

By: Representative Bounds

To: Forestry

HOUSE BILL NO. 299  
(As Passed the House)

1 AN ACT TO AMEND SECTION 49-19-5, MISSISSIPPI CODE OF 1972, TO  
2 AUTHORIZE THE MISSISSIPPI FORESTRY COMMISSION AND COUNTY FORESTERS  
3 WHO ARE EMPLOYED BY THE COMMISSION TO ELECTRONICALLY ACCEPT BIDS  
4 FOR TIMBER SALES; TO AMEND SECTION 29-3-45, MISSISSIPPI CODE OF  
5 1972, TO PROVIDE THAT THE MANAGING BOARD MAY POST ADDITIONAL  
6 NOTICES AND MAY ALLOW FOR SUBMISSION OF ELECTRONIC BIDS; TO BRING  
7 FORWARD SECTION 29-1-1, 31-7-13, 49-19-3 AND 55-3-53, MISSISSIPPI  
8 CODE OF 1972, FOR PURPOSES OF POSSIBLE AMENDMENT; AND FOR RELATED  
9 PURPOSES.

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

11 **SECTION 1.** Section 49-19-5, Mississippi Code of 1972, is  
12 amended as follows:

13 49-19-5. The State Forestry Commission is hereby authorized  
14 and empowered to acquire and dispose of property of all kinds in  
15 accordance with the provisions of Section 29-1-1, in order to  
16 discharge the duties as set forth in Section 49-19-3, and  
17 subsequent germane general laws of the State of Mississippi.

18 Notwithstanding any other provision of law, the commission,  
19 and county foresters who are employed by the commission, is  
20 authorized to electronically accept bids for timber sales.



21           \* \* \* The commission is \* \* \* also authorized to sell, rent,  
22 lease, and dispose of any property acquired by the commission, all  
23 property to be sold or disposed of shall be sold or disposed of in  
24 the manner provided by law for the sale or disposition of surplus  
25 property by other state agencies. Any funds received from the  
26 sale, rental or lease of any property herein authorized, to be  
27 acquired, shall be paid into the State Treasury to the credit of a  
28 special account, and the commission is hereby authorized to use  
29 this fund for the replacement, repairs, and upkeep of any property  
30 authorized to be acquired and owned under this section.

31           **SECTION 2.** Section 29-3-45, Mississippi Code of 1972, is  
32 amended as follows:

33           29-3-45. (1) (a) The board of education shall, by order  
34 placed upon its minutes, enter into an agreement with the State  
35 Forestry Commission for the general supervision and management of  
36 all lands classified as forest lands and of all timber or other  
37 forest products under the control of the board on sixteenth  
38 section lands, and lieu lands which have not been so classified.  
39 However, any school board may contract with private persons or  
40 businesses for the reforestation of sixteenth section lands and  
41 may contract with a registered forester to be paid from the 16th  
42 Section Interest Fund for a review of any forestry management  
43 decision or forestry practice including the sale of timber for  
44 sixteenth section forest land provided that any implementation of  
45 a forestry management decision or forestry practice to be taken as



46 a result of the review described in this subsection shall be  
47 subject to the approval of both the commission and the Secretary  
48 of State. When such agreement has been entered into, no timber or  
49 other forest products shall be sold from any of the sixteenth  
50 section lands or lieu lands except such as have been marked or  
51 approved for cutting by the State Forestry Commission's employees.  
52 The Forestry Commission, or its designated employee, shall fix the  
53 minimum total cash price or minimum price per unit, one thousand  
54 (1,000) feet or other measure, at which the marked timber or other  
55 forest products shall be sold. The sales may be made for a lump  
56 sum or upon a unit price as in the opinion of the board may be  
57 calculated to bring the greatest return. Sales shall be made upon  
58 such other terms and conditions as to manner of cutting, damages  
59 for cutting of unmarked trees, damages to trees not cut and other  
60 pertinent matters as the board of education shall approve.

61 (b) The State Forestry Commission shall have the sole  
62 authority and control in scheduling of all cutting and harvesting  
63 of timber or other forest products when such timber stands or  
64 other forest products are determined by the State Forestry  
65 Commission to be economically ready for cutting and harvesting.

66 (c) Should a school board disagree with the Forestry  
67 Commission concerning the time of cutting and harvesting, the  
68 board may make an appeal to the Forestry Commission at a regular  
69 monthly scheduled meeting of the commission. If the school board  
70 is not satisfied after the appeal to the commission, the board may



71 then appeal to the Secretary of State who will make the final  
72 decision as to the time for cutting and harvesting. In the event  
73 that the local school board is divested of its management  
74 authority under subsection (3) hereof, the Secretary of State  
75 after due consultation with the Forestry Commission shall retain  
76 the right to make final decisions concerning the management and  
77 sale of timber and other forest products.

78 (d) It is hereby made the duty of the State Forestry  
79 Commission, from time to time, to mark timber which should be cut  
80 from the lands, to determine what planting, deadening or other  
81 forestry improvements should be made, giving due consideration to  
82 food and habitat for wildlife, and to report to the appropriate  
83 board of education. The State Forestry Commission and the board  
84 of education shall supervise the cutting of any timber or  
85 harvesting of other forest products sold from the lands herein  
86 designated and shall have authority to require any timber-cutting  
87 operations on the lands to cease until proper adjustment is made,  
88 whenever it shall appear that timber is being cut in violation of  
89 the terms of the sale. In the event that it is desired to lease  
90 any of such lands or standing timber for turpentine purposes, such  
91 lease shall only cover such trees as the State Forestry Commission  
92 shall designate, and the commission through its employees shall  
93 approve the number of faces, method of chipping and boxing of such  
94 timber, and shall fix a minimum total cash price or minimum price  
95 per unit.



96 (e) No sale of any timber, turpentine or other forest  
97 products lease shall be made until notice of same shall have been  
98 published once a week for three (3) consecutive weeks in at least  
99 one (1) newspaper published in such county. The first publication  
100 of such notice shall be made not less than twenty-one (21) days  
101 prior to the date fixed for the sale, and the last publication  
102 shall be made not more than seven (7) days prior to such date. If  
103 no newspaper is published in such county, then such notice shall  
104 be given by publishing the same for the required time in some  
105 newspaper having a general circulation in such county and, in  
106 addition thereto, by posting a copy of such notice for at least  
107 twenty-one (21) days next preceding such sale at three (3) public  
108 places in such county. The managing board may also publish  
109 additional notices at school offices, in trade publications, or at  
110 any other location, in any other media, or by any other means it  
111 finds likely to result in competitive bids. The board may allow  
112 for submission of electronic bids.

113 (f) Notwithstanding the above provision pertaining to  
114 the sale of any timber, turpentine or other forest products, in  
115 the event that timber must be cleared from an existing road or  
116 existing utility right-of-way, the public notice requirement may  
117 be waived. Prior to waiver of the public notice requirement, the  
118 State Forestry Commission must make a finding that, due to the  
119 small area of timber to be cleared, a public notice sale would not  
120 be in the best interest of the local board of education. If the



121 State Forestry Commission makes such a finding, then it shall set  
122 the value of the timber to be paid to the local board of education  
123 by the party requesting the timber be removed.

124 (g) Provided, however, in the case of damage by fire,  
125 windstorm or other natural causes which would require immediate  
126 sale of the timber, because the time involved for advertisement as  
127 prescribed herein would allow decay, rot or destruction  
128 substantially decreasing the purchase price to be received had not  
129 such delay occurred, the advertisement provisions of this section  
130 shall not apply. The local board of education, with a written  
131 recommendation from a designated employee of the State Forestry  
132 Commission filed in the minutes of the local board of education,  
133 shall determine when immediate sale of the timber is required.  
134 When the board of education shall find an immediate sale necessary  
135 for the causes stated herein, it shall, in its discretion, set the  
136 time for receipt of bids on the purchase of the timber, but shall  
137 show due diligence in notifying competitive bidders so that a true  
138 competitive bid shall be received.

139 (2) (a) A local board of education having control of the  
140 sixteenth section lands in the Hurricane Katrina Disaster of 2005  
141 shall be granted emergency powers to take any and all actions of a  
142 reasonably prudent trustee acting under emergency conditions to  
143 recover damaged timber, prevent further loss or damage to timber,  
144 and to minimize economic loss. All such actions shall be taken in  
145 consultation with and shall be subject to the prior approval from



146 the Secretary of State and the State Forestry Commission. The  
147 emergency powers shall be as follows:

148 (i) Contract with any individual or entity for  
149 management advice, sale of timber, clearing of damage to timber  
150 producing lands, transporting of timber, repairing access roads to  
151 timber lands, conducting aerial spraying, or taking any other type  
152 of action to prevent further loss of timber or diminution in value  
153 of existing timber as the result of the incident which  
154 necessitated the declaration of a natural disaster. In  
155 contracting with any individual or entity, the local board of  
156 education shall use its best efforts to ensure that all costs  
157 incurred are reasonable and that a fair price is received for all  
158 sales.

159 (ii) Enter into agreements with any individual,  
160 private company, or other governmental entities for the pooling of  
161 resources, or the sharing of costs so as to maximize the  
162 mitigation of loss and minimize the expense of mitigating the loss  
163 of timber.

164 (iii) Apply for any state, federal, or private  
165 party grant or nonrepayable funds to cover costs associated with  
166 emergency management contracts, sale timber, including loss for  
167 diminution of value, transporting of timber, replanting of timber,  
168 repairing access roads to timber, conducting aerial spraying, or  
169 reimbursement for any other action taken to prevent further timber  
170 damage, as well as mitigating the loss of funds due to damage.



171 (b) The emergency powers granted herein shall be for a  
172 period of one (1) year from the date of designation as a disaster  
173 area due to Hurricane Katrina. The emergency powers may be  
174 extended for one (1) additional one-year period upon prior written  
175 approval from the Secretary of State.

176 (c) The emergency powers shall also apply to the  
177 management of timber by the Secretary of State pursuant to  
178 subsection (3) of this section.

179 (d) In the event a local board of education is unable  
180 to acquire the services of the State Forestry Commission or the  
181 Secretary of State to meet an immediate need to salvage, remove or  
182 take other appropriate action on damaged timber, the local board  
183 of education shall unilaterally be granted the authority to take  
184 such actions as necessary regarding the management or sale of  
185 timber or other forest products.

186 (e) In exercising emergency powers, a local board of  
187 education or the Secretary of State shall exercise the general  
188 powers of a trustee with the same general restrictions and general  
189 liabilities of a trustee and shall exercise the care and skill of  
190 an ordinary prudent person to protect the beneficiaries of the  
191 trust under such emergency circumstances.

192 (f) Any contractor with a local board of education or  
193 the Secretary of State shall be entitled to rely on  
194 representations by such board of education or the Secretary of  
195 State as to who has authority to enter contracts for the





196 management or sale of timber or other forest products, and  
197 reliance on such representations shall not be grounds for voiding  
198 any contract.

199 (3) (a) In the event that any member of a local board of  
200 education may have a personal interest, either direct or indirect,  
201 in the decisions regarding the management or sale of timber or  
202 other forest products or in a contract for the sale of timber or  
203 other forest products from sixteenth section school lands under  
204 the jurisdiction and control of the board, then the board of  
205 education shall automatically be divested of all authority and  
206 power to manage and sell timber or other forest products on  
207 sixteenth section lands under its control and jurisdiction. The  
208 divestiture shall extend for the period of service, and for one  
209 (1) year thereafter, of the board member having a direct or  
210 indirect personal interest in the sale or decision to sell timber  
211 or other forest products.

212 (b) During the time in which any local board of  
213 education may be divested of authority and power to manage and  
214 sell timber and other forest products, such authority and power  
215 shall be vested in the Secretary of State, as supervisory trustee  
216 of sixteenth section lands. Upon the appointment or election of a  
217 member of a local board of education who may have such an  
218 appointment or election of a member of a local board of education  
219 who may have such an interest in decisions and contracts regarding  
220 the management and sale of timber or other forest products, the



221 board of education shall immediately notify the Secretary of State  
222 in writing. Likewise, the board shall give written notification  
223 to the Secretary of State within thirty (30) days prior to the  
224 expiration of any such divestiture period. Any contractor with a  
225 local board of education or the Secretary of State shall be  
226 entitled to rely on representations by such board or the Secretary  
227 of State as to who has authority to enter contracts for the  
228 management or sale of timber or other forest products, and  
229 reliance on such representations shall not be grounds for voiding  
230 any contract.

231 (c) The laws providing for the management and sale of  
232 timber and other forest products by local boards of education  
233 shall apply to the management and sale of timber and other forest  
234 products by the Secretary of State. The Mississippi Forestry  
235 Commission shall provide the Secretary of State with advice and  
236 services in the same manner as provided to local boards of  
237 education.

238 (d) The Secretary of State shall be paid all monies  
239 derived from the sale of timber or other forest products and shall  
240 promptly forward the same to the superintendent of education for  
241 such school district with instructions for the proper settlement,  
242 deposit and investment of the monies. Such local school board  
243 shall reimburse the Secretary of State for all direct costs  
244 relating to the management and sale of timber or other forest  
245 products, and in the case of a sale of timber or other forest



246 products, the Secretary of State may deduct such direct cost from  
247 the proceeds of sale. The Secretary of State shall furnish an  
248 itemized listing of all direct cost charged to the local school  
249 district.

250 **SECTION 3.** Section 29-1-1, Mississippi Code of 1972, is  
251 brought forward as follows:

252 29-1-1. (1) Except as otherwise provided in subsections  
253 (7), (8), (9) and (13) of this section, the title to all lands  
254 held by any agency of the State of Mississippi shall appear on all  
255 deeds and land records under the name of the "State of  
256 Mississippi." A deed may also recite the name of the agency for  
257 whose benefit and use the land is acquired, but the recital shall  
258 not be deemed or construed to be a limitation on the grant or an  
259 impairment of title held by the State of Mississippi. Use and  
260 possession of the land may be reassigned by act of the Legislature  
261 or by interagency conveyance where each agency has statutory  
262 authority to acquire and dispose of land. For the purpose of this  
263 section, the term "agency" shall be defined as set forth in  
264 Section 31-7-1(a). The provisions of this section shall not  
265 affect the authority of any agency to use any land held by the  
266 agency. No assets or property of the Public Employees' Retirement  
267 System of Mississippi shall be transferred in violation of Section  
268 272A of the Mississippi Constitution of 1890. Each state agency  
269 shall inventory any state-held lands which are titled in the name  
270 of the agency. The agency shall execute quitclaim deeds and any



271 other necessary documents to transfer the name and title of the  
272 property to the State of Mississippi. State agencies shall  
273 furnish to the Secretary of State certified copies of the  
274 quitclaim deeds and all other deeds whereby the state agency  
275 acquires or disposes of state-held land.

276 (2) The Secretary of State, under the general direction of  
277 the Governor and as authorized by law, shall sell and convey the  
278 public lands in the manner and on the terms provided herein for  
279 the several classes thereof; he shall perform all the  
280 administrative and executive duties appertaining to the selection,  
281 location, surveying, platting, listing, and registering these  
282 lands or otherwise concerning them; and he shall investigate the  
283 status of the various "percent" funds accrued and accruing to the  
284 state from the sale of lands by the United States, and shall  
285 collect and pay the funds into the Treasury in the manner provided  
286 by law. The Secretary of State, with the approval of the  
287 Governor, acting on behalf of the state, may accept gifts or  
288 donations of land to the State of Mississippi.

289 (3) In accordance with Sections 7-11-11 and 7-11-13, the  
290 Secretary of State shall be required to sign all conveyances of  
291 all state-held land. For purposes of this section, the term  
292 "conveyance" shall mean any sale or purchase of land by the State  
293 of Mississippi for use by any agency, board or commission thereof.  
294 Failure to obtain legislative approval pursuant to subsection (4)  
295 of this section and the signature of the Secretary of State on any



296 conveyance regarding the sale or purchase of lands for the state  
297 including any agency, board or commission thereof, shall render  
298 the attempted sale or purchase of the lands void. Nothing in this  
299 section shall be construed to authorize any state agency, board,  
300 commission or public official to convey any state-held land unless  
301 this authority is otherwise granted by law. The Secretary of  
302 State shall not withhold arbitrarily his signature from any  
303 purchase or sale authorized by the Mississippi State Legislature.  
304 Except for those lands forfeited to the state for the nonpayment  
305 of taxes, conveyed to another state agency or entity as provided  
306 in subsection (11) of this section or acquired by the Mississippi  
307 Transportation Commission under Section 65-1-123, no state-held  
308 land shall be sold for less than the fair market value as  
309 determined by two (2) professional appraisers selected by the  
310 State Department of Finance and Administration, who are certified  
311 general appraisers of the State of Mississippi. The proceeds from  
312 any sale by an agency, board, commission or public official of  
313 state-held lands shall be deposited into the State General Fund  
314 unless otherwise provided by law.

315 (4) Before any state-held land is sold to any individual or  
316 private entity, thirty (30) days' advance notice of the intended  
317 sale shall be provided by the Secretary of State to the State  
318 Legislature and to all state agencies for the purpose of  
319 ascertaining whether an agency has a need for the land and for the  
320 purpose of ascertaining whether the sale of the land was



321 authorized by law. If no agency of the state expresses in writing  
322 to the Secretary of State by the end of the thirty-day period a  
323 desire to use the land, then the Secretary of State, with the  
324 prior approval of the Mississippi Legislature to sell the  
325 state-held land, may offer the land for sale to any individual or  
326 private entity. Such notice to state agencies is given in aid of  
327 internal management of the real property inventory of the state,  
328 and this notice requirement shall not be applied to challenge or  
329 defeat any title heretofore or hereafter granted by the state  
330 under any law authorized by the Mississippi Legislature providing  
331 for the sale or disposal of property.

332 (5) A cultural resources survey may be performed on any  
333 state-held land before the disposition of the land if the  
334 Mississippi Department of Archives and History deems this survey  
335 necessary. The cost of the survey and any archaeological studies  
336 deemed necessary by the Mississippi Department of Archives and  
337 History shall be paid by the selling agency and recouped from the  
338 proceeds of the sale.

339 (6) Before any land may be purchased by the state for the  
340 benefit of any state agency, the Secretary of State, or his  
341 designee, shall search and examine all state land records to  
342 determine whether the state owns any land that may fit the  
343 particular need of the agency. The Secretary of State, or his  
344 designee, shall notify the agency if it is determined that any  
345 state-held land is available for use by the agency. The agency



346 shall determine if such land accommodates its needs and shall  
347 determine whether to make an official request to the proper  
348 authorities to have the use of the land.

349 (7) This section shall not apply to: (a) any lands  
350 purchased or acquired for construction and maintenance of highways  
351 or highway rights-of-way by the Mississippi Department of  
352 Transportation, or (b) any lands acquired by the state by  
353 forfeiture for nonpayment of ad valorem taxes and heretofore or  
354 hereafter sold under authority of any other section of Chapter 1,  
355 Title 29, specifically relating to tax-forfeited lands.

356 (8) This section shall not apply to any lands purchased  
357 solely by the use of federal funds or lands for which authority to  
358 transfer or dispose of these lands is governed by federal law or  
359 federal regulations insofar as the application of this section  
360 limits or impairs the ability of the Secretary of State to acquire  
361 or dispose of the land. However, any state agency acquiring or  
362 disposing of land exempted from the application of this section by  
363 this subsection shall furnish the Secretary of State certified  
364 copies of all deeds executed for those transfers or disposals.

365 (9) Any lands purchased by the Mississippi Major Economic  
366 Impact Authority for a "project" as defined in Section 57-75-5  
367 shall be excluded from the provisions of this section.

368 (10) The Secretary of State may recover from any agency,  
369 corporation, board, commission, entity or individual any cost that



370 is incurred by his office for the record-keeping responsibilities  
371 regarding the sale or purchase of any state-held lands.

372 (11) Subsections (4), (5) and (6) of this section shall not  
373 apply to sales or purchases of land when the Legislature expressly  
374 authorizes or directs a state agency to sell, purchase or  
375 lease-purchase a specifically described property. However, when  
376 the Legislature authorizes a state agency to sell or otherwise  
377 convey specifically described real property to another state  
378 agency or other entity such as a county, municipality, economic  
379 development district created under Section 19-5-99 or similar  
380 entity, without providing that the conveyance may not be made for  
381 less than the fair market value of the property, then the state  
382 agency authorized to convey such property must make the following  
383 determinations before conveying the property:

384 (a) That the state agency or other entity to which the  
385 proposed conveyance is to be made has an immediate need for the  
386 property;

387 (b) That there are quantifiable benefits that will  
388 inure to the state agency or other entity to which the proposed  
389 conveyance is to be made which outweigh any quantifiable costs to  
390 the state agency authorized to make the conveyance; and

391 (c) That the state agency or other entity to which the  
392 proposed conveyance is to be made lacks available funds to pay  
393 fair market value for the property. If the state agency  
394 authorized to convey such property fails to make such





395 determinations, then it shall not convey the property for less  
396 than the fair market value of the property.

397 (12) This section shall not apply to the donation and  
398 conveyance of the Nanih Waiya State Park to the Mississippi Band  
399 of Choctaw Indians.

400 (13) This section shall not apply to any lands acquired,  
401 sold, or leased pursuant to Section 59-5-1 et seq.

402 **SECTION 4.** Section 31-7-13, Mississippi Code of 1972, is  
403 brought forward as follows:

404 31-7-13. All agencies and governing authorities shall  
405 purchase their commodities and printing; contract for garbage  
406 collection or disposal; contract for solid waste collection or  
407 disposal; contract for sewage collection or disposal; contract for  
408 public construction; and contract for rentals as herein provided.

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

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

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

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

418 **not over \$75,000.00.** Purchases which involve an expenditure of

419 more than Five Thousand Dollars (\$5,000.00) but not more than



420 Seventy-five Thousand Dollars (\$75,000.00), exclusive of freight  
421 and shipping charges, may be made from the lowest and best bidder  
422 without publishing or posting advertisement for bids, provided at  
423 least two (2) competitive written bids have been obtained. Any  
424 state agency or community or junior college purchasing commodities  
425 or procuring construction pursuant to this paragraph (b) may  
426 authorize its purchasing agent, or his designee, to accept the  
427 lowest competitive written bid under Seventy-five Thousand Dollars  
428 (\$75,000.00). Any governing authority purchasing commodities  
429 pursuant to this paragraph (b) may authorize its purchasing agent,  
430 or his designee, with regard to governing authorities other than  
431 counties, or its purchase clerk, or his designee, with regard to  
432 counties, to accept the lowest and best competitive written bid.  
433 Such authorization shall be made in writing by the governing  
434 authority and shall be maintained on file in the primary office of  
435 the agency and recorded in the official minutes of the governing  
436 authority, as appropriate. The purchasing agent or the purchase  
437 clerk, or his designee, as the case may be, and not the governing  
438 authority, shall be liable for any penalties and/or damages as may  
439 be imposed by law for any act or omission of the purchasing agent  
440 or purchase clerk, or his designee, constituting a violation of  
441 law in accepting any bid without approval by the governing  
442 authority. The term "competitive written bid" shall mean a bid  
443 submitted on a bid form furnished by the buying agency or  
444 governing authority and signed by authorized personnel



445 representing the vendor, or a bid submitted on a vendor's  
446 letterhead or identifiable bid form and signed by authorized  
447 personnel representing the vendor. "Competitive" shall mean that  
448 the bids are developed based upon comparable identification of the  
449 needs and are developed independently and without knowledge of  
450 other bids or prospective bids. Any bid item for construction in  
451 excess of Five Thousand Dollars (\$5,000.00) shall be broken down  
452 by components to provide detail of component description and  
453 pricing. These details shall be submitted with the written bids  
454 and become part of the bid evaluation criteria. Bids may be  
455 submitted by facsimile, electronic mail or other generally  
456 accepted method of information distribution. Bids submitted by  
457 electronic transmission shall not require the signature of the  
458 vendor's representative unless required by agencies or governing  
459 authorities.

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

461 (i) **Publication requirement.**

462 1. Purchases which involve an expenditure of  
463 more than Seventy-five Thousand Dollars (\$75,000.00), exclusive of  
464 freight and shipping charges, may be made from the lowest and best  
465 bidder after advertising for competitive bids once each week for  
466 two (2) consecutive weeks in a regular newspaper published in the  
467 county or municipality in which such agency or governing authority  
468 is located. However, all American Recovery and Reinvestment Act  
469 projects in excess of Twenty-five Thousand Dollars (\$25,000.00)



470 shall be bid. All references to American Recovery and  
471 Reinvestment Act projects in this section shall not apply to  
472 programs identified in Division B of the American Recovery and  
473 Reinvestment Act.

474                   2. Reverse auctions shall be the primary  
475 method for receiving bids during the bidding process. If a  
476 purchasing entity determines that a reverse auction is not in the  
477 best interest of the state, then that determination must be  
478 approved by the Public Procurement Review Board. The purchasing  
479 entity shall submit a detailed explanation of why a reverse  
480 auction would not be in the best interest of the state and present  
481 an alternative process to be approved by the Public Procurement  
482 Review Board. If the Public Procurement Review Board authorizes  
483 the purchasing entity to solicit bids with a method other than  
484 reverse auction, then the purchasing entity may designate the  
485 other methods by which the bids will be received, including, but  
486 not limited to, bids sealed in an envelope, bids received  
487 electronically in a secure system, or bids received by any other  
488 method that promotes open competition and has been approved by the  
489 Office of Purchasing and Travel. However, reverse auction shall  
490 not be used for any public contract for design, construction,  
491 improvement, repair or remodeling of any public facilities,  
492 including the purchase of materials, supplies, equipment or goods  
493 for same and including buildings, roads and bridges. The Public  
494 Procurement Review Board must approve any contract entered into by



495 alternative process. The provisions of this item 2 shall not  
496 apply to the individual state institutions of higher learning.  
497 The provisions of this item 2 requiring reverse auction as the  
498 primary method of receiving bids shall not apply to term contract  
499 purchases as provided in paragraph (n) of this section; however, a  
500 purchasing entity may, in its discretion, utilize reverse auction  
501 for such purchases. The provisions of this item 2 shall not apply  
502 to individual public schools, including public charter schools and  
503 public school districts, only when purchasing copyrighted  
504 educational supplemental materials and software as a service  
505 product. For such purchases, a local school board may authorize a  
506 purchasing entity in its jurisdiction to use a Request for  
507 Qualifications which promotes open competition and meets the  
508 requirements of the Office of Purchasing and Travel.

509                   3. The date as published for the bid opening  
510 shall not be less than seven (7) working days after the last  
511 published notice; however, if the purchase involves a construction  
512 project in which the estimated cost is in excess of Seventy-five  
513 Thousand Dollars (\$75,000.00), such bids shall not be opened in  
514 less than fifteen (15) working days after the last notice is  
515 published and the notice for the purchase of such construction  
516 shall be published once each week for two (2) consecutive weeks.  
517 However, all American Recovery and Reinvestment Act projects in  
518 excess of Twenty-five Thousand Dollars (\$25,000.00) shall be bid.  
519 For any projects in excess of Twenty-five Thousand Dollars



520 (\$25,000.00) under the American Recovery and Reinvestment Act,  
521 publication shall be made one (1) time and the bid opening for  
522 construction projects shall not be less than ten (10) working days  
523 after the date of the published notice. The notice of intention  
524 to let contracts or purchase equipment shall state the time and  
525 place at which bids shall be received, list the contracts to be  
526 made or types of equipment or supplies to be purchased, and, if  
527 all plans and/or specifications are not published, refer to the  
528 plans and/or specifications on file. If there is no newspaper  
529 published in the county or municipality, then such notice shall be  
530 given by posting same at the courthouse, or for municipalities at  
531 the city hall, and at two (2) other public places in the county or  
532 municipality, and also by publication once each week for two (2)  
533 consecutive weeks in some newspaper having a general circulation  
534 in the county or municipality in the above-provided manner. On  
535 the same date that the notice is submitted to the newspaper for  
536 publication, the agency or governing authority involved shall mail  
537 written notice to, or provide electronic notification to the main  
538 office of the Mississippi Procurement Technical Assistance Program  
539 under the Mississippi Development Authority that contains the same  
540 information as that in the published notice. Submissions received  
541 by the Mississippi Procurement Technical Assistance Program for  
542 projects funded by the American Recovery and Reinvestment Act  
543 shall be displayed on a separate and unique Internet web page  
544 accessible to the public and maintained by the Mississippi



545 Development Authority for the Mississippi Procurement Technical  
546 Assistance Program. Those American Recovery and Reinvestment Act  
547 related submissions shall be publicly posted within twenty-four  
548 (24) hours of receipt by the Mississippi Development Authority and  
549 the bid opening shall not occur until the submission has been  
550 posted for ten (10) consecutive days. The Department of Finance  
551 and Administration shall maintain information regarding contracts  
552 and other expenditures from the American Recovery and Reinvestment  
553 Act, on a unique Internet web page accessible to the public. The  
554 Department of Finance and Administration shall promulgate rules  
555 regarding format, content and deadlines, unless otherwise  
556 specified by law, of the posting of award notices, contract  
557 execution and subsequent amendments, links to the contract  
558 documents, expenditures against the awarded contracts and general  
559 expenditures of funds from the American Recovery and Reinvestment  
560 Act. Within one (1) working day of the contract award, the agency  
561 or governing authority shall post to the designated web page  
562 maintained by the Department of Finance and Administration, notice  
563 of the award, including the award recipient, the contract amount,  
564 and a brief summary of the contract in accordance with rules  
565 promulgated by the department. Within one (1) working day of the  
566 contract execution, the agency or governing authority shall post  
567 to the designated web page maintained by the Department of Finance  
568 and Administration a summary of the executed contract and make a  
569 copy of the appropriately redacted contract documents available



570 for linking to the designated web page in accordance with the  
571 rules promulgated by the department. The information provided by  
572 the agency or governing authority shall be posted to the web page  
573 for the duration of the American Recovery and Reinvestment Act  
574 funding or until the project is completed, whichever is longer.

575 (ii) **Bidding process amendment procedure.** If all  
576 plans and/or specifications are published in the notification,  
577 then the plans and/or specifications may not be amended. If all  
578 plans and/or specifications are not published in the notification,  
579 then amendments to the plans/specifications, bid opening date, bid  
580 opening time and place may be made, provided that the agency or  
581 governing authority maintains a list of all prospective bidders  
582 who are known to have received a copy of the bid documents and all  
583 such prospective bidders are sent copies of all amendments. This  
584 notification of amendments may be made via mail, facsimile,  
585 electronic mail or other generally accepted method of information  
586 distribution. No addendum to bid specifications may be issued  
587 within two (2) working days of the time established for the  
588 receipt of bids unless such addendum also amends the bid opening  
589 to a date not less than five (5) working days after the date of  
590 the addendum.

591 (iii) **Filing requirement.** In all cases involving  
592 governing authorities, before the notice shall be published or  
593 posted, the plans or specifications for the construction or  
594 equipment being sought shall be filed with the clerk of the board





595 of the governing authority. In addition to these requirements, a  
596 bid file shall be established which shall indicate those vendors  
597 to whom such solicitations and specifications were issued, and  
598 such file shall also contain such information as is pertinent to  
599 the bid.

600 (iv) **Specification restrictions.**

601 1. Specifications pertinent to such bidding  
602 shall be written so as not to exclude comparable equipment of  
603 domestic manufacture. However, if valid justification is  
604 presented, the Department of Finance and Administration or the  
605 board of a governing authority may approve a request for specific  
606 equipment necessary to perform a specific job. Further, such  
607 justification, when placed on the minutes of the board of a  
608 governing authority, may serve as authority for that governing  
609 authority to write specifications to require a specific item of  
610 equipment needed to perform a specific job. In addition to these  
611 requirements, from and after July 1, 1990, vendors of relocatable  
612 classrooms and the specifications for the purchase of such  
613 relocatable classrooms published by local school boards shall meet  
614 all pertinent regulations of the State Board of Education,  
615 including prior approval of such bid by the State Department of  
616 Education.

617 2. Specifications for construction projects  
618 may include an allowance for commodities, equipment, furniture,  
619 construction materials or systems in which prospective bidders are



620 instructed to include in their bids specified amounts for such  
621 items so long as the allowance items are acquired by the vendor in  
622 a commercially reasonable manner and approved by the  
623 agency/governing authority. Such acquisitions shall not be made  
624 to circumvent the public purchasing laws.

625 (v) **Electronic bids.** Agencies and governing  
626 authorities shall provide a secure electronic interactive system  
627 for the submittal of bids requiring competitive bidding that shall  
628 be an additional bidding option for those bidders who choose to  
629 submit their bids electronically. The Department of Finance and  
630 Administration shall provide, by regulation, the standards that  
631 agencies must follow when receiving electronic bids. Agencies and  
632 governing authorities shall make the appropriate provisions  
633 necessary to accept electronic bids from those bidders who choose  
634 to submit their bids electronically for all purchases requiring  
635 competitive bidding under this section. Any special condition or  
636 requirement for the electronic bid submission shall be specified  
637 in the advertisement for bids required by this section. Agencies  
638 or governing authorities that are currently without available high  
639 speed Internet access shall be exempt from the requirement of this  
640 subparagraph (v) until such time that high speed Internet access  
641 becomes available. Any county having a population of less than  
642 twenty thousand (20,000) shall be exempt from the provisions of  
643 this subparagraph (v). Any municipality having a population of  
644 less than ten thousand (10,000) shall be exempt from the



645 provisions of this subparagraph (v). The provisions of this  
646 subparagraph (v) shall not require any bidder to submit bids  
647 electronically. When construction bids are submitted  
648 electronically, the requirement for including a certificate of  
649 responsibility, or a statement that the bid enclosed does not  
650 exceed Fifty Thousand Dollars (\$50,000.00), on the exterior of the  
651 bid envelope as indicated in Section 31-3-21(1) and (2) shall be  
652 deemed in compliance with by including same as an attachment with  
653 the electronic bid submittal.

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

655 (i) **Decision procedure.** Purchases may be made  
656 from the lowest and best bidder. In determining the lowest and  
657 best bid, freight and shipping charges shall be included.  
658 Life-cycle costing, total cost bids, warranties, guaranteed  
659 buy-back provisions and other relevant provisions may be included  
660 in the best bid calculation. All best bid procedures for state  
661 agencies must be in compliance with regulations established by the  
662 Department of Finance and Administration. If any governing  
663 authority accepts a bid other than the lowest bid actually  
664 submitted, it shall place on its minutes detailed calculations and  
665 narrative summary showing that the accepted bid was determined to  
666 be the lowest and best bid, including the dollar amount of the  
667 accepted bid and the dollar amount of the lowest bid. No agency  
668 or governing authority shall accept a bid based on items not  
669 included in the specifications.



670                   (ii)   **Decision procedure for Certified Purchasing**  
671 **Offices.** In addition to the decision procedure set forth in  
672 subparagraph (i) of this paragraph (d), Certified Purchasing  
673 Offices may also use the following procedure: Purchases may be  
674 made from the bidder offering the best value. In determining the  
675 best value bid, freight and shipping charges shall be included.  
676 Life-cycle costing, total cost bids, warranties, guaranteed  
677 buy-back provisions, documented previous experience, training  
678 costs and other relevant provisions, including, but not limited  
679 to, a bidder having a local office and inventory located within  
680 the jurisdiction of the governing authority, may be included in  
681 the best value calculation. This provision shall authorize  
682 Certified Purchasing Offices to utilize a Request For Proposals  
683 (RFP) process when purchasing commodities. All best value  
684 procedures for state agencies must be in compliance with  
685 regulations established by the Department of Finance and  
686 Administration. No agency or governing authority shall accept a  
687 bid based on items or criteria not included in the specifications.

688                   (iii)   **Decision procedure for Mississippi**  
689 **Landmarks.** In addition to the decision procedure set forth in  
690 subparagraph (i) of this paragraph (d), where purchase involves  
691 renovation, restoration, or both, of the State Capitol Building or  
692 any other historical building designated for at least five (5)  
693 years as a Mississippi Landmark by the Board of Trustees of the  
694 Department of Archives and History under the authority of Sections



695 39-7-7 and 39-7-11, the agency or governing authority may use the  
696 following procedure: Purchases may be made from the lowest and  
697 best prequalified bidder. Prequalification of bidders shall be  
698 determined not less than fifteen (15) working days before the  
699 first published notice of bid opening. Prequalification criteria  
700 shall be limited to bidder's knowledge and experience in  
701 historical restoration, preservation and renovation. In  
702 determining the lowest and best bid, freight and shipping charges  
703 shall be included. Life-cycle costing, total cost bids,  
704 warranties, guaranteed buy-back provisions and other relevant  
705 provisions may be included in the best bid calculation. All best  
706 bid and prequalification procedures for state agencies must be in  
707 compliance with regulations established by the Department of  
708 Finance and Administration. If any governing authority accepts a  
709 bid other than the lowest bid actually submitted, it shall place  
710 on its minutes detailed calculations and narrative summary showing  
711 that the accepted bid was determined to be the lowest and best  
712 bid, including the dollar amount of the accepted bid and the  
713 dollar amount of the lowest bid. No agency or governing authority  
714 shall accept a bid based on items not included in the  
715 specifications.

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

717 If the lowest and best bid is not more than ten percent (10%)  
718 above the amount of funds allocated for a public construction or  
719 renovation project, then the agency or governing authority shall



720 be permitted to negotiate with the lowest bidder in order to enter  
721 into a contract for an amount not to exceed the funds allocated.

722 (e) **Lease-purchase authorization.** For the purposes of  
723 this section, the term "equipment" shall mean equipment, furniture  
724 and, if applicable, associated software and other applicable  
725 direct costs associated with the acquisition. Any lease-purchase  
726 of equipment which an agency is not required to lease-purchase  
727 under the master lease-purchase program pursuant to Section  
728 31-7-10 and any lease-purchase of equipment which a governing  
729 authority elects to lease-purchase may be acquired by a  
730 lease-purchase agreement under this paragraph (e). Lease-purchase  
731 financing may also be obtained from the vendor or from a  
732 third-party source after having solicited and obtained at least  
733 two (2) written competitive bids, as defined in paragraph (b) of  
734 this section, for such financing without advertising for such  
735 bids. Solicitation for the bids for financing may occur before or  
736 after acceptance of bids for the purchase of such equipment or,  
737 where no such bids for purchase are required, at any time before  
738 the purchase thereof. No such lease-purchase agreement shall be  
739 for an annual rate of interest which is greater than the overall  
740 maximum interest rate to maturity on general obligation  
741 indebtedness permitted under Section 75-17-101, and the term of  
742 such lease-purchase agreement shall not exceed the useful life of  
743 equipment covered thereby as determined according to the upper  
744 limit of the asset depreciation range (ADR) guidelines for the



745 Class Life Asset Depreciation Range System established by the  
746 Internal Revenue Service pursuant to the United States Internal  
747 Revenue Code and regulations thereunder as in effect on December  
748 31, 1980, or comparable depreciation guidelines with respect to  
749 any equipment not covered by ADR guidelines. Any lease-purchase  
750 agreement entered into pursuant to this paragraph (e) may contain  
751 any of the terms and conditions which a master lease-purchase  
752 agreement may contain under the provisions of Section 31-7-10(5),  
753 and shall contain an annual allocation dependency clause  
754 substantially similar to that set forth in Section 31-7-10(8).  
755 Each agency or governing authority entering into a lease-purchase  
756 transaction pursuant to this paragraph (e) shall maintain with  
757 respect to each such lease-purchase transaction the same  
758 information as required to be maintained by the Department of  
759 Finance and Administration pursuant to Section 31-7-10(13).  
760 However, nothing contained in this section shall be construed to  
761 permit agencies to acquire items of equipment with a total  
762 acquisition cost in the aggregate of less than Ten Thousand  
763 Dollars (\$10,000.00) by a single lease-purchase transaction. All  
764 equipment, and the purchase thereof by any lessor, acquired by  
765 lease-purchase under this paragraph and all lease-purchase  
766 payments with respect thereto shall be exempt from all Mississippi  
767 sales, use and ad valorem taxes. Interest paid on any  
768 lease-purchase agreement under this section shall be exempt from  
769 State of Mississippi income taxation.



770                   (f) **Alternate bid authorization.** When necessary to  
771 ensure ready availability of commodities for public works and the  
772 timely completion of public projects, no more than two (2)  
773 alternate bids may be accepted by a governing authority for  
774 commodities. No purchases may be made through use of such  
775 alternate bids procedure unless the lowest and best bidder cannot  
776 deliver the commodities contained in his bid. In that event,  
777 purchases of such commodities may be made from one (1) of the  
778 bidders whose bid was accepted as an alternate.

779                   (g) **Construction contract change authorization.** In the  
780 event a determination is made by an agency or governing authority  
781 after a construction contract is let that changes or modifications  
782 to the original contract are necessary or would better serve the  
783 purpose of the agency or the governing authority, such agency or  
784 governing authority may, in its discretion, order such changes  
785 pertaining to the construction that are necessary under the  
786 circumstances without the necessity of further public bids;  
787 provided that such change shall be made in a commercially  
788 reasonable manner and shall not be made to circumvent the public  
789 purchasing statutes. In addition to any other authorized person,  
790 the architect or engineer hired by an agency or governing  
791 authority with respect to any public construction contract shall  
792 have the authority, when granted by an agency or governing  
793 authority, to authorize changes or modifications to the original  
794 contract without the necessity of prior approval of the agency or





795 governing authority when any such change or modification is less  
796 than one percent (1%) of the total contract amount. The agency or  
797 governing authority may limit the number, manner or frequency of  
798 such emergency changes or modifications.

799           (h) **Petroleum purchase alternative.** In addition to  
800 other methods of purchasing authorized in this chapter, when any  
801 agency or governing authority shall have a need for gas, diesel  
802 fuel, oils and/or other petroleum products in excess of the amount  
803 set forth in paragraph (a) of this section, such agency or  
804 governing authority may purchase the commodity after having  
805 solicited and obtained at least two (2) competitive written bids,  
806 as defined in paragraph (b) of this section. If two (2)  
807 competitive written bids are not obtained, the entity shall comply  
808 with the procedures set forth in paragraph (c) of this section.  
809 In the event any agency or governing authority shall have  
810 advertised for bids for the purchase of gas, diesel fuel, oils and  
811 other petroleum products and coal and no acceptable bids can be  
812 obtained, such agency or governing authority is authorized and  
813 directed to enter into any negotiations necessary to secure the  
814 lowest and best contract available for the purchase of such  
815 commodities.

816           (i) **Road construction petroleum products price**  
817 **adjustment clause authorization.** Any agency or governing  
818 authority authorized to enter into contracts for the construction,  
819 maintenance, surfacing or repair of highways, roads or streets,



820 may include in its bid proposal and contract documents a price  
821 adjustment clause with relation to the cost to the contractor,  
822 including taxes, based upon an industry-wide cost index, of  
823 petroleum products including asphalt used in the performance or  
824 execution of the contract or in the production or manufacture of  
825 materials for use in such performance. Such industry-wide index  
826 shall be established and published monthly by the Mississippi  
827 Department of Transportation with a copy thereof to be mailed,  
828 upon request, to the clerks of the governing authority of each  
829 municipality and the clerks of each board of supervisors  
830 throughout the state. The price adjustment clause shall be based  
831 on the cost of such petroleum products only and shall not include  
832 any additional profit or overhead as part of the adjustment. The  
833 bid proposals or document contract shall contain the basis and  
834 methods of adjusting unit prices for the change in the cost of  
835 such petroleum products.

836           (j) **State agency emergency purchase procedure.** If the  
837 governing board or the executive head, or his designees, of any  
838 agency of the state shall determine that an emergency exists in  
839 regard to the purchase of any commodities or repair contracts, so  
840 that the delay incident to giving opportunity for competitive  
841 bidding would be detrimental to the interests of the state, then  
842 the head of such agency, or his designees, shall file with the  
843 Department of Finance and Administration (i) a statement  
844 explaining the conditions and circumstances of the emergency,



845 which shall include a detailed description of the events leading  
846 up to the situation and the negative impact to the entity if the  
847 purchase is made following the statutory requirements set forth in  
848 paragraph (a), (b) or (c) of this section, and (ii) a certified  
849 copy of the appropriate minutes of the board of such agency  
850 requesting the emergency purchase, if applicable. Upon receipt of  
851 the statement and applicable board certification, the State Fiscal  
852 Officer, or his designees, may, in writing, authorize the purchase  
853 or repair without having to comply with competitive bidding  
854 requirements.

855         If the governing board or the executive head, or his  
856 designees, of any agency determines that an emergency exists in  
857 regard to the purchase of any commodities or repair contracts, so  
858 that the delay incident to giving opportunity for competitive  
859 bidding would threaten the health or safety of any person, or the  
860 preservation or protection of property, then the provisions in  
861 this section for competitive bidding shall not apply, and any  
862 officer or agent of the agency having general or specific  
863 authority for making the purchase or repair contract shall approve  
864 the bill presented for payment, and he shall certify in writing  
865 from whom the purchase was made, or with whom the repair contract  
866 was made.

867         Total purchases made under this paragraph (j) shall only be  
868 for the purpose of meeting needs created by the emergency  
869 situation. Following the emergency purchase, documentation of the



870 purchase, including a description of the commodity purchased, the  
871 purchase price thereof and the nature of the emergency shall be  
872 filed with the Department of Finance and Administration. Any  
873 contract awarded pursuant to this paragraph (j) shall not exceed a  
874 term of one (1) year.

875 Purchases under the grant program established under Section  
876 37-68-7 in response to COVID-19 and the directive that school  
877 districts create a distance learning plan and fulfill technology  
878 needs expeditiously shall be deemed an emergency purchase for  
879 purposes of this paragraph (j).

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

881 If the governing authority, or the governing authority acting  
882 through its designee, shall determine that an emergency exists in  
883 regard to the purchase of any commodities or repair contracts, so  
884 that the delay incident to giving opportunity for competitive  
885 bidding would be detrimental to the interest of the governing  
886 authority, then the provisions herein for competitive bidding  
887 shall not apply and any officer or agent of such governing  
888 authority having general or special authority therefor in making  
889 such purchase or repair shall approve the bill presented therefor,  
890 and he shall certify in writing thereon from whom such purchase  
891 was made, or with whom such a repair contract was made. At the  
892 board meeting next following the emergency purchase or repair  
893 contract, documentation of the purchase or repair contract,  
894 including a description of the commodity purchased, the price



895 thereof and the nature of the emergency shall be presented to the  
896 board and shall be placed on the minutes of the board of such  
897 governing authority. Purchases under the grant program  
898 established under Section 37-68-7 in response to COVID-19 and the  
899 directive that school districts create a distance learning plan  
900 and fulfill technology needs expeditiously shall be deemed an  
901 emergency purchase for purposes of this paragraph (k).

902 (1) **Hospital purchase, lease-purchase and lease**  
903 **authorization.**

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

909 (ii) In addition to the authority granted in  
910 subparagraph (i) of this paragraph (1), the commissioners or board  
911 of trustees is authorized to enter into contracts for the lease of  
912 equipment or services, or both, which it considers necessary for  
913 the proper care of patients if, in its opinion, it is not  
914 financially feasible to purchase the necessary equipment or  
915 services. Any such contract for the lease of equipment or  
916 services executed by the commissioners or board shall not exceed a  
917 maximum of five (5) years' duration and shall include a  
918 cancellation clause based on unavailability of funds. If such  
919 cancellation clause is exercised, there shall be no further



920 liability on the part of the lessee. Any such contract for the  
921 lease of equipment or services executed on behalf of the  
922 commissioners or board that complies with the provisions of this  
923 subparagraph (ii) shall be excepted from the bid requirements set  
924 forth in this section.

925 (m) **Exceptions from bidding requirements.** Excepted  
926 from bid requirements are:

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

928 Purchasing agreements, contracts and maximum price regulations  
929 executed or approved by the Department of Finance and  
930 Administration.

931 (ii) **Outside equipment repairs.** Repairs to  
932 equipment, when such repairs are made by repair facilities in the  
933 private sector; however, engines, transmissions, rear axles and/or  
934 other such components shall not be included in this exemption when  
935 replaced as a complete unit instead of being repaired and the need  
936 for such total component replacement is known before disassembly  
937 of the component; however, invoices identifying the equipment,  
938 specific repairs made, parts identified by number and name,  
939 supplies used in such repairs, and the number of hours of labor  
940 and costs therefor shall be required for the payment for such  
941 repairs.

942 (iii) **In-house equipment repairs.** Purchases of  
943 parts for repairs to equipment, when such repairs are made by  
944 personnel of the agency or governing authority; however, entire



945 assemblies, such as engines or transmissions, shall not be  
946 included in this exemption when the entire assembly is being  
947 replaced instead of being repaired.

948 (iv) **Raw gravel or dirt.** Raw unprocessed deposits  
949 of gravel or fill dirt which are to be removed and transported by  
950 the purchaser.

951 (v) **Governmental equipment auctions.** Motor  
952 vehicles or other equipment purchased from a federal agency or  
953 authority, another governing authority or state agency of the  
954 State of Mississippi, or any governing authority or state agency  
955 of another state at a public auction held for the purpose of  
956 disposing of such vehicles or other equipment. Any purchase by a  
957 governing authority under the exemption authorized by this  
958 subparagraph (v) shall require advance authorization spread upon  
959 the minutes of the governing authority to include the listing of  
960 the item or items authorized to be purchased and the maximum bid  
961 authorized to be paid for each item or items.

962 (vi) **Intergovernmental sales and transfers.**  
963 Purchases, sales, transfers or trades by governing authorities or  
964 state agencies when such purchases, sales, transfers or trades are  
965 made by a private treaty agreement or through means of  
966 negotiation, from any federal agency or authority, another  
967 governing authority or state agency of the State of Mississippi,  
968 or any state agency or governing authority of another state.  
969 Nothing in this section shall permit such purchases through public



970 auction except as provided for in subparagraph (v) of this  
971 paragraph (m). It is the intent of this section to allow  
972 governmental entities to dispose of and/or purchase commodities  
973 from other governmental entities at a price that is agreed to by  
974 both parties. This shall allow for purchases and/or sales at  
975 prices which may be determined to be below the market value if the  
976 selling entity determines that the sale at below market value is  
977 in the best interest of the taxpayers of the state. Governing  
978 authorities shall place the terms of the agreement and any  
979 justification on the minutes, and state agencies shall obtain  
980 approval from the Department of Finance and Administration, prior  
981 to releasing or taking possession of the commodities.

982 (vii) **Perishable supplies or food.** Perishable  
983 supplies or food purchased for use in connection with hospitals,  
984 the school lunch programs, homemaking programs and for the feeding  
985 of county or municipal prisoners.

986 (viii) **Single-source items.** Noncompetitive items  
987 available from one (1) source only. In connection with the  
988 purchase of noncompetitive items only available from one (1)  
989 source, a certification of the conditions and circumstances  
990 requiring the purchase shall be filed by the agency with the  
991 Department of Finance and Administration and by the governing  
992 authority with the board of the governing authority. Upon receipt  
993 of that certification the Department of Finance and Administration  
994 or the board of the governing authority, as the case may be, may,





995 in writing, authorize the purchase, which authority shall be noted  
996 on the minutes of the body at the next regular meeting thereafter.  
997 In those situations, a governing authority is not required to  
998 obtain the approval of the Department of Finance and  
999 Administration. Following the purchase, the executive head of the  
1000 state agency, or his designees, shall file with the Department of  
1001 Finance and Administration, documentation of the purchase,  
1002 including a description of the commodity purchased, the purchase  
1003 price thereof and the source from whom it was purchased.

1004 (ix) **Waste disposal facility construction**  
1005 **contracts.** Construction of incinerators and other facilities for  
1006 disposal of solid wastes in which products either generated  
1007 therein, such as steam, or recovered therefrom, such as materials  
1008 for recycling, are to be sold or otherwise disposed of; however,  
1009 in constructing such facilities, a governing authority or agency  
1010 shall publicly issue requests for proposals, advertised for in the  
1011 same manner as provided herein for seeking bids for public  
1012 construction projects, concerning the design, construction,  
1013 ownership, operation and/or maintenance of such facilities,  
1014 wherein such requests for proposals when issued shall contain  
1015 terms and conditions relating to price, financial responsibility,  
1016 technology, environmental compatibility, legal responsibilities  
1017 and such other matters as are determined by the governing  
1018 authority or agency to be appropriate for inclusion; and after  
1019 responses to the request for proposals have been duly received,



1020 the governing authority or agency may select the most qualified  
1021 proposal or proposals on the basis of price, technology and other  
1022 relevant factors and from such proposals, but not limited to the  
1023 terms thereof, negotiate and enter contracts with one or more of  
1024 the persons or firms submitting proposals.

1025                   (x) **Hospital group purchase contracts.** Supplies,  
1026 commodities and equipment purchased by hospitals through group  
1027 purchase programs pursuant to Section 31-7-38.

1028                   (xi) **Information technology products.** Purchases  
1029 of information technology products made by governing authorities  
1030 under the provisions of purchase schedules, or contracts executed  
1031 or approved by the Mississippi Department of Information  
1032 Technology Services and designated for use by governing  
1033 authorities.

1034                   (xii) **Energy efficiency services and equipment.**  
1035 Energy efficiency services and equipment acquired by school  
1036 districts, community and junior colleges, institutions of higher  
1037 learning and state agencies or other applicable governmental  
1038 entities on a shared-savings, lease or lease-purchase basis  
1039 pursuant to Section 31-7-14.

1040                   (xiii) **Municipal electrical utility system fuel.**  
1041 Purchases of coal and/or natural gas by municipally owned electric  
1042 power generating systems that have the capacity to use both coal  
1043 and natural gas for the generation of electric power.



1044 (xiv) **Library books and other reference materials.**

1045 Purchases by libraries or for libraries of books and periodicals;  
1046 processed film, videocassette tapes, filmstrips and slides;  
1047 recorded audiotapes, cassettes and diskettes; and any such items  
1048 as would be used for teaching, research or other information  
1049 distribution; however, equipment such as projectors, recorders,  
1050 audio or video equipment, and monitor televisions are not exempt  
1051 under this subparagraph.

1052 (xv) **Unmarked vehicles.** Purchases of unmarked  
1053 vehicles when such purchases are made in accordance with  
1054 purchasing regulations adopted by the Department of Finance and  
1055 Administration pursuant to Section 31-7-9(2).

1056 (xvi) **Election ballots.** Purchases of ballots  
1057 printed pursuant to Section 23-15-351.

1058 (xvii) **Multichannel interactive video systems.**  
1059 From and after July 1, 1990, contracts by Mississippi Authority  
1060 for Educational Television with any private educational  
1061 institution or private nonprofit organization whose purposes are  
1062 educational in regard to the construction, purchase, lease or  
1063 lease-purchase of facilities and equipment and the employment of  
1064 personnel for providing multichannel interactive video systems  
1065 (ITSF) in the school districts of this state.

1066 (xviii) **Purchases of prison industry products by**  
1067 **the Department of Corrections, regional correctional facilities or**  
1068 **privately owned prisons.** Purchases made by the Mississippi



1069 Department of Corrections, regional correctional facilities or  
1070 privately owned prisons involving any item that is manufactured,  
1071 processed, grown or produced from the state's prison industries.

1072 (xix) **Undercover operations equipment.** Purchases  
1073 of surveillance equipment or any other high-tech equipment to be  
1074 used by law enforcement agents in undercover operations, provided  
1075 that any such purchase shall be in compliance with regulations  
1076 established by the Department of Finance and Administration.

1077 (xx) **Junior college books for rent.** Purchases by  
1078 community or junior colleges of textbooks which are obtained for  
1079 the purpose of renting such books to students as part of a book  
1080 service system.

1081 (xxi) **Certain school district purchases.**  
1082 Purchases of commodities made by school districts from vendors  
1083 with which any levying authority of the school district, as  
1084 defined in Section 37-57-1, has contracted through competitive  
1085 bidding procedures for purchases of the same commodities.

1086 (xxii) **Garbage, solid waste and sewage contracts.**  
1087 Contracts for garbage collection or disposal, contracts for solid  
1088 waste collection or disposal and contracts for sewage collection  
1089 or disposal.

1090 (xxiii) **Municipal water tank maintenance**  
1091 **contracts.** Professional maintenance program contracts for the  
1092 repair or maintenance of municipal water tanks, which provide  
1093 professional services needed to maintain municipal water storage



1094 tanks for a fixed annual fee for a duration of two (2) or more  
1095 years.

1096 (xxiv) **Purchases of Mississippi Industries for the**  
1097 **Blind products or services.** Purchases made by state agencies or  
1098 governing authorities involving any item that is manufactured,  
1099 processed or produced by, or any services provided by, the  
1100 Mississippi Industries for the Blind.

1101 (xxv) **Purchases of state-adopted textbooks.**  
1102 Purchases of state-adopted textbooks by public school districts.

1103 (xxvi) **Certain purchases under the Mississippi**  
1104 **Major Economic Impact Act.** Contracts entered into pursuant to the  
1105 provisions of Section 57-75-9(2), (3) and (4).

1106 (xxvii) **Used heavy or specialized machinery or**  
1107 **equipment for installation of soil and water conservation**  
1108 **practices purchased at auction.** Used heavy or specialized  
1109 machinery or equipment used for the installation and  
1110 implementation of soil and water conservation practices or  
1111 measures purchased subject to the restrictions provided in  
1112 Sections 69-27-331 through 69-27-341. Any purchase by the State  
1113 Soil and Water Conservation Commission under the exemption  
1114 authorized by this subparagraph shall require advance  
1115 authorization spread upon the minutes of the commission to include  
1116 the listing of the item or items authorized to be purchased and  
1117 the maximum bid authorized to be paid for each item or items.



1118 (xxviii) **Hospital lease of equipment or services.**  
1119 Leases by hospitals of equipment or services if the leases are in  
1120 compliance with paragraph (1)(ii).

1121 (xxix) **Purchases made pursuant to qualified**  
1122 **cooperative purchasing agreements.** Purchases made by certified  
1123 purchasing offices of state agencies or governing authorities  
1124 under cooperative purchasing agreements previously approved by the  
1125 Office of Purchasing and Travel and established by or for any  
1126 municipality, county, parish or state government or the federal  
1127 government, provided that the notification to potential  
1128 contractors includes a clause that sets forth the availability of  
1129 the cooperative purchasing agreement to other governmental  
1130 entities. Such purchases shall only be made if the use of the  
1131 cooperative purchasing agreements is determined to be in the best  
1132 interest of the governmental entity.

1133 (xxx) **School yearbooks.** Purchases of school  
1134 yearbooks by state agencies or governing authorities; however,  
1135 state agencies and governing authorities shall use for these  
1136 purchases the RFP process as set forth in the Mississippi  
1137 Procurement Manual adopted by the Office of Purchasing and Travel.

1138 (xxxix) **Design-build method of contracting and**  
1139 **certain other contracts.** Contracts entered into under the  
1140 provisions of Section 31-7-13.1, 37-101-44 or 65-1-85.



1141 (xxxii) **Toll roads and bridge construction**  
1142 **projects.** Contracts entered into under the provisions of Section  
1143 65-43-1 or 65-43-3.

1144 (xxxiii) **Certain purchases under Section 57-1-221.**  
1145 Contracts entered into pursuant to the provisions of Section  
1146 57-1-221.

1147 (xxxiv) **Certain transfers made pursuant to the**  
1148 **provisions of Section 57-105-1(7).** Transfers of public property  
1149 or facilities under Section 57-105-1(7) and construction related  
1150 to such public property or facilities.

1151 (xxxv) **Certain purchases or transfers entered into**  
1152 **with local electrical power associations.** Contracts or agreements  
1153 entered into under the provisions of Section 55-3-33.

1154 (xxxvi) **Certain purchases by an academic medical**  
1155 **center or health sciences school.** Purchases by an academic  
1156 medical center or health sciences school, as defined in Section  
1157 37-115-50, of commodities that are used for clinical purposes and  
1158 1. intended for use in the diagnosis of disease or other  
1159 conditions or in the cure, mitigation, treatment or prevention of  
1160 disease, and 2. medical devices, biological, drugs and  
1161 radiation-emitting devices as defined by the United States Food  
1162 and Drug Administration.

1163 (xxxvii) **Certain purchases made under the Alyce G.**  
1164 **Clarke Mississippi Lottery Law.** Contracts made by the Mississippi



1165 Lottery Corporation pursuant to the Alyce G. Clarke Mississippi  
1166 Lottery Law.

1167 (xxxviii) **Certain purchases made by the Department**  
1168 **of Health and the Department of Revenue.** Purchases made by the  
1169 Department of Health and the Department of Revenue solely for the  
1170 purpose of fulfilling their respective responsibilities under the  
1171 Mississippi Medical Cannabis Act. This subparagraph shall stand  
1172 repealed on June 30, 2026.

1173 (n) **Term contract authorization.** All contracts for the  
1174 purchase of:

1175 (i) All contracts for the purchase of commodities,  
1176 equipment and public construction (including, but not limited to,  
1177 repair and maintenance), may be let for periods of not more than  
1178 sixty (60) months in advance, subject to applicable statutory  
1179 provisions prohibiting the letting of contracts during specified  
1180 periods near the end of terms of office. Term contracts for a  
1181 period exceeding twenty-four (24) months shall also be subject to  
1182 ratification or cancellation by governing authority boards taking  
1183 office subsequent to the governing authority board entering the  
1184 contract.

1185 (ii) Bid proposals and contracts may include price  
1186 adjustment clauses with relation to the cost to the contractor  
1187 based upon a nationally published industry-wide or nationally  
1188 published and recognized cost index. The cost index used in a  
1189 price adjustment clause shall be determined by the Department of





1190 Finance and Administration for the state agencies and by the  
1191 governing board for governing authorities. The bid proposal and  
1192 contract documents utilizing a price adjustment clause shall  
1193 contain the basis and method of adjusting unit prices for the  
1194 change in the cost of such commodities, equipment and public  
1195 construction.

1196           (o) **Purchase law violation prohibition and vendor**  
1197 **penalty.** No contract or purchase as herein authorized shall be  
1198 made for the purpose of circumventing the provisions of this  
1199 section requiring competitive bids, nor shall it be lawful for any  
1200 person or concern to submit individual invoices for amounts within  
1201 those authorized for a contract or purchase where the actual value  
1202 of the contract or commodity purchased exceeds the authorized  
1203 amount and the invoices therefor are split so as to appear to be  
1204 authorized as purchases for which competitive bids are not  
1205 required. Submission of such invoices shall constitute a  
1206 misdemeanor punishable by a fine of not less than Five Hundred  
1207 Dollars (\$500.00) nor more than One Thousand Dollars (\$1,000.00),  
1208 or by imprisonment for thirty (30) days in the county jail, or  
1209 both such fine and imprisonment. In addition, the claim or claims  
1210 submitted shall be forfeited.

1211           (p) **Electrical utility petroleum-based equipment**  
1212 **purchase procedure.** When in response to a proper advertisement  
1213 therefor, no bid firm as to price is submitted to an electric  
1214 utility for power transformers, distribution transformers, power



1215 breakers, reclosers or other articles containing a petroleum  
1216 product, the electric utility may accept the lowest and best bid  
1217 therefor although the price is not firm.

1218           (q) **Fuel management system bidding procedure.** Any  
1219 governing authority or agency of the state shall, before  
1220 contracting for the services and products of a fuel management or  
1221 fuel access system, enter into negotiations with not fewer than  
1222 two (2) sellers of fuel management or fuel access systems for  
1223 competitive written bids to provide the services and products for  
1224 the systems. In the event that the governing authority or agency  
1225 cannot locate two (2) sellers of such systems or cannot obtain  
1226 bids from two (2) sellers of such systems, it shall show proof  
1227 that it made a diligent, good-faith effort to locate and negotiate  
1228 with two (2) sellers of such systems. Such proof shall include,  
1229 but not be limited to, publications of a request for proposals and  
1230 letters soliciting negotiations and bids. For purposes of this  
1231 paragraph (q), a fuel management or fuel access system is an  
1232 automated system of acquiring fuel for vehicles as well as  
1233 management reports detailing fuel use by vehicles and drivers, and  
1234 the term "competitive written bid" shall have the meaning as  
1235 defined in paragraph (b) of this section. Governing authorities  
1236 and agencies shall be exempt from this process when contracting  
1237 for the services and products of fuel management or fuel access  
1238 systems under the terms of a state contract established by the  
1239 Office of Purchasing and Travel.



1240 (r) **Solid waste contract proposal procedure.** Before  
1241 entering into any contract for garbage collection or disposal,  
1242 contract for solid waste collection or disposal or contract for  
1243 sewage collection or disposal, which involves an expenditure of  
1244 more than Seventy-five Thousand Dollars (\$75,000.00), a governing  
1245 authority or agency shall issue publicly a request for proposals  
1246 concerning the specifications for such services which shall be  
1247 advertised for in the same manner as provided in this section for  
1248 seeking bids for purchases which involve an expenditure of more  
1249 than the amount provided in paragraph (c) of this section. Any  
1250 request for proposals when issued shall contain terms and  
1251 conditions relating to price, financial responsibility,  
1252 technology, legal responsibilities and other relevant factors as  
1253 are determined by the governing authority or agency to be  
1254 appropriate for inclusion; all factors determined relevant by the  
1255 governing authority or agency or required by this paragraph (r)  
1256 shall be duly included in the advertisement to elicit proposals.  
1257 After responses to the request for proposals have been duly  
1258 received, the governing authority or agency shall select the most  
1259 qualified proposal or proposals on the basis of price, technology  
1260 and other relevant factors and from such proposals, but not  
1261 limited to the terms thereof, negotiate and enter into contracts  
1262 with one or more of the persons or firms submitting proposals. If  
1263 the governing authority or agency deems none of the proposals to  
1264 be qualified or otherwise acceptable, the request for proposals



1265 process may be reinitiated. Notwithstanding any other provisions  
1266 of this paragraph, where a county with at least thirty-five  
1267 thousand (35,000) nor more than forty thousand (40,000)  
1268 population, according to the 1990 federal decennial census, owns  
1269 or operates a solid waste landfill, the governing authorities of  
1270 any other county or municipality may contract with the governing  
1271 authorities of the county owning or operating the landfill,  
1272 pursuant to a resolution duly adopted and spread upon the minutes  
1273 of each governing authority involved, for garbage or solid waste  
1274 collection or disposal services through contract negotiations.

1275 (s) **Minority set-aside authorization.** Notwithstanding  
1276 any provision of this section to the contrary, any agency or  
1277 governing authority, by order placed on its minutes, may, in its  
1278 discretion, set aside not more than twenty percent (20%) of its  
1279 anticipated annual expenditures for the purchase of commodities  
1280 from minority businesses; however, all such set-aside purchases  
1281 shall comply with all purchasing regulations promulgated by the  
1282 Department of Finance and Administration and shall be subject to  
1283 bid requirements under this section. Set-aside purchases for  
1284 which competitive bids are required shall be made from the lowest  
1285 and best minority business bidder. For the purposes of this  
1286 paragraph, the term "minority business" means a business which is  
1287 owned by a majority of persons who are United States citizens or  
1288 permanent resident aliens (as defined by the Immigration and  
1289 Naturalization Service) of the United States, and who are Asian,



1290 Black, Hispanic or Native American, according to the following  
1291 definitions:

1292 (i) "Asian" means persons having origins in any of  
1293 the original people of the Far East, Southeast Asia, the Indian  
1294 subcontinent, or the Pacific Islands.

1295 (ii) "Black" means persons having origins in any  
1296 black racial group of Africa.

1297 (iii) "Hispanic" means persons of Spanish or  
1298 Portuguese culture with origins in Mexico, South or Central  
1299 America, or the Caribbean Islands, regardless of race.

1300 (iv) "Native American" means persons having  
1301 origins in any of the original people of North America, including  
1302 American Indians, Eskimos and Aleuts.

1303 (t) **Construction punch list restriction.** The  
1304 architect, engineer or other representative designated by the  
1305 agency or governing authority that is contracting for public  
1306 construction or renovation may prepare and submit to the  
1307 contractor only one (1) preliminary punch list of items that do  
1308 not meet the contract requirements at the time of substantial  
1309 completion and one (1) final list immediately before final  
1310 completion and final payment.

1311 (u) **Procurement of construction services by state**  
1312 **institutions of higher learning.** Contracts for privately financed  
1313 construction of auxiliary facilities on the campus of a state  
1314 institution of higher learning may be awarded by the Board of



1315 Trustees of State Institutions of Higher Learning to the lowest  
1316 and best bidder, where sealed bids are solicited, or to the  
1317 offeror whose proposal is determined to represent the best value  
1318 to the citizens of the State of Mississippi, where requests for  
1319 proposals are solicited.

1320           (v) **Insurability of bidders for public construction or**  
1321 **other public contracts.** In any solicitation for bids to perform  
1322 public construction or other public contracts to which this  
1323 section applies, including, but not limited to, contracts for  
1324 repair and maintenance, for which the contract will require  
1325 insurance coverage in an amount of not less than One Million  
1326 Dollars (\$1,000,000.00), bidders shall be permitted to either  
1327 submit proof of current insurance coverage in the specified amount  
1328 or demonstrate ability to obtain the required coverage amount of  
1329 insurance if the contract is awarded to the bidder. Proof of  
1330 insurance coverage shall be submitted within five (5) business  
1331 days from bid acceptance.

1332           (w) **Purchase authorization clarification.** Nothing in  
1333 this section shall be construed as authorizing any purchase not  
1334 authorized by law.

1335           (x) **Mississippi Regional Pre-Need Disaster Clean Up**  
1336 **Act.** (i) The Department of Finance and Administration shall  
1337 enter into nine (9) contracts for the pre-need purchase of labor,  
1338 services, work, materials, equipment, supplies or other personal  
1339 property for disaster-related solid waste collection, disposal or



1340 monitoring. One (1) contract shall be entered into for each of  
1341 the nine (9) Mississippi Emergency Management Association  
1342 districts:

1343                           1. Coahoma, DeSoto, Grenada, Panola, Quitman,  
1344 Tallahatchie, Tate, Tunica and Yalobusha Counties;

1345                           2. Alcorn, Benton, Itawamba, Lafayette, Lee,  
1346 Marshall, Pontotoc, Prentiss, Tippah, Tishomingo and Union  
1347 Counties;

1348                           3. Attala, Bolivar, Carroll, Holmes,  
1349 Humphreys, Leflore, Montgomery, Sunflower and Washington Counties;

1350                           4. Calhoun, Chickasaw, Choctaw, Clay,  
1351 Lowndes, Monroe, Noxubee, Oktibbeha, Webster and Winston Counties;

1352                           5. Claiborne, Covich, Hinds, Issaquena,  
1353 Madison, Rankin, Sharkey, Simpson, Warren and Yazoo Counties;

1354                           6. Clarke, Jasper, Kemper, Lauderdale, Leake,  
1355 Neshoba, Newton, Scott, and Smith Counties and the Mississippi  
1356 Band of Choctaw Indians;

1357                           7. Adams, Amite, Franklin, Jefferson,  
1358 Lawrence, Lincoln, Pike, Walthall and Wilkinson Counties;

1359                           8. Covington, Forrest, Greene, Jefferson  
1360 Davis, Jones, Lamar, Marion, Perry and Wayne Counties; and

1361                           9. George, Hancock, Harrison, Jackson, Pearl  
1362 River and Stone Counties.

1363           Any such contract shall set forth the manner of awarding such  
1364 a contract, the method of payment, and any other matter deemed



1365 necessary to carry out the purposes of the agreement. Such  
1366 contract may be entered into only for a term of one (1) year, with  
1367 an option for an additional one-year extension after the  
1368 conclusion of the first year of the contract, and only after  
1369 having solicited bids or proposals, as appropriate, which shall be  
1370 publicly advertised by posting on a web page maintained by the  
1371 Department of Finance and Administration through submission of  
1372 such advertisement to the Mississippi Procurement Technical  
1373 Assistance Program under the Mississippi Development Authority.  
1374 The bid opening shall not occur until after the submission has  
1375 been posted for at least ten (10) consecutive days. The state's  
1376 share of expenditures for solid waste collection, disposal or  
1377 monitoring under any contract shall be appropriated and paid in  
1378 the manner set forth in the contract and in the same manner as for  
1379 other solid waste collection, disposal, or monitoring expenses of  
1380 the state. Any contract entered into under this paragraph shall  
1381 not be subject to the provisions of Section 17-13-11.

1382 (ii) Any board of supervisors of any county or any  
1383 governing authority of any municipality may opt in to the benefits  
1384 and services provided under the appropriate and relevant contract  
1385 established in subparagraph (i) of this paragraph at the time of a  
1386 disaster event in that county or municipality. At the time of opt  
1387 in, the county or municipality shall assume responsibility for  
1388 payment in full to the contractor for the disaster-related solid  
1389 waste collection, disposal or monitoring services provided.





1390 Nothing in this subparagraph (ii) shall be construed as requiring  
1391 a county or municipality to opt in to any such contract  
1392 established in subparagraph (i) of this paragraph.

1393 **SECTION 5.** Section 49-19-3, Mississippi Code of 1972, is  
1394 brought forward as follows:

1395 49-19-3. The duties and powers of the commission shall be:

1396 (a) To appoint a State Forester, who shall serve at the  
1397 will and pleasure of the commission and who is qualified to  
1398 perform the duties as set forth herein; and to pay him such salary  
1399 as is provided by the Legislature, and allow him such office  
1400 expenses incidental to the performance of his official duties as  
1401 the commission, in its discretion, may deem necessary; and to  
1402 charge him with the immediate direction and control, subject to  
1403 the supervision and approval of the commission, of all matters  
1404 relating to forestry as authorized herein. Any person appointed  
1405 by the commission as State Forester shall have received a  
1406 bachelor's degree in forestry from an accredited school or college  
1407 of forestry and shall be licensed and registered under the  
1408 provisions of the Mississippi Foresters Registration Law (Section  
1409 73-36-1 et seq.) and in addition shall have had at least five (5)  
1410 years' administrative experience in a forestry-related field.

1411 (b) To take such action and provide and maintain such  
1412 organized means as may seem necessary and expedient to prevent,  
1413 control and extinguish forest fires, including the enforcement of



1414 any and all laws pertaining to the protection of forests and  
1415 woodland.

1416 (c) To encourage forest and tree planting for the  
1417 production of a wood crop, for the protection of water supply, for  
1418 windbreak and shade, or for any other beneficial purposes  
1419 contributing to the general welfare, public hygiene and comfort of  
1420 the people.

1421 (d) To cause to be made such technical investigations  
1422 and studies concerning forest conditions, the propagation, care  
1423 and protection of forest and shade trees, the care and management  
1424 of forests, their growth, yield and the products and by-products  
1425 thereof, and any other competent subject, including forest  
1426 taxation, bearing on the timber supply and needs of the state,  
1427 which the commission, in its discretion, may deem proper.

1428 (e) To assist and cooperate with any federal or state  
1429 department or institution, county, town, corporation or  
1430 individual, under such terms as in the judgment of the commission  
1431 will best serve the public interest, in the preparation and  
1432 execution of plans for the protection, management, replacement, or  
1433 extension of the forest, woodland and roadside or other ornamental  
1434 tree growth in the state.

1435 (f) To encourage public interest in forestry by means  
1436 of correspondence, the public press, periodicals, the publication  
1437 of bulletins and leaflets for general distribution, the delivery  
1438 of lectures in the schools and other suitable means, and to



1439 cooperate to the fullest extent with the extension department  
1440 services of the state colleges in promoting reforestation. It  
1441 shall be the duty of the State Forester to cooperate with private  
1442 timber owners in laying plans for the protection, management and  
1443 replacement of forests and in aiding them to form protection  
1444 associations. It shall be his duty to examine all timbered lands  
1445 belonging to the state and its institutions and report to the  
1446 commission upon their timber conditions and actual value, and also  
1447 whether some of these lands may not be held as state forests. He  
1448 shall be responsible for the protection and management of lands  
1449 donated, purchased or belonging to the state or state  
1450 institutions, and all other lands reserved by the state as state  
1451 forests.

1452 (g) To control the expenditure of any and all funds  
1453 appropriated or otherwise made available for the several purposes  
1454 set forth herein under suitable regulations and restrictions by  
1455 the commission and to specifically authorize any officer or  
1456 employee of the commission to incur necessary and stipulated  
1457 expenses in connection with the work in which such person may be  
1458 engaged.

1459 (h) To submit annually to the Legislature a report of  
1460 the expenditures, proceedings and results achieved, together with  
1461 such other matters including recommendations concerning  
1462 legislation as are germane to the aims and purposes of this  
1463 chapter.



1464 (i) To create, establish and organize the State of  
1465 Mississippi into forestry districts for the most effective and  
1466 efficient administration of the commission.

1467 (j) To appoint, upon the State Forester's  
1468 recommendation, six (6) individuals who shall be designated  
1469 Mississippi Forestry Commission Law Enforcement Officers with  
1470 authority to bear arms, investigate and make arrests; however, the  
1471 law enforcement duties and authority of the officers shall be  
1472 limited to woods arson. The officers shall comply with applicable  
1473 minimum educational and training standards for law enforcement  
1474 officers. These officers may issue citations for any violation of  
1475 those laws for recklessly or with gross negligence causing fire to  
1476 burn the lands of another. A citation issued by a Forestry  
1477 Commission law enforcement officer shall be issued on a uniform  
1478 citation form consisting of an original and at least two (2)  
1479 copies. Such citation shall show, among other necessary  
1480 information, the name of the issuing officer, the name of the  
1481 court in which the cause is to be heard and the date and time the  
1482 person charged with a violation is to appear to answer the charge.  
1483 The uniform citation form shall make a provision on it for  
1484 information that will constitute a complaint charging the offense  
1485 for which the citation was issued and, when duly sworn to and  
1486 filed with a court of competent jurisdiction, prosecution may  
1487 proceed under that complaint. For the purposes of this paragraph,  
1488 the fact that any person is found to have a brush or debris pile



1489 or other material which is or was being burned and reasonable and  
1490 prudent efforts were not taken to prevent the spread of the fire  
1491 onto the lands of another shall be evidence that such person  
1492 recklessly or with gross negligence caused the land to burn.

1493 This paragraph shall stand repealed on June 30, 2022.

1494 **SECTION 6.** Section 55-3-53, Mississippi Code of 1972, is  
1495 brought forward as follows:

1496 55-3-53. (1) The Mississippi Department of Wildlife,  
1497 Fisheries and Parks is hereby authorized and empowered to sell and  
1498 dispose of timber, trees, deadwood and stumps standing, growing  
1499 and being upon the lands of state parks. Such timber shall be  
1500 sold and disposed of under the direction and specifications of the  
1501 Department of Wildlife, Fisheries and Parks in accordance with  
1502 sound and efficient principles of selective cutting, forestry  
1503 management and conservation.

1504 Before any such timber, trees, deadwood and stumps shall be  
1505 sold, the Department of Wildlife, Fisheries and Parks shall select  
1506 and mark the trees to be cut and disposed of. No trees or timber  
1507 shall be marked for cutting when the cutting thereof would destroy  
1508 or mar the scenic views from the tourist observation points in  
1509 said park. The purchaser shall pay double price on sale basis for  
1510 all trees, timber or stumps cut that had not been marked for  
1511 removing by the Department of Wildlife, Fisheries and Parks.

1512 Before any such timber, trees, deadwood or stumps standing,  
1513 growing or being upon such land shall be sold, the department



1514 shall advertise its intention so to do by publication in a  
1515 newspaper published or having general circulation in the county or  
1516 counties where parks are located, such notice to be published at  
1517 least once a week for three (3) consecutive weeks preceding the  
1518 sale and by posting one (1) notice in the courthouse in such  
1519 county. The notice shall specify that such bids shall be filed  
1520 with the superintendent of the state park involved, who shall  
1521 transmit same to the Department of Wildlife, Fisheries and Parks  
1522 for rejection or approval. Said department shall accept the bid  
1523 of the highest and best bidder for cash, but shall have the right  
1524 to reject any and all of such bids.

1525         Provided, however, in the case of damage by fire, windstorm,  
1526 insects or other natural causes which would require immediate sale  
1527 of the timber, because the time involved for advertisement as  
1528 prescribed herein would allow decay, rot or destruction  
1529 substantially decreasing the purchase price to be received had not  
1530 such delay occurred, the advertisement provisions of this section  
1531 shall not apply. The State Park Director, upon a written  
1532 recommendation from the county forester of the county wherein said  
1533 state park is located, shall determine when immediate sale of the  
1534 timber is required. When the State Park Director shall find an  
1535 immediate sale necessary for the causes stated herein, he shall,  
1536 in his discretion, set the time for receipt of bids on the  
1537 purchase of said timber, but shall show due diligence in notifying



1538 competitive bidders so that a true competitive bid shall be  
1539 received.

1540 Whenever any timber, trees, deadwood or stumps are sold under  
1541 the provisions of this section, the purchaser thereof shall have  
1542 all necessary rights of ingress and egress to enter upon said land  
1543 and cut and remove such timber, trees, deadwood or stumps.

1544 The proceeds derived or received from all sales under the  
1545 provisions of this section shall be placed in the State Parks  
1546 Timber Management Endowment Fund created under Section 55-3-54.

1547 (2) Notwithstanding the provisions of subsection (1) of this  
1548 section, the Department of Wildlife, Fisheries and Parks may cut  
1549 and sell trees damaged by fire, windstorm or insects and deadwood  
1550 and stumps located upon the lands of state parks for firewood.  
1551 Such firewood shall be sold only to overnight guests at state  
1552 parks for use at state parks. The Department of Wildlife,  
1553 Fisheries and Parks shall select and mark all trees to be cut for  
1554 firewood.

1555 **SECTION 7.** This act shall take effect and be in force from  
1556 and after July 1, 2024.

