

By: Senator(s) Hill

To: Finance

SENATE BILL NO. 2174

1 AN ACT TO AMEND SECTION 31-7-9, MISSISSIPPI CODE OF 1972, TO  
2 MANDATE REIMBURSEMENT TO THE GENERAL FUND BY STATE AGENCIES WHO  
3 FAIL TO COMPLY WITH PROCUREMENT REGULATIONS; AND FOR RELATED  
4 PURPOSES.

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

6 **SECTION 1.** It is the intent and policy of the Mississippi  
7 Legislature that all state agencies preserve the public trust in  
8 the competitive bidding process and avoid fraud, waste, or abuse  
9 by fully complying with all procurement regulations as promulgated  
10 by the Department of Finance and Administration through the Office  
11 of Purchasing, Travel, and Fleet Management and found in the  
12 Mississippi Procurement Manual.

13 **SECTION 2.** Section 31-7-9, Mississippi Code of 1972, is  
14 amended as follows:

15 31-7-9. (1) (a) The Office of Purchasing, Travel and Fleet  
16 Management shall adopt purchasing regulations governing the  
17 purchase by any agency of any commodity or commodities and  
18 establishing standards and specifications for a commodity or  
19 commodities and the maximum fair prices of a commodity or



20 commodities, subject to the approval of the Public Procurement  
21 Review Board. It shall have the power to amend, add to or  
22 eliminate purchasing regulations. The adoption of, amendment,  
23 addition to or elimination of purchasing regulations shall be  
24 based upon a determination by the Office of Purchasing, Travel and  
25 Fleet Management with the approval of the Public Procurement  
26 Review Board, that such action is reasonable and practicable and  
27 advantageous to promote efficiency and economy in the purchase of  
28 commodities by the agencies of the state. Upon the adoption of  
29 any purchasing regulation, or an amendment, addition or  
30 elimination therein, copies of same shall be furnished to the  
31 State Auditor and to all agencies affected thereby. Thereafter,  
32 and except as otherwise may be provided in subsection (2) of this  
33 section, no agency of the state shall purchase any commodities  
34 covered by existing purchasing regulations unless such commodities  
35 be in conformity with the standards and specifications set forth  
36 in the purchasing regulations and unless the price thereof does  
37 not exceed the maximum fair price established by such purchasing  
38 regulations. If the State Auditor, through the annual Single  
39 Audit report, determines an agency procurement purchase made with  
40 public funds to have been in material noncompliance with the  
41 standards and specifications for competitive bidding set forth in  
42 the purchasing regulations, then the noncompliant state agency  
43 must reimburse to the state general fund the total sum value of  
44 the noncompliant contract plus three percent (3%) interest within



45 120 days of the publication of the Auditor's report. The Office  
46 of Purchasing, Travel and Fleet Management shall furnish to any  
47 county or municipality or other local public agency of the state  
48 requesting same, copies of purchasing regulations adopted by the  
49 Office of Purchasing, Travel and Fleet Management and any  
50 amendments, changes or eliminations of same that may be made from  
51 time to time.

52 (b) The Office of Purchasing, Travel and Fleet  
53 Management may adopt purchasing regulations governing the use of  
54 credit cards, procurement cards and purchasing club membership  
55 cards to be used by state agencies, governing authorities of  
56 counties and municipalities, school districts and the Chickasawhay  
57 Natural Gas District. Use of the cards shall be in strict  
58 compliance with the regulations promulgated by the office. Any  
59 amounts due on the cards shall incur interest charges as set forth  
60 in Section 31-7-305 and shall not be considered debt.

61 (c) Pursuant to the provision of Section 37-61-33(3),  
62 the Office of Purchasing, Travel and Fleet Management of the  
63 Department of Finance and Administration is authorized to issue  
64 procurement cards or credentials for a digital solution to all  
65 public school district classroom teachers, full- or part-time  
66 gifted or special education teachers and other necessary direct  
67 support personnel at the beginning of the school year, but no  
68 later than August 1 of each year, for the purchase of  
69 instructional supplies using Educational Enhancement Funds. The



70 cards will be issued in equal amounts per teacher determined by  
71 the total number of qualifying personnel and the then current  
72 state appropriation for classroom instructional supplies under the  
73 Education Enhancement Fund. All purchases shall be in accordance  
74 with state law and teachers are responsible for verification of  
75 capital asset requirements when pooling monies to purchase  
76 equipment. The cards will expire on a predetermined date at the  
77 end of each school year, but not before April 1 of each year. All  
78 unexpended amounts will be carried forward, to be combined with  
79 the following year's instructional supply fund allocation, and  
80 reallocated for the following year. The Department of Finance and  
81 Administration is authorized to loan any start-up funds at the  
82 beginning of the school year to fund this procurement system for  
83 instructional supplies with loan repayment being made from sales  
84 tax receipts earmarked for the Education Enhancement Fund.

85 (d) In a sale of goods or services, the seller shall  
86 not impose a surcharge on a buyer who uses a state-issued credit  
87 card, procurement card, travel card, or fuel card. The Department  
88 of Finance and Administration shall have exclusive jurisdiction to  
89 enforce and adopt rules relating to this paragraph. Any rules  
90 adopted under this paragraph shall be consistent with federal laws  
91 and regulations governing credit card transactions described by  
92 this paragraph. This paragraph does not create a cause of action  
93 against an individual for a violation of this paragraph.



94           (2) The Office of Purchasing, Travel and Fleet Management  
95 shall adopt, subject to the approval of the Public Procurement  
96 Review Board, purchasing regulations governing the purchase of  
97 unmarked vehicles to be used by the Bureau of Narcotics and  
98 Department of Public Safety in official investigations pursuant to  
99 Section 25-1-87. Such regulations shall ensure that purchases of  
100 such vehicles shall be at a fair price and shall take into  
101 consideration the peculiar needs of the Bureau of Narcotics and  
102 Department of Public Safety in undercover operations.

103           (3) The Office of Purchasing, Travel and Fleet Management  
104 shall adopt, subject to the approval of the Public Procurement  
105 Review Board, regulations governing the certification process for  
106 certified purchasing offices, including the Mississippi Purchasing  
107 Certification Program, which shall be required of all purchasing  
108 agents at state agencies. Such regulations shall require entities  
109 desiring to be classified as certified purchasing offices to  
110 submit applications and applicable documents on an annual basis,  
111 and in the case of a state agency purchasing office, to have one  
112 hundred percent (100%) participation and completion by purchasing  
113 agents in the Mississippi Purchasing Certification Program, at  
114 which time the Office of Purchasing, Travel and Fleet Management  
115 may provide the governing entity with a certification valid for  
116 one (1) year from the date of issuance. The Office of Purchasing,  
117 Travel and Fleet Management shall set a fee in an amount that  
118 recovers its costs to administer the Mississippi Purchasing



119 Certification Program, which shall be assessed to the  
120 participating state agencies.

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

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

