
1532 emergency purchase for purposes of this paragraph (k).

1533 (1) **Hospital purchase, lease-purchase and lease**  
1534 **authorization.**

1535 (i) The commissioners or board of trustees of any  
1536 public hospital may contract with such lowest and best bidder for  
1537 the purchase or lease-purchase of any commodity under a contract  
1538 of purchase or lease-purchase agreement whose obligatory payment  
1539 terms do not exceed five (5) years.

1540 (ii) In addition to the authority granted in  
1541 subparagraph (i) of this paragraph (1), the commissioners or board  
1542 of trustees is authorized to enter into contracts for the lease of  
1543 equipment or services, or both, which it considers necessary for  
1544 the proper care of patients if, in its opinion, it is not  
1545 financially feasible to purchase the necessary equipment or  
1546 services. Any such contract for the lease of equipment or  
1547 services executed by the commissioners or board shall not exceed a  
1548 maximum of five (5) years' duration and shall include a  
1549 cancellation clause based on unavailability of funds. If such  
1550 cancellation clause is exercised, there shall be no further  
1551 liability on the part of the lessee. Any such contract for the  
1552 lease of equipment or services executed on behalf of the



1553 commissioners or board that complies with the provisions of this  
1554 subparagraph (ii) shall be excepted from the bid requirements set  
1555 forth in this section.

1556 (m) **Exceptions from bidding requirements.** Excepted  
1557 from bid requirements are:

1558 (i) **Purchasing agreements approved by department.**  
1559 Purchasing agreements, contracts and maximum price regulations  
1560 executed or approved by the Department of Finance and  
1561 Administration.

1562 (ii) **Outside equipment repairs.** Repairs to  
1563 equipment, when such repairs are made by repair facilities in the  
1564 private sector; however, engines, transmissions, rear axles and/or  
1565 other such components shall not be included in this exemption when  
1566 replaced as a complete unit instead of being repaired and the need  
1567 for such total component replacement is known before disassembly  
1568 of the component; however, invoices identifying the equipment,  
1569 specific repairs made, parts identified by number and name,  
1570 supplies used in such repairs, and the number of hours of labor  
1571 and costs therefor shall be required for the payment for such  
1572 repairs.

1573 (iii) **In-house equipment repairs.** Purchases of  
1574 parts for repairs to equipment, when such repairs are made by  
1575 personnel of the agency or governing authority; however, entire  
1576 assemblies, such as engines or transmissions, shall not be



1577 included in this exemption when the entire assembly is being  
1578 replaced instead of being repaired.

1579                   (iv) **Raw gravel or dirt.** Raw unprocessed deposits  
1580 of gravel or fill dirt which are to be removed and transported by  
1581 the purchaser.

1582                   (v) **Governmental equipment auctions.** Motor  
1583 vehicles or other equipment purchased from a federal agency or  
1584 authority, another governing authority or state agency of the  
1585 State of Mississippi, or any governing authority or state agency  
1586 of another state at a public auction held for the purpose of  
1587 disposing of such vehicles or other equipment. Any purchase by a  
1588 governing authority under the exemption authorized by this  
1589 subparagraph (v) shall require advance authorization spread upon  
1590 the minutes of the governing authority to include the listing of  
1591 the item or items authorized to be purchased and the maximum bid  
1592 authorized to be paid for each item or items.

1593                   (vi) **Intergovernmental sales and transfers.**  
1594 Purchases, sales, transfers or trades by governing authorities or  
1595 state agencies when such purchases, sales, transfers or trades are  
1596 made by a private treaty agreement or through means of  
1597 negotiation, from any federal agency or authority, another  
1598 governing authority or state agency of the State of Mississippi,  
1599 or any state agency or governing authority of another state.  
1600 Nothing in this section shall permit such purchases through public  
1601 auction except as provided for in subparagraph (v) of this





1602 paragraph (m). It is the intent of this section to allow  
1603 governmental entities to dispose of and/or purchase commodities  
1604 from other governmental entities at a price that is agreed to by  
1605 both parties. This shall allow for purchases and/or sales at  
1606 prices which may be determined to be below the market value if the  
1607 selling entity determines that the sale at below market value is  
1608 in the best interest of the taxpayers of the state. Governing  
1609 authorities shall place the terms of the agreement and any  
1610 justification on the minutes, and state agencies shall obtain  
1611 approval from the Department of Finance and Administration, prior  
1612 to releasing or taking possession of the commodities.

1613 (vii) **Perishable supplies or food.** Perishable  
1614 supplies or food purchased for use in connection with hospitals,  
1615 the school lunch programs, homemaking programs and for the feeding  
1616 of county or municipal prisoners.

1617 (viii) **Single-source items.** Noncompetitive items  
1618 available from one (1) source only. In connection with the  
1619 purchase of noncompetitive items only available from one (1)  
1620 source, a certification of the conditions and circumstances  
1621 requiring the purchase shall be filed by the agency with the  
1622 Department of Finance and Administration and by the governing  
1623 authority with the board of the governing authority. Upon receipt  
1624 of that certification the Department of Finance and Administration  
1625 or the board of the governing authority, as the case may be, may,  
1626 in writing, authorize the purchase, which authority shall be noted



1627 on the minutes of the body at the next regular meeting thereafter.  
1628 In those situations, a governing authority is not required to  
1629 obtain the approval of the Department of Finance and  
1630 Administration. Following the purchase, the executive head of the  
1631 state agency, or his designees, shall file with the Department of  
1632 Finance and Administration, documentation of the purchase,  
1633 including a description of the commodity purchased, the purchase  
1634 price thereof and the source from whom it was purchased.

1635                   (ix) **Waste disposal facility construction**  
1636 **contracts.** Construction of incinerators and other facilities for  
1637 disposal of solid wastes in which products either generated  
1638 therein, such as steam, or recovered therefrom, such as materials  
1639 for recycling, are to be sold or otherwise disposed of; however,  
1640 in constructing such facilities, a governing authority or agency  
1641 shall publicly issue requests for proposals, advertised for in the  
1642 same manner as provided herein for seeking bids for public  
1643 construction projects, concerning the design, construction,  
1644 ownership, operation and/or maintenance of such facilities,  
1645 wherein such requests for proposals when issued shall contain  
1646 terms and conditions relating to price, financial responsibility,  
1647 technology, environmental compatibility, legal responsibilities  
1648 and such other matters as are determined by the governing  
1649 authority or agency to be appropriate for inclusion; and after  
1650 responses to the request for proposals have been duly received,  
1651 the governing authority or agency may select the most qualified



1652 proposal or proposals on the basis of price, technology and other  
1653 relevant factors and from such proposals, but not limited to the  
1654 terms thereof, negotiate and enter contracts with one or more of  
1655 the persons or firms submitting proposals.

1656 (x) **Hospital group purchase contracts.** Supplies,  
1657 commodities and equipment purchased by hospitals through group  
1658 purchase programs pursuant to Section 31-7-38.

1659 (xi) **Information technology products.** Purchases  
1660 of information technology products made by governing authorities  
1661 under the provisions of purchase schedules, or contracts executed  
1662 or approved by the Mississippi Department of Information  
1663 Technology Services and designated for use by governing  
1664 authorities.

1665 (xii) **Energy efficiency services and equipment.**  
1666 Energy efficiency services and equipment acquired by school  
1667 districts, community and junior colleges, institutions of higher  
1668 learning and state agencies or other applicable governmental  
1669 entities on a shared-savings, lease or lease-purchase basis  
1670 pursuant to Section 31-7-14.

1671 (xiii) **Municipal electrical utility system fuel.**  
1672 Purchases of coal and/or natural gas by municipally owned electric  
1673 power generating systems that have the capacity to use both coal  
1674 and natural gas for the generation of electric power.

1675 (xiv) **Library books and other reference materials.**  
1676 Purchases by libraries or for libraries of books and periodicals;



1677 processed film, videocassette tapes, filmstrips and slides;  
1678 recorded audiotapes, cassettes and diskettes; and any such items  
1679 as would be used for teaching, research or other information  
1680 distribution; however, equipment such as projectors, recorders,  
1681 audio or video equipment, and monitor televisions are not exempt  
1682 under this subparagraph.

1683 (xv) **Unmarked vehicles.** Purchases of unmarked  
1684 vehicles when such purchases are made in accordance with  
1685 purchasing regulations adopted by the Department of Finance and  
1686 Administration pursuant to Section 31-7-9(2).

1687 (xvi) **Election ballots.** Purchases of ballots  
1688 printed pursuant to Section 23-15-351.

1689 (xvii) **Multichannel interactive video systems.**  
1690 From and after July 1, 1990, contracts by Mississippi Authority  
1691 for Educational Television with any private educational  
1692 institution or private nonprofit organization whose purposes are  
1693 educational in regard to the construction, purchase, lease or  
1694 lease-purchase of facilities and equipment and the employment of  
1695 personnel for providing multichannel interactive video systems  
1696 (ITSF) in the school districts of this state.

1697 (xviii) **Purchases of prison industry products by**  
1698 **the Department of Corrections, regional correctional facilities or**  
1699 **privately owned prisons.** Purchases made by the Mississippi  
1700 Department of Corrections, regional correctional facilities or



1701 privately owned prisons involving any item that is manufactured,  
1702 processed, grown or produced from the state's prison industries.

1703                   (xix) **Undercover operations equipment.** Purchases  
1704 of surveillance equipment or any other high-tech equipment to be  
1705 used by law enforcement agents in undercover operations, provided  
1706 that any such purchase shall be in compliance with regulations  
1707 established by the Department of Finance and Administration.

1708                   (xx) **Junior college books for rent.** Purchases by  
1709 community or junior colleges of textbooks which are obtained for  
1710 the purpose of renting such books to students as part of a book  
1711 service system.

1712                   (xxi) **Certain school district purchases.**  
1713 Purchases of commodities made by school districts from vendors  
1714 with which any levying authority of the school district, as  
1715 defined in Section 37-57-1, has contracted through competitive  
1716 bidding procedures for purchases of the same commodities.

1717                   (xxii) **Garbage, solid waste and sewage contracts.**  
1718 Contracts for garbage collection or disposal, contracts for solid  
1719 waste collection or disposal and contracts for sewage collection  
1720 or disposal.

1721                   (xxiii) **Municipal water tank maintenance**  
1722 **contracts.** Professional maintenance program contracts for the  
1723 repair or maintenance of municipal water tanks, which provide  
1724 professional services needed to maintain municipal water storage



1725 tanks for a fixed annual fee for a duration of two (2) or more  
1726 years.

1727                                   (xxiv)   **Purchases of Mississippi Industries for the**  
1728 **Blind products.** Purchases made by state agencies or governing  
1729 authorities involving any item that is manufactured, processed or  
1730 produced by the Mississippi Industries for the Blind.

1731                                   (xxv)   **Purchases of state-adopted textbooks.**  
1732 Purchases of state-adopted textbooks by public school districts.

1733                                   (xxvi)   **Certain purchases under the Mississippi**  
1734 **Major Economic Impact Act.** Contracts entered into pursuant to the  
1735 provisions of Section 57-75-9(2), (3) and (4).

1736                                   (xxvii)   **Used heavy or specialized machinery or**  
1737 **equipment for installation of soil and water conservation**  
1738 **practices purchased at auction.** Used heavy or specialized  
1739 machinery or equipment used for the installation and  
1740 implementation of soil and water conservation practices or  
1741 measures purchased subject to the restrictions provided in  
1742 Sections 69-27-331 through 69-27-341. Any purchase by the State  
1743 Soil and Water Conservation Commission under the exemption  
1744 authorized by this subparagraph shall require advance  
1745 authorization spread upon the minutes of the commission to include  
1746 the listing of the item or items authorized to be purchased and  
1747 the maximum bid authorized to be paid for each item or items.



1748 (xxviii) **Hospital lease of equipment or services.**  
1749 Leases by hospitals of equipment or services if the leases are in  
1750 compliance with paragraph (1)(ii).

1751 (xxix) **Purchases made pursuant to qualified**  
1752 **cooperative purchasing agreements.** Purchases made by certified  
1753 purchasing offices of state agencies or governing authorities  
1754 under cooperative purchasing agreements previously approved by the  
1755 Office of Purchasing and Travel and established by or for any  
1756 municipality, county, parish or state government or the federal  
1757 government, provided that the notification to potential  
1758 contractors includes a clause that sets forth the availability of  
1759 the cooperative purchasing agreement to other governmental  
1760 entities. Such purchases shall only be made if the use of the  
1761 cooperative purchasing agreements is determined to be in the best  
1762 interest of the governmental entity.

1763 (xxx) **School yearbooks.** Purchases of school  
1764 yearbooks by state agencies or governing authorities; provided,  
1765 however, that state agencies and governing authorities shall use  
1766 for these purchases the RFP process as set forth in the  
1767 Mississippi Procurement Manual adopted by the Office of Purchasing  
1768 and Travel.

1769 (xxxi) **Design-build method of contracting and**  
1770 **certain other contracts.** Contracts entered into under the  
1771 provisions of Section 31-7-13.1, 37-101-44 or 65-1-85.



1772 (xxxii) **Toll roads and bridge construction**  
1773 **projects.** Contracts entered into under the provisions of Section  
1774 65-43-1 or 65-43-3.

1775 (xxxiii) **Certain purchases under Section 57-1-221.**  
1776 Contracts entered into pursuant to the provisions of Section  
1777 57-1-221.

1778 (xxxiv) **Certain transfers made pursuant to the**  
1779 **provisions of Section 57-105-1(7).** Transfers of public property  
1780 or facilities under Section 57-105-1(7) and construction related  
1781 to such public property or facilities.

1782 (xxxv) **Certain purchases or transfers entered into**  
1783 **with local electrical power associations.** Contracts or agreements  
1784 entered into under the provisions of Section 55-3-33.

1785 (xxxvi) **Certain purchases by an academic medical**  
1786 **center or health sciences school.** Purchases by an academic  
1787 medical center or health sciences school, as defined in Section  
1788 37-115-50, of commodities that are used for clinical purposes and  
1789 1. intended for use in the diagnosis of disease or other  
1790 conditions or in the cure, mitigation, treatment or prevention of  
1791 disease, and 2. medical devices, biological, drugs and  
1792 radiation-emitting devices as defined by the United States Food  
1793 and Drug Administration.

1794 (xxxvii) **Certain purchases made under the Alyce G.**  
1795 **Clarke Mississippi Lottery Law.** Contracts made by the Mississippi





1796 Lottery Corporation pursuant to the Alyce G. Clarke Mississippi  
1797 Lottery Law.

1798 (xxxviii) **Certain purchases made by the Department**  
1799 **of Health and the Department of Revenue.** Purchases made by the  
1800 Department of Health and/or the Department of Revenue solely for  
1801 the purpose of fulfilling their respective responsibilities under  
1802 the Mississippi Medical Cannabis Act. This subparagraph shall  
1803 stand repealed on June 30, 2023.

1804 (xxxix) Public-private partnership agreements.  
1805 Contracts or agreements entered into under the provisions of  
1806 Sections 1 through 11 of this act.

1807 (n) **Term contract authorization.** All contracts for the  
1808 purchase of:

1809 (i) All contracts for the purchase of commodities,  
1810 equipment and public construction (including, but not limited to,  
1811 repair and maintenance), may be let for periods of not more than  
1812 sixty (60) months in advance, subject to applicable statutory  
1813 provisions prohibiting the letting of contracts during specified  
1814 periods near the end of terms of office. Term contracts for a  
1815 period exceeding twenty-four (24) months shall also be subject to  
1816 ratification or cancellation by governing authority boards taking  
1817 office subsequent to the governing authority board entering the  
1818 contract.

1819 (ii) Bid proposals and contracts may include price  
1820 adjustment clauses with relation to the cost to the contractor



1821 based upon a nationally published industry-wide or nationally  
1822 published and recognized cost index. The cost index used in a  
1823 price adjustment clause shall be determined by the Department of  
1824 Finance and Administration for the state agencies and by the  
1825 governing board for governing authorities. The bid proposal and  
1826 contract documents utilizing a price adjustment clause shall  
1827 contain the basis and method of adjusting unit prices for the  
1828 change in the cost of such commodities, equipment and public  
1829 construction.

1830           (o) **Purchase law violation prohibition and vendor**  
1831 **penalty.** No contract or purchase as herein authorized shall be  
1832 made for the purpose of circumventing the provisions of this  
1833 section requiring competitive bids, nor shall it be lawful for any  
1834 person or concern to submit individual invoices for amounts within  
1835 those authorized for a contract or purchase where the actual value  
1836 of the contract or commodity purchased exceeds the authorized  
1837 amount and the invoices therefor are split so as to appear to be  
1838 authorized as purchases for which competitive bids are not  
1839 required. Submission of such invoices shall constitute a  
1840 misdemeanor punishable by a fine of not less than Five Hundred  
1841 Dollars (\$500.00) nor more than One Thousand Dollars (\$1,000.00),  
1842 or by imprisonment for thirty (30) days in the county jail, or  
1843 both such fine and imprisonment. In addition, the claim or claims  
1844 submitted shall be forfeited.



1845                   (p)   **Electrical utility petroleum-based equipment**  
1846 **purchase procedure.** When in response to a proper advertisement  
1847 therefor, no bid firm as to price is submitted to an electric  
1848 utility for power transformers, distribution transformers, power  
1849 breakers, reclosers or other articles containing a petroleum  
1850 product, the electric utility may accept the lowest and best bid  
1851 therefor although the price is not firm.

1852                   (q)   **Fuel management system bidding procedure.** Any  
1853 governing authority or agency of the state shall, before  
1854 contracting for the services and products of a fuel management or  
1855 fuel access system, enter into negotiations with not fewer than  
1856 two (2) sellers of fuel management or fuel access systems for  
1857 competitive written bids to provide the services and products for  
1858 the systems. In the event that the governing authority or agency  
1859 cannot locate two (2) sellers of such systems or cannot obtain  
1860 bids from two (2) sellers of such systems, it shall show proof  
1861 that it made a diligent, good-faith effort to locate and negotiate  
1862 with two (2) sellers of such systems. Such proof shall include,  
1863 but not be limited to, publications of a request for proposals and  
1864 letters soliciting negotiations and bids. For purposes of this  
1865 paragraph (q), a fuel management or fuel access system is an  
1866 automated system of acquiring fuel for vehicles as well as  
1867 management reports detailing fuel use by vehicles and drivers, and  
1868 the term "competitive written bid" shall have the meaning as  
1869 defined in paragraph (b) of this section. Governing authorities



1870 and agencies shall be exempt from this process when contracting  
1871 for the services and products of fuel management or fuel access  
1872 systems under the terms of a state contract established by the  
1873 Office of Purchasing and Travel.

1874 (r) **Solid waste contract proposal procedure.** Before  
1875 entering into any contract for garbage collection or disposal,  
1876 contract for solid waste collection or disposal or contract for  
1877 sewage collection or disposal, which involves an expenditure of  
1878 more than Seventy-five Thousand Dollars (\$75,000.00), a governing  
1879 authority or agency shall issue publicly a request for proposals  
1880 concerning the specifications for such services which shall be  
1881 advertised for in the same manner as provided in this section for  
1882 seeking bids for purchases which involve an expenditure of more  
1883 than the amount provided in paragraph (c) of this section. Any  
1884 request for proposals when issued shall contain terms and  
1885 conditions relating to price, financial responsibility,  
1886 technology, legal responsibilities and other relevant factors as  
1887 are determined by the governing authority or agency to be  
1888 appropriate for inclusion; all factors determined relevant by the  
1889 governing authority or agency or required by this paragraph (r)  
1890 shall be duly included in the advertisement to elicit proposals.  
1891 After responses to the request for proposals have been duly  
1892 received, the governing authority or agency shall select the most  
1893 qualified proposal or proposals on the basis of price, technology  
1894 and other relevant factors and from such proposals, but not



1895 limited to the terms thereof, negotiate and enter into contracts  
1896 with one or more of the persons or firms submitting proposals. If  
1897 the governing authority or agency deems none of the proposals to  
1898 be qualified or otherwise acceptable, the request for proposals  
1899 process may be reinitiated. Notwithstanding any other provisions  
1900 of this paragraph, where a county with at least thirty-five  
1901 thousand (35,000) nor more than forty thousand (40,000)  
1902 population, according to the 1990 federal decennial census, owns  
1903 or operates a solid waste landfill, the governing authorities of  
1904 any other county or municipality may contract with the governing  
1905 authorities of the county owning or operating the landfill,  
1906 pursuant to a resolution duly adopted and spread upon the minutes  
1907 of each governing authority involved, for garbage or solid waste  
1908 collection or disposal services through contract negotiations.

1909           (s) **Minority set-aside authorization.** Notwithstanding  
1910 any provision of this section to the contrary, any agency or  
1911 governing authority, by order placed on its minutes, may, in its  
1912 discretion, set aside not more than twenty percent (20%) of its  
1913 anticipated annual expenditures for the purchase of commodities  
1914 from minority businesses; however, all such set-aside purchases  
1915 shall comply with all purchasing regulations promulgated by the  
1916 Department of Finance and Administration and shall be subject to  
1917 bid requirements under this section. Set-aside purchases for  
1918 which competitive bids are required shall be made from the lowest  
1919 and best minority business bidder. For the purposes of this



1920 paragraph, the term "minority business" means a business which is  
1921 owned by a majority of persons who are United States citizens or  
1922 permanent resident aliens (as defined by the Immigration and  
1923 Naturalization Service) of the United States, and who are Asian,  
1924 Black, Hispanic or Native American, according to the following  
1925 definitions:

1926 (i) "Asian" means persons having origins in any of  
1927 the original people of the Far East, Southeast Asia, the Indian  
1928 subcontinent, or the Pacific Islands.

1929 (ii) "Black" means persons having origins in any  
1930 black racial group of Africa.

1931 (iii) "Hispanic" means persons of Spanish or  
1932 Portuguese culture with origins in Mexico, South or Central  
1933 America, or the Caribbean Islands, regardless of race.

1934 (iv) "Native American" means persons having  
1935 origins in any of the original people of North America, including  
1936 American Indians, Eskimos and Aleuts.

1937 (t) **Construction punch list restriction.** The  
1938 architect, engineer or other representative designated by the  
1939 agency or governing authority that is contracting for public  
1940 construction or renovation may prepare and submit to the  
1941 contractor only one (1) preliminary punch list of items that do  
1942 not meet the contract requirements at the time of substantial  
1943 completion and one (1) final list immediately before final  
1944 completion and final payment.



1945                   (u)   **Procurement of construction services by state**  
1946 **institutions of higher learning.** Contracts for privately financed  
1947 construction of auxiliary facilities on the campus of a state  
1948 institution of higher learning may be awarded by the Board of  
1949 Trustees of State Institutions of Higher Learning to the lowest  
1950 and best bidder, where sealed bids are solicited, or to the  
1951 offeror whose proposal is determined to represent the best value  
1952 to the citizens of the State of Mississippi, where requests for  
1953 proposals are solicited.

1954                   (v)   **Insurability of bidders for public construction or**  
1955 **other public contracts.** In any solicitation for bids to perform  
1956 public construction or other public contracts to which this  
1957 section applies, including, but not limited to, contracts for  
1958 repair and maintenance, for which the contract will require  
1959 insurance coverage in an amount of not less than One Million  
1960 Dollars (\$1,000,000.00), bidders shall be permitted to either  
1961 submit proof of current insurance coverage in the specified amount  
1962 or demonstrate ability to obtain the required coverage amount of  
1963 insurance if the contract is awarded to the bidder. Proof of  
1964 insurance coverage shall be submitted within five (5) business  
1965 days from bid acceptance.

1966                   (w)   **Purchase authorization clarification.** Nothing in  
1967 this section shall be construed as authorizing any purchase not  
1968 authorized by law.



1969           **SECTION 15.** Section 27-7-15, Mississippi Code of 1972, is  
1970 brought forward as follows:

1971           27-7-15. (1) For the purposes of this article, except as  
1972 otherwise provided, the term "gross income" means and includes the  
1973 income of a taxpayer derived from salaries, wages, fees or  
1974 compensation for service, of whatever kind and in whatever form  
1975 paid, including income from governmental agencies and subdivisions  
1976 thereof; or from professions, vocations, trades, businesses,  
1977 commerce or sales, or renting or dealing in property, or  
1978 reacquired property; also from annuities, interest, rents,  
1979 dividends, securities, insurance premiums, reinsurance premiums,  
1980 considerations for supplemental insurance contracts, or the  
1981 transaction of any business carried on for gain or profit, or  
1982 gains, or profits, and income derived from any source whatever and  
1983 in whatever form paid. The amount of all such items of income  
1984 shall be included in the gross income for the taxable year in  
1985 which received by the taxpayer. The amount by which an eligible  
1986 employee's salary is reduced pursuant to a salary reduction  
1987 agreement authorized under Section 25-17-5 shall be excluded from  
1988 the term "gross income" within the meaning of this article.

1989           (2) In determining gross income for the purpose of this  
1990 section, the following, under regulations prescribed by the  
1991 commissioner, shall be applicable:

1992           (a) **Dealers in property.** Federal rules, regulations  
1993 and revenue procedures shall be followed with respect to





1994 installment sales unless a transaction results in the shifting of  
1995 income from inside the state to outside the state.

1996 (b) **Casual sales of property.**

1997 (i) Prior to January 1, 2001, federal rules,  
1998 regulations and revenue procedures shall be followed with respect  
1999 to installment sales except they shall be applied and administered  
2000 as if H.R. 3594, the Installment Tax Correction Act of 2000 of the  
2001 106th Congress, had not been enacted. This provision will  
2002 generally affect taxpayers, reporting on the accrual method of  
2003 accounting, entering into installment note agreements on or after  
2004 December 17, 1999. Any gain or profit resulting from the casual  
2005 sale of property will be recognized in the year of sale.

2006 (ii) From and after January 1, 2001, federal  
2007 rules, regulations and revenue procedures shall be followed with  
2008 respect to installment sales except as provided in this  
2009 subparagraph (ii). Gain or profit from the casual sale of  
2010 property shall be recognized in the year of sale. When a taxpayer  
2011 recognizes gain on the casual sale of property in which the gain  
2012 is deferred for federal income tax purposes, a taxpayer may elect  
2013 to defer the payment of tax resulting from the gain as allowed and  
2014 to the extent provided under regulations prescribed by the  
2015 commissioner. If the payment of the tax is made on a deferred  
2016 basis, the tax shall be computed based on the applicable rate for  
2017 the income reported in the year the payment is made. Except as  
2018 otherwise provided in subparagraph (iii) of this paragraph (b),



2019 deferring the payment of the tax shall not affect the liability  
2020 for the tax. If at any time the installment note is sold,  
2021 contributed, transferred or disposed of in any manner and for any  
2022 purpose by the original note holder, or the original note holder  
2023 is merged, liquidated, dissolved or withdrawn from this state,  
2024 then all deferred tax payments under this section shall  
2025 immediately become due and payable.

2026 (iii) If the selling price of the property is  
2027 reduced by any alteration in the terms of an installment note,  
2028 including default by the purchaser, the gain to be recognized is  
2029 recomputed based on the adjusted selling price in the same manner  
2030 as for federal income tax purposes. The tax on this amount, less  
2031 the previously paid tax on the recognized gain, is payable over  
2032 the period of the remaining installments. If the tax on the  
2033 previously recognized gain has been paid in full to this state,  
2034 the return on which the payment was made may be amended for this  
2035 purpose only. The statute of limitations in Section 27-7-49 shall  
2036 not bar an amended return for this purpose.

2037 (c) **Reserves of insurance companies.** In the case of  
2038 insurance companies, any amounts in excess of the legally required  
2039 reserves shall be included as gross income.

2040 (d) **Affiliated companies or persons.** As regards sales,  
2041 exchanges or payments for services from one to another of  
2042 affiliated companies or persons or under other circumstances where  
2043 the relation between the buyer and seller is such that gross



2044 proceeds from the sale or the value of the exchange or the payment  
2045 for services are not indicative of the true value of the subject  
2046 matter of the sale, exchange or payment for services, the  
2047 commissioner shall prescribe uniform and equitable rules for  
2048 determining the true value of the gross income, gross sales,  
2049 exchanges or payment for services, or require consolidated returns  
2050 of affiliates.

2051 (e) **Alimony and separate maintenance payments.** The  
2052 federal rules, regulations and revenue procedures in determining  
2053 the deductibility and taxability of alimony payments shall be  
2054 followed in this state.

2055 (f) **Reimbursement for expenses of moving.** There shall  
2056 be included in gross income (as compensation for services) any  
2057 amount received or accrued, directly or indirectly, by an  
2058 individual as a payment for or reimbursement of expenses of moving  
2059 from one (1) residence to another residence which is attributable  
2060 to employment or self-employment.

2061 (3) In the case of taxpayers other than residents, gross  
2062 income includes gross income from sources within this state.

2063 (4) The words "gross income" do not include the following  
2064 items of income which shall be exempt from taxation under this  
2065 article:

2066 (a) The proceeds of life insurance policies and  
2067 contracts paid upon the death of the insured. However, the income



2068 from the proceeds of such policies or contracts shall be included  
2069 in the gross income.

2070 (b) The amount received by the insured as a return of  
2071 premium or premiums paid by him under life insurance policies,  
2072 endowment, or annuity contracts, either during the term or at  
2073 maturity or upon surrender of the contract.

2074 (c) The value of property acquired by gift, bequest,  
2075 devise or descent, but the income from such property shall be  
2076 included in the gross income.

2077 (d) Interest upon the obligations of the United States  
2078 or its possessions, or securities issued under the provisions of  
2079 the Federal Farm Loan Act of 1916, or bonds issued by the War  
2080 Finance Corporation, or obligations of the State of Mississippi or  
2081 political subdivisions thereof.

2082 (e) The amounts received through accident or health  
2083 insurance as compensation for personal injuries or sickness, plus  
2084 the amount of any damages received for such injuries or such  
2085 sickness or injuries, or through the War Risk Insurance Act, or  
2086 any law for the benefit or relief of injured or disabled members  
2087 of the military or naval forces of the United States.

2088 (f) Income received by any religious denomination or by  
2089 any institution or trust for moral or mental improvements,  
2090 religious, Bible, tract, charitable, benevolent, fraternal,  
2091 missionary, hospital, infirmary, educational, scientific,  
2092 literary, library, patriotic, historical or cemetery purposes or



2093 for two (2) or more of such purposes, if such income be used  
2094 exclusively for carrying out one or more of such purposes.

2095 (g) Income received by a domestic corporation which is  
2096 "taxable in another state" as this term is defined in this  
2097 article, derived from business activity conducted outside this  
2098 state. Domestic corporations taxable both within and without the  
2099 state shall determine Mississippi income on the same basis as  
2100 provided for foreign corporations under the provisions of this  
2101 article.

2102 (h) In case of insurance companies, there shall be  
2103 excluded from gross income such portion of actual premiums  
2104 received from an individual policyholder as is paid back or  
2105 credited to or treated as an abatement of premiums of such  
2106 policyholder within the taxable year.

2107 (i) Income from dividends that has already borne a tax  
2108 as dividend income under the provisions of this article, when such  
2109 dividends may be specifically identified in the possession of the  
2110 recipient.

2111 (j) Amounts paid by the United States to a person as  
2112 added compensation for hazardous duty pay as a member of the Armed  
2113 Forces of the United States in a combat zone designated by  
2114 Executive Order of the President of the United States.

2115 (k) Amounts received as retirement allowances,  
2116 pensions, annuities or optional retirement allowances paid under  
2117 the federal Social Security Act, the Railroad Retirement Act, the



2118 Federal Civil Service Retirement Act, or any other retirement  
2119 system of the United States government, retirement allowances paid  
2120 under the Mississippi Public Employees' Retirement System,  
2121 Mississippi Highway Safety Patrol Retirement System or any other  
2122 retirement system of the State of Mississippi or any political  
2123 subdivision thereof. The exemption allowed under this paragraph  
2124 (k) shall be available to the spouse or other beneficiary at the  
2125 death of the primary retiree.

2126           (1) Amounts received as retirement allowances,  
2127 pensions, annuities or optional retirement allowances paid by any  
2128 public or governmental retirement system not designated in  
2129 paragraph (k) or any private retirement system or plan of which  
2130 the recipient was a member at any time during the period of his  
2131 employment. Amounts received as a distribution under a Roth  
2132 Individual Retirement Account shall be treated in the same manner  
2133 as provided under the Internal Revenue Code of 1986, as amended.  
2134 The exemption allowed under this paragraph (1) shall be available  
2135 to the spouse or other beneficiary at the death of the primary  
2136 retiree.

2137           (m) National Guard or Reserve Forces of the United  
2138 States compensation not to exceed the aggregate sum of Five  
2139 Thousand Dollars (\$5,000.00) for any taxable year through the 2005  
2140 taxable year, and not to exceed the aggregate sum of Fifteen  
2141 Thousand Dollars (\$15,000.00) for any taxable year thereafter.



2142           (n) Compensation received for active service as a  
2143 member below the grade of commissioned officer and so much of the  
2144 compensation as does not exceed the maximum enlisted amount  
2145 received for active service as a commissioned officer in the Armed  
2146 Forces of the United States for any month during any part of which  
2147 such members of the Armed Forces (i) served in a combat zone as  
2148 designated by Executive Order of the President of the United  
2149 States or a qualified hazardous duty area as defined by federal  
2150 law, or both; or (ii) was hospitalized as a result of wounds,  
2151 disease or injury incurred while serving in such combat zone. For  
2152 the purposes of this paragraph (n), the term "maximum enlisted  
2153 amount" means and has the same definition as that term has in 26  
2154 USCS 112.

2155           (o) The proceeds received from federal and state  
2156 forestry incentive programs.

2157           (p) The amount representing the difference between the  
2158 increase of gross income derived from sales for export outside the  
2159 United States as compared to the preceding tax year wherein gross  
2160 income from export sales was highest, and the net increase in  
2161 expenses attributable to such increased exports. In the absence  
2162 of direct accounting, the ratio of net profits to total sales may  
2163 be applied to the increase in export sales. This paragraph (p)  
2164 shall only apply to businesses located in this state engaging in  
2165 the international export of Mississippi goods and services. Such



2166 goods or services shall have at least fifty percent (50%) of value  
2167 added at a location in Mississippi.

2168 (q) Amounts paid by the federal government for the  
2169 construction of soil conservation systems as required by a  
2170 conservation plan adopted pursuant to 16 USCS 3801 et seq.

2171 (r) The amount deposited in a medical savings account,  
2172 and any interest accrued thereon, that is a part of a medical  
2173 savings account program as specified in the Medical Savings  
2174 Account Act under Sections 71-9-1 through 71-9-9; provided,  
2175 however, that any amount withdrawn from such account for purposes  
2176 other than paying eligible medical expense or to procure health  
2177 coverage shall be included in gross income.

2178 (s) Amounts paid by the Mississippi Soil and Water  
2179 Conservation Commission from the Mississippi Soil and Water  
2180 Cost-Share Program for the installation of water quality best  
2181 management practices.

2182 (t) Dividends received by a holding corporation, as  
2183 defined in Section 27-13-1, from a subsidiary corporation, as  
2184 defined in Section 27-13-1.

2185 (u) Interest, dividends, gains or income of any kind on  
2186 any account in the Mississippi Affordable College Savings Trust  
2187 Fund, as established in Sections 37-155-101 through 37-155-125, to  
2188 the extent that such amounts remain on deposit in the MACS Trust  
2189 Fund or are withdrawn pursuant to a qualified withdrawal, as  
2190 defined in Section 37-155-105.





2191           (v) Interest, dividends or gains accruing on the  
2192 payments made pursuant to a prepaid tuition contract, as provided  
2193 for in Section 37-155-17.

2194           (w) Income resulting from transactions with a related  
2195 member where the related member subject to tax under this chapter  
2196 was required to, and did in fact, add back the expense of such  
2197 transactions as required by Section 27-7-17(2). Under no  
2198 circumstances may the exclusion from income exceed the deduction  
2199 add-back of the related member, nor shall the exclusion apply to  
2200 any income otherwise excluded under this chapter.

2201           (x) Amounts that are subject to the tax levied pursuant  
2202 to Section 27-7-901, and are paid to patrons by gaming  
2203 establishments licensed under the Mississippi Gaming Control Act.

2204           (y) Amounts that are subject to the tax levied pursuant  
2205 to Section 27-7-903, and are paid to patrons by gaming  
2206 establishments not licensed under the Mississippi Gaming Control  
2207 Act.

2208           (z) Interest, dividends, gains or income of any kind on  
2209 any account in a qualified tuition program and amounts received as  
2210 distributions under a qualified tuition program shall be treated  
2211 in the same manner as provided under the United States Internal  
2212 Revenue Code, as amended. For the purposes of this paragraph (z),  
2213 the term "qualified tuition program" means and has the same  
2214 definition as that term has in 26 USCS 529.



2215           (aa) The amount deposited in a health savings account,  
2216 and any interest accrued thereon, that is a part of a health  
2217 savings account program as specified in the Health Savings  
2218 Accounts Act created in Sections 83-62-1 through 83-62-9; however,  
2219 any amount withdrawn from such account for purposes other than  
2220 paying qualified medical expenses or to procure health coverage  
2221 shall be included in gross income, except as otherwise provided by  
2222 Sections 83-62-7 and 83-62-9.

2223           (bb) Amounts received as qualified disaster relief  
2224 payments shall be treated in the same manner as provided under the  
2225 United States Internal Revenue Code, as amended.

2226           (cc) Amounts received as a "qualified Hurricane Katrina  
2227 distribution" as defined in the United States Internal Revenue  
2228 Code, as amended.

2229           (dd) Amounts received by an individual which may be  
2230 excluded from income as foreign earned income for federal income  
2231 tax purposes.

2232           (ee) Amounts received by a qualified individual,  
2233 directly or indirectly, from an employer or nonprofit housing  
2234 organization that are qualified housing expenses associated with  
2235 an employer-assisted housing program. For purposes of this  
2236 paragraph (ee):

2237           (i) "Qualified individual" means any individual  
2238 whose household income does not exceed one hundred twenty percent  
2239 (120%) of the area median gross income (as defined by the United



2240 States Department of Housing and Urban Development), adjusted for  
2241 household size, for the area in which the housing is located.

2242 (ii) "Nonprofit housing organization" means an  
2243 organization that is organized as a not-for-profit organization  
2244 under the laws of this state or another state and has as one of  
2245 its purposes:

2246 1. Homeownership education or counseling;  
2247 2. The development of affordable housing; or  
2248 3. The development or administration of  
2249 employer-assisted housing programs.

2250 (iii) "Employer-assisted housing program" means a  
2251 separate written plan of any employer (including, without  
2252 limitation, tax-exempt organizations and public employers) for the  
2253 exclusive benefit of the employer's employees to pay qualified  
2254 housing expenses to assist the employer's employees in securing  
2255 affordable housing.

2256 (iv) "Qualified housing expenses" means:

2257 1. With respect to rental assistance, an  
2258 amount not to exceed Two Thousand Dollars (\$2,000.00) paid for the  
2259 purpose of assisting employees with security deposits and rental  
2260 subsidies; and

2261 2. With respect to homeownership assistance,  
2262 an amount not to exceed the lesser of Ten Thousand Dollars  
2263 (\$10,000.00) or six percent (6%) of the purchase price of the  
2264 employee's principal residence that is paid for the purpose of



2265 assisting employees with down payments, payment of closing costs,  
2266 reduced interest mortgages, mortgage guarantee programs, mortgage  
2267 forgiveness programs, equity contribution programs, or  
2268 contributions to homebuyer education and/or homeownership  
2269 counseling of eligible employees.

2270 (ff) For the 2010 taxable year and any taxable year  
2271 thereafter, amounts converted in accordance with the United States  
2272 Internal Revenue Code, as amended, from a traditional Individual  
2273 Retirement Account to a Roth Individual Retirement Account. The  
2274 exemption allowed under this paragraph (ff) shall be available to  
2275 the spouse or other beneficiary at the death of the primary  
2276 retiree.

2277 (gg) Amounts received for the performance of disaster  
2278 or emergency-related work as defined in Section 27-113-5.

2279 (hh) The amount deposited in a catastrophe savings  
2280 account established under Sections 27-7-1001 through 27-7-1007,  
2281 interest income earned on the catastrophe savings account, and  
2282 distributions from the catastrophe savings account; however, any  
2283 amount withdrawn from a catastrophe savings account for purposes  
2284 other than paying qualified catastrophe expenses shall be included  
2285 in gross income, except as otherwise provided by Sections  
2286 27-7-1001 through 27-7-1007.

2287 (ii) Interest, dividends, gains or income of any kind  
2288 on any account in the Mississippi Achieving a Better Life  
2289 Experience (ABLE) Trust Fund, as established in Chapter 28, Title



2290 43, to the extent that such amounts remain on deposit in the ABLE  
2291 Trust Fund or are withdrawn pursuant to a qualified withdrawal, as  
2292 defined in Section 43-28-11.

2293 (jj) Subject to the limitations provided under Section  
2294 27-7-1103, amounts deposited into a first-time homebuyer savings  
2295 account and any interest or other income earned attributable to an  
2296 account and monies or funds withdrawn or distributed from an  
2297 account for the payment of eligible costs by or on behalf of a  
2298 qualified beneficiary; however, any monies or funds withdrawn or  
2299 distributed from a first-time homebuyer savings account for any  
2300 purpose other than the payment of eligible costs by or on behalf  
2301 of a qualified beneficiary shall be included in gross income. For  
2302 the purpose of this paragraph (jj), the terms "first-time  
2303 homebuyer savings account," "eligible costs" and "qualified  
2304 beneficiary" mean and have the same definitions as such terms have  
2305 in Section 27-7-1101.

2306 (kk) Amounts paid by an agricultural disaster program  
2307 as compensation to an agricultural producer, cattle farmer or  
2308 cattle rancher who has suffered a loss as the result of a disaster  
2309 or emergency, including, but not limited to, the following United  
2310 States Department of Agriculture programs:

- 2311 (i) Livestock Forage Disaster Program;  
2312 (ii) Livestock Indemnity Program;  
2313 (iii) Emergency Assistance for Livestock, Honey  
2314 Bees and Farm-raised Fish Program;



2315 (iv) Emergency Conservation Program;

2316 (v) Noninsured Crop Disaster Assistance Program;

2317 (vi) Pasture, Rangeland, Forage Pilot Insurance

2318 Program;

2319 (vii) Annual Forage Pilot Program;

2320 (viii) Livestock Risk Protection Insurance

2321 Program; and

2322 (ix) Livestock Gross Margin Insurance Plan.

2323 (ll) Amounts received as advances and/or grants under

2324 the federal Coronavirus Aid, Relief, and Economic Security Act,

2325 the Consolidated Appropriations Act of 2021 and the American

2326 Rescue Plan Act.

2327 (mm) Any and all cancelled indebtedness provided for

2328 under the Coronavirus Aid, Relief, and Economic Security Act and

2329 the Consolidated Appropriations Act of 2021.

2330 (nn) Amounts received as payments under Section

2331 27-3-85.

2332 (oo) Amounts received as grants under the 2020 COVID-19

2333 Mississippi Business Assistance Act.

2334 (pp) Amounts received as grants under Section 57-1-521.

2335 ( \* \* \* qq) Amounts received as grants under the

2336 Shuttered Venue Operators Grant Program and Restaurant

2337 Revitalization Fund authorized by the Economic Aid to Hard-Hit

2338 Small Businesses, Nonprofits, and Venues Act, and amended by the

2339 American Rescue Plan Act.



2340 ( \* \* \*rr) Amounts received as grants under the  
2341 Mississippi Agriculture Stabilization Act.

2342 (5) Prisoners of war, missing in action-taxable status.

2343 (a) **Members of the Armed Forces.** Gross income does not  
2344 include compensation received for active service as a member of  
2345 the Armed Forces of the United States for any month during any  
2346 part of which such member is in a missing status, as defined in  
2347 paragraph (d) of this subsection, during the Vietnam Conflict as a  
2348 result of such conflict.

2349 (b) **Civilian employees.** Gross income does not include  
2350 compensation received for active service as an employee for any  
2351 month during any part of which such employee is in a missing  
2352 status during the Vietnam Conflict as a result of such conflict.

2353 (c) **Period of conflict.** For the purpose of this  
2354 subsection, the Vietnam Conflict began February 28, 1961, and ends  
2355 on the date designated by the President by Executive Order as the  
2356 date of the termination of combatant activities in Vietnam. For  
2357 the purpose of this subsection, an individual is in a missing  
2358 status as a result of the Vietnam Conflict if immediately before  
2359 such status began he was performing service in Vietnam or was  
2360 performing service in Southeast Asia in direct support of military  
2361 operations in Vietnam. "Southeast Asia," as used in this  
2362 paragraph, is defined to include Cambodia, Laos, Thailand and  
2363 waters adjacent thereto.



2364 (d) "Missing status" means the status of an employee or  
2365 member of the Armed Forces who is in active service and is  
2366 officially carried or determined to be absent in a status of (i)  
2367 missing; (ii) missing in action; (iii) interned in a foreign  
2368 country; (iv) captured, beleaguered or besieged by a hostile  
2369 force; or (v) detained in a foreign country against his will; but  
2370 does not include the status of an employee or member of the Armed  
2371 Forces for a period during which he is officially determined to be  
2372 absent from his post of duty without authority.

2373 (e) "Active service" means active federal service by an  
2374 employee or member of the Armed Forces of the United States in an  
2375 active duty status.

2376 (f) "Employee" means one who is a citizen or national  
2377 of the United States or an alien admitted to the United States for  
2378 permanent residence and is a resident of the State of Mississippi  
2379 and is employed in or under a federal executive agency or  
2380 department of the Armed Forces.

2381 (g) "Compensation" means (i) basic pay; (ii) special  
2382 pay; (iii) incentive pay; (iv) basic allowance for quarters; (v)  
2383 basic allowance for subsistence; and (vi) station per diem  
2384 allowances for not more than ninety (90) days.

2385 (h) If refund or credit of any overpayment of tax for  
2386 any taxable year resulting from the application of this subsection  
2387 (5) is prevented by the operation of any law or rule of law, such  
2388 refund or credit of such overpayment of tax may, nevertheless, be





2389 made or allowed if claim therefor is filed with the Department of  
2390 Revenue within three (3) years after the date of the enactment of  
2391 this subsection.

2392 (i) The provisions of this subsection shall be  
2393 effective for taxable years ending on or after February 28, 1961.

2394 (6) A shareholder of an S corporation, as defined in Section  
2395 27-8-3(1)(g), shall take into account the income, loss, deduction  
2396 or credit of the S corporation only to the extent provided in  
2397 Section 27-8-7(2).

2398 **SECTION 16.** Section 27-13-5, Mississippi Code of 1972, is  
2399 brought forward as follows:

2400 27-13-5. (1) (a) **Franchise tax levy.** Except as otherwise  
2401 provided in subsections (3), (4), (5) and (7) of this section,  
2402 there is hereby imposed, to be paid and collected as hereinafter  
2403 provided, a franchise or excise tax upon every corporation,  
2404 association or joint-stock company or partnership treated as a  
2405 corporation under the income tax laws or regulations, organized or  
2406 created for pecuniary gain, having privileges not possessed by  
2407 individuals, and having authorized capital stock now existing in  
2408 this state, or hereafter organized, created or established, under  
2409 and by virtue of the laws of the State of Mississippi, equal to:

2410 (i) For tax years beginning before January 1,  
2411 2018, Two Dollars and Fifty Cents (\$2.50) for each One Thousand  
2412 Dollars (\$1,000.00), or fraction thereof, of the value of the  
2413 capital used, invested or employed in the exercise of any power,



2414 privilege or right enjoyed by such organization within this state,  
2415 except as hereinafter provided.

2416 (ii) For tax years beginning on or after January  
2417 1, 2018, but before January 1, 2019, Two Dollars and Fifty Cents  
2418 (\$2.50) for each One Thousand Dollars (\$1,000.00), or fraction  
2419 thereof, in excess of One Hundred Thousand Dollars (\$100,000.00),  
2420 of the value of the capital used, invested or employed in the  
2421 exercise of any power, privilege or right enjoyed by such  
2422 organization within this state, except as hereinafter provided.

2423 (iii) For tax years beginning on or after January  
2424 1, 2019, but before January 1, 2020, Two Dollars and Twenty-five  
2425 Cents (\$2.25) for each One Thousand Dollars (\$1,000.00), or  
2426 fraction thereof, in excess of One Hundred Thousand Dollars  
2427 (\$100,000.00), of the value of the capital used, invested or  
2428 employed in the exercise of any power, privilege or right enjoyed  
2429 by such organization within this state, except as hereinafter  
2430 provided.

2431 (iv) For tax years beginning on or after January  
2432 1, 2020, but before January 1, 2021, Two Dollars (\$2.00) for each  
2433 One Thousand Dollars (\$1,000.00), or fraction thereof, in excess  
2434 of One Hundred Thousand Dollars (\$100,000.00), of the value of the  
2435 capital used, invested or employed in the exercise of any power,  
2436 privilege or right enjoyed by such organization within this state,  
2437 except as hereinafter provided.



2438 (v) For tax years beginning on or after January 1,  
2439 2021, but before January 1, 2022, One Dollar and Seventy-five  
2440 Cents (\$1.75) for each One Thousand Dollars (\$1,000.00), or  
2441 fraction thereof, in excess of One Hundred Thousand Dollars  
2442 (\$100,000.00), of the value of the capital used, invested or  
2443 employed in the exercise of any power, privilege or right enjoyed  
2444 by such organization within this state, except as hereinafter  
2445 provided.

2446 (vi) For tax years beginning on or after January  
2447 1, 2022, but before January 1, 2023, One Dollar and Fifty Cents  
2448 (\$1.50) for each One Thousand Dollars (\$1,000.00), or fraction  
2449 thereof, in excess of One Hundred Thousand Dollars (\$100,000.00),  
2450 of the value of the capital used, invested or employed in the  
2451 exercise of any power, privilege or right enjoyed by such  
2452 organization within this state, except as hereinafter provided.

2453 (vii) For tax years beginning on or after January  
2454 1, 2023, but before January 1, 2024, One Dollar and Twenty-five  
2455 Cents (\$1.25) for each One Thousand Dollars (\$1,000.00), or  
2456 fraction thereof, in excess of One Hundred Thousand Dollars  
2457 (\$100,000.00), of the value of the capital used, invested or  
2458 employed in the exercise of any power, privilege or right enjoyed  
2459 by such organization within this state, except as hereinafter  
2460 provided.

2461 (viii) For tax years beginning on or after January  
2462 1, 2024, but before January 1, 2025, One Dollar (\$1.00) for each



2463 One Thousand Dollars (\$1,000.00), or fraction thereof, in excess  
2464 of One Hundred Thousand Dollars (\$100,000.00), of the value of the  
2465 capital used, invested or employed in the exercise of any power,  
2466 privilege or right enjoyed by such organization within this state,  
2467 except as hereinafter provided.

2468 (ix) For tax years beginning on or after January  
2469 1, 2025, but before January 1, 2026, Seventy-five Cents (75¢) for  
2470 each One Thousand Dollars (\$1,000.00), or fraction thereof, in  
2471 excess of One Hundred Thousand Dollars (\$100,000.00), of the value  
2472 of the capital used, invested or employed in the exercise of any  
2473 power, privilege or right enjoyed by such organization within this  
2474 state, except as hereinafter provided.

2475 (x) For tax years beginning on or after January 1,  
2476 2026, but before January 1, 2027, Fifty Cents (50¢) for each One  
2477 Thousand Dollars (\$1,000.00), or fraction thereof, in excess of  
2478 One Hundred Thousand Dollars (\$100,000.00), of the value of the  
2479 capital used, invested or employed in the exercise of any power,  
2480 privilege or right enjoyed by such organization within this state,  
2481 except as hereinafter provided.

2482 (xi) For tax years beginning on or after January  
2483 1, 2027, but before January 1, 2028, Twenty-five Cents (25¢) for  
2484 each One Thousand Dollars (\$1,000.00), or fraction thereof, in  
2485 excess of One Hundred Thousand Dollars (\$100,000.00), of the value  
2486 of the capital used, invested or employed in the exercise of any



2487 power, privilege or right enjoyed by such organization within this  
2488 state, except as hereinafter provided.

2489 (b) In no case shall the franchise tax due for the  
2490 accounting period be less than Twenty-five Dollars (\$25.00).

2491 (c) It is the purpose of this section to require the  
2492 payment to the State of Mississippi of this tax for the right  
2493 granted by the laws of this state to exist as such organization,  
2494 and to enjoy, under the protection of the laws of this state, the  
2495 powers, rights, privileges and immunities derived from the state  
2496 by the form of such existence.

2497 (2) **Annual report of domestic corporations.** Each domestic  
2498 corporation shall file an annual report as required by the  
2499 provisions of Section 79-4-16.22.

2500 (3) (a) A corporation that has negotiated a fee-in-lieu as  
2501 defined in Section 57-75-5 shall not be subject to the tax levied  
2502 by this section on such project; however, the fee-in-lieu payment  
2503 shall be otherwise treated in the same manner as the payment of  
2504 franchise taxes.

2505 (b) (i) As used in this paragraph:

2506 1. "Authority" shall have the meaning  
2507 ascribed to such term in Section 57-75-5(b);

2508 2. "Project" shall have the meaning ascribed  
2509 to such term in Section 57-75-5(f)(xxix); and

2510 3. "Enterprise" shall mean the corporation  
2511 authorized for the project pursuant to Section 57-75-5(f)(xxix).



2512                   (ii) The term of the franchise tax fee-in-lieu  
2513 agreement negotiated under this subsection and authorized by  
2514 Section 57-75-5(j), between the authority and the enterprise for  
2515 the project shall not exceed twenty-five (25) years. The  
2516 franchise tax fee-in-lieu agreement shall apply only to new  
2517 franchise tax liability attributable to the project, and shall not  
2518 apply to any existing franchise tax liability of the enterprise in  
2519 connection with any current operations in this state.

2520                   (iii) In the event that the annual number of  
2521 full-time jobs maintained by the enterprise falls below the  
2522 minimum annual number of full-time jobs required by the authority  
2523 pursuant to a written agreement between the authority and the  
2524 enterprise for two (2) consecutive years, the franchise tax  
2525 fee-in-lieu for the project shall be suspended until the first tax  
2526 year during which the annual number of full-time jobs maintained  
2527 by the enterprise reaches the minimum annual number of full-time  
2528 jobs required by the authority pursuant to a written agreement  
2529 between the authority and the enterprise.

2530                   (iv) The enterprise shall be entitled to utilize a  
2531 single sales apportionment factor in the calculation of its  
2532 liability for franchise tax imposed by this chapter which is  
2533 attributable to the project for any year for which it files a  
2534 Mississippi franchise tax return. The enterprise shall be  
2535 entitled to continue to utilize such single sales apportionment



2536 factor notwithstanding a suspension of the franchise tax  
2537 fee-in-lieu pursuant to subparagraph (iii) of this paragraph.

2538 (c) As used in this paragraph (c):

2539 (i) "Affiliated enterprise" or an "affiliate"  
2540 shall have the meaning ascribed to such term in Section  
2541 57-75-5(k) (ii);

2542 (ii) "Authority" shall have the meaning ascribed  
2543 to such term in Section 57-75-5(b);

2544 (iii) "Project" shall have the meaning ascribed to  
2545 such term in Section 57-75-5(f) (xxxi); and

2546 (iv) "Enterprise" shall mean the corporation  
2547 authorized for a particular project pursuant to Section  
2548 57-75-5(f) (xxxi), or any corporation which becomes subject to the  
2549 tax levied by this section because it is an affiliate of the  
2550 corporation or other enterprise authorized for a particular  
2551 project pursuant to Section 57-75-5(f) (xxxi).

2552 (v) The term of the franchise tax fee-in-lieu  
2553 agreement negotiated under this subsection and authorized by  
2554 Section 57-75-5(j), between the authority and the enterprise shall  
2555 expire in 2028 upon the repeal of the tax levied by this section.  
2556 The franchise tax fee-in-lieu agreement shall apply only to new  
2557 franchise tax liability attributable to the project, and shall not  
2558 apply to any existing franchise tax liability of the enterprise in  
2559 connection with any current operations in this state.



2560 (vi) In the event that the annual number of  
2561 full-time jobs maintained or caused to be maintained by the  
2562 enterprise and/or any affiliate thereof falls below the minimum  
2563 annual number of full-time jobs required by the authority pursuant  
2564 to a written agreement between the authority and the enterprise  
2565 for one or more years, the franchise tax fee-in-lieu for the  
2566 project may be reduced or suspended by the authority until the  
2567 first tax year during which the annual number of full-time jobs  
2568 maintained or caused to be maintained by the enterprise and/or its  
2569 affiliates reaches the minimum annual number of full-time jobs  
2570 required by the authority pursuant to a written agreement between  
2571 the authority and the enterprise.

2572 (vii) The enterprise shall be entitled to utilize  
2573 a single sales apportionment factor in the calculation of its  
2574 liability for franchise tax imposed by this chapter which is  
2575 attributable to the project for any year for which it files a  
2576 Mississippi franchise tax return. The enterprise shall be  
2577 entitled to continue to utilize such single sales apportionment  
2578 factor notwithstanding a suspension of the franchise tax  
2579 fee-in-lieu pursuant to subparagraph (vi) of this paragraph. In  
2580 no event shall an enterprise be entitled to utilize a single sales  
2581 apportionment factor for purposes of calculating its liability for  
2582 franchise tax imposed by this chapter attributable to any  
2583 operations or activities thereof subject to tax liability imposed  
2584 by this chapter prior to January 1, 2023, except to the extent





2585 that the enterprise is entitled to utilize a single sales  
2586 apportionment factor in the calculation of its liability for  
2587 franchise tax attributable to any operations or activities thereof  
2588 subject to tax liability imposed by this chapter prior to January  
2589 1, 2023, pursuant to any other section of law or regulation duly  
2590 adopted by the department.

2591 (4) An approved business enterprise as defined in the Growth  
2592 and Prosperity Act shall not be subject to the tax levied by this  
2593 section on the value of capital used, invested or employed by the  
2594 approved business enterprise in a growth and prosperity county or  
2595 supervisors district as provided in the Growth and Prosperity Act.

2596 (5) A business enterprise operating a project as defined in  
2597 Section 57-64-33, in a county that is a member of a regional  
2598 economic development alliance created under the Regional Economic  
2599 Development Act shall not be subject to the tax levied by this  
2600 section on the value of capital used, invested or employed by the  
2601 business enterprise in such a county as provided in Section  
2602 57-64-33.

2603 (6) The tax levied by this chapter and paid by a business  
2604 enterprise located in a redevelopment project area under Sections  
2605 57-91-1 through 57-91-11 shall be deposited into the Redevelopment  
2606 Project Incentive Fund created in Section 57-91-9.

2607 (7) A business enterprise as defined in Section 57-113-1 or  
2608 57-113-21 that is exempt from certain state taxes under Section  
2609 57-113-5 or 57-113-25 shall not be subject to the tax levied by



2610 this section on the value of capital used, invested or employed by  
2611 the business enterprise.

2612 (8) A taxpayer who is eligible to apply, as a credit against  
2613 the tax levied by this chapter, a tax credit awarded by the  
2614 Mississippi Development Authority in accordance with the  
2615 Mississippi Flexible Tax Incentive Act may apply the tax credit in  
2616 the amount available for such purpose, or such lesser amount  
2617 determined by the taxpayer, pursuant to the Mississippi Flexible  
2618 Tax Incentive Act. The credit applied for a tax-reporting period  
2619 shall be reflected on the form of the return in the manner  
2620 prescribed by the commissioner.

2621 **SECTION 17.** Section 27-31-1, Mississippi Code of 1972, is  
2622 brought forward as follows:

2623 27-31-1. The following shall be exempt from taxation:

2624 (a) All cemeteries used exclusively for burial  
2625 purposes.

2626 (b) All property, real or personal, belonging to the  
2627 State of Mississippi or any of its political subdivisions, except  
2628 property of a municipality not being used for a proper municipal  
2629 purpose and located outside the county or counties in which such  
2630 municipality is located. A proper municipal purpose within the  
2631 meaning of this section shall be any authorized governmental or  
2632 corporate function of a municipality.

2633 (c) All property, real or personal, owned by units of  
2634 the Mississippi National Guard, or title to which is vested in



2635 trustees for the benefit of any unit of the Mississippi National  
2636 Guard; provided such property is used exclusively for such unit,  
2637 or for public purposes, and not for profit.

2638 (d) All property, real or personal, belonging to any  
2639 religious society, or ecclesiastical body, or any congregation  
2640 thereof, or to any charitable society, or to any historical or  
2641 patriotic association or society, or to any garden or pilgrimage  
2642 club or association and used exclusively for such society or  
2643 association and not for profit; not exceeding, however, the amount  
2644 of land which such association or society may own as provided in  
2645 Section 79-11-33. All property, real or personal, belonging to  
2646 any foundation organized as a nonprofit corporation that is exempt  
2647 from federal income taxation under Section 501(c)(3) of the  
2648 Internal Revenue Code and that receives, invests and administers  
2649 private support for a state-supported institution of higher  
2650 learning, a public community college or junior college located in  
2651 the State of Mississippi or a nonprofit private university or  
2652 college located in the State of Mississippi, as the case may be.  
2653 For the sole purpose of applying the preceding sentence, all  
2654 property, real or personal, belonging to an entity that is wholly  
2655 owned by and controlled by such a foundation shall be treated as  
2656 belonging to the foundation. All property, real or personal,  
2657 belonging to any rural waterworks system or rural sewage disposal  
2658 system incorporated under the provisions of Section 79-11-1. All  
2659 property, real or personal, belonging to any college or



2660 institution for the education of youths, used directly and  
2661 exclusively for such purposes, provided that no such college or  
2662 institution for the education of youths shall have exempt from  
2663 taxation more than six hundred forty (640) acres of land;  
2664 provided, however, this exemption shall not apply to commercial  
2665 schools and colleges or trade institutions or schools where the  
2666 profits of same inure to individuals, associations or  
2667 corporations. All property, real or personal, belonging to an  
2668 individual, institution or corporation and used for the operation  
2669 of a grammar school, junior high school, high school or military  
2670 school. All property, real or personal, owned and occupied by a  
2671 fraternal and benevolent organization, when used by such  
2672 organization, and from which no rentals or other profits accrue to  
2673 the organization, but any part rented or from which revenue is  
2674 received shall be taxed.

2675 (e) All property, real or personal, held and occupied  
2676 by trustees of public schools, and school lands of the respective  
2677 townships for the use of public schools, and all property kept in  
2678 storage for the convenience and benefit of the State of  
2679 Mississippi in warehouses owned or leased by the State of  
2680 Mississippi, wherein said property is to be sold by the Alcoholic  
2681 Beverage Control Division of the Department of Revenue of the  
2682 State of Mississippi.

2683 (f) All property, real or personal, whether belonging  
2684 to religious or charitable or benevolent organizations, which is



2685 used for hospital purposes, and nurses' homes where a part  
2686 thereof, and which maintain one or more charity wards that are for  
2687 charity patients, and where all the income from said hospitals and  
2688 nurses' homes is used entirely for the purposes thereof and no  
2689 part of the same for profit. All property, real or personal,  
2690 belonging to a federally qualified health center where all the  
2691 income from such center is used entirely for the purposes thereof  
2692 and no part of the same for profit.

2693 (g) The wearing apparel of every person; and also  
2694 jewelry and watches kept by the owner for personal use to the  
2695 extent of One Hundred Dollars (\$100.00) in value for each owner.

2696 (h) Provisions on hand for family consumption.

2697 (i) All farm products grown in this state for a period  
2698 of two (2) years after they are harvested, when in the possession  
2699 of or the title to which is in the producer, except the tax of  
2700 one-fifth of one percent (1/5 of 1%) per pound on lint cotton now  
2701 levied by the Board of Commissioners of the Mississippi Levee  
2702 District; and lint cotton for five (5) years, and cottonseed,  
2703 soybeans, oats, rice and wheat for one (1) year regardless of  
2704 ownership.

2705 (j) All guns and pistols kept by the owner for private  
2706 use.

2707 (k) All poultry in the hands of the producer.

2708 (l) Household furniture, including all articles kept in  
2709 the home by the owner for his own personal or family use; but this



2710 shall not apply to hotels, rooming houses or rented or leased  
2711 apartments.

2712 (m) All cattle and oxen.

2713 (n) All sheep, goats and hogs.

2714 (o) All horses, mules and asses.

2715 (p) Farming tools, implements and machinery, when used  
2716 exclusively in the cultivation or harvesting of crops or timber.

2717 (q) All property of agricultural and mechanical  
2718 associations and fairs used for promoting their objects, and where  
2719 no part of the proceeds is used for profit.

2720 (r) The libraries of all persons.

2721 (s) All pictures and works of art, not kept for or  
2722 offered for sale as merchandise.

2723 (t) The tools of any mechanic necessary for carrying on  
2724 his trade.

2725 (u) All state, county, municipal, levee, drainage and  
2726 all school bonds or other governmental obligations, and all bonds  
2727 and/or evidences of debts issued by any church or church  
2728 organization in this state, and all notes and evidences of  
2729 indebtedness which bear a rate of interest not greater than the  
2730 maximum rate per annum applicable under the law; and all money  
2731 loaned at a rate of interest not exceeding the maximum rate per  
2732 annum applicable under the law; and all stock in or bonds of  
2733 foreign corporations or associations shall be exempt from all ad  
2734 valorem taxes.



2735           (v) All lands and other property situated or located  
2736 between the Mississippi River and the levee shall be exempt from  
2737 the payment of any and all road taxes levied or assessed under any  
2738 road laws of this state.

2739           (w) Any and all money on deposit in either national  
2740 banks, state banks or trust companies, on open account, savings  
2741 account or time deposit.

2742           (x) All wagons, carts, drays, carriages and other  
2743 horse-drawn vehicles, kept for the use of the owner.

2744           (y) (i) Boats, seines and fishing equipment used in  
2745 fishing and shrimping operations and in the taking or catching of  
2746 oysters.

2747           (ii) All towboats, tugboats and barges documented  
2748 under the laws of the United States, except watercraft of every  
2749 kind and character used in connection with gaming operations.

2750           (z) (i) All materials used in the construction and/or  
2751 conversion of vessels in this state;

2752           (ii) Vessels while under construction and/or  
2753 conversion;

2754           (iii) Vessels while in the possession of the  
2755 manufacturer, builder or converter, for a period of twelve (12)  
2756 months after completion of construction and/or conversion;  
2757 however, the twelve-month limitation shall not apply to:



2758                   1. Vessels used for the exploration for, or  
2759 production of, oil, gas and other minerals offshore outside the  
2760 boundaries of this state; or

2761                   2. Vessels that were used for the exploration  
2762 for, or production of, oil, gas and other minerals that are  
2763 converted to a new service for use outside the boundaries of this  
2764 state;

2765                   (iv) 1. In order for a vessel described in  
2766 subparagraph (iii) of this paragraph (z) to be exempt for a period  
2767 of more than twelve (12) months, the vessel must:

2768                   a. Be operating or operable, generating  
2769 or capable of generating its own power or connected to some other  
2770 power source, and not removed from the service or use for which  
2771 manufactured or to which converted; and

2772                   b. The manufacturer, builder, converter  
2773 or other entity possessing the vessel must be in compliance with  
2774 any lease or other agreement with any applicable port authority or  
2775 other entity regarding the vessel and in compliance with all  
2776 applicable tax laws of this state and applicable federal tax laws.

2777                   2. A vessel exempt from taxation under  
2778 subparagraph (iii) of this paragraph (z) may not be exempt for a  
2779 period of more than three (3) years unless the board of  
2780 supervisors of the county and/or governing authorities of the  
2781 municipality, as the case may be, in which the vessel would  
2782 otherwise be taxable adopts a resolution or ordinance authorizing





2783 the extension of the exemption and setting a maximum period for  
2784 the exemption.

2785 (v) As used in this paragraph (z), the term  
2786 "vessel" includes ships, offshore drilling equipment, dry docks,  
2787 boats and barges, except watercraft of every kind and character  
2788 used in connection with gaming operations.

2789 (aa) Sixty-six and two-thirds percent (66-2/3%) of  
2790 nuclear fuel and reprocessed, recycled or residual nuclear fuel  
2791 by-products, fissionable or otherwise, used or to be used in  
2792 generation of electricity by persons defined as public utilities  
2793 in Section 77-3-3.

2794 (bb) All growing nursery stock.

2795 (cc) A semitrailer used in interstate commerce.

2796 (dd) All property, real or personal, used exclusively  
2797 for the housing of and provision of services to elderly persons,  
2798 disabled persons, mentally impaired persons or as a nursing home,  
2799 which is owned, operated and managed by a not-for-profit  
2800 corporation, qualified under Section 501(c)(3) of the Internal  
2801 Revenue Code, whose membership or governing body is appointed or  
2802 confirmed by a religious society or ecclesiastical body or any  
2803 congregation thereof.

2804 (ee) All vessels while in the hands of bona fide  
2805 dealers as merchandise and which are not being operated upon the  
2806 waters of this state shall be exempt from ad valorem taxes. As  
2807 used in this paragraph, the terms "vessel" and "waters of this



2808 state" shall have the meaning ascribed to such terms in Section  
2809 59-21-3.

2810 (ff) All property, real or personal, owned by a  
2811 nonprofit organization that: (i) is qualified as tax exempt under  
2812 Section 501(c)(4) of the Internal Revenue Code of 1986, as  
2813 amended; (ii) assists in the implementation of the national  
2814 contingency plan or area contingency plan, and which is created in  
2815 response to the requirements of Title IV, Subtitle B of the Oil  
2816 Pollution Act of 1990, Public Law 101-380; (iii) engages primarily  
2817 in programs to contain, clean up and otherwise mitigate spills of  
2818 oil or other substances occurring in the United States coastal or  
2819 tidal waters; and (iv) is used for the purposes of the  
2820 organization.

2821 (gg) If a municipality changes its boundaries so as to  
2822 include within the boundaries of such municipality the project  
2823 site of any project as defined in Section 57-75-5(f)(iv)1, Section  
2824 57-75-5(f)(xxi) or Section 57-75-5(f)(xxviii) or Section  
2825 57-75-5(f)(xxix), all real and personal property located on the  
2826 project site within the boundaries of such municipality that is  
2827 owned by a business enterprise operating such project, shall be  
2828 exempt from ad valorem taxation for a period of time not to exceed  
2829 thirty (30) years upon receiving approval for such exemption by  
2830 the Mississippi Major Economic Impact Authority. The provisions  
2831 of this paragraph shall not be construed to authorize a breach of  
2832 any agreement entered into pursuant to Section 21-1-59.



2833 (hh) All leases, lease contracts or lease agreements  
2834 (including, but not limited to, subleases, sublease contracts and  
2835 sublease agreements), and leaseholds or leasehold interests  
2836 (including, but not limited to, subleaseholds and subleasehold  
2837 interests), of or with respect to any and all property (real,  
2838 personal or mixed) constituting all or any part of a facility for  
2839 the manufacture, production, generation, transmission and/or  
2840 distribution of electricity, and any real property related  
2841 thereto, shall be exempt from ad valorem taxation during the  
2842 period as the United States is both the title owner of the  
2843 property and a sublessee of or with respect to the property;  
2844 however, the exemption authorized by this paragraph (hh) shall not  
2845 apply to any entity to whom the United States sub-subleases its  
2846 interest in the property nor to any entity to whom the United  
2847 States assigns its sublease interest in the property. As used in  
2848 this paragraph, the term "United States" includes an agency or  
2849 instrumentality of the United States of America. This paragraph  
2850 (hh) shall apply to all assessments for ad valorem taxation for  
2851 the 2003 calendar year and each calendar year thereafter.

2852 (ii) All property, real, personal or mixed, including  
2853 fixtures and leaseholds, used by Mississippi nonprofit entities  
2854 qualified, on or before January 1, 2005, under Section 501(c)(3)  
2855 of the Internal Revenue Code to provide support and operate  
2856 technology incubators for research and development start-up  
2857 companies, telecommunication startup companies and/or other



2858 technology startup companies, utilizing technology spun-off from  
2859 research and development activities of the public colleges and  
2860 universities of this state, State of Mississippi governmental  
2861 research or development activities resulting therefrom located  
2862 within the State of Mississippi.

2863 (jj) All property, real, personal or mixed, including  
2864 fixtures and leaseholds, of start-up companies (as described in  
2865 paragraph (ii) of this section) for the period of time, not to  
2866 exceed five (5) years, that the startup company remains a tenant  
2867 of a technology incubator (as described in paragraph (ii) of this  
2868 section).

2869 (kk) All leases, lease contracts or lease agreements  
2870 (including, but not limited to, subleases, sublease contracts and  
2871 sublease agreements), and leaseholds or leasehold interests, of or  
2872 with respect to any and all property (real, personal or mixed)  
2873 constituting all or any part of an auxiliary facility, and any  
2874 real property related thereto, constructed or renovated pursuant  
2875 to Section 37-101-41, Mississippi Code of 1972.

2876 (ll) Equipment brought into the state temporarily for  
2877 use during a disaster response period as provided in Sections  
2878 27-113-1 through 27-113-9 and subsequently removed from the state  
2879 on or before the end of the disaster response period as defined in  
2880 Section 27-113-5.

2881 (mm) For any lease or contractual arrangement to which  
2882 the Department of Finance and Administration and a nonprofit



2883 corporation are a party to as provided in Section 39-25-1(5), the  
2884 nonprofit corporation shall, along with the possessory and  
2885 leasehold interests and/or real and personal property of the  
2886 corporation, be exempt from all ad valorem taxation, including,  
2887 but not limited to, school, city and county ad valorem taxes, for  
2888 the term or period of time stated in the lease or contractual  
2889 arrangement.

2890 (nn) All property, real or personal, that is owned,  
2891 operated and managed by a not-for-profit corporation qualified under  
2892 Section 501(c) (3) of the Internal Revenue Code, and used to provide,  
2893 free of charge, (i) a practice facility for a public school district  
2894 swim team, and (ii) a facility for another not-for-profit  
2895 organization as defined under Section 501(c) (3) of the Internal  
2896 Revenue Code to conduct water safety and lifeguard training programs.  
2897 This section shall not apply to real or personal property owned by a  
2898 country club, tennis club with a pool, or any club requiring stock  
2899 ownership for membership.

2900 **SECTION 18.** Section 31-3-5, Mississippi Code of 1972, is  
2901 brought forward as follows:

2902 31-3-5. The board shall be assigned suitable office space at  
2903 the seat of government and shall elect one (1) of its members as  
2904 chairman and one (1) as vice chairman; and each shall perform the  
2905 usual duties of such offices. The board may adopt a seal. Six  
2906 (6) members of the board shall constitute a quorum, and a majority  
2907 vote of those present and voting at any meeting shall be necessary



2908 for the transaction of any business coming before the board.  
2909 Members must be present to cast votes on any and all business.  
2910 The executive director shall serve as secretary of the board. The  
2911 board is authorized to employ such personnel as shall be necessary  
2912 in the performance of its duties including sufficient  
2913 administrative and clerical staff to process and review  
2914 applications for certificates of responsibility, to prepare and  
2915 administer tests therefor, to investigate applications for  
2916 certificates of responsibility and to inspect work performed by  
2917 contractors as may be necessary to enforce and carry out the  
2918 purpose of this chapter.

2919         **SECTION 19.** Section 31-3-21, Mississippi Code of 1972, is  
2920 brought forward as follows:

2921         31-3-21. (1) It shall be unlawful for any person who does  
2922 not hold a certificate of responsibility issued under this chapter  
2923 to submit a bid, enter into a contract, or otherwise engage in or  
2924 continue in this state in the business of a contractor, as defined  
2925 in this chapter. Any bid which is submitted without a certificate  
2926 of responsibility number issued under this chapter and without  
2927 that number appearing on the exterior of the bid envelope, as and  
2928 if herein required, at the time designated for the opening of such  
2929 bid, shall not be considered further, and the person or public  
2930 agency soliciting bids shall not enter into a contract with a  
2931 contractor submitting a bid in violation of this section. In  
2932 addition, any person violating this section by knowingly and



2933 willfully submitting a bid for projects without holding a  
2934 certificate of responsibility number issued under this chapter, as  
2935 and if herein required, at the time of the submission or opening  
2936 of such bid shall be guilty of a misdemeanor and, upon conviction,  
2937 shall be punished by a fine of not more than One Thousand Dollars  
2938 (\$1,000.00), or by imprisonment for not more than six (6) months,  
2939 or by both such fine and imprisonment.

2940 (2) All bids submitted for public or private projects where  
2941 the bid is in excess of Fifty Thousand Dollars (\$50,000.00) shall  
2942 contain on the outside or exterior of the envelope or container of  
2943 such bid the contractor's current certificate number, and no bid  
2944 shall be opened or considered unless such contractor's current  
2945 certificate number appears on the outside or exterior of said  
2946 envelope or container, or unless there appears a statement on the  
2947 outside or exterior of such envelope or container to the effect  
2948 that the bid enclosed therewith did not exceed Fifty Thousand  
2949 Dollars (\$50,000.00) with respect to public or private projects.  
2950 Any person violating the provisions of this subsection shall be  
2951 guilty of a misdemeanor and, upon conviction, shall be punished by  
2952 a fine of not more than One Thousand Dollars (\$1,000.00), or by  
2953 imprisonment for not more than six (6) months, or by both such  
2954 fine and imprisonment.

2955 (3) In the letting of public contracts preference shall be  
2956 given to resident contractors, and a nonresident bidder domiciled  
2957 in a state having laws granting preference to local contractors



2958 shall be awarded Mississippi public contracts only on the same  
2959 basis as the nonresident bidder's state awards contracts to  
2960 Mississippi contractors bidding under similar circumstances; and  
2961 resident contractors actually domiciled in Mississippi, be they  
2962 corporate, individuals, or partnerships, are to be granted  
2963 preference over nonresidents in awarding of contracts in the same  
2964 manner and to the same extent as provided by the laws of the state  
2965 of domicile of the nonresident. When a nonresident contractor  
2966 submits a bid for a public project, he shall attach thereto a copy  
2967 of his resident state's current preference law, if any, pertaining  
2968 to such state's treatment of nonresident contractors. Any bid  
2969 submitted by a nonresident contractor which does not include the  
2970 nonresident contractor's current state law shall be rejected and  
2971 not considered for award. As used in this section, the term  
2972 "resident contractors" includes a nonresident person, firm or  
2973 corporation that has been qualified to do business in this state  
2974 and has maintained a permanent full-time office in the State of  
2975 Mississippi for two (2) years prior to submission of the bid and  
2976 the subsidiaries and affiliates of such a person, firm or  
2977 corporation. Any public agency awarding a contract shall promptly  
2978 report to the Department of Revenue the following information:  
2979 (a) The amount of the contract.  
2980 (b) The name and address of the contractor reviewing  
2981 the contract.  
2982 (c) The name and location of the project.





2983           (4) In addition to any other penalties provided in this  
2984 chapter, and upon a finding of a violation of this chapter, the  
2985 State Board of Contractors may, after notice and hearing, issue an  
2986 order of abatement directing the contractor to cease all actions  
2987 constituting violations of this chapter until such time as the  
2988 contractor complies with Mississippi state law, and to pay to the  
2989 board a civil penalty to be deposited into the State Board of  
2990 Contractors Fund, created in Section 31-3-17, of not more than  
2991 three percent (3%) of the total contract being performed by the  
2992 contractor. In addition to, or in lieu of, such civil penalty,  
2993 the board may issue a public or private reprimand. The funds  
2994 collected from civil penalty payments shall be used by the State  
2995 Board of Contractors for enforcement and education.

2996           **SECTION 20.** Section 31-5-51, Mississippi Code of 1972, is  
2997 brought forward as follows:

2998           31-5-51. (1) Any person entering into a formal contract  
2999 with the state or any county, city or political subdivision  
3000 thereof, or other public authority for the construction,  
3001 alteration, or repair of any public building or public work,  
3002 before entering into such contract, shall furnish to such public  
3003 body, except as provided in subsection (5) of this section, bonds  
3004 with good and sufficient surety as follows:

3005           (a) A performance bond payable to, in favor of or for  
3006 the protection of such public body, as owner, for the work to be



3007 done in an amount not less than the amount of the contract,  
3008 conditioned for the full and faithful performance of the contract;

3009 (b) A payment bond payable to such public body but  
3010 conditioned for the prompt payment of all persons supplying labor  
3011 or material used in the prosecution of the work under said  
3012 contract, for the use of each such person, in an amount not less  
3013 than the amount of the contract; and

3014 (c) The bonds herein provided for may be made by any  
3015 surety company which is authorized to do business in the State of  
3016 Mississippi and listed on the United States Treasury Department's  
3017 list of acceptable sureties, or such bonds may be guaranteed by a  
3018 personal surety as provided for herein. The personal surety shall  
3019 deposit with the State Treasurer cash or certificates of deposit  
3020 in an amount not less than the amount of the contract, and the  
3021 State Treasurer shall hold same in trust and on deposit for the  
3022 benefit of the public body that is a party to the contract  
3023 providing for the construction, alteration or repair of the public  
3024 building or for the public work.

3025 (2) Every person who has furnished labor or material used in  
3026 the prosecution of the work provided for in such contract, in  
3027 respect of which a payment bond is furnished and who has not been  
3028 paid in full therefor before the expiration of a period of ninety  
3029 (90) days after the date on which the last of the labor was  
3030 performed by him or the last of the materials was furnished by him  
3031 and for which such claim is made, provided the same has been



3032 approved, where required, by the public authority or its architect  
3033 or engineers, or such approval is being withheld as a result of  
3034 unreasonable acts of the contractor, shall have the right to sue  
3035 on such payment bond for the amount, or the balance thereof that  
3036 is due and payable, but unpaid at the time of institution of such  
3037 suit and to prosecute said action to final execution and judgment.  
3038 Notwithstanding anything to the contrary contained herein, if the  
3039 amount claimed in such action is subject to contractual provisions  
3040 or conditions, between the parties involved in such action, the  
3041 action shall be abated pending the performance of such provisions  
3042 and the fulfillment of such conditions.

3043 (3) Any person having direct contractual relationship with a  
3044 subcontractor but no contractual relationship express or implied  
3045 with the contractor furnishing said payment bond shall have a  
3046 right of action upon the said payment bond upon giving written  
3047 notice to said contractor within ninety (90) days from the date on  
3048 which such person did or performed the last of the labor or  
3049 furnished or supplied the last of the material for which such  
3050 claim is made, stating with substantial accuracy the amount  
3051 claimed and the name of the party to whom the material was  
3052 furnished or supplied or for whom the labor was done or performed.  
3053 Such notice shall be given in writing by the claimant to the  
3054 contractor or surety at any place where the contractor or surety  
3055 maintains an office or conducts business. Such notice may be  
3056 personally delivered by the claimant to the contractor or surety,



3057 or it may be mailed by certified mail, return receipt requested,  
3058 postage prepaid, to the contractor or surety. No such action may  
3059 be maintained by any person not having a direct contractual  
3060 relationship with the contractor-principal, unless the notice  
3061 required by this section shall have been given.

3062 (4) The only persons protected by such payment bond, subject  
3063 to the notice provisions of this section are:

3064 (a) Subcontractors and material suppliers of the  
3065 contractor;

3066 (b) Sub-subcontractors and material suppliers of those  
3067 subcontractors named in subsection (4)(a) of this section; and

3068 (c) Laborers who have performed work on the project  
3069 site.

3070 (5) Whenever a contract is less than Twenty-five Thousand  
3071 Dollars (\$25,000.00) the owners may elect to make a lump sum  
3072 payment at the completion of the job. Lump sum payments will not  
3073 be made until completion and acceptance by the governing agency.  
3074 In such a case a performance bond or payment bond will not be  
3075 required.

3076 (6) Except as otherwise provided in subsection (1)(c) for a  
3077 personal surety, no surety or surety company shall be allowed to  
3078 guarantee or write bonds for the benefit of the public body that  
3079 is a party to a contract providing for the construction,  
3080 alteration or repair of a public building or for public work,  
3081 unless that surety is listed on the United States Treasury



3082 Department's list of acceptable sureties. If the surety is not  
3083 listed on the United States Treasury Department's list of  
3084 acceptable sureties, the public body for which the public work is  
3085 being performed shall be liable to the extent that the surety  
3086 would be liable.

3087 (7) Any person entering into a formal contract with the  
3088 state which exceeds Five Thousand Dollars (\$5,000.00), or with a  
3089 county, city or other public authority which exceeds Twenty-five  
3090 Thousand dollars (\$25,000.00), for the construction, alteration,  
3091 or repair of any public building or public work, before entering  
3092 into such contract, shall furnish to the public body proof of  
3093 general liability insurance coverage in an amount not less than  
3094 One Million Dollars (\$1,000,000.00) for bodily injury and property  
3095 damage. Exempted from the provisions of this subsection are any  
3096 persons who enter into a contract with the Mississippi Department  
3097 of Rehabilitation Services for the construction, alteration or  
3098 repair of the home of a disabled individual who has been  
3099 determined eligible for services by the Mississippi Department of  
3100 Rehabilitation Services.

3101 **SECTION 21.** Section 31-7-1, Mississippi Code of 1972, is  
3102 brought forward as follows:

3103 31-7-1. The following terms are defined for the purposes of  
3104 this chapter to have the following meanings:

3105 (a) "Agency" means any state board, commission,  
3106 committee, council, university, department or unit thereof created



3107 by the Constitution or statutes if such board, commission,  
3108 committee, council, university, department, unit or the head  
3109 thereof is authorized to appoint subordinate staff by the  
3110 Constitution or statute, except a legislative or judicial board,  
3111 commission, committee, council, department or unit thereof; except  
3112 a charter school authorized by the Mississippi Charter School  
3113 Authorizer Board; and except the Mississippi State Port Authority;  
3114 except the Mississippi School of the Arts (MSA) established in  
3115 Section 37-140-1 et seq. for the sole purpose of the application  
3116 of the term "agency" as it pertains to the Public Procurement  
3117 Review Board's powers and responsibilities as defined in Section  
3118 27-104-7(2) (a), but without application to the use of the term  
3119 within this chapter, effective July 1, 2020; and except the  
3120 Mississippi School for the Blind and the Mississippi School for  
3121 the Deaf (MSBD) for the sole purpose of the application of the  
3122 term "agency" as it pertains to the Public Procurement Review  
3123 Board's powers and responsibilities as defined in Section  
3124 27-104-7(2) (a), but without application to the use of the term  
3125 within this chapter, effective July 1, 2021. An academic medical  
3126 center or health sciences school as defined in Section 37-115-50  
3127 is not an "agency" for those purchases of commodities as defined  
3128 in this section that are used for clinical purposes and (i)  
3129 intended for use in the diagnosis of disease or other conditions  
3130 or in the cure, mitigation, treatment or prevention of disease,  
3131 and (ii) medical devices, biological, drugs and radiation emitting



3132 devices as defined by the United States Food and Drug  
3133 Administration.

3134           (b) "Governing authority" means boards of supervisors,  
3135 governing boards of all school districts, all boards of directors  
3136 of public water supply districts, boards of directors of master  
3137 public water supply districts, municipal public utility  
3138 commissions, governing authorities of all municipalities, port  
3139 authorities, Mississippi State Port Authority, commissioners and  
3140 boards of trustees of any public hospitals, boards of trustees of  
3141 public library systems, district attorneys, school attendance  
3142 officers and any political subdivision of the state supported  
3143 wholly or in part by public funds of the state or political  
3144 subdivisions thereof, including commissions, boards and agencies  
3145 created or operated under the authority of any county or  
3146 municipality of this state. The term "governing authority" shall  
3147 not include economic development authorities supported in part by  
3148 private funds, or commissions appointed to hold title to and  
3149 oversee the development and management of lands and buildings  
3150 which are donated by private individuals to the public for the use  
3151 and benefit of the community and which are supported in part by  
3152 private funds. The term "governing authority" also shall not  
3153 include the governing board of a charter school. The term  
3154 "governing authority" also shall not include the Mississippi  
3155 School of the Arts established in Section 37-140-1 et seq., for  
3156 the sole purpose of the application of the term "agency" as it



3157 pertains to the Public Procurement Review Board's powers and  
3158 responsibilities as defined in Section 27-104-7(2) (a), but without  
3159 application to the use of the term within this chapter, effective  
3160 July 1, 2020. The term "governing authority" also shall not  
3161 include the Mississippi School for the Blind and the Mississippi  
3162 School for the Deaf (MSBD) for the sole purpose of the application  
3163 of the term "governing authority" as it pertains to the Public  
3164 Procurement Review Board's powers and responsibilities as defined  
3165 in Section 27-104-7(2) (a), but without application to the use of  
3166 the term within this chapter, effective July 1, 2021.

3167 (c) "Purchasing agent" means any administrator,  
3168 superintendent, purchase clerk or other chief officer so  
3169 designated having general or special authority to negotiate for  
3170 and make private contract for or purchase for any governing  
3171 authority or agency, including issue purchase orders, invitations  
3172 for bid, requests for proposals, and receive and accept bids.

3173 (d) "Public funds" means and includes any appropriated  
3174 funds, special funds, fees or any other emoluments received by an  
3175 agency or governing authority.

3176 (e) "Commodities" means and includes the various  
3177 commodities, goods, merchandise, furniture, equipment, automotive  
3178 equipment of every kind, and other personal property purchased by  
3179 the agencies of the state and governing authorities, but not  
3180 commodities purchased for resale or raw materials converted into  
3181 products for resale.





3182 (i) "Equipment" shall be construed to include:  
3183 automobiles, trucks, tractors, office appliances and all other  
3184 equipment of every kind and description.

3185 (ii) "Furniture" shall be construed to include:  
3186 desks, chairs, tables, seats, filing cabinets, bookcases and all  
3187 other items of a similar nature as well as dormitory furniture,  
3188 appliances, carpets and all other items of personal property  
3189 generally referred to as home, office or school furniture.

3190 (f) "Emergency" means any circumstances caused by fire,  
3191 flood, explosion, storm, earthquake, epidemic, riot, insurrection  
3192 or caused by any inherent defect due to defective construction, or  
3193 when the immediate preservation of order or of public health is  
3194 necessary by reason of unforeseen emergency, or when the immediate  
3195 restoration of a condition of usefulness of any public building,  
3196 equipment, road or bridge appears advisable, or in the case of a  
3197 public utility when there is a failure of any machine or other  
3198 thing used and useful in the generation, production or  
3199 distribution of electricity, water or natural gas, or in the  
3200 transportation or treatment of sewage; or when the delay incident  
3201 to obtaining competitive bids could cause adverse impact upon the  
3202 governing authorities or agency, its employees or its citizens; or  
3203 in the case of a public airport, when the delay incident to  
3204 publishing an advertisement for competitive bids would endanger  
3205 public safety in a specific (not general) manner, result in or



3206 perpetuate a specific breach of airport security, or prevent the  
3207 airport from providing specific air transportation services.

3208 (g) "Construction" means the process of building,  
3209 altering, improving, renovating or demolishing a public structure,  
3210 public building, or other public real property. It does not  
3211 include routine operation, routine repair or regularly scheduled  
3212 maintenance of existing public structures, public buildings or  
3213 other public real property.

3214 (h) "Purchase" means buying, renting, leasing or  
3215 otherwise acquiring.

3216 (i) "Certified purchasing office" means any purchasing  
3217 office in which fifty percent (50%) or more of the purchasing  
3218 agents hold a certification from the Universal Public Purchasing  
3219 Certification Council or other nationally recognized purchasing  
3220 certification, and in which, in the case of a state agency  
3221 purchasing office, in addition to the national certification, one  
3222 hundred percent (100%) of the purchasing officials hold a  
3223 certification from the State of Mississippi's Basic or Advanced  
3224 Purchasing Certification Program.

3225 (j) "Certified Mississippi Purchasing Agent" means a  
3226 state agency purchasing official who holds a certification from  
3227 the Mississippi Basic Purchasing Certification Program as  
3228 established by the Office of Purchasing, Travel and Fleet  
3229 Management.



3230 (k) "Certified Mississippi Procurement Manager" means a  
3231 state agency purchasing official who holds a certification from  
3232 the Mississippi Advanced Purchasing Certification Program as  
3233 established by the Office of Purchasing, Travel and Fleet  
3234 Management.

3235 **SECTION 22.** Section 31-7-3, Mississippi Code of 1972, is  
3236 brought forward as follows:

3237 31-7-3. The Department of Finance and Administration shall  
3238 administer the provisions of this chapter.

3239 The purposes or aims of the Department of Finance and  
3240 Administration in carrying out said provisions shall be to  
3241 coordinate and promote efficiency and economy in the purchase of  
3242 commodities by the agencies of the state.

3243 **SECTION 23.** Section 31-7-5, Mississippi Code of 1972, is  
3244 brought forward as follows:

3245 31-7-5. The Department of Finance and Administration shall  
3246 prescribe rules and regulations governing the manner in which the  
3247 authority and duties granted to it by law may be carried out. It  
3248 shall employ suitable and competent personnel, necessary to carry  
3249 out its purposes. The Department of Finance and Administration  
3250 may establish an Office of Purchasing, Travel and Fleet Management  
3251 and employ a competent person as Director of the Office of  
3252 Purchasing, Travel and Fleet Management who shall be nonstate  
3253 service and paid a salary as determined by the Executive Director



3254 of the Department of Finance and Administration with the approval  
3255 of the State Personnel Board.

3256         **SECTION 24.** Section 31-7-7, Mississippi Code of 1972, is  
3257 brought forward as follows:

3258         31-7-7. Through its director and other supervisory personnel  
3259 and, upon its request, through the agencies of the state, the  
3260 Office of General Services shall supervise the performance of the  
3261 following duties imposed upon it by this chapter:

3262             (a) A study of the purchases of commodities by the  
3263 agencies of the state; the compilation, exchange and coordination  
3264 of information concerning same; and the distribution of such  
3265 information to the agencies and governing authorities requesting  
3266 same.

3267             (b) The planning and coordination of purchases in  
3268 volume for the agencies in order to take advantage of and secure  
3269 the economies possible by volume purchasing; the arrangement of  
3270 agreements between agencies and between governing authorities  
3271 whereby one may make a purchase or purchases for the other or  
3272 whereby an agency may make a purchase for a governing authority;  
3273 the arrangement of agreements whereby purchases of commodities can  
3274 be made between an agency and another agency or governing  
3275 authority at a fair price, less depreciated value; the  
3276 negotiations and execution of purchasing agreements and contracts  
3277 through and under which the Office of General Services may require  
3278 state agencies to purchase; and the obtaining or establishment of



3279 methods for obtaining of competitive bid prices upon which any  
3280 agency of the state may purchase at the price approved by the  
3281 Office of General Services.

3282 (c) The arrangement of provisions in purchase contracts  
3283 of the state, or any agency, providing that the same price for  
3284 which a commodity is available to an agency, may also, during the  
3285 period of time provided therein, be available to any governing  
3286 authority.

3287 **SECTION 25.** Section 31-7-9, Mississippi Code of 1972, is  
3288 brought forward as follows:

3289 31-7-9. (1) (a) The Office of Purchasing, Travel and Fleet  
3290 Management shall adopt purchasing regulations governing the  
3291 purchase by any agency of any commodity or commodities and  
3292 establishing standards and specifications for a commodity or  
3293 commodities and the maximum fair prices of a commodity or  
3294 commodities, subject to the approval of the Public Procurement  
3295 Review Board. It shall have the power to amend, add to or  
3296 eliminate purchasing regulations. The adoption of, amendment,  
3297 addition to or elimination of purchasing regulations shall be  
3298 based upon a determination by the Office of Purchasing, Travel and  
3299 Fleet Management with the approval of the Public Procurement  
3300 Review Board, that such action is reasonable and practicable and  
3301 advantageous to promote efficiency and economy in the purchase of  
3302 commodities by the agencies of the state. Upon the adoption of  
3303 any purchasing regulation, or an amendment, addition or



3304 elimination therein, copies of same shall be furnished to the  
3305 State Auditor and to all agencies affected thereby. Thereafter,  
3306 and except as otherwise may be provided in subsection (2) of this  
3307 section, no agency of the state shall purchase any commodities  
3308 covered by existing purchasing regulations unless such commodities  
3309 be in conformity with the standards and specifications set forth  
3310 in the purchasing regulations and unless the price thereof does  
3311 not exceed the maximum fair price established by such purchasing  
3312 regulations. The Office of Purchasing, Travel and Fleet  
3313 Management shall furnish to any county or municipality or other  
3314 local public agency of the state requesting same, copies of  
3315 purchasing regulations adopted by the Office of Purchasing, Travel  
3316 and Fleet Management and any amendments, changes or eliminations  
3317 of same that may be made from time to time.

3318 (b) The Office of Purchasing, Travel and Fleet  
3319 Management may adopt purchasing regulations governing the use of  
3320 credit cards, procurement cards and purchasing club membership  
3321 cards to be used by state agencies, governing authorities of  
3322 counties and municipalities, school districts and the Chickasawhay  
3323 Natural Gas District. Use of the cards shall be in strict  
3324 compliance with the regulations promulgated by the office. Any  
3325 amounts due on the cards shall incur interest charges as set forth  
3326 in Section 31-7-305 and shall not be considered debt.

3327 (c) Pursuant to the provision of Section 37-61-33(3),  
3328 the Office of Purchasing, Travel and Fleet Management of the



3329 Department of Finance and Administration is authorized to issue  
3330 procurement cards or credentials for a digital solution to all  
3331 public school district classroom teachers, full- or part-time  
3332 gifted or special education teachers and other necessary direct  
3333 support personnel at the beginning of the school year, but no  
3334 later than August 1 of each year, for the purchase of  
3335 instructional supplies using Educational Enhancement Funds. The  
3336 cards will be issued in equal amounts per teacher determined by  
3337 the total number of qualifying personnel and the then current  
3338 state appropriation for classroom instructional supplies under the  
3339 Education Enhancement Fund. All purchases shall be in accordance  
3340 with state law and teachers are responsible for verification of  
3341 capital asset requirements when pooling monies to purchase  
3342 equipment. The cards will expire on a predetermined date at the  
3343 end of each school year, but not before April 1 of each year. All  
3344 unexpended amounts will be carried forward, to be combined with  
3345 the following year's instructional supply fund allocation, and  
3346 reallocated for the following year. The Department of Finance and  
3347 Administration is authorized to loan any start-up funds at the  
3348 beginning of the school year to fund this procurement system for  
3349 instructional supplies with loan repayment being made from sales  
3350 tax receipts earmarked for the Education Enhancement Fund.

3351 (d) In a sale of goods or services, the seller shall  
3352 not impose a surcharge on a buyer who uses a state-issued credit  
3353 card, procurement card, travel card, or fuel card. The Department



3354 of Finance and Administration shall have exclusive jurisdiction to  
3355 enforce and adopt rules relating to this paragraph. Any rules  
3356 adopted under this paragraph shall be consistent with federal laws  
3357 and regulations governing credit card transactions described by  
3358 this paragraph. This paragraph does not create a cause of action  
3359 against an individual for a violation of this paragraph.

3360 (2) The Office of Purchasing, Travel and Fleet Management  
3361 shall adopt, subject to the approval of the Public Procurement  
3362 Review Board, purchasing regulations governing the purchase of  
3363 unmarked vehicles to be used by the Bureau of Narcotics and  
3364 Department of Public Safety in official investigations pursuant to  
3365 Section 25-1-87. Such regulations shall ensure that purchases of  
3366 such vehicles shall be at a fair price and shall take into  
3367 consideration the peculiar needs of the Bureau of Narcotics and  
3368 Department of Public Safety in undercover operations.

3369 (3) The Office of Purchasing, Travel and Fleet Management  
3370 shall adopt, subject to the approval of the Public Procurement  
3371 Review Board, regulations governing the certification process for  
3372 certified purchasing offices, including the Mississippi Purchasing  
3373 Certification Program, which shall be required of all purchasing  
3374 agents at state agencies. Such regulations shall require entities  
3375 desiring to be classified as certified purchasing offices to  
3376 submit applications and applicable documents on an annual basis,  
3377 and in the case of a state agency purchasing office, to have one  
3378 hundred percent (100%) participation and completion by purchasing





3379 agents in the Mississippi Purchasing Certification Program, at  
3380 which time the Office of Purchasing, Travel and Fleet Management  
3381 may provide the governing entity with a certification valid for  
3382 one (1) year from the date of issuance. The Office of Purchasing,  
3383 Travel and Fleet Management shall set a fee in an amount that  
3384 recovers its costs to administer the Mississippi Purchasing  
3385 Certification Program, which shall be assessed to the  
3386 participating state agencies.

3387 (4) The Office of Purchasing, Travel and Fleet Management  
3388 shall adopt purchasing regulations authorizing rural water  
3389 associations to purchase at the state contract price afforded to  
3390 agencies and governing authorities under this chapter.

3391 **SECTION 26.** Section 31-7-10, Mississippi Code of 1972, is  
3392 brought forward as follows:

3393 31-7-10. (1) For the purposes of this section, the term  
3394 "equipment" shall mean equipment, furniture, and if applicable,  
3395 associated software and other applicable direct costs associated  
3396 with the acquisition. In addition to its other powers and duties,  
3397 the Department of Finance and Administration shall have the  
3398 authority to develop a master lease-purchase program and, pursuant  
3399 to that program, shall have the authority to execute on behalf of  
3400 the state master lease-purchase agreements for equipment to be  
3401 used by an agency, as provided in this section. Each agency  
3402 electing to acquire equipment by a lease-purchase agreement shall  
3403 participate in the Department of Finance and Administration's



3404 master lease-purchase program, unless the Department of Finance  
3405 and Administration makes a determination that such equipment  
3406 cannot be obtained under the program or unless the equipment can  
3407 be obtained elsewhere at an overall cost lower than that for which  
3408 the equipment can be obtained under the program. Such  
3409 lease-purchase agreements may include the refinancing or  
3410 consolidation, or both, of any state agency lease-purchase  
3411 agreements entered into after June 30, 1990.

3412 (2) All funds designated by agencies for procurement of  
3413 equipment and financing thereof under the master lease-purchase  
3414 program shall be paid into a special fund created in the State  
3415 Treasury known as the "Master Lease-Purchase Program Fund," which  
3416 shall be used by the Department of Finance and Administration for  
3417 payment to the lessors for equipment acquired under master  
3418 lease-purchase agreements.

3419 (3) Upon final approval of an appropriation bill, each  
3420 agency shall submit to the Public Procurement Review Board a  
3421 schedule of proposed equipment acquisitions for the master  
3422 lease-purchase program. Upon approval of an equipment schedule by  
3423 the Public Procurement Review Board with the advice of the  
3424 Department of Information Technology Services, the Office of  
3425 Purchasing, Travel and Fleet Management, and the Division of  
3426 Energy and Transportation of the Mississippi Development Authority  
3427 as it pertains to energy efficient climate control systems, the  
3428 Public Procurement Review Board shall forward a copy of the



3429 equipment schedule to the Department of Finance and  
3430 Administration.

3431 (4) The level of lease-purchase debt recommended by the  
3432 Department of Finance and Administration shall be subject to  
3433 approval by the State Bond Commission. After such approval, the  
3434 Department of Finance and Administration shall be authorized to  
3435 advertise and solicit written competitive proposals for a lessor,  
3436 who will purchase the equipment pursuant to bid awards made by the  
3437 using agency under a given category and then transfer the  
3438 equipment to the Department of Finance and Administration as  
3439 lessee, pursuant to a master lease-purchase agreement.

3440 The Department of Finance and Administration shall select the  
3441 successful proposer for the financing of equipment under the  
3442 master lease-purchase program with the approval of the State Bond  
3443 Commission.

3444 (5) Each master lease-purchase agreement, and any subsequent  
3445 amendments, shall include such terms and conditions as the State  
3446 Bond Commission shall determine to be appropriate and in the  
3447 public interest, and may include any covenants deemed necessary or  
3448 desirable to protect the interests of the lessor, including, but  
3449 not limited to, provisions setting forth the interest rate (or  
3450 method for computing interest rates) for financing pursuant to  
3451 such agreement, covenants concerning application of payments and  
3452 funds held in the Master Lease-Purchase Program Fund, covenants to  
3453 maintain casualty insurance with respect to equipment subject to



3454 the master lease-purchase agreement (and all state agencies are  
3455 specifically authorized to purchase any insurance required by a  
3456 master lease-purchase agreement) and covenants precluding or  
3457 limiting the right of the lessee or user to acquire equipment  
3458 within a specified time (not to exceed five (5) years) after  
3459 cancellation on the basis of a failure to appropriate funds for  
3460 payment of amounts due under a lease-purchase agreement covering  
3461 comparable equipment. The State Bond Commission shall transmit  
3462 copies of each such master lease-purchase agreement and each such  
3463 amendment to the Joint Legislative Budget Committee. To the  
3464 extent provided in any master lease-purchase agreement, title to  
3465 equipment leased pursuant thereto shall be deemed to be vested in  
3466 the state or the user of the equipment (as specified in such  
3467 master lease-purchase agreement), subject to default under or  
3468 termination of such master lease-purchase agreement.

3469 A master lease-purchase agreement may provide for payment by  
3470 the lessor to the lessee of the purchase price of the equipment to  
3471 be acquired pursuant thereto prior to the date on which payment is  
3472 due to the vendor for such equipment and that the lease payments  
3473 by the lessee shall commence as though the equipment had been  
3474 provided on the date of payment. If the lessee, or lessee's  
3475 escrow agent, has sufficient funds for payment of equipment  
3476 purchases prior to payment due date to vendor of equipment, such  
3477 funds shall be held or utilized on an as-needed basis for payment  
3478 of equipment purchases either by the State Treasurer (in which



3479 event the master lease-purchase agreement may include provisions  
3480 concerning the holding of such funds, the creation of a security  
3481 interest for the benefit of the lessor in such funds until  
3482 disbursed and other appropriate provisions approved by the Bond  
3483 Commission) or by a corporate trustee selected by the Department  
3484 of Finance and Administration (in which event the Department of  
3485 Finance and Administration shall have the authority to enter into  
3486 an agreement with such a corporate trustee containing terms and  
3487 conditions approved by the Bond Commission). Earnings on any  
3488 amount paid by the lessor prior to the acquisition of the  
3489 equipment may be used to make lease payments under the master  
3490 lease-purchase agreement or applied to pay costs and expenses  
3491 incurred in connection with such lease-purchase agreement. In  
3492 such event, the equipment-use agreements with the user agency may  
3493 provide for lease payments to commence upon the date of payment by  
3494 the lessor and may also provide for a credit against such payments  
3495 to the extent that investment receipts from investment of the  
3496 purchase price are to be used to make lease-purchase payments.

3497 (6) The annual rate of interest paid under any  
3498 lease-purchase agreement authorized under this section shall not  
3499 exceed the maximum interest rate to maturity on general obligation  
3500 indebtedness permitted under Section 75-17-101.

3501 (7) The Department of Finance and Administration shall  
3502 furnish the equipment to the various agencies, also known as the  
3503 user, pursuant to an equipment-use agreement developed by the



3504 Department of Finance and Administration. Such agreements shall  
3505 require that all monthly payments due from such agency be paid,  
3506 transferred or allocated into the Master Lease-Purchase Program  
3507 Fund pursuant to a schedule established by the Department of  
3508 Finance and Administration. In the event such sums are not paid  
3509 by the defined payment period, the Executive Director of the  
3510 Department of Finance and Administration shall issue a requisition  
3511 for a warrant to draw such amount as may be due from any funds  
3512 appropriated for the use of the agency which has failed to make  
3513 the payment as agreed.

3514 (8) All master lease-purchase agreements executed under the  
3515 authority of this section shall contain the following annual  
3516 allocation dependency clause or an annual allocation dependency  
3517 clause which is substantially equivalent thereto: "The  
3518 continuation of each equipment schedule to this agreement is  
3519 contingent in whole or in part upon the appropriation of funds by  
3520 the Legislature to make the lease-purchase payments required under  
3521 such equipment schedule. If the Legislature fails to appropriate  
3522 sufficient funds to provide for the continuation of the  
3523 lease-purchase payments under any such equipment schedule, then  
3524 the obligations of the lessee and of the agency to make such  
3525 lease-purchase payments and the corresponding provisions of any  
3526 such equipment schedule to this agreement shall terminate on the  
3527 last day of the fiscal year for which appropriations were made."



3528           (9) The maximum lease term for any equipment acquired under  
3529 the master lease-purchase program shall not exceed the useful life  
3530 of such equipment as determined according to the upper limit of  
3531 the asset depreciation range (ADR) guidelines for the Class Life  
3532 Asset Depreciation Range System established by the Internal  
3533 Revenue Service pursuant to the United States Internal Revenue  
3534 Code and Regulations thereunder as in effect on December 31, 1980,  
3535 or comparable depreciation guidelines with respect to any  
3536 equipment not covered by ADR guidelines. The Department of  
3537 Finance and Administration shall be deemed to have met the  
3538 requirements of this subsection if the term of a master  
3539 lease-purchase agreement does not exceed the weighted average  
3540 useful life of all equipment covered by such agreement and the  
3541 schedules thereto as determined by the Department of Finance and  
3542 Administration. For purposes of this subsection, the "term of a  
3543 master lease-purchase agreement" shall be the weighted average  
3544 maturity of all principal payments to be made under such master  
3545 lease-purchase agreement and all schedules thereto.

3546           (10) Interest paid on any master lease-purchase agreement  
3547 under this section shall be exempt from State of Mississippi  
3548 income taxation. All equipment, and the purchase thereof by any  
3549 lessor, acquired under the master lease-purchase program and all  
3550 lease-purchase payments with respect thereto shall be exempt from  
3551 all Mississippi sales, use and ad valorem taxes.



3552           (11) The Governor, in his annual executive budget to the  
3553 Legislature, shall recommend appropriations sufficient to provide  
3554 funds to pay all amounts due and payable during the applicable  
3555 fiscal year under master lease-purchase agreements entered into  
3556 pursuant to this section.

3557           (12) Any master lease-purchase agreement reciting in  
3558 substance that such agreement has been entered into pursuant to  
3559 this section shall be conclusively deemed to have been entered  
3560 into in accordance with all of the provisions and conditions set  
3561 forth in this section. Any defect or irregularity arising with  
3562 respect to procedures applicable to the acquisition of any  
3563 equipment shall not invalidate or otherwise limit the obligation  
3564 of the Department of Finance and Administration, or the state or  
3565 any agency of the state, under any master lease-purchase agreement  
3566 or any equipment-use agreement.

3567           (13) There shall be maintained by the Department of Finance  
3568 and Administration, with respect to each master lease-purchase  
3569 agreement, an itemized statement of the cash price, interest  
3570 rates, interest costs, commissions, debt service schedules and all  
3571 other costs and expenses paid by the state incident to the  
3572 lease-purchase of equipment under such agreement.

3573           (14) Lease-purchase agreements entered into by the Board of  
3574 Trustees of State Institutions of Higher Learning pursuant to the  
3575 authority of Section 37-101-413 or by any other agency which has  
3576 specific statutory authority other than pursuant to Section





3577 31-7-13(e) to acquire equipment by lease-purchase shall not be  
3578 made pursuant to the master lease-purchase program under this  
3579 section, unless the Board of Trustees of State Institutions of  
3580 Higher Learning or such other agency elects to participate as to  
3581 part or all of its lease-purchase acquisitions in the master  
3582 lease-purchase program pursuant to this section.

3583 (15) The Department of Finance and Administration may  
3584 develop a master lease-purchase program for school districts and,  
3585 pursuant to that program, may execute on behalf of the school  
3586 districts master lease-purchase agreements for equipment to be  
3587 used by the school districts. The form and structure of this  
3588 program shall be substantially the same as set forth in this  
3589 section for the master lease-purchase program for state agencies.  
3590 If sums due from a school district under the master lease-purchase  
3591 program are not paid by the expiration of the defined payment  
3592 period, the Executive Director of the Department of Finance and  
3593 Administration may withhold such amount that is due from the  
3594 school district's minimum education or adequate education program  
3595 fund allotments.

3596 (16) The Department of Finance and Administration may  
3597 develop a master lease-purchase program for community and junior  
3598 college districts and, pursuant to that program, may execute on  
3599 behalf of the community and junior college districts master  
3600 lease-purchase agreements for equipment to be used by the  
3601 community and junior college districts. The form and structure of



3602 this program must be substantially the same as set forth in this  
3603 section for the master lease-purchase program for state agencies.  
3604 If sums due from a community or junior college district under the  
3605 master lease-purchase program are not paid by the expiration of  
3606 the defined payment period, the Executive Director of the  
3607 Department of Finance and Administration may withhold an amount  
3608 equal to the amount due under the program from any funds allocated  
3609 for that community or junior college district in the state  
3610 appropriations for the use and support of the community and junior  
3611 colleges.

3612 (17) From and after July 1, 2016, the expenses of this  
3613 agency shall be defrayed by appropriation from the State General  
3614 Fund and all user charges and fees authorized under this section  
3615 shall be deposited into the State General Fund as authorized by  
3616 law.

3617 (18) From and after July 1, 2016, no state agency shall  
3618 charge another state agency a fee, assessment, rent or other  
3619 charge for services or resources received by authority of this  
3620 section.

3621 **SECTION 27.** Section 31-7-11, Mississippi Code of 1972, is  
3622 brought forward as follows:

3623 31-7-11. Each agency of the state shall furnish information  
3624 relative to its purchase of commodities, and as to its method of  
3625 purchasing such commodities, to the Department of Finance and



3626 Administration annually and at such other times as the Department  
3627 of Finance and Administration may request.

3628         The Department of Finance and Administration shall have  
3629 supervision over the purchasing and purchasing practices of each  
3630 state agency and may by regulation or order correct any practice  
3631 that appears contrary to the provisions of this chapter or to the  
3632 best interests of the state. If it shall appear that any agency  
3633 is not practicing economy in its purchasing or is permitting  
3634 favoritism or any improper purchasing practice, the Department of  
3635 Finance and Administration shall require that the agency  
3636 immediately cease such improper activity, with full and complete  
3637 authority in the Department of Finance and Administration to carry  
3638 into effect its directions in such regard.

3639         All purchases, trade-ins, sales or transfer of personal  
3640 property made by any officer, board, agency, department or branch  
3641 of the state government except the Legislature shall be subject to  
3642 the approval of the Department of Finance and Administration.  
3643 Such transaction shall be made in accordance with rules and  
3644 regulations of the Department of Finance and Administration  
3645 relating to the purchase of state-owned motor vehicles and all  
3646 other personal property. The title of such property shall remain  
3647 in the name of the state.

3648         **SECTION 28.** Section 31-7-12, Mississippi Code of 1972, is  
3649 brought forward as follows:



3650           31-7-12. (1) Except in regard to purchases of unmarked  
3651 vehicles made in accordance with purchasing regulations adopted by  
3652 the Department of Finance and Administration pursuant to Section  
3653 31-7-9(2), all agencies shall purchase commodities at the state  
3654 contract price from the approved source, unless approval is  
3655 granted by the Department of Finance and Administration to solicit  
3656 purchases outside the terms of the contracts. However, prices  
3657 accepted by an agency shall be less than the prices set by the  
3658 state contract. Prices accepted by an agency shall be obtained in  
3659 compliance with paragraph (a), (b) or (c) of Section 31-7-13. It  
3660 shall be the responsibility of the Department of Finance and  
3661 Administration to ascertain that the resulting prices shall  
3662 provide a cost effective alternative to the established state  
3663 contract.

3664           (2) Governing authorities may purchase commodities approved  
3665 by the Department of Finance and Administration from the state  
3666 contract vendor, or from any source offering the identical  
3667 commodity, at a price not exceeding the state contract price  
3668 established by the Department of Finance and Administration for  
3669 such commodity, without obtaining or advertising for competitive  
3670 bids. Governing authorities that do not exercise the option to  
3671 purchase such commodities from the state contract vendor or from  
3672 another source offering the identical commodity at a price not  
3673 exceeding the state contract price established by the Department  
3674 of Finance and Administration shall make such purchases pursuant



3675 to the provisions of Section 31-7-13 without regard to state  
3676 contract prices established by the Department of Finance and  
3677 Administration, unless such purchases are authorized to be made  
3678 under subsection (5) of this section.

3679 (3) Nothing in this section shall prohibit governing  
3680 authorities from purchasing, pursuant to subsection (2) of this  
3681 section, commodities approved by the Department of Finance and  
3682 Administration at a price not exceeding the state contract price  
3683 established by the Department of Finance and Administration.

3684 (4) The Department of Finance and Administration shall  
3685 ensure that the prices of all commodities on the state contract  
3686 are the lowest and best prices available from any source offering  
3687 that commodity at the same level of quality or service, utilizing  
3688 the reasonable standards established therefor by the Department of  
3689 Finance and Administration. If the Department of Finance and  
3690 Administration does not list an approved price for the particular  
3691 item involved, purchase shall be made according to statutory  
3692 bidding and licensing requirements. To encourage prudent  
3693 purchasing practices, the Department of Finance and Administration  
3694 shall be authorized and empowered to exempt certain commodities  
3695 from the requirement that the lowest and best price be approved by  
3696 order placed on its minutes.

3697 (5) Any school district may purchase commodities from  
3698 vendors with which any levying authority of the school district,  
3699 as defined in Section 37-57-1, has contracted through competitive



3700 bidding procedures pursuant to Section 31-7-13 for purchases of  
3701 the same commodities. Purchases authorized by this subsection may  
3702 be made by a school district without obtaining or advertising for  
3703 competitive bids, and such purchases shall be made at the same  
3704 prices and under the same conditions as purchases of the same  
3705 commodities are to be made by the levying authority of the school  
3706 district under the contract with the vendor.

3707         **SECTION 29.** Section 31-7-13.1, Mississippi Code of 1972, is  
3708 brought forward as follows:

3709         31-7-13.1. (1) The method of contracting for construction  
3710 described in this section shall be known as the " design-build  
3711 method" of construction contracting. This method of construction  
3712 contracting may be used on residential buildings, residential  
3713 mixed-use developments, parking garages and other prescriptive  
3714 type facilities. The design-build method of construction  
3715 contracting may only be used when the Department of Finance and  
3716 Administration or a governing authority has determined that it  
3717 satisfies the public interest better than traditional design-bid  
3718 or when the Legislature has specifically required or authorized  
3719 the use of this method in the legislation authorizing a project.  
3720 At a minimum, the determination must include a detailed  
3721 explanation of why using the design-build method for a particular  
3722 project satisfies the public need better than the traditional  
3723 design-bid-build method based on the following criteria:



3724 (a) The project provides a savings in time or cost over  
3725 traditional methods; and

3726 (b) The size and type of the project is suitable for  
3727 design-build.

3728 (2) For each proposed design-build project, either a fixed  
3729 firm price or guaranteed maximum price contract must be adopted.  
3730 Before solicitation of proposals, the agency or governing  
3731 authority shall develop a scope of work statement that provides  
3732 prospective offerors with sufficient information regarding the  
3733 requirements of the agency or governing authority. The scope of  
3734 work statement must include, but is not limited to, the following  
3735 information:

3736 (a) Location and nature of proposed site(s) that  
3737 include preliminary geotechnical information from borings as well  
3738 as survey drawings that show topography, adjacent buildings and  
3739 utilities;

3740 (b) Any mandatory requirements such as minimum number  
3741 and types of spaces, any minimum or maximum building area(s) or  
3742 height(s), applicable energy codes and/or efficiency targets,  
3743 applicable zoning regulations and any aesthetic or character  
3744 defining standards;

3745 (c) Any mandatory material and/or system performance  
3746 requirements and/or specifications; and

3747 (d) General budget parameters, schedule or delivery  
3748 requirements, relevant criteria for evaluation of proposals, and



3749 any other information necessary to enable the design-builders to  
3750 submit proposals that meet the needs of the agency or governing  
3751 authority.

3752 (3) The agency or governing authority shall cause to be  
3753 published once a week, for at least two (2) consecutive weeks in a  
3754 regular newspaper published in the county in which the project is  
3755 to be located, or a newspaper with statewide circulation, a notice  
3756 inviting proposals for the design-build construction project. On  
3757 the same date that the notice is submitted to the newspaper for  
3758 publication, the agency or governing authority involved shall post  
3759 the notice on the Mississippi Procurement Portal or mail written  
3760 notice to, or provide electronic notification to, the main office  
3761 of the Mississippi Procurement Technical Assistance Program under  
3762 the Mississippi Development Authority that contains the same  
3763 information as that in the published notice. The proposals shall  
3764 not be opened in less than fifteen (15) working days after the  
3765 last notice is published. The notice must inform potential  
3766 offerors of how to obtain the scope of work statement developed  
3767 for the project, and the notice must contain such other  
3768 information to describe adequately the general nature and scope of  
3769 the project so as to promote full, equal and open competition.

3770 (4) The agency or governing authority shall accept initial  
3771 proposals only from entities able to provide an experienced and  
3772 qualified design-build team that includes, at a minimum, an  
3773 architectural or engineering firm licensed and registered in





3774 Mississippi and a contractor properly licensed and domiciled in  
3775 Mississippi for the type of work required.

3776 (5) Proposals that include criteria other than cost only  
3777 shall be evaluated by an evaluation committee established by the  
3778 procuring entity. The evaluation committee shall be composed of  
3779 not less than three (3) people, at least one (1) of which shall be  
3780 an architect or engineer licensed and registered in Mississippi.  
3781 Selection criteria of the evaluation committee shall be limited to  
3782 the following:

3783 (a) The bidder's knowledge and experience in executing  
3784 projects of similar size and complexity;

3785 (b) The experience and qualifications of the proposed  
3786 office and construction management personnel;

3787 (c) The experience and qualifications of the  
3788 subcontractors proposed;

3789 (d) The experience and qualifications of the architect  
3790 or engineer and consultants;

3791 (e) Schedule control; and

3792 (f) Cost factors.

3793 Cost as an evaluation factor shall be given the highest  
3794 criteria weighting and at least thirty-five percent (35%) out of  
3795 the one hundred percent (100%) total weight of all the other  
3796 evaluation factors.

3797 (6) If the agency or governing authority accepts a proposal  
3798 other than the proposal with the lowest costs that was actually



3799 submitted, the agency or governing authority shall enter on its  
3800 minutes detailed calculations and a narrative summary showing why  
3801 the accepted proposal was determined to provide the best value,  
3802 and the agency or governing authority shall state specifically on  
3803 its minutes the justification for its award.

3804 (7) All facilities that are governed by this section shall  
3805 be designed and constructed to comply with standards equal to or  
3806 exceeding the minimum building code standards employed by the  
3807 state as required under Section 31-11-33 in force at the time of  
3808 contracting. All private contractors or private entities  
3809 contracting or performing under this section must comply at all  
3810 times with all applicable laws, codes and other legal requirements  
3811 pertaining to the project.

3812 (8) An agency or governing authority may not award a  
3813 stipulated fee to an offeror for preparation costs to submit a  
3814 response to the request for proposals.

3815 (9) This section shall not authorize the awarding of  
3816 construction contracts according to any contracting method that  
3817 does not require the contractor to satisfactorily perform, at a  
3818 minimum, both any balance of design, using an independent  
3819 professional licensed in Mississippi, and construction of the  
3820 project for which the contract is awarded.

3821 (10) The provisions of this section shall not affect any  
3822 procurement by the Mississippi Transportation Commission.



3823 (11) The provisions of this section shall not apply to  
3824 procurement authorized in Section 59-5-37(3).

3825 **SECTION 30.** Section 31-7-13.2, Mississippi Code of 1972, is  
3826 brought forward as follows:

3827 31-7-13.2 (1) When used in this section, "construction  
3828 manager at risk" means a method of project delivery in which a  
3829 construction manager guarantees a maximum price for the  
3830 construction of a project and in which the governing authority or  
3831 board, before using this method of project delivery, shall include  
3832 a detailed explanation of why using the construction manager at  
3833 risk method of project delivery for a particular project satisfies  
3834 the public need better than that traditional design-bid-build  
3835 method based on the following criteria:

3836 (a) The use of construction manager at risk for the  
3837 project provides a savings in time or cost over traditional  
3838 methods; and

3839 (b) The size and type of the project is suitable for  
3840 use of the construction management at risk method of project  
3841 delivery.

3842 (2) When the construction manager at risk method of project  
3843 delivery is used:

3844 (a) There may be a separate contract for design  
3845 services and a separate contract for construction services;



3846 (b) The contract for construction services may be  
3847 entered into at the same time as a contract for the design  
3848 services or later;

3849 (c) Design and construction of the project may be in  
3850 sequential or concurrent phases; and

3851 (d) Finance, maintenance, operation, reconstruction or  
3852 other related services may be included for a guaranteed maximum  
3853 price.

3854 (3) When procuring design professional services under a  
3855 construction manager at risk project delivery method, the agency  
3856 or governing authority shall procure the services of a design  
3857 professional pursuant to qualifications-based selection  
3858 procedures.

3859 (4) Before the substantial completion of the design  
3860 documents, the agency or governing authority may elect to hire a  
3861 construction manager.

3862 (5) When procuring construction management services, the  
3863 agency or governing authority shall follow the  
3864 qualifications-based selection procedures as outlined in  
3865 subsection (10) of this section or the competitive sealed proposal  
3866 procedures as outlined in Section 31-17-13.

3867 (6) The agency or governing authority may require the  
3868 architect or engineer and the construction manager, by contract,  
3869 to cooperate in the design, planning and scheduling, and  
3870 construction process. The contract shall not make the primary



3871 designer or construction manager a subcontractor or joint-venture  
3872 partner to the other or limit the primary designer's or  
3873 construction manager's independent obligations to the agency or  
3874 governing authority.

3875 (7) Notwithstanding anything to the contrary in this  
3876 chapter:

3877 (a) Each project for construction under a construction  
3878 manager at risk contract shall be a specific, single project with  
3879 a minimum construction cost of Twenty-five Million Dollars  
3880 (\$25,000,000.00).

3881 (b) Each project under a construction manager at risk  
3882 contract shall be a specific, single project. For the purposes of  
3883 this paragraph, "specific, single project" means a project that is  
3884 constructed at a single location, at a common location or for a  
3885 common purpose.

3886 (8) Agencies shall retain an independent architectural or  
3887 engineering firm to provide guidance and administration of the  
3888 professional engineering or professional architecture aspects of  
3889 the project throughout the development of the scope, design, and  
3890 construction of the project.

3891 (9) The state shall, on an annual basis, compile and make  
3892 public all proceedings, records, contracts and other public  
3893 records relating to procurement transactions authorized under this  
3894 section.



3895 (10) For purposes of this section, the "qualifications-based  
3896 selection procedure" shall include:

3897 (a) Publicly announcing all requirements for  
3898 construction management at risk, architectural, engineering, and  
3899 land surveying services, to procure these services on the basis of  
3900 demonstrated competence and qualifications, and to negotiate  
3901 contracts at fair and reasonable prices after the most qualified  
3902 firm has been selected.

3903 (b) Agencies or governing authorities shall establish  
3904 procedures to prequalify firms seeking to provide construction  
3905 management at risk, architectural, engineering, and land surveying  
3906 services or may use prequalification lists from other state  
3907 agencies or governing authorities to meet the requirements of this  
3908 section.

3909 (c) Whenever a project requiring construction  
3910 management at risk, architectural, engineering, or land surveying  
3911 services is proposed for an agency or governing authority, the  
3912 agency or governing authority shall provide advance notice  
3913 published in a professional services bulletin or advertised within  
3914 the official state newspaper setting forth the projects and  
3915 services to be procured for not less than fourteen (14) days. The  
3916 professional services bulletin shall be mailed to each firm that  
3917 has requested the information or is prequalified under Section  
3918 31-7-13. The professional services bulletin shall include a  
3919 description of each project and shall state the time and place for



3920 interested firms to submit a letter of interest and, if required  
3921 by the public notice, a statement of qualifications.

3922 (d) The agency or governing authority shall evaluate  
3923 the firms submitting letters of interest and other prequalified  
3924 firms, taking into account qualifications. The agency or  
3925 governing authority may consider, but shall not be limited to,  
3926 considering:

- 3927 (i) Ability of professional personnel;
- 3928 (ii) Past record and experience;
- 3929 (iii) Performance data on file;
- 3930 (iv) Willingness to meet time requirements;
- 3931 (v) Location;
- 3932 (vi) Workload of the firm; and
- 3933 (vii) Any other qualifications-based factors as  
3934 the agency or governing authority may determine in writing are  
3935 applicable.

3936 The agency or governing authority may conduct discussions  
3937 with and require public presentations by firms deemed to be the  
3938 most qualified regarding their qualifications, approach to the  
3939 project and ability to furnish the required services.

3940 (e) The agency or governing authority shall establish a  
3941 committee to select firms to provide construction management at  
3942 risk, architectural, engineering, and land surveying services. A  
3943 selection committee may include at least one (1) public member  
3944 nominated by a statewide association of the profession affected.



3945 The public member may not be employed or associated with any firm  
3946 holding a contract with the agency or governing authority nor may  
3947 the public member's firm be considered for a contract with that  
3948 agency or governing authority while serving as a public member of  
3949 the committee. In no case shall the agency or governing  
3950 authority, before selecting a firm for negotiation under paragraph  
3951 (f) of this subsection (10), seek formal or informal submission of  
3952 verbal or written estimates of costs or proposals in terms of  
3953 dollars, hours required, percentage of construction cost, or any  
3954 other measure of compensation.

3955 (f) On the basis of evaluations, discussions, and any  
3956 presentations, the agency or governing authority shall select no  
3957 less than three (3) firms that it determines to be qualified to  
3958 provide services for the project and rank them in order of  
3959 qualifications to provide services regarding the specific project.  
3960 The agency or governing authority shall then contact the firm  
3961 ranked most preferred to negotiate a contract at a fair and  
3962 reasonable compensation. If fewer than three (3) firms submit  
3963 letters of interest and the agency or governing authority  
3964 determines that one (1) or both of those firms are so qualified,  
3965 the agency or governing authority may proceed to negotiate a  
3966 contract under paragraph (g) of this subsection (10).

3967 (g) The agency or governing authority shall prepare a  
3968 written description of the scope of the proposed services to be  
3969 used as a basis for negotiations and shall negotiate a contract





3970 with the highest qualified firm at compensation that the agency or  
3971 governing authority determines in writing to be fair and  
3972 reasonable. In making this decision, the agency or governing  
3973 authority shall take into account the estimated value, scope,  
3974 complexity, and professional nature of the services to be  
3975 rendered. In no case may the agency or governing authority  
3976 establish a maximum overhead rate or other payment formula  
3977 designed to eliminate firms from contention or restrict  
3978 competition or negotiation of fees. If the agency or governing  
3979 authority is unable to negotiate a satisfactory contract with the  
3980 firm that is most preferred, negotiations with that firm shall be  
3981 terminated. The agency or governing authority shall then begin  
3982 negotiations with the firm that is next preferred. If the agency  
3983 or governing authority is unable to negotiate a satisfactory  
3984 contract with that firm, negotiations with that firm shall be  
3985 terminated. The agency or governing authority shall then begin  
3986 negotiations with the firm that is next preferred. If the agency  
3987 or governing authority is unable to negotiate a satisfactory  
3988 contract with any of the selected firms, the agency or governing  
3989 authority shall reevaluate the construction management at risk,  
3990 architectural, engineering, or land surveying services requested,  
3991 including the estimated value, scope, complexity, and fee  
3992 requirements. The agency or governing authority shall then  
3993 compile a second list of not less than three (3) qualified firms  
3994 and proceed in accordance with the provisions of this section. A



3995 firm negotiating a contract with an agency or governing authority  
3996 shall negotiate subcontracts for architectural, engineering, and  
3997 land surveying services at compensation that the firm determines  
3998 in writing to be fair and reasonable based upon a written  
3999 description of the scope of the proposed services.

4000 (11) (a) The construction manager selected by the agency or  
4001 governing authority to provide construction management at risk  
4002 services shall solicit bids for construction on the project  
4003 pursuant to Section 31-7-13. The construction manager shall be  
4004 entitled to enter into contracts for construction with the lowest  
4005 and best bidders, as determined in consultation with the agency or  
4006 governing authority. Before soliciting bids or entering into any  
4007 such contract, the construction manager, in consultation with the  
4008 agency or governing authority, may prequalify any contractors or  
4009 vendors seeking to submit a bid on the project, taking into  
4010 account defined qualifications which may include, but not be  
4011 limited to, the following:

4012 (i) Past experience and performance record on  
4013 projects of similar size and scope;

4014 (ii) Current financial status and ability to  
4015 provide acceptable payment and performance bonds and meet defined  
4016 insurance requirements;

4017 (iii) Current workload and backlog of committed  
4018 work for the period scheduled for the project under consideration;



4019 (iv) Safety record to include prior citations and  
4020 fines if applicable;

4021 (v) History of legal disputes or performance  
4022 defaults;

4023 (vi) Identification and experience of project  
4024 personnel and required manpower;

4025 (vii) Plan for and ability to meet the applicable  
4026 project schedule; and

4027 (viii) Any other qualification-based factors as  
4028 the agency, governing authority or construction manager may  
4029 determine are applicable.

4030 (b) The construction manager, in consultation with the  
4031 agency or governing authority, shall publish the defined  
4032 qualifications that shall be considered in the prequalification  
4033 process at least two (2) weeks in advance of any prequalification  
4034 of contractors or vendors seeking to submit a bid on the project.  
4035 Publication shall be in a regular newspaper published in the  
4036 county or municipality in which the agency or governing authority  
4037 is located. The agency or governing authority shall also post the  
4038 defined prequalification requirements on its website.

4039 (c) The failure of a bidder to provide information in a  
4040 timely and complete manner in response to any prequalification  
4041 process may result in the disqualification of such bidder in the  
4042 discretion of the agency, governing authority, and construction  
4043 manager.



4044 (d) Except as otherwise provided in Section 25-61-9,  
4045 confidential and proprietary information furnished by a bidder  
4046 pursuant to this section shall not be disclosed outside of the  
4047 agency, governing authority, or construction manager without the  
4048 prior written consent of the bidder. The bidder shall identify  
4049 and label any information considered to be confidential and  
4050 proprietary at the time of submission of the same to the agency,  
4051 governing authority, or construction manager.

4052 (12) The provisions of this section shall not affect any  
4053 procurement by the Mississippi Transportation Commission.

4054 **SECTION 31.** Section 31-7-14, Mississippi Code of 1972, is  
4055 brought forward as follows:

4056 31-7-14. (1) (a) For purposes of this section, the  
4057 following words and phrases shall have the meaning ascribed  
4058 herein, unless the context clearly indicates otherwise:

4059 (i) "Division" means the Energy Division of the  
4060 Mississippi Development Authority.

4061 (ii) "Energy services" or "energy efficient  
4062 services" means energy efficiency equipment, services relating to  
4063 the installation, operation and maintenance of equipment and  
4064 improvements reasonably required to existing or new equipment and  
4065 existing or new improvements and facilities including, but not  
4066 limited to, heating, ventilation and air-conditioning systems,  
4067 lighting, windows, insulation and energy management controls, life  
4068 safety measures that provide long-term, operating-cost reductions,



4069 building operation programs that reduce operating costs,  
4070 alternative fuel motor vehicles including vehicles that have been  
4071 converted to such and ancillary equipment related to or associated  
4072 with the fueling of alternative fuel motor vehicles, or other  
4073 energy-conservation-related improvements, including improvements  
4074 or equipment related to renewable energy, water and other natural  
4075 resources conservation, including accuracy and measurement of  
4076 water distribution and/or consumption, and other equipment,  
4077 services and improvements providing verifiable cost savings.

4078 (iii) "Energy services provider" means a person or  
4079 business with a successful record of documented energy savings  
4080 projects that is experienced in the design, implementation and  
4081 installation of energy conservation measures; has the technical  
4082 capabilities to verify that such measures generate energy and  
4083 operational cost savings or enhanced revenues; has the ability to  
4084 guarantee the savings; has the ability to secure or arrange the  
4085 financing necessary to support the implementation of the energy  
4086 conservation measures; and is approved by the division.

4087 Approval by the division of an energy services provider shall  
4088 be granted in a prequalification process.

4089 Such energy services providers may petition the division to  
4090 review their qualifications and deem them to be qualified for  
4091 inclusion on a prequalification list if they meet the  
4092 qualifications set forth by the division.



4093 Any energy services project that has been competitively bid  
4094 and awarded prior to any change in law shall be allowed to  
4095 continue under the laws current at the time the project was  
4096 awarded.

4097 The division shall ensure that small businesses are not  
4098 disadvantaged in the determination of a qualified energy services  
4099 provider.

4100 (iv) "Entity" means the board of trustees of any  
4101 public school district, junior college, institution of higher  
4102 learning, publicly owned hospital, state agency or governmental  
4103 authority under this chapter.

4104 (v) "Energy services contract" means an agreement  
4105 to provide energy services which include, but are not limited to,  
4106 the design, installation, financing and maintenance or management  
4107 of the energy systems or equipment in order to improve its energy  
4108 efficiency. Payments for the contract are not contingent upon the  
4109 actual savings realized from the equipment.

4110 (vi) "Energy performance contract" means an  
4111 agreement to provide energy services which includes, but is not  
4112 limited to, the design, installation, financing and maintenance or  
4113 management of the energy systems or equipment in order to improve  
4114 its energy efficiency.

4115 (vii) "Shared-savings contract" means an agreement  
4116 where the contractor and the entity each receive a preagreed



4117 percentage or dollar value of the energy cost savings over the  
4118 life of the contract.

4119 (viii) "Reduce operating costs" means elimination  
4120 of future expenses or avoidance of future replacement expenditures  
4121 as a result of new equipment installed or services performed.  
4122 Material savings, labor savings, cancelled maintenance contracts,  
4123 et cetera, shall be considered as being viable to reduce operating  
4124 costs. Reduce operating costs may be included in the performance  
4125 contract or energy services agreement solely at the discretion of  
4126 the entity. A contract that otherwise satisfies the requirements  
4127 of this section shall satisfy the requirements allowing use of an  
4128 energy performance, energy services or shared-savings contract  
4129 even if the sole expense being eliminated is maintenance expense.

4130 (ix) "Capital cost avoidance" means planned  
4131 capital improvement expenditures that will be avoided through  
4132 implementation of the energy services project. Capital cost  
4133 avoidance may be included in an energy services contract or an  
4134 energy performance contract solely at the discretion of the  
4135 entity. Capital cost avoidance may be claimed as an annual  
4136 avoidance or as a one-time avoidance in a specific year of the  
4137 contract term, depending upon the nature of the avoided capital  
4138 cost.

4139 (x) "Alternative fuel motor vehicle" means a motor  
4140 vehicle propelled by alternative fuel either as a dedicated  
4141 alternative fuel vehicle, as a bi-fuel vehicle using alternative



4142 fuel as one of its fuels, or as a dual fuel vehicle using  
4143 alternative fuel as one of its fuels.

4144 (xi) "Energy conservation measure" means the  
4145 individual items or components of a large energy services or  
4146 energy efficient services program.

4147 (xii) "Simple payback period" means the amount of  
4148 time for the recuperation of the initial investment. The simple  
4149 payback period is calculated by dividing the initial investment by  
4150 the annual savings. The simple payback period for any contract  
4151 shall not exceed twenty (20) years. The simple payback period of  
4152 an individual energy conservation measure shall not be considered  
4153 in any evaluation provided the simple payback period for the  
4154 contract does not exceed twenty (20) years.

4155 (b) An entity may enter into an energy services  
4156 contract, energy performance contract, shared-savings contract,  
4157 any of which may contain a lease, or lease-purchase contract for  
4158 energy efficiency equipment, services relating to the  
4159 installation, operation and maintenance of equipment or  
4160 improvements reasonably required to existing or new equipment and  
4161 existing or new improvements and facilities and shall contract in  
4162 accordance with the following provisions:

4163 (i) The division may assemble a list of  
4164 prequalified energy services providers. The division shall use  
4165 objective criteria in the selection process. The criteria for  
4166 evaluation shall include, but shall not be limited to, the





4167 following factors: to assess the capability of the qualified  
4168 energy services provider in the area of design engineering,  
4169 installation, maintenance and repairs associated with energy  
4170 services or guaranteed energy performance contracts;  
4171 qualifications including engineering depth and experience,  
4172 post-installation project monitoring, data collection, and  
4173 verification of and reporting of savings; overall project  
4174 experience and qualifications; management capability; ability to  
4175 access long-term sources of project financing; financial health  
4176 and stability, litigation history with customers and other factors  
4177 determined by the division to be relevant and appropriate and  
4178 related to the ability to perform the project. The division shall  
4179 either accept or reject an application for prequalification from  
4180 an energy services provider within sixty (60) days after receipt.  
4181 If the division fails to act within sixty (60) days from the date  
4182 of receiving an application, then the application shall  
4183 automatically be accepted and the energy services provider shall  
4184 be added to the prequalified list.

4185 (ii) An entity shall publicly issue requests for  
4186 proposals, advertised in the same manner as provided in Section  
4187 31-7-13 for seeking competitive sealed bids, concerning the  
4188 provision of energy efficiency services relating to the  
4189 installation, operation and maintenance of equipment, improvements  
4190 reasonably required to existing or new equipment and existing or  
4191 new improvements and facilities or the design, installation,



4192 ownership, operation and maintenance of energy efficiency  
4193 equipment. Those requests for proposals shall contain terms and  
4194 conditions relating to submission of proposals, evaluation and  
4195 selection of proposals, financial terms, legal responsibilities,  
4196 and any other matters as the entity determines to be appropriate  
4197 for inclusion.

4198 (iii) Upon receiving responses to the request for  
4199 proposals, the entity may select the most qualified proposal or  
4200 proposals on the basis of experience and qualifications of the  
4201 proposers, the technical approach, the financial arrangements, the  
4202 overall benefits to the entity and any other relevant factors  
4203 determined to be appropriate.

4204 (iv) An entity shall negotiate and enter into  
4205 contracts with the person, persons, firm or firms submitting the  
4206 proposal selected as the most qualified under this section.

4207 (v) The annual rate of interest paid under any  
4208 lease-purchase agreement authorized by this section shall not  
4209 exceed the maximum interest rate to maturity on general obligation  
4210 indebtedness permitted under Section 75-17-101.

4211 (vi) The maximum lease-purchase term for any  
4212 equipment acquired under this section shall not exceed the lesser  
4213 of twenty (20) years or the average useful life of the energy  
4214 conservation measures from the date the energy conservation  
4215 measures have been completed and accepted by the governmental  
4216 unit.



4217                   (vii) This subsection shall, with respect to the  
4218 procurement of energy efficiency services and/or equipment,  
4219 supersede any contradictory or conflicting provisions of Chapter  
4220 7, Title 31, Mississippi Code of 1972, and other laws with respect  
4221 to awarding public contracts.

4222           (2) (a) The division may contract with a party selected  
4223 under this subsection to provide financing to entities and private  
4224 "nonprofit" hospitals, to purchase energy efficiency equipment,  
4225 services relating to the installation, operation and maintenance  
4226 of equipment or improvements reasonably required to existing or  
4227 new equipment and existing or new improvements and facilities or  
4228 an energy saving performance contract, energy services contract,  
4229 or lease-purchase basis. Any energy efficiency lease financing  
4230 contract entered into by the division before May 15, 1992, shall  
4231 be valid and binding when the contract was entered into under this  
4232 subsection.

4233           (b) The entities and private "nonprofit" hospitals that  
4234 decide to contract for energy efficiency equipment, services  
4235 relating to the installation, operation and maintenance of  
4236 equipment or improvements reasonably required to existing or new  
4237 equipment and existing or new improvements and facilities on a  
4238 lease, energy services contract or lease-purchase basis, may  
4239 request financial assistance from the division.

4240           (c) The provisions of any energy efficiency  
4241 lease-purchase agreements authorized under this subsection (2)



4242 shall comply with the requirements of subsection (1)(b)(v) of this  
4243 section. The term of any lease or lease-purchase agreement for  
4244 energy efficiency services and/or equipment entered into under  
4245 this section shall not exceed twenty (20) years, commencing on the  
4246 completion of the installation of equipment or improvements under  
4247 the contract.

4248 (d) Any entity or private "nonprofit" hospital having  
4249 approval of the division may borrow money in anticipation of  
4250 entering into a lease-purchase agreement pursuant to subsection  
4251 (2)(b) of this section. Any borrowing may be upon terms and  
4252 conditions as may be agreed upon by the borrowing entity and the  
4253 party advancing interim funds; however, the principal on any  
4254 borrowing shall be repaid within a period of time not to exceed  
4255 one hundred eighty (180) days. In borrowing money under this  
4256 paragraph (d), it is not necessary to publish notice of intention  
4257 to do so or to secure the consent of the qualified electors,  
4258 either by election or otherwise. Any borrowing may be negotiated  
4259 between the parties and is not required to be publicly bid, may be  
4260 evidenced by negotiable notes or lease and shall not be considered  
4261 when computing any limitation of indebtedness of the borrowing  
4262 entity established by law. The principal, interest and costs of  
4263 incurring any borrowing shall not exceed the principal amount of  
4264 the final contract or agreement approved by the division, and  
4265 accepted by the borrowing entity, under subsection (2)(b) of this  
4266 section.



4267           (e) This subsection (2) shall, with respect to the  
4268 procurement of energy efficiency services and/or equipment,  
4269 supersede the provisions of any contradictory or conflicting  
4270 provisions of Chapter 7, Title 31, Mississippi Code of 1972, and  
4271 other laws with respect to awarding public contracts.

4272           (3) All lease-purchase agreements authorized by this section  
4273 and the income from those agreements shall be exempt from all  
4274 taxation within the State of Mississippi, except gift, transfer  
4275 and inheritance taxes.

4276           (4) (a) An entity may contract for energy efficiency  
4277 equipment services relating to the installation, operation or  
4278 maintenance of equipment or improvements reasonably required to  
4279 existing or new equipment and existing or new improvements and  
4280 facilities on a shared-savings basis or performance basis.

4281           (b) If an entity decides to enter into a contract for  
4282 energy efficiency equipment, services relating to the  
4283 installation, operation or maintenance of equipment or  
4284 improvements reasonably required to existing or new equipment and  
4285 existing or new improvements and facilities on a shared-savings  
4286 basis or performance basis, the entity shall issue a request for  
4287 proposals or a request for qualifications, as determined necessary  
4288 by the division, in the same manner as prescribed under subsection  
4289 (1)(b) of this section. The entity shall notify the division in  
4290 writing of its intention to issue a request for proposals or a  
4291 request for qualifications.



4292           (c) The terms of any shared-savings contract, energy  
4293 services contract, or energy performance contract entered into  
4294 under this section may not exceed twenty (20) years, commencing on  
4295 the completion of the installation of equipment or improvements  
4296 under the contract.

4297           (d) The terms of any shared-savings or energy  
4298 performance contract entered into under this section must contain  
4299 a guarantee of savings clause from the company providing energy  
4300 efficiency equipment services relating to the installation,  
4301 operation and maintenance of equipment or improvements reasonably  
4302 required to existing or new equipment and existing or new  
4303 improvements and facilities.

4304           (5) (a) By March 1 and September 1 of each year, each  
4305 entity that enters into an energy performance contract or  
4306 shared-savings contract shall report to the division its energy  
4307 usage by meter in dollars and consumption by fuel type for the  
4308 previous six-month period determined by the division.

4309           (b) The division shall remove qualified status of an  
4310 energy services provider that fails to meet the reporting  
4311 requirements of paragraph (a) of this subsection after two (2)  
4312 such violations.

4313           (c) Any costs associated with the reporting made under  
4314 this subsection (5) shall be paid by the energy services provider.



4315 (6) The contract may be construed to provide flexibility to  
4316 public agencies in structuring agreements entered into hereunder  
4317 so that economic benefits may be maximized.

4318 (7) This section shall stand repealed on July 1, 2025.

4319 **SECTION 32.** Section 31-7-15, Mississippi Code of 1972, is  
4320 brought forward as follows:

4321 31-7-15. (1) Whenever two (2) or more competitive bids are  
4322 received, one or more of which relates to commodities grown,  
4323 processed or manufactured within this state, and whenever all  
4324 things stated in such received bids are equal with respect to  
4325 price, quality and service, the commodities grown, processed or  
4326 manufactured within this state shall be given preference. A  
4327 similar preference shall be given to commodities grown, processed  
4328 or manufactured within this state whenever purchases are made  
4329 without competitive bids, and when practical the Department of  
4330 Finance and Administration may by regulation establish reasonable  
4331 preferential policies for other commodities, giving preference to  
4332 resident suppliers of this state.

4333 (2) Any foreign manufacturing company with a factory in the  
4334 state and with over fifty (50) employees working in the state  
4335 shall have preference over any other foreign company where both  
4336 price and quality are the same, regardless of where the product is  
4337 manufactured.

4338 (3) On or before January 1, 1991, the Department of Finance  
4339 and Administration shall adopt bid and product specifications to



4340 be utilized by all state agencies that encourage the procurement  
4341 of commodities made from recovered materials. Preference in  
4342 awarding contracts for commodities shall be given to commodities  
4343 offered at a competitive price.

4344 (4) Each state agency is required to procure products made  
4345 from recovered materials when those products are available at a  
4346 competitive price. For purposes of this subsection, "competitive  
4347 price" means a price not greater than ten percent (10%) above the  
4348 lowest and best bidder. A decision not to procure products made  
4349 from recovered materials must be based on a determination that  
4350 such procurement:

4351 (a) Is not available within a reasonable period of  
4352 time; or

4353 (b) Fails to meet the performance standards set forth  
4354 in the applicable specifications; or

4355 (c) Is not available at a competitive price.

4356 (5) Whenever economically feasible, each state agency is  
4357 required to purchase products manufactured or sold by the  
4358 Mississippi Industries for the Blind.

4359 **SECTION 33.** Section 31-7-16, Mississippi Code of 1972, is  
4360 brought forward as follows:

4361 31-7-16. In the event equipment is required which is capable  
4362 of being manufactured or assembled in separate units such as  
4363 school bus chassis and bodies or other bodies of equipment  
4364 installed upon chassis, and there is a manufacturer of such bodies





4365 located within the State of Mississippi, a public purchase may be  
4366 made of such chassis and such body or equipment as separate items.

4367 **SECTION 34.** Section 31-7-18, Mississippi Code of 1972, is  
4368 brought forward as follows:

4369 31-7-18. In addition to the method of purchasing authorized  
4370 in this chapter, said governing authorities are hereby authorized  
4371 to accept the lowest bid received from a motor vehicle dealer  
4372 domiciled within the county of the governing authority for the  
4373 purchase of any motor vehicle having a gross vehicle weight rating  
4374 of less than twenty-six thousand (26,000) pounds that shall not  
4375 exceed a sum equal to three percent (3%) greater than the price or  
4376 cost which the dealer pays the manufacturer, as evidenced by the  
4377 factory invoice for the motor vehicle. In the event said county  
4378 does not have an authorized motor vehicle dealer, said board or  
4379 governing authority may, in like manner, receive bids from motor  
4380 vehicle dealers in any adjoining county.

4381 No purchase of a motor vehicle under the provisions of this  
4382 section shall be valid unless the purchase is made according to  
4383 statutory bidding and licensing requirements. Provided, however,  
4384 that the governing authorities may choose to purchase a motor  
4385 vehicle from the authorized state contract dealer without having  
4386 to advertise and receive bids therefor.

4387 No purchase shall be made in excess of the approved state  
4388 contract price by any of the aforementioned governing authorities  
4389 when such authorities are situated,  wholly or in part,  in the



4390 county wherein the authorized state contract dealer for a  
4391 particular item is domiciled.

4392         **SECTION 35.** Section 31-7-21, Mississippi Code of 1972, is  
4393 brought forward as follows:

4394             31-7-21. The provisions of this chapter shall neither repeal  
4395 nor modify the functions of the Governor's Office of General  
4396 Services as set forth in Sections 31-11-1 through 31-11-89.

4397         **SECTION 36.** Section 31-7-23, Mississippi Code of 1972, is  
4398 brought forward as follows:

4399             31-7-23. Any rebates, refunds, coupons, merit points,  
4400 gratuities or any article of value tendered or received by any  
4401 agency or governing authority from any vendor of material,  
4402 supplies, equipment or other articles shall inure to the benefit  
4403 of the agency or governing authority making the purchase. The  
4404 agency or governing authority may, in accordance with its best  
4405 interest, either take delivery of the article of value tendered  
4406 and use the same or convert it to cash by selling it for its fair  
4407 and reasonable value, making use of the proceeds from such sale  
4408 for the exclusive benefit of the agency or governing authority.

4409         **SECTION 37.** Section 31-7-38, Mississippi Code of 1972, is  
4410 brought forward as follows:

4411             31-7-38. The board of trustees or governing board of any  
4412 hospital or regional mental health center owned or owned and  
4413 operated separately or jointly by the State of Mississippi or any  
4414 of its branches, agencies, departments or subdivisions, or by one



4415 or more counties, cities, towns, supervisors districts or election  
4416 districts, or combinations thereof, may authorize by resolution  
4417 the organization and operation of, or the participation in, a  
4418 group purchasing program with other hospitals or regional mental  
4419 health centers, for the purchase of supplies, commodities and  
4420 equipment when it appears to the board of trustees or governing  
4421 board that such a group purchasing program could or would affect  
4422 economy or efficiency in their operations. Purchases by hospitals  
4423 or regional mental health centers participating in group  
4424 purchasing programs of supplies, commodities and equipment through  
4425 such programs shall be exempt from the provisions of Sections  
4426 31-7-9, 31-7-10, 31-7-11, 31-7-12 and 31-7-13.

4427         **SECTION 38.** Section 31-7-47, Mississippi Code of 1972, is  
4428 brought forward as follows:

4429         31-7-47. In the letting of public contracts, preference  
4430 shall be given to resident contractors, and a nonresident bidder  
4431 domiciled in a state, city, county, parish, province, nation or  
4432 political subdivision having laws granting preference to local  
4433 contractors shall be awarded Mississippi public contracts only on  
4434 the same basis as the nonresident bidder's state, city, county,  
4435 parish, province, nation or political subdivision awards contracts  
4436 to Mississippi contractors bidding under similar circumstances.  
4437 Resident contractors actually domiciled in Mississippi, be they  
4438 corporate, individuals or partnerships, are to be granted  
4439 preference over nonresidents in awarding of contracts in the same



4440 manner and to the same extent as provided by the laws of the  
4441 state, city, county, parish, province, nation or political  
4442 subdivision of domicile of the nonresident.

4443         **SECTION 39.** Section 31-7-49, Mississippi Code of 1972, is  
4444 brought forward as follows:

4445         31-7-49. In placing orders for purchases under bids received  
4446 and contracts awarded under the provisions of this chapter, the  
4447 governing authority, by orders entered on its minutes, may  
4448 authorize its members, or agents designated by its order, to place  
4449 orders for the purchase of such supplies and materials from time  
4450 to time during the period covered by the contract, as such  
4451 supplies and materials are needed. Claims for such supplies so  
4452 ordered by an individual board member or other duly authorized  
4453 agent shall not be allowed and paid by the board until such claims  
4454 shall have been approved in writing by the individual board member  
4455 or agent who ordered such supplies or the successor to such member  
4456 or agent.

4457         **SECTION 40.** Section 31-7-53, Mississippi Code of 1972, is  
4458 brought forward as follows:

4459         31-7-53. In making any and all purchases of fertilizer for  
4460 all state institutions and agencies, the board, officer, or  
4461 employee given the authority to make such purchases shall take  
4462 into consideration the chemical analysis and percentage of plant  
4463 food unit value in such fertilizer in determining the lowest and  
4464 best bid. No awards of contracts shall be made until the best



4465 price is determined on the basis of the chemical analysis as to  
4466 the plant food unit value of the product, and the contract shall  
4467 be awarded on the basis of such an analysis of the plant food unit  
4468 value.

4469 This section does not apply for the purchase of material by  
4470 research agencies of the state for use in experimental projects.

4471 The State Penitentiary Board, the Board of Trustees of the  
4472 State Institutions of Higher Learning, and any other agency,  
4473 department, or board of trustees of the State of Mississippi are  
4474 hereby authorized to purchase all needed quantities of anhydrous  
4475 ammonia and ammonium nitrate fertilizers available through the  
4476 facilities of Mississippi State University of Agriculture and  
4477 Applied Science. Such purchase may be at public or private sale,  
4478 provided that such fertilizers can be obtained for not more than  
4479 the price that the same are then available to such board, agency,  
4480 or department from any other source.

4481 **SECTION 41.** Section 31-7-55, Mississippi Code of 1972, is  
4482 brought forward as follows:

4483 31-7-55. **[For penalties applicable to violations occurring**  
4484 **between January 1, 1981, and August 15, 1988, the following**  
4485 **provisions govern.]**

4486 (1) It is hereby declared to be unlawful and a violation of  
4487 public policy of the State of Mississippi for any elected or  
4488 appointed public officer of the state or the executive head of a  
4489 state board, commission, department, subdivision of the state



4490 government or governing authority to make any purchases without  
4491 the full compliance with the provisions of Chapter 7, Title 31,  
4492 Mississippi Code of 1972. Any elected or appointed public officer  
4493 of the state or the executive head of a state board, commission,  
4494 department, subdivision of the state government or governing  
4495 authority who violates the provisions of Chapter 7, Title 31,  
4496 Mississippi Code of 1972, shall be deemed guilty of a misdemeanor  
4497 and, upon conviction therefor, shall be fined not less than One  
4498 Hundred Dollars (\$100.00) and not more than Five Hundred Dollars  
4499 (\$500.00) for each separate offense, or sentenced to the county  
4500 jail for not more than six (6) months, or both such fine and  
4501 imprisonment, and shall be removed from his office or position.

4502 (2) Any person diverting the benefits of any article of  
4503 value tendered or received by any agency or governing authority to  
4504 his or her personal use, in violation of Section 31-7-23, shall be  
4505 guilty of a misdemeanor and, upon conviction, shall be punished by  
4506 a fine of not less than One Hundred Dollars (\$100.00) nor more  
4507 than Five Hundred Dollars (\$500.00), or sentenced to the county  
4508 jail for not more than six (6) months, or by both such fine and  
4509 imprisonment, and shall be required to return the money value of  
4510 the article unlawfully diverted to the agency involved.

4511 **[The following provisions apply to violations which occur on**  
4512 **or after August 16, 1988.]**

4513 (1) It is hereby declared to be unlawful and a violation of  
4514 public policy of the State of Mississippi for any elected or



4515 appointed public officer of an agency or a governing authority, or  
4516 the executive head, any employee or agent of an agency or  
4517 governing authority to make any purchases without the full  
4518 compliance with the provisions of Chapter 7, Title 31, Mississippi  
4519 Code of 1972.

4520 (2) Except as otherwise provided in subsection (4) of this  
4521 section, any person who intentionally, willfully and knowingly  
4522 violates the provisions of Chapter 7, Title 31, Mississippi Code  
4523 of 1972, shall be deemed guilty of a misdemeanor and, upon  
4524 conviction thereof, shall be fined not less than One Hundred  
4525 Dollars (\$100.00) and not more than Five Hundred Dollars (\$500.00)  
4526 for each separate offense, or sentenced to the county jail for not  
4527 more than six (6) months, or both such fine and imprisonment, and  
4528 shall be removed from his office or position.

4529 (3) Any person who intentionally, willfully and knowingly  
4530 violates the provisions of subsection (1) of Section 31-7-57 shall  
4531 be guilty of a misdemeanor and, upon conviction thereof, shall be  
4532 fined not less than One Hundred Dollars (\$100.00) and not more  
4533 than Five Hundred Dollars (\$500.00), or sentenced to the county  
4534 jail for not more than six (6) months, or both such fine and  
4535 imprisonment, and shall be removed from his office or position.

4536 (4) Any person diverting the benefits of any article of  
4537 value tendered or received by any agency or governing authority to  
4538 his or her personal use, in violation of Section 31-7-23, if the  
4539 value of such article be less than Five Hundred Dollars (\$500.00),



4540 shall be guilty of a misdemeanor and, upon conviction, shall be  
4541 punished by a fine of not less than One Hundred Dollars (\$100.00)  
4542 nor more than Five Hundred Dollars (\$500.00), or sentenced to the  
4543 county jail for not more than six (6) months, or by both such fine  
4544 and imprisonment, shall be removed from his office or position,  
4545 and shall be required to return the money value of the article  
4546 unlawfully diverted to the agency or governing authority involved.  
4547 If the value of the article be Five Hundred Dollars (\$500.00) or  
4548 more, such person shall be guilty of a felony and, upon  
4549 conviction, shall be punished by a fine of not less than One  
4550 Thousand Dollars (\$1,000.00) nor more than Five Thousand Dollars  
4551 (\$5,000.00), or sentenced to the Department of Corrections for not  
4552 less than one (1) year nor more than five (5) years, or by both  
4553 such fine and imprisonment, shall be removed from his office or  
4554 position, and shall be required to return the money value of the  
4555 article unlawfully diverted to the agency or governing authority  
4556 involved.

4557 (5) The provisions of this section are supplemental to any  
4558 other criminal statutes of this state.

4559 **SECTION 42.** Section 31-7-57, Mississippi Code of 1972, is  
4560 brought forward as follows:

4561 31-7-57. (1) Any elected or appointed public officer of an  
4562 agency or a governing authority, or the executive head, any  
4563 employee or agent of an agency or governing authority, who  
4564 appropriates or authorizes the expenditure of any money to an





4565 object not authorized by law, shall be liable personally for up to  
4566 the full amount of the appropriation or expenditure as will fully  
4567 and completely compensate and repay such public funds for any  
4568 actual loss caused by such appropriation or expenditure, to be  
4569 recovered by suit in the name of the governmental entity involved,  
4570 or in the name of any person who is a taxpayer suing for the use  
4571 of the governmental entity involved, and such taxpayer shall be  
4572 liable for costs in such case. In the case of a governing board  
4573 of an agency or governing authority, only the individual members  
4574 of the governing board who voted for the appropriation or  
4575 authorization for expenditure shall be liable under this  
4576 subsection.

4577 (2) No individual member, officer, employee or agent of any  
4578 agency or board of a governing authority shall let contracts or  
4579 purchase commodities or equipment except in the manner provided by  
4580 law, including the provisions of Section 25-9-120(3), Mississippi  
4581 Code of 1972, relating to personal and professional service  
4582 contracts by state agencies; nor shall any such agency or board of  
4583 a governing authority ratify any such contract or purchase made by  
4584 any individual member, officer, employee or agent thereof, or pay  
4585 for the same out of public funds unless such contract or purchase  
4586 was made in the manner provided by law; provided, however, that  
4587 any vendor who, in good faith, delivers commodities or printing or  
4588 performs any services under a contract to or for the agency or  
4589 governing authority, shall be entitled to recover the fair market



4590 value of such commodities, printing or services, notwithstanding  
4591 some error or failure by the agency or governing authority to  
4592 follow the law, if the contract was for an object authorized by  
4593 law and the vendor had no control of, participation in, or actual  
4594 knowledge of the error or failure by the agency or governing  
4595 authority.

4596 (3) The individual members, officers, employees or agents of  
4597 any agency or governing authority as defined in Section 31-7-1  
4598 causing any public funds to be expended, any contract made or let,  
4599 any payment made on any contract or any purchase made, or any  
4600 payment made, in any manner whatsoever, contrary to or without  
4601 complying with any statute of the State of Mississippi, regulating  
4602 or prescribing the manner in which such contracts shall be let,  
4603 payment on any contract made, purchase made, or any other payment  
4604 or expenditure made, shall be liable, individually, and upon their  
4605 official bond, for compensatory damages, in such sum up to the  
4606 full amount of such contract, purchase, expenditure or payment as  
4607 will fully and completely compensate and repay such public funds  
4608 for any actual loss caused by such unlawful expenditure.

4609 (4) In addition to the foregoing provision, for any  
4610 violation of any statute of the State of Mississippi prescribing  
4611 the manner in which contracts shall be let, purchases made,  
4612 expenditure or payment made, any individual member, officer,  
4613 employee or agent of any agency or governing authority who shall  
4614 substantially depart from the statutory method of letting



4615 contracts, making payments thereon, making purchases or expending  
4616 public funds shall be liable, individually and on his official  
4617 bond, for penal damages in such amount as may be assessed by any  
4618 court of competent jurisdiction, up to three (3) times the amount  
4619 of the contract, purchase, expenditure or payment. The person so  
4620 charged may offer mitigating circumstances to be considered by the  
4621 court in the assessment of any penal damages.

4622 (5) Any sum recovered under the provisions hereof shall be  
4623 credited to the account from which such unlawful expenditure was  
4624 made.

4625 (6) Except as otherwise provided in subsection (1) of this  
4626 section, any individual member of an agency or governing authority  
4627 as defined in Section 31-7-1 shall not be individually liable  
4628 under this section if he voted against payment for contracts let  
4629 or purchases made contrary to law and had his vote recorded in the  
4630 official minutes of the board or governing authority at the time  
4631 of such vote, or was absent at the time of such vote.

4632 **SECTION 43.** Section 31-7-59, Mississippi Code of 1972, is  
4633 brought forward as follows:

4634 31-7-59. (1) Any municipality of over one hundred thousand  
4635 (100,000) population, according to the latest decennial census and  
4636 qualified to do so, is hereby empowered to purchase from the  
4637 General Services Administration of the United States of America,  
4638 without advertising for bids, any and all articles of supplies and  
4639 equipment necessary for the operation of said municipality so long



4640 as the purchase price of such articles is below the purchase price  
4641 of similar articles on a state contract accepted by the Office of  
4642 General Services.

4643 (2) The aforesaid supplies and equipment may likewise  
4644 be purchased from the General Services Administration without  
4645 advertising for bids even though the Office of General Services  
4646 does not have same listed on statewide contracts so long as the  
4647 purchase price thereof is ten percent (10%) below the latest  
4648 purchase price of comparable supplies and equipment.

4649 **SECTION 44.** Section 31-7-61, Mississippi Code of 1972, is  
4650 brought forward as follows:

4651 31-7-61. It shall be unlawful for any person knowingly to  
4652 purchase or to authorize or requisition the purchase of beef other  
4653 than beef raised and produced within the United States when such  
4654 purchase is to be paid by the state government or any of its  
4655 political subdivisions out of public funds of any nature.

4656 However, all canned meats not available which are processed in the  
4657 United States shall be exempt from Sections 31-7-61 through  
4658 31-7-65.

4659 **SECTION 45.** Section 31-7-63, Mississippi Code of 1972, is  
4660 brought forward as follows:

4661 31-7-63. Any person who violates the provisions of Section  
4662 31-7-61 shall be guilty of a misdemeanor and, upon conviction,  
4663 shall be punished by imprisonment for not more than thirty (30)  
4664 days or by a fine of not less than One Hundred Dollars (\$100.00)



4665 nor more than Five Hundred Dollars (\$500.00). In addition to any  
4666 criminal sanction authorized herein, a civil proceeding may be  
4667 brought by a district attorney or county prosecuting attorney for  
4668 recovery of funds paid out in violation of this section.

4669 **SECTION 46.** Section 31-7-65, Mississippi Code of 1972, is  
4670 brought forward as follows:

4671 31-7-65. The Commissioner of Agriculture and Commerce of the  
4672 State of Mississippi shall notify all state agencies, political  
4673 subdivisions or public institutions within the State of  
4674 Mississippi as to the provisions of Sections 31-7-61 through  
4675 31-7-65.

4676 **SECTION 47.** Section 31-7-73, Mississippi Code of 1972, is  
4677 brought forward as follows:

4678 31-7-73. Any state agency, as defined in Section 31-7-1,  
4679 Mississippi Code of 1972, shall be authorized and empowered, in  
4680 its discretion, to enter into an energy performance contract,  
4681 energy services contract, on a shared-savings, lease or  
4682 lease-purchase basis, for energy efficiency services and/or  
4683 equipment as provided for in Section 31-7-14.

4684 **SECTION 48.** Section 31-7-301, Mississippi Code of 1972, is  
4685 brought forward as follows:

4686 31-7-301. (1) The Legislature hereby declares that it is  
4687 essential to the efficient operation of public bodies of this  
4688 state that adequate supplies of goods and services continue to be  
4689 available from private sources; that the good name and credit of



4690 the state may be promoted by timely and responsible payment of  
4691 just claims; and that fair compensation be awarded suppliers when  
4692 payments of their claims are delayed without justification.

4693 (2) The term "public bodies" shall mean all state agencies,  
4694 political subdivisions, school districts, municipalities and  
4695 public corporations, whether created by charter, statute or  
4696 executive order, whether supported wholly or in part by public  
4697 funds, or which expend public funds.

4698 **SECTION 49.** Section 31-7-303, Mississippi Code of 1972, is  
4699 brought forward as follows:

4700 31-7-303. (1) The requisition for payment of an invoice  
4701 submitted to a public body and required by law to be filed with  
4702 the State Fiscal Management Board shall be filed with the State  
4703 Fiscal Management Board not later than thirty (30) days after  
4704 receipt of the invoice and receipt, inspection and approval of the  
4705 goods or services, except that in the case of a bona fide dispute  
4706 the requisition for payment shall contain a statement of the  
4707 dispute and authorize payment only in the amount not disputed. If  
4708 a requisition for payment filed within the thirty-day period is  
4709 returned by the State Fiscal Management Board because of an error,  
4710 it shall nevertheless be deemed timely filed. The thirty-day  
4711 filing requirement may be waived by the State Fiscal Management  
4712 Board on a showing of exceptional circumstances in accordance with  
4713 rules and regulations established by the State Fiscal Management  
4714 Board.



4715           (2) The warrant, in payment of an invoice submitted to a  
4716 public body of the state, shall be mailed or otherwise delivered  
4717 by the public body not later than fifteen (15) days after filing  
4718 of the requisition for payment; however, this requirement may be  
4719 waived by the State Fiscal Management Board on a showing of  
4720 exceptional circumstances in accordance with rules and regulations  
4721 of the State Fiscal Management Board or as otherwise provided in  
4722 Section 7-7-35, Mississippi Code of 1972.

4723           **SECTION 50.** Section 31-7-305, Mississippi Code of 1972, is  
4724 brought forward as follows:

4725           31-7-305. (1) All public bodies of the state, including  
4726 those which issue checks and those which file requisitions for  
4727 payment with the State Fiscal Management Board, shall keep a  
4728 record of the date of receipt of the invoice, dates of receipt,  
4729 inspection and approval of the goods or services, date of issuing  
4730 the check or date of filing the requisition for payment, as the  
4731 case may be, and date of mailing or otherwise delivering the  
4732 warrant or check in payment thereof. In the event that the State  
4733 Fiscal Management Board mails or otherwise delivers the warrant  
4734 directly to the claimant, pursuant to Section 7-7-35, Mississippi  
4735 Code of 1972, the State Fiscal Management Board shall notify the  
4736 public body of the date thereof. The provisions of this section  
4737 are supplemental to the requirements of Sections 19-13-29,  
4738 21-39-7, 21-39-13 and 37-5-93, Mississippi Code of 1972.



4739           (2) All public bodies that are authorized to issue checks in  
4740 payment of goods and services and are not required to issue  
4741 requisitions for payment to the State Fiscal Management Board  
4742 shall mail or otherwise deliver such checks no later than  
4743 forty-five (45) days after receipt of the invoice and receipt,  
4744 inspection and approval of the goods or services; however, in the  
4745 event of a bona fide dispute, the public body shall pay only the  
4746 amount not disputed.

4747           (3) If a warrant or check, as the case may be, in payment of  
4748 an invoice is not mailed or otherwise delivered within forty-five  
4749 (45) days after receipt of the invoice and receipt, inspection and  
4750 approval of the goods and services, the public body shall be  
4751 liable to the vendor, in addition to the amount of the invoice,  
4752 for interest at a rate of one and one-half percent (1-1/2%) per  
4753 month or portion thereof on the unpaid balance from the expiration  
4754 of such forty-five-day period until such time as the warrant or  
4755 check is mailed or otherwise delivered to the vendor. The  
4756 provisions of this subsection (3) shall apply only to undisputed  
4757 amounts for which payment has been authorized. In the case of an  
4758 error on the part of the vendor, the forty-five-day period shall  
4759 begin to run upon receipt of a corrected invoice by the public  
4760 body and upon compliance with the other provisions of this  
4761 section. The various public bodies shall be responsible for  
4762 initiating the penalty payments required by this subsection and  
4763 shall use this subsection as authority to make such payments.





4764 Also, at the time of initiating such penalty payment, the public  
4765 body shall specify in writing an explanation of the delay and  
4766 shall attach such explanation to the requisition for payment of  
4767 the penalty or to the file copy of the check issued by the public  
4768 body, as the case may be.

4769 (4) (a) In the event of a bona fide dispute as to an  
4770 invoice, or any portion thereof, the dispute shall be settled  
4771 within thirty (30) days after interest penalties could begin to be  
4772 assessed, if it were not for the dispute.

4773 (b) If a warrant or check, as the case may be, in  
4774 payment of an invoice, subject to a prior dispute, is not mailed  
4775 or otherwise delivered within thirty (30) days after settlement of  
4776 the dispute, the public body shall be liable to the vendor, in  
4777 addition to the amount of the invoice, for interest at a rate of  
4778 one and one-half percent (1-1/2%) per month or portion thereof on  
4779 the unpaid balance from the expiration of said thirty-day period  
4780 until such time as the warrant or check is mailed or otherwise  
4781 delivered to the vendor. At the time of initiating such penalty  
4782 payment, the public body shall specify in writing an explanation  
4783 of the delay and shall attach such explanation to the requisition  
4784 for payment of the penalty or to the file copy of the check issued  
4785 by the public body, as the case may be. The interest penalty  
4786 prescribed in this paragraph shall be in lieu of the penalty  
4787 provided in subsection (3).



4788           **SECTION 51.** Section 31-7-307, Mississippi Code of 1972, is  
4789 brought forward as follows:

4790           31-7-307. (1) The budget request submitted by a public body  
4791 to the Legislature shall specifically disclose the amount of any  
4792 interest paid by any public body pursuant to Sections 31-7-301  
4793 through 31-7-317. However, no provision of Sections 31-7-301  
4794 through 31-7-317 authorizes a new appropriation to cover such  
4795 interest penalties, and public bodies shall not seek to increase  
4796 appropriations for the purpose of obtaining funds to pay any  
4797 interest penalties.

4798           (2) All public bodies of the state, including those which  
4799 issue checks and those which file requisitions for payment with  
4800 the State Fiscal Management Board, shall monthly notify the State  
4801 Fiscal Management Board of the number and dollar amount of late  
4802 payments by the public body along with the amounts of interest  
4803 paid and the specific steps being taken to reduce the incidence of  
4804 late payments.

4805           (3) If the terms of the invoice provide a discount for  
4806 payment in less than forty-five (45) days, public bodies shall  
4807 preferentially process it and use all diligence to obtain the  
4808 savings by compliance with the invoice terms, if it would be cost  
4809 effective.

4810           **SECTION 52.** Section 31-7-309, Mississippi Code of 1972, is  
4811 brought forward as follows:



4812           31-7-309. Whenever a vendor brings formal administrative or  
4813 judicial action to collect interest due under Sections 31-7-301  
4814 through 31-7-317, the public body shall be required to pay any  
4815 reasonable attorney's fees if the vendor prevails.

4816           **SECTION 53.** Section 31-7-311, Mississippi Code of 1972, is  
4817 brought forward as follows:

4818           31-7-311. The State Fiscal Management Board shall submit to  
4819 the Appropriations Committee of each house of the Legislature by  
4820 January 15 of each year a report summarizing the payment record  
4821 for the preceding fiscal year. The report shall include the  
4822 number and dollar amount of late payments by each public body  
4823 along with the amounts of interest paid and the specific steps  
4824 being taken to reduce the incidence of late payments.

4825           **SECTION 54.** Section 31-7-313, Mississippi Code of 1972, is  
4826 brought forward as follows:

4827           31-7-313. The State Fiscal Management Board is authorized  
4828 and directed to adopt and promulgate rules and regulations  
4829 necessary to implement this section.

4830           **SECTION 55.** Section 31-7-315, Mississippi Code of 1972, is  
4831 brought forward as follows:

4832           31-7-315. Sections 31-7-301 through 31-7-317 shall not  
4833 affect payment under public works contracts as provided in  
4834 Sections 31-5-25 and 31-5-27, Mississippi Code of 1972.

4835           **SECTION 56.** Section 31-7-317, Mississippi Code of 1972, is  
4836 brought forward as follows:



4837 31-7-317. (1) The Governor's Office of General Services  
4838 shall study the feasibility of:

4839 (a) Requiring the Bureau of Purchasing to act as  
4840 purchasing agent for state agencies;

4841 (b) Requiring the Bureau of Purchasing to purchase  
4842 frequently used products and supplies and warehouse them for state  
4843 agencies, especially in the Jackson metropolitan area; and

4844 (c) A small business/minority set-aside program.

4845 (2) On or before January 15, 1987, the Governor's Office of  
4846 General Services shall transmit its written report of the  
4847 feasibility studies to the Legislature, along with its  
4848 recommendations and an estimate of the fiscal impact of the  
4849 recommendations. If the Governor's Office of General Services  
4850 recommends that the bureau should be required to act as purchasing  
4851 agent for smaller state agencies, the report shall include a list  
4852 of state agencies to be included.

4853 **SECTION 57.** Section 31-17-3, Mississippi Code of 1972, is  
4854 brought forward as follows:

4855 31-17-3. The State Bond Commission, with the approval and  
4856 consent of the State Auditor of Public Accounts and the Chairman  
4857 of the State Tax Commission, is hereby authorized to purchase  
4858 outstanding bonds of the State of Mississippi, retire such bonds,  
4859 and pay the purchase price thereof out of any surplus remaining in  
4860 the State Treasury at the end of any fiscal year, all in accord  
4861 with the provisions of Sections 31-17-21 through 31-17-25. The



4862 State Bond Commission, with the consent and approval of the State  
4863 Auditor of Public Accounts and the Chairman of the State Tax  
4864 Commission, shall determine the amount of bonds to be purchased,  
4865 the maximum price to be paid therefor not to exceed par and  
4866 accrued interest, and the date upon which it will receive  
4867 proposals to purchase such bonds, all in accord with the  
4868 provisions of Sections 31-17-21 through 31-17-25.

4869 **SECTION 58.** Section 57-62-13, Mississippi Code of 1972, is  
4870 brought forward as follows:

4871 57-62-13. (1) As soon as practicable after the end of a  
4872 calendar quarter for which a qualified business or industry has  
4873 qualified to receive an incentive payment, the qualified business  
4874 or industry shall file a claim for the payment with the Department  
4875 of Revenue and shall specify the actual number of new direct jobs  
4876 created and maintained by the business or industry for the  
4877 calendar quarter and the gross payroll thereof. The Department of  
4878 Revenue shall verify the actual number of new direct jobs created  
4879 and maintained by the business or industry and compliance with the  
4880 average annual wage requirements for such business or industry  
4881 under this chapter. If the qualified business or industry files a  
4882 claim for an incentive payment during an additional incentive  
4883 period provided under Section 57-62-9(2), the Department of  
4884 Revenue shall verify the actual number of new direct jobs created  
4885 and maintained by the business or industry and compliance with the  
4886 average annual wage requirements for such business or industry



4887 under this chapter. If the Department of Revenue is not able to  
4888 provide such verification utilizing all available resources, the  
4889 Department of Revenue may request such additional information from  
4890 the business or industry as may be necessary.

4891 (2) (a) Except as otherwise provided in this chapter, the  
4892 business or industry must meet the salary and job requirements of  
4893 this chapter for four (4) consecutive calendar quarters prior to  
4894 payment of the first incentive payment. Except as otherwise  
4895 provided in Section 57-62-9, if the business or industry does not  
4896 maintain the salary or job requirements of this chapter at any  
4897 other time during the ten-year period after the date the first  
4898 payment was made, the incentive payments shall not be made and  
4899 shall not be resumed until such time as the actual verified number  
4900 of new direct jobs created and maintained by the business or  
4901 industry equals or exceeds the requirements of this chapter for  
4902 one (1) calendar quarter.

4903 (b) If the business or industry is qualified to receive  
4904 incentive payments for an additional period provided under Section  
4905 57-62-9(2), the business or industry must meet the wage and job  
4906 requirements of Section 57-62-9(2), for four (4) consecutive  
4907 calendar quarters prior to payment of the first incentive payment.  
4908 If the business or industry does not maintain the wage or job  
4909 requirements of Section 57-62-9(2), at any other time during the  
4910 appropriate additional period after the date the first payment was  
4911 made, the incentive payments shall not be made and shall not be



4912 resumed until such time as the actual verified number of new  
4913 direct jobs created and maintained by the business or industry  
4914 equals or exceeds the amounts specified in Section 57-62-9(2), for  
4915 one (1) calendar quarter.

4916 (3) An establishment that has qualified pursuant to this  
4917 chapter may receive payments only in accordance with the provision  
4918 under which it initially applied and was approved. If an  
4919 establishment that is receiving incentive payments expands, it may  
4920 apply for additional incentive payments based on the new gross  
4921 payroll for new direct jobs anticipated from the expansion only,  
4922 pursuant to this chapter.

4923 (4) As soon as practicable after verification of the  
4924 qualified business or industry meeting the requirements of this  
4925 chapter and all rules and regulations, the Department of Finance  
4926 and Administration, upon requisition of the Department of Revenue,  
4927 shall issue a warrant drawn on the Mississippi Advantage Jobs  
4928 Incentive Payment Fund to the establishment in the amount of the  
4929 incentive payment as determined pursuant to subsection (1) of this  
4930 section for the calendar quarter.

4931 **SECTION 59.** Section 65-1-181, Mississippi Code of 1972, is  
4932 brought forward as follows:

4933 65-1-181. There is created in the State Treasury a special  
4934 fund, to be known as the "Electric Vehicle Infrastructure Fund,"  
4935 into which shall be deposited any federal monies that are made  
4936 available for the establishment of electric vehicle infrastructure



4937 in the state. Any interest earned on the special fund shall be  
4938 credited to the special fund and shall not be paid into the State  
4939 General Fund. Any monies remaining in the special fund at the end  
4940 of a fiscal year shall not lapse into the State General Fund.

4941 **SECTION 60.** Section 65-11-9, Mississippi Code of 1972, is  
4942 brought forward as follows:

4943 65-11-9. The State Highway Commission shall determine what  
4944 proportion of the funds allotted to the State of Mississippi for  
4945 the improvement of secondary and feeder roads under subsection  
4946 (b), Section 3, of the Federal Aid Highway Act of 1944 [53 U. S.  
4947 Stat. 838, ch. 626], shall be expended upon the improvement of  
4948 highways on the county federal aid highway system; however, not  
4949 less than fifty percent (50%) of the amount so apportioned to  
4950 Mississippi under said act shall be apportioned for expenditure  
4951 among the counties for the improvement of roads on the county  
4952 federal aid highway system; if the amount apportioned by the state  
4953 to the State Highway Fund to carry out the purposes of Sections  
4954 65-11-1 through 65-11-37 should be less than fifty percent (50%)  
4955 of the amount apportioned to Mississippi for secondary and feeder  
4956 roads under said act, then the amount of federal funds apportioned  
4957 to the counties for the improvement of roads on the county federal  
4958 aid highway system may be less than fifty percent (50%) of such  
4959 federal funds, but shall not be less than the amount of such state  
4960 appropriation.





4961           **SECTION 61.** Section 65-11-19, Mississippi Code of 1972, is  
4962 brought forward as follows:

4963           65-11-19. After the selection and determination of the  
4964 projects in the manner prescribed in Sections 65-11-1 through  
4965 65-11-37, the State Highway Commission shall prepare and submit to  
4966 the commissioner of public roads of the public roads  
4967 administration for approval detailed programs of such proposed  
4968 projects for the utilization of any apportionment of funds made to  
4969 the state under the provisions of subsection (b) of Section 3 of  
4970 the Federal Aid Highway Act of 1944 [58 U. S. Stat. 838, ch. 626],  
4971 same to be done in the manner and in the form required by the  
4972 applicable federal laws, rules, and regulations.

4973           **SECTION 62.** Section 73-13-45, Mississippi Code of 1972, is  
4974 brought forward as follows:

4975           73-13-45. (1) (a) Neither the state, nor any of its  
4976 political subdivisions, such as a county, city or town, shall  
4977 award construction contracts of any public work involving the  
4978 practice of engineering or architecture unless the plans,  
4979 specifications and estimates have been prepared and such work  
4980 supervised by a registered professional engineer or architect;  
4981 however, nothing in this subsection shall be held to apply to such  
4982 public work in which the expenditure does not exceed One Hundred  
4983 Thousand Dollars (\$100,000.00).

4984           (b) The state and any of its political subdivisions,  
4985 such as a county, city or town, may engage in construction of



4986 public buildings involving the practice of engineering or  
4987 architecture and using political subdivision workforces without  
4988 the supervision of a licensed professional engineer or architect,  
4989 provided that the total cost of the public building does not  
4990 exceed One Hundred Fifty Thousand Dollars (\$150,000.00). This  
4991 paragraph (1)(b) shall not supersede any rules and regulations  
4992 promulgated by the State Department of Health and the Department  
4993 of Environmental Quality.

4994 (2) (a) In the awarding of public contracts for  
4995 professional engineering services, preference shall be given to  
4996 resident professional engineers over those nonresident  
4997 professional engineers domiciled in a state having laws which  
4998 grant a preference to the professional engineers who are residents  
4999 of that state. Nonresident professional engineers shall be  
5000 awarded Mississippi public contracts only on the same basis as the  
5001 nonresident professional's state awards contracts to Mississippi  
5002 professional engineers under similar circumstances. When a  
5003 nonresident professional engineer submits a proposal for a public  
5004 project, he shall attach thereto a copy of his resident state's  
5005 current statute, resolution, policy, procedure or executive order  
5006 pertaining to such state's treatment of nonresident professional  
5007 engineers. Resident professional engineers actually domiciled in  
5008 Mississippi, be they corporate, individuals or partnerships, shall  
5009 be granted preference over nonresidents in the awarding of  
5010 contracts in the same manner and to the same extent as provided by



5011 the laws of the state of domicile of the nonresident. As used in  
5012 this section, the term "resident professional engineer" includes a  
5013 nonresident person, firm or corporation that has been qualified to  
5014 do business in this state and has maintained a permanent full-time  
5015 office in the State of Mississippi for not less than two (2) years  
5016 prior to submitting a proposal for a public project, and the  
5017 subsidiaries and affiliates of such a person, firm or corporation.

5018 (b) The provisions of this subsection shall not apply  
5019 to any contract for any project upon which federal funds would be  
5020 withheld because of the preference requirements of this  
5021 subsection.

5022 (c) Any contract, agreement or arrangement for  
5023 professional engineering services negotiated, made or entered  
5024 into, directly or indirectly, by the state, counties,  
5025 municipalities or any political subdivision thereof, or by any  
5026 special districts, which is in any way in violation of the  
5027 provisions of this subsection is hereby declared to be void as  
5028 contrary to the public policy of this state and shall not be given  
5029 effect or enforced by any court of this state or by any of its  
5030 officers or employees.

5031 (d) Nothing in this subsection shall affect the  
5032 validity of any contract in existence prior to July 1, 1989.

5033 (e) For purposes of this section, the term  
5034 "professional engineering services" means those within the scope  
5035 of the practice of professional engineering as defined by Sections



5036 73-13-1 through 73-13-45, or those performed by any registered  
5037 professional engineer in connection with professional employment  
5038 or practice.

5039           **SECTION 63.** This act shall take effect and be in force from  
5040 and after its passage.

