

By: Representative Zuber

To: State Affairs

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 516

1 AN ACT TO BRING FORWARD SECTIONS 31-1-1, 31-1-21, 31-1-25,
2 31-1-27, 31-3-1, 31-3-2, 31-3-3, 31-3-5, 31-3-7, 31-3-9, 31-3-11,
3 31-3-13, 31-3-14, 31-3-15, 31-3-17, 31-3-16, 31-3-21, 31-3-23,
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30 25-53-3, 27-115-69, 29-5-2, 25-53-21, 57-69-3, 27-104-103,
31 77-3-42, 25-53-29, 25-61-9, 47-5-66, 49-2-9, 43-27-35, 25-58-21,
32 65-43-3, 37-101-413, 25-53-5, 25-53-191 AND 37-101-15, MISSISSIPPI
33 CODE OF 1972, FOR THE PURPOSE OF POSSIBLE AMENDMENT; AND FOR
34 RELATED PURPOSES.



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

36 **SECTION 1.** Section 31-1-1, Mississippi Code of 1972, is
37 brought forward as follows:

38 31-1-1. The responsibility for the making of contracts for
39 printing, binding, engraving and lithographing is hereby vested in
40 each state agency or office which requires such printing, binding,
41 engraving and lithographing, including but not restricted to the
42 Secretary of State, State Department of Education, State Tax
43 Commission, Supreme Court, Department of Insurance, State Auditor,
44 Public Service Commission, State Treasurer, State Fiscal
45 Management Board, State Veterans Affairs Board, Attorney General,
46 Department of Agriculture and Commerce, State Board of Pharmacy,
47 State Board of Dental Examiners, State Law Library, State Board of
48 Health, Mississippi Department of Corrections, State Educational
49 Finance Commission, Department of Archives and History,
50 Mississippi State Hospital and Board of Trustees of State
51 Institutions of Higher Learning.

52 All contracts referred to herein shall be submitted to and
53 approved by the State Fiscal Management Board prior to their
54 execution, except that those contracts under the jurisdiction of
55 the Legislature shall be submitted to and approved by the
56 Legislative Budget Office.

57 All state agencies shall purchase all commodities required
58 for their operation or for the proper fulfillment of their duties
59 and functions in accordance with Chapter 7 of this title in order



60 to coordinate and promote efficiency and economy in the purchase
61 of such commodities for the state.

62 **SECTION 2.** Section 31-1-21, Mississippi Code of 1972, is
63 brought forward as follows:

64 31-1-21. All contractors shall specify each job of work
65 charged for and attach to the account the receipt of the proper
66 officer for the work. The accounts must be accompanied with one
67 copy of each job, of the paper containing the matter charged for,
68 and must state the number of ems or inches and all particulars.

69 **SECTION 3.** Section 31-1-25, Mississippi Code of 1972, is
70 brought forward as follows:

71 31-1-25. (1) The purchase of all printing, binding and
72 stationery is hereby defined as a commodity purchase, subject to
73 the provisions of Sections 31-7-1 through 31-7-19, Mississippi
74 Code of 1972.

75 (2) In the event the provisions of this section conflict
76 with the provisions of any laws or parts of laws, the provisions
77 of this section shall control.

78 **SECTION 4.** Section 31-1-27, Mississippi Code of 1972, is
79 brought forward as follows:

80 31-1-27. Appraisal information in the possession of a public
81 body, as defined by paragraph (a) of Section 25-61-3, which
82 concern the sale or purchase of real or personal property for
83 public purposes prior to public announcement of the purchase or
84 sale, where the release of such records would have a detrimental



85 effect on such sale or purchase, shall be exempt from the
86 provisions of the Mississippi Public Records Act of 1983.

87 **SECTION 5.** Section 31-3-1, Mississippi Code of 1972, is
88 brought forward as follows:

89 31-3-1. The following words, as used in this chapter, shall
90 have the meanings specified below:

91 "Board": The State Board of Contractors created under this
92 chapter.

93 "Contractor": Any person contracting or undertaking as prime
94 contractor, subcontractor or sub-subcontractor of any tier to do
95 any erection, building, construction, reconstruction, demolition,
96 repair, maintenance or related work on any public or private
97 project; however, "contractor" shall not include any owner of a
98 dwelling or other structure to be constructed, altered, repaired
99 or improved and not for sale, lease, public use or assembly, or
100 any person duly permitted by the Mississippi State Oil and Gas
101 Board, pursuant to Section 53-3-11, Mississippi Code of 1972, to
102 conduct operations within the state, and acting pursuant to said
103 permit. It is further provided that nothing herein shall apply
104 to:

105 (a) Any contract or undertaking on a public or private
106 project by a prime contractor, subcontractor or sub-subcontractor
107 of any tier involving erection, building, construction,
108 reconstruction, repair, maintenance or related work where such



109 contract, subcontract or undertaking is less than Fifty Thousand
110 Dollars (\$50,000.00);

111 (b) Highway construction, highway bridges, overpasses
112 and any other project incidental to the construction of highways
113 which are designated as federal aid projects and in which federal
114 funds are involved;

115 (c) A residential project to be occupied by fifty (50)
116 or fewer families and not more than three (3) stories in height;

117 (d) A residential subdivision where the contractor is
118 developing either single-family or multifamily lots;

119 (e) A new commercial construction project not exceeding
120 seventy-five hundred (7500) square feet and not more than two (2)
121 stories in height undertaken by an individual or entity licensed
122 under the provisions of Section 73-59-1 et seq.;

123 (f) Erection of a microwave tower built for the purpose
124 of telecommunication transmissions;

125 (g) Any contract or undertaking on a public project by
126 a prime contractor, subcontractor or sub-subcontractor of any tier
127 involving the construction, reconstruction, repair or maintenance
128 of fire protection systems where such contract, subcontract or
129 undertaking is less than Five Thousand Dollars (\$5,000.00);

130 (h) Any contract or undertaking on a private project by
131 a prime contractor, subcontractor or sub-subcontractor of any tier
132 involving the construction, reconstruction, repair or maintenance



133 of fire protection systems where such contract, subcontract or
134 undertaking is less than Ten Thousand Dollars (\$10,000.00);

135 (i) Any contract or undertaking on a private or public
136 project by a prime contractor, subcontractor or sub-subcontractor
137 of any tier involving the construction, reconstruction, repair or
138 maintenance of technically specialized installations if performed
139 by a Mississippi contractor who has been in the business of
140 installing fire protection sprinkler systems on or before July 1,
141 2000; or

142 (j) Any contractor undertaking to build, construct,
143 reconstruct, repair, demolish, perform maintenance on, or other
144 related work, whether on the surface or subsurface, on oil or gas
145 wells, pipelines, processing plants, or treatment facilities or
146 other structures of facilities. Nothing herein shall be construed
147 to limit the application or effect of Section 31-5-41.

148 "Certificate of responsibility": A certificate numbered and
149 held by a contractor issued by the board under the provisions of
150 this chapter after payment of the special privilege license tax
151 therefor levied under this chapter.

152 "Person": Any person, firm, corporation, joint venture or
153 partnership, association or other type of business entity.

154 "Private project": Any project for erection, building,
155 construction, reconstruction, repair, maintenance or related work
156 which is not funded in whole or in part with public funds.



157 "Public agency": Any board, commission, council or agency of
158 the State of Mississippi or any district, county or municipality
159 thereof, including school, hospital, airport and all other types
160 of governing agencies created by or operating under the laws of
161 this state.

162 "Public funds": Monies of public agencies, whether obtained
163 from taxation, donation or otherwise; or monies being expended by
164 public agencies for the purposes for which such public agencies
165 exist.

166 "Public project": Any project for erection, building,
167 construction, reconstruction, repair, maintenance or related work
168 which is funded in whole or in part with public funds.

169 **SECTION 6.** Section 31-3-2, Mississippi Code of 1972, is
170 brought forward as follows:

171 31-3-2. The purpose of this chapter is to protect the
172 health, safety and general welfare of all persons dealing with
173 those who are engaged in the vocation of contracting and to afford
174 such persons an effective and practical protection against
175 incompetent, inexperienced, unlawful and fraudulent acts of
176 contractors.

177 **SECTION 7.** Section 31-3-3, Mississippi Code of 1972, is
178 brought forward as follows:

179 31-3-3. There is hereby created the State Board of
180 Contractors of the State of Mississippi, which shall consist of
181 ten (10) members who shall be appointed by the Governor. All



182 appointments to the board shall be made with the advice and
183 consent of the Senate. Two (2) road contractors; two (2) building
184 contractors; two (2) residential builders as defined in Section
185 73-59-1; one (1) plumbing or heating and air-conditioning
186 contractor; one (1) electrical contractor; and one (1) water and
187 sewer contractor shall compose the board. The Governor shall
188 appoint one (1) additional member who shall be a roofing
189 contractor and whose term of office shall be five (5) years. Each
190 member shall be an actual resident of the State of Mississippi and
191 must have been actually engaged in the contracting business for a
192 period of not less than ten (10) years before appointment. The
193 initial terms of the two (2) residential builders shall be for two
194 (2) and four (4) years, respectively.

195 Upon the expiration of the term of office of any member of
196 the board, the Governor shall appoint a new member for a term of
197 five (5) years, such new appointments being made so as to maintain
198 on the board two (2) building contractors; two (2) road
199 contractors; two (2) residential builders; one (1) plumbing or
200 heating and air-conditioning contractor; one (1) electrical
201 contractor; and one (1) water and sewer contractor; and one (1)
202 roofing contractor. The Governor shall fill any vacancy by
203 appointment, such appointee to serve the balance of the term of
204 the original appointee. The Governor may remove any member of the
205 board for misconduct, incompetency or willful neglect of duty.



206 In the event the Governor fails to appoint a member of the
207 board within twelve (12) months of the occurrence of the vacancy,
208 such vacancy shall be filled by majority vote of the board,
209 subject to advice and consent of the Senate and the requirements
210 of this section.

211 **SECTION 8.** Section 31-3-5, Mississippi Code of 1972, is
212 brought forward as follows:

213 31-3-5. The board shall be assigned suitable office space at
214 the seat of government and shall elect one (1) of its members as
215 chairman and one (1) as vice chairman; and each shall perform the
216 usual duties of such offices. The board may adopt a seal. Six
217 (6) members of the board shall constitute a quorum, and a majority
218 vote of those present and voting at any meeting shall be necessary
219 for the transaction of any business coming before the board.
220 Members must be present to cast votes on any and all business.
221 The executive director shall serve as secretary of the board. The
222 board is authorized to employ such personnel as shall be necessary
223 in the performance of its duties including sufficient
224 administrative and clerical staff to process and review
225 applications for certificates of responsibility, to prepare and
226 administer tests therefor, to investigate applications for
227 certificates of responsibility and to inspect work performed by
228 contractors as may be necessary to enforce and carry out the
229 purpose of this chapter.



230 **SECTION 9.** Section 31-3-7, Mississippi Code of 1972, is
231 brought forward as follows:

232 31-3-7. The board shall have four (4) regular meetings in
233 each year, one (1) on the second Wednesday in January, one (1) on
234 the second Wednesday in April, one (1) on the second Wednesday in
235 July, and one (1) on the second Wednesday in October, at its
236 offices at the seat of government or through the means of
237 teleconference or video conferencing in accordance with Section
238 25-41-5. If the regular meeting day falls on a legal holiday, the
239 board shall meet on the next day. The board may hold such special
240 meetings as it finds necessary. However, before any special
241 meeting is held, a notice stating the time, place and primary
242 purpose of such meeting shall be sent by certified or registered
243 mail from the chairman or vice chairman of the board to the other
244 members of the board at least five (5) days before such meeting.
245 Certificates of responsibility shall be issued at any time during
246 the course of a calendar year as prescribed by the rules and
247 regulations of the board. All meetings shall be held in the State
248 of Mississippi. At any regular or special meeting the board may
249 recess from time to time to reconvene on a day and time fixed by
250 an order of the board entered upon its minutes.

251 The holder of a valid certificate of responsibility shall
252 disclose to the owner or other person with whom the holder is
253 contracting at the signing of a contract or the initial agreement
254 to perform work whether the holder carries general liability



255 insurance. The disclosure shall be written, the structure and
256 composition of which shall be determined by the State Board of
257 Contractors, and shall be placed immediately before the space
258 reserved in the contract for the signature of the purchaser. The
259 disclosure shall be boldfaced and conspicuous type which is larger
260 than the type of the remaining text of the contract.

261 **SECTION 10.** Section 31-3-9, Mississippi Code of 1972, is
262 brought forward as follows:

263 31-3-9. The members of the board shall be entitled to
264 receive a per diem as provided in Section 25-3-69, Mississippi
265 Code of 1972, when actually engaged in the business of the board,
266 together with their actual and necessary traveling and subsistence
267 expenses incurred on behalf of board business, upon itemized
268 statements of same as provided by general law in the case of other
269 state employees. Such statements shall be paid only after the
270 same have been approved by order on the minutes of the board.

271 **SECTION 11.** Section 31-3-11, Mississippi Code of 1972, is
272 brought forward as follows:

273 31-3-11. The board shall elect and fix the salary of an
274 executive director, and the board may terminate the employment of
275 such executive director at any time the board deems the same
276 advisable. The board shall require the executive director to file
277 bond in such amount as the board may deem necessary, and shall
278 specify the duties of such employee. The premium on any such bond
279 shall be paid from the funds provided by this chapter.



280 **SECTION 12.** Section 31-3-13, Mississippi Code of 1972, is
281 brought forward as follows:

282 31-3-13. The board shall have the following powers and
283 responsibilities:

284 (a) To receive applications for certificates of
285 responsibility, to investigate and examine applicants for same by
286 holding hearings and securing information, to conduct
287 examinations, and to issue certificates of responsibility to such
288 contractors as the board finds to be responsible.

289 All original certificates and renewals shall expire one (1)
290 year from the date of issuance. Application for renewal of
291 certificates of responsibility, together with the payment of a
292 special privilege license tax as provided under this chapter,
293 shall serve to extend the current certificate until the board
294 either renews the certificate or denies the application.

295 No certificate of responsibility or any renewal thereof shall
296 be issued until the applicant furnishes to the board his
297 Mississippi state sales tax number or Mississippi state use tax
298 number and his state income tax identification numbers.

299 Additional fees may be required as provided in Section
300 31-3-14.

301 The board shall conduct an objective, standardized
302 examination of an applicant for a certificate to ascertain the
303 ability of the applicant to make practical application of his
304 knowledge of the profession or business of construction in the



305 category or categories for which he has applied for a certificate
306 of responsibility. The board may administer an oral examination
307 to applicants who are unable to take the written examination. The
308 cost of the test and the cost of administering the test shall be
309 paid for by applicants for certificates of responsibility at the
310 time applications are filed. The board shall investigate
311 thoroughly the past record of all applicants, which will include
312 an effort toward ascertaining the qualifications of applicants in
313 reading plans and specifications, estimating costs, construction
314 ethics, and other similar matters. The board shall take all
315 applicants under consideration after having examined him or them
316 and go thoroughly into the records and examinations, prior to
317 granting any certificate of responsibility. If the applicant is
318 an individual, examination may be taken by his personal appearance
319 for examination or by the appearance for examination of one or
320 more of his responsible managing employees; and if a copartnership
321 or corporation or any other combination or organization, by the
322 examination of one or more of the responsible managing officers or
323 members of the executive staff of the applicant's firm, according
324 to its own designation, and such person shall be known as the
325 qualifying party. A qualifying party may serve no more than three
326 (3) separate entities as the qualifying party without first
327 appearing before the board and being granted special permission.

328 (b) To conduct thorough investigations of all
329 applicants seeking renewal of their licenses and of all complaints



330 filed with the board concerning the performance of a contractor on
331 a public or private project.

332 (c) To obtain information concerning the responsibility
333 of any applicant for a certificate of responsibility or a holder
334 of a certificate of responsibility under this chapter. Such
335 information may be obtained by investigation, by hearings, or by
336 any other reasonable and lawful means. The board shall keep such
337 information appropriately filed and shall disseminate same to any
338 interested person. The board shall have the power of subpoena.

339 (d) To maintain a list of contractors to whom
340 certificates of responsibility are issued, refused, revoked or
341 suspended, which list shall be available to any interested person.
342 Such list shall indicate the kind or kinds of works or projects
343 for which a certificate of responsibility was issued, refused,
344 revoked or suspended.

345 (e) To issue a citation to anyone performing work
346 without having a valid certificate of responsibility as required
347 by this chapter.

348 (f) To revoke by order entered on its minutes a
349 certificate of responsibility upon a finding by the board that a
350 particular contractor or qualifying party is not responsible, and
351 to suspend such certificate of responsibility in particular cases
352 pending investigation, upon cause to be stated in the board's
353 order of suspension. No such revocation or suspension shall be
354 ordered without a hearing conducted upon not less than ten (10)



355 days' notice to such certificate holder by certified or registered
356 mail, wherein the holder of the certificate of responsibility
357 shall be given an opportunity to present all lawful evidence which
358 he may offer.

359 (g) To adopt rules and regulations setting forth the
360 requirements for certificates of responsibility, the revocation or
361 suspension thereof, and all other matters concerning same; rules
362 and regulations governing the conduct of the business of the board
363 and its employees; and such other rules and regulations as the
364 board finds necessary for the proper administration of this
365 chapter, including those for the conduct of its hearings on the
366 revocation or suspension of certificates of responsibility. Such
367 rules and regulations shall not conflict with the provisions of
368 this chapter.

369 (h) The board shall have the power and responsibility
370 to classify the kind or kinds of works or projects that a
371 contractor is qualified and entitled to perform under the
372 certificate of responsibility issued to him. Such classification
373 shall be specified in the certificate of responsibility.

374 The powers of the State Board of Contractors shall not extend
375 to fixing a maximum limit in the bid amount of any contractor, or
376 the bonding capacity, or a maximum amount of work which a
377 contractor may have under contract at any time, except as stated
378 in paragraph (a) of this section; and the Board of Contractors
379 shall not have jurisdiction or the power or authority to determine



380 the maximum bond a contractor may be capable of obtaining. The
381 board, in determining the qualifications of any applicant for an
382 original certificate of responsibility or any renewal thereof,
383 shall, among other things, take into consideration the following:
384 (i) experience and ability, (ii) character, (iii) the manner of
385 performance of previous contracts, (iv) financial condition, (v)
386 equipment, (vi) personnel, (vii) work completed, (viii) work on
387 hand, (ix) ability to perform satisfactorily work under contract
388 at the time of an application for a certificate of responsibility
389 or a renewal thereof, (x) default in complying with provisions of
390 this law, or any other law of the state, and (xi) the results of
391 objective, standardized examinations. A record shall be made and
392 preserved by the board of each examination of an applicant and the
393 findings of the board thereon, and a certified copy of the record
394 and findings shall be furnished to any applicant desiring to
395 appeal from any order or decision of the board.

396 (i) The board shall enter upon its minutes an order or
397 decision upon each application filed with it, and it may state in
398 such order or decision the reason or reasons for its order or
399 decision.

400 Upon failure of the board to enter an order or decision upon
401 its minutes as to any application within one hundred eighty (180)
402 days from the date of filing such application, the applicant shall
403 have the right of appeal as otherwise provided by this chapter.



404 The holder of a valid certificate of responsibility shall
405 disclose to the owner or other person with whom the holder is
406 contracting at the signing of a contract or the initial agreement
407 to perform work whether the holder carries general liability
408 insurance. The disclosure shall be written, the structure and
409 composition of which shall be determined by the State Board of
410 Contractors, and shall be placed immediately before the space
411 reserved in the contract for the signature of the purchaser. The
412 disclosure shall be boldfaced and conspicuous type which is larger
413 than the type of the remaining text of the contract.

414 **SECTION 13.** Section 31-3-14, Mississippi Code of 1972, is
415 brought forward as follows:

416 31-3-14. (1) In addition to the fees required for
417 application and renewal for certification and registration of all
418 contractors in Section 31-3-13, all holders of a certificate of
419 responsibility shall pay a fee equal to Two Hundred Dollars
420 (\$200.00) at the time of application or renewal of certificates of
421 responsibility. Any residential builder licensed under the
422 provisions of Section 73-59-1 et seq. shall be exempt from the fee
423 imposed under this section. The revenue derived from such
424 additional fees shall be deposited into a fund to be known as the
425 "Construction Education Fund," a special fund created in the State
426 Treasury, and distributed by the State Board of Contractors
427 created in Section 31-3-3, to the Mississippi Construction
428 Education Foundation, public high schools and community colleges



429 that participate in the Mississippi Construction Education
430 Foundation's "school-to-work" program, state universities that
431 have construction technology programs, the Mississippi Housing
432 Institute and certain construction educational trusts approved by
433 the State Board of Contractors in the manner hereinafter provided
434 to offer courses for construction education and construction craft
435 training to meet the needs of the construction industry of the
436 State of Mississippi.

437 (2) The State Board of Contractors shall, on an annual
438 basis, solicit from the Mississippi state institutions of higher
439 learning, all the public community and junior colleges, the
440 Mississippi Construction Education Foundation, public high schools
441 that participate in the Mississippi Construction Education
442 Foundation's "school-to-work" program and certain construction
443 educational trusts, applications for the use of such funds in
444 construction education and craft training programs in a manner
445 prescribed by the board. The board may appoint a technical
446 advisory committee to advise the board on the most needed areas of
447 construction education and craft training, continuing education or
448 research relating to the construction education and craft training
449 in the state, based on significant changes in the construction
450 industry's practices, economic development or on problems costing
451 public or private contractors substantial waste. The board shall
452 ensure that the monies distributed from this fund are properly
453 spent to promote construction education and craft training in



454 programs in the state which are approved by the board. At least
455 seventy-five percent (75%) of the monies distributed by the board,
456 pursuant to this section, must be used for construction craft
457 training with the exception of the Mississippi Housing Institute.

458 (3) Each university, junior college, community college, the
459 Mississippi Construction Education Foundation, public high school
460 that participates in the foundation's "school-to-work" program and
461 construction educational trust receiving funds pursuant to this
462 section for construction education or construction craft training
463 programs shall utilize such funds only for construction education
464 and craft training curricula and program development, faculty
465 development, equipment, student scholarships, student
466 assistantships, and for continuing education programs related to
467 construction education and craft training. Such funds shall not
468 be commingled with the normal operating funds of the educational
469 institution, regardless of the source of such funds.

470 (4) The State Board of Contractors shall ensure the
471 distribution of reports and the availability of construction
472 education programs established pursuant to this section to all
473 segments of the construction industry that are subject to the fee
474 provided under this section. The board shall cause a report to be
475 made to the Legislature in October of each year, summarizing the
476 allocation of funds by institution or program and summarizing the
477 new projects funded and the status of previously funded projects.



478 (5) All monies deposited into the Construction Education
479 Fund shall be used exclusively for construction education and
480 craft training, and any unspent funds at the end of the fiscal
481 year shall not revert to the General Fund of the State Treasury
482 but shall be available for construction education and craft
483 training in subsequent fiscal years.

484 (6) All monies deposited into the Construction Education
485 Fund collected from residential builders licensed under the
486 provisions of Section 73-59-1 et seq. shall be used exclusively
487 for licensed home builders' education and professional development
488 and any unspent funds at the end of the fiscal year shall not
489 revert to the General Fund of the State Treasury but shall be
490 available for construction education and craft training in
491 subsequent fiscal years.

492 (7) All expenditures from the Construction Education Fund
493 shall be by requisition to the State Auditor, signed by the
494 executive director of the board and countersigned by the chairman
495 or vice chairman of the board, and the State Treasurer shall issue
496 his warrants thereon.

497 **SECTION 14.** Section 31-3-15, Mississippi Code of 1972, is
498 brought forward as follows:

499 31-3-15. No contract for public or private projects shall be
500 issued or awarded to any contractor who did not have a current
501 certificate of responsibility issued by said board at the time of
502 the submission of the bid, or a similar certificate issued by a



503 similar board of another state which recognizes certificates
504 issued by said board. Any contract issued or awarded in violation
505 of this section shall be null and void.

506 **SECTION 15.** Section 31-3-17, Mississippi Code of 1972, is
507 brought forward as follows:

508 31-3-17. There is hereby levied, in addition to any taxes
509 otherwise provided for by law, a special privilege license tax of
510 Two Hundred Dollars (\$200.00) on each contractor who applies for a
511 certificate of responsibility issued under this chapter; and such
512 tax shall be paid to the executive director of the board upon
513 making such application in this state. The board may levy an
514 additional special privilege license tax not to exceed One Hundred
515 Dollars (\$100.00) for each additional classification for which a
516 contractor applies and is found to be qualified. The executive
517 director of the board shall promptly deposit all monies received
518 under this chapter in the State Treasury. Except for the civil
519 penalty provided in Section 31-3-21 which shall be deposited into
520 the State General Fund and the fee provided in Section 31-3-14,
521 all monies received under this chapter shall be kept in a special
522 fund in the State Treasury known as the "State Board of
523 Contractors Fund," and shall be used only for the purposes of this
524 chapter. Such monies shall not lapse at the end of each fiscal
525 year, but all monies in such State Board of Contractors Fund in
526 excess of the sum of fifty percent (50%) of the approved budget
527 for the fiscal year shall be paid over into the General Fund of



528 the State Treasury. All expenditures from the Board of
529 Contractors Fund shall be by requisition to the State Auditor,
530 signed by the executive director of the board and countersigned by
531 the chairman or vice chairman of the board, and the State
532 Treasurer shall issue warrants thereon.

533 **SECTION 16.** Section 31-3-16, Mississippi Code of 1972, is
534 brought forward as follows:

535 31-3-16. All commercial contractors, in order to obtain a
536 building permit in the State of Mississippi, shall possess a
537 permit from the Department of Revenue issued under Section
538 27-65-27.

539 Notwithstanding the definition of "contractor" in Section
540 31-3-1, for purposes of this section, a commercial contractor is a
541 person or entity contracting or offering to contract with an owner
542 or possessor of commercial real estate to construct a building
543 thereon, or to repair or renovate any portion of a building
544 thereon, regardless of the cost of the project, and regardless of
545 whether all or part of the cost is expected to be paid as a
546 benefit of a property and casualty insurance policy.

547 This section shall not apply to a commercial contractor
548 having a permanent place of business in the State of Mississippi
549 or licensed under this chapter.

550 **SECTION 17.** Section 31-3-21, Mississippi Code of 1972, is
551 brought forward as follows:



552 31-3-21. (1) It shall be unlawful for any person who does
553 not hold a certificate of responsibility issued under this chapter
554 to submit a bid, enter into a contract, or otherwise engage in or
555 continue in this state in the business of a contractor, as defined
556 in this chapter. Any bid which is submitted without a certificate
557 of responsibility number issued under this chapter and without
558 that number appearing on the exterior of the bid envelope, as and
559 if herein required, at the time designated for the opening of such
560 bid, shall not be considered further, and the person or public
561 agency soliciting bids shall not enter into a contract with a
562 contractor submitting a bid in violation of this section. In
563 addition, any person violating this section by knowingly and
564 willfully submitting a bid for projects without holding a
565 certificate of responsibility number issued under this chapter, as
566 and if herein required, at the time of the submission or opening
567 of such bid shall be guilty of a misdemeanor and, upon conviction,
568 shall be punished by a fine of not more than One Thousand Dollars
569 (\$1,000.00), or by imprisonment for not more than six (6) months,
570 or by both such fine and imprisonment.

571 (2) All bids submitted for public or private projects where
572 the bid is in excess of Fifty Thousand Dollars (\$50,000.00) shall
573 contain on the outside or exterior of the envelope or container of
574 such bid the contractor's current certificate number, and no bid
575 shall be opened or considered unless such contractor's current
576 certificate number appears on the outside or exterior of said



577 envelope or container, or unless there appears a statement on the
578 outside or exterior of such envelope or container to the effect
579 that the bid enclosed therewith did not exceed Fifty Thousand
580 Dollars (\$50,000.00) with respect to public or private projects.
581 Any person violating the provisions of this subsection shall be
582 guilty of a misdemeanor and, upon conviction, shall be punished by
583 a fine of not more than One Thousand Dollars (\$1,000.00), or by
584 imprisonment for not more than six (6) months, or by both such
585 fine and imprisonment.

586 (3) In the letting of public contracts preference shall be
587 given to resident contractors, and a nonresident bidder domiciled
588 in a state having laws granting preference to local contractors
589 shall be awarded Mississippi public contracts only on the same
590 basis as the nonresident bidder's state awards contracts to
591 Mississippi contractors bidding under similar circumstances; and
592 resident contractors actually domiciled in Mississippi, be they
593 corporate, individuals, or partnerships, are to be granted
594 preference over nonresidents in awarding of contracts in the same
595 manner and to the same extent as provided by the laws of the state
596 of domicile of the nonresident. When a nonresident contractor
597 submits a bid for a public project, he shall attach thereto a copy
598 of his resident state's current preference law, if any, pertaining
599 to such state's treatment of nonresident contractors. Any bid
600 submitted by a nonresident contractor which does not include the
601 nonresident contractor's current state law shall be rejected and



602 not considered for award. As used in this section, the term
603 "resident contractors" includes a nonresident person, firm or
604 corporation that has been qualified to do business in this state
605 and has maintained a permanent full-time office in the State of
606 Mississippi for two (2) years prior to submission of the bid and
607 the subsidiaries and affiliates of such a person, firm or
608 corporation. Any public agency awarding a contract shall promptly
609 report to the Department of Revenue the following information:

610 (a) The amount of the contract.

611 (b) The name and address of the contractor reviewing
612 the contract.

613 (c) The name and location of the project.

614 (4) In addition to any other penalties provided in this
615 chapter, and upon a finding of a violation of this chapter, the
616 State Board of Contractors may, after notice and hearing, issue an
617 order of abatement directing the contractor to cease all actions
618 constituting violations of this chapter until such time as the
619 contractor complies with Mississippi state law, and to pay to the
620 board a civil penalty to be deposited into the State Board of
621 Contractors Fund, created in Section 31-3-17, of not more than
622 three percent (3%) of the total contract being performed by the
623 contractor. In addition to, or in lieu of, such civil penalty,
624 the board may issue a public or private reprimand. The funds
625 collected from civil penalty payments shall be used by the State
626 Board of Contractors for enforcement and education.



627 **SECTION 18.** Section 31-3-23, Mississippi Code of 1972, is
628 brought forward as follows:

629 31-3-23. Within ten (10) days after any order, judgment or
630 action of the board, any person aggrieved thereby may appeal such
631 order, judgment or action either to the chancery court of the
632 county wherein the appellant resides or to the Chancery Court of
633 the First Judicial District of Hinds County, Mississippi, upon
634 giving bond with sufficient security in the amount of Two Hundred
635 Fifty Dollars (\$250.00), approved by the clerk of the chancery
636 court and conditioned to pay any costs which may be adjudged
637 against such person. In lieu of the bond, the appellant may post
638 Two Hundred Fifty Dollars (\$250.00) with the clerk of the chancery
639 court and conditioned to pay any costs which may be adjudged
640 against such person.

641 Notice of appeal shall be filed in the office of the clerk of
642 the chancery court, who shall issue a writ of certiorari directed
643 to the board commanding it within forty-five (45) days after
644 service thereof to certify to such court its entire record in the
645 matter in which the appeal has been taken. The appeal shall
646 thereupon be heard in due course by the court, and the court shall
647 review the record and shall affirm or reverse the judgment. If
648 the judgment is reversed, the chancery court or chancellor shall
649 render such order or judgment as the board ought to have rendered,
650 and certify the same to the board; and costs shall be awarded as
651 in other cases.



652 Appeals may be had to the Supreme Court of the State of
653 Mississippi as provided by law from any final action of the
654 chancery court. The board may employ counsel to defend such
655 appeals, to be paid out of the funds in the State Board of
656 Contractors Fund.

657 On appeal, any order, judgment or action of the board
658 revoking a certificate of responsibility or residential license
659 shall remain in full force unless the chancery court or Supreme
660 Court reverses such order, judgment or action of the board.

661 The remedies provided under this chapter for any aggrieved
662 person shall not be exclusive, but shall be cumulative of and
663 supplemental to any other remedies which he may otherwise have in
664 law or in equity, whether by injunction or otherwise.

665 **SECTION 19.** Section 31-5-3, Mississippi Code of 1972, is
666 brought forward as follows:

667 31-5-3. Any person, firm or corporation entering into a
668 formal contract with this state, any county thereof, municipality
669 therein, or any public board, department, commission, or political
670 subdivision of this state, for the construction or maintenance of
671 public buildings, works or projects or the doing of repairs to any
672 public building, works or projects shall be required before
673 commencing same to execute the usual bond with good and sufficient
674 sureties, as required by law, with the additional obligation that
675 such contractor shall promptly make payment of all taxes,
676 licenses, assessments, contributions, damages, penalties, and



677 interest thereon, when and as the same may lawfully be due this
678 state, or any county, municipality, board, department, commission
679 or political subdivision thereof, by reason of and directly
680 connected with the performance of such contract or any part
681 thereof.

682 In default of the prompt payment of all such taxes, licenses,
683 assessments, contributions, damages, penalties and interest
684 thereon as may be due by any such contractor, a direct proceeding
685 on said bond may be brought in any court of competent jurisdiction
686 by the proper officer or agency having lawful authority so to do
687 to enforce such payment, the right to so proceed being cumulative
688 and in addition to such other remedies as may be provided by law.

689 Nothing in this section shall be so construed as to repeal in
690 any respect the provisions of any law having for its purpose the
691 protection and enforcement of claims by persons furnishing labor
692 or materials.

693 **SECTION 20.** Section 31-5-15, Mississippi Code of 1972, is
694 brought forward as follows:

695 31-5-15. Under any public contract heretofore or hereafter
696 made or awarded by the State of Mississippi, or any agency or
697 department of the State of Mississippi, or by any political
698 subdivision thereof, the contractor may, with the written consent
699 of his or its surety, from time to time, withdraw the whole or any
700 portion of the amount retained from payments due the contractor
701 pursuant to the terms of the contract by depositing with the State



702 Treasurer of the State of Mississippi, or the treasurer or
703 secretary of the political subdivision of the State of Mississippi
704 holding funds belonging to the contractor, the following security,
705 or any combination thereof in an amount equal to or in excess of
706 the amount so withdrawn, said securities to be accepted at the
707 time of deposit at market value but not in excess of par value, to
708 wit:

709 (1) U.S. Treasury Bonds, U.S. Treasury Notes, U.S. Treasury
710 Certificates of Indebtedness, or U.S. Treasury Bills, or

711 (2) Bonds or notes of the State of Mississippi, or

712 (3) Bonds of any political subdivision of the State of
713 Mississippi, or

714 (4) Certificates of deposit issued by commercial banks
715 located in the State of Mississippi, provided that such
716 certificate is negotiable or is accompanied by a power of attorney
717 executed by the owner of the certificate in favor of the Treasurer
718 of the State of Mississippi or of the treasurer or the secretary
719 of the political subdivision involved, or

720 (5) Certificates of deposit issued by savings and loan
721 associations located in the State of Mississippi, the accounts of
722 which are insured by the Federal Savings and Loan Insurance
723 Corporation, or whose accounts are insured by a company approved
724 by the State Board of Savings and Loan Associations, provided that
725 such certificate is made payable with accrued interest on demand
726 and is accompanied by a power of attorney executed by the owner of



727 the certificate in favor of the Treasurer of the State of
728 Mississippi or the treasurer or secretary of the political
729 subdivision involved, and provided that any such certificate from
730 any of the savings and loan associations referred to in this
731 subparagraph shall not be for an amount in excess of the maximum
732 dollar amount of coverage of the Federal Savings and Loan
733 Insurance Corporation.

734 The agency or department of the state shall notify the State
735 Treasurer of the amount of deposit required and shall also notify
736 the State Treasurer when to release the deposit. The political
737 subdivision of the state shall notify its treasurer or secretary
738 of the amount of deposit required and shall also notify him when
739 to release the deposit.

740 The State Treasurer, or the secretary or treasurer of the
741 political subdivision holding said security, shall, from time to
742 time, collect all interest or income on the security so deposited
743 and shall, by and with the written consent of contractor's surety,
744 pay the same when and as collected to the contractor or
745 contractors who deposited said obligations. If the deposit be in
746 the form of coupon bonds, the coupons as they respectively become
747 due shall be delivered to the contractor.

748 If in the event of an overpayment to a contractor the
749 contracting authority is unable to obtain reimbursement for such
750 overpayments from the contractor, the chief administrative officer
751 of the contracting authority shall notify the contractor, its



752 surety and the State Treasurer or other holder of the security, of
753 the nature of the overpayment and of the failure to obtain
754 reimbursement. Upon such notification, the security holder shall
755 retain the income on the deposited security until an amount equal
756 to the overpayment is accumulated and paid to the contracting
757 authority.

758 In the event the contractor shall default in the performance
759 of the contract or any portion thereof, the securities deposited
760 by him in lieu of retainage and all interest and coupons and
761 income accruing on said securities after said default may be sold
762 by the state or any agency or department thereof, or any political
763 subdivision, and the proceeds of said sale used as if such
764 proceeds represented the retainage provided for under the
765 contract.

766 **SECTION 21.** Section 31-5-17, Mississippi Code of 1972, is
767 brought forward as follows:

768 31-5-17. Every public officer, contractor, superintendent,
769 or agent engaged in or in charge of the construction of any state
770 or public building or public work of any kind for the State of
771 Mississippi or for any board, city commission, governmental
772 agency, or municipality of the State of Mississippi shall employ
773 only workmen and laborers who have actually resided in Mississippi
774 for two (2) years next preceding such employment.

775 **SECTION 22.** Section 31-5-19, Mississippi Code of 1972, is
776 brought forward as follows:



777 31-5-19. In the event workmen or laborers qualified under
778 the provisions of Section 31-5-17 are not available, then the
779 contractor, officer, superintendent, agent, or person in charge of
780 such work shall notify in writing the mayor of the city in which
781 said work is being done, the president of the board of supervisors
782 of the county in which said work is being done, the Governor where
783 said work is being done for the State of Mississippi, and the
784 president, chairman, or executive officer of such board, city
785 commission, or governmental agency for which said work is being
786 done, of such fact. Unless the mayor, Governor, president,
787 executive officer, or chairman aforesaid, as the case may be,
788 shall forthwith supply such contractor, officer, superintendent,
789 agent, or person in charge of said works with the satisfactory
790 workmen or laborers needed, said contractor, officer,
791 superintendent, agent, or person shall be authorized to employ
792 workmen or laborers who are not qualified under the provisions of
793 Section 31-5-17 to make up the deficiency. Nothing herein shall
794 be construed to prevent the State of Mississippi, any county,
795 municipality, board, or commission from placing or letting any
796 contract for the erection or construction of any public building
797 or public work in the open market, or soliciting bids from
798 persons, firms, or corporations without the State of Mississippi.
799 Any person, persons, firm, or corporation from without the State
800 of Mississippi that may obtain such contracts for public buildings



801 or public works shall comply with the provisions of Section
802 31-5-17 upon undertaking the said contract or work.

803 **SECTION 23.** Section 31-5-21, Mississippi Code of 1972, is
804 brought forward as follows:

805 31-5-21. Any contractor, officer, superintendent, agent, or
806 person in charge of said work who shall violate any of the
807 provisions of Section 31-5-17, shall be liable upon conviction
808 before a court of competent jurisdiction to a fine of not more
809 than One Hundred Dollars (\$100.00) or to imprisonment of not more
810 than sixty (60) days, or both at the discretion of the court; and
811 every day's employment of each workman or laborer in such
812 violation shall constitute a separate offense.

813 However, where any workman or laborer furnishes such employer
814 with a certificate by the sheriff, chancery clerk, or county
815 registrar of the county of his domicile to the effect that such
816 workman or laborer has actually resided in this state two (2)
817 years next preceding such employment, such employer, acting in
818 good faith, shall be relieved of any liability by reason of
819 employing such person.

820 **SECTION 24.** Section 31-5-23, Mississippi Code of 1972, is
821 brought forward as follows:

822 31-5-23. In the construction of any building, highway, road,
823 bridge, or other public work or improvement by the State of
824 Mississippi or any of its political subdivisions or
825 municipalities, only materials grown, produced, prepared, made



826 and/or manufactured within the State of Mississippi should be
827 used. Paint, varnish and lacquer shall be used which shall
828 contain as vehicles tung oil and either ester gum or modified
829 resin (with rosin as the principal base of constituents), and
830 turpentine shall be used as solvent or thinner, all of which said
831 products shall be produced in Mississippi. However, preference
832 shall not be given to materials grown, produced, prepared, made
833 and/or manufactured in the State of Mississippi when other
834 materials of like quality produced without the State of
835 Mississippi may be purchased or secured at less cost, or any other
836 materials of better quality produced without the State of
837 Mississippi can be secured at a reasonable cost.

838 The duty is hereby enjoined upon all public officers or
839 bodies having the right to contract for the purchase of materials
840 for any such public work to be paid for by the State of
841 Mississippi or any of its political subdivisions or municipalities
842 to faithfully observe the provisions of this section.

843 All contracts hereafter let to any person, firm or
844 corporation for the construction or doing of any public work shall
845 contain a provision enjoining a like duty upon the contractor with
846 respect to the purchase of materials as would have rested upon the
847 public officer or body letting the contract had he or it done the
848 work and purchased the materials.

849 Nothing herein shall in any manner apply to any public work
850 or improvement which will be paid for either in whole or in part



851 by funds contributed either directly or indirectly by the United
852 States.

853 This section is declaratory of public policy of the State of
854 Mississippi.

855 The boards of supervisors of the State of Mississippi are
856 hereby enjoined, in the letting of contracts in pursuance to
857 Section 65-9-19, to use any and all low gravity oil from the
858 various oil fields in this state in the construction, maintenance,
859 and upkeep of the rural roads, and to faithfully observe the
860 provisions hereof.

861 **SECTION 25.** Section 31-5-25, Mississippi Code of 1972, is
862 brought forward as follows:

863 31-5-25. (1) All sums due contractors under all public
864 construction contracts shall be paid as follows:

865 (a) Partial, progress or interim payments: All
866 partial, progress or interim payments or monies owed contractors
867 shall be paid when due and payable under the terms of the
868 contract. If they are not paid within forty-five (45) calendar
869 days from the day they were due and payable, then they shall bear
870 interest from the due date until paid at the rate of one percent
871 (1%) per month until fully paid.

872 (b) Final payments: The final payment of all monies
873 owed contractors shall be due and payable:



874 (i) At the completion of the project or after the
875 work has been substantially completed in accordance with the terms
876 and provisions of the contract;

877 (ii) When the owner beneficially uses or occupies
878 the project except in the case where the project involves
879 renovation or alteration to an existing facility in which the
880 owner maintains beneficial use or occupancy during the course of
881 the project;

882 (iii) When the project is certified as having been
883 completed by the architect or engineer authorized to make such
884 certification; or

885 (iv) When the project is certified as having been
886 completed by the contracting authority representing the State of
887 Mississippi or any of its political subdivisions, whichever event
888 shall first occur.

889 If the contractor is not paid in full within forty-five (45)
890 calendar days from the first occurrence of one (1) of the
891 above-mentioned events, then said final payment shall bear
892 interest from the date of said first occurrence at the rate of one
893 percent (1%) per month until fully paid.

894 In no event shall said final payment due the contractor be
895 made until the consent of the contractor's surety has been
896 obtained in writing and delivered to the proper contracting
897 authority.



898 (c) Contracts for the construction of prison facilities
899 let or approved by the State Prison Emergency Construction and
900 Management Board when exercising its emergency powers to remove
901 two thousand (2,000) inmates from county jails are exempt from
902 this section; however, this exemption does not apply to contracts
903 for the construction of private correctional facilities and
904 additional facilities at the South Mississippi Correctional
905 Institution and the Central Mississippi Correctional Facility.
906 This paragraph shall stand repealed from and after July 1, 1996.

907 (2) Contractors shall submit monthly certification to the
908 project engineer or architect indicating payments to
909 subcontractors on prior payment request.

910 **SECTION 26.** Section 31-5-27, Mississippi Code of 1972, is
911 brought forward as follows:

912 31-5-27. When a contractor receives any payment under a
913 public construction contract, the contractor shall, upon receipt
914 of that payment, pay each subcontractor and material supplier in
915 proportion to the percentage of work completed by each
916 subcontractor and material supplier. If for any reason the
917 contractor receives less than the full payment due under the
918 public construction contract, the contractor shall be obligated to
919 disburse on a pro rata basis those funds received, with the
920 contractor, subcontractors and material suppliers each receiving a
921 prorated portion based on the amount due on the payment. If the
922 contractor without reasonable cause fails to make any payment to



923 his subcontractors and material suppliers within fifteen (15) days
924 after the receipt of payment under the public construction
925 contract, the contractor shall pay to his subcontractors and
926 material suppliers, in addition to the payment due them, a penalty
927 in the amount of one-half of one percent (1/2 of 1%) per day of
928 the delinquency, calculated from the expiration of the fifteen-day
929 period until fully paid. The total penalty shall not exceed
930 fifteen percent (15%) of the outstanding balance due.

931 **SECTION 27.** Section 31-5-29, Mississippi Code of 1972, is
932 brought forward as follows:

933 31-5-29. Sections 31-5-25 and 31-5-27, shall apply as to all
934 public construction contracts entered into by all state agencies,
935 commissions, boards and districts and by all municipalities,
936 counties and other political subdivisions of the State of
937 Mississippi.

938 **SECTION 28.** Section 31-5-31, Mississippi Code of 1972, is
939 brought forward as follows:

940 31-5-31. Any person, firm or corporation who leases, rents
941 or sells to any subcontractor any equipment to be used in a road
942 construction contract, wherein a performance and payment bond is
943 required of the general contractor, shall notify the general
944 contractor involved in such contract that credit is being extended
945 by them to the subcontractor and stating the terms of the credit
946 agreement. In the event the subcontractor does not meet his
947 payment obligations as set forth in the credit agreement, the



948 creditor shall notify the general contractor of the nonpayment
949 within thirty (30) days after such payment is due. The creditor
950 shall notify the general contractor upon receipt of any payment
951 which had been reported as past due.

952 Failure of the creditor to comply with the nonpayment notice
953 provision of this section shall void the terms of the general
954 contractor's performance and payment bond as to such creditor for
955 such equipment leased, rented or sold.

956 **SECTION 29.** Section 31-5-33, Mississippi Code of 1972, is
957 brought forward as follows:

958 31-5-33. (1) In any contract for the construction, repair,
959 alteration or demolition of any building, structure or facility
960 awarded by the State of Mississippi, or any agency, unit or
961 department of the State of Mississippi, or by any political
962 subdivision thereof, which contract provides for progress payments
963 in installments based upon an estimated percentage of completion
964 with a percentage of the contract proceeds to be retained by the
965 state agency, unit or department, or by the political subdivision
966 or contractor pending completion of the contract, such retainage
967 shall be five percent (5%), and the amount retained by the prime
968 contractor from each payment due the subcontractor shall not
969 exceed the percentage withheld by the state, or any agency, unit
970 or department of the state, or by any political subdivision
971 thereof, from the prime contractor.



972 On any contract as described herein, of which the total
973 amount is Two Hundred Fifty Thousand Dollars (\$250,000.00) or
974 greater, or on any contract with a subcontractor, regardless of
975 amount, five percent (5%) shall be retained until the work is at
976 least fifty percent (50%) complete, on schedule and satisfactory
977 in the architect's and/or engineer's opinion, at which time fifty
978 percent (50%) of the retainage held to date shall be returned to
979 the prime contractor for distribution to the appropriate
980 subcontractors and suppliers. Provided, however, that future
981 retainage shall be withheld at the rate of two and one-half
982 percent (2-1/2%).

983 (2) The provisions of this section shall not apply to
984 contracts let by the Mississippi Transportation Commission for the
985 construction, improvement or maintenance of roads and bridges.

986 **SECTION 30.** Section 31-5-35, Mississippi Code of 1972, is
987 brought forward as follows:

988 31-5-35. No state, county, or municipal employee, and no
989 person acting or purporting to act on behalf of such employee, or
990 any state, county or municipal agency, shall, with respect to any
991 public building or construction contract which is about to be or
992 which has been competitively bid or negotiated, require the bidder
993 to make application to or furnish financial data to, or to obtain
994 or procure any of the surety bonds, or surety bond components of
995 wrap-up insurance, that is specified in connection with such



996 contract or specified by any law, from any particular insurance or
997 surety company, agent or broker.

998 **SECTION 31.** Section 31-5-37, Mississippi Code of 1972, is
999 brought forward as follows:

1000 31-5-37. (1) All public works projects utilizing funds
1001 received by state or local governmental entities resulting from a
1002 federally declared disaster or a spill of national significance,
1003 including damages, penalties, fines or supplemental projects paid
1004 or financed by responsible parties pursuant to a court order,
1005 negotiated settlement, or other instrument, including under any
1006 law distributing such fines and penalties including the federal
1007 Resources and Ecosystems Sustainability, Tourist Opportunities and
1008 Revived Economy of the Gulf Coast Act of 2011 (R.E.S.T.O.R.E.),
1009 the Oil Pollution Act of 1990 or the Federal Water Pollution
1010 Control Act or similar legislation, shall be subject to the hiring
1011 policies established by this section.

1012 (2) Contractors submitting bids for public works projects
1013 that involve an expenditure of Five Thousand Dollars (\$5,000.00)
1014 or more and that are financed, in whole or in part, through the
1015 use of funds described in subsection (1) of this section shall
1016 submit with their bid a certification that they will comply with
1017 the provisions of this section if they are awarded a contract.
1018 The contractor shall submit to the agency or governing authority
1019 that solicited the bid and the Mississippi Department of



1020 Employment Security an employment plan within seven (7) days after
1021 the award of the contract which shall include the following:

1022 (a) The types of jobs involved in the public works
1023 project;

1024 (b) The skill level of the jobs involved in the
1025 project;

1026 (c) Wage information on the jobs involved in the
1027 project;

1028 (d) The number of vacant positions that the contractor
1029 and any subcontractor needs to fill;

1030 (e) How the contractor and any subcontractor will
1031 recruit, low-wage and unemployed individuals for job vacancies;

1032 (f) Such other information as may be required by the
1033 Mississippi Department of Employment Security; and

1034 (g) Proof of registration with the Mississippi
1035 Department of Employment Security for taxation in accordance with
1036 the provisions of Title 71.

1037 (3) From the date written notice of the contract award is
1038 received and until ten (10) business days after the receipt of the
1039 employment plan by the Mississippi Department of Employment
1040 Security, the contractor and any subcontractor shall not hire any
1041 personnel to fill vacant positions necessary for the public works
1042 project except residents of the State of Mississippi who are to be
1043 verified by the Mississippi Department of Employment Security
1044 and/or those qualified individuals who are submitted by the



1045 Mississippi Department of Employment Security. For purposes of
1046 this subsection, the contractor or subcontractor is authorized to
1047 employ Mississippi residents to begin work immediately, and such
1048 persons are to be verified by the Mississippi Department of
1049 Employment Security after employment by the contractor or
1050 subcontractor. During the ten-day period the Mississippi
1051 Department of Employment Security shall submit qualified
1052 individuals to the contractor to consider for the vacant
1053 positions. The contractor shall review the individuals submitted
1054 by the department before hiring individuals who are not submitted
1055 by the department. The contract award shall be vacated if the
1056 contractor fails to comply with the provisions of this subsection.

1057 **SECTION 32.** Section 31-5-39, Mississippi Code of 1972, is
1058 brought forward as follows:

1059 31-5-39. On or before the date and time established to
1060 receive bids for any contract related to the construction of any
1061 building, highway, road, bridge or other public work or
1062 improvement by the State of Mississippi, its agencies,
1063 departments, institutions, or instrumentalities of the state or
1064 political subdivisions of the state, such entity shall establish a
1065 cost estimate for the project. The cost estimate shall reflect
1066 the total amount of funds allocated to the project, including the
1067 specific amount allocated for construction. Additional funds may
1068 be allocated to a project at any time, including for purposes of
1069 awarding a contract to the lowest and best bidder. Additional



1070 funds may not be allocated after the date and time established for
1071 the receipt of bids for the purpose of increasing negotiation
1072 authority.

1073 **SECTION 33.** Section 31-5-41, Mississippi Code of 1972, is
1074 brought forward as follows:

1075 31-5-41. With respect to all public or private contracts or
1076 agreements, for the construction, alteration, repair or
1077 maintenance of buildings, structures, highway bridges, viaducts,
1078 water, sewer or gas distribution systems, or other work dealing
1079 with construction, or for any moving, demolition or excavation
1080 connected therewith, every covenant, promise and/or agreement
1081 contained therein to indemnify or hold harmless another person
1082 from that person's own negligence is void as against public policy
1083 and wholly unenforceable.

1084 This section does not apply to construction bonds or
1085 insurance contracts or agreements.

1086 **SECTION 34.** Section 31-5-51, Mississippi Code of 1972, is
1087 brought forward as follows:

1088 31-5-51. (1) Any person entering into a formal contract
1089 with the state or any county, city or political subdivision
1090 thereof, or other public authority for the construction,
1091 alteration, or repair of any public building or public work,
1092 before entering into such contract, shall furnish to such public
1093 body, except as provided in subsection (5) of this section, bonds
1094 with good and sufficient surety as follows:



1095 (a) A performance bond payable to, in favor of or for
1096 the protection of such public body, as owner, for the work to be
1097 done in an amount not less than the amount of the contract,
1098 conditioned for the full and faithful performance of the contract;

1099 (b) A payment bond payable to such public body but
1100 conditioned for the prompt payment of all persons supplying labor
1101 or material used in the prosecution of the work under said
1102 contract, for the use of each such person, in an amount not less
1103 than the amount of the contract; and

1104 (c) The bonds herein provided for may be made by any
1105 surety company which is authorized to do business in the State of
1106 Mississippi and listed on the United States Treasury Department's
1107 list of acceptable sureties, or such bonds may be guaranteed by a
1108 personal surety as provided for herein. The personal surety shall
1109 deposit with the State Treasurer cash or certificates of deposit
1110 in an amount not less than the amount of the contract, and the
1111 State Treasurer shall hold same in trust and on deposit for the
1112 benefit of the public body that is a party to the contract
1113 providing for the construction, alteration or repair of the public
1114 building or for the public work.

1115 (2) Every person who has furnished labor or material used in
1116 the prosecution of the work provided for in such contract, in
1117 respect of which a payment bond is furnished and who has not been
1118 paid in full therefor before the expiration of a period of ninety
1119 (90) days after the date on which the last of the labor was



1120 performed by him or the last of the materials was furnished by him
1121 and for which such claim is made, provided the same has been
1122 approved, where required, by the public authority or its architect
1123 or engineers, or such approval is being withheld as a result of
1124 unreasonable acts of the contractor, shall have the right to sue
1125 on such payment bond for the amount, or the balance thereof that
1126 is due and payable, but unpaid at the time of institution of such
1127 suit and to prosecute said action to final execution and judgment.
1128 Notwithstanding anything to the contrary contained herein, if the
1129 amount claimed in such action is subject to contractual provisions
1130 or conditions, between the parties involved in such action, the
1131 action shall be abated pending the performance of such provisions
1132 and the fulfillment of such conditions.

1133 (3) Any person having direct contractual relationship with a
1134 subcontractor but no contractual relationship express or implied
1135 with the contractor furnishing said payment bond shall have a
1136 right of action upon the said payment bond upon giving written
1137 notice to said contractor within ninety (90) days from the date on
1138 which such person did or performed the last of the labor or
1139 furnished or supplied the last of the material for which such
1140 claim is made, stating with substantial accuracy the amount
1141 claimed and the name of the party to whom the material was
1142 furnished or supplied or for whom the labor was done or performed.
1143 Such notice shall be given in writing by the claimant to the
1144 contractor or surety at any place where the contractor or surety



1145 maintains an office or conducts business. Such notice may be
1146 personally delivered by the claimant to the contractor or surety,
1147 or it may be mailed by certified mail, return receipt requested,
1148 postage prepaid, to the contractor or surety. No such action may
1149 be maintained by any person not having a direct contractual
1150 relationship with the contractor-principal, unless the notice
1151 required by this section shall have been given.

1152 (4) The only persons protected by such payment bond, subject
1153 to the notice provisions of this section are:

1154 (a) Subcontractors and material suppliers of the
1155 contractor;

1156 (b) Sub-subcontractors and material suppliers of those
1157 subcontractors named in subsection (4)(a) of this section; and

1158 (c) Laborers who have performed work on the project
1159 site.

1160 (5) Whenever a contract is less than Twenty-five Thousand
1161 Dollars (\$25,000.00) the owners may elect to make a lump sum
1162 payment at the completion of the job. Lump sum payments will not
1163 be made until completion and acceptance by the governing agency.
1164 In such a case a performance bond or payment bond will not be
1165 required.

1166 (6) Except as otherwise provided in subsection (1)(c) for a
1167 personal surety, no surety or surety company shall be allowed to
1168 guarantee or write bonds for the benefit of the public body that
1169 is a party to a contract providing for the construction,



1170 alteration or repair of a public building or for public work,
1171 unless that surety is listed on the United States Treasury
1172 Department's list of acceptable sureties. If the surety is not
1173 listed on the United States Treasury Department's list of
1174 acceptable sureties, the public body for which the public work is
1175 being performed shall be liable to the extent that the surety
1176 would be liable.

1177 (7) Any person entering into a formal contract with the
1178 state which exceeds Five Thousand Dollars (\$5,000.00), or with a
1179 county, city or other public authority which exceeds Twenty-five
1180 Thousand dollars (\$25,000.00), for the construction, alteration,
1181 or repair of any public building or public work, before entering
1182 into such contract, shall furnish to the public body proof of
1183 general liability insurance coverage in an amount not less than
1184 One Million Dollars (\$1,000,000.00) for bodily injury and property
1185 damage. Exempted from the provisions of this subsection are any
1186 persons who enter into a contract with the Mississippi Department
1187 of Rehabilitation Services for the construction, alteration or
1188 repair of the home of a disabled individual who has been
1189 determined eligible for services by the Mississippi Department of
1190 Rehabilitation Services.

1191 **SECTION 35.** Section 31-5-52, Mississippi Code of 1972, is
1192 brought forward as follows:

1193 31-5-52. The use of either the design-build method of
1194 project delivery as provided in Section 31-7-13.1 or the



1195 construction manager at risk method of project delivery as
1196 provided in Section 31-7-13.2 must comply with the provisions of
1197 Section 31-5-51.

1198 **SECTION 36.** Section 31-5-53, Mississippi Code of 1972, is
1199 brought forward as follows:

1200 31-5-53. (a) When suit is instituted on a performance bond
1201 given in accordance with this chapter, it shall be commenced
1202 within one (1) year after the obligee shall have made final
1203 payment on the contract; provided, however, if the contract is
1204 abandoned by the general contractor as bond principal or is
1205 terminated by the bond obligee, suit shall be commenced within one
1206 (1) year after the earlier of the abandonment by the bond
1207 principal or termination by the bond obligee.

1208 (b) When suit is instituted on a payment bond given in
1209 accordance with this chapter, it shall be commenced within one (1)
1210 year after the day on which the last of the labor was performed or
1211 material was supplied by the person bringing the action and not
1212 later.

1213 (c) Any suit brought on a performance or payment bond given
1214 in accordance with this chapter shall be brought in the county in
1215 which the contract or some part thereof was performed or in the
1216 county in which service of process may be obtained upon either the
1217 principal or the surety on such bond.

1218 **SECTION 37.** Section 31-5-55, Mississippi Code of 1972, is
1219 brought forward as follows:



1220 31-5-55. Any person supplying labor or materials for the
1221 prosecution of the work shall, upon request to the owner or
1222 obligee, or to the contractor or principal, be furnished promptly
1223 with a true and correct copy of the contract and bonds within
1224 thirty (30) days of the request or the recipient of the request
1225 shall thereafter become liable for reasonable attorney's fees and
1226 costs in any subsequent action under this section. The written
1227 request may be evidenced by any reliable means of delivery.

1228 **SECTION 38.** Section 31-5-57, Mississippi Code of 1972, is
1229 brought forward as follows:

1230 31-5-57. Whenever any person supplying labor or material in
1231 the prosecution of the work brings an action on such payment bond
1232 and the trial judge finds that the defense raised to such action
1233 by the contractor or surety was not reasonable, or not in good
1234 faith, or merely for the purpose of delaying payment, then the
1235 trial judge may, in his discretion, award the claimant a
1236 reasonable amount to be determined by the trial judge as
1237 claimant's attorney's fees in bringing such successful action.
1238 Likewise, if the trial judge finds that such action was brought by
1239 claimant without just cause or in bad faith, the trial judge may,
1240 in his discretion, award the contractor or surety a reasonable
1241 amount to be determined by the trial judge as attorney's fees for
1242 defending such action; provided, however, this section shall not
1243 affect the right of any person to recover attorney's fees where
1244 provided by contract or bond.



1245 **SECTION 39.** Section 31-7-1, Mississippi Code of 1972, is
1246 brought forward as follows:

1247 31-7-1. The following terms are defined for the purposes of
1248 this chapter to have the following meanings:

1249 (a) "Agency" means any state board, commission,
1250 committee, council, university, department or unit thereof created
1251 by the Constitution or statutes if such board, commission,
1252 committee, council, university, department, unit or the head
1253 thereof is authorized to appoint subordinate staff by the
1254 Constitution or statute, except a legislative or judicial board,
1255 commission, committee, council, department or unit thereof; except
1256 a charter school authorized by the Mississippi Charter School
1257 Authorizer Board; and except the Mississippi State Port Authority;
1258 except the Mississippi School of the Arts (MSA) established in
1259 Section 37-140-1 et seq. for the sole purpose of the application
1260 of the term "agency" as it pertains to the Public Procurement
1261 Review Board's powers and responsibilities as defined in Section
1262 27-104-7(2) (a), but without application to the use of the term
1263 within this chapter, effective July 1, 2020; and except the
1264 Mississippi School for the Blind and the Mississippi School for
1265 the Deaf (MSBD) for the sole purpose of the application of the
1266 term "agency" as it pertains to the Public Procurement Review
1267 Board's powers and responsibilities as defined in Section
1268 27-104-7(2) (a), but without application to the use of the term
1269 within this chapter, effective July 1, 2021. An academic medical



1270 center or health sciences school as defined in Section 37-115-50
1271 is not an "agency" for those purchases of commodities as defined
1272 in this section that are used for clinical purposes and (i)
1273 intended for use in the diagnosis of disease or other conditions
1274 or in the cure, mitigation, treatment or prevention of disease,
1275 and (ii) medical devices, biological, drugs and radiation emitting
1276 devices as defined by the United States Food and Drug
1277 Administration.

1278 (b) "Governing authority" means boards of supervisors,
1279 governing boards of all school districts, all boards of directors
1280 of public water supply districts, boards of directors of master
1281 public water supply districts, municipal public utility
1282 commissions, governing authorities of all municipalities, port
1283 authorities, Mississippi State Port Authority, commissioners and
1284 boards of trustees of any public hospitals, boards of trustees of
1285 public library systems, district attorneys, school attendance
1286 officers and any political subdivision of the state supported
1287 wholly or in part by public funds of the state or political
1288 subdivisions thereof, including commissions, boards and agencies
1289 created or operated under the authority of any county or
1290 municipality of this state. The term "governing authority" shall
1291 not include economic development authorities supported in part by
1292 private funds, or commissions appointed to hold title to and
1293 oversee the development and management of lands and buildings
1294 which are donated by private individuals to the public for the use



1295 and benefit of the community and which are supported in part by
1296 private funds. The term "governing authority" also shall not
1297 include the governing board of a charter school. The term
1298 "governing authority" also shall not include the Mississippi
1299 School of the Arts established in Section 37-140-1 et seq., for
1300 the sole purpose of the application of the term "agency" as it
1301 pertains to the Public Procurement Review Board's powers and
1302 responsibilities as defined in Section 27-104-7(2) (a), but without
1303 application to the use of the term within this chapter, effective
1304 July 1, 2020. The term "governing authority" also shall not
1305 include the Mississippi School for the Blind and the Mississippi
1306 School for the Deaf (MSBD) for the sole purpose of the application
1307 of the term "governing authority" as it pertains to the Public
1308 Procurement Review Board's powers and responsibilities as defined
1309 in Section 27-104-7(2) (a), but without application to the use of
1310 the term within this chapter, effective July 1, 2021.

1311 (c) "Purchasing agent" means any administrator,
1312 superintendent, purchase clerk or other chief officer so
1313 designated having general or special authority to negotiate for
1314 and make private contract for or purchase for any governing
1315 authority or agency, including issue purchase orders, invitations
1316 for bid, requests for proposals, and receive and accept bids.

1317 (d) "Public funds" means and includes any appropriated
1318 funds, special funds, fees or any other emoluments received by an
1319 agency or governing authority.



1320 (e) "Commodities" means and includes the various
1321 commodities, goods, merchandise, furniture, equipment, automotive
1322 equipment of every kind, and other personal property purchased by
1323 the agencies of the state and governing authorities, but not
1324 commodities purchased for resale or raw materials converted into
1325 products for resale.

1326 (i) "Equipment" shall be construed to include:
1327 automobiles, trucks, tractors, office appliances and all other
1328 equipment of every kind and description.

1329 (ii) "Furniture" shall be construed to include:
1330 desks, chairs, tables, seats, filing cabinets, bookcases and all
1331 other items of a similar nature as well as dormitory furniture,
1332 appliances, carpets and all other items of personal property
1333 generally referred to as home, office or school furniture.

1334 (f) "Emergency" means any circumstances caused by fire,
1335 flood, explosion, storm, earthquake, epidemic, riot, insurrection
1336 or caused by any inherent defect due to defective construction, or
1337 when the immediate preservation of order or of public health is
1338 necessary by reason of unforeseen emergency, or when the immediate
1339 restoration of a condition of usefulness of any public building,
1340 equipment, road or bridge appears advisable, or in the case of a
1341 public utility when there is a failure of any machine or other
1342 thing used and useful in the generation, production or
1343 distribution of electricity, water or natural gas, or in the
1344 transportation or treatment of sewage; or when the delay incident



1345 to obtaining competitive bids could cause adverse impact upon the
1346 governing authorities or agency, its employees or its citizens; or
1347 in the case of a public airport, when the delay incident to
1348 publishing an advertisement for competitive bids would endanger
1349 public safety in a specific (not general) manner, result in or
1350 perpetuate a specific breach of airport security, or prevent the
1351 airport from providing specific air transportation services.

1352 (g) "Construction" means the process of building,
1353 altering, improving, renovating or demolishing a public structure,
1354 public building, or other public real property. It does not
1355 include routine operation, routine repair or regularly scheduled
1356 maintenance of existing public structures, public buildings or
1357 other public real property.

1358 (h) "Purchase" means buying, renting, leasing or
1359 otherwise acquiring.

1360 (i) "Certified purchasing office" means any purchasing
1361 office in which fifty percent (50%) or more of the purchasing
1362 agents hold a certification from the Universal Public Purchasing
1363 Certification Council or other nationally recognized purchasing
1364 certification, and in which, in the case of a state agency
1365 purchasing office, in addition to the national certification, one
1366 hundred percent (100%) of the purchasing officials hold a
1367 certification from the State of Mississippi's Basic or Advanced
1368 Purchasing Certification Program.



1369 (j) "Certified Mississippi Purchasing Agent" means a
1370 state agency purchasing official who holds a certification from
1371 the Mississippi Basic Purchasing Certification Program as
1372 established by the Office of Purchasing, Travel and Fleet
1373 Management.

1374 (k) "Certified Mississippi Procurement Manager" means a
1375 state agency purchasing official who holds a certification from
1376 the Mississippi Advanced Purchasing Certification Program as
1377 established by the Office of Purchasing, Travel and Fleet
1378 Management.

1379 **SECTION 40.** Section 31-7-3, Mississippi Code of 1972, is
1380 brought forward as follows:

1381 31-7-3. The Department of Finance and Administration shall
1382 administer the provisions of this chapter.

1383 The purposes or aims of the Department of Finance and
1384 Administration in carrying out said provisions shall be to
1385 coordinate and promote efficiency and economy in the purchase of
1386 commodities by the agencies of the state.

1387 **SECTION 41.** Section 31-7-5, Mississippi Code of 1972, is
1388 brought forward as follows:

1389 31-7-5. The Department of Finance and Administration shall
1390 prescribe rules and regulations governing the manner in which the
1391 authority and duties granted to it by law may be carried out. It
1392 shall employ suitable and competent personnel, necessary to carry
1393 out its purposes. The Department of Finance and Administration



1394 may establish an Office of Purchasing, Travel and Fleet Management
1395 and employ a competent person as Director of the Office of
1396 Purchasing, Travel and Fleet Management who shall be nonstate
1397 service and paid a salary as determined by the Executive Director
1398 of the Department of Finance and Administration with the approval
1399 of the State Personnel Board.

1400 **SECTION 42.** Section 31-7-7, Mississippi Code of 1972, is
1401 brought forward as follows:

1402 31-7-7. Through its director and other supervisory personnel
1403 and, upon its request, through the agencies of the state, the
1404 Office of General Services shall supervise the performance of the
1405 following duties imposed upon it by this chapter:

1406 (a) A study of the purchases of commodities by the
1407 agencies of the state; the compilation, exchange and coordination
1408 of information concerning same; and the distribution of such
1409 information to the agencies and governing authorities requesting
1410 same.

1411 (b) The planning and coordination of purchases in
1412 volume for the agencies in order to take advantage of and secure
1413 the economies possible by volume purchasing; the arrangement of
1414 agreements between agencies and between governing authorities
1415 whereby one may make a purchase or purchases for the other or
1416 whereby an agency may make a purchase for a governing authority;
1417 the arrangement of agreements whereby purchases of commodities can
1418 be made between an agency and another agency or governing



1419 authority at a fair price, less depreciated value; the
1420 negotiations and execution of purchasing agreements and contracts
1421 through and under which the Office of General Services may require
1422 state agencies to purchase; and the obtaining or establishment of
1423 methods for obtaining of competitive bid prices upon which any
1424 agency of the state may purchase at the price approved by the
1425 Office of General Services.

1426 (c) The arrangement of provisions in purchase contracts
1427 of the state, or any agency, providing that the same price for
1428 which a commodity is available to an agency, may also, during the
1429 period of time provided therein, be available to any governing
1430 authority.

1431 **SECTION 43.** Section 31-7-9, Mississippi Code of 1972, is
1432 brought forward as follows:

1433 31-7-9. (1) (a) The Office of Purchasing, Travel and Fleet
1434 Management shall adopt purchasing regulations governing the
1435 purchase by any agency of any commodity or commodities and
1436 establishing standards and specifications for a commodity or
1437 commodities and the maximum fair prices of a commodity or
1438 commodities, subject to the approval of the Public Procurement
1439 Review Board. It shall have the power to amend, add to or
1440 eliminate purchasing regulations. The adoption of, amendment,
1441 addition to or elimination of purchasing regulations shall be
1442 based upon a determination by the Office of Purchasing, Travel and
1443 Fleet Management with the approval of the Public Procurement



1444 Review Board, that such action is reasonable and practicable and
1445 advantageous to promote efficiency and economy in the purchase of
1446 commodities by the agencies of the state. Upon the adoption of
1447 any purchasing regulation, or an amendment, addition or
1448 elimination therein, copies of same shall be furnished to the
1449 State Auditor and to all agencies affected thereby. Thereafter,
1450 and except as otherwise may be provided in subsection (2) of this
1451 section, no agency of the state shall purchase any commodities
1452 covered by existing purchasing regulations unless such commodities
1453 be in conformity with the standards and specifications set forth
1454 in the purchasing regulations and unless the price thereof does
1455 not exceed the maximum fair price established by such purchasing
1456 regulations. The Office of Purchasing, Travel and Fleet
1457 Management shall furnish to any county or municipality or other
1458 local public agency of the state requesting same, copies of
1459 purchasing regulations adopted by the Office of Purchasing, Travel
1460 and Fleet Management and any amendments, changes or eliminations
1461 of same that may be made from time to time.

1462 (b) The Office of Purchasing, Travel and Fleet
1463 Management may adopt purchasing regulations governing the use of
1464 credit cards, procurement cards and purchasing club membership
1465 cards to be used by state agencies, governing authorities of
1466 counties and municipalities, school districts and the Chickasawhay
1467 Natural Gas District. Use of the cards shall be in strict
1468 compliance with the regulations promulgated by the office. Any



1469 amounts due on the cards shall incur interest charges as set forth
1470 in Section 31-7-305 and shall not be considered debt.

1471 (c) Pursuant to the provision of Section 37-61-33(3),
1472 the Office of Purchasing, Travel and Fleet Management of the
1473 Department of Finance and Administration is authorized to issue
1474 procurement cards or credentials for a digital solution to all
1475 public school district classroom teachers, charter school
1476 teachers, full- or part-time gifted or special education teachers
1477 and other necessary direct support personnel at the beginning of
1478 the school year, but no later than August 1 of each year, for the
1479 purchase of instructional supplies using Educational Enhancement
1480 Funds. The cards will be issued in equal amounts per teacher
1481 determined by the total number of qualifying personnel and the
1482 then current state appropriation for classroom instructional
1483 supplies under the Education Enhancement Fund. All purchases
1484 shall be in accordance with state law and teachers are responsible
1485 for verification of capital asset requirements when pooling monies
1486 to purchase equipment. The cards will expire on a predetermined
1487 date at the end of each school year, but not before April 1 of
1488 each year. All unexpended amounts will be carried forward, to be
1489 combined with the following year's instructional supply fund
1490 allocation, and reallocated for the following year. The
1491 Department of Finance and Administration is authorized to loan any
1492 start-up funds at the beginning of the school year to fund this
1493 procurement system for instructional supplies with loan repayment



1494 being made from sales tax receipts earmarked for the Education
1495 Enhancement Fund.

1496 (d) In a sale of goods or services, the seller shall
1497 not impose a surcharge on a buyer who uses a state-issued credit
1498 card, procurement card, travel card, or fuel card. The Department
1499 of Finance and Administration shall have exclusive jurisdiction to
1500 enforce and adopt rules relating to this paragraph. Any rules
1501 adopted under this paragraph shall be consistent with federal laws
1502 and regulations governing credit card transactions described by
1503 this paragraph. This paragraph does not create a cause of action
1504 against an individual for a violation of this paragraph.

1505 (2) The Office of Purchasing, Travel and Fleet Management
1506 shall adopt, subject to the approval of the Public Procurement
1507 Review Board, purchasing regulations governing the purchase of
1508 unmarked vehicles to be used by the Bureau of Narcotics and
1509 Department of Public Safety in official investigations pursuant to
1510 Section 25-1-87. Such regulations shall ensure that purchases of
1511 such vehicles shall be at a fair price and shall take into
1512 consideration the peculiar needs of the Bureau of Narcotics and
1513 Department of Public Safety in undercover operations.

1514 (3) The Office of Purchasing, Travel and Fleet Management
1515 shall adopt, subject to the approval of the Public Procurement
1516 Review Board, regulations governing the certification process for
1517 certified purchasing offices, including the Mississippi Purchasing
1518 Certification Program, which shall be required of all purchasing



1519 agents at state agencies. Such regulations shall require entities
1520 desiring to be classified as certified purchasing offices to
1521 submit applications and applicable documents on an annual basis,
1522 and in the case of a state agency purchasing office, to have one
1523 hundred percent (100%) participation and completion by purchasing
1524 agents in the Mississippi Purchasing Certification Program, at
1525 which time the Office of Purchasing, Travel and Fleet Management
1526 may provide the governing entity with a certification valid for
1527 one (1) year from the date of issuance. The Office of Purchasing,
1528 Travel and Fleet Management shall set a fee in an amount that
1529 recovers its costs to administer the Mississippi Purchasing
1530 Certification Program, which shall be assessed to the
1531 participating state agencies.

1532 (4) The Office of Purchasing, Travel and Fleet Management
1533 shall adopt purchasing regulations authorizing rural water
1534 associations to purchase at the state contract price afforded to
1535 agencies and governing authorities under this chapter.

1536 **SECTION 44.** Section 31-7-10, Mississippi Code of 1972, is
1537 brought forward as follows:

1538 31-7-10. (1) For the purposes of this section, the term
1539 "equipment" shall mean equipment, furniture, and if applicable,
1540 associated software and other applicable direct costs associated
1541 with the acquisition. In addition to its other powers and duties,
1542 the Department of Finance and Administration shall have the
1543 authority to develop a master lease-purchase program and, pursuant



1544 to that program, shall have the authority to execute on behalf of
1545 the state master lease-purchase agreements for equipment to be
1546 used by an agency, as provided in this section. Each agency
1547 electing to acquire equipment by a lease-purchase agreement shall
1548 participate in the Department of Finance and Administration's
1549 master lease-purchase program, unless the Department of Finance
1550 and Administration makes a determination that such equipment
1551 cannot be obtained under the program or unless the equipment can
1552 be obtained elsewhere at an overall cost lower than that for which
1553 the equipment can be obtained under the program. Such
1554 lease-purchase agreements may include the refinancing or
1555 consolidation, or both, of any state agency lease-purchase
1556 agreements entered into after June 30, 1990.

1557 (2) All funds designated by agencies for procurement of
1558 equipment and financing thereof under the master lease-purchase
1559 program shall be paid into a special fund created in the State
1560 Treasury known as the "Master Lease-Purchase Program Fund," which
1561 shall be used by the Department of Finance and Administration for
1562 payment to the lessors for equipment acquired under master
1563 lease-purchase agreements.

1564 (3) Upon final approval of an appropriation bill, each
1565 agency shall submit to the Public Procurement Review Board a
1566 schedule of proposed equipment acquisitions for the master
1567 lease-purchase program. Upon approval of an equipment schedule by
1568 the Public Procurement Review Board with the advice of the



1569 Department of Information Technology Services, the Office of
1570 Purchasing, Travel and Fleet Management, and the Division of
1571 Energy and Transportation of the Mississippi Development Authority
1572 as it pertains to energy efficient climate control systems, the
1573 Public Procurement Review Board shall forward a copy of the
1574 equipment schedule to the Department of Finance and
1575 Administration.

1576 (4) The level of lease-purchase debt recommended by the
1577 Department of Finance and Administration shall be subject to
1578 approval by the State Bond Commission. After such approval, the
1579 Department of Finance and Administration shall be authorized to
1580 advertise and solicit written competitive proposals for a lessor,
1581 who will purchase the equipment pursuant to bid awards made by the
1582 using agency under a given category and then transfer the
1583 equipment to the Department of Finance and Administration as
1584 lessee, pursuant to a master lease-purchase agreement.

1585 The Department of Finance and Administration shall select the
1586 successful proposer for the financing of equipment under the
1587 master lease-purchase program with the approval of the State Bond
1588 Commission.

1589 (5) Each master lease-purchase agreement, and any subsequent
1590 amendments, shall include such terms and conditions as the State
1591 Bond Commission shall determine to be appropriate and in the
1592 public interest, and may include any covenants deemed necessary or
1593 desirable to protect the interests of the lessor, including, but



1594 not limited to, provisions setting forth the interest rate (or
1595 method for computing interest rates) for financing pursuant to
1596 such agreement, covenants concerning application of payments and
1597 funds held in the Master Lease-Purchase Program Fund, covenants to
1598 maintain casualty insurance with respect to equipment subject to
1599 the master lease-purchase agreement (and all state agencies are
1600 specifically authorized to purchase any insurance required by a
1601 master lease-purchase agreement) and covenants precluding or
1602 limiting the right of the lessee or user to acquire equipment
1603 within a specified time (not to exceed five (5) years) after
1604 cancellation on the basis of a failure to appropriate funds for
1605 payment of amounts due under a lease-purchase agreement covering
1606 comparable equipment. The State Bond Commission shall transmit
1607 copies of each such master lease-purchase agreement and each such
1608 amendment to the Joint Legislative Budget Committee. To the
1609 extent provided in any master lease-purchase agreement, title to
1610 equipment leased pursuant thereto shall be deemed to be vested in
1611 the state or the user of the equipment (as specified in such
1612 master lease-purchase agreement), subject to default under or
1613 termination of such master lease-purchase agreement.

1614 A master lease-purchase agreement may provide for payment by
1615 the lessor to the lessee of the purchase price of the equipment to
1616 be acquired pursuant thereto prior to the date on which payment is
1617 due to the vendor for such equipment and that the lease payments
1618 by the lessee shall commence as though the equipment had been



1619 provided on the date of payment. If the lessee, or lessee's
1620 escrow agent, has sufficient funds for payment of equipment
1621 purchases prior to payment due date to vendor of equipment, such
1622 funds shall be held or utilized on an as-needed basis for payment
1623 of equipment purchases either by the State Treasurer (in which
1624 event the master lease-purchase agreement may include provisions
1625 concerning the holding of such funds, the creation of a security
1626 interest for the benefit of the lessor in such funds until
1627 disbursed and other appropriate provisions approved by the Bond
1628 Commission) or by a corporate trustee selected by the Department
1629 of Finance and Administration (in which event the Department of
1630 Finance and Administration shall have the authority to enter into
1631 an agreement with such a corporate trustee containing terms and
1632 conditions approved by the Bond Commission). Earnings on any
1633 amount paid by the lessor prior to the acquisition of the
1634 equipment may be used to make lease payments under the master
1635 lease-purchase agreement or applied to pay costs and expenses
1636 incurred in connection with such lease-purchase agreement. In
1637 such event, the equipment-use agreements with the user agency may
1638 provide for lease payments to commence upon the date of payment by
1639 the lessor and may also provide for a credit against such payments
1640 to the extent that investment receipts from investment of the
1641 purchase price are to be used to make lease-purchase payments.

1642 (6) The annual rate of interest paid under any
1643 lease-purchase agreement authorized under this section shall not



1644 exceed the maximum interest rate to maturity on general obligation
1645 indebtedness permitted under Section 75-17-101.

1646 (7) The Department of Finance and Administration shall
1647 furnish the equipment to the various agencies, also known as the
1648 user, pursuant to an equipment-use agreement developed by the
1649 Department of Finance and Administration. Such agreements shall
1650 require that all monthly payments due from such agency be paid,
1651 transferred or allocated into the Master Lease-Purchase Program
1652 Fund pursuant to a schedule established by the Department of
1653 Finance and Administration. In the event such sums are not paid
1654 by the defined payment period, the Executive Director of the
1655 Department of Finance and Administration shall issue a requisition
1656 for a warrant to draw such amount as may be due from any funds
1657 appropriated for the use of the agency which has failed to make
1658 the payment as agreed.

1659 (8) All master lease-purchase agreements executed under the
1660 authority of this section shall contain the following annual
1661 allocation dependency clause or an annual allocation dependency
1662 clause which is substantially equivalent thereto: "The
1663 continuation of each equipment schedule to this agreement is
1664 contingent in whole or in part upon the appropriation of funds by
1665 the Legislature to make the lease-purchase payments required under
1666 such equipment schedule. If the Legislature fails to appropriate
1667 sufficient funds to provide for the continuation of the
1668 lease-purchase payments under any such equipment schedule, then



1669 the obligations of the lessee and of the agency to make such
1670 lease-purchase payments and the corresponding provisions of any
1671 such equipment schedule to this agreement shall terminate on the
1672 last day of the fiscal year for which appropriations were made."

1673 (9) The maximum lease term for any equipment acquired under
1674 the master lease-purchase program shall not exceed the useful life
1675 of such equipment as determined according to the upper limit of
1676 the asset depreciation range (ADR) guidelines for the Class Life
1677 Asset Depreciation Range System established by the Internal
1678 Revenue Service pursuant to the United States Internal Revenue
1679 Code and Regulations thereunder as in effect on December 31, 1980,
1680 or comparable depreciation guidelines with respect to any
1681 equipment not covered by ADR guidelines. The Department of
1682 Finance and Administration shall be deemed to have met the
1683 requirements of this subsection if the term of a master
1684 lease-purchase agreement does not exceed the weighted average
1685 useful life of all equipment covered by such agreement and the
1686 schedules thereto as determined by the Department of Finance and
1687 Administration. For purposes of this subsection, the "term of a
1688 master lease-purchase agreement" shall be the weighted average
1689 maturity of all principal payments to be made under such master
1690 lease-purchase agreement and all schedules thereto.

1691 (10) Interest paid on any master lease-purchase agreement
1692 under this section shall be exempt from State of Mississippi
1693 income taxation. All equipment, and the purchase thereof by any



1694 lessor, acquired under the master lease-purchase program and all
1695 lease-purchase payments with respect thereto shall be exempt from
1696 all Mississippi sales, use and ad valorem taxes.

1697 (11) The Governor, in his annual executive budget to the
1698 Legislature, shall recommend appropriations sufficient to provide
1699 funds to pay all amounts due and payable during the applicable
1700 fiscal year under master lease-purchase agreements entered into
1701 pursuant to this section.

1702 (12) Any master lease-purchase agreement reciting in
1703 substance that such agreement has been entered into pursuant to
1704 this section shall be conclusively deemed to have been entered
1705 into in accordance with all of the provisions and conditions set
1706 forth in this section. Any defect or irregularity arising with
1707 respect to procedures applicable to the acquisition of any
1708 equipment shall not invalidate or otherwise limit the obligation
1709 of the Department of Finance and Administration, or the state or
1710 any agency of the state, under any master lease-purchase agreement
1711 or any equipment-use agreement.

1712 (13) There shall be maintained by the Department of Finance
1713 and Administration, with respect to each master lease-purchase
1714 agreement, an itemized statement of the cash price, interest
1715 rates, interest costs, commissions, debt service schedules and all
1716 other costs and expenses paid by the state incident to the
1717 lease-purchase of equipment under such agreement.



1718 (14) Lease-purchase agreements entered into by the Board of
1719 Trustees of State Institutions of Higher Learning pursuant to the
1720 authority of Section 37-101-413 or by any other agency which has
1721 specific statutory authority other than pursuant to Section
1722 31-7-13(e) to acquire equipment by lease-purchase shall not be
1723 made pursuant to the master lease-purchase program under this
1724 section, unless the Board of Trustees of State Institutions of
1725 Higher Learning or such other agency elects to participate as to
1726 part or all of its lease-purchase acquisitions in the master
1727 lease-purchase program pursuant to this section.

1728 (15) The Department of Finance and Administration may
1729 develop a master lease-purchase program for school districts and,
1730 pursuant to that program, may execute on behalf of the school
1731 districts master lease-purchase agreements for equipment to be
1732 used by the school districts. The form and structure of this
1733 program shall be substantially the same as set forth in this
1734 section for the master lease-purchase program for state agencies.
1735 If sums due from a school district under the master lease-purchase
1736 program are not paid by the expiration of the defined payment
1737 period, the Executive Director of the Department of Finance and
1738 Administration may withhold such amount that is due from the
1739 school district's minimum education or adequate education program
1740 fund allotments.

1741 (16) The Department of Finance and Administration may
1742 develop a master lease-purchase program for community and junior



1743 college districts and, pursuant to that program, may execute on
1744 behalf of the community and junior college districts master
1745 lease-purchase agreements for equipment to be used by the
1746 community and junior college districts. The form and structure of
1747 this program must be substantially the same as set forth in this
1748 section for the master lease-purchase program for state agencies.
1749 If sums due from a community or junior college district under the
1750 master lease-purchase program are not paid by the expiration of
1751 the defined payment period, the Executive Director of the
1752 Department of Finance and Administration may withhold an amount
1753 equal to the amount due under the program from any funds allocated
1754 for that community or junior college district in the state
1755 appropriations for the use and support of the community and junior
1756 colleges.

1757 (17) From and after July 1, 2016, the expenses of this
1758 agency shall be defrayed by appropriation from the State General
1759 Fund and all user charges and fees authorized under this section
1760 shall be deposited into the State General Fund as authorized by
1761 law.

1762 (18) From and after July 1, 2016, no state agency shall
1763 charge another state agency a fee, assessment, rent or other
1764 charge for services or resources received by authority of this
1765 section.

1766 **SECTION 45.** Section 31-7-11, Mississippi Code of 1972, is
1767 brought forward as follows:



1768 31-7-11. Each agency of the state shall furnish information
1769 relative to its purchase of commodities, and as to its method of
1770 purchasing such commodities, to the Department of Finance and
1771 Administration annually and at such other times as the Department
1772 of Finance and Administration may request.

1773 The Department of Finance and Administration shall have
1774 supervision over the purchasing and purchasing practices of each
1775 state agency and may by regulation or order correct any practice
1776 that appears contrary to the provisions of this chapter or to the
1777 best interests of the state. If it shall appear that any agency
1778 is not practicing economy in its purchasing or is permitting
1779 favoritism or any improper purchasing practice, the Department of
1780 Finance and Administration shall require that the agency
1781 immediately cease such improper activity, with full and complete
1782 authority in the Department of Finance and Administration to carry
1783 into effect its directions in such regard.

1784 All purchases, trade-ins, sales or transfer of personal
1785 property made by any officer, board, agency, department or branch
1786 of the state government except the Legislature shall be subject to
1787 the approval of the Department of Finance and Administration.
1788 Such transaction shall be made in accordance with rules and
1789 regulations of the Department of Finance and Administration
1790 relating to the purchase of state-owned motor vehicles and all
1791 other personal property. The title of such property shall remain
1792 in the name of the state.



1793 **SECTION 46.** Section 31-7-12, Mississippi Code of 1972, is
1794 brought forward as follows:

1795 31-7-12. (1) Except in regard to purchases of unmarked
1796 vehicles made in accordance with purchasing regulations adopted by
1797 the Department of Finance and Administration pursuant to Section
1798 31-7-9(2), all agencies shall purchase commodities at the state
1799 contract price from the approved source, unless approval is
1800 granted by the Department of Finance and Administration to solicit
1801 purchases outside the terms of the contracts. However, prices
1802 accepted by an agency shall be less than the prices set by the
1803 state contract. Prices accepted by an agency shall be obtained in
1804 compliance with paragraph (a), (b) or (c) of Section 31-7-13. It
1805 shall be the responsibility of the Department of Finance and
1806 Administration to ascertain that the resulting prices shall
1807 provide a cost effective alternative to the established state
1808 contract.

1809 (2) Governing authorities may purchase commodities approved
1810 by the Department of Finance and Administration from the state
1811 contract vendor, or from any source offering the identical
1812 commodity, at a price not exceeding the state contract price
1813 established by the Department of Finance and Administration for
1814 such commodity, without obtaining or advertising for competitive
1815 bids. Governing authorities that do not exercise the option to
1816 purchase such commodities from the state contract vendor or from
1817 another source offering the identical commodity at a price not



1818 exceeding the state contract price established by the Department
1819 of Finance and Administration shall make such purchases pursuant
1820 to the provisions of Section 31-7-13 without regard to state
1821 contract prices established by the Department of Finance and
1822 Administration, unless such purchases are authorized to be made
1823 under subsection (5) of this section.

1824 (3) Nothing in this section shall prohibit governing
1825 authorities from purchasing, pursuant to subsection (2) of this
1826 section, commodities approved by the Department of Finance and
1827 Administration at a price not exceeding the state contract price
1828 established by the Department of Finance and Administration.

1829 (4) The Department of Finance and Administration shall
1830 ensure that the prices of all commodities on the state contract
1831 are the lowest and best prices available from any source offering
1832 that commodity at the same level of quality or service, utilizing
1833 the reasonable standards established therefor by the Department of
1834 Finance and Administration. If the Department of Finance and
1835 Administration does not list an approved price for the particular
1836 item involved, purchase shall be made according to statutory
1837 bidding and licensing requirements. To encourage prudent
1838 purchasing practices, the Department of Finance and Administration
1839 shall be authorized and empowered to exempt certain commodities
1840 from the requirement that the lowest and best price be approved by
1841 order placed on its minutes.



1842 (5) Any school district may purchase commodities from
1843 vendors with which any levying authority of the school district,
1844 as defined in Section 37-57-1, has contracted through competitive
1845 bidding procedures pursuant to Section 31-7-13 for purchases of
1846 the same commodities. Purchases authorized by this subsection may
1847 be made by a school district without obtaining or advertising for
1848 competitive bids, and such purchases shall be made at the same
1849 prices and under the same conditions as purchases of the same
1850 commodities are to be made by the levying authority of the school
1851 district under the contract with the vendor.

1852 **SECTION 47.** Section 31-7-13, Mississippi Code of 1972, is
1853 brought forward as follows:

1854 31-7-13. All agencies and governing authorities shall
1855 purchase their commodities and printing; contract for garbage
1856 collection or disposal; contract for solid waste collection or
1857 disposal; contract for sewage collection or disposal; contract for
1858 public construction; and contract for rentals as herein provided.

1859 (a) **Bidding procedure for purchases not over \$5,000.00.**

1860 Purchases which do not involve an expenditure of more than Five
1861 Thousand Dollars (\$5,000.00), exclusive of freight or shipping
1862 charges, may be made without advertising or otherwise requesting
1863 competitive bids. However, nothing contained in this paragraph
1864 (a) shall be construed to prohibit any agency or governing
1865 authority from establishing procedures which require competitive
1866 bids on purchases of Five Thousand Dollars (\$5,000.00) or less.



1867 (b) **Bidding procedure for purchases over \$5,000.00 but**
1868 **not over \$75,000.00.** Purchases which involve an expenditure of
1869 more than Five Thousand Dollars (\$5,000.00) but not more than
1870 Seventy-five Thousand Dollars (\$75,000.00), exclusive of freight
1871 and shipping charges, may be made from the lowest and best bidder
1872 without publishing or posting advertisement for bids, provided at
1873 least two (2) competitive written bids have been obtained. Any
1874 state agency or community or junior college purchasing commodities
1875 or procuring construction pursuant to this paragraph (b) may
1876 authorize its purchasing agent, or his designee, to accept the
1877 lowest competitive written bid under Seventy-five Thousand Dollars
1878 (\$75,000.00). Any governing authority purchasing commodities
1879 pursuant to this paragraph (b) may authorize its purchasing agent,
1880 or his designee, with regard to governing authorities other than
1881 counties, or its purchase clerk, or his designee, with regard to
1882 counties, to accept the lowest and best competitive written bid.
1883 Such authorization shall be made in writing by the governing
1884 authority and shall be maintained on file in the primary office of
1885 the agency and recorded in the official minutes of the governing
1886 authority, as appropriate. The purchasing agent or the purchase
1887 clerk, or his designee, as the case may be, and not the governing
1888 authority, shall be liable for any penalties and/or damages as may
1889 be imposed by law for any act or omission of the purchasing agent
1890 or purchase clerk, or his designee, constituting a violation of
1891 law in accepting any bid without approval by the governing



1892 authority. The term "competitive written bid" shall mean a bid
1893 submitted on a bid form furnished by the buying agency or
1894 governing authority and signed by authorized personnel
1895 representing the vendor, or a bid submitted on a vendor's
1896 letterhead or identifiable bid form and signed by authorized
1897 personnel representing the vendor. "Competitive" shall mean that
1898 the bids are developed based upon comparable identification of the
1899 needs and are developed independently and without knowledge of
1900 other bids or prospective bids. Any bid item for construction in
1901 excess of Five Thousand Dollars (\$5,000.00) shall be broken down
1902 by components to provide detail of component description and
1903 pricing. These details shall be submitted with the written bids
1904 and become part of the bid evaluation criteria. Bids may be
1905 submitted by facsimile, electronic mail or other generally
1906 accepted method of information distribution. Bids submitted by
1907 electronic transmission shall not require the signature of the
1908 vendor's representative unless required by agencies or governing
1909 authorities.

1910 (c) **Bidding procedure for purchases over \$75,000.00.**

1911 (i) **Publication requirement.**

1912 1. Purchases which involve an expenditure of
1913 more than Seventy-five Thousand Dollars (\$75,000.00), exclusive of
1914 freight and shipping charges, may be made from the lowest and best
1915 bidder after advertising for competitive bids once each week for
1916 two (2) consecutive weeks in a regular newspaper published in the



1917 county or municipality in which such agency or governing authority
1918 is located. However, all American Recovery and Reinvestment Act
1919 projects in excess of Twenty-five Thousand Dollars (\$25,000.00)
1920 shall be bid. All references to American Recovery and
1921 Reinvestment Act projects in this section shall not apply to
1922 programs identified in Division B of the American Recovery and
1923 Reinvestment Act.

1924 2. Reverse auctions shall be the primary
1925 method for receiving bids during the bidding process. If a
1926 purchasing entity determines that a reverse auction is not in the
1927 best interest of the state, then that determination must be
1928 approved by the Public Procurement Review Board. The purchasing
1929 entity shall submit a detailed explanation of why a reverse
1930 auction would not be in the best interest of the state and present
1931 an alternative process to be approved by the Public Procurement
1932 Review Board. If the Public Procurement Review Board authorizes
1933 the purchasing entity to solicit bids with a method other than
1934 reverse auction, then the purchasing entity may designate the
1935 other methods by which the bids will be received, including, but
1936 not limited to, bids sealed in an envelope, bids received
1937 electronically in a secure system, or bids received by any other
1938 method that promotes open competition and has been approved by the
1939 Office of Purchasing and Travel. However, reverse auction shall
1940 not be used for any public contract for design, construction,
1941 improvement, repair or remodeling of any public facilities,



1942 including the purchase of materials, supplies, equipment or goods
1943 for same and including buildings, roads and bridges. The Public
1944 Procurement Review Board must approve any contract entered into by
1945 alternative process. The provisions of this item 2 shall not
1946 apply to the individual state institutions of higher learning.
1947 The provisions of this item 2 requiring reverse auction as the
1948 primary method of receiving bids shall not apply to term contract
1949 purchases as provided in paragraph (n) of this section; however, a
1950 purchasing entity may, in its discretion, utilize reverse auction
1951 for such purchases. The provisions of this item 2 shall not apply
1952 to individual public schools, including public charter schools and
1953 public school districts, only when purchasing copyrighted
1954 educational supplemental materials and software as a service
1955 product. For such purchases, a local school board may authorize a
1956 purchasing entity in its jurisdiction to use a Request for
1957 Qualifications which promotes open competition and meets the
1958 requirements of the Office of Purchasing and Travel.

1959 3. The date as published for the bid opening
1960 shall not be less than seven (7) working days after the last
1961 published notice; however, if the purchase involves a construction
1962 project in which the estimated cost is in excess of Seventy-five
1963 Thousand Dollars (\$75,000.00), such bids shall not be opened in
1964 less than fifteen (15) working days after the last notice is
1965 published and the notice for the purchase of such construction
1966 shall be published once each week for two (2) consecutive weeks.



1967 However, all American Recovery and Reinvestment Act projects in
1968 excess of Twenty-five Thousand Dollars (\$25,000.00) shall be bid.
1969 For any projects in excess of Twenty-five Thousand Dollars
1970 (\$25,000.00) under the American Recovery and Reinvestment Act,
1971 publication shall be made one (1) time and the bid opening for
1972 construction projects shall not be less than ten (10) working days
1973 after the date of the published notice. The notice of intention
1974 to let contracts or purchase equipment shall state the time and
1975 place at which bids shall be received, list the contracts to be
1976 made or types of equipment or supplies to be purchased, and, if
1977 all plans and/or specifications are not published, refer to the
1978 plans and/or specifications on file. If there is no newspaper
1979 published in the county or municipality, then such notice shall be
1980 given by posting same at the courthouse, or for municipalities at
1981 the city hall, and at two (2) other public places in the county or
1982 municipality, and also by publication once each week for two (2)
1983 consecutive weeks in some newspaper having a general circulation
1984 in the county or municipality in the above-provided manner. On
1985 the same date that the notice is submitted to the newspaper for
1986 publication, the agency or governing authority involved shall mail
1987 written notice to, or provide electronic notification to the main
1988 office of the Mississippi Procurement Technical Assistance Program
1989 under the Mississippi Development Authority that contains the same
1990 information as that in the published notice. Submissions received
1991 by the Mississippi Procurement Technical Assistance Program for



1992 projects funded by the American Recovery and Reinvestment Act
1993 shall be displayed on a separate and unique Internet web page
1994 accessible to the public and maintained by the Mississippi
1995 Development Authority for the Mississippi Procurement Technical
1996 Assistance Program. Those American Recovery and Reinvestment Act
1997 related submissions shall be publicly posted within twenty-four
1998 (24) hours of receipt by the Mississippi Development Authority and
1999 the bid opening shall not occur until the submission has been
2000 posted for ten (10) consecutive days. The Department of Finance
2001 and Administration shall maintain information regarding contracts
2002 and other expenditures from the American Recovery and Reinvestment
2003 Act, on a unique Internet web page accessible to the public. The
2004 Department of Finance and Administration shall promulgate rules
2005 regarding format, content and deadlines, unless otherwise
2006 specified by law, of the posting of award notices, contract
2007 execution and subsequent amendments, links to the contract
2008 documents, expenditures against the awarded contracts and general
2009 expenditures of funds from the American Recovery and Reinvestment
2010 Act. Within one (1) working day of the contract award, the agency
2011 or governing authority shall post to the designated web page
2012 maintained by the Department of Finance and Administration, notice
2013 of the award, including the award recipient, the contract amount,
2014 and a brief summary of the contract in accordance with rules
2015 promulgated by the department. Within one (1) working day of the
2016 contract execution, the agency or governing authority shall post



2017 to the designated web page maintained by the Department of Finance
2018 and Administration a summary of the executed contract and make a
2019 copy of the appropriately redacted contract documents available
2020 for linking to the designated web page in accordance with the
2021 rules promulgated by the department. The information provided by
2022 the agency or governing authority shall be posted to the web page
2023 for the duration of the American Recovery and Reinvestment Act
2024 funding or until the project is completed, whichever is longer.

2025 (ii) **Bidding process amendment procedure.** If all
2026 plans and/or specifications are published in the notification,
2027 then the plans and/or specifications may not be amended. If all
2028 plans and/or specifications are not published in the notification,
2029 then amendments to the plans/specifications, bid opening date, bid
2030 opening time and place may be made, provided that the agency or
2031 governing authority maintains a list of all prospective bidders
2032 who are known to have received a copy of the bid documents and all
2033 such prospective bidders are sent copies of all amendments. This
2034 notification of amendments may be made via mail, facsimile,
2035 electronic mail or other generally accepted method of information
2036 distribution. No addendum to bid specifications may be issued
2037 within two (2) working days of the time established for the
2038 receipt of bids unless such addendum also amends the bid opening
2039 to a date not less than five (5) working days after the date of
2040 the addendum.



2041 (iii) **Filing requirement.** In all cases involving
2042 governing authorities, before the notice shall be published or
2043 posted, the plans or specifications for the construction or
2044 equipment being sought shall be filed with the clerk of the board
2045 of the governing authority. In addition to these requirements, a
2046 bid file shall be established which shall indicate those vendors
2047 to whom such solicitations and specifications were issued, and
2048 such file shall also contain such information as is pertinent to
2049 the bid.

2050 (iv) **Specification restrictions.**

2051 1. Specifications pertinent to such bidding
2052 shall be written so as not to exclude comparable equipment of
2053 domestic manufacture. However, if valid justification is
2054 presented, the Department of Finance and Administration or the
2055 board of a governing authority may approve a request for specific
2056 equipment necessary to perform a specific job. Further, such
2057 justification, when placed on the minutes of the board of a
2058 governing authority, may serve as authority for that governing
2059 authority to write specifications to require a specific item of
2060 equipment needed to perform a specific job. In addition to these
2061 requirements, from and after July 1, 1990, vendors of relocatable
2062 classrooms and the specifications for the purchase of such
2063 relocatable classrooms published by local school boards shall meet
2064 all pertinent regulations of the State Board of Education,



2065 including prior approval of such bid by the State Department of
2066 Education.

2067 2. Specifications for construction projects
2068 may include an allowance for commodities, equipment, furniture,
2069 construction materials or systems in which prospective bidders are
2070 instructed to include in their bids specified amounts for such
2071 items so long as the allowance items are acquired by the vendor in
2072 a commercially reasonable manner and approved by the
2073 agency/governing authority. Such acquisitions shall not be made
2074 to circumvent the public purchasing laws.

2075 (v) **Electronic bids.** Agencies and governing
2076 authorities shall provide a secure electronic interactive system
2077 for the submittal of bids requiring competitive bidding that shall
2078 be an additional bidding option for those bidders who choose to
2079 submit their bids electronically. The Department of Finance and
2080 Administration shall provide, by regulation, the standards that
2081 agencies must follow when receiving electronic bids. Agencies and
2082 governing authorities shall make the appropriate provisions
2083 necessary to accept electronic bids from those bidders who choose
2084 to submit their bids electronically for all purchases requiring
2085 competitive bidding under this section. Any special condition or
2086 requirement for the electronic bid submission shall be specified
2087 in the advertisement for bids required by this section. Agencies
2088 or governing authorities that are currently without available high
2089 speed Internet access shall be exempt from the requirement of this



2090 subparagraph (v) until such time that high speed Internet access
2091 becomes available. Any county having a population of less than
2092 twenty thousand (20,000) shall be exempt from the provisions of
2093 this subparagraph (v). Any municipality having a population of
2094 less than ten thousand (10,000) shall be exempt from the
2095 provisions of this subparagraph (v). The provisions of this
2096 subparagraph (v) shall not require any bidder to submit bids
2097 electronically. When construction bids are submitted
2098 electronically, the requirement for including a certificate of
2099 responsibility, or a statement that the bid enclosed does not
2100 exceed Fifty Thousand Dollars (\$50,000.00), on the exterior of the
2101 bid envelope as indicated in Section 31-3-21(1) and (2) shall be
2102 deemed in compliance with by including same as an attachment with
2103 the electronic bid submittal.

2104 (d) **Lowest and best bid decision procedure.**

2105 (i) **Decision procedure.** Purchases may be made
2106 from the lowest and best bidder. In determining the lowest and
2107 best bid, freight and shipping charges shall be included.
2108 Life-cycle costing, total cost bids, warranties, guaranteed
2109 buy-back provisions and other relevant provisions may be included
2110 in the best bid calculation. All best bid procedures for state
2111 agencies must be in compliance with regulations established by the
2112 Department of Finance and Administration. If any governing
2113 authority accepts a bid other than the lowest bid actually
2114 submitted, it shall place on its minutes detailed calculations and



2115 narrative summary showing that the accepted bid was determined to
2116 be the lowest and best bid, including the dollar amount of the
2117 accepted bid and the dollar amount of the lowest bid. No agency
2118 or governing authority shall accept a bid based on items not
2119 included in the specifications.

2120 (ii) **Decision procedure for Certified Purchasing**
2121 **Offices.** In addition to the decision procedure set forth in
2122 subparagraph (i) of this paragraph (d), Certified Purchasing
2123 Offices may also use the following procedure: Purchases may be
2124 made from the bidder offering the best value. In determining the
2125 best value bid, freight and shipping charges shall be included.
2126 Life-cycle costing, total cost bids, warranties, guaranteed
2127 buy-back provisions, documented previous experience, training
2128 costs and other relevant provisions, including, but not limited
2129 to, a bidder having a local office and inventory located within
2130 the jurisdiction of the governing authority, may be included in
2131 the best value calculation. This provision shall authorize
2132 Certified Purchasing Offices to utilize a Request For Proposals
2133 (RFP) process when purchasing commodities. All best value
2134 procedures for state agencies must be in compliance with
2135 regulations established by the Department of Finance and
2136 Administration. No agency or governing authority shall accept a
2137 bid based on items or criteria not included in the specifications.

2138 (iii) **Decision procedure for Mississippi**
2139 **Landmarks.** In addition to the decision procedure set forth in



2140 subparagraph (i) of this paragraph (d), where purchase involves
2141 renovation, restoration, or both, of the State Capitol Building or
2142 any other historical building designated for at least five (5)
2143 years as a Mississippi Landmark by the Board of Trustees of the
2144 Department of Archives and History under the authority of Sections
2145 39-7-7 and 39-7-11, the agency or governing authority may use the
2146 following procedure: Purchases may be made from the lowest and
2147 best prequalified bidder. Prequalification of bidders shall be
2148 determined not less than fifteen (15) working days before the
2149 first published notice of bid opening. Prequalification criteria
2150 shall be limited to bidder's knowledge and experience in
2151 historical restoration, preservation and renovation. In
2152 determining the lowest and best bid, freight and shipping charges
2153 shall be included. Life-cycle costing, total cost bids,
2154 warranties, guaranteed buy-back provisions and other relevant
2155 provisions may be included in the best bid calculation. All best
2156 bid and prequalification procedures for state agencies must be in
2157 compliance with regulations established by the Department of
2158 Finance and Administration. If any governing authority accepts a
2159 bid other than the lowest bid actually submitted, it shall place
2160 on its minutes detailed calculations and narrative summary showing
2161 that the accepted bid was determined to be the lowest and best
2162 bid, including the dollar amount of the accepted bid and the
2163 dollar amount of the lowest bid. No agency or governing authority



2164 shall accept a bid based on items not included in the
2165 specifications.

2166 (iv) **Construction project negotiations authority.**

2167 If the lowest and best bid is not more than ten percent (10%)
2168 above the amount of funds allocated for a public construction or
2169 renovation project, then the agency or governing authority shall
2170 be permitted to negotiate with the lowest bidder in order to enter
2171 into a contract for an amount not to exceed the funds allocated.

2172 (e) **Lease-purchase authorization.** For the purposes of
2173 this section, the term "equipment" shall mean equipment, furniture
2174 and, if applicable, associated software and other applicable
2175 direct costs associated with the acquisition. Any lease-purchase
2176 of equipment which an agency is not required to lease-purchase
2177 under the master lease-purchase program pursuant to Section
2178 31-7-10 and any lease-purchase of equipment which a governing
2179 authority elects to lease-purchase may be acquired by a
2180 lease-purchase agreement under this paragraph (e). Lease-purchase
2181 financing may also be obtained from the vendor or from a
2182 third-party source after having solicited and obtained at least
2183 two (2) written competitive bids, as defined in paragraph (b) of
2184 this section, for such financing without advertising for such
2185 bids. Solicitation for the bids for financing may occur before or
2186 after acceptance of bids for the purchase of such equipment or,
2187 where no such bids for purchase are required, at any time before
2188 the purchase thereof. No such lease-purchase agreement shall be



2189 for an annual rate of interest which is greater than the overall
2190 maximum interest rate to maturity on general obligation
2191 indebtedness permitted under Section 75-17-101, and the term of
2192 such lease-purchase agreement shall not exceed the useful life of
2193 equipment covered thereby as determined according to the upper
2194 limit of the asset depreciation range (ADR) guidelines for the
2195 Class Life Asset Depreciation Range System established by the
2196 Internal Revenue Service pursuant to the United States Internal
2197 Revenue Code and regulations thereunder as in effect on December
2198 31, 1980, or comparable depreciation guidelines with respect to
2199 any equipment not covered by ADR guidelines. Any lease-purchase
2200 agreement entered into pursuant to this paragraph (e) may contain
2201 any of the terms and conditions which a master lease-purchase
2202 agreement may contain under the provisions of Section 31-7-10(5),
2203 and shall contain an annual allocation dependency clause
2204 substantially similar to that set forth in Section 31-7-10(8).
2205 Each agency or governing authority entering into a lease-purchase
2206 transaction pursuant to this paragraph (e) shall maintain with
2207 respect to each such lease-purchase transaction the same
2208 information as required to be maintained by the Department of
2209 Finance and Administration pursuant to Section 31-7-10(13).
2210 However, nothing contained in this section shall be construed to
2211 permit agencies to acquire items of equipment with a total
2212 acquisition cost in the aggregate of less than Ten Thousand
2213 Dollars (\$10,000.00) by a single lease-purchase transaction. All



2214 equipment, and the purchase thereof by any lessor, acquired by
2215 lease-purchase under this paragraph and all lease-purchase
2216 payments with respect thereto shall be exempt from all Mississippi
2217 sales, use and ad valorem taxes. Interest paid on any
2218 lease-purchase agreement under this section shall be exempt from
2219 State of Mississippi income taxation.

2220 (f) **Alternate bid authorization.** When necessary to
2221 ensure ready availability of commodities for public works and the
2222 timely completion of public projects, no more than two (2)
2223 alternate bids may be accepted by a governing authority for
2224 commodities. No purchases may be made through use of such
2225 alternate bids procedure unless the lowest and best bidder cannot
2226 deliver the commodities contained in his bid. In that event,
2227 purchases of such commodities may be made from one (1) of the
2228 bidders whose bid was accepted as an alternate.

2229 (g) **Construction contract change authorization.** In the
2230 event a determination is made by an agency or governing authority
2231 after a construction contract is let that changes or modifications
2232 to the original contract are necessary or would better serve the
2233 purpose of the agency or the governing authority, such agency or
2234 governing authority may, in its discretion, order such changes
2235 pertaining to the construction that are necessary under the
2236 circumstances without the necessity of further public bids;
2237 provided that such change shall be made in a commercially
2238 reasonable manner and shall not be made to circumvent the public



2239 purchasing statutes. In addition to any other authorized person,
2240 the architect or engineer hired by an agency or governing
2241 authority with respect to any public construction contract shall
2242 have the authority, when granted by an agency or governing
2243 authority, to authorize changes or modifications to the original
2244 contract without the necessity of prior approval of the agency or
2245 governing authority when any such change or modification is less
2246 than one percent (1%) of the total contract amount. The agency or
2247 governing authority may limit the number, manner or frequency of
2248 such emergency changes or modifications.

2249 (h) **Petroleum purchase alternative.** In addition to
2250 other methods of purchasing authorized in this chapter, when any
2251 agency or governing authority shall have a need for gas, diesel
2252 fuel, oils and/or other petroleum products in excess of the amount
2253 set forth in paragraph (a) of this section, such agency or
2254 governing authority may purchase the commodity after having
2255 solicited and obtained at least two (2) competitive written bids,
2256 as defined in paragraph (b) of this section. If two (2)
2257 competitive written bids are not obtained, the entity shall comply
2258 with the procedures set forth in paragraph (c) of this section.
2259 In the event any agency or governing authority shall have
2260 advertised for bids for the purchase of gas, diesel fuel, oils and
2261 other petroleum products and coal and no acceptable bids can be
2262 obtained, such agency or governing authority is authorized and
2263 directed to enter into any negotiations necessary to secure the



2264 lowest and best contract available for the purchase of such
2265 commodities.

2266 (i) **Road construction petroleum products price**
2267 **adjustment clause authorization.** Any agency or governing
2268 authority authorized to enter into contracts for the construction,
2269 maintenance, surfacing or repair of highways, roads or streets,
2270 may include in its bid proposal and contract documents a price
2271 adjustment clause with relation to the cost to the contractor,
2272 including taxes, based upon an industry-wide cost index, of
2273 petroleum products including asphalt used in the performance or
2274 execution of the contract or in the production or manufacture of
2275 materials for use in such performance. Such industry-wide index
2276 shall be established and published monthly by the Mississippi
2277 Department of Transportation with a copy thereof to be mailed,
2278 upon request, to the clerks of the governing authority of each
2279 municipality and the clerks of each board of supervisors
2280 throughout the state. The price adjustment clause shall be based
2281 on the cost of such petroleum products only and shall not include
2282 any additional profit or overhead as part of the adjustment. The
2283 bid proposals or document contract shall contain the basis and
2284 methods of adjusting unit prices for the change in the cost of
2285 such petroleum products.

2286 (j) **State agency emergency purchase procedure.** If the
2287 governing board or the executive head, or his designees, of any
2288 agency of the state shall determine that an emergency exists in



2289 regard to the purchase of any commodities or repair contracts, so
2290 that the delay incident to giving opportunity for competitive
2291 bidding would be detrimental to the interests of the state, then
2292 the head of such agency, or his designees, shall file with the
2293 Department of Finance and Administration (i) a statement
2294 explaining the conditions and circumstances of the emergency,
2295 which shall include a detailed description of the events leading
2296 up to the situation and the negative impact to the entity if the
2297 purchase is made following the statutory requirements set forth in
2298 paragraph (a), (b) or (c) of this section, and (ii) a certified
2299 copy of the appropriate minutes of the board of such agency
2300 requesting the emergency purchase, if applicable. Upon receipt of
2301 the statement and applicable board certification, the State Fiscal
2302 Officer, or his designees, may, in writing, authorize the purchase
2303 or repair without having to comply with competitive bidding
2304 requirements.

2305 If the governing board or the executive head, or his
2306 designees, of any agency determines that an emergency exists in
2307 regard to the purchase of any commodities or repair contracts, so
2308 that the delay incident to giving opportunity for competitive
2309 bidding would threaten the health or safety of any person, or the
2310 preservation or protection of property, then the provisions in
2311 this section for competitive bidding shall not apply, and any
2312 officer or agent of the agency having general or specific
2313 authority for making the purchase or repair contract shall approve



2314 the bill presented for payment, and he shall certify in writing
2315 from whom the purchase was made, or with whom the repair contract
2316 was made.

2317 Total purchases made under this paragraph (j) shall only be
2318 for the purpose of meeting needs created by the emergency
2319 situation. Following the emergency purchase, documentation of the
2320 purchase, including a description of the commodity purchased, the
2321 purchase price thereof and the nature of the emergency shall be
2322 filed with the Department of Finance and Administration. Any
2323 contract awarded pursuant to this paragraph (j) shall not exceed a
2324 term of one (1) year.

2325 Purchases under the grant program established under Section
2326 37-68-7 in response to COVID-19 and the directive that school
2327 districts create a distance learning plan and fulfill technology
2328 needs expeditiously shall be deemed an emergency purchase for
2329 purposes of this paragraph (j).

2330 (k) **Governing authority emergency purchase procedure.**

2331 If the governing authority, or the governing authority acting
2332 through its designee, shall determine that an emergency exists in
2333 regard to the purchase of any commodities or repair contracts, so
2334 that the delay incident to giving opportunity for competitive
2335 bidding would be detrimental to the interest of the governing
2336 authority, then the provisions herein for competitive bidding
2337 shall not apply and any officer or agent of such governing
2338 authority having general or special authority therefor in making



2339 such purchase or repair shall approve the bill presented therefor,
2340 and he shall certify in writing thereon from whom such purchase
2341 was made, or with whom such a repair contract was made. At the
2342 board meeting next following the emergency purchase or repair
2343 contract, documentation of the purchase or repair contract,
2344 including a description of the commodity purchased, the price
2345 thereof and the nature of the emergency shall be presented to the
2346 board and shall be placed on the minutes of the board of such
2347 governing authority. Purchases under the grant program
2348 established under Section 37-68-7 in response to COVID-19 and the
2349 directive that school districts create a distance learning plan
2350 and fulfill technology needs expeditiously shall be deemed an
2351 emergency purchase for purposes of this paragraph (k).

2352 (1) **Hospital purchase, lease-purchase and lease**
2353 **authorization.**

2354 (i) The commissioners or board of trustees of any
2355 public hospital may contract with such lowest and best bidder for
2356 the purchase or lease-purchase of any commodity under a contract
2357 of purchase or lease-purchase agreement whose obligatory payment
2358 terms do not exceed five (5) years.

2359 (ii) In addition to the authority granted in
2360 subparagraph (i) of this paragraph (1), the commissioners or board
2361 of trustees is authorized to enter into contracts for the lease of
2362 equipment or services, or both, which it considers necessary for
2363 the proper care of patients if, in its opinion, it is not



2364 financially feasible to purchase the necessary equipment or
2365 services. Any such contract for the lease of equipment or
2366 services executed by the commissioners or board shall not exceed a
2367 maximum of five (5) years' duration and shall include a
2368 cancellation clause based on unavailability of funds. If such
2369 cancellation clause is exercised, there shall be no further
2370 liability on the part of the lessee. Any such contract for the
2371 lease of equipment or services executed on behalf of the
2372 commissioners or board that complies with the provisions of this
2373 subparagraph (ii) shall be excepted from the bid requirements set
2374 forth in this section.

2375 (m) **Exceptions from bidding requirements.** Excepted
2376 from bid requirements are:

2377 (i) **Purchasing agreements approved by department.**
2378 Purchasing agreements, contracts and maximum price regulations
2379 executed or approved by the Department of Finance and
2380 Administration.

2381 (ii) **Outside equipment repairs.** Repairs to
2382 equipment, when such repairs are made by repair facilities in the
2383 private sector; however, engines, transmissions, rear axles and/or
2384 other such components shall not be included in this exemption when
2385 replaced as a complete unit instead of being repaired and the need
2386 for such total component replacement is known before disassembly
2387 of the component; however, invoices identifying the equipment,
2388 specific repairs made, parts identified by number and name,



2389 supplies used in such repairs, and the number of hours of labor
2390 and costs therefor shall be required for the payment for such
2391 repairs.

2392 (iii) **In-house equipment repairs.** Purchases of
2393 parts for repairs to equipment, when such repairs are made by
2394 personnel of the agency or governing authority; however, entire
2395 assemblies, such as engines or transmissions, shall not be
2396 included in this exemption when the entire assembly is being
2397 replaced instead of being repaired.

2398 (iv) **Raw gravel or dirt.** Raw unprocessed deposits
2399 of gravel or fill dirt which are to be removed and transported by
2400 the purchaser.

2401 (v) **Governmental equipment auctions.** Motor
2402 vehicles or other equipment purchased from a federal agency or
2403 authority, another governing authority or state agency of the
2404 State of Mississippi, or any governing authority or state agency
2405 of another state at a public auction held for the purpose of
2406 disposing of such vehicles or other equipment. Any purchase by a
2407 governing authority under the exemption authorized by this
2408 subparagraph (v) shall require advance authorization spread upon
2409 the minutes of the governing authority to include the listing of
2410 the item or items authorized to be purchased and the maximum bid
2411 authorized to be paid for each item or items.

2412 (vi) **Intergovernmental sales and transfers.**
2413 Purchases, sales, transfers or trades by governing authorities or



2414 state agencies when such purchases, sales, transfers or trades are
2415 made by a private treaty agreement or through means of
2416 negotiation, from any federal agency or authority, another
2417 governing authority or state agency of the State of Mississippi,
2418 or any state agency or governing authority of another state.
2419 Nothing in this section shall permit such purchases through public
2420 auction except as provided for in subparagraph (v) of this
2421 paragraph (m). It is the intent of this section to allow
2422 governmental entities to dispose of and/or purchase commodities
2423 from other governmental entities at a price that is agreed to by
2424 both parties. This shall allow for purchases and/or sales at
2425 prices which may be determined to be below the market value if the
2426 selling entity determines that the sale at below market value is
2427 in the best interest of the taxpayers of the state. Governing
2428 authorities shall place the terms of the agreement and any
2429 justification on the minutes, and state agencies shall obtain
2430 approval from the Department of Finance and Administration, prior
2431 to releasing or taking possession of the commodities.

2432 (vii) **Perishable supplies or food.** Perishable
2433 supplies or food purchased for use in connection with hospitals,
2434 the school lunch programs, homemaking programs and for the feeding
2435 of county or municipal prisoners.

2436 (viii) **Single-source items.** Noncompetitive items
2437 available from one (1) source only. In connection with the
2438 purchase of noncompetitive items only available from one (1)



2439 source, a certification of the conditions and circumstances
2440 requiring the purchase shall be filed by the agency with the
2441 Department of Finance and Administration and by the governing
2442 authority with the board of the governing authority. Upon receipt
2443 of that certification the Department of Finance and Administration
2444 or the board of the governing authority, as the case may be, may,
2445 in writing, authorize the purchase, which authority shall be noted
2446 on the minutes of the body at the next regular meeting thereafter.
2447 In those situations, a governing authority is not required to
2448 obtain the approval of the Department of Finance and
2449 Administration. Following the purchase, the executive head of the
2450 state agency, or his designees, shall file with the Department of
2451 Finance and Administration, documentation of the purchase,
2452 including a description of the commodity purchased, the purchase
2453 price thereof and the source from whom it was purchased.

2454 (ix) **Waste disposal facility construction**
2455 **contracts.** Construction of incinerators and other facilities for
2456 disposal of solid wastes in which products either generated
2457 therein, such as steam, or recovered therefrom, such as materials
2458 for recycling, are to be sold or otherwise disposed of; however,
2459 in constructing such facilities, a governing authority or agency
2460 shall publicly issue requests for proposals, advertised for in the
2461 same manner as provided herein for seeking bids for public
2462 construction projects, concerning the design, construction,
2463 ownership, operation and/or maintenance of such facilities,



2464 wherein such requests for proposals when issued shall contain
2465 terms and conditions relating to price, financial responsibility,
2466 technology, environmental compatibility, legal responsibilities
2467 and such other matters as are determined by the governing
2468 authority or agency to be appropriate for inclusion; and after
2469 responses to the request for proposals have been duly received,
2470 the governing authority or agency may select the most qualified
2471 proposal or proposals on the basis of price, technology and other
2472 relevant factors and from such proposals, but not limited to the
2473 terms thereof, negotiate and enter contracts with one or more of
2474 the persons or firms submitting proposals.

2475 (x) **Hospital group purchase contracts.** Supplies,
2476 commodities and equipment purchased by hospitals through group
2477 purchase programs pursuant to Section 31-7-38.

2478 (xi) **Information technology products.** Purchases
2479 of information technology products made by governing authorities
2480 under the provisions of purchase schedules, or contracts executed
2481 or approved by the Mississippi Department of Information
2482 Technology Services and designated for use by governing
2483 authorities.

2484 (xii) **Energy efficiency services and equipment.**
2485 Energy efficiency services and equipment acquired by school
2486 districts, community and junior colleges, institutions of higher
2487 learning and state agencies or other applicable governmental



2488 entities on a shared-savings, lease or lease-purchase basis
2489 pursuant to Section 31-7-14.

2490 (xiii) **Municipal electrical utility system fuel.**

2491 Purchases of coal and/or natural gas by municipally owned electric
2492 power generating systems that have the capacity to use both coal
2493 and natural gas for the generation of electric power.

2494 (xiv) **Library books and other reference materials.**

2495 Purchases by libraries or for libraries of books and periodicals;
2496 processed film, videocassette tapes, filmstrips and slides;
2497 recorded audiotapes, cassettes and diskettes; and any such items
2498 as would be used for teaching, research or other information
2499 distribution; however, equipment such as projectors, recorders,
2500 audio or video equipment, and monitor televisions are not exempt
2501 under this subparagraph.

2502 (xv) **Unmarked vehicles.** Purchases of unmarked
2503 vehicles when such purchases are made in accordance with
2504 purchasing regulations adopted by the Department of Finance and
2505 Administration pursuant to Section 31-7-9(2).

2506 (xvi) **Election ballots.** Purchases of ballots
2507 printed pursuant to Section 23-15-351.

2508 (xvii) **Multichannel interactive video systems.**

2509 From and after July 1, 1990, contracts by Mississippi Authority
2510 for Educational Television with any private educational
2511 institution or private nonprofit organization whose purposes are
2512 educational in regard to the construction, purchase, lease or



2513 lease-purchase of facilities and equipment and the employment of
2514 personnel for providing multichannel interactive video systems
2515 (ITSF) in the school districts of this state.

2516 (xviii) **Purchases of prison industry products by**
2517 **the Department of Corrections, regional correctional facilities or**
2518 **privately owned prisons.** Purchases made by the Mississippi
2519 Department of Corrections, regional correctional facilities or
2520 privately owned prisons involving any item that is manufactured,
2521 processed, grown or produced from the state's prison industries.

2522 (xix) **Undercover operations equipment.** Purchases
2523 of surveillance equipment or any other high-tech equipment to be
2524 used by law enforcement agents in undercover operations, provided
2525 that any such purchase shall be in compliance with regulations
2526 established by the Department of Finance and Administration.

2527 (xx) **Junior college books for rent.** Purchases by
2528 community or junior colleges of textbooks which are obtained for
2529 the purpose of renting such books to students as part of a book
2530 service system.

2531 (xxi) **Certain school district purchases.**
2532 Purchases of commodities made by school districts from vendors
2533 with which any levying authority of the school district, as
2534 defined in Section 37-57-1, has contracted through competitive
2535 bidding procedures for purchases of the same commodities.

2536 (xxii) **Garbage, solid waste and sewage contracts.**
2537 Contracts for garbage collection or disposal, contracts for solid



2538 waste collection or disposal and contracts for sewage collection
2539 or disposal.

2540 (xxiii) **Municipal water tank maintenance**
2541 **contracts.** Professional maintenance program contracts for the
2542 repair or maintenance of municipal water tanks, which provide
2543 professional services needed to maintain municipal water storage
2544 tanks for a fixed annual fee for a duration of two (2) or more
2545 years.

2546 (xxiv) **Purchases of Mississippi Industries for the**
2547 **Blind products or services.** Purchases made by state agencies or
2548 governing authorities involving any item that is manufactured,
2549 processed or produced by, or any services provided by, the
2550 Mississippi Industries for the Blind.

2551 (xxv) **Purchases of state-adopted textbooks.**
2552 Purchases of state-adopted textbooks by public school districts.

2553 (xxvi) **Certain purchases under the Mississippi**
2554 **Major Economic Impact Act.** Contracts entered into pursuant to the
2555 provisions of Section 57-75-9(2), (3) and (4).

2556 (xxvii) **Used heavy or specialized machinery or**
2557 **equipment for installation of soil and water conservation**
2558 **practices purchased at auction.** Used heavy or specialized
2559 machinery or equipment used for the installation and
2560 implementation of soil and water conservation practices or
2561 measures purchased subject to the restrictions provided in
2562 Sections 69-27-331 through 69-27-341. Any purchase by the State



2563 Soil and Water Conservation Commission under the exemption
2564 authorized by this subparagraph shall require advance
2565 authorization spread upon the minutes of the commission to include
2566 the listing of the item or items authorized to be purchased and
2567 the maximum bid authorized to be paid for each item or items.

2568 (xxviii) **Hospital lease of equipment or services.**
2569 Leases by hospitals of equipment or services if the leases are in
2570 compliance with paragraph (1)(ii).

2571 (xxix) **Purchases made pursuant to qualified**
2572 **cooperative purchasing agreements.** Purchases made by certified
2573 purchasing offices of state agencies or governing authorities
2574 under cooperative purchasing agreements previously approved by the
2575 Office of Purchasing and Travel and established by or for any
2576 municipality, county, parish or state government or the federal
2577 government, provided that the notification to potential
2578 contractors includes a clause that sets forth the availability of
2579 the cooperative purchasing agreement to other governmental
2580 entities. Such purchases shall only be made if the use of the
2581 cooperative purchasing agreements is determined to be in the best
2582 interest of the governmental entity.

2583 (xxx) **School yearbooks.** Purchases of school
2584 yearbooks by state agencies or governing authorities; however,
2585 state agencies and governing authorities shall use for these
2586 purchases the RFP process as set forth in the Mississippi
2587 Procurement Manual adopted by the Office of Purchasing and Travel.



2588 (xxxii) **Design-build method of contracting and**
2589 **certain other contracts.** Contracts entered into under the
2590 provisions of Section 31-7-13.1, 37-101-44 or 65-1-85.

2591 (xxxiii) **Toll roads and bridge construction**
2592 **projects.** Contracts entered into under the provisions of Section
2593 65-43-1 or 65-43-3.

2594 (xxxiiii) **Certain purchases under Section 57-1-221.**
2595 Contracts entered into pursuant to the provisions of Section
2596 57-1-221.

2597 (xxxv) **Certain transfers made pursuant to the**
2598 **provisions of Section 57-105-1(7).** Transfers of public property
2599 or facilities under Section 57-105-1(7) and construction related
2600 to such public property or facilities.

2601 (xxxvi) **Certain purchases or transfers entered into**
2602 **with local electrical power associations.** Contracts or agreements
2603 entered into under the provisions of Section 55-3-33.

2604 (xxxvii) **Certain purchases by an academic medical**
2605 **center or health sciences school.** Purchases by an academic
2606 medical center or health sciences school, as defined in Section
2607 37-115-50, of commodities that are used for clinical purposes and
2608 1. intended for use in the diagnosis of disease or other
2609 conditions or in the cure, mitigation, treatment or prevention of
2610 disease, and 2. medical devices, biological, drugs and
2611 radiation-emitting devices as defined by the United States Food
2612 and Drug Administration.



2613 (xxxvii) **Certain purchases made under the Alyce G.**
2614 **Clarke Mississippi Lottery Law.** Contracts made by the Mississippi
2615 Lottery Corporation pursuant to the Alyce G. Clarke Mississippi
2616 Lottery Law.

2617 (xxxviii) **Certain purchases made by the Department**
2618 **of Health and the Department of Revenue.** Purchases made by the
2619 Department of Health and the Department of Revenue solely for the
2620 purpose of fulfilling their respective responsibilities under the
2621 Mississippi Medical Cannabis Act. This subparagraph shall stand
2622 repealed on June 30, 2026.

2623 (n) **Term contract authorization.** All contracts for the
2624 purchase of:

2625 (i) All contracts for the purchase of commodities,
2626 equipment and public construction (including, but not limited to,
2627 repair and maintenance), may be let for periods of not more than
2628 sixty (60) months in advance, subject to applicable statutory
2629 provisions prohibiting the letting of contracts during specified
2630 periods near the end of terms of office. Term contracts for a
2631 period exceeding twenty-four (24) months shall also be subject to
2632 ratification or cancellation by governing authority boards taking
2633 office subsequent to the governing authority board entering the
2634 contract.

2635 (ii) Bid proposals and contracts may include price
2636 adjustment clauses with relation to the cost to the contractor
2637 based upon a nationally published industry-wide or nationally



2638 published and recognized cost index. The cost index used in a
2639 price adjustment clause shall be determined by the Department of
2640 Finance and Administration for the state agencies and by the
2641 governing board for governing authorities. The bid proposal and
2642 contract documents utilizing a price adjustment clause shall
2643 contain the basis and method of adjusting unit prices for the
2644 change in the cost of such commodities, equipment and public
2645 construction.

2646 (o) **Purchase law violation prohibition and vendor**
2647 **penalty.** No contract or purchase as herein authorized shall be
2648 made for the purpose of circumventing the provisions of this
2649 section requiring competitive bids, nor shall it be lawful for any
2650 person or concern to submit individual invoices for amounts within
2651 those authorized for a contract or purchase where the actual value
2652 of the contract or commodity purchased exceeds the authorized
2653 amount and the invoices therefor are split so as to appear to be
2654 authorized as purchases for which competitive bids are not
2655 required. Submission of such invoices shall constitute a
2656 misdemeanor punishable by a fine of not less than Five Hundred
2657 Dollars (\$500.00) nor more than One Thousand Dollars (\$1,000.00),
2658 or by imprisonment for thirty (30) days in the county jail, or
2659 both such fine and imprisonment. In addition, the claim or claims
2660 submitted shall be forfeited.

2661 (p) **Electrical utility petroleum-based equipment**
2662 **purchase procedure.** When in response to a proper advertisement



2663 therefor, no bid firm as to price is submitted to an electric
2664 utility for power transformers, distribution transformers, power
2665 breakers, reclosers or other articles containing a petroleum
2666 product, the electric utility may accept the lowest and best bid
2667 therefor although the price is not firm.

2668 (q) **Fuel management system bidding procedure.** Any
2669 governing authority or agency of the state shall, before
2670 contracting for the services and products of a fuel management or
2671 fuel access system, enter into negotiations with not fewer than
2672 two (2) sellers of fuel management or fuel access systems for
2673 competitive written bids to provide the services and products for
2674 the systems. In the event that the governing authority or agency
2675 cannot locate two (2) sellers of such systems or cannot obtain
2676 bids from two (2) sellers of such systems, it shall show proof
2677 that it made a diligent, good-faith effort to locate and negotiate
2678 with two (2) sellers of such systems. Such proof shall include,
2679 but not be limited to, publications of a request for proposals and
2680 letters soliciting negotiations and bids. For purposes of this
2681 paragraph (q), a fuel management or fuel access system is an
2682 automated system of acquiring fuel for vehicles as well as
2683 management reports detailing fuel use by vehicles and drivers, and
2684 the term "competitive written bid" shall have the meaning as
2685 defined in paragraph (b) of this section. Governing authorities
2686 and agencies shall be exempt from this process when contracting
2687 for the services and products of fuel management or fuel access



2688 systems under the terms of a state contract established by the
2689 Office of Purchasing and Travel.

2690 (r) **Solid waste contract proposal procedure.** Before
2691 entering into any contract for garbage collection or disposal,
2692 contract for solid waste collection or disposal or contract for
2693 sewage collection or disposal, which involves an expenditure of
2694 more than Seventy-five Thousand Dollars (\$75,000.00), a governing
2695 authority or agency shall issue publicly a request for proposals
2696 concerning the specifications for such services which shall be
2697 advertised for in the same manner as provided in this section for
2698 seeking bids for purchases which involve an expenditure of more
2699 than the amount provided in paragraph (c) of this section. Any
2700 request for proposals when issued shall contain terms and
2701 conditions relating to price, financial responsibility,
2702 technology, legal responsibilities and other relevant factors as
2703 are determined by the governing authority or agency to be
2704 appropriate for inclusion; all factors determined relevant by the
2705 governing authority or agency or required by this paragraph (r)
2706 shall be duly included in the advertisement to elicit proposals.
2707 After responses to the request for proposals have been duly
2708 received, the governing authority or agency shall select the most
2709 qualified proposal or proposals on the basis of price, technology
2710 and other relevant factors and from such proposals, but not
2711 limited to the terms thereof, negotiate and enter into contracts
2712 with one or more of the persons or firms submitting proposals. If



2713 the governing authority or agency deems none of the proposals to
2714 be qualified or otherwise acceptable, the request for proposals
2715 process may be reinitiated. Notwithstanding any other provisions
2716 of this paragraph, where a county with at least thirty-five
2717 thousand (35,000) nor more than forty thousand (40,000)
2718 population, according to the 1990 federal decennial census, owns
2719 or operates a solid waste landfill, the governing authorities of
2720 any other county or municipality may contract with the governing
2721 authorities of the county owning or operating the landfill,
2722 pursuant to a resolution duly adopted and spread upon the minutes
2723 of each governing authority involved, for garbage or solid waste
2724 collection or disposal services through contract negotiations.

2725 (s) **Minority set-aside authorization.** Notwithstanding
2726 any provision of this section to the contrary, any agency or
2727 governing authority, by order placed on its minutes, may, in its
2728 discretion, set aside not more than twenty percent (20%) of its
2729 anticipated annual expenditures for the purchase of commodities
2730 from minority businesses; however, all such set-aside purchases
2731 shall comply with all purchasing regulations promulgated by the
2732 Department of Finance and Administration and shall be subject to
2733 bid requirements under this section. Set-aside purchases for
2734 which competitive bids are required shall be made from the lowest
2735 and best minority business bidder. For the purposes of this
2736 paragraph, the term "minority business" means a business which is
2737 owned by a majority of persons who are United States citizens or



2738 permanent resident aliens (as defined by the Immigration and
2739 Naturalization Service) of the United States, and who are Asian,
2740 Black, Hispanic or Native American, according to the following
2741 definitions:

2742 (i) "Asian" means persons having origins in any of
2743 the original people of the Far East, Southeast Asia, the Indian
2744 subcontinent, or the Pacific Islands.

2745 (ii) "Black" means persons having origins in any
2746 black racial group of Africa.

2747 (iii) "Hispanic" means persons of Spanish or
2748 Portuguese culture with origins in Mexico, South or Central
2749 America, or the Caribbean Islands, regardless of race.

2750 (iv) "Native American" means persons having
2751 origins in any of the original people of North America, including
2752 American Indians, Eskimos and Aleuts.

2753 (t) **Construction punch list restriction.** The
2754 architect, engineer or other representative designated by the
2755 agency or governing authority that is contracting for public
2756 construction or renovation may prepare and submit to the
2757 contractor only one (1) preliminary punch list of items that do
2758 not meet the contract requirements at the time of substantial
2759 completion and one (1) final list immediately before final
2760 completion and final payment.

2761 (u) **Procurement of construction services by state**
2762 **institutions of higher learning.** Contracts for privately financed



2763 construction of auxiliary facilities on the campus of a state
2764 institution of higher learning may be awarded by the Board of
2765 Trustees of State Institutions of Higher Learning to the lowest
2766 and best bidder, where sealed bids are solicited, or to the
2767 offeror whose proposal is determined to represent the best value
2768 to the citizens of the State of Mississippi, where requests for
2769 proposals are solicited.

2770 (v) **Insurability of bidders for public construction or**
2771 **other public contracts.** In any solicitation for bids to perform
2772 public construction or other public contracts to which this
2773 section applies, including, but not limited to, contracts for
2774 repair and maintenance, for which the contract will require
2775 insurance coverage in an amount of not less than One Million
2776 Dollars (\$1,000,000.00), bidders shall be permitted to either
2777 submit proof of current insurance coverage in the specified amount
2778 or demonstrate ability to obtain the required coverage amount of
2779 insurance if the contract is awarded to the bidder. Proof of
2780 insurance coverage shall be submitted within five (5) business
2781 days from bid acceptance.

2782 (w) **Purchase authorization clarification.** Nothing in
2783 this section shall be construed as authorizing any purchase not
2784 authorized by law.

2785 (x) **Mississippi Regional Pre-Need Disaster Clean Up**
2786 **Act.** (i) The Department of Finance and Administration shall
2787 enter into nine (9) contracts for the pre-need purchase of labor,



2788 services, work, materials, equipment, supplies or other personal
2789 property for disaster-related solid waste collection, disposal or
2790 monitoring. One (1) contract shall be entered into for each of
2791 the nine (9) Mississippi Emergency Management Association
2792 districts:

2793 1. Coahoma, DeSoto, Grenada, Panola, Quitman,
2794 Tallahatchie, Tate, Tunica and Yalobusha Counties;

2795 2. Alcorn, Benton, Itawamba, Lafayette, Lee,
2796 Marshall, Pontotoc, Prentiss, Tippah, Tishomingo and Union
2797 Counties;

2798 3. Attala, Bolivar, Carroll, Holmes,
2799 Humphreys, Leflore, Montgomery, Sunflower and Washington Counties;

2800 4. Calhoun, Chickasaw, Choctaw, Clay,
2801 Lowndes, Monroe, Noxubee, Oktibbeha, Webster and Winston Counties;

2802 5. Claiborne, Copiah, Hinds, Issaquena,
2803 Madison, Rankin, Sharkey, Simpson, Warren and Yazoo Counties;

2804 6. Clarke, Jasper, Kemper, Lauderdale, Leake,
2805 Neshoba, Newton, Scott, and Smith Counties and the Mississippi
2806 Band of Choctaw Indians;

2807 7. Adams, Amite, Franklin, Jefferson,
2808 Lawrence, Lincoln, Pike, Walthall and Wilkinson Counties;

2809 8. Covington, Forrest, Greene, Jefferson
2810 Davis, Jones, Lamar, Marion, Perry and Wayne Counties; and

2811 9. George, Hancock, Harrison, Jackson, Pearl
2812 River and Stone Counties.



2813 Any such contract shall set forth the manner of awarding such
2814 a contract, the method of payment, and any other matter deemed
2815 necessary to carry out the purposes of the agreement. Such
2816 contract may be entered into only for a term of one (1) year, with
2817 an option for an additional one-year extension after the
2818 conclusion of the first year of the contract, and only after
2819 having solicited bids or proposals, as appropriate, which shall be
2820 publicly advertised by posting on a web page maintained by the
2821 Department of Finance and Administration through submission of
2822 such advertisement to the Mississippi Procurement Technical
2823 Assistance Program under the Mississippi Development Authority.
2824 The bid opening shall not occur until after the submission has
2825 been posted for at least ten (10) consecutive days. The state's
2826 share of expenditures for solid waste collection, disposal or
2827 monitoring under any contract shall be appropriated and paid in
2828 the manner set forth in the contract and in the same manner as for
2829 other solid waste collection, disposal, or monitoring expenses of
2830 the state. Any contract entered into under this paragraph shall
2831 not be subject to the provisions of Section 17-13-11.

2832 (ii) Any board of supervisors of any county or any
2833 governing authority of any municipality may opt in to the benefits
2834 and services provided under the appropriate and relevant contract
2835 established in subparagraph (i) of this paragraph at the time of a
2836 disaster event in that county or municipality. At the time of opt
2837 in, the county or municipality shall assume responsibility for



2838 payment in full to the contractor for the disaster-related solid
2839 waste collection, disposal or monitoring services provided.
2840 Nothing in this subparagraph (ii) shall be construed as requiring
2841 a county or municipality to opt in to any such contract
2842 established in subparagraph (i) of this paragraph.

2843 **SECTION 48.** Section 31-7-13.1, Mississippi Code of 1972, is
2844 brought forward as follows:

2845 31-7-13.1. (1) The method of contracting for construction
2846 described in this section shall be known as the " design-build
2847 method" of construction contracting. This method of construction
2848 contracting may be used on residential buildings, residential
2849 mixed-use developments, parking garages and other prescriptive
2850 type facilities. The design-build method of construction
2851 contracting may only be used when the Department of Finance and
2852 Administration or a governing authority has determined that it
2853 satisfies the public interest better than traditional design-bid
2854 or when the Legislature has specifically required or authorized
2855 the use of this method in the legislation authorizing a project.
2856 At a minimum, the determination must include a detailed
2857 explanation of why using the design-build method for a particular
2858 project satisfies the public need better than the traditional
2859 design-bid-build method based on the following criteria:

2860 (a) The project provides a savings in time or cost over
2861 traditional methods; and



2862 (b) The size and type of the project is suitable for
2863 design-build.

2864 (2) For each proposed design-build project, either a fixed
2865 firm price or guaranteed maximum price contract must be adopted.
2866 Before solicitation of proposals, the agency or governing
2867 authority shall develop a scope of work statement that provides
2868 prospective offerors with sufficient information regarding the
2869 requirements of the agency or governing authority. The scope of
2870 work statement must include, but is not limited to, the following
2871 information:

2872 (a) Location and nature of proposed site(s) that
2873 include preliminary geotechnical information from borings as well
2874 as survey drawings that show topography, adjacent buildings and
2875 utilities;

2876 (b) Any mandatory requirements such as minimum number
2877 and types of spaces, any minimum or maximum building area(s) or
2878 height(s), applicable energy codes and/or efficiency targets,
2879 applicable zoning regulations and any aesthetic or character
2880 defining standards;

2881 (c) Any mandatory material and/or system performance
2882 requirements and/or specifications; and

2883 (d) General budget parameters, schedule or delivery
2884 requirements, relevant criteria for evaluation of proposals, and
2885 any other information necessary to enable the design-builders to



2886 submit proposals that meet the needs of the agency or governing
2887 authority.

2888 (3) The agency or governing authority shall cause to be
2889 published once a week, for at least two (2) consecutive weeks in a
2890 regular newspaper published in the county in which the project is
2891 to be located, or a newspaper with statewide circulation, a notice
2892 inviting proposals for the design-build construction project. On
2893 the same date that the notice is submitted to the newspaper for
2894 publication, the agency or governing authority involved shall post
2895 the notice on the Mississippi Procurement Portal or mail written
2896 notice to, or provide electronic notification to, the main office
2897 of the Mississippi Procurement Technical Assistance Program under
2898 the Mississippi Development Authority that contains the same
2899 information as that in the published notice. The proposals shall
2900 not be opened in less than fifteen (15) working days after the
2901 last notice is published. The notice must inform potential
2902 offerors of how to obtain the scope of work statement developed
2903 for the project, and the notice must contain such other
2904 information to describe adequately the general nature and scope of
2905 the project so as to promote full, equal and open competition.

2906 (4) The agency or governing authority shall accept initial
2907 proposals only from entities able to provide an experienced and
2908 qualified design-build team that includes, at a minimum, an
2909 architectural or engineering firm licensed and registered in



2910 Mississippi and a contractor properly licensed and domiciled in
2911 Mississippi for the type of work required.

2912 (5) Proposals that include criteria other than cost only
2913 shall be evaluated by an evaluation committee established by the
2914 procuring entity. The evaluation committee shall be composed of
2915 not less than three (3) people, at least one (1) of which shall be
2916 an architect or engineer licensed and registered in Mississippi.
2917 Selection criteria of the evaluation committee shall be limited to
2918 the following:

2919 (a) The bidder's knowledge and experience in executing
2920 projects of similar size and complexity;

2921 (b) The experience and qualifications of the proposed
2922 office and construction management personnel;

2923 (c) The experience and qualifications of the
2924 subcontractors proposed;

2925 (d) The experience and qualifications of the architect
2926 or engineer and consultants;

2927 (e) Schedule control; and

2928 (f) Cost factors.

2929 Cost as an evaluation factor shall be given the highest
2930 criteria weighting and at least thirty-five percent (35%) out of
2931 the one hundred percent (100%) total weight of all the other
2932 evaluation factors.

2933 (6) If the agency or governing authority accepts a proposal
2934 other than the proposal with the lowest costs that was actually



2935 submitted, the agency or governing authority shall enter on its
2936 minutes detailed calculations and a narrative summary showing why
2937 the accepted proposal was determined to provide the best value,
2938 and the agency or governing authority shall state specifically on
2939 its minutes the justification for its award.

2940 (7) All facilities that are governed by this section shall
2941 be designed and constructed to comply with standards equal to or
2942 exceeding the minimum building code standards employed by the
2943 state as required under Section 31-11-33 in force at the time of
2944 contracting. All private contractors or private entities
2945 contracting or performing under this section must comply at all
2946 times with all applicable laws, codes and other legal requirements
2947 pertaining to the project.

2948 (8) An agency or governing authority may not award a
2949 stipulated fee to an offeror for preparation costs to submit a
2950 response to the request for proposals.

2951 (9) This section shall not authorize the awarding of
2952 construction contracts according to any contracting method that
2953 does not require the contractor to satisfactorily perform, at a
2954 minimum, both any balance of design, using an independent
2955 professional licensed in Mississippi, and construction of the
2956 project for which the contract is awarded.

2957 (10) The provisions of this section shall not affect any
2958 procurement by the Mississippi Transportation Commission.



2959 (11) The provisions of this section shall not apply to
2960 procurement authorized in Section 59-5-37(3).

2961 **SECTION 49.** Section 31-7-13.2, Mississippi Code of 1972, is
2962 brought forward as follows:

2963 31-7-13.2 (1) When used in this section, "construction
2964 manager at risk" means a method of project delivery in which a
2965 construction manager guarantees a maximum price for the
2966 construction of a project and in which the governing authority or
2967 board, before using this method of project delivery, shall include
2968 a detailed explanation of why using the construction manager at
2969 risk method of project delivery for a particular project satisfies
2970 the public need better than that traditional design-bid-build
2971 method based on the following criteria:

2972 (a) The use of construction manager at risk for the
2973 project provides a savings in time or cost over traditional
2974 methods; and

2975 (b) The size and type of the project is suitable for
2976 use of the construction management at risk method of project
2977 delivery.

2978 (2) When the construction manager at risk method of project
2979 delivery is used:

2980 (a) There may be a separate contract for design
2981 services and a separate contract for construction services;



2982 (b) The contract for construction services may be
2983 entered into at the same time as a contract for the design
2984 services or later;

2985 (c) Design and construction of the project may be in
2986 sequential or concurrent phases; and

2987 (d) Finance, maintenance, operation, reconstruction or
2988 other related services may be included for a guaranteed maximum
2989 price.

2990 (3) When procuring design professional services under a
2991 construction manager at risk project delivery method, the agency
2992 or governing authority shall procure the services of a design
2993 professional pursuant to qualifications-based selection
2994 procedures.

2995 (4) Before the substantial completion of the design
2996 documents, the agency or governing authority may elect to hire a
2997 construction manager.

2998 (5) When procuring construction management services, the
2999 agency or governing authority shall follow the
3000 qualifications-based selection procedures as outlined in
3001 subsection (10) of this section or the competitive sealed proposal
3002 procedures as outlined in Section 31-17-13.

3003 (6) The agency or governing authority may require the
3004 architect or engineer and the construction manager, by contract,
3005 to cooperate in the design, planning and scheduling, and
3006 construction process. The contract shall not make the primary



3007 designer or construction manager a subcontractor or joint-venture
3008 partner to the other or limit the primary designer's or
3009 construction manager's independent obligations to the agency or
3010 governing authority.

3011 (7) Notwithstanding anything to the contrary in this
3012 chapter:

3013 (a) Each project for construction under a construction
3014 manager at risk contract shall be a specific, single project with
3015 a minimum construction cost of Twenty-five Million Dollars
3016 (\$25,000,000.00).

3017 (b) Each project under a construction manager at risk
3018 contract shall be a specific, single project. For the purposes of
3019 this paragraph, "specific, single project" means a project that is
3020 constructed at a single location, at a common location or for a
3021 common purpose.

3022 (8) Agencies shall retain an independent architectural or
3023 engineering firm to provide guidance and administration of the
3024 professional engineering or professional architecture aspects of
3025 the project throughout the development of the scope, design, and
3026 construction of the project.

3027 (9) The state shall, on an annual basis, compile and make
3028 public all proceedings, records, contracts and other public
3029 records relating to procurement transactions authorized under this
3030 section.



3031 (10) For purposes of this section, the "qualifications-based
3032 selection procedure" shall include:

3033 (a) Publicly announcing all requirements for
3034 construction management at risk, architectural, engineering, and
3035 land surveying services, to procure these services on the basis of
3036 demonstrated competence and qualifications, and to negotiate
3037 contracts at fair and reasonable prices after the most qualified
3038 firm has been selected.

3039 (b) Agencies or governing authorities shall establish
3040 procedures to prequalify firms seeking to provide construction
3041 management at risk, architectural, engineering, and land surveying
3042 services or may use prequalification lists from other state
3043 agencies or governing authorities to meet the requirements of this
3044 section.

3045 (c) Whenever a project requiring construction
3046 management at risk, architectural, engineering, or land surveying
3047 services is proposed for an agency or governing authority, the
3048 agency or governing authority shall provide advance notice
3049 published in a professional services bulletin or advertised within
3050 the official state newspaper setting forth the projects and
3051 services to be procured for not less than fourteen (14) days. The
3052 professional services bulletin shall be mailed to each firm that
3053 has requested the information or is prequalified under Section
3054 31-7-13. The professional services bulletin shall include a
3055 description of each project and shall state the time and place for



3056 interested firms to submit a letter of interest and, if required
3057 by the public notice, a statement of qualifications.

3058 (d) The agency or governing authority shall evaluate
3059 the firms submitting letters of interest and other prequalified
3060 firms, taking into account qualifications. The agency or
3061 governing authority may consider, but shall not be limited to,
3062 considering:

- 3063 (i) Ability of professional personnel;
- 3064 (ii) Past record and experience;
- 3065 (iii) Performance data on file;
- 3066 (iv) Willingness to meet time requirements;
- 3067 (v) Location;
- 3068 (vi) Workload of the firm; and
- 3069 (vii) Any other qualifications-based factors as
3070 the agency or governing authority may determine in writing are
3071 applicable.

3072 The agency or governing authority may conduct discussions
3073 with and require public presentations by firms deemed to be the
3074 most qualified regarding their qualifications, approach to the
3075 project and ability to furnish the required services.

3076 (e) The agency or governing authority shall establish a
3077 committee to select firms to provide construction management at
3078 risk, architectural, engineering, and land surveying services. A
3079 selection committee may include at least one (1) public member
3080 nominated by a statewide association of the profession affected.



3081 The public member may not be employed or associated with any firm
3082 holding a contract with the agency or governing authority nor may
3083 the public member's firm be considered for a contract with that
3084 agency or governing authority while serving as a public member of
3085 the committee. In no case shall the agency or governing
3086 authority, before selecting a firm for negotiation under paragraph
3087 (f) of this subsection (10), seek formal or informal submission of
3088 verbal or written estimates of costs or proposals in terms of
3089 dollars, hours required, percentage of construction cost, or any
3090 other measure of compensation.

3091 (f) On the basis of evaluations, discussions, and any
3092 presentations, the agency or governing authority shall select no
3093 less than three (3) firms that it determines to be qualified to
3094 provide services for the project and rank them in order of
3095 qualifications to provide services regarding the specific project.
3096 The agency or governing authority shall then contact the firm
3097 ranked most preferred to negotiate a contract at a fair and
3098 reasonable compensation. If fewer than three (3) firms submit
3099 letters of interest and the agency or governing authority
3100 determines that one (1) or both of those firms are so qualified,
3101 the agency or governing authority may proceed to negotiate a
3102 contract under paragraph (g) of this subsection (10).

3103 (g) The agency or governing authority shall prepare a
3104 written description of the scope of the proposed services to be
3105 used as a basis for negotiations and shall negotiate a contract



3106 with the highest qualified firm at compensation that the agency or
3107 governing authority determines in writing to be fair and
3108 reasonable. In making this decision, the agency or governing
3109 authority shall take into account the estimated value, scope,
3110 complexity, and professional nature of the services to be
3111 rendered. In no case may the agency or governing authority
3112 establish a maximum overhead rate or other payment formula
3113 designed to eliminate firms from contention or restrict
3114 competition or negotiation of fees. If the agency or governing
3115 authority is unable to negotiate a satisfactory contract with the
3116 firm that is most preferred, negotiations with that firm shall be
3117 terminated. The agency or governing authority shall then begin
3118 negotiations with the firm that is next preferred. If the agency
3119 or governing authority is unable to negotiate a satisfactory
3120 contract with that firm, negotiations with that firm shall be
3121 terminated. The agency or governing authority shall then begin
3122 negotiations with the firm that is next preferred. If the agency
3123 or governing authority is unable to negotiate a satisfactory
3124 contract with any of the selected firms, the agency or governing
3125 authority shall reevaluate the construction management at risk,
3126 architectural, engineering, or land surveying services requested,
3127 including the estimated value, scope, complexity, and fee
3128 requirements. The agency or governing authority shall then
3129 compile a second list of not less than three (3) qualified firms
3130 and proceed in accordance with the provisions of this section. A



3131 firm negotiating a contract with an agency or governing authority
3132 shall negotiate subcontracts for architectural, engineering, and
3133 land surveying services at compensation that the firm determines
3134 in writing to be fair and reasonable based upon a written
3135 description of the scope of the proposed services.

3136 (11) (a) The construction manager selected by the agency or
3137 governing authority to provide construction management at risk
3138 services shall solicit bids for construction on the project
3139 pursuant to Section 31-7-13. The construction manager shall be
3140 entitled to enter into contracts for construction with the lowest
3141 and best bidders, as determined in consultation with the agency or
3142 governing authority. Before soliciting bids or entering into any
3143 such contract, the construction manager, in consultation with the
3144 agency or governing authority, may prequalify any contractors or
3145 vendors seeking to submit a bid on the project, taking into
3146 account defined qualifications which may include, but not be
3147 limited to, the following:

3148 (i) Past experience and performance record on
3149 projects of similar size and scope;

3150 (ii) Current financial status and ability to
3151 provide acceptable payment and performance bonds and meet defined
3152 insurance requirements;

3153 (iii) Current workload and backlog of committed
3154 work for the period scheduled for the project under consideration;



3155 (iv) Safety record to include prior citations and
3156 fines if applicable;

3157 (v) History of legal disputes or performance
3158 defaults;

3159 (vi) Identification and experience of project
3160 personnel and required manpower;

3161 (vii) Plan for and ability to meet the applicable
3162 project schedule; and

3163 (viii) Any other qualification-based factors as
3164 the agency, governing authority or construction manager may
3165 determine are applicable.

3166 (b) The construction manager, in consultation with the
3167 agency or governing authority, shall publish the defined
3168 qualifications that shall be considered in the prequalification
3169 process at least two (2) weeks in advance of any prequalification
3170 of contractors or vendors seeking to submit a bid on the project.
3171 Publication shall be in a regular newspaper published in the
3172 county or municipality in which the agency or governing authority
3173 is located. The agency or governing authority shall also post the
3174 defined prequalification requirements on its website.

3175 (c) The failure of a bidder to provide information in a
3176 timely and complete manner in response to any prequalification
3177 process may result in the disqualification of such bidder in the
3178 discretion of the agency, governing authority, and construction
3179 manager.



3180 (d) Except as otherwise provided in Section 25-61-9,
3181 confidential and proprietary information furnished by a bidder
3182 pursuant to this section shall not be disclosed outside of the
3183 agency, governing authority, or construction manager without the
3184 prior written consent of the bidder. The bidder shall identify
3185 and label any information considered to be confidential and
3186 proprietary at the time of submission of the same to the agency,
3187 governing authority, or construction manager.

3188 (12) The provisions of this section shall not affect any
3189 procurement by the Mississippi Transportation Commission.

3190 **SECTION 50.** Section 31-7-13.3, Mississippi Code of 1972, is
3191 brought forward as follows:

3192 31-7-13.3. (1) Any governing authority accepting electronic
3193 bid submissions for procurements may charge the bidder a fee, or
3194 may require a fee to be paid to a third-party service provider,
3195 for an electronic bid submission. The amount of the fee shall not
3196 exceed Fifty Dollars (\$50.00) per bid.

3197 (2) Any governing authority using the reverse auction method
3198 of procurement may charge the winning bidder a fee, or require the
3199 winning bidder to pay a fee to a third-party service provider, for
3200 participation in a reverse auction. The amount of the fee shall
3201 not exceed four percent (4%) of the winning bid amount.

3202 **SECTION 51.** Section 31-7-14, Mississippi Code of 1972, is
3203 brought forward as follows:



3204 31-7-14. (1) (a) For purposes of this section, the
3205 following words and phrases shall have the meaning ascribed
3206 herein, unless the context clearly indicates otherwise:

3207 (i) "Division" means the Energy Division of the
3208 Mississippi Development Authority.

3209 (ii) "Energy services" or "energy efficient
3210 services" means energy efficiency equipment, services relating to
3211 the installation, operation and maintenance of equipment and
3212 improvements reasonably required to existing or new equipment and
3213 existing or new improvements and facilities including, but not
3214 limited to, heating, ventilation and air-conditioning systems,
3215 lighting, windows, insulation and energy management controls, life
3216 safety measures that provide long-term, operating-cost reductions,
3217 building operation programs that reduce operating costs,
3218 alternative fuel motor vehicles including vehicles that have been
3219 converted to such and ancillary equipment related to or associated
3220 with the fueling of alternative fuel motor vehicles, or other
3221 energy-conservation-related improvements, including improvements
3222 or equipment related to renewable energy, water and other natural
3223 resources conservation, including accuracy and measurement of
3224 water distribution and/or consumption, and other equipment,
3225 services and improvements providing verifiable cost savings.

3226 (iii) "Energy services provider" means a person or
3227 business with a successful record of documented energy savings
3228 projects that is experienced in the design, implementation and



3229 installation of energy conservation measures; has the technical
3230 capabilities to verify that such measures generate energy and
3231 operational cost savings or enhanced revenues; has the ability to
3232 guarantee the savings; has the ability to secure or arrange the
3233 financing necessary to support the implementation of the energy
3234 conservation measures; and is approved by the division.

3235 Approval by the division of an energy services provider shall
3236 be granted in a prequalification process.

3237 Such energy services providers may petition the division to
3238 review their qualifications and deem them to be qualified for
3239 inclusion on a prequalification list if they meet the
3240 qualifications set forth by the division.

3241 Any energy services project that has been competitively bid
3242 and awarded prior to any change in law shall be allowed to
3243 continue under the laws current at the time the project was
3244 awarded.

3245 The division shall ensure that small businesses are not
3246 disadvantaged in the determination of a qualified energy services
3247 provider.

3248 (iv) "Entity" means the board of trustees of any
3249 public school district, junior college, institution of higher
3250 learning, publicly owned hospital, state agency or governmental
3251 authority under this chapter.

3252 (v) "Energy services contract" means an agreement
3253 to provide energy services which include, but are not limited to,



3254 the design, installation, financing and maintenance or management
3255 of the energy systems or equipment in order to improve its energy
3256 efficiency. Payments for the contract are not contingent upon the
3257 actual savings realized from the equipment.

3258 (vi) "Energy performance contract" means an
3259 agreement to provide energy services which includes, but is not
3260 limited to, the design, installation, financing and maintenance or
3261 management of the energy systems or equipment in order to improve
3262 its energy efficiency.

3263 (vii) "Shared-savings contract" means an agreement
3264 where the contractor and the entity each receive a preagreed
3265 percentage or dollar value of the energy cost savings over the
3266 life of the contract.

3267 (viii) "Reduce operating costs" means elimination
3268 of future expenses or avoidance of future replacement expenditures
3269 as a result of new equipment installed or services performed.
3270 Material savings, labor savings, cancelled maintenance contracts,
3271 et cetera, shall be considered as being viable to reduce operating
3272 costs. Reduce operating costs may be included in the performance
3273 contract or energy services agreement solely at the discretion of
3274 the entity. A contract that otherwise satisfies the requirements
3275 of this section shall satisfy the requirements allowing use of an
3276 energy performance, energy services or shared-savings contract
3277 even if the sole expense being eliminated is maintenance expense.



3278 (ix) "Capital cost avoidance" means planned
3279 capital improvement expenditures that will be avoided through
3280 implementation of the energy services project. Capital cost
3281 avoidance may be included in an energy services contract or an
3282 energy performance contract solely at the discretion of the
3283 entity. Capital cost avoidance may be claimed as an annual
3284 avoidance or as a one-time avoidance in a specific year of the
3285 contract term, depending upon the nature of the avoided capital
3286 cost.

3287 (x) "Alternative fuel motor vehicle" means a motor
3288 vehicle propelled by alternative fuel either as a dedicated
3289 alternative fuel vehicle, as a bi-fuel vehicle using alternative
3290 fuel as one of its fuels, or as a dual fuel vehicle using
3291 alternative fuel as one of its fuels.

3292 (xi) "Energy conservation measure" means the
3293 individual items or components of a large energy services or
3294 energy efficient services program.

3295 (xii) "Simple payback period" means the amount of
3296 time for the recuperation of the initial investment. The simple
3297 payback period is calculated by dividing the initial investment by
3298 the annual savings. The simple payback period for any contract
3299 shall not exceed twenty (20) years. The simple payback period of
3300 an individual energy conservation measure shall not be considered
3301 in any evaluation provided the simple payback period for the
3302 contract does not exceed twenty (20) years.



3303 (b) An entity may enter into an energy services
3304 contract, energy performance contract, shared-savings contract,
3305 any of which may contain a lease, or lease-purchase contract for
3306 energy efficiency equipment, services relating to the
3307 installation, operation and maintenance of equipment or
3308 improvements reasonably required to existing or new equipment and
3309 existing or new improvements and facilities and shall contract in
3310 accordance with the following provisions:

3311 (i) The division may assemble a list of
3312 prequalified energy services providers. The division shall use
3313 objective criteria in the selection process. The criteria for
3314 evaluation shall include, but shall not be limited to, the
3315 following factors: to assess the capability of the qualified
3316 energy services provider in the area of design engineering,
3317 installation, maintenance and repairs associated with energy
3318 services or guaranteed energy performance contracts;
3319 qualifications including engineering depth and experience,
3320 post-installation project monitoring, data collection, and
3321 verification of and reporting of savings; overall project
3322 experience and qualifications; management capability; ability to
3323 access long-term sources of project financing; financial health
3324 and stability, litigation history with customers and other factors
3325 determined by the division to be relevant and appropriate and
3326 related to the ability to perform the project. The division shall
3327 either accept or reject an application for prequalification from



3328 an energy services provider within sixty (60) days after receipt.
3329 If the division fails to act within sixty (60) days from the date
3330 of receiving an application, then the application shall
3331 automatically be accepted and the energy services provider shall
3332 be added to the prequalified list.

3333 (ii) An entity shall publicly issue requests for
3334 proposals, advertised in the same manner as provided in Section
3335 31-7-13 for seeking competitive sealed bids, concerning the
3336 provision of energy efficiency services relating to the
3337 installation, operation and maintenance of equipment, improvements
3338 reasonably required to existing or new equipment and existing or
3339 new improvements and facilities or the design, installation,
3340 ownership, operation and maintenance of energy efficiency
3341 equipment. Those requests for proposals shall contain terms and
3342 conditions relating to submission of proposals, evaluation and
3343 selection of proposals, financial terms, legal responsibilities,
3344 and any other matters as the entity determines to be appropriate
3345 for inclusion.

3346 (iii) Upon receiving responses to the request for
3347 proposals, the entity may select the most qualified proposal or
3348 proposals on the basis of experience and qualifications of the
3349 proposers, the technical approach, the financial arrangements, the
3350 overall benefits to the entity and any other relevant factors
3351 determined to be appropriate.



3352 (iv) An entity shall negotiate and enter into
3353 contracts with the person, persons, firm or firms submitting the
3354 proposal selected as the most qualified under this section.

3355 (v) The annual rate of interest paid under any
3356 lease-purchase agreement authorized by this section shall not
3357 exceed the maximum interest rate to maturity on general obligation
3358 indebtedness permitted under Section 75-17-101.

3359 (vi) The maximum lease-purchase term for any
3360 equipment acquired under this section shall not exceed the lesser
3361 of twenty (20) years or the average useful life of the energy
3362 conservation measures from the date the energy conservation
3363 measures have been completed and accepted by the governmental
3364 unit.

3365 (vii) This subsection shall, with respect to the
3366 procurement of energy efficiency services and/or equipment,
3367 supersede any contradictory or conflicting provisions of Chapter
3368 7, Title 31, Mississippi Code of 1972, and other laws with respect
3369 to awarding public contracts.

3370 (2) (a) The division may contract with a party selected
3371 under this subsection to provide financing to entities and private
3372 "nonprofit" hospitals, to purchase energy efficiency equipment,
3373 services relating to the installation, operation and maintenance
3374 of equipment or improvements reasonably required to existing or
3375 new equipment and existing or new improvements and facilities or
3376 an energy saving performance contract, energy services contract,



3377 or lease-purchase basis. Any energy efficiency lease financing
3378 contract entered into by the division before May 15, 1992, shall
3379 be valid and binding when the contract was entered into under this
3380 subsection.

3381 (b) The entities and private "nonprofit" hospitals that
3382 decide to contract for energy efficiency equipment, services
3383 relating to the installation, operation and maintenance of
3384 equipment or improvements reasonably required to existing or new
3385 equipment and existing or new improvements and facilities on a
3386 lease, energy services contract or lease-purchase basis, may
3387 request financial assistance from the division.

3388 (c) The provisions of any energy efficiency
3389 lease-purchase agreements authorized under this subsection (2)
3390 shall comply with the requirements of subsection (1)(b)(v) of this
3391 section. The term of any lease or lease-purchase agreement for
3392 energy efficiency services and/or equipment entered into under
3393 this section shall not exceed twenty (20) years, commencing on the
3394 completion of the installation of equipment or improvements under
3395 the contract.

3396 (d) Any entity or private "nonprofit" hospital having
3397 approval of the division may borrow money in anticipation of
3398 entering into a lease-purchase agreement pursuant to subsection
3399 (2)(b) of this section. Any borrowing may be upon terms and
3400 conditions as may be agreed upon by the borrowing entity and the
3401 party advancing interim funds; however, the principal on any



3402 borrowing shall be repaid within a period of time not to exceed
3403 one hundred eighty (180) days. In borrowing money under this
3404 paragraph (d), it is not necessary to publish notice of intention
3405 to do so or to secure the consent of the qualified electors,
3406 either by election or otherwise. Any borrowing may be negotiated
3407 between the parties and is not required to be publicly bid, may be
3408 evidenced by negotiable notes or lease and shall not be considered
3409 when computing any limitation of indebtedness of the borrowing
3410 entity established by law. The principal, interest and costs of
3411 incurring any borrowing shall not exceed the principal amount of
3412 the final contract or agreement approved by the division, and
3413 accepted by the borrowing entity, under subsection (2) (b) of this
3414 section.

3415 (e) This subsection (2) shall, with respect to the
3416 procurement of energy efficiency services and/or equipment,
3417 supersede the provisions of any contradictory or conflicting
3418 provisions of Chapter 7, Title 31, Mississippi Code of 1972, and
3419 other laws with respect to awarding public contracts.

3420 (3) All lease-purchase agreements authorized by this section
3421 and the income from those agreements shall be exempt from all
3422 taxation within the State of Mississippi, except gift, transfer
3423 and inheritance taxes.

3424 (4) (a) An entity may contract for energy efficiency
3425 equipment services relating to the installation, operation or
3426 maintenance of equipment or improvements reasonably required to



3427 existing or new equipment and existing or new improvements and
3428 facilities on a shared-savings basis or performance basis.

3429 (b) If an entity decides to enter into a contract for
3430 energy efficiency equipment, services relating to the
3431 installation, operation or maintenance of equipment or
3432 improvements reasonably required to existing or new equipment and
3433 existing or new improvements and facilities on a shared-savings
3434 basis or performance basis, the entity shall issue a request for
3435 proposals or a request for qualifications, as determined necessary
3436 by the division, in the same manner as prescribed under subsection
3437 (1)(b) of this section. The entity shall notify the division in
3438 writing of its intention to issue a request for proposals or a
3439 request for qualifications.

3440 (c) The terms of any shared-savings contract, energy
3441 services contract, or energy performance contract entered into
3442 under this section may not exceed twenty (20) years, commencing on
3443 the completion of the installation of equipment or improvements
3444 under the contract.

3445 (d) The terms of any shared-savings or energy
3446 performance contract entered into under this section must contain
3447 a guarantee of savings clause from the company providing energy
3448 efficiency equipment services relating to the installation,
3449 operation and maintenance of equipment or improvements reasonably
3450 required to existing or new equipment and existing or new
3451 improvements and facilities.



3452 (5) (a) By March 1 and September 1 of each year, each
3453 entity that enters into an energy performance contract or
3454 shared-savings contract shall report to the division its energy
3455 usage by meter in dollars and consumption by fuel type for the
3456 previous six-month period determined by the division.

3457 (b) The division shall remove qualified status of an
3458 energy services provider that fails to meet the reporting
3459 requirements of paragraph (a) of this subsection after two (2)
3460 such violations.

3461 (c) Any costs associated with the reporting made under
3462 this subsection (5) shall be paid by the energy services provider.

3463 (6) The contract may be construed to provide flexibility to
3464 public agencies in structuring agreements entered into hereunder
3465 so that economic benefits may be maximized.

3466 (7) This section shall stand repealed on July 1, 2025.

3467 **SECTION 52.** Section 31-7-14.1, Mississippi Code of 1972, is
3468 brought forward as follows:

3469 31-7-14.1. (1) Any agency as defined in this chapter that
3470 receives state budgetary consideration and has submitted a
3471 detailed energy management plan to the Energy Division of the
3472 Department of Economic and Community Development, referred to in
3473 this section as "division," as required under Section 57-39-111
3474 shall undertake energy efficiency projects for the purpose of
3475 producing energy and/or dollar savings whereby a portion of the
3476 savings may be retained by the participating agency. The plan



3477 shall describe specific measures to be implemented to reduce the
3478 agency's energy consumption by energy unit measure or energy cost.
3479 The division shall provide assistance in preparing the detailed
3480 energy management plan according to prescribed guidelines and
3481 reporting procedures. The plan shall specify a project
3482 description of the energy efficiency measures to be undertaken,
3483 including, but not limited to, type of measure, cost, estimated
3484 savings in dollars and energy units, project and measure location,
3485 and terms and conditions of project financing.

3486 (2) (a) Utilizing data submitted under Sections 57-39-107
3487 and 57-39-109, the division shall develop and approve energy
3488 consumption baselines before project implementation, if feasible,
3489 and measure energy consumption after project implementation
3490 considering adjustments for any agency growth or reduction and
3491 seasonal variances, and calculate total energy savings. The
3492 division shall derive a baseline use allocation to be utilized and
3493 submitted in each participating agency's annual budget.

3494 (b) For purposes of this section, "net savings" and
3495 "net revenues" mean any funds remaining after payment of project
3496 capital costs, including debt service, and other payments and
3497 reserves as required by a bond resolution, loan agreement or other
3498 financing agreement and payment of project operating and
3499 maintenance expenses.

3500 (3) Net savings and net revenues generated from projects
3501 shall be apportioned as follows:



3502 (a) Any agency initiating energy savings through the
3503 implementation of an energy efficiency project may retain one-half
3504 (1/2) of all such net savings which may be used for any
3505 nonrecurring capital projects; and

3506 (b) The remaining net savings and net revenues from
3507 conservation projects shall be remitted to the State General Fund.

3508 The Energy Division shall verify the net savings and net
3509 revenues on an annual basis.

3510 (4) The use by an agency of net savings and net revenues
3511 from energy efficiency projects shall be in addition to, and shall
3512 not supplant or replace, funding from traditional sources for
3513 their normal operations and maintenance or capital budgets. It is
3514 the intent of this subsection to ensure that the agencies receive
3515 the full benefit intended by this section, and that the effect
3516 will not be diminished by budget adjustments inconsistent with
3517 this intent.

3518 **SECTION 53.** Section 31-7-15, Mississippi Code of 1972, is
3519 brought forward as follows:

3520 31-7-15. (1) Whenever two (2) or more competitive bids are
3521 received, one or more of which relates to commodities grown,
3522 processed or manufactured within this state, and whenever all
3523 things stated in such received bids are equal with respect to
3524 price, quality and service, the commodities grown, processed or
3525 manufactured within this state shall be given preference. A
3526 similar preference shall be given to commodities grown, processed



3527 or manufactured within this state whenever purchases are made
3528 without competitive bids, and when practical the Department of
3529 Finance and Administration may by regulation establish reasonable
3530 preferential policies for other commodities, giving preference to
3531 resident suppliers of this state.

3532 (2) Any foreign manufacturing company with a factory in the
3533 state and with over fifty (50) employees working in the state
3534 shall have preference over any other foreign company where both
3535 price and quality are the same, regardless of where the product is
3536 manufactured.

3537 (3) On or before January 1, 1991, the Department of Finance
3538 and Administration shall adopt bid and product specifications to
3539 be utilized by all state agencies that encourage the procurement
3540 of commodities made from recovered materials. Preference in
3541 awarding contracts for commodities shall be given to commodities
3542 offered at a competitive price.

3543 (4) Each state agency is required to procure products made
3544 from recovered materials when those products are available at a
3545 competitive price. For purposes of this subsection, "competitive
3546 price" means a price not greater than ten percent (10%) above the
3547 lowest and best bidder. A decision not to procure products made
3548 from recovered materials must be based on a determination that
3549 such procurement:

3550 (a) Is not available within a reasonable period of
3551 time; or



3552 (b) Fails to meet the performance standards set forth
3553 in the applicable specifications; or

3554 (c) Is not available at a competitive price.

3555 (5) Whenever economically feasible, each state agency is
3556 required to purchase products manufactured or sold by the
3557 Mississippi Industries for the Blind.

3558 **SECTION 54.** Section 31-7-16, Mississippi Code of 1972, is
3559 brought forward as follows:

3560 31-7-16. In the event equipment is required which is capable
3561 of being manufactured or assembled in separate units such as
3562 school bus chassis and bodies or other bodies of equipment
3563 installed upon chassis, and there is a manufacturer of such bodies
3564 located within the State of Mississippi, a public purchase may be
3565 made of such chassis and such body or equipment as separate items.

3566 **SECTION 55.** Section 31-7-18, Mississippi Code of 1972, is
3567 brought forward as follows:

3568 31-7-18. In addition to the method of purchasing authorized
3569 in this chapter, said governing authorities are hereby authorized
3570 to accept the lowest bid received from a motor vehicle dealer
3571 domiciled within the county of the governing authority for the
3572 purchase of any motor vehicle having a gross vehicle weight rating
3573 of less than twenty-six thousand (26,000) pounds that shall not
3574 exceed a sum equal to three percent (3%) greater than the price or
3575 cost which the dealer pays the manufacturer, as evidenced by the
3576 factory invoice for the motor vehicle. In the event said county



3577 does not have an authorized motor vehicle dealer, said board or
3578 governing authority may, in like manner, receive bids from motor
3579 vehicle dealers in any adjoining county.

3580 No purchase of a motor vehicle under the provisions of this
3581 section shall be valid unless the purchase is made according to
3582 statutory bidding and licensing requirements. Provided, however,
3583 that the governing authorities may choose to purchase a motor
3584 vehicle from the authorized state contract dealer without having
3585 to advertise and receive bids therefor.

3586 No purchase shall be made in excess of the approved state
3587 contract price by any of the aforementioned governing authorities
3588 when such authorities are situated wholly or in part in the county
3589 wherein the authorized state contract dealer for a particular item
3590 is domiciled.

3591 **SECTION 56.** Section 31-7-21, Mississippi Code of 1972, is
3592 brought forward as follows:

3593 31-7-21. The provisions of this chapter shall neither repeal
3594 nor modify the functions of the Governor's Office of General
3595 Services as set forth in Sections 31-11-1 through 31-11-89.

3596 **SECTION 57.** Section 31-7-23, Mississippi Code of 1972, is
3597 brought forward as follows:

3598 31-7-23. Any rebates, refunds, coupons, merit points,
3599 gratuities or any article of value tendered or received by any
3600 agency or governing authority from any vendor of material,
3601 supplies, equipment or other articles shall inure to the benefit



3602 of the agency or governing authority making the purchase. The
3603 agency or governing authority may, in accordance with its best
3604 interest, either take delivery of the article of value tendered
3605 and use the same or convert it to cash by selling it for its fair
3606 and reasonable value, making use of the proceeds from such sale
3607 for the exclusive benefit of the agency or governing authority.

3608 **SECTION 58.** Section 31-7-38, Mississippi Code of 1972, is
3609 brought forward as follows:

3610 31-7-38. The board of trustees or governing board of any
3611 hospital or regional mental health center owned or owned and
3612 operated separately or jointly by the State of Mississippi or any
3613 of its branches, agencies, departments or subdivisions, or by one
3614 or more counties, cities, towns, supervisors districts or election
3615 districts, or combinations thereof, may authorize by resolution
3616 the organization and operation of, or the participation in, a
3617 group purchasing program with other hospitals or regional mental
3618 health centers, for the purchase of supplies, commodities and
3619 equipment when it appears to the board of trustees or governing
3620 board that such a group purchasing program could or would affect
3621 economy or efficiency in their operations. Purchases by hospitals
3622 or regional mental health centers participating in group
3623 purchasing programs of supplies, commodities and equipment through
3624 such programs shall be exempt from the provisions of Sections
3625 31-7-9, 31-7-10, 31-7-11, 31-7-12 and 31-7-13.



3626 **SECTION 59.** Section 31-7-47, Mississippi Code of 1972, is
3627 brought forward as follows:

3628 31-7-47. In the letting of public contracts, preference
3629 shall be given to resident contractors, and a nonresident bidder
3630 domiciled in a state, city, county, parish, province, nation or
3631 political subdivision having laws granting preference to local
3632 contractors shall be awarded Mississippi public contracts only on
3633 the same basis as the nonresident bidder's state, city, county,
3634 parish, province, nation or political subdivision awards contracts
3635 to Mississippi contractors bidding under similar circumstances.
3636 Resident contractors actually domiciled in Mississippi, be they
3637 corporate, individuals or partnerships, are to be granted
3638 preference over nonresidents in awarding of contracts in the same
3639 manner and to the same extent as provided by the laws of the
3640 state, city, county, parish, province, nation or political
3641 subdivision of domicile of the nonresident.

3642 **SECTION 60.** Section 31-7-49, Mississippi Code of 1972, is
3643 brought forward as follows:

3644 31-7-49. In placing orders for purchases under bids received
3645 and contracts awarded under the provisions of this chapter, the
3646 governing authority, by orders entered on its minutes, may
3647 authorize its members, or agents designated by its order, to place
3648 orders for the purchase of such supplies and materials from time
3649 to time during the period covered by the contract, as such
3650 supplies and materials are needed. Claims for such supplies so



3651 ordered by an individual board member or other duly authorized
3652 agent shall not be allowed and paid by the board until such claims
3653 shall have been approved in writing by the individual board member
3654 or agent who ordered such supplies or the successor to such member
3655 or agent.

3656 **SECTION 61.** Section 31-7-53, Mississippi Code of 1972, is
3657 brought forward as follows:

3658 31-7-53. In making any and all purchases of fertilizer for
3659 all state institutions and agencies, the board, officer, or
3660 employee given the authority to make such purchases shall take
3661 into consideration the chemical analysis and percentage of plant
3662 food unit value in such fertilizer in determining the lowest and
3663 best bid. No awards of contracts shall be made until the best
3664 price is determined on the basis of the chemical analysis as to
3665 the plant food unit value of the product, and the contract shall
3666 be awarded on the basis of such an analysis of the plant food unit
3667 value.

3668 This section does not apply for the purchase of material by
3669 research agencies of the state for use in experimental projects.

3670 The State Penitentiary Board, the Board of Trustees of the
3671 State Institutions of Higher Learning, and any other agency,
3672 department, or board of trustees of the State of Mississippi are
3673 hereby authorized to purchase all needed quantities of anhydrous
3674 ammonia and ammonium nitrate fertilizers available through the
3675 facilities of Mississippi State University of Agriculture and



3676 Applied Science. Such purchase may be at public or private sale,
3677 provided that such fertilizers can be obtained for not more than
3678 the price that the same are then available to such board, agency,
3679 or department from any other source.

3680 **SECTION 62.** Section 31-7-55, Mississippi Code of 1972, is
3681 brought forward as follows:

3682 31-7-55. **[For penalties applicable to violations occurring**
3683 **between January 1, 1981, and August 15, 1988, the following**
3684 **provisions govern.]**

3685 (1) It is hereby declared to be unlawful and a violation of
3686 public policy of the State of Mississippi for any elected or
3687 appointed public officer of the state or the executive head of a
3688 state board, commission, department, subdivision of the state
3689 government or governing authority to make any purchases without
3690 the full compliance with the provisions of Chapter 7, Title 31,
3691 Mississippi Code of 1972. Any elected or appointed public officer
3692 of the state or the executive head of a state board, commission,
3693 department, subdivision of the state government or governing
3694 authority who violates the provisions of Chapter 7, Title 31,
3695 Mississippi Code of 1972, shall be deemed guilty of a misdemeanor
3696 and, upon conviction therefor, shall be fined not less than One
3697 Hundred Dollars (\$100.00) and not more than Five Hundred Dollars
3698 (\$500.00) for each separate offense, or sentenced to the county
3699 jail for not more than six (6) months, or both such fine and
3700 imprisonment, and shall be removed from his office or position.



3701 (2) Any person diverting the benefits of any article of
3702 value tendered or received by any agency or governing authority to
3703 his or her personal use, in violation of Section 31-7-23, shall be
3704 guilty of a misdemeanor and, upon conviction, shall be punished by
3705 a fine of not less than One Hundred Dollars (\$100.00) nor more
3706 than Five Hundred Dollars (\$500.00), or sentenced to the county
3707 jail for not more than six (6) months, or by both such fine and
3708 imprisonment, and shall be required to return the money value of
3709 the article unlawfully diverted to the agency involved.

3710 **[The following provisions apply to violations which occur on**
3711 **or after August 16, 1988.]**

3712 (1) It is hereby declared to be unlawful and a violation of
3713 public policy of the State of Mississippi for any elected or
3714 appointed public officer of an agency or a governing authority, or
3715 the executive head, any employee or agent of an agency or
3716 governing authority to make any purchases without the full
3717 compliance with the provisions of Chapter 7, Title 31, Mississippi
3718 Code of 1972.

3719 (2) Except as otherwise provided in subsection (4) of this
3720 section, any person who intentionally, willfully and knowingly
3721 violates the provisions of Chapter 7, Title 31, Mississippi Code
3722 of 1972, shall be deemed guilty of a misdemeanor and, upon
3723 conviction thereof, shall be fined not less than One Hundred
3724 Dollars (\$100.00) and not more than Five Hundred Dollars (\$500.00)
3725 for each separate offense, or sentenced to the county jail for not



3726 more than six (6) months, or both such fine and imprisonment, and
3727 shall be removed from his office or position.

3728 (3) Any person who intentionally, willfully and knowingly
3729 violates the provisions of subsection (1) of Section 31-7-57 shall
3730 be guilty of a misdemeanor and, upon conviction thereof, shall be
3731 fined not less than One Hundred Dollars (\$100.00) and not more
3732 than Five Hundred Dollars (\$500.00), or sentenced to the county
3733 jail for not more than six (6) months, or both such fine and
3734 imprisonment, and shall be removed from his office or position.

3735 (4) Any person diverting the benefits of any article of
3736 value tendered or received by any agency or governing authority to
3737 his or her personal use, in violation of Section 31-7-23, if the
3738 value of such article be less than Five Hundred Dollars (\$500.00),
3739 shall be guilty of a misdemeanor and, upon conviction, shall be
3740 punished by a fine of not less than One Hundred Dollars (\$100.00)
3741 nor more than Five Hundred Dollars (\$500.00), or sentenced to the
3742 county jail for not more than six (6) months, or by both such fine
3743 and imprisonment, shall be removed from his office or position,
3744 and shall be required to return the money value of the article
3745 unlawfully diverted to the agency or governing authority involved.
3746 If the value of the article be Five Hundred Dollars (\$500.00) or
3747 more, such person shall be guilty of a felony and, upon
3748 conviction, shall be punished by a fine of not less than One
3749 Thousand Dollars (\$1,000.00) nor more than Five Thousand Dollars
3750 (\$5,000.00), or sentenced to the Department of Corrections for not



3751 less than one (1) year nor more than five (5) years, or by both
3752 such fine and imprisonment, shall be removed from his office or
3753 position, and shall be required to return the money value of the
3754 article unlawfully diverted to the agency or governing authority
3755 involved.

3756 (5) The provisions of this section are supplemental to any
3757 other criminal statutes of this state.

3758 **SECTION 63.** Section 31-7-57, Mississippi Code of 1972, is
3759 brought forward as follows:

3760 31-7-57. (1) Any elected or appointed public officer of an
3761 agency or a governing authority, or the executive head, any
3762 employee or agent of an agency or governing authority, who
3763 appropriates or authorizes the expenditure of any money to an
3764 object not authorized by law, shall be liable personally for up to
3765 the full amount of the appropriation or expenditure as will fully
3766 and completely compensate and repay such public funds for any
3767 actual loss caused by such appropriation or expenditure, to be
3768 recovered by suit in the name of the governmental entity involved,
3769 or in the name of any person who is a taxpayer suing for the use
3770 of the governmental entity involved, and such taxpayer shall be
3771 liable for costs in such case. In the case of a governing board
3772 of an agency or governing authority, only the individual members
3773 of the governing board who voted for the appropriation or
3774 authorization for expenditure shall be liable under this
3775 subsection.



3776 (2) No individual member, officer, employee or agent of any
3777 agency or board of a governing authority shall let contracts or
3778 purchase commodities or equipment except in the manner provided by
3779 law, including the provisions of Section 25-9-120(3), Mississippi
3780 Code of 1972, relating to personal and professional service
3781 contracts by state agencies; nor shall any such agency or board of
3782 a governing authority ratify any such contract or purchase made by
3783 any individual member, officer, employee or agent thereof, or pay
3784 for the same out of public funds unless such contract or purchase
3785 was made in the manner provided by law; provided, however, that
3786 any vendor who, in good faith, delivers commodities or printing or
3787 performs any services under a contract to or for the agency or
3788 governing authority, shall be entitled to recover the fair market
3789 value of such commodities, printing or services, notwithstanding
3790 some error or failure by the agency or governing authority to
3791 follow the law, if the contract was for an object authorized by
3792 law and the vendor had no control of, participation in, or actual
3793 knowledge of the error or failure by the agency or governing
3794 authority.

3795 (3) The individual members, officers, employees or agents of
3796 any agency or governing authority as defined in Section 31-7-1
3797 causing any public funds to be expended, any contract made or let,
3798 any payment made on any contract or any purchase made, or any
3799 payment made, in any manner whatsoever, contrary to or without
3800 complying with any statute of the State of Mississippi, regulating



3801 or prescribing the manner in which such contracts shall be let,
3802 payment on any contract made, purchase made, or any other payment
3803 or expenditure made, shall be liable, individually, and upon their
3804 official bond, for compensatory damages, in such sum up to the
3805 full amount of such contract, purchase, expenditure or payment as
3806 will fully and completely compensate and repay such public funds
3807 for any actual loss caused by such unlawful expenditure.

3808 (4) In addition to the foregoing provision, for any
3809 violation of any statute of the State of Mississippi prescribing
3810 the manner in which contracts shall be let, purchases made,
3811 expenditure or payment made, any individual member, officer,
3812 employee or agent of any agency or governing authority who shall
3813 substantially depart from the statutory method of letting
3814 contracts, making payments thereon, making purchases or expending
3815 public funds shall be liable, individually and on his official
3816 bond, for penal damages in such amount as may be assessed by any
3817 court of competent jurisdiction, up to three (3) times the amount
3818 of the contract, purchase, expenditure or payment. The person so
3819 charged may offer mitigating circumstances to be considered by the
3820 court in the assessment of any penal damages.

3821 (5) Any sum recovered under the provisions hereof shall be
3822 credited to the account from which such unlawful expenditure was
3823 made.

3824 (6) Except as otherwise provided in subsection (1) of this
3825 section, any individual member of an agency or governing authority



3826 as defined in Section 31-7-1 shall not be individually liable
3827 under this section if he voted against payment for contracts let
3828 or purchases made contrary to law and had his vote recorded in the
3829 official minutes of the board or governing authority at the time
3830 of such vote, or was absent at the time of such vote.

3831 **SECTION 64.** Section 31-7-59, Mississippi Code of 1972, is
3832 brought forward as follows:

3833 31-7-59. (1) Any municipality of over one hundred thousand
3834 (100,000) population, according to the latest decennial census and
3835 qualified to do so, is hereby empowered to purchase from the
3836 General Services Administration of the United States of America,
3837 without advertising for bids, any and all articles of supplies and
3838 equipment necessary for the operation of said municipality so long
3839 as the purchase price of such articles is below the purchase price
3840 of similar articles on a state contract accepted by the Office of
3841 General Services.

3842 (2) The aforesaid supplies and equipment may likewise
3843 be purchased from the General Services Administration without
3844 advertising for bids even though the Office of General Services
3845 does not have same listed on statewide contracts so long as the
3846 purchase price thereof is ten percent (10%) below the latest
3847 purchase price of comparable supplies and equipment.

3848 **SECTION 65.** Section 31-7-61, Mississippi Code of 1972, is
3849 brought forward as follows:



3850 31-7-61. It shall be unlawful for any person knowingly to
3851 purchase or to authorize or requisition the purchase of beef other
3852 than beef raised and produced within the United States when such
3853 purchase is to be paid by the state government or any of its
3854 political subdivisions out of public funds of any nature.
3855 However, all canned meats not available which are processed in the
3856 United States shall be exempt from Sections 31-7-61 through
3857 31-7-65.

3858 **SECTION 66.** Section 31-7-63, Mississippi Code of 1972, is
3859 brought forward as follows:

3860 31-7-63. Any person who violates the provisions of Section
3861 31-7-61 shall be guilty of a misdemeanor and upon conviction shall
3862 be punished by imprisonment for not more than thirty (30) days or
3863 by a fine of not less than One Hundred Dollars (\$100.00) nor more
3864 than Five Hundred Dollars (\$500.00). In addition to any criminal
3865 sanction authorized herein, a civil proceeding may be brought by a
3866 district attorney or county prosecuting attorney for recovery of
3867 funds paid out in violation of this section.

3868 **SECTION 67.** Section 31-7-65, Mississippi Code of 1972, is
3869 brought forward as follows:

3870 31-7-65. The Commissioner of Agriculture and Commerce of the
3871 State of Mississippi shall notify all state agencies, political
3872 subdivisions or public institutions within the State of
3873 Mississippi as to the provisions of Sections 31-7-61 through
3874 31-7-65.



3875 **SECTION 68.** Section 31-7-67, Mississippi Code of 1972, is
3876 brought forward as follows:

3877 31-7-67. (1) For the purposes of this section, the
3878 following words and phrases shall have the meanings ascribed in
3879 this section unless the context clearly indicates otherwise:

3880 (a) "sUAS" means a small unmanned aircraft system, also
3881 called a drone, including the unmanned aircraft itself and any
3882 additional support equipment, control stations, data links,
3883 telemetry, communications and navigation equipment or any other
3884 equipment necessary to operate the unmanned aircraft.

3885 (b) "Domestic manufacturer" means a manufacturing
3886 company incorporated and headquartered in the United States of
3887 America and whose majority ownership is comprised of American
3888 citizens and which manufactures drones at a facility in the United
3889 States of America. If such company is owned by another entity,
3890 that entity must also be an American company.

3891 (c) "Domestic sUAS company" means a company which
3892 provides maintenance, repair, and other technical services for
3893 small unmanned aircraft systems, including drones, which is
3894 incorporated, headquartered and primarily provides such services
3895 in the United States of America.

3896 (d) "Collision avoidance system" means a system of
3897 hardware or software designed to mitigate collision risk for
3898 drones.



3899 (2) Beginning January 1, 2025, all small unmanned aircraft
3900 systems and drones purchased by the State of Mississippi or any
3901 agency or political subdivision thereof shall be purchased
3902 exclusively from a domestic manufacturer and shall possess
3903 collision avoidance systems. All maintenance, repair and other
3904 technical services on drones owned by the State of Mississippi or
3905 any agency or political subdivision thereof shall be performed by
3906 a domestic sUAS company. All infrastructure inspection services
3907 requiring the use of sUAS and contracted for on behalf of the
3908 State shall be performed using domestically manufactured sUAS.

3909 (3) In public procurement under Title 31, Chapter 7,
3910 domestic manufacturers operating within the State of Mississippi
3911 shall be granted a ten percent (10%) bid preference over
3912 non-Mississippi manufacturers and domestic sUAS companies shall be
3913 granted a ten percent (10%) bid preference over non-Mississippi
3914 companies. Additionally, all agencies and public entities may
3915 solicit a minimum of one (1) bid from a Mississippi-based small
3916 unmanned aircraft system manufacturer.

3917 (4) An agency may not purchase or operate a small unmanned
3918 aircraft system manufactured in the People's Republic of China.
3919 For purposes of this section, the term "manufactured" includes a
3920 small unmanned aircraft system that is assembled in a country
3921 other than the People's Republic of China but which is comprised
3922 of more than a negligible amount of parts, software, components or
3923 raw materials originating in the People's Republic of China.



3924 (5) The provisions of this section shall not apply to a
3925 state institution of higher learning with a federally designated
3926 research center when such institution is conducting research
3927 regarding sUAS and related matters.

3928 **SECTION 69.** Section 31-7-73, Mississippi Code of 1972, is
3929 brought forward as follows:

3930 31-7-73. Any state agency, as defined in Section 31-7-1,
3931 Mississippi Code of 1972, shall be authorized and empowered, in
3932 its discretion, to enter into an energy performance contract,
3933 energy services contract, on a shared-savings, lease or
3934 lease-purchase basis, for energy efficiency services and/or
3935 equipment as provided for in Section 31-7-14.

3936 **SECTION 70.** Section 31-7-301, Mississippi Code of 1972, is
3937 brought forward as follows:

3938 31-7-301. (1) The Legislature hereby declares that it is
3939 essential to the efficient operation of public bodies of this
3940 state that adequate supplies of goods and services continue to be
3941 available from private sources; that the good name and credit of
3942 the state may be promoted by timely and responsible payment of
3943 just claims; and that fair compensation be awarded suppliers when
3944 payments of their claims are delayed without justification.

3945 (2) The term "public bodies" shall mean all state agencies,
3946 political subdivisions, school districts, municipalities and
3947 public corporations, whether created by charter, statute or



3948 executive order, whether supported wholly or in part by public
3949 funds, or which expend public funds.

3950 **SECTION 71.** Section 31-7-303, Mississippi Code of 1972, is
3951 brought forward as follows:

3952 31-7-303. (1) The requisition for payment of an invoice
3953 submitted to a public body and required by law to be filed with
3954 the State Fiscal Management Board shall be filed with the State
3955 Fiscal Management Board not later than thirty (30) days after
3956 receipt of the invoice and receipt, inspection and approval of the
3957 goods or services, except that in the case of a bona fide dispute
3958 the requisition for payment shall contain a statement of the
3959 dispute and authorize payment only in the amount not disputed. If
3960 a requisition for payment filed within the thirty-day period is
3961 returned by the State Fiscal Management Board because of an error,
3962 it shall nevertheless be deemed timely filed. The thirty-day
3963 filing requirement may be waived by the State Fiscal Management
3964 Board on a showing of exceptional circumstances in accordance with
3965 rules and regulations established by the State Fiscal Management
3966 Board.

3967 (2) The warrant, in payment of an invoice submitted to a
3968 public body of the state, shall be mailed or otherwise delivered
3969 by the public body not later than fifteen (15) days after filing
3970 of the requisition for payment; however, this requirement may be
3971 waived by the State Fiscal Management Board on a showing of
3972 exceptional circumstances in accordance with rules and regulations



3973 of the State Fiscal Management Board or as otherwise provided in
3974 Section 7-7-35, Mississippi Code of 1972.

3975 **SECTION 72.** Section 31-7-305, Mississippi Code of 1972, is
3976 brought forward as follows:

3977 31-7-305. (1) All public bodies of the state, including
3978 those which issue checks and those which file requisitions for
3979 payment with the State Fiscal Management Board, shall keep a
3980 record of the date of receipt of the invoice, dates of receipt,
3981 inspection and approval of the goods or services, date of issuing
3982 the check or date of filing the requisition for payment, as the
3983 case may be, and date of mailing or otherwise delivering the
3984 warrant or check in payment thereof. In the event that the State
3985 Fiscal Management Board mails or otherwise delivers the warrant
3986 directly to the claimant, pursuant to Section 7-7-35, Mississippi
3987 Code of 1972, the State Fiscal Management Board shall notify the
3988 public body of the date thereof. The provisions of this section
3989 are supplemental to the requirements of Sections 19-13-29,
3990 21-39-7, 21-39-13 and 37-5-93, Mississippi Code of 1972.

3991 (2) All public bodies that are authorized to issue checks in
3992 payment of goods and services and are not required to issue
3993 requisitions for payment to the State Fiscal Management Board
3994 shall mail or otherwise deliver such checks no later than
3995 forty-five (45) days after receipt of the invoice and receipt,
3996 inspection and approval of the goods or services; however, in the



3997 event of a bona fide dispute, the public body shall pay only the
3998 amount not disputed.

3999 (3) If a warrant or check, as the case may be, in payment of
4000 an invoice is not mailed or otherwise delivered within forty-five
4001 (45) days after receipt of the invoice and receipt, inspection and
4002 approval of the goods and services, the public body shall be
4003 liable to the vendor, in addition to the amount of the invoice,
4004 for interest at a rate of one and one-half percent (1-1/2%) per
4005 month or portion thereof on the unpaid balance from the expiration
4006 of such forty-five-day period until such time as the warrant or
4007 check is mailed or otherwise delivered to the vendor. The
4008 provisions of this subsection (3) shall apply only to undisputed
4009 amounts for which payment has been authorized. In the case of an
4010 error on the part of the vendor, the forty-five-day period shall
4011 begin to run upon receipt of a corrected invoice by the public
4012 body and upon compliance with the other provisions of this
4013 section. The various public bodies shall be responsible for
4014 initiating the penalty payments required by this subsection and
4015 shall use this subsection as authority to make such payments.
4016 Also, at the time of initiating such penalty payment, the public
4017 body shall specify in writing an explanation of the delay and
4018 shall attach such explanation to the requisition for payment of
4019 the penalty or to the file copy of the check issued by the public
4020 body, as the case may be.



4021 (4) (a) In the event of a bona fide dispute as to an
4022 invoice, or any portion thereof, the dispute shall be settled
4023 within thirty (30) days after interest penalties could begin to be
4024 assessed, if it were not for the dispute.

4025 (b) If a warrant or check, as the case may be, in
4026 payment of an invoice, subject to a prior dispute, is not mailed
4027 or otherwise delivered within thirty (30) days after settlement of
4028 the dispute, the public body shall be liable to the vendor, in
4029 addition to the amount of the invoice, for interest at a rate of
4030 one and one-half percent (1-1/2%) per month or portion thereof on
4031 the unpaid balance from the expiration of said thirty-day period
4032 until such time as the warrant or check is mailed or otherwise
4033 delivered to the vendor. At the time of initiating such penalty
4034 payment, the public body shall specify in writing an explanation
4035 of the delay and shall attach such explanation to the requisition
4036 for payment of the penalty or to the file copy of the check issued
4037 by the public body, as the case may be. The interest penalty
4038 prescribed in this paragraph shall be in lieu of the penalty
4039 provided in subsection (3).

4040 **SECTION 73.** Section 31-7-307, Mississippi Code of 1972, is
4041 brought forward as follows:

4042 31-7-307. (1) The budget request submitted by a public body
4043 to the Legislature shall specifically disclose the amount of any
4044 interest paid by any public body pursuant to Sections 31-7-301
4045 through 31-7-317. However, no provision of Sections 31-7-301



4046 through 31-7-317 authorizes a new appropriation to cover such
4047 interest penalties, and public bodies shall not seek to increase
4048 appropriations for the purpose of obtaining funds to pay any
4049 interest penalties.

4050 (2) All public bodies of the state, including those which
4051 issue checks and those which file requisitions for payment with
4052 the State Fiscal Management Board, shall monthly notify the State
4053 Fiscal Management Board of the number and dollar amount of late
4054 payments by the public body along with the amounts of interest
4055 paid and the specific steps being taken to reduce the incidence of
4056 late payments.

4057 (3) If the terms of the invoice provide a discount for
4058 payment in less than forty-five (45) days, public bodies shall
4059 preferentially process it and use all diligence to obtain the
4060 savings by compliance with the invoice terms, if it would be cost
4061 effective.

4062 **SECTION 74.** Section 31-7-309, Mississippi Code of 1972, is
4063 brought forward as follows:

4064 31-7-309. Whenever a vendor brings formal administrative or
4065 judicial action to collect interest due under Sections 31-7-301
4066 through 31-7-317, the public body shall be required to pay any
4067 reasonable attorney's fees if the vendor prevails.

4068 **SECTION 75.** Section 31-7-311, Mississippi Code of 1972, is
4069 brought forward as follows:



4070 31-7-311. The State Fiscal Management Board shall submit to
4071 the Appropriations Committee of each house of the Legislature by
4072 January 15 of each year a report summarizing the payment record
4073 for the preceding fiscal year. The report shall include the
4074 number and dollar amount of late payments by each public body
4075 along with the amounts of interest paid and the specific steps
4076 being taken to reduce the incidence of late payments.

4077 **SECTION 76.** Section 31-7-313, Mississippi Code of 1972, is
4078 brought forward as follows:

4079 31-7-313. The State Fiscal Management Board is authorized
4080 and directed to adopt and promulgate rules and regulations
4081 necessary to implement this section.

4082 **SECTION 77.** Section 31-7-315, Mississippi Code of 1972, is
4083 brought forward as follows:

4084 31-7-315. Sections 31-7-301 through 31-7-317 shall not
4085 affect payment under public works contracts as provided in
4086 Sections 31-5-25 and 31-5-27, Mississippi Code of 1972.

4087 **SECTION 78.** Section 31-7-317, Mississippi Code of 1972, is
4088 brought forward as follows:

4089 31-7-317. (1) The Governor's Office of General Services
4090 shall study the feasibility of:

4091 (a) Requiring the Bureau of Purchasing to act as
4092 purchasing agent for state agencies;



4093 (b) Requiring the Bureau of Purchasing to purchase
4094 frequently used products and supplies and warehouse them for state
4095 agencies, especially in the Jackson metropolitan area; and

4096 (c) A small business/minority set-aside program.

4097 (2) On or before January 15, 1987, the Governor's Office of
4098 General Services shall transmit its written report of the
4099 feasibility studies to the Legislature, along with its
4100 recommendations and an estimate of the fiscal impact of the
4101 recommendations. If the Governor's Office of General Services
4102 recommends that the bureau should be required to act as purchasing
4103 agent for smaller state agencies, the report shall include a list
4104 of state agencies to be included.

4105 **SECTION 79.** Section 31-7-401, Mississippi Code of 1972, is
4106 brought forward as follows:

4107 31-7-401. Except as otherwise provided by law, the
4108 provisions of Sections 31-7-401 through 31-7-423 shall apply to
4109 every procurement of commodities, supplies, equipment,
4110 construction, technology, personal and professional services other
4111 than those in Section 27-104-7(2)(f) and (8), state agency
4112 employee benefits, supplemental insurance and cafeteria plans,
4113 that are solicited by any state agency by a request for proposals
4114 or request for qualifications. The following provisions are
4115 intended to ensure that the best practices for soliciting requests
4116 for proposals or requests for qualifications are implemented. Any
4117 agency that is required to receive approval by the Public



4118 Procurement Review Board before entering into a personal or
4119 professional services contract as provided in subsection (2)(g) of
4120 Section 27-104-7 shall implement the best practices specified in
4121 Sections 31-7-401 through 31-7-423. The Public Procurement Review
4122 Board shall promulgate any necessary rules and regulations to
4123 administer the provisions of Sections 31-7-401 through 31-7-423.

4124 **SECTION 80.** Section 31-7-403, Mississippi Code of 1972, is
4125 brought forward as follows:

4126 31-7-403. **Conditions for use.** (1) Competitive sealed
4127 bidding is the preferred method of procurement; however, if it is
4128 not practicable and advantageous, a request for proposals or
4129 request for qualifications may be used. The terms "practicable"
4130 and "advantageous" are to be given ordinary dictionary meanings.
4131 The term "practicable" denotes what may be accomplished or put
4132 into practical application. "Advantageous" denotes a judgmental
4133 assessment of what is in the state's best interest.

4134 (2) The following factors shall be considered when
4135 determining advantageousness:

4136 (a) The need for flexibility;

4137 (b) The type of evaluations that will be needed after
4138 offers are received;

4139 (c) Whether the evaluation factors involve the relative
4140 abilities of offerers to perform, including degrees of technical
4141 or professional experience or expertise;



4142 (d) Whether the type of need to be satisfied involves
4143 weighing artistic and aesthetic values to the extent that price is
4144 a secondary consideration;

4145 (e) Whether the types of supplies, services or
4146 construction may require the use of comparative judgmental
4147 evaluations to evaluate them adequately; and

4148 (f) Whether prior procurements indicate that a request
4149 for proposals may result in more beneficial contracts for the
4150 state.

4151 (3) The following factors shall be considered when
4152 determining practicability:

4153 (a) Whether the contract needs to be a contract other
4154 than a fixed-price type contract;

4155 (b) Whether oral or written discussions may need to be
4156 conducted with offerers concerning technical and price aspects of
4157 their proposals;

4158 (c) Whether offerers may need to be afforded the
4159 opportunity to revise their proposals, including price;

4160 (d) Whether the award may need to be based upon a
4161 comparative evaluation of differing price and contractual factors
4162 as well as quality factors that include technical and performance
4163 capability and the content of the technical proposal; and

4164 (e) Whether the primary consideration in determining
4165 award may not be price.



4166 (4) On or before January 1 of each year, and every time a
4167 chief procurement officer is hired, each state agency shall
4168 provide to the state purchasing agent the name of the state
4169 agency's chief procurement officer and information identifying the
4170 state agency's central purchasing office, if applicable. If the
4171 chief procurement officer of an agency or his or her designee
4172 determines, in writing, that the use of competitive sealed bidding
4173 is either not practicable or not advantageous to the state, he or
4174 she shall submit a detailed explanation of the reasons for that
4175 determination to the Public Procurement Review Board. If the
4176 Public Procurement Review Board determines that competitive sealed
4177 bidding is either not practicable or not advantageous to the
4178 state, then a contract may be entered into for the procurement of
4179 commodities, supplies, equipment, construction, technology,
4180 personal and professional services, state agency purchased
4181 employee benefits or state agency supplemental insurance and
4182 cafeteria plans, by a request for proposals or request for
4183 qualifications. However, these procurements contracted for
4184 through a request for proposals or request for qualifications may
4185 not be combined or included in a contract with other procurements
4186 that are required to be procured through competitive sealed
4187 bidding so as to avoid the statutory obligation for procurement
4188 through competitive sealed bidding. The board may modify or
4189 revoke its determination at any time, and the determination should
4190 be reviewed for current applicability from time to time.



4191 In addition to determining whether a request for proposals or
4192 request for qualifications would be practicable and advantageous
4193 to the state, when making the decision to use a request for
4194 proposals or request for qualifications, the chief procurement
4195 officer shall consider the following factors:

4196 (a) Whether quality, availability or capability is
4197 overriding in relation to price in procurements for research and
4198 development, technical supplies or services;

4199 (b) Whether the initial installation needs to be
4200 evaluated together with later maintenance and service capabilities
4201 and what priority should be given to these requirements in the
4202 best interests of the state; and

4203 (c) Whether the marketplace will respond better to a
4204 solicitation permitting not only a range of alternative proposals
4205 but evaluation and discussion of them before making the award.

4206 **SECTION 81.** Section 31-7-405, Mississippi Code of 1972, is
4207 brought forward as follows:

4208 31-7-405. **Content of the request for proposals or request**
4209 **for qualifications.** (1) The request for proposals or request for
4210 qualifications shall include the following:

4211 (a) Instructions and information to offerers concerning
4212 the request for proposals or request for qualifications submission
4213 requirements, including the time and date set for receipt of
4214 proposals or qualifications, the address of the office to which
4215 proposals or qualifications are to be delivered, the maximum time



4216 for proposal or qualification acceptance by the state, the manner
4217 in which proposals or qualifications are to be submitted,
4218 including any forms for that purpose and any other special
4219 information;

4220 (b) The purchase description, evaluation factors,
4221 delivery or performance schedule and any inspection and acceptance
4222 requirements that are not included in the purchase description;

4223 (c) The contract terms and conditions, including
4224 warranty and bonding or other security requirements, as
4225 applicable;

4226 (d) A statement that discussions may be conducted with
4227 offerers who submit proposals or qualifications determined to be
4228 reasonably susceptible of being selected for the award, but that
4229 proposals or qualifications may be accepted without such
4230 discussions; and

4231 (e) A statement of when and how price should be
4232 submitted.

4233 (2) The request for proposals or request for qualifications
4234 may incorporate documents by reference provided that the request
4235 for proposals or request for qualifications specifies where those
4236 documents can be obtained.

4237 (3) Proposal or qualification preparation time shall be set
4238 to provide offerers a reasonable time to prepare their proposals
4239 or qualifications. A minimum of thirty (30) days shall be
4240 provided unless a shorter time is deemed necessary for a



4241 particular procurement as determined in writing by the chief
4242 procurement officer of the requesting agency.

4243 **SECTION 82.** Section 31-7-407, Mississippi Code of 1972, is
4244 brought forward as follows:

4245 31-7-407. **Public notice.** (1) In addition to any method of
4246 public notice regarding the solicitation of requests for proposals
4247 or requests for qualifications currently being used by state
4248 agencies, the chief procurement officer shall also have posted on
4249 the Mississippi procurement portal and on the soliciting agency's
4250 website, public notification of a pending procurement through
4251 request for proposals or request for qualifications. The notice
4252 shall include the following:

4253 (a) The due date for responses;

4254 (b) The name and phone number of the officer conducting
4255 the procurement; and

4256 (c) The means of obtaining the solicitation.

4257 (2) The notice shall be posted at least thirty (30) days
4258 before the date that proposals or qualifications are to be
4259 submitted to the chief procurement officer, unless a shorter time
4260 is deemed necessary for a particular procurement as determined in
4261 writing by the chief procurement officer of the requesting agency.

4262 (3) Each chief procurement officer may determine that other
4263 methods of public notification are best for that particular agency
4264 or that particular request for proposals or request for
4265 qualifications. If such a determination is made, the chief



4266 procurement officer may provide notice in an alternative manner
4267 about the request for proposals or request for qualifications in
4268 addition to the methods provided for in Sections 31-7-401 through
4269 31-7-423.

4270 (4) The Department of Finance and Administration (DFA) shall
4271 monitor agency websites and the Mississippi procurement portal to
4272 ensure that the agencies are posting the required notice. DFA
4273 shall audit agencies and report its findings to the Chairs of the
4274 House of Representatives and Senate Accountability, Efficiency and
4275 Transparency Committees and House of Representatives and Senate
4276 Appropriations Committees by December 31 of each year.

4277 **SECTION 83.** Section 31-7-409, Mississippi Code of 1972, is
4278 brought forward as follows:

4279 31-7-409. **Pre-proposal conferences.** (1) Pre-proposal
4280 conferences may be conducted to explain the procurement
4281 requirements. If a chief procurement officer plans to hold such a
4282 conference, he or she shall prominently place the notification in
4283 the request for proposals or request for qualifications
4284 solicitation. The notification shall include the date, time and
4285 location of the conference. If the chief procurement officer
4286 decides to hold a pre-proposal conference after the request for
4287 proposals or request for qualifications has been sent out, then he
4288 or she shall notify all prospective offerers known to have
4289 received a request for proposals or request for qualifications.



4290 (2) If a pre-proposal conference is held, it shall be at
4291 least fourteen (14) days after the request for proposals or
4292 request for qualifications has been issued. In setting the time
4293 for the conference, the chief procurement officer shall consider
4294 the complexity of the procurement and the potential modifications
4295 that may need to be made after the conference and any amendments
4296 to the solicitation that the chief procurement officer may need to
4297 make after the conference.

4298 (3) The chief procurement officer issuing the request for
4299 proposals or request for qualifications shall serve as chair of
4300 the conference. Offerers attending the conference shall be
4301 required to sign an attendance sheet provided by the soliciting
4302 agency. The chair shall announce at the beginning of the
4303 conference how the conference is to be handled. The conference
4304 shall be recorded. A chief procurement officer may mandate
4305 attendance at a conference if he or she feels it is critical to
4306 understanding the solicitation. Once the conference is over, the
4307 chief procurement officer shall put the recordings from the
4308 conference and the questions and answers from the conference in
4309 writing and send them to the offerers who received the request for
4310 proposals or request for qualifications and post them on the
4311 Mississippi procurement portal and the soliciting agency's
4312 website.

4313 **SECTION 84.** Section 31-7-411, Mississippi Code of 1972, is
4314 brought forward as follows:



4315 31-7-411. **Drafting the request for proposals or request for**
4316 **qualifications.** (1) In addition to the items listed in Sections
4317 31-7-401 through 31-7-423, the contents of a request for proposals
4318 or request for qualifications shall also include the following:

4319 (a) A statement that discussions may be conducted with
4320 offerers who submit proposals or qualifications determined to be
4321 reasonably susceptible of being selected for the award, but that
4322 proposals or qualifications may also be accepted without those
4323 discussions; and

4324 (b) A statement of when and how price should be
4325 submitted.

4326 (2) The request for proposals or request for qualifications
4327 shall indicate, either by the order listed, weights or some other
4328 manner, the order of importance of the evaluation criteria.

4329 (3) The request for proposals or request for qualifications,
4330 its amendments, the offerer's proposals or qualifications and the
4331 best and final offer shall constitute the contract.

4332 **SECTION 85.** Section 31-7-413, Mississippi Code of 1972, is
4333 brought forward as follows:

4334 31-7-413. **Evaluation factors in the request for proposals or**
4335 **request for qualifications.** (1) When the chief procurement
4336 officer submits the determination that the use of competitive
4337 sealed bidding is either not practicable or not advantageous to
4338 the state to the Public Procurement Review Board for its approval,
4339 he or she shall include in that submission the evaluation factors



4340 that will be used in reviewing the submitted proposals or
4341 qualifications. The evaluation factors shall be approved by the
4342 Public Procurement Review Board in the same way that the decision
4343 to solicit procurements through a request for proposals or request
4344 for qualifications must be approved.

4345 (2) (a) The request for proposals or request for
4346 qualifications shall state all of the approved evaluation factors,
4347 including price, and their relative importance. When the chief
4348 procurement officer is determining the weights and importance of
4349 each evaluation factor, price as an evaluation factor shall be
4350 given the highest criteria weighting and at least thirty-five
4351 percent (35%) out of the one hundred percent (100%) total weight
4352 of all the other evaluation factors. The evaluation shall be
4353 based on the evaluation factors set forth in the request for
4354 proposals or request for qualifications. The evaluation factors
4355 used and the weights given to each shall be decided and agreed to
4356 by the evaluation committee before the opening of any proposal or
4357 qualification. Numerical rating systems shall be used when
4358 determining the weight and importance of each evaluation factor.
4359 Factors not specified in the request for proposals or request for
4360 qualifications shall not be considered. Upon completion of the
4361 evaluation, the evaluation score sheets used to review the
4362 submitted proposals or qualifications shall be made part of the
4363 report required under Section 31-7-423(1).



4364 (b) The following, as appropriate to individual
4365 circumstances, shall be used as criteria for evaluating requests
4366 for proposals or requests for qualifications under the request for
4367 proposals or request for qualifications process described in
4368 Sections 31-7-401 through 31-7-423. These factors are not
4369 intended to be limiting or all-inclusive, and they may be adapted
4370 or supplemented in order to meet a soliciting agency's individual
4371 needs as the competitive procurement process requires.

4372 (i) Technical factors (Proposed methodology):

4373 a. Does the offerer's proposal or
4374 qualification demonstrate a clear understanding of the scope of
4375 work and related objectives?

4376 b. Is the offerer's proposal or
4377 qualification complete and responsive to the specific request for
4378 proposals or request for qualifications requirements?

4379 c. Has the past performance of the
4380 offerer's proposed methodology been documented?

4381 d. Does the offerer's proposal or
4382 qualification use innovative technology and techniques?

4383 (ii) Management factors (Factors that will require
4384 the identity of the offerer to be revealed must be submitted
4385 separately from other factors):

4386 1. Project management:

4387 a. How well does the proposed scheduling
4388 timeline meet the needs of the soliciting agency?



4389 b. Is there a project management plan?

4390 2. History and experience in performing the
4391 work:

4392 a. Does the offerer document a record of
4393 reliability of timely delivery and on-time and on-budget
4394 implementation?

4395 b. Does the offerer demonstrate a track
4396 record of service as evidenced by on-time, on-budget, and contract
4397 compliance performance?

4398 c. Does the offerer document industry or
4399 program experience?

4400 d. Does the offerer have a record of
4401 poor business ethics?

4402 3. Availability of personnel, facilities,
4403 equipment and other resources:

4404 a. To what extent does the offerer rely
4405 on in-house resources vs. contracted resources?

4406 b. Are the availability of in-house and
4407 contract resources documented?

4408 4. Qualification and experience of personnel:

4409 a. Documentation of experience in
4410 performing similar work by employees and when appropriate,
4411 sub-contractors?

4412 b. Does the offerer demonstrate cultural
4413 sensitivity in hiring and training staff?



4414 (iii) Cost factors (Factors must be submitted
4415 separately from other factors unless specifically approved by the
4416 Public Procurement Review Board):

4417 1. Cost of goods to be provided or services
4418 to be performed:

4419 a. Relative cost: How does the cost
4420 compare to other similarly scored proposals or qualifications?

4421 b. Full explanation: Is the price and
4422 its component charges, fees, etc. adequately explained or
4423 documented?

4424 2. Assurances of performance:

4425 a. If required, are suitable bonds,
4426 warranties or guarantees provided?

4427 b. Does the proposal or qualification
4428 include quality control and assurance programs?

4429 3. Offerer's financial stability and
4430 strength: Does the offerer have sufficient financial resources to
4431 meet its obligations?

4432 **SECTION 86.** Section 31-7-415, Mississippi Code of 1972, is
4433 brought forward as follows:

4434 31-7-415. **Evaluation committee.** (1) Evaluation committees
4435 shall be used to evaluate request for proposals or request for
4436 qualifications and award contracts. Persons appointed to an
4437 evaluation committee shall have the relevant experience necessary
4438 to evaluate the proposal or qualification. The members of the



4439 evaluation committee shall have no personal, financial or familial
4440 interest in any of the contract offerers, or principals thereof,
4441 to be evaluated.

4442 (2) The names of the members of the evaluation committee
4443 shall not be publicly disclosed until their evaluation report as
4444 required under Section 31-7-423(1). The members' names and job
4445 titles shall be made available to the public. Where evaluation
4446 committee members are not public employees, those members' names,
4447 educational and professional qualifications, and practical
4448 experience, that were the basis for the appointment, shall be made
4449 available to the public.

4450 (3) Before evaluating proposals or qualifications, each
4451 individual participating in the evaluation of a proposal or
4452 qualification shall execute a statement in accordance with
4453 subsection (1) of this section certifying that he or she does not
4454 have a conflict of interest. The statement shall be filed with
4455 the chief procurement officer of the soliciting agency, before
4456 beginning the evaluation process. The certification shall be as
4457 follows:

4458 "I hereby certify that I have reviewed the conflict of
4459 interest standards prescribed herein, and that I do not have a
4460 conflict of interest with respect to the evaluation of this
4461 proposal or qualification. I further certify that I am not
4462 engaged in any negotiations or arrangements for prospective
4463 employment or association with any of the offerers submitting



4464 proposals or qualifications or their parent or subsidiary
4465 organization."

4466 (4) Committee members may conduct their work separately or
4467 together.

4468 (5) The committee may use advisors, as it deems necessary to
4469 give opinions on evaluating proposals or qualifications, except
4470 that such advisors shall be subject to the provisions of
4471 subsection (3) of this section. The names of the advisors shall
4472 be made public at the same time as members of the evaluation
4473 committee as provided in subsection (2) of this section. For the
4474 purposes of this section, the term "advisors" shall mean those
4475 individuals who provide such significant input to a member or
4476 members of the evaluation committee that the advisor's opinions
4477 are fundamental in shaping the committee member's evaluation of
4478 the submitted proposals or qualifications.

4479 (6) The process of establishing weighting criteria and
4480 evaluating proposals or qualifications shall result in a finding
4481 that a specific proposal or qualification is the most practical
4482 and advantageous, price and other factors considered, or that all
4483 proposals or qualifications should be rejected.

4484 **SECTION 87.** Section 31-7-417, Mississippi Code of 1972, is
4485 brought forward as follows:

4486 31-7-417. (1) Submitted proposals or qualifications shall
4487 be opened at the time designated for opening in the request for
4488 proposals or request for qualifications. Proposals or



4489 qualifications and modifications shall be date-stamped or time and
4490 date-stamped upon receipt and held in a secure place until the
4491 established due date. Electronic proposals or qualifications
4492 received will be stored in an electronic lockbox until the time
4493 designated for the opening of the proposal or qualification.

4494 (2) As each proposal or qualification is submitted but
4495 before those proposals or qualifications are opened, the chief
4496 procurement officer shall designate a person to prepare a register
4497 of proposals or qualifications, which shall include the number of
4498 modifications received, if any, and a description sufficient to
4499 identify the supply, service, commodity or other item offered.
4500 The designated person shall assign each submitted proposal or
4501 qualification an identifying letter, number, or combination
4502 thereof, without revealing the name of the offerer who submitted
4503 each proposal or qualification to the chief procurement officer or
4504 any person named to the evaluation committee for that proposal or
4505 qualification. The designated person shall keep the names of the
4506 offerers and their identifying numbers or letters, or combination
4507 thereof, in a sealed envelope or other secure location until
4508 factors not requiring knowledge of the name of the offerer have
4509 been evaluated and scored. If the designated person reveals the
4510 names of the offerers and the corresponding identifying
4511 information before such time, the procurement process shall be
4512 terminated and the proposal or qualifications resolicited. The



4513 register of proposals or qualifications shall be made part of the
4514 report required under Section 31-7-423(1).

4515 **SECTION 88.** Section 31-7-419, Mississippi Code of 1972, is
4516 brought forward as follows:

4517 31-7-419. **Evaluating submitted proposals or qualifications.**

4518 (1) The evaluation committee shall evaluate proposals or
4519 qualifications only in accordance with the methodology and
4520 weighting criteria described in the request for proposals or
4521 request for qualifications. Proposals or qualifications shall be
4522 initially classified as: (a) acceptable; (b) potentially
4523 acceptable, which means reasonably susceptible of being made
4524 acceptable; or (c) unacceptable. Offerers whose proposals or
4525 qualifications are unacceptable shall be so notified promptly.

4526 (2) Discussions may be held with offerers to:

4527 (a) Promote understanding of the state's requirements
4528 and the offerer's proposals or qualifications; and

4529 (b) Facilitate arriving at a contract that will be the
4530 most practicable and advantageous to the state taking into
4531 consideration price and the other evaluation factors set forth in
4532 the request for proposals or request for qualifications.

4533 (3) Offerers shall be accorded fair and equal treatment with
4534 respect to any opportunity for discussions and revisions of
4535 proposals or qualifications. Any discussions that take place
4536 under the provisions of this section shall be recorded and the
4537 recordings shall be made public upon award of the contract. The



4538 chief procurement officer shall establish procedures and schedules
4539 for conducting discussions. If, during discussions, there is a
4540 need for any substantial clarification of or change in the request
4541 for proposals or request for qualifications, the request shall be
4542 amended to incorporate the clarification or change. Auction
4543 techniques, revealing one offerer's price to another, and
4544 disclosure of any information derived from competing proposals is
4545 prohibited. Any substantial oral clarification of a proposal or
4546 qualification shall be reduced to writing by the offerer.

4547 **SECTION 89.** Section 31-7-421, Mississippi Code of 1972, is
4548 brought forward as follows:

4549 31-7-421. **Best and final offers.** The chief procurement
4550 officer shall establish a common date and time for the submission
4551 of best and final offers. Best and final offers shall be
4552 submitted only once; however, the chief procurement officer may
4553 make a written determination that it is in the state's best
4554 interest to conduct additional discussions or change the state's
4555 requirements and require another submission of best and final
4556 offers. Otherwise, no discussion of or changes in the best and
4557 final offers shall be allowed before the award. Offerers shall
4558 also be informed that if they do not submit a notice of withdrawal
4559 or another best and final offer, their immediate previous offer
4560 will be construed as their best and final offer.

4561 **SECTION 90.** Section 31-7-423, Mississippi Code of 1972, is
4562 brought forward as follows:



4563 31-7-423. **Awarding the contract.** (1) After proposals or
4564 qualifications have been evaluated, the evaluation committee shall
4565 prepare a report evaluating and recommending the award of a
4566 contract or contracts. The report shall list the names of all
4567 potential offerers who submitted a proposal or qualification and
4568 shall summarize the proposals or qualifications of each offerer.
4569 The report shall rank offerers in order of evaluation, shall
4570 recommend the selection of an offerer or offerers, as appropriate,
4571 for a contract, shall be clear in the reasons why the offerer or
4572 offerers have been selected among others considered, and shall
4573 detail the terms, conditions, scope of services, fees and other
4574 matters to be incorporated into the contract. The report shall be
4575 available to the public at least forty-eight (48) hours before the
4576 awarding of the contract.

4577 (2) The chief procurement officer shall publish a notice on
4578 the agency's website and the Mississippi procurement portal
4579 summarizing the award of the contract, which shall include, but
4580 not be limited to, the nature, duration and amount of the
4581 contract, the name of the offerer and a statement that the
4582 contract is on file and available for public inspection in the
4583 office of the chief procurement officer.

4584 **SECTION 91.** Section 31-8-1, Mississippi Code of 1972, is
4585 brought forward as follows:

4586 31-8-1. The purpose of this chapter is to provide a method
4587 to enable counties and municipalities to acquire public buildings,



4588 facilities and equipment through the use of rental contracts.
4589 This chapter shall be construed in conformity with such intention
4590 and shall be an alternative to those methods which may be
4591 otherwise provided by law.

4592 **SECTION 92.** Section 31-8-3, Mississippi Code of 1972, is
4593 brought forward as follows:

4594 31-8-3. The counties and municipalities of this state,
4595 acting by and through the governing authorities thereof, are
4596 hereby authorized and empowered to enter into lease agreements
4597 with any corporation, partnership, limited partnership, joint
4598 venture or individual under which the county or municipality may
4599 agree to lease a facility for use by the lessor for any of the
4600 following purposes for a primary term not to exceed twenty (20)
4601 years:

- 4602 (a) Public buildings;
- 4603 (b) Courthouses;
- 4604 (c) Office buildings;
- 4605 (d) Jails;
- 4606 (e) Auditoriums;
- 4607 (f) Community centers;
- 4608 (g) Civic art centers;
- 4609 (h) Public libraries;
- 4610 (i) Gymnasiums;
- 4611 (j) Fire stations; and



4612 (k) Machinery and equipment for use in connection with
4613 any of the above, but shall not include office furniture and/or
4614 office machines, provided that the primary term of a lease with
4615 respect to machinery and equipment shall not exceed the estimated
4616 useful economic life of such machinery and equipment, as such
4617 useful economic life is mutually agreed upon by the lessor and
4618 lessee.

4619 Nothing in this section shall be construed to authorize the
4620 acquisition of public school buildings through the use of rental
4621 contracts.

4622 **SECTION 93.** Section 31-8-5, Mississippi Code of 1972, is
4623 brought forward as follows:

4624 31-8-5. All such leases shall contain an option granting to
4625 the county or municipality the right to purchase the leased
4626 property upon the expiration of the primary term, or upon such
4627 earlier date as may be agreed upon, at a price not to exceed the
4628 unpaid principal balance at such time.

4629 **SECTION 94.** Section 31-8-7, Mississippi Code of 1972, is
4630 brought forward as follows:

4631 31-8-7. (1) The counties and municipalities of the state
4632 are authorized to lease publicly owned real property to any
4633 corporation, partnership, limited partnership, joint venture or
4634 individual for the purpose of enabling such person to construct or
4635 renovate thereon any of the buildings or facilities described in
4636 Section 31-8-1 and to lease such buildings and facilities to the



4637 county or municipality. No such ground lease shall be for a
4638 primary term in excess of the primary term of the lease with
4639 respect to the buildings and facilities to be constructed thereon.

4640 (2) The counties and municipalities of the state are
4641 authorized to sublease buildings and facilities leased pursuant to
4642 subsection (1) of this section to the United States Postal Service
4643 or to any state or federal governmental agency. Any sublease
4644 entered into pursuant to this subsection may contain an option
4645 granting the sublessee the right to purchase the leased property
4646 upon the expiration of the primary term of the sublease, or upon
4647 such earlier date as may be agreed upon, at a price not to exceed
4648 the unpaid principal balance at such time.

4649 Before entering into any lease agreement pursuant to this
4650 subsection, the board of supervisors or the governing authorities
4651 of the municipality shall follow and be subject to the same
4652 procedures regarding publishing notice, filing protest and holding
4653 an election specified for lease agreements under Section 31-8-11,
4654 except that the notice shall not state that the rental is a
4655 continuing obligation and a charge against the general credit and
4656 leasing power of the county or municipality.

4657 **SECTION 95.** Section 31-8-9, Mississippi Code of 1972, is
4658 brought forward as follows:

4659 31-8-9. Subject to the provisions of this chapter, any such
4660 lease agreement may extend over any period, notwithstanding any
4661 provision or rule of law to the contrary, and any such lease



4662 agreement shall be binding upon the county or municipality and any
4663 other party thereto in accordance with its terms. Any such lease
4664 agreement may include, at the discretion of the governing
4665 authorities entering into the same, a pledge of the full faith and
4666 credit of such county or municipality for the payment of its
4667 monetary obligations thereunder; or may contain a provision that
4668 so long as no default of any monetary obligation of the lessee has
4669 occurred, the lessee's obligation to pay any amounts due or
4670 perform any covenants requiring or resulting in the expenditure of
4671 money shall be contingent and expressly limited to the extent of
4672 any specific appropriation made by the governing authorities to
4673 fund such lease agreement, and that nothing contained in the lease
4674 agreement shall be construed as creating any monetary obligation
4675 on the part of the lessee beyond such current and specific
4676 appropriation. Obligations incurred by a county or municipality
4677 under the provisions of this chapter secured by a pledge of its
4678 full faith and credit shall be included within the limitation on
4679 bonded indebtedness established by law for counties and
4680 municipalities.

4681 **SECTION 96.** Section 31-8-11, Mississippi Code of 1972, is
4682 brought forward as follows:

4683 31-8-11. Before entering into any lease agreement pursuant
4684 to this chapter secured by a pledge of its full faith and credit,
4685 the governing authorities of any county or municipality shall
4686 publish notice of their intention to receive suitable proposals



4687 for the leasing of such buildings, facilities or equipment. Such
4688 notice shall specify the nature of the proposed building, facility
4689 or equipment, the general geographic area in which the same is to
4690 be located, the term of the proposed lease agreement, that the
4691 obligation to pay rentals during the primary term is to be a
4692 continuing obligation of and a charge against the general credit
4693 and leasing power of the county or municipality, and the date and
4694 hour on or before which such proposals may be received. Such
4695 notice shall be published by municipalities and counties in the
4696 same manner as required for publishing notice of intention to
4697 issue general obligation bonds of the county or municipality, as
4698 appropriate. If at least twenty percent (20%), or fifteen hundred
4699 (1500), of the qualified electors of a county, whichever is less,
4700 or at least ten percent (10%), or fifteen hundred (1500), of the
4701 qualified electors of a municipality, whichever is less, file a
4702 written protest with the appropriate governing authorities, then
4703 an election shall be called by the county in the same manner as
4704 provided for the issuance of county general obligation bonds in
4705 Sections 19-9-11 through 19-9-17, Mississippi Code of 1972, or by
4706 a municipality in the same manner as provided for the issuance of
4707 municipal general obligation bonds in Sections 21-33-307 through
4708 21-33-311, Mississippi Code of 1972, to determine whether or not
4709 the proposed lease agreement may be executed by the county or
4710 municipality. The lease agreement shall be advertised for
4711 competitive sealed proposals once each week for two (2)



4712 consecutive weeks in a regular newspaper published or having a
4713 general circulation in the county or municipality of the governing
4714 authority. The date as published for the proposal opening shall
4715 be not less than five (5) working days after the last published
4716 notice. The lease shall be awarded to the person submitting the
4717 lowest and best proposal; however, all proposals may be rejected.

4718 **SECTION 97.** Section 31-8-13, Mississippi Code of 1972, is
4719 brought forward as follows:

4720 31-8-13. This chapter, without reference to any other
4721 statute, shall be deemed to be full and complete authority for the
4722 authorization, execution and delivery of lease agreements
4723 authorized hereunder, and shall be construed as an additional and
4724 alternative method therefor, and none of the present restrictions,
4725 requirements, conditions and limitations of law applicable to the
4726 acquisition, construction and drawing of buildings or facilities
4727 in this state shall apply to lease agreements under this chapter,
4728 and no proceedings shall be required for the authorization,
4729 execution and delivery of such leases other than those required
4730 herein, and all powers necessary to be exercised in order to carry
4731 out the provisions of this chapter are hereby conferred.

4732 **SECTION 98.** Section 31-9-1, Mississippi Code of 1972, is
4733 brought forward as follows:

4734 31-9-1. (1) For purposes of this chapter, the term "Office
4735 of General Services" shall mean the Governor's Office of General
4736 Services acting through the Bureau of Surplus Property.



4737 (2) Wherever the term "Surplus Property Procurement
4738 Commission" appears in the laws of the State of Mississippi, it
4739 shall be construed to mean the Governor's Office of General
4740 Services.

4741 **SECTION 99.** Section 31-9-5, Mississippi Code of 1972, is
4742 brought forward as follows:

4743 31-9-5. (1) The Office of General Services with the
4744 approval of the Public Procurement Review Board shall negotiate
4745 and contract with any appropriate agency or commission of the
4746 United States government or of the State of Mississippi for the
4747 purpose of purchasing or otherwise securing surplus material or
4748 property in bulk lots or quantities, and for the purpose of
4749 assisting all agencies, departments, institutions and
4750 instrumentalities of the State of Mississippi, the boards of
4751 supervisors of the various counties, and the governing authorities
4752 of the various municipalities, drainage districts and other taxing
4753 units in purchasing, leasing or otherwise securing surplus
4754 material or property. After ascertaining the needs of the various
4755 state departments and institutions, counties, municipalities,
4756 drainage districts and other taxing units, the Office of General
4757 Services may enter into contracts with the governing authorities
4758 of such governmental entities as will enable them to carry out the
4759 provisions of this section.

4760 (2) The Office of General Services also may acquire state or
4761 federal government surplus property for nonprofit and tax exempt



4762 health and educational institutions, Boy Scouts, Girl Scouts, Camp
4763 Fire Girls, military academies, volunteer fire departments,
4764 nonprofit cooperative water associations, Boys Clubs of America
4765 and Girls Clubs of America; however, deliveries to these
4766 institutions shall be made only after they have established their
4767 eligibility by meeting the requirements of the federal government,
4768 have requested the Office of General Services to act for them in
4769 acquiring government surplus property, and have agreed to comply
4770 with both the state and federal laws pertaining to acquisition and
4771 utilization of the property.

4772 (3) Any state agency, with the approval of the Office of
4773 General Services, is authorized and empowered, in the discretion
4774 of the governing board or authority of the state agency, to donate
4775 goods or services for the support of any local chapter of the
4776 American Red Cross. This subsection (3) shall stand repealed from
4777 and after July 1, 2005.

4778 (4) The Office of General Services may do all other things
4779 which may be necessary to effectuate the purposes of this section.

4780 **SECTION 100.** Section 31-9-9, Mississippi Code of 1972, is
4781 brought forward as follows:

4782 31-9-9. All laws or parts of laws requiring the various
4783 state institutions, departments, and agencies, the boards of
4784 supervisors of the various counties, and the governing authorities
4785 of the various municipalities, drainage districts, and other
4786 taxing units to advertise or request and receive bids for the



4787 purchase of furniture, equipment, supplies, and other commodities
4788 are hereby waived for the purposes of this chapter and shall not
4789 be applicable to purchases made hereunder.

4790 **SECTION 101.** Section 31-9-13, Mississippi Code of 1972, is
4791 brought forward as follows:

4792 31-9-13. In lieu of regular appropriations, the Department
4793 of Finance and Administration may assess against each institution,
4794 agency or individual acquiring surplus property from and through
4795 the Department of Finance and Administration a fee or commission
4796 on each item in sufficient amount to establish and maintain a
4797 revolving fund, to be used to operate and support the Department
4798 of Finance and Administration, Office of Surplus Property's
4799 Federal Donation program. The Department of Finance and
4800 Administration shall follow the procedure outlined by the United
4801 States General Services Administration in establishing the fund,
4802 and the fund shall never exceed more than One Million Dollars
4803 (\$1,000,000.00) above and beyond four (4) months of operating
4804 expenses of the Department of Finance and Administration.

4805 With this revolving fund so acquired, the Department of
4806 Finance and Administration shall meet all items of expense
4807 incurred in acquiring, transporting, warehousing and distributing
4808 property to eligible applicants and also all items of expense
4809 incident to the operation of the offices of the Department of
4810 Finance and Administration, including salaries, office supplies



4811 and necessary general expenses, and all other items as are covered
4812 by legislative appropriation for those purposes.

4813 The Department of Finance and Administration may escalate,
4814 budget and expend funds from the revolving fund in an amount not
4815 to exceed Two Hundred Fifty Thousand Dollars (\$250,000.00) in any
4816 one fiscal year to carry out the provisions of this section.

4817 **SECTION 102.** Section 31-9-15, Mississippi Code of 1972, is
4818 brought forward as follows:

4819 31-9-15. The Office of General Services shall furnish to the
4820 State Auditor of Public Accounts copies of transfers of property
4821 to state boards, commissions and agencies on all property
4822 transferred to such agencies, federal reviews, in addition to an
4823 inventory on all furniture, equipment, machinery and vehicles used
4824 by the Office of General Services in carrying out the purposes of
4825 this chapter. The Office of General Services shall likewise keep
4826 a perpetual current inventory on all property in books and
4827 records.

4828 **SECTION 103.** Section 31-11-1, Mississippi Code of 1972, is
4829 brought forward as follows:

4830 31-11-1. (1) For purposes of this chapter, the term "State
4831 Building Commission" shall mean the Governor's Office of General
4832 Services acting through the Bureau of Building, Grounds and Real
4833 Property Management.

4834 (2) Wherever the term "State Building Commission" or
4835 "building commission" appears in the laws of the State of



4836 Mississippi, it shall be construed to mean the Governor's Office
4837 of General Services.

4838 **SECTION 104.** Section 31-11-3, Mississippi Code of 1972, is
4839 brought forward as follows:

4840 31-11-3. (1) The Department of Finance and Administration,
4841 for the purposes of carrying out the provisions of this chapter,
4842 in addition to all other rights and powers granted by law, shall
4843 have full power and authority to employ and compensate architects
4844 or other employees necessary for the purpose of making
4845 inspections, preparing plans and specifications, supervising the
4846 erection of any buildings, and making any repairs or additions as
4847 may be determined by the Department of Finance and Administration
4848 to be necessary, pursuant to the rules and regulations of the
4849 State Personnel Board. The department shall have entire control
4850 and supervision of, and determine what, if any, buildings,
4851 additions, repairs, demolitions or improvements are to be made
4852 under the provisions of this chapter, subject to the regulations
4853 adopted by the Public Procurement Review Board.

4854 (2) The department shall have full power to erect buildings,
4855 make repairs, additions or improvements, demolitions, to grant or
4856 acquire easements or rights-of-way, and to buy materials, supplies
4857 and equipment for any of the institutions or departments of the
4858 state subject to the regulations adopted by the Public Procurement
4859 Review Board. In addition to other powers conferred, the
4860 department shall have full power and authority, as directed by the



4861 Legislature, or when funds have been appropriated for its use for
4862 these purposes, to:

4863 (a) Build a state office building;

4864 (b) Build suitable plants or buildings for the use and
4865 housing of any state schools or institutions, including the
4866 building of plants or buildings for new state schools or
4867 institutions, as provided for by the Legislature;

4868 (c) Provide state aid for the construction of school
4869 buildings;

4870 (d) Promote and develop the training of returned
4871 veterans of the United States in all sorts of educational and
4872 vocational learning to be supplied by the proper educational
4873 institution of the State of Mississippi, and in so doing allocate
4874 monies appropriated to it for these purposes to the Governor for
4875 use by him in setting up, maintaining and operating an office and
4876 employing a state director of on-the-job training for veterans and
4877 the personnel necessary in carrying out Public Law No. 346 of the
4878 United States;

4879 (e) Build and equip a hospital and administration
4880 building at the Mississippi State Penitentiary;

4881 (f) Build and equip additional buildings and wards at
4882 the Boswell Retardation Center;

4883 (g) Construct a sewage disposal and treatment plant at
4884 the Mississippi State Hospital, and in so doing acquire additional



4885 land as may be necessary, and to exercise the right of eminent
4886 domain in the acquisition of this land;

4887 (h) Build and equip the Mississippi central market and
4888 purchase or acquire by eminent domain, if necessary, any lands
4889 needed for this purpose;

4890 (i) Build and equip suitable facilities for a training
4891 and employing center for the blind;

4892 (j) Build and equip a gymnasium at Columbia Training
4893 School;

4894 (k) Approve or disapprove the expenditure of any money
4895 appropriated by the Legislature when authorized by the bill making
4896 the appropriation;

4897 (l) Expend monies appropriated to it in paying the
4898 state's part of the cost of any street paving;

4899 (m) Sell and convey state lands when authorized by the
4900 Legislature, cause said lands to be properly surveyed and platted,
4901 execute all deeds or other legal instruments, and do any and all
4902 other things required to effectively carry out the purpose and
4903 intent of the Legislature. Any transaction which involves state
4904 lands under the provisions of this paragraph shall be done in a
4905 manner consistent with the provisions of Section 29-1-1;

4906 (n) Collect and receive from educational institutions
4907 of the State of Mississippi monies required to be paid by these
4908 institutions to the state in carrying out any veterans'
4909 educational programs;



4910 (o) Purchase lands for building sites, or as additions
4911 to building sites, for the erection of buildings and other
4912 facilities which the department is authorized to erect, and
4913 demolish and dispose of old buildings, when necessary for the
4914 proper construction of new buildings. Any transaction which
4915 involves state lands under the provisions of this paragraph shall
4916 be done in a manner consistent with the provisions of Section
4917 29-1-1;

4918 (p) Obtain business property insurance with a
4919 deductible of not less than One Hundred Thousand Dollars
4920 (\$100,000.00) on state-owned buildings under the management and
4921 control of the department; and

4922 (q) In consultation with and approval by the Chairmen
4923 of the Public Property Committees of the Senate and the House of
4924 Representatives, enter into contracts for the purpose of providing
4925 parking spaces for state employees who work in the Woolfolk
4926 Building, the Carroll Gartin Justice Building or the Walter
4927 Sillers Office Building.

4928 (r) The department is hereby authorized to transfer up
4929 to One Million Dollars (\$1,000,000.00) of available bond funds to
4930 each community college requesting to be exempt from department
4931 control and supervision relating to the repair, renovation and
4932 improvement of existing facilities owned by the community
4933 colleges, including utility infrastructure projects; heating and
4934 air conditioning systems; and the replacement of furniture and



4935 equipment. The community colleges shall abide by all applicable
4936 statutes related to the purchase of the repair, renovation and
4937 improvement of such existing facilities.

4938 (3) The department shall survey state-owned and
4939 state-utilized buildings to establish an estimate of the costs of
4940 architectural alterations, pursuant to the Americans With
4941 Disabilities Act of 1990, 42 USCS, Section 12111 et seq. The
4942 department shall establish priorities for making the identified
4943 architectural alterations and shall make known to the Legislative
4944 Budget Office and to the Legislature the required cost to
4945 effectuate such alterations. To meet the requirements of this
4946 section, the department shall use standards of accessibility that
4947 are at least as stringent as any applicable federal requirements
4948 and may consider:

4949 (a) Federal minimum guidelines and requirements issued
4950 by the United States Architectural and Transportation Barriers
4951 Compliance Board and standards issued by other federal agencies;

4952 (b) The criteria contained in the American Standard
4953 Specifications for Making Buildings Accessible and Usable by the
4954 Physically Handicapped and any amendments thereto as approved by
4955 the American Standards Association, Incorporated (ANSI Standards);

4956 (c) Design manuals;

4957 (d) Applicable federal guidelines;

4958 (e) Current literature in the field;

4959 (f) Applicable safety standards; and



4960 (g) Any applicable environmental impact statements.

4961 (4) The department shall observe the provisions of Section
4962 31-5-23 in letting contracts and shall use Mississippi products,
4963 including paint, varnish and lacquer which contain as vehicles
4964 tung oil and either ester gum or modified resin (with rosin as the
4965 principal base of constituents), and turpentine shall be used as a
4966 solvent or thinner, where these products are available at a cost
4967 not to exceed the cost of products grown, produced, prepared, made
4968 or manufactured outside of the State of Mississippi.

4969 (5) The department shall have authority to accept grants,
4970 loans or donations from the United States government or from any
4971 other sources for the purpose of matching funds in carrying out
4972 the provisions of this chapter.

4973 (6) The department shall build a wheelchair ramp at the War
4974 Memorial Building which complies with all applicable federal laws,
4975 regulations and specifications regarding wheelchair ramps.

4976 (7) The department shall review and preapprove all
4977 architectural or engineering service contracts entered into by any
4978 state agency, institution, commission, board or authority,
4979 regardless of the source of funding used to defray the costs of
4980 the construction or renovation project, for which services are to
4981 be obtained to ensure compliance with purchasing regulations and
4982 to confirm that the contracts are procured by a competitive
4983 qualification-based selection process except where such
4984 appointment is for an emergency project or for a continuation of a



4985 previous appointment for a directly related project. The
4986 provisions of this subsection (7) shall not apply to:

4987 (a) Any architectural or engineering contract fully
4988 paid for by self-generated funds of any of the state institutions
4989 of higher learning;

4990 (b) Any architectural or engineering contract that is
4991 self-administered at a state institution of higher learning as
4992 provided under Section 27-104-7(2) (b) or 37-101-15(m);

4993 (c) Community college projects that are fully funded
4994 from local funds or other nonstate sources which are outside the
4995 Department of Finance and Administration's appropriations or as
4996 directed by the Legislature;

4997 (d) Any construction or design projects of the State
4998 Military Department that are fully or partially funded from
4999 federal funds or other nonstate sources; and

5000 (e) Any project of the State Department of
5001 Transportation.

5002 (8) (a) The department shall have the authority to obtain
5003 annually from the state institutions of higher learning, the state
5004 community colleges and junior colleges, the Department of Mental
5005 Health, the Department of Corrections and the Department of
5006 Wildlife, Fisheries and Parks information on all renovation and
5007 repair expenditures for buildings under their operation and
5008 control, including duties, responsibilities and costs of any
5009 architect or engineer hired by any such institutions, and shall



5010 annually report the same to the Legislative Budget Office, the
5011 Chairman of the House Public Property Committee and the Chairman
5012 of the Senate Public Property Committee before September 1.

5013 (b) All state agencies, departments and institutions
5014 are required to cooperate with the Department of Finance and
5015 Administration in carrying out the provisions of this subsection.

5016 (c) Expenditures shall not include those amounts
5017 expended for janitorial, landscaping or administrative support,
5018 but shall include expenditures from both state and nonstate
5019 sources.

5020 (d) Expenditures shall not include amounts expended by
5021 the department on behalf of state agencies, departments and
5022 institutions through the Department of Finance and Administration
5023 administered contracts, but shall include amounts transferred to
5024 the Department of Finance and Administration for support of such
5025 contracts.

5026 (9) As an alternative to other methods of awarding contracts
5027 as prescribed by law, the department may elect to use the method
5028 of contracting for construction projects set out in Sections
5029 31-7-13.1 and 31-7-13.2; however, the design-build method of
5030 construction contracting authorized under Section 31-7-13.1 may be
5031 used only when the Legislature has specifically required or
5032 authorized the use of this method in the legislation authorizing a
5033 project.



5034 (10) The department shall have the authority, for the
5035 purposes of carrying out the provisions of this chapter, and in
5036 addition to all other rights and powers granted by law, to create
5037 and maintain a list of suspended and debarred contractors and
5038 subcontractors. Consistent with this authority, the department
5039 may adopt regulations governing the suspension or debarment of
5040 contractors and subcontractors, which regulations shall be subject
5041 to the approval of the Public Procurement Review Board. A
5042 suspended or debarred contractor or subcontractor shall be
5043 disqualified from consideration for contracts with the department
5044 during the suspension or debarment period in accordance with the
5045 department's regulations.

5046 (11) This section shall not apply to the Mississippi State
5047 Port Authority.

5048 **SECTION 105.** Section 31-11-4, Mississippi Code of 1972, is
5049 brought forward as follows:

5050 31-11-4. (1) There is hereby created the Facilities
5051 Management Advisory Committee, hereinafter referred to as the
5052 "committee," for the purpose of advising the Bureau of Building,
5053 Grounds and Real Property Management, Department of Finance and
5054 Administration, with its duties of preplanning, construction,
5055 repair and renovation for buildings of all state agencies,
5056 institutions and departments.

5057 (2) The committee shall be composed of the following eight
5058 (8) members:



5059 (a) The Chairman and Vice Chairman of the Senate Public
5060 Property Committee;

5061 (b) The Chairman and Vice Chairman of the House Public
5062 Building, Grounds and Lands Committee;

5063 (c) Two (2) Senators appointed by the Lieutenant
5064 Governor; and

5065 (d) Two (2) Representatives appointed by the Speaker of
5066 the House of Representatives.

5067 (3) The committee shall advise the Bureau of Building,
5068 Grounds and Real Property Management with its duties of
5069 preplanning, construction, repair and renovation for buildings of
5070 all state agencies, institutions and departments, including but
5071 not limited to the following:

5072 (a) Traveling with the Bureau of Building, Grounds and
5073 Real Property Management to inspect and consider requests for
5074 improvement and repair of buildings of state agencies,
5075 institutions and departments;

5076 (b) Acquiring a working knowledge of state building
5077 matters in order to become leaders in facility related
5078 legislation; and

5079 (c) Advising and making recommendations to the
5080 Legislature on matters relating to preplanning, construction,
5081 repair and renovation for all state buildings.



5082 (4) The members of the committee shall have no jurisdiction
5083 or vote on any matter within the jurisdiction of the Bureau of
5084 Building, Grounds and Real Property Management.

5085 (5) No committee member may receive per diem, travel or
5086 other expenses unless authorized by the Management Committees of
5087 the Senate and the House of Representatives. Members of the
5088 committee shall be paid from the contingent expense funds of the
5089 Senate and the House of Representatives in the same amounts as
5090 provided for committee meetings when the Legislature is not in
5091 session; however, no per diem or expense for attending meetings
5092 of the committee will be paid while the Legislature is in session.

5093 **SECTION 106.** Section 31-11-7, Mississippi Code of 1972, is
5094 brought forward as follows:

5095 31-11-7. The Office of General Services shall submit a full
5096 report of its work and all transactions carried on by it and a
5097 complete statement of all expenditures made by it, to each regular
5098 session of the Legislature or to a special session before that
5099 time if its work has been completed.

5100 **SECTION 107.** Section 31-11-25, Mississippi Code of 1972, is
5101 brought forward as follows:

5102 31-11-25. The Office of General Services with the approval
5103 of the Public Procurement Review Board shall have the power and
5104 authority to acquire in its own name, or in the name of such other
5105 agency or instrumentality in the State of Mississippi as it may
5106 deem proper, by purchase, contribution or otherwise, all land and



5107 real property which shall be necessary and desirable in connection
5108 with the development or expansion of any state institution or
5109 public agency of this state upon any real property adjacent to or
5110 contiguous to such institution or agency or in connection with any
5111 project under the supervision of said Office of General Services
5112 for the construction, repair, remodeling, renovating, or making
5113 additions to any building structure or other facility which the
5114 Office of General Services is required or authorized by law to
5115 construct, repair, remodel, or make an addition to. If the Office
5116 of General Services shall be unable to agree with the owner or
5117 owners of any such land or real property which is necessary or
5118 desirable for the public use in connection with any such project,
5119 the Office of General Services shall have the power and authority
5120 to acquire any such land or real property by condemnation
5121 proceedings in the manner otherwise provided by law and, for such
5122 purpose, the right of eminent domain is hereby conferred upon and
5123 vested in said Office of General Services.

5124 **SECTION 108.** Section 31-11-27, Mississippi Code of 1972, is
5125 brought forward as follows:

5126 31-11-27. (1) (a) The Department of Finance and
5127 Administration shall conduct a detailed study of the building and
5128 other capital needs at each state institution and at each
5129 community college and junior college immediately prior to
5130 September first in each year. This study shall include, but shall
5131 not be limited to, the following matters:



5132 (i) An inventory of every state building and other
5133 capital facility which is the property of the State of
5134 Mississippi;

5135 (ii) The location, date of construction or
5136 acquisition, the purpose for which used, outstanding indebtedness
5137 against such facility, if any, and cost of repairs for the
5138 preceding fiscal year;

5139 (iii) An examination of the condition of the
5140 building or other facility, including current conditions and
5141 ratings of all roofs at each state agency, state institution of
5142 higher learning, community college and junior college;

5143 (iv) An estimate of the cost of repairs required
5144 to place the facility in good condition;

5145 (v) An estimate of the cost of major renovations,
5146 if contemplated; and

5147 (vi) A determination of the new building and other
5148 facility needs of each institution with such needs classified
5149 under immediate or long range requirements.

5150 (b) All state agencies, departments and institutions
5151 are hereby required and directed to cooperate with the Department
5152 of Finance and Administration in carrying out the provisions of
5153 this section. For purposes of validating subsection (1)(a)(iii)
5154 above, each roof of a building not planned for demolition must be
5155 visually inspected by institution or agency facilities' staff, by



5156 a licensed architect or engineer or by thermal imaging inspection
5157 at least every three (3) years.

5158 (c) The Department of Finance and Administration shall
5159 submit a detailed report to the Legislative Budget Office, the
5160 House Public Property Committee and the Senate Public Property
5161 Committee on or before September first of each year. Such report
5162 shall be in such detail and in such form as may be prescribed by
5163 the Legislative Budget Office.

5164 (d) The architect or building inspector of the
5165 Department of Finance and Administration shall make a biennial
5166 inspection of the New Capitol, Old Capitol, Woolfolk State Office
5167 Building, War Memorial Building, the Governor's Mansion, and all
5168 other buildings under jurisdiction of the Department of Finance
5169 and Administration for structural or other physical needs or
5170 defects of such buildings, and he shall further inquire of the
5171 department or its representatives regarding the condition of the
5172 buildings. He shall make a written report of his finding to the
5173 Department of Finance and Administration, Governor, Lieutenant
5174 Governor and Speaker of the House of Representatives. The report
5175 shall also make recommendations for repairs and list, by number,
5176 the priority which should be given to making necessary repairs.

5177 (2) (a) In addition to any report required in subsection
5178 (1) of this section, the Department of Finance and Administration
5179 shall prepare and submit an annual report to the Legislative
5180 Budget Office, the House Public Property Committee and the Senate



5181 Public Property Committee describing the proposed capital
5182 improvements projects for state agencies, departments and
5183 institutions for the upcoming five-year period. The Department of
5184 Finance and Administration shall not be required to include in the
5185 report any project costing less than One Million Dollars
5186 (\$1,000,000.00). The department shall submit the report before
5187 September 1 of each year. The report shall include at least the
5188 following information:

5189 (i) A prioritized list of the projects proposed
5190 for the five-year period, with each project ranked on the basis of
5191 need, consistent with the primary goal of preserving existing
5192 capital assets where possible and replacing existing capital
5193 assets where necessary;

5194 (ii) A prioritized list of the projects proposed
5195 for the next regular legislative session, with each project ranked
5196 on the basis of need, consistent with the primary goal of
5197 preserving existing capital assets where possible and replacing
5198 existing capital assets where necessary;

5199 (iii) A prioritized list of the projects requested
5200 by each state agency, department or institution;

5201 (iv) A detailed explanation of criteria used by
5202 the Department of Finance and Administration to rank projects for
5203 purposes of any list it prepares under this paragraph (a);

5204 (v) A detailed statement of justification for each
5205 project;



5206 (vi) The approximate cost for each project,
5207 including, but not limited to, itemized estimates of costs for
5208 preplanning, constructing, furnishing and equipping a project, and
5209 costs for property acquisition;

5210 (vii) The estimated beginning date and completion
5211 date for each project;

5212 (viii) Whether a project, as proposed, is a
5213 complete project or a phase or part of a project;

5214 (ix) How a project will affect the operating
5215 budget of the applicable agency, department or institution for the
5216 upcoming five-year period, regarding such items as additional
5217 personnel requirements, utility costs, maintenance costs, security
5218 costs, etc. Any request for new construction other than
5219 replacement, or for purposes other than incidental expansion of
5220 existing facilities, shall also identify the total amount of
5221 nonstate funds to support such project;

5222 (x) The proposed method of financing each project
5223 and the effect such financing will have on the state budget,
5224 including an estimate of any required debt service for the
5225 project, and an estimate of any federal funds or other funds that
5226 the agency, department or institution may have access to because
5227 of the project; and

5228 (xi) A list of the projects requested by each
5229 agency, department or institution for the five-year period, with



5230 each project ranked by the appropriate agency, department or
5231 institution on the basis of need.

5232 (b) To enable the Department of Finance and
5233 Administration to prepare the report required in this subsection
5234 (2), it may require all state agencies, departments and
5235 institutions to file a capital improvements projects request with
5236 such information and in such form and in such detail as the
5237 department may deem necessary and advisable. Such request shall
5238 be filed with the Department of Finance and Administration no
5239 later than August 1 of each year.

5240 **SECTION 109.** Section 31-11-29, Mississippi Code of 1972, is
5241 brought forward as follows:

5242 31-11-29. The Legislative Budget Office shall prepare and
5243 submit to each regular session of the Legislature a "capital
5244 expense and development" budget based on information furnished as
5245 herein provided by the Office of General Services, plus such other
5246 information as may be obtained. The said budget shall contain an
5247 estimate of the immediate and the long term capital needs of each
5248 state department, agency, institution, and each junior college.
5249 Such budget shall include a description of the buildings and other
5250 facilities which are recommended as needed at each institution,
5251 along with an estimate of the cost. The budget shall also include
5252 a suggested method of financing the immediate needs. "Immediate
5253 needs" shall be construed to mean: buildings, major improvements,
5254 and other facilities required for the proper functioning of the



5255 institution for the next year. "Long range" needs shall be
5256 construed to mean: buildings, major improvements, and other
5257 facilities of a similar nature which may be required at some
5258 indefinite date in the future.

5259 **SECTION 110.** Section 31-11-30, Mississippi Code of 1972, is
5260 brought forward as follows:

5261 31-11-30. (1) Every capital improvements project for new
5262 facilities, costing Two Million Dollars (\$2,000,000.00) or more,
5263 which is developed to repair, renovate, construct, remodel, add to
5264 or improve a state-owned public building shall be funded by the
5265 Legislature in two (2) phases. The two-phase funding requirement
5266 shall not apply to capital improvements projects for a state-owned
5267 port or where the Legislature finds that an emergency or critical
5268 need must be met or a court order complied with. The two (2)
5269 phases shall not be funded in the same regular session of the
5270 Legislature. Each phase shall be funded in a separate session of
5271 the Legislature. Phase 1 shall be a preplanned capital
5272 improvements project budget projection for the project and shall
5273 be funded first. Phase 2 shall be the actual repair, renovation,
5274 construction, remodeling, addition to or improvement of the
5275 state-owned public building and the acquisition of furniture and
5276 equipment for the capital improvements project and shall be funded
5277 second.

5278 (2) For the purposes of this section:



5279 (a) "Preplanned" or "preplanning" means the preliminary
5280 planning that establishes the program, scope, design and budget
5281 for a capital improvements project.

5282 (b) "Emergency" has the meaning as defined in Section
5283 31-7-1.

5284 (c) "Critical need" means necessary to meet
5285 accreditation standards or necessary to respond to failures in
5286 planning.

5287 (3) Every state agency that plans to repair, renovate,
5288 construct, remodel, add to or improve a state-owned public
5289 building shall submit a preplanned capital improvements project
5290 budget projection to the Bureau of Building, Grounds and Real
5291 Property Management for evaluation. The bureau shall assess the
5292 need for all preplanned projects submitted and shall compile a
5293 report on its findings. Any capital improvements project for new
5294 facilities costing less than Two Million Dollars (\$2,000,000.00)
5295 shall not be required to be preplanned.

5296 (4) Upon the completion of any preplanning for a capital
5297 improvements project, if such preplanning is funded with
5298 self-generated funds by a state agency, the plan shall be
5299 submitted to the bureau for evaluation.

5300 (5) This section shall not apply to capital improvements
5301 projects authorized by the Legislature before the 2001 Regular
5302 Session of the Legislature.



5303 (6) This section shall not apply to any community or junior
5304 college project funded in whole or in part by either state bonds
5305 or funds appropriated for that construction by the Legislature.

5306 **SECTION 111.** Section 31-11-31, Mississippi Code of 1972, is
5307 brought forward as follows:

5308 31-11-31. The Office of General Services of the State of
5309 Mississippi is hereby authorized and empowered to act as the
5310 commission designated to perform all functions on behalf of the
5311 State of Mississippi as provided for and required in Public Law
5312 No. 88-204 of the 88th Congress of the United States of America
5313 and being entitled "Higher Education Facilities Act of 1963" as
5314 thereafter amended, and the said Office of General Services is
5315 hereby granted such power and authority necessary for the purpose
5316 of performing for and on behalf of the State of Mississippi all
5317 things required to be done and performed by the Office of General
5318 Services as specified in said Public Law No. 88-204 of the 88th
5319 Congress of the United States government, as thereafter amended.

5320 **SECTION 112.** Section 31-11-33, Mississippi Code of 1972, is
5321 brought forward as follows:

5322 31-11-33. (1) For purposes of this section, the following
5323 terms shall have the meanings hereinafter ascribed:

5324 (a) "Department" means the Department of Finance and
5325 Administration, Bureau of Building, Grounds and Real Property
5326 Management.



5327 (b) "Public facility" means any building or other
5328 facility owned by the State of Mississippi, or by any agency,
5329 department of the State of Mississippi, that is occupied, used or
5330 under the control of the State of Mississippi, or any agency or
5331 department of the State of Mississippi, or any junior college
5332 district of the State of Mississippi, or the Board of Trustees of
5333 State Institutions of Higher Learning of the State of Mississippi,
5334 or any institution under the jurisdiction of the Board of Trustees
5335 of State Institutions of Higher Learning of the State of
5336 Mississippi.

5337 (2) Any public facility newly constructed from and after
5338 July 1, 2006, shall comply with and be built according to
5339 specifications not less stringent than those required by the
5340 International Code Council and such other standards as adopted by
5341 the department that provide guidelines for plumbing, electrical,
5342 gas, sanitary and other physical components of new building
5343 construction.

5344 (3) Upon the awarding of a design contract for a new public
5345 facility, the architect/engineer shall prepare drawings and
5346 specifications in conformity with the code requirements in effect
5347 at the time of agreement or, if the code requirements at the time
5348 of the agreement are amended, then the drawings and specifications
5349 shall be prepared according to the more stringent standards.

5350 (4) The department may regulate the height, number of
5351 stories and size of public facilities, the percentage of the lot



5352 that may be occupied, courts and other open spaces, and the
5353 location and use of public facilities.

5354 **SECTION 113.** Section 31-11-35, Mississippi Code of 1972, is
5355 brought forward as follows:

5356 31-11-35. (1) The Department of Finance and Administration
5357 shall adopt rules and regulations which:

5358 (a) Optimize the energy performance of state-funded
5359 buildings throughout the state;

5360 (b) Increase the demand for building and construction
5361 materials, finishes, furnishings and other products made in or
5362 incorporating materials produced in Mississippi;

5363 (c) Improve environmental quality in this state by
5364 decreasing the discharge of pollutants from state-funded
5365 buildings;

5366 (d) Conserve energy and utilize local and renewable
5367 energy sources;

5368 (e) Protect and restore this state's natural resources
5369 by avoiding development of inappropriate state-funded building
5370 sites;

5371 (f) Reduce the burden on public water supply and
5372 treatment by reducing potable water consumption; and

5373 (g) Encourage obtaining ENERGY STAR designation from
5374 the United States Environmental Protection Agency to further
5375 demonstrate a building project's energy independence.



5376 (2) Except as otherwise provided in Section 39-25-1, each
5377 major facility project shall be designed and constructed to meet
5378 or exceed the requirements of ASHRAE 90.1-2010 or any more
5379 stringent code adopted by the Bureau of Building, Grounds and Real
5380 Property Management and the Department of Finance and
5381 Administration.

5382 (3) In order to achieve sustainable building standards,
5383 construction projects may utilize a nationally recognized high
5384 performance environmental building rating system; provided,
5385 however, that any such rating system that uses a material or
5386 product-based credit system which is disadvantageous to materials
5387 or products manufactured or produced in Mississippi shall not be
5388 utilized. Additionally, such rating systems shall not exclude
5389 certificate credits for forest products certified by the
5390 Sustainable Forestry Initiative, Forest Stewardship Council or the
5391 American Tree Farm System. The Department of Finance and
5392 Administration shall designate rating systems which meet these
5393 criteria and may establish its own rating system.

5394 (4) A nationally certified commissioning authority
5395 professional shall certify that the major facility project's
5396 systems for heating, ventilation, air-conditioning, energy
5397 conservation and water conservation are installed and working
5398 properly to ensure that each major facility project performs
5399 according to the major facility project's overall environmental
5400 design intent and operational objectives.



5401 (5) For purposes of this section, a major facility project
5402 shall mean either:

5403 (a) A state-funded new construction building project
5404 which is:

5405 (i) From July 1 through December 31, 2009, the
5406 project shall be larger than twenty thousand (20,000) gross square
5407 feet;

5408 (ii) From January 1, 2010, through December 31,
5409 2010, the project shall be larger than fifteen thousand (15,000)
5410 gross square feet;

5411 (iii) From January 1, 2011, through December 31,
5412 2011, the project shall be larger than ten thousand (10,000) gross
5413 square feet; and

5414 (iv) From January 1, 2012, and thereafter, the
5415 project shall be larger than five thousand (5,000) gross square
5416 feet.

5417 (b) A state-funded renovation project which involves
5418 more than fifty percent (50%) of the replacement value of the
5419 facility where compliance is cost-effective and practical.

5420 (6) A major facility project shall not mean a building,
5421 regardless of size, which does not have conditioned space as
5422 defined by Standard 90.1 of the American Society of Heating,
5423 Refrigerating, and Air-Conditioning Engineers.

5424 (7) For purposes of this section, a "major facility project"
5425 shall include, but not be limited to, the construction or



5426 renovation of buildings that are financed, in whole or in part,
5427 through the use of a Community Development Block Grant.

5428 **SECTION 114.** Section 25-53-101, Mississippi Code of 1972, is
5429 brought forward as follows:

5430 25-53-101. The Legislature hereby declares it essential to
5431 the creation and maintenance of an efficient, modern, economically
5432 feasible, telecommunications system that there should be full
5433 cooperation and cohesive planning and effort by and between the
5434 several state agencies and that it is the responsibility of the
5435 said Legislature to provide statutory authority therefor. The
5436 Legislature, therefore, declares and determines that the
5437 responsibility for these and other related purposes shall be
5438 vested in the Mississippi Department of Information Technology
5439 Services.

5440 **SECTION 115.** Section 25-53-105, Mississippi Code of 1972, is
5441 brought forward as follows:

5442 25-53-105. The Mississippi Department of Information
5443 Technology Services shall administer the provisions of Sections
5444 25-53-109 through 25-53-125. The purposes and aims of the
5445 Mississippi Department of Information Technology Services in
5446 carrying out said provisions shall be to coordinate and promote
5447 efficiency in the acquisition, operation and maintenance of all
5448 telecommunications systems and networks being used by agencies of
5449 the state and further to coordinate the compatibility of systems
5450 and networks to the state with those of governing authorities so



5451 as to promote a uniform, compatible telecommunications system for
5452 agencies and governing authorities.

5453 **SECTION 116.** Section 25-53-107, Mississippi Code of 1972, is
5454 brought forward as follows:

5455 25-53-107. (1) The Mississippi Department of Information
5456 Technology Services shall promulgate rules and regulations
5457 governing the manner in which the authority and duties prescribed
5458 by Sections 25-53-101 through 25-53-125 shall be carried out. It
5459 shall employ competent personnel necessary to carry out its
5460 purposes, under rules promulgated by the State Personnel Board.

5461 (2) The bureau, during a fiscal year, may utilize
5462 time-limited escalated positions in order to implement
5463 telecommunications enterprise decisions that yield cost avoidance,
5464 cost reductions or revenue increases and so long as the
5465 Mississippi Department of Information Technology Services can
5466 provide the necessary funds without such action causing a
5467 telephone service rate increase to agency customers. Such
5468 employees of the bureau shall be considered nonstate service
5469 employees, shall be highly qualified telecommunications
5470 professionals and may be compensated at a rate comparable to the
5471 prevailing rate of telecommunications personnel in the private
5472 sector. Such compensation rates shall be determined by the State
5473 Personnel Director. The number of such positions shall be set by
5474 annual appropriation legislation. The compensation and
5475 classification of such positions and qualifications of employees



5476 shall be set by the State Personnel Board upon recommendation by
5477 the Executive Director of the Mississippi Department of
5478 Information Technology Services. Nonstate service positions can
5479 be recommended for conversion to permanent state service on a case
5480 by case basis if the supported function appears long-term in
5481 duration, if accomplished in accordance with State Personnel Board
5482 procedures, and if properly identified in the state budgetary
5483 process.

5484 **SECTION 117.** Section 25-53-109, Mississippi Code of 1972, is
5485 brought forward as follows:

5486 25-53-109. The bureau is hereby authorized and empowered to
5487 exercise such duties and powers necessary to effectuate the
5488 purposes of Sections 25-53-101 through 25-53-125 including the
5489 following:

5490 (a) Form an advisory council made up of persons with
5491 expertise, and experience in the field of telecommunications for
5492 the purpose of setting goals, establishing long-range plans and
5493 policies and to oversee and assist in the procurement activities
5494 regarding telecommunications equipment and services;

5495 (b) Provide more effective management of state
5496 telecommunications resources and implement long-range plans and
5497 procurement;

5498 (c) Manage, plan and coordinate all telecommunications
5499 systems under the jurisdiction of the state. This centralized



5500 management function would be provided throughout the following
5501 activities:

5502 (i) Administration of existing systems including
5503 coordination of activities, vendors, service orders and
5504 billing/record-keeping functions;

5505 (ii) Planning of new systems or services;

5506 (iii) Design of replacement systems;

5507 (iv) Project management during specification
5508 writing, bid letting, proposal evaluation and contract
5509 negotiations;

5510 (v) Implementation supervision of new systems and
5511 ongoing support;

5512 (vi) Implementation of long-term state plans; and

5513 (vii) Management of intra-LATA and inter-LATA
5514 networks.

5515 **SECTION 118.** Section 25-53-111, Mississippi Code of 1972, is
5516 brought forward as follows:

5517 25-53-111. The bureau shall have the following additional
5518 duties:

5519 (a) To establish and coordinate through either state
5520 ownership or commercial leasing, all telecommunications systems
5521 and services affecting the management and operations of the state.

5522 (b) To act as the sole centralized customer for the
5523 acquisition, billing and record keeping of all telecommunications



5524 systems or services provided to state agencies whether obtained
5525 through lease or purchase.

5526 (c) To charge respective user agencies for their
5527 proportionate cost of the installation, maintenance and operation
5528 of the telecommunications systems and services, including the
5529 operation of the bureau.

5530 (d) To offer or provide transmission, switch and
5531 network services on a reimbursable basis to agencies financed
5532 entirely by federal funds, to governing authorities and to other
5533 governmental agencies.

5534 (e) To approve or provide state telephone services on a
5535 reimbursable basis to full-time students at state institutions of
5536 higher learning and junior colleges, including where such services
5537 are provided by the state or the institution.

5538 (f) To develop coordinated telecommunications systems
5539 or services within and among all state agencies and require, where
5540 appropriate, cooperative utilization of telecommunications
5541 equipment and services by aggregating users. Where such
5542 cooperative utilization of telecommunications system or service
5543 would affect an agency authorized to receive information from the
5544 National Crime Information Center of the Federal Bureau of
5545 Investigation, such plans for cooperative utilization shall first
5546 be approved by the National Crime Information Center before
5547 implementation of such telecommunications systems or service can
5548 proceed.



5549 (g) To review, coordinate, approve or disapprove all
5550 requests by state agencies for the procurement, through purchase
5551 or contract for lease of telecommunications systems or services
5552 including telecommunication proposals, studies and consultation
5553 contracts and intra-LATA and inter-LATA transmission channels.

5554 (h) To establish and define telecommunications systems
5555 and services specifications and designs so as to assure
5556 compatibility of telecommunications systems and services within
5557 state government and governing authorities.

5558 (i) To provide a continuous, comprehensive analysis and
5559 inventory of telecommunications costs, facilities and systems
5560 within state government.

5561 (j) To promote, coordinate or assist in the design and
5562 engineering of emergency telecommunications systems, including but
5563 not limited to "911" service, emergency medical services and other
5564 emergency telecommunications services.

5565 (k) To advise and provide consultation to agencies and
5566 governing authorities with respect to telecommunications
5567 management planning and related matters and to provide training to
5568 users within state government in telecommunications technology and
5569 system use.

5570 (l) To develop policies, procedures and long-range
5571 plans, consistent with the protection of citizens' rights to
5572 privacy and access to information, for the acquisition and use of
5573 telecommunications systems, and to base such policies on current



5574 information about state telecommunications activities in relation
5575 to the full range of emerging technologies.

5576 Any state agency requesting an increase in expenditure of
5577 funds for new telecommunications equipment systems or services
5578 shall submit to the Legislative Budget Office with its budget
5579 request preceding the fiscal year for which funding is requested
5580 detailed justification for such request. The justification shall
5581 be provided on forms developed by the bureau in accordance with
5582 the Administrative Procedure Act. In addition, all state agencies
5583 shall submit to the bureau, when requested, a long-range plan for
5584 use of telecommunications equipment, systems and services.

5585 **SECTION 119.** Section 25-53-113, Mississippi Code of 1972, is
5586 brought forward as follows:

5587 25-53-113. Each and every agency of the state shall give
5588 full cooperation to the bureau in furnishing all information of
5589 any kind as it pertains to telecommunications.

5590 **SECTION 120.** Section 25-53-115, Mississippi Code of 1972, is
5591 brought forward as follows:

5592 25-53-115. No agency shall rent, lease, lease/purchase,
5593 purchase or in any way own or pay for the operation of any
5594 telecommunications system out of any funds available for the use
5595 by that agency without the written approval of the bureau.

5596 **SECTION 121.** Section 25-53-117, Mississippi Code of 1972, is
5597 brought forward as follows:



5598 25-53-117. No agency shall be permitted to obligate the
5599 state to any vendor source for a telecommunications system of any
5600 kind. All transactions dealing with a telecommunications system
5601 shall be conducted through the bureau, and any vendor found in
5602 violation of this policy may be prohibited from bidding on such
5603 systems for a period of time commensurate with the severity of the
5604 violation. Provided, however, that this period shall not exceed
5605 twenty-four (24) months.

5606 **SECTION 122.** Section 25-53-119, Mississippi Code of 1972, is
5607 brought forward as follows:

5608 25-53-119. The bureau shall, subject to the provisions of
5609 Sections 25-53-101 through 25-53-125, have sole authority and
5610 responsibility for defining the specific telecommunications
5611 equipment, systems and related services to which the provisions of
5612 Sections 25-53-101 through 25-53-125 shall be applicable.
5613 However, the provisions of Sections 25-53-101 through 25-53-125
5614 shall not be applicable with respect to computer and
5615 telecommunications equipment, systems and related services that
5616 are only available from a sole source.

5617 **SECTION 123.** Section 25-53-121, Mississippi Code of 1972, is
5618 brought forward as follows:

5619 25-53-121. (1) The types of contracts permitted in the
5620 procurement of telecommunications equipment, systems and related
5621 services are defined herein, and the provisions in Sections



5622 25-53-101 through 25-53-125 supplement the provisions of Chapter
5623 7, Title 31, Mississippi Code of 1972.

5624 (2) The Mississippi Department of Information
5625 Technology Services may, on behalf of any state agency, enter into
5626 an equipment support contract with a vendor of telecommunications
5627 equipment or services for the purchase or lease of such equipment
5628 or services in accordance with the following provisions:

5629 (a) Specifications for equipment support contracts
5630 shall be developed in advance and shall conform to the following
5631 requirements:

5632 (i) Specifications for equipment support contracts
5633 shall cover a specific class or classes of equipment and service
5634 and may include all features associated with that class or
5635 classes.

5636 (ii) Specifications in the request for proposals
5637 for equipment support contracts shall be developed by the
5638 Mississippi Department of Information Technology Services.

5639 (iii) Specifications shall be based on the
5640 projected needs of user agencies.

5641 (iv) Specifications for equipment support
5642 contracts for purchase or lease of telecommunications equipment
5643 may include specifications for the maintenance of the equipment
5644 desired.

5645 (b) The initial procurement of an equipment support
5646 contract, and procurement of equipment and services to be utilized



5647 by agencies under an equipment support contract, shall be as
5648 follows:

5649 (i) Equipment support contracts shall be awarded
5650 by competitive sealed bidding.

5651 (ii) A using agency may procure required
5652 telecommunications equipment and service available under an
5653 equipment support contract through release of a purchase order for
5654 the required equipment and service to the vendor holding an
5655 equipment support contract. However, such procurement by purchase
5656 order shall be accomplished in accordance with the procedures and
5657 regulations prescribed by the Mississippi Department of
5658 Information Technology Services, and shall be subject to all other
5659 statutory requirements including approval by the bureau.

5660 (c) The final authority for entering into equipment
5661 support contracts shall rest with the bureau, and such contracts
5662 shall be executed by the Mississippi Department of Information
5663 Technology Services in accordance with the procedures and
5664 regulations defined by said authority.

5665 (d) Equipment support contracts shall include the
5666 following terms and conditions:

5667 (i) Equipment support contracts shall be valid for
5668 not more than one (1) fiscal year with the Mississippi Department
5669 of Information Technology Services having an option to renew for
5670 two (2) additional fiscal years. The vendor may vary lease or
5671 purchase prices for the optional renewal period(s) by an amount



5672 equal to the lesser of the lease or purchase price permitted by
5673 that vendor's contract with the General Services Administration of
5674 the United States government for such equipment and services, or
5675 any variance in that vendor's published list prices for such
5676 equipment and services during that fiscal year, provided that any
5677 increase may not exceed five percent (5%) and the variance must
5678 have been authorized by the initial equipment and service order
5679 contract.

5680 (ii) The prices stated in such contract shall not
5681 change for the period of the contract.

5682 (iii) Individual items of telecommunications
5683 equipment and service which may be included under an equipment
5684 support contract may not have a purchase price greater than Fifty
5685 Thousand Dollars (\$50,000.00) or a monthly lease price greater
5686 than Three Thousand Dollars (\$3,000.00). Such price shall not
5687 include costs of maintenance, taxes or transportation.

5688 (iv) Equipment support contracts shall include the
5689 following annual appropriation dependency clause:

5690 "The continuation of this contract is contingent upon the
5691 appropriation of funds to fulfill the requirements of the contract
5692 by the Legislature. If the Legislature fails to appropriate
5693 sufficient monies to provide for the continuance of the contract,
5694 the contract shall terminate on the date of the beginning of the
5695 first fiscal year for which funds are not appropriated."



5696 (3) The Mississippi Department of Information Technology
5697 Services may on behalf of any state agency enter into contracts
5698 for the lease or purchase of telecommunications equipment systems
5699 or services in accordance with the following provisions:

5700 (a) The bureau may directly contract for or approve
5701 contracts for regulated or tariffed telecommunications services
5702 upon determination by the bureau that the application of such
5703 service is in the best interests of the State of Mississippi.

5704 (b) All other contracts of this type shall be entered
5705 into through request for proposals as defined in Sections
5706 25-53-101 through 25-53-125.

5707 (c) The justification of such contracts must be
5708 presented to the bureau prior to issuance of a request for
5709 proposals. Such justification shall identify and consider all
5710 cost factors relevant to that contract.

5711 (d) The term of a lease contract shall not exceed sixty
5712 (60) months for a system lease valued less than One Million
5713 Dollars (\$1,000,000.00) and shall not exceed one hundred twenty
5714 (120) months for a system lease valued One Million Dollars
5715 (\$1,000,000.00) or more.

5716 (e) All lease contracts must contain the following
5717 annual appropriation dependency clause:

5718 "The continuation of this contract is contingent upon the
5719 appropriation of funds to fulfill the requirements of the contract
5720 by the Legislature. If the Legislature fails to appropriate



5721 sufficient monies to provide for the continuation of a contract,
5722 the contract shall terminate on the date of the beginning of the
5723 first fiscal year for which funds are not appropriated."

5724 (f) The Mississippi Department of Information
5725 Technology Services shall maintain a list of all such contracts.
5726 This list shall show as a minimum the name of the vendor, the
5727 annual cost of each contract and the term of the contract or the
5728 purchase cost.

5729 (g) Upon the advance written approval of the bureau,
5730 state agencies may extend contracts for the lease of
5731 telecommunications equipment, systems and related services on a
5732 month-to-month basis for a period not to extend more than one (1)
5733 calendar year for the stated lease prices.

5734 **SECTION 124.** Section 25-53-123, Mississippi Code of 1972, is
5735 brought forward as follows:

5736 25-53-123. (1) The only method of procurement permitted for
5737 the acquisition of nonregulated telecommunications systems,
5738 including equipment and related services, shall be in conformity
5739 with the following requirements: All acquisitions of
5740 telecommunications equipment, systems and related services
5741 involving the expenditures of funds in excess of the dollar amount
5742 established in Section 31-7-13(c), or rentals or leases in excess
5743 of the dollar amount established in Section 31-7-13(c), for the
5744 term of the contract, shall be based upon competitive and open
5745 specifications, and contracts therefor shall be entered into only



5746 after advertisements for bids are published in one or more daily
5747 newspapers having a general circulation in the state not less than
5748 fourteen (14) days prior to receiving sealed bids therefor. The
5749 authority may reserve the right to reject any or all bids, and if
5750 all bids are rejected, the authority may negotiate a contract
5751 within the limitations of the specifications so long as the terms
5752 of any such negotiated contract are equal to or better than the
5753 comparable terms submitted by the lowest and best bidder, and so
5754 long as the total cost to the State of Mississippi does not exceed
5755 the lowest bid. If the authority accepts one (1) of such bids, it
5756 shall be that which is the lowest and best.

5757 (2) When applicable, the bureau may procure equipment,
5758 systems and related services in accordance with the law or
5759 regulations, or both, which govern the Bureau of Purchasing of the
5760 Governor's Office of General Services or which govern the
5761 Mississippi Department of Information Technology Services
5762 procurement of computer equipment, software and services.

5763 **SECTION 125.** Section 25-53-125, Mississippi Code of 1972, is
5764 brought forward as follows:

5765 25-53-125. The following general provisions shall apply to
5766 all procurements under Sections 25-53-101 through 25-53-125:

5767 (a) No contracts entered into hereunder shall have an
5768 initial effective date earlier than the date on which such
5769 contract receives approval as required herein.



5770 (b) All changes, modifications and amendments to any
5771 contract hereunder shall be approved in advance by the bureau, in
5772 addition to any other approvals required by law.

5773 (c) The bureau shall promulgate rules and regulations
5774 in accordance with the Administrative Procedure Act, Section
5775 25-43-1 et seq., Mississippi Code of 1972, for the establishment
5776 of contract format.

5777 (d) Where written proposals or bids are submitted by
5778 vendors, the proposal or bid of the successful vendor shall be
5779 incorporated into the final contract consummated with that vendor.

5780 (e) The provisions of Sections 25-53-101 through
5781 25-53-125 shall, with respect to the procurement of
5782 telecommunications equipment, systems or related services,
5783 supersede specifications of any contradictory or conflicting
5784 provisions of Chapter 7, Title 31, Mississippi Code of 1972, and
5785 other laws with respect to awarding public contracts.

5786 **SECTION 126.** Section 27-104-152, Mississippi Code of 1972,
5787 is brought forward as follows:

5788 27-104-152. The Legislature finds that the public should be
5789 able to easily access the details on how the state is spending tax
5790 dollars and other state funds and what performance results are
5791 achieved for the expenditures. It is the intent of the
5792 Legislature that the state, acting through the Department of
5793 Finance and Administration, create and maintain a searchable
5794 website providing access, to the extent possible, to where, for



5795 what purpose and what results are achieved for all taxpayer
5796 investments in state government.

5797 **SECTION 127.** Section 27-104-153, Mississippi Code of 1972,
5798 is brought forward as follows:

5799 27-104-153. As used in Sections 27-104-151 through
5800 27-104-159:

5801 (a) "Searchable website" means an Internet site that:

5802 (i) Allows the public to access information
5803 identified in Sections 27-104-151 through 27-104-159 without any
5804 fee or charge to the public for that access;

5805 (ii) Provides keyword or other efficient search
5806 capability to support the public's ability to find, aggregate and
5807 display that information with reasonable ease by accessing a
5808 single website; and

5809 (iii) Allows the public to programmatically search
5810 and access all data in a serialized machine readable format, such
5811 as XML, via a Web-services application programming interface.

5812 (b) "Agency" means a state agency, department,
5813 institution, board, commission, council, office, bureau, division,
5814 committee or subcommittee of the state. The term "agency"
5815 includes individual agencies and programs as well as multiple
5816 agencies whenever programs and activities involve more than one
5817 (1) agency. The term "agency" includes all elective offices in
5818 the executive, legislative and judicial branches of state



5819 government. The term "agency" does not include counties or
5820 municipalities.

5821 (c) "Entity" or "recipient" means a corporation,
5822 association, union, limited liability company, limited liability
5823 partnership, grantee, contractor, county, municipality or other
5824 local government entity, or any other legal business entity,
5825 including a nonprofit entity. The term "entity" or "recipient"
5826 does not include an individual recipient of state public
5827 assistance.

5828 (d) "Expenditure of state funds" means the disbursement
5829 or transfer of any funds, from any source or funds, whether
5830 appropriated or nonappropriated, from any agency. The term
5831 "expenditure of state funds" includes the expenditures from bond
5832 proceeds.

5833 (e) "Funding action" means the transfer of funds from a
5834 state agency to another entity for a specific purpose. These
5835 would include subgranting of funds for specific purposes or the
5836 funding through bonds or other authority specific projects and
5837 actions.

5838 (f) "Funding source" means the state account against
5839 which an expenditure is recorded.

5840 (g) "State audit or report" means any audit or report
5841 issued by the State Auditor, Joint Legislative Committee on
5842 Performance Evaluation and Expenditure Review (PEER) or an



5843 executive body relating to the entity or recipient of funds or to
5844 the budget program or activity or agency.

5845 **SECTION 128.** Section 27-104-155, Mississippi Code of 1972,
5846 is brought forward as follows:

5847 27-104-155. (1) The Department of Finance and
5848 Administration shall develop and operate a searchable website that
5849 includes information on expenditures of state funds from all
5850 funding sources. The website shall have a unique and simplified
5851 website address, and the department shall require each agency that
5852 maintains a generally accessible Internet site or for which a
5853 generally accessible Internet site is maintained to include a link
5854 on the front page of the agency's Internet site to the searchable
5855 website required under this section.

5856 (a) With regard to disbursement of funds, the website
5857 shall include, but not be limited to:

5858 (i) The name and principal location of the entity
5859 or recipients of the funds, excluding release of information
5860 relating to an individual's place of residence, the identity of
5861 recipients of state or federal assistance payments, and any other
5862 information deemed confidential by state or federal law relating
5863 to privacy rights;

5864 (ii) The amount of state funds expended;

5865 (iii) A descriptive purpose of the funding action
5866 or expenditure;

5867 (iv) The funding source of the expenditure;



5868 (v) The budget program or activity of the
5869 expenditure;

5870 (vi) The specific source of authority and
5871 descriptive purpose of the expenditure, to include a link to the
5872 funding authorization document(s) in a searchable PDF form;

5873 (vii) The specific source of authority for the
5874 expenditure including, but not limited to, a grant, subgrant,
5875 contract, or the general discretion of the agency director,
5876 provided that if the authority is a grant, subgrant or contract,
5877 the website entry shall include a grant, subgrant or contract
5878 number or similar information that clearly identifies the specific
5879 source of authority. The information required under this
5880 paragraph includes data relative to tax exemptions and credits;

5881 (viii) The expending agency;

5882 (ix) The type of transaction;

5883 (x) The expected performance outcomes achieved for
5884 the funding action or expenditure;

5885 (xi) Links to any state audit or report relating
5886 to the entity or recipient of funds or the budget program or
5887 activity or agency; and

5888 (xii) Any other information deemed relevant by the
5889 Department of Finance and Administration.

5890 (b) When the expenditure of state funds involves the
5891 expenditure of bond proceeds, the searchable website must include
5892 a clear, detailed description of the purpose of the bonds, a



5893 current status report on the project or projects being financed by
5894 the bonds, and a current status report on the payment of the
5895 principal and interest on the bonds.

5896 (c) The searchable website must include access to an
5897 electronic summary of each grant, including amendments; subgrant,
5898 including amendments; contract, including amendments; and payment
5899 voucher that includes, wherever possible, a hyperlink to the
5900 actual document in a searchable PDF format, subject to the
5901 restrictions in paragraph (d) of this subsection. The Department
5902 of Finance and Administration may cooperate with other agencies to
5903 accomplish the requirements of this paragraph.

5904 (d) Nothing in Sections 27-104-151 through 27-104-159
5905 shall permit or require the disclosure of trade secrets or other
5906 proprietary information, including confidential vendor
5907 information, or any other information that is required to be
5908 confidential by state or federal law.

5909 (e) The information available from the searchable
5910 website must be updated no later than fourteen (14) days after the
5911 receipt of data from an agency, and the Department of Finance and
5912 Administration shall require each agency to provide to the
5913 department access to all data that is required to be accessible
5914 from the searchable website within fourteen (14) days of each
5915 expenditure, grant award, including amendments; subgrant,
5916 including amendments; or contract, including amendments; executed
5917 by the agency.



5918 (f) The searchable website must include all information
5919 required by this section for all transactions that are initiated
5920 in fiscal year 2015 or later. In addition, all information that
5921 is included on the searchable website from the date of the
5922 inception of the website until July 1, 2014, must be maintained on
5923 the website according to the requirements of this section before
5924 July 1, 2014, and remain accessible for ten (10) years from the
5925 date it was originally made available. All data on the searchable
5926 website must remain accessible to the public for a minimum of ten
5927 (10) years.

5928 (g) For the purposes of this subsection (1), the term
5929 "contract" includes, but is not limited to, personal and
5930 professional services contracts.

5931 (2) The Board of Trustees of State Institutions of Higher
5932 Learning shall create the IHL Accountability and Transparency
5933 website to include its executive office and the institutions of
5934 higher learning no later than July 1, 2012. This website shall:

5935 (a) Provide access to existing financial reports,
5936 financial audits, budgets and other financial documents that are
5937 used to allocate, appropriate, spend and account for appropriated
5938 funds;

5939 (b) Have a unique and simplified website address;

5940 (c) Be directly accessible via a link from the main
5941 page of the Department of Finance and Administration website, as



5942 well as the IHL website and the main page of the website of each
5943 institution of higher learning;

5944 (d) Include other links, features or functionality that
5945 will assist the public in obtaining and reviewing public financial
5946 information;

5947 (e) Report expenditure information currently available
5948 within these enterprise resource planning (ERP) computer systems;
5949 and

5950 (f) Design the reporting format using the existing
5951 capabilities of these ERP computer systems.

5952 (3) The Mississippi Community College Board shall create the
5953 Community and Junior Colleges Accountability and Transparency
5954 website to include its executive office and the community and
5955 junior colleges no later than July 1, 2012. This website shall:

5956 (a) Provide access to existing financial reports,
5957 financial audits, budgets and other financial documents that are
5958 used to allocate, appropriate, spend and account for appropriated
5959 funds;

5960 (b) Have a unique and simplified website address;

5961 (c) Be directly accessible via a link from the main
5962 page of the Department of Finance and Administration website, as
5963 well as the Mississippi Community College Board website and the
5964 main page of the website of each community and junior college;



5965 (d) Include other links, features or functionality that
5966 will assist the public in obtaining and reviewing public financial
5967 information;

5968 (e) Report expenditure information currently available
5969 within the computer system of each community and junior college;
5970 and

5971 (f) Design the reporting format using the existing
5972 capabilities of the computer system of each community and junior
5973 college.

5974 (4) Not later than January 1, 2016, the owner or owners of a
5975 community hospital, as defined in Section 41-13-10, shall create
5976 and maintain an accountability and transparency website for the
5977 community hospital or set up a separate section for the community
5978 hospital on the current website of the owner or owners. This
5979 website of the community hospital or section of the website of the
5980 owner or owners shall:

5981 (a) Provide access to existing financial reports,
5982 financial audits, budgets and other financial documents of the
5983 community hospital that are used to allocate, appropriate, spend
5984 and account for public funds;

5985 (b) Have a unique and simplified website address if it
5986 is a new website for the community hospital, or be an easily
5987 accessible section of the website of the owner or owners;



5988 (c) Include links, features or functionality that will
5989 assist the public in obtaining and reviewing public financial
5990 information of the community hospital;

5991 (d) Report expenditure information of the community
5992 hospital in functional expenditure categories that is currently
5993 available within the computer system of the community hospital;
5994 and

5995 (e) Design the reporting format using the existing
5996 capabilities of the computer system or systems of the owner or
5997 owners of the community hospital.

5998 **SECTION 129.** Section 27-104-157, Mississippi Code of 1972,
5999 is brought forward as follows:

6000 27-104-157. The Department of Finance and Administration
6001 shall have the authority to establish the form, processes and
6002 procedures, and timelines for agencies to report the information
6003 required by Sections 27-104-151 through 27-104-159. At the
6004 latest, each agency shall provide access to all required data
6005 within fourteen (14) days after the data becomes available to the
6006 agency. All agencies shall fully cooperate with the Department of
6007 Finance and Administration in compiling and providing all
6008 information necessary to comply with the requirements of Sections
6009 27-104-151 through 27-104-159.

6010 **SECTION 130.** Section 27-104-158, Mississippi Code of 1972,
6011 is brought forward as follows:



6012 27-104-158. The Office of the State Auditor shall examine
6013 agencies' compliance with the requirements of Sections 27-104-151
6014 through 27-104-159 in the course of the powers and duties of the
6015 office as prescribed in Section 7-7-211.

6016 **SECTION 131.** Section 27-104-159, Mississippi Code of 1972,
6017 is brought forward as follows:

6018 27-104-159. Nothing in Sections 27-104-151 through
6019 27-104-159 shall be construed to supersede the Mississippi Public
6020 Records Act of 1983, as amended, except that Sections 27-104-151
6021 through 27-104-158 shall apply to expenditures of the legislative
6022 branch.

6023 **SECTION 132.** Section 27-104-161, Mississippi Code of 1972,
6024 is brought forward as follows:

6025 27-104-161. No provision of Sections 27-104-151 through
6026 27-104-159 shall be construed as conferring upon the Department of
6027 Finance and Administration any authority to review, approve or
6028 deny any expenditures or contracts entered into by the Legislature
6029 or any of its committees, or to impose any requirement on the
6030 Legislature or any of its committees to take any action other than
6031 to disclose expenditures and contracts entered into on or after
6032 July 1, 2011. For the purposes of this section, the term
6033 "contract" includes, but is not limited to, personal and
6034 professional services contracts.

6035 **SECTION 133.** Section 27-104-163, Mississippi Code of 1972,
6036 is brought forward as follows:



6037 27-104-163. The Department of Finance and Administration
6038 shall publish on its searchable website notice of any regular
6039 meeting held by a state agency, other than a legislative
6040 committee, in accordance with Section 25-41-13. For purposes of
6041 this section, the term "state agency" means an agency, department,
6042 institution, board, commission, council, office, bureau, division,
6043 committee or subcommittee of the state. However, the term "state
6044 agency" does not include institutions of higher learning,
6045 community and junior colleges, counties or municipalities.

6046 **SECTION 134.** Section 27-104-165, Mississippi Code of 1972,
6047 is brought forward as follows:

6048 27-104-165. The Department of Finance and Administration,
6049 with assistance from the Mississippi Department of Information
6050 Technology Services and the State Personnel Board, may develop a
6051 phased-in plan that ensures that the procurement portal required
6052 under Section 25-53-151 be fully functional by July 1, 2015.

6053 **SECTION 135.** Section 27-104-167, Mississippi Code of 1972,
6054 is brought forward as follows:

6055 27-104-167. The Department of Finance and Administration
6056 shall publish on its searchable website the annual report of each
6057 agency, board, commission, department and institution required to
6058 be prepared by Section 27-101-1. The Department of Finance and
6059 Administration shall have the authority to establish the forms,
6060 processes, procedures and timelines to furnish the annual report.
6061 All such agencies, boards, commissions, departments and



6062 institutions shall fully cooperate with the Department of Finance
6063 and Administration in providing the information necessary to
6064 comply with the requirements of this section.

6065 **SECTION 136.** Section 57-75-3, Mississippi Code of 1972, is
6066 brought forward as follows:

6067 57-75-3. The Legislature hereby finds and declares that:

6068 (a) There exists in the State of Mississippi a
6069 continuing need for gainful employment for the citizens of this
6070 state.

6071 (b) To help provide employment opportunities, a
6072 division within the Mississippi Development Authority should be
6073 created with power to secure the location and expansion within
6074 this state of major economic impact projects by providing
6075 assistance and incentives in connection with such projects.

6076 (c) In accomplishing this purpose, such division will
6077 be acting in all respects for the benefit of the people of the
6078 state in the performance of essential public functions and is
6079 serving a valid public purpose in improving and otherwise
6080 promoting their health, welfare and prosperity, and the enactment
6081 of the provisions hereinafter set forth is for a valid public
6082 purpose.

6083 (d) Public agencies of the state, as herein defined,
6084 must be authorized and empowered to contract with and cooperate
6085 with the authority for the purposes herein set out.



6086 (e) The borrowing of money and the issuance of bonds
6087 for the purposes hereinafter set out serves valid public purposes
6088 in that the project will significantly contribute to the
6089 employment base and scientific and educational growth of the
6090 state.

6091 (f) The Mississippi Major Economic Impact Authority
6092 created pursuant to this chapter shall implement the provisions of
6093 this chapter and exercise all power as authorized in this chapter;
6094 however, the application of this chapter or the offering of any
6095 assistance and incentives as to any particular project or person
6096 shall be in the sole discretion of the Mississippi Major Economic
6097 Impact Authority, and nothing in this chapter shall be deemed to
6098 vest in any person any right to any assistance or incentive
6099 contained herein unless the assistance or incentive is approved by
6100 the Mississippi Major Economic Impact Authority pursuant to this
6101 chapter. The exercise of powers conferred by this chapter shall
6102 be deemed and held to be the performance of essential public
6103 purposes.

6104 **SECTION 137.** Section 57-75-5, Mississippi Code of 1972, is
6105 brought forward as follows:

6106 57-75-5. Words and phrases used in this chapter shall have
6107 meanings as follows, unless the context clearly indicates a
6108 different meaning:

6109 (a) "Act" means the Mississippi Major Economic Impact
6110 Act as originally enacted or as hereafter amended.



6111 (b) "Authority" means the Mississippi Major Economic
6112 Impact Authority created pursuant to the act.

6113 (c) "Bonds" means general obligation bonds, interim
6114 notes and other evidences of debt of the State of Mississippi
6115 issued pursuant to this chapter.

6116 (d) "Facility related to the project" means and
6117 includes any of the following, as the same may pertain to the
6118 project within the project area: (i) facilities to provide
6119 potable and industrial water supply systems, sewage and waste
6120 disposal systems and water, natural gas and electric transmission
6121 systems to the site of the project; (ii) airports, airfields and
6122 air terminals; (iii) rail lines; (iv) port facilities; (v)
6123 highways, streets and other roadways; (vi) public school
6124 buildings, classrooms and instructional facilities, training
6125 facilities and equipment, including any functionally related
6126 facilities; (vii) parks, outdoor recreation facilities and
6127 athletic facilities; (viii) auditoriums, pavilions, campgrounds,
6128 art centers, cultural centers, folklore centers and other public
6129 facilities; (ix) health care facilities, public or private; and
6130 (x) fire protection facilities, equipment and elevated water
6131 tanks.

6132 (e) "Person" means any natural person, corporation,
6133 association, partnership, limited liability company, receiver,
6134 trustee, guardian, executor, administrator, fiduciary,
6135 governmental unit, public agency, political subdivision, or any



6136 other group acting as a unit, and the plural as well as the
6137 singular.

6138 (f) "Project" means:

6139 (i) Any industrial, commercial, research and
6140 development, warehousing, distribution, transportation,
6141 processing, mining, United States government or tourism enterprise
6142 together with all real property required for construction,
6143 maintenance and operation of the enterprise with an initial
6144 capital investment of not less than Three Hundred Million Dollars
6145 (\$300,000,000.00) from private or United States government sources
6146 together with all buildings, and other supporting land and
6147 facilities, structures or improvements of whatever kind required
6148 or useful for construction, maintenance and operation of the
6149 enterprise; or with an initial capital investment of not less than
6150 One Hundred Fifty Million Dollars (\$150,000,000.00) from private
6151 or United States government sources together with all buildings
6152 and other supporting land and facilities, structures or
6153 improvements of whatever kind required or useful for construction,
6154 maintenance and operation of the enterprise and which creates at
6155 least one thousand (1,000) net new full-time jobs; or which
6156 creates at least one thousand (1,000) net new full-time jobs which
6157 provides an average salary, excluding benefits which are not
6158 subject to Mississippi income taxation, of at least one hundred
6159 twenty-five percent (125%) of the most recently published average
6160 annual wage of the state as determined by the Mississippi



6161 Department of Employment Security. "Project" shall include any
6162 addition to or expansion of an existing enterprise if such
6163 addition or expansion has an initial capital investment of not
6164 less than Three Hundred Million Dollars (\$300,000,000.00) from
6165 private or United States government sources, or has an initial
6166 capital investment of not less than One Hundred Fifty Million
6167 Dollars (\$150,000,000.00) from private or United States government
6168 sources together with all buildings and other supporting land and
6169 facilities, structures or improvements of whatever kind required
6170 or useful for construction, maintenance and operation of the
6171 enterprise and which creates at least one thousand (1,000) net new
6172 full-time jobs; or which creates at least one thousand (1,000) net
6173 new full-time jobs which provides an average salary, excluding
6174 benefits which are not subject to Mississippi income taxation, of
6175 at least one hundred twenty-five percent (125%) of the most
6176 recently published average annual wage of the state as determined
6177 by the Mississippi Department of Employment Security. "Project"
6178 shall also include any ancillary development or business resulting
6179 from the enterprise, of which the authority is notified, within
6180 three (3) years from the date that the enterprise entered into
6181 commercial production, that the project area has been selected as
6182 the site for the ancillary development or business.

6183 (ii) 1. Any major capital project designed to
6184 improve, expand or otherwise enhance any active duty or reserve
6185 United States armed services bases and facilities or any major



6186 Mississippi National Guard training installations, their support
6187 areas or their military operations, upon designation by the
6188 authority that any such base was or is at risk to be recommended
6189 for closure or realignment pursuant to the Defense Base Closure
6190 and Realignment Act of 1990, as amended, or other applicable
6191 federal law; or any major development project determined by the
6192 authority to be necessary to acquire or improve base properties
6193 and to provide employment opportunities through construction of
6194 projects as defined in Section 57-3-5, which shall be located on
6195 or provide direct support service or access to such military
6196 installation property in the event of closure or reduction of
6197 military operations at the installation.

6198 2. Any major study or investigation related
6199 to such a facility, installation or base, upon a determination by
6200 the authority that the study or investigation is critical to the
6201 expansion, retention or reuse of the facility, installation or
6202 base.

6203 3. Any project as defined in Section 57-3-5,
6204 any business or enterprise determined to be in the furtherance of
6205 the public purposes of this act as determined by the authority or
6206 any facility related to such project each of which shall be,
6207 directly or indirectly, related to any military base or other
6208 military-related facility no longer operated by the United States
6209 armed services or the Mississippi National Guard.



6210 (iii) Any enterprise to be maintained, improved or
6211 constructed in Tishomingo County by or for a National Aeronautics
6212 and Space Administration facility in such county.

6213 (iv) 1. Any major capital project with an initial
6214 capital investment from private sources of not less than Seven
6215 Hundred Fifty Million Dollars (\$750,000,000.00) which will create
6216 at least three thousand (3,000) jobs meeting criteria established
6217 by the Mississippi Development Authority.

6218 2. "Project" shall also include any ancillary
6219 development or business resulting from an enterprise operating a
6220 project as defined in item 1 of this paragraph (f)(iv), of which
6221 the authority is notified, within three (3) years from the date
6222 that the enterprise entered into commercial production, that the
6223 state has been selected as the site for the ancillary development
6224 or business.

6225 (v) Any manufacturing, processing or industrial
6226 project determined by the authority, in its sole discretion, to
6227 contribute uniquely and significantly to the economic growth and
6228 development of the state, and which meets the following criteria:

6229 1. The project shall create at least two
6230 thousand (2,000) net new full-time jobs meeting criteria
6231 established by the authority, which criteria shall include, but
6232 not be limited to, the requirement that such jobs must be held by
6233 persons eligible for employment in the United States under
6234 applicable state and federal law.



6235 2. The project and any facility related to
6236 the project shall include a total investment from private sources
6237 of not less than Sixty Million Dollars (\$60,000,000.00), or from
6238 any combination of sources of not less than Eighty Million Dollars
6239 (\$80,000,000.00).

6240 (vi) Any real property owned or controlled by the
6241 National Aeronautics and Space Administration, the United States
6242 government, or any agency thereof, which is legally conveyed to
6243 the State of Mississippi or to the State of Mississippi for the
6244 benefit of the Mississippi Major Economic Impact Authority, its
6245 successors and assigns pursuant to Section 212 of Public Law
6246 104-99, enacted January 26, 1996 (110 Stat. 26 at 38).

6247 (vii) Any major capital project related to the
6248 establishment, improvement, expansion and/or other enhancement of
6249 any active duty military installation and having a minimum capital
6250 investment from any source or combination of sources other than
6251 the State of Mississippi of at least Forty Million Dollars
6252 (\$40,000,000.00), and which will create at least four hundred
6253 (400) military installation related full-time jobs, which jobs may
6254 be military jobs, civilian jobs or a combination of military and
6255 civilian jobs. The authority shall require that binding
6256 commitments be entered into requiring that the minimum
6257 requirements for the project provided for in this subparagraph
6258 shall be met not later than July 1, 2008.



6259 (viii) Any major capital project with an initial
6260 capital investment from any source or combination of sources of
6261 not less than Ten Million Dollars (\$10,000,000.00) which will
6262 create at least eighty (80) full-time jobs which provide an
6263 average annual salary, excluding benefits which are not subject to
6264 Mississippi income taxes, of at least one hundred thirty-five
6265 percent (135%) of the most recently published average annual wage
6266 of the state or the most recently published average annual wage of
6267 the county in which the project is located as determined by the
6268 Mississippi Department of Employment Security, whichever is the
6269 lesser. The authority shall require that binding commitments be
6270 entered into requiring that:

6271 1. The minimum requirements for the project
6272 provided for in this subparagraph shall be met; and

6273 2. That if such commitments are not met, all
6274 or a portion of the funds provided by the state for the project as
6275 determined by the authority shall be repaid.

6276 (ix) Any regional retail shopping mall with an
6277 initial capital investment from private sources in excess of One
6278 Hundred Fifty Million Dollars (\$150,000,000.00), with a square
6279 footage in excess of eight hundred thousand (800,000) square feet,
6280 which will create at least seven hundred (700) full-time jobs with
6281 an average hourly wage of Eleven Dollars (\$11.00) per hour. The
6282 authority shall require that binding commitments be entered into
6283 requiring that:



6284 1. The minimum requirements for the project
6285 provided for in this subparagraph shall be met; and

6286 2. That if such commitments are not met, all
6287 or a portion of the funds provided by the state for the project as
6288 determined by the authority shall be repaid.

6289 (x) Any major capital project with an initial
6290 capital investment from any source or combination of sources of
6291 not less than Seventy-five Million Dollars (\$75,000,000.00) which
6292 will create at least one hundred twenty-five (125) full-time jobs
6293 which provide an average annual salary, excluding benefits which
6294 are not subject to Mississippi income taxes, of at least one
6295 hundred thirty-five percent (135%) of the most recently published
6296 average annual wage of the state or the most recently published
6297 average annual wage of the county in which the project is located
6298 as determined by the Mississippi Department of Employment
6299 Security, whichever is the greater. The authority shall require
6300 that binding commitments be entered into requiring that:

6301 1. The minimum requirements for the project
6302 provided for in this subparagraph shall be met; and

6303 2. That if such commitments are not met, all
6304 or a portion of the funds provided by the state for the project as
6305 determined by the authority shall be repaid.

6306 (xi) Any potential major capital project that the
6307 authority has determined is feasible to recruit.



6308 (xii) Any project built according to the
6309 specifications and federal provisions set forth by the National
6310 Aeronautics and Space Administration Center Operations Directorate
6311 at Stennis Space Center for the purpose of consolidating common
6312 services from National Aeronautics and Space Administration
6313 centers in human resources, procurement, financial management and
6314 information technology located on land owned or controlled by the
6315 National Aeronautics and Space Administration, which will create
6316 at least four hundred seventy (470) full-time jobs.

6317 (xiii) Any major capital project with an initial
6318 capital investment from any source or combination of sources of
6319 not less than Ten Million Dollars (\$10,000,000.00) which will
6320 create at least two hundred fifty (250) full-time jobs. The
6321 authority shall require that binding commitments be entered into
6322 requiring that:

6323 1. The minimum requirements for the project
6324 provided for in this subparagraph shall be met; and

6325 2. That if such commitments are not met, all
6326 or a portion of the funds provided by the state for the project as
6327 determined by the authority shall be repaid.

6328 (xiv) Any major pharmaceutical facility with a
6329 capital investment of not less than Fifty Million Dollars
6330 (\$50,000,000.00) made after July 1, 2002, through four (4) years
6331 after the initial date of any loan or grant made by the authority
6332 for such project, which will maintain at least seven hundred fifty



6333 (750) full-time employees. The authority shall require that
6334 binding commitments be entered into requiring that:

6335 1. The minimum requirements for the project
6336 provided for in this subparagraph shall be met; and

6337 2. That if such commitments are not met, all
6338 or a portion of the funds provided by the state for the project as
6339 determined by the authority shall be repaid.

6340 (xv) Any pharmaceutical manufacturing, packaging
6341 and distribution facility with an initial capital investment from
6342 any local or federal sources of not less than Five Hundred
6343 Thousand Dollars (\$500,000.00) which will create at least ninety
6344 (90) full-time jobs. The authority shall require that binding
6345 commitments be entered into requiring that:

6346 1. The minimum requirements for the project
6347 provided for in this subparagraph shall be met; and

6348 2. That if such commitments are not met, all
6349 or a portion of the funds provided by the state for the project as
6350 determined by the authority shall be repaid.

6351 (xvi) Any major industrial wood processing
6352 facility with an initial capital investment of not less than One
6353 Hundred Million Dollars (\$100,000,000.00) which will create at
6354 least one hundred twenty-five (125) full-time jobs which provide
6355 an average annual salary, excluding benefits which are not subject
6356 to Mississippi income taxes, of at least Thirty Thousand Dollars



6357 (\$30,000.00). The authority shall require that binding
6358 commitments be entered into requiring that:

6359 1. The minimum requirements for the project
6360 provided for in this subparagraph shall be met; and

6361 2. That if such commitments are not met, all
6362 or a portion of the funds provided by the state for the project as
6363 determined by the authority shall be repaid.

6364 (xvii) Any technical, engineering,
6365 manufacturing-logistic service provider with an initial capital
6366 investment of not less than One Million Dollars (\$1,000,000.00)
6367 which will create at least ninety (90) full-time jobs. The
6368 authority shall require that binding commitments be entered into
6369 requiring that:

6370 1. The minimum requirements for the project
6371 provided for in this subparagraph shall be met; and

6372 2. That if such commitments are not met, all
6373 or a portion of the funds provided by the state for the project as
6374 determined by the authority shall be repaid.

6375 (xviii) Any major capital project with an initial
6376 capital investment from any source or combination of sources other
6377 than the State of Mississippi of not less than Six Hundred Million
6378 Dollars (\$600,000,000.00) which will create at least four hundred
6379 fifty (450) full-time jobs with an average annual salary,
6380 excluding benefits which are not subject to Mississippi income
6381 taxes, of at least Seventy Thousand Dollars (\$70,000.00). The



6382 authority shall require that binding commitments be entered into
6383 requiring that:

6384 1. The minimum requirements for the project
6385 provided for in this subparagraph shall be met; and

6386 2. That if such commitments are not met, all
6387 or a portion of the funds provided by the state for the project as
6388 determined by the authority shall be repaid.

6389 (xix) Any major coal and/or petroleum coke
6390 gasification project with an initial capital investment from any
6391 source or combination of sources other than the State of
6392 Mississippi of not less than Eight Hundred Million Dollars
6393 (\$800,000,000.00), which will create at least two hundred (200)
6394 full-time jobs with an average annual salary, excluding benefits
6395 which are not subject to Mississippi income taxes, of at least
6396 Forty-five Thousand Dollars (\$45,000.00). The authority shall
6397 require that binding commitments be entered into requiring that:

6398 1. The minimum requirements for the project
6399 provided for in this subparagraph shall be met; and

6400 2. That if such commitments are not met, all
6401 or a portion of the funds provided by the state for the project as
6402 determined by the authority shall be repaid.

6403 (xx) Any planned mixed use development located on
6404 not less than four thousand (4,000) acres of land that will
6405 consist of commercial, recreational, resort, tourism and
6406 residential development with a capital investment from private



6407 sources of not less than Four Hundred Seventy-five Million Dollars
6408 (\$475,000,000.00) in the aggregate in any one (1) or any
6409 combination of tourism projects that will create at least three
6410 thousand five hundred (3,500) jobs in the aggregate. For the
6411 purposes of this paragraph (f)(xx), the term "tourism project"
6412 means and has the same definition as that term has in Section
6413 57-28-1. In order to meet the minimum capital investment required
6414 under this paragraph (f)(xx), at least Two Hundred Thirty-seven
6415 Million Five Hundred Thousand Dollars (\$237,500,000.00) of such
6416 investment must be made not later than June 1, 2015, and the
6417 remainder of the minimum capital investment must be made not later
6418 than June 1, 2017. In order to meet the minimum number of jobs
6419 required to be created under this paragraph (f)(xx), at least one
6420 thousand seven hundred fifty (1,750) of such jobs must be created
6421 not later than June 1, 2015, and the remainder of the jobs must be
6422 created not later than June 1, 2017. The authority shall require
6423 that binding commitments be entered into requiring that:

6424 1. The minimum requirements for the project
6425 provided for in this subparagraph shall be met; and

6426 2. That if such commitments are not met, all
6427 or a portion of the funds provided by the state for the project as
6428 determined by the authority shall be repaid.

6429 (xxi) Any enterprise owning or operating an
6430 automotive manufacturing and assembly plant and its affiliates for
6431 which construction begins after March 2, 2007, and not later than



6432 December 1, 2007, with an initial capital investment from private
6433 sources of not less than Five Hundred Million Dollars
6434 (\$500,000,000.00) which will create at least one thousand five
6435 hundred (1,500) jobs meeting criteria established by the
6436 authority, which criteria shall include, but not be limited to,
6437 the requirement that such jobs must be held by persons eligible
6438 for employment in the United States under applicable state and
6439 federal law. The authority shall require that binding commitments
6440 be entered into requiring that:

6441 1. The minimum requirements for the project
6442 provided for in this subparagraph shall be met; and

6443 2. That if such commitments are not met, all
6444 or a portion of the funds provided by the state for the project as
6445 determined by the authority shall be repaid.

6446 (xxii) Any enterprise owning or operating a major
6447 powertrain component manufacturing and assembly plant for which
6448 construction begins after May 11, 2007, and not later than
6449 December 1, 2007, with an initial capital investment from private
6450 sources of not less than Three Hundred Million Dollars
6451 (\$300,000,000.00) which will create at least five hundred (500)
6452 new full-time jobs meeting criteria established by the authority,
6453 which criteria shall include, but not be limited to, the
6454 requirement that such jobs must be held by persons eligible for
6455 employment in the United States under applicable state and federal
6456 law, and the requirement that the average annual wages and taxable



6457 benefits of such jobs shall be at least one hundred twenty-five
6458 percent (125%) of the most recently published average annual wage
6459 of the state or the most recently published average annual wage of
6460 the county in which the project is located as determined by the
6461 Mississippi Department of Employment Security, whichever is the
6462 lesser. The authority shall require that binding commitments be
6463 entered into requiring that:

6464 1. The minimum requirements for the project
6465 provided for in this subparagraph shall be met; and

6466 2. That if such commitments are not met, all
6467 or a portion of the funds provided by the state for the project as
6468 determined by the authority shall be repaid.

6469 (xxiii) Any biological and agricultural defense
6470 project operated by an agency of the government of the United
6471 States with an initial capital investment of not less than Four
6472 Hundred Fifty Million Dollars (\$450,000,000.00) from any source
6473 other than the State of Mississippi and its subdivisions, which
6474 will create at least two hundred fifty (250) new full-time jobs.
6475 All jobs created by the project must be held by persons eligible
6476 for employment in the United States under applicable state and
6477 federal law.

6478 (xxiv) Any enterprise owning or operating an
6479 existing tire manufacturing plant which adds to such plant capital
6480 assets of not less than Twenty-five Million Dollars
6481 (\$25,000,000.00) after January 1, 2009, and that maintains at



6482 least one thousand two hundred (1,200) full-time jobs in this
6483 state at one (1) location with an average annual salary, excluding
6484 benefits which are not subject to Mississippi income taxes, of at
6485 least Forty-five Thousand Dollars (\$45,000.00). The authority
6486 shall require that binding commitments be entered into requiring
6487 that:

6488 1. The minimum requirements for the project
6489 provided for in this subparagraph shall be met; and

6490 2. That if such commitments are not met, all
6491 or a portion of the funds provided by the state for the project as
6492 determined by the authority shall be repaid.

6493 (xxv) Any enterprise owning or operating a
6494 facility for the manufacture of composite components for the
6495 aerospace industry which will have an investment from private
6496 sources of not less than One Hundred Seventy-five Million Dollars
6497 (\$175,000,000.00) by not later than December 31, 2015, and which
6498 will result in the full-time employment at the project site of not
6499 less than two hundred seventy-five (275) persons by December 31,
6500 2011, and not less than four hundred twenty-five (425) persons by
6501 December 31, 2013, and not less than eight hundred (800) persons
6502 by December 31, 2017, all with an average annual compensation,
6503 excluding benefits which are not subject to Mississippi income
6504 taxes, of at least Fifty-three Thousand Dollars (\$53,000.00). The
6505 authority shall require that binding commitments be entered into
6506 requiring that:



6507 1. The minimum requirements for the project
6508 provided for in this subparagraph shall be met; and

6509 2. That if such commitments are not met, all
6510 or a portion of the funds provided by the state for the project as
6511 determined by the authority shall be repaid.

6512 (xxvi) Any enterprise owning or operating a
6513 facility for the manufacture of pipe which will have an investment
6514 from any source other than the State of Mississippi and its
6515 subdivisions of not less than Three Hundred Million Dollars
6516 (\$300,000,000.00) by not later than December 31, 2015, and which
6517 will create at least five hundred (500) new full-time jobs within
6518 five (5) years after the start of commercial production and
6519 maintain such jobs for at least ten (10) years, all with an
6520 average annual compensation, excluding benefits which are not
6521 subject to Mississippi income taxes, of at least Thirty-two
6522 Thousand Dollars (\$32,000.00). The authority shall require that
6523 binding commitments be entered into requiring that:

6524 1. The minimum requirements for the project
6525 provided for in this subparagraph shall be met; and

6526 2. That if such commitments are not met, all
6527 or a portion of the funds provided by the state for the project as
6528 determined by the authority shall be repaid.

6529 (xxvii) Any enterprise owning or operating a
6530 facility for the manufacture of solar panels which will have an
6531 investment from any source other than the State of Mississippi and



6532 its subdivisions of not less than One Hundred Thirty-two Million
6533 Dollars (\$132,000,000.00) by not later than December 31, 2015, and
6534 which will create at least five hundred (500) new full-time jobs
6535 within five (5) years after the start of commercial production and
6536 maintain such jobs for at least ten (10) years, all with an
6537 average annual compensation, excluding benefits which are not
6538 subject to Mississippi income taxes, of at least Thirty-four
6539 Thousand Dollars (\$34,000.00). The authority shall require that
6540 binding commitments be entered into requiring that:

6541 1. The minimum requirements for the project
6542 provided for in this subparagraph shall be met; and

6543 2. That if such commitments are not met, all
6544 or a portion of the funds provided by the state for the project as
6545 determined by the authority shall be repaid.

6546 (xxviii) 1. Any enterprise owning or operating an
6547 automotive parts manufacturing plant and its affiliates for which
6548 construction begins after June 1, 2013, and not later than June
6549 30, 2014, with an initial capital investment of not less than
6550 Three Hundred Million Dollars (\$300,000,000.00) which will create
6551 at least five hundred (500) new full-time jobs meeting criteria
6552 established by the authority, which criteria shall include, but
6553 not be limited to, the requirement that such jobs must be held by
6554 persons eligible for employment in the United States under
6555 applicable state and federal law, and the requirement that the
6556 average annual wages and taxable benefits of such jobs shall be at



6557 least one hundred ten percent (110%) of the most recently
6558 published average annual wage of the state or the most recently
6559 published average annual wage of the county in which the project
6560 is located as determined by the Mississippi Department of
6561 Employment Security, whichever is the lesser. The authority shall
6562 require that binding commitments be entered into requiring that:

- 6563 a. The minimum requirements for the
6564 project provided for in this subparagraph shall be met; and
6565 b. That if such commitments are not met,
6566 all or a portion of the funds provided by the state for the
6567 project as determined by the authority shall be repaid.

6568 2. It is anticipated that the project defined
6569 in this subparagraph (xxviii) will expand in three (3) additional
6570 phases, will create an additional five hundred (500) full-time
6571 jobs meeting the above criteria in each phase, and will invest an
6572 additional Three Hundred Million Dollars (\$300,000,000.00) per
6573 phase.

6574 (xxix) Any enterprise engaged in the manufacture
6575 of tires or other related rubber or automotive products for which
6576 construction of a plant begins after January 1, 2016, and is
6577 substantially completed no later than December 31, 2022, and for
6578 which such enterprise commits to an aggregate capital investment
6579 by such enterprise and its affiliates of not less than One Billion
6580 Four Hundred Fifty Million Dollars (\$1,450,000,000.00) and the
6581 creation thereby of at least two thousand five hundred (2,500) new



6582 full-time jobs meeting criteria established by the authority,
6583 which criteria shall include, but not be limited to, the
6584 requirement that such jobs must be held by persons eligible for
6585 employment in the United States under applicable state and federal
6586 law, and the requirement that the average annual salary or wage,
6587 excluding the value of any benefits which are not subject to
6588 Mississippi income tax, of such jobs shall be at least Forty
6589 Thousand Dollars (\$40,000.00). The authority shall require that
6590 binding commitments be entered into requiring that:

6591 1. Minimum requirements for investment and
6592 jobs for the project shall be met; and

6593 2. If such requirements are not met, all or a
6594 portion of the funds provided by the state for the project may, as
6595 determined by the authority, be subject to repayment by such
6596 enterprise and/or its affiliates, together with any penalties or
6597 damages required by the authority in connection therewith.

6598 (xxx) Any enterprise owning or operating a
6599 maritime fabrication and assembly facility for which construction
6600 begins after February 1, 2016, and concludes not later than
6601 December 31, 2018, with an initial capital investment in land,
6602 buildings and equipment not less than Sixty-eight Million Dollars
6603 (\$68,000,000.00) and will create not less than one thousand
6604 (1,000) new full-time jobs meeting criteria established by the
6605 authority, which criteria shall include, but not be limited to,
6606 the requirement that such jobs must be held by persons eligible



6607 for employment in the United States under applicable state and
6608 federal law, and the requirement that the average annual
6609 compensation, excluding benefits which are not subject to
6610 Mississippi income taxes, of at least Forty Thousand Dollars
6611 (\$40,000.00). The authority shall require that binding
6612 commitments be entered into requiring that:

6613 1. The minimum requirements for the project
6614 provided for in this subparagraph shall be met; and

6615 2. If such commitments are not met, all or a
6616 portion of the funds provided by the state for the project may, as
6617 determined by the authority, be subject to repayment by such
6618 enterprise, together with any penalties or damages required by the
6619 authority in connection therewith.

6620 (xxxi) Each of the projects defined in this
6621 paragraph (f)(xxxi)1 and 2 that are undertaken by affiliated
6622 enterprises, together with any or all of the projects defined in
6623 this paragraph (f)(xxxi)3 and/or 4 if they are undertaken by the
6624 same or other enterprises affiliated with those enterprises that
6625 undertake projects defined in this paragraph (f)(xxxi)1 and 2:

6626 1. An enterprise engaged in the manufacturing
6627 and production of recycled flat-rolled aluminum or related
6628 products for which construction of a recycled aluminum flat-rolled
6629 mill begins after January 1, 2023, and is substantially completed
6630 no later than December 31, 2026; and



6631 2. An enterprise engaged in the manufacturing
6632 and production of biocarbon from biomass for which construction of
6633 the biocarbon manufacturing facility begins after December 1,
6634 2022, and is substantially completed no later than December 31,
6635 2026; provided that such series of projects may additionally, but
6636 shall not be required to, include:

6637 3. Any other affiliated enterprise that
6638 undertakes the development and operation of a new industrial or
6639 commercial facility in the state, excluding any area or areas
6640 designated by the authority in a written agreement between such
6641 enterprise or any affiliate thereof, for which the construction of
6642 any such facility begins after January 1, 2023, and is
6643 substantially completed no later than December 31, 2029; and/or

6644 4. An enterprise engaged in the development
6645 and operation of port activities (e.g., the loading and unloading
6646 of barges, rail cars and trucks, the storage and handling of
6647 materials, and other port-related operations) in support of all or
6648 any of the enterprises enumerated in this paragraph (f)(xxxi)1, 2
6649 and 3, or otherwise in support of an existing electric arc furnace
6650 steel mill producing flat-rolled steel and related products; and
6651 for which the parent enterprise of such affiliated enterprises
6652 enumerated in this paragraph (f)(xxxi)1, 2, 3 and/or 4 commits to
6653 an aggregate, collective capital investment by one or more or any
6654 combination of such enterprises and their affiliates, as well as
6655 by any co-located customers, of not less than Two Billion Five



6656 Hundred Million Dollars (\$2,500,000,000.00) and the creation
6657 thereby of at least one thousand (1,000) new full-time jobs
6658 meeting criteria established by the authority, which criteria
6659 shall include, but not be limited to, the requirement that such
6660 jobs must be held by persons eligible for employment in the United
6661 States under applicable state and federal law, and the requirement
6662 that the average annual salary or wage, excluding the value of any
6663 benefits which are not subject to Mississippi income tax, of such
6664 jobs shall be at least Ninety-three Thousand Dollars (\$93,000.00).
6665 The authority shall require that binding commitments be entered
6666 into requiring that:

6667 a. Minimum requirements for investment
6668 and jobs for such affiliated projects shall be met; and

6669 b. If such requirements are not
6670 collectively met, all or a portion of the funds provided by the
6671 state for such affiliated projects may, as determined by the
6672 authority, be subject to repayment by such enterprises and/or
6673 their affiliates, together with any penalties or damages required
6674 by the authority in connection therewith.

6675 For purposes of this paragraph (f)(xxxi), A. a co-located
6676 customer shall mean a person who locates and operates any new
6677 manufacturing, processing, warehousing and/or distribution
6678 facility within the project area for the project defined in this
6679 paragraph (f)(xxxi)1 and utilizes, directly or indirectly, in its
6680 operations any aluminum or related products produced by such



6681 project, and B. an affiliated enterprise or an affiliate means a
6682 related business entity which shares a common direct or indirect
6683 ownership with the enterprise owning or operating a project as
6684 defined in this paragraph (f)(xxxi)1, 2, 3 or 4. References in
6685 the act to a project, as defined by this paragraph (f)(xxxi) shall
6686 mean any one of, any combination or all of the projects as defined
6687 in this paragraph (f)(xxxi)1, 2, 3 or 4.

6688 (xxxi) Any enterprise engaged in the manufacture
6689 and assembly of battery cells for electric commercial vehicles and
6690 industrial applications, for which construction of a manufacturing
6691 and assembly plant begins after January 1, 2024, and the
6692 manufacturing and assembly of battery cells thereby commences on
6693 or prior to December 31, 2029, and for which such enterprise
6694 commits to an aggregate, collective capital investment by such
6695 enterprise, one or more affiliates of such enterprise or any
6696 combination of such enterprise and its affiliates, of not less
6697 than One Billion Nine Hundred Million Dollars (\$1,900,000,000.00)
6698 and the creation by such enterprise, one or more affiliates of
6699 such enterprise or any combination of such enterprise and its
6700 affiliates, as well as by any other co-located project
6701 participant, of at least two thousand (2,000) new full-time jobs
6702 meeting criteria established by the authority, which criteria
6703 shall include, but not be limited to, the requirement that such
6704 jobs must be held by persons eligible for employment in the United
6705 States under applicable state and federal law, and the requirement



6706 that the average annual salary or wage, excluding the value of any
6707 benefits which are not subject to Mississippi income tax prior to
6708 January 1, 2024, of such jobs shall be at least Sixty-five
6709 Thousand Five Hundred Sixty-four Dollars (\$65,564.00). The
6710 authority shall require that binding commitments be entered into
6711 requiring that:

6712 1. Minimum requirements for investment and
6713 jobs for such affiliated projects shall be met; and

6714 2. If such requirements are not collectively
6715 met, all or a portion of the funds provided by the state for such
6716 project may, as determined by the authority, be subject to
6717 repayment by such enterprise and/or its affiliates, together with
6718 any penalties or damages required by the authority in connection
6719 therewith.

6720 For purposes of this paragraph (f) (xxxii), a co-located
6721 project participant shall mean a person or business entity that,
6722 pursuant to one or more contracts with an enterprise owning or
6723 operating a project as defined in this paragraph (f) (xxxii) or an
6724 affiliate thereof, performs within the project area one or more of
6725 the following: a. storage, handling and processing services for
6726 raw materials, work in process and/or finished goods inventories;
6727 b. maintenance, operation and/or other servicing of equipment and
6728 machinery used in the project; c. management of real and tangible
6729 personal property used in the project; d. any manufacturing,
6730 processing or assembly work, in each instance with respect to the



6731 manufacturing and/or assembly of battery cells for electric
6732 commercial vehicles or industrial applications manufactured or
6733 otherwise assembled within the project area by such enterprise or
6734 an affiliate thereof; or e. the supply to such enterprise or any
6735 affiliate thereof of any components, parts or materials of any
6736 battery cells for electric commercial vehicles or industrial
6737 applications manufactured or otherwise assembled within the
6738 project area by such enterprise or any affiliate thereof.

6739 (xxxiii) Any enterprise engaged in data
6740 processing, for which construction of a data processing facility
6741 or facilities begins after January 1, 2024, the processing of data
6742 by at least one (1) data processing facility commences on or prior
6743 to December 31, 2027, and for which such enterprise commits to an
6744 aggregate, collective capital investment by such enterprise, one
6745 or more affiliates of such enterprise or any combination of such
6746 enterprise and its affiliates, of not less than Ten Billion
6747 Dollars (\$10,000,000,000.00) and the creation by such enterprise,
6748 one or more affiliates or contractors of such enterprise or any
6749 combination of such enterprises and its affiliates, as well as by
6750 any other co-located project participant, of at least one thousand
6751 (1,000) new full-time jobs meeting criteria established by the
6752 authority, which criteria shall include, but not be limited to,
6753 the requirement that such jobs must be held by persons eligible
6754 for employment in the United States under applicable state and
6755 federal law, and the requirement that the average annual salary or



6756 wage, excluding the value of any benefits which are not subject to
6757 Mississippi income tax prior to January 1, 2024, of such jobs
6758 shall be at least one hundred twenty-five percent (125%) of the
6759 published average annual wage of the state as determined by the
6760 Mississippi Department of Employment Security. The authority
6761 shall require that binding commitments be entered into requiring
6762 that:

6763 1. Minimum requirements for investment and
6764 jobs for such affiliated projects shall be met; and

6765 2. If such requirements are not collectively
6766 met, all or a portion of the funds provided by the state for such
6767 project may, as determined by the authority, be subject to
6768 repayment by such enterprise and/or its affiliates, together with
6769 any penalties or damages required by the authority in connection
6770 therewith.

6771 For purposes of this paragraph (f) (xxxiii), a co-located
6772 project participant shall mean a person or business entity that,
6773 pursuant to one or more contracts with an enterprise owning or
6774 operating a project as defined in this paragraph (f) (xxxiii) or an
6775 affiliate thereof, performs within the project area one or more of
6776 the following: a. maintenance, operation and/or other servicing
6777 of equipment and machinery used in the project; b. management of
6778 real and tangible personal property used in the project; or c. the
6779 supply to such enterprise or any affiliate thereof of any



6780 components, parts or services within the project area by such
6781 enterprise or any affiliate thereof.

6782 For purposes of this paragraph (f)(xxxiii), "project" shall
6783 include the construction of additional data processing facilities
6784 or the expansion of existing data processing facilities within the
6785 state by the enterprise, one or more affiliates of such
6786 enterprise, or any combination of such enterprise and its
6787 affiliates, if such construction or expansion has a minimum
6788 capital investment of Five Hundred Million Dollars
6789 (\$500,000,000.00) and creates at least fifty (50) net new
6790 full-time jobs and written notice thereof is provided to the
6791 authority.

6792 (g) (i) "Project area" means the project site,
6793 together with any area or territory within the state lying within
6794 sixty-five (65) miles of any portion of the project site whether
6795 or not such area or territory be contiguous; however, for the
6796 project defined in paragraph (f)(iv) and (xxxiii) of this section
6797 the term "project area" means any area or territory within the
6798 state. The project area shall also include all territory within a
6799 county if any portion of such county lies within sixty-five (65)
6800 miles of any portion of the project site. "Project site" means
6801 the real property on which the principal facilities of the
6802 enterprise will operate; however, for the project defined in
6803 paragraph (f)(xxxiii) of this section, the term "project site"
6804 means any area or territory within the state upon which an



6805 enterprise constructs one or more data processing facilities. The
6806 provisions of this subparagraph (i) shall not apply to a project
6807 as defined in paragraph (f)(xxi) of this section.

6808 (ii) For the purposes of a project as defined in
6809 paragraph (f)(xxi) of this section, the term "project area" means
6810 the acreage authorized in the certificate of convenience and
6811 necessity issued by the Mississippi Development Authority to a
6812 regional economic development alliance under Section 57-64-1 et
6813 seq.

6814 (iii) For the purposes of a project as defined in
6815 either paragraph (f)(xxxi)1 or paragraph (f)(xxxii) of this
6816 section, the term "project area" means the acreage specified by
6817 the authority in written agreement with the enterprise undertaking
6818 such project and/or an affiliate thereof.

6819 (h) "Public agency" means:

6820 (i) Any department, board, commission, institution
6821 or other agency or instrumentality of the state;

6822 (ii) Any city, town, county, political
6823 subdivision, school district or other district created or existing
6824 under the laws of the state or any public agency of any such city,
6825 town, county, political subdivision or district or any other
6826 public entity created or existing under local and private
6827 legislation;

6828 (iii) Any department, commission, agency or
6829 instrumentality of the United States of America; and



6830 (iv) Any other state of the United States of
6831 America which may be cooperating with respect to location of the
6832 project within the state, or any agency thereof.

6833 (i) "State" means State of Mississippi.

6834 (j) "Fee-in-lieu" means a negotiated fee to be paid by
6835 the project in lieu of any franchise taxes imposed on the project
6836 by Chapter 13, Title 27, Mississippi Code of 1972. The
6837 fee-in-lieu shall not be less than Twenty-five Thousand Dollars
6838 (\$25,000.00) annually. A fee-in-lieu may be negotiated with an
6839 enterprise operating an existing project defined in paragraph
6840 (f)(iv)¹ of this section; however, a fee-in-lieu shall not be
6841 negotiated for other existing enterprises that fall within the
6842 definition of the term "project."

6843 (k) (i) "Affiliate" means a subsidiary or related
6844 business entity which shares a common direct or indirect ownership
6845 with the enterprise owning or operating a project as defined in
6846 paragraph (f)(xxi), paragraph (f)(xxviii) or paragraph (f)(xxix)
6847 of this section. The subsidiary or related business must provide
6848 services directly related to the core activities of the project.

6849 (ii) For the purposes of a project as defined in
6850 paragraph (f)(xxxix) of this section, an "affiliated enterprise" or
6851 an "affiliate" means a related business entity which shares a
6852 common direct or indirect ownership with the enterprise owning or
6853 operating a project as defined in paragraph (f)(xxxix)^{1, 2, 3 or 4}
6854 of this section.



6855 (iii) For the purposes of a project as defined in
6856 paragraph (f)(xxxii) of this section, an "affiliated enterprise"
6857 or an "affiliate" means a related business entity which shares a
6858 common direct or indirect ownership with the enterprise owning or
6859 operating a project as defined in paragraph (f)(xxxii) of this
6860 section.

6861 (iv) For the purposes of a project as defined in
6862 paragraph (f)(xxxiii) of this section, an "affiliated enterprise"
6863 or an "affiliate" means a related business entity which shares a
6864 common direct or indirect ownership with the enterprise owning or
6865 operating a project as defined in paragraph (f)(xxxiii) of this
6866 section; provided, any such related business entity may be
6867 excluded from this definition pursuant to the terms of a written
6868 agreement between the authority and the enterprise owning or
6869 operating a project as defined in paragraph (f)(xxxiii) of this
6870 section.

6871 (1) "Tier One supplier" means a supplier of a project
6872 as defined in paragraph (f)(xxi) of this section that is certified
6873 by the enterprise owning the project and creates a minimum of
6874 fifty (50) new full-time jobs.

6875 **SECTION 138.** Section 57-75-7, Mississippi Code of 1972, is
6876 brought forward as follows:

6877 57-75-7. (1) There is created within the Department of
6878 Economic Development a division to be known as the "Mississippi
6879 Major Economic Impact Authority" for the performance of essential



6880 public functions. The Executive Director of the Department of
6881 Economic Development or his designee shall be the director of the
6882 authority.

6883 (2) The director shall administer, manage and direct the
6884 affairs and business of the authority.

6885 **SECTION 139.** Section 57-75-9, Mississippi Code of 1972, is
6886 brought forward as follows:

6887 57-75-9. (1) The authority is hereby designated and
6888 empowered to act on behalf of the state in submitting a siting
6889 proposal for any project eligible for assistance under this act.
6890 The authority is empowered to take all steps appropriate or
6891 necessary to effect the siting, development, and operation of the
6892 project within the state, including the negotiation of a
6893 fee-in-lieu. If the state is selected as the preferred site for
6894 the project, the authority is hereby designated and empowered to
6895 act on behalf of the state and to represent the state in the
6896 planning, financing, development, construction and operation of
6897 the project or any facility related to the project, with the
6898 concurrence of the affected public agency. The authority may take
6899 affirmative steps to coordinate fully all aspects of the
6900 submission of a siting proposal for the project and, if the state
6901 is selected as the preferred site, to coordinate fully, with the
6902 concurrence of the affected public agency, the development of the
6903 project or any facility related to the project with private
6904 business, the United States government and other public agencies.



6905 All public agencies are encouraged to cooperate to the fullest
6906 extent possible to effectuate the duties of the authority;
6907 however, the development of the project or any facility related to
6908 the project by the authority may be done only with the concurrence
6909 of the affected public agency.

6910 (2) (a) Contracts, by the authority or a public agency,
6911 including, but not limited to, design and construction contracts,
6912 for the acquisition, purchase, construction or installation of a
6913 project defined in Section 57-75-5(f)(iv)1 or any facility related
6914 to the project shall be exempt from the provisions of Section
6915 31-7-13 if:

6916 (i) The authority finds and records such finding
6917 on its minutes, that because of availability or the particular
6918 nature of a project, it would not be in the public interest or
6919 would less effectively achieve the purposes of this chapter to
6920 enter into such contracts on the basis of Section 31-7-13; and

6921 (ii) The enterprise that is involved in the
6922 project concurs in such finding.

6923 (b) When the requirements of paragraph (a) of this
6924 subsection are met:

6925 (i) The requirements of Section 31-7-13 shall not
6926 apply to such contracts; and

6927 (ii) The contracts may be entered into on the
6928 basis of negotiation.



6929 (c) The enterprise involved with the project may, upon
6930 approval of the authority, negotiate such contracts in the name of
6931 the authority.

6932 (d) The provisions of this subsection (2) shall not
6933 apply to contracts by the authority for excavation, fill dirt and
6934 compaction for the preparation of the site of a project as defined
6935 in Section 57-75-5(f) (iv)1 and such contracts may be entered into
6936 pursuant to subsection (3) of this section.

6937 (3) (a) Contracts by the authority for excavation, fill
6938 dirt and compaction for the preparation of the site of a project
6939 defined in Section 57-75-5(f) (iv)1 shall be exempt from the
6940 provisions of Section 31-7-13 and the following procedure shall be
6941 followed in the award of such contracts:

6942 (i) The authority shall advertise for a period of
6943 time to be set by the authority, but in no event less than one (1)
6944 business day, the date, time and place of a meeting with the
6945 authority to receive specifications on a request for proposals on
6946 excavation, fill dirt and compaction for the preparation of the
6947 site of the project defined in Section 57-75-5(f) (iv)1.

6948 (ii) The authority shall set the minimum
6949 qualifications necessary to be considered for award of the
6950 contract and the advertisement shall set forth such minimum
6951 qualifications.

6952 (iii) Following the meeting the authority shall,
6953 in its discretion, select one or more of the qualified contractors



6954 with whom to negotiate or award the contract. The decision of the
6955 authority concerning the selection of the contractor shall be
6956 final.

6957 (b) Contracts by the authority or a public agency for
6958 site preparation, utilities, real estate improvements, wastewater
6959 or for public works for a project defined in Section
6960 57-75-5(f) (xxi) or Section 57-75-5(f) (xxii) shall be exempt from
6961 the provisions of Section 31-7-13 and the following procedure
6962 shall be followed in the award of such contracts:

6963 (i) The authority or the public agency shall
6964 advertise for a period of time to be set by the authority or the
6965 public agency, but in no event less than one (1) nor more than
6966 five (5) calendar days, the date, time and place of a meeting with
6967 the authority or the public agency to receive specifications on
6968 the preparation of the site of the project defined in Section
6969 57-75-5(f) (xxi) or Section 57-75-5(f) (xxii).

6970 (ii) The authority or the public agency shall set
6971 the minimum qualifications necessary to be considered for award of
6972 the contract and the advertisement shall set forth such minimum
6973 qualifications.

6974 (iii) Following the meeting the authority or the
6975 public agency shall, in its discretion, select one or more of the
6976 qualified contractors with whom to negotiate or award the
6977 contract. The decision of the authority or the public agency
6978 concerning the selection of the contractor shall be final.



6979 (c) Contracts by a public agency for site preparation,
6980 utilities, real estate improvements, infrastructure, roads or for
6981 public works for a project defined in Section 57-75-5(f) (xxiii),
6982 Section 57-75-5(f) (xxix), Section 57-75-5(f) (xxx), Section
6983 57-75-5(f) (xxxi), Section 57-75-5(f) (xxxii) or Section
6984 57-75-5(f) (xxxiii) may be exempt from the provisions of Section
6985 31-7-13 and the following procedure shall be followed in the award
6986 of contracts:

6987 (i) The public agency shall advertise for a period
6988 of time to be set by the public agency, but in no event less than
6989 one (1) nor more than five (5) calendar days, the date, time and
6990 place of a meeting with the public agency to receive
6991 specifications on site preparation, utilities, real estate
6992 improvements, infrastructure, roads or for public works related to
6993 the project defined in Section 57-75-5(f) (xxiii), Section
6994 57-75-5(f) (xxix), Section 57-75-5(f) (xxx), Section
6995 57-75-5(f) (xxxi), Section 57-75-5(f) (xxxii) or Section
6996 57-75-5(f) (xxxiii).

6997 (ii) The public agency shall set the minimum
6998 qualifications necessary to be considered for award of the
6999 contract and the advertisement shall set forth such minimum
7000 qualifications.

7001 (iii) Following the meeting the public agency
7002 shall, in its discretion, which discretion may include
7003 participation by an enterprise involved in the project, select one



7004 or more of the qualified contractors with whom to negotiate or
7005 award the contract. The decision of the public agency concerning
7006 selection of the contractor shall be final.

7007 (4) (a) Contracts, by the authority or a public agency,
7008 including, but not limited to, design and construction contracts,
7009 for the acquisition, purchase, construction or installation of a
7010 project defined in Section 57-75-5(f) (xxvi), Section
7011 57-75-5(f) (xxvii), Section 57-75-5(f) (xxviii), Section
7012 57-75-5(f) (xxix), Section 57-75-5(f) (xxx), Section
7013 57-75-5(f) (xxxi), Section 57-75-5(f) (xxxii) or Section
7014 57-75-5(f) (xxxiii), and any contracts by the authority or a public
7015 agency for site preparation, utilities, real estate improvements,
7016 infrastructure, roads or for other public facilities related to
7017 any such project shall be exempt from the provisions of Section
7018 31-7-13 if:

7019 (i) The authority finds and records such finding
7020 on its minutes, that because of availability or the particular
7021 nature of a project, it would not be in the public interest or
7022 would less effectively achieve the purposes of this chapter to
7023 enter into such contracts on the basis of Section 31-7-13; and

7024 (ii) The enterprise that is involved in the
7025 project concurs in such finding.

7026 (b) When the requirements of paragraph (a) of this
7027 subsection are met:



7028 (i) The requirements of Section 31-7-13 shall not
7029 apply to such contracts; and

7030 (ii) The contracts may be entered into on the
7031 basis of negotiation with the authority or such public agency, and
7032 the authority or such public agency may, as part of such
7033 negotiations, further negotiate and require the level of
7034 participation by the enterprise involved in the project in the
7035 negotiation of such contracts.

7036 (c) Contracts by the authority or a public agency for
7037 site preparation, utilities, real estate improvements,
7038 infrastructure, roads or for other public facilities related to a
7039 project defined in Section 57-75-5(f)(xxxii), shall be exempt from
7040 the provisions of Section 65-1-85, and the authority or public
7041 agency is authorized to use any method for design and/or
7042 construction procurement and contracting. With respect to any
7043 such contract that is anticipated to be federally funded, in whole
7044 or in part, the authority or public agency may nonetheless comply
7045 with the provisions of Section 65-1-85 for purposes of compliance
7046 with any applicable federal funding requirements.

7047 (d) The decision of the authority or the public agency
7048 concerning selection of the contractor shall be final.

7049 (e) The company shall make commercially reasonable
7050 efforts to place out for bid, such that Mississippi Contractors
7051 and Mississippi Disadvantaged Business Enterprises ("DBEs") shall
7052 have an equal opportunity to respond to such bid, any contract by



7053 the company which (i) is subject to tax pursuant to Mississippi
7054 Code Section 27-65-21 (i.e., contracts for constructing, building,
7055 erecting, grading, excavating, etc.), and (ii) will be paid, or
7056 payment thereunder by the company will be reimbursed, using any
7057 portion of the grant proceeds or funds provided by the authority
7058 to the company in accordance with this agreement. In carrying out
7059 such efforts, in order to increase the pool of qualified DBE
7060 bidders, the company will request that successful prime contract
7061 bidders include in their response a commitment to (a) participate
7062 in and/or host forums that highlight subcontract bidding
7063 opportunities for DBEs; and (b) work with various trade
7064 associations and the Mississippi Development Authority to promote
7065 increased participation from DBEs. With respect to awarding any
7066 contract placed out for bid, the company shall be allowed to award
7067 such contract in the company's sole discretion (e.g., based upon
7068 optimization of quality, cost and efficiency or on any other basis
7069 as the company may see fit). MDA agrees that it will offer to
7070 eligible contractor DBEs that have an opportunity to work on the
7071 project assistance through its Minority Surety Bond Guaranty
7072 Program.

7073 (5) The Department of Employment Security is authorized to
7074 provide to the authority any information received, obtained or
7075 produced, or findings or determinations made thereby, with respect
7076 to any jobs created or maintained for a project that has been



7077 certified by the authority as a project as defined in Section
7078 57-75-5(f).

7079 **SECTION 140.** Section 57-75-11, Mississippi Code of 1972, is
7080 brought forward as follows:

7081 57-75-11. The authority, in addition to any and all powers
7082 now or hereafter granted to it, is empowered and shall exercise
7083 discretion and the use of these powers depending on the
7084 circumstances of the project or projects:

7085 (a) To maintain an office at a place or places within
7086 the state.

7087 (b) To employ or contract with architects, engineers,
7088 attorneys, accountants, construction and financial experts and
7089 such other advisors, consultants and agents as may be necessary in
7090 its judgment and to fix and pay their compensation.

7091 (c) To make such applications and enter into such
7092 contracts for financial assistance as may be appropriate under
7093 applicable federal or state law.

7094 (d) To apply for, accept and utilize grants, gifts and
7095 other funds or aid from any source for any purpose contemplated by
7096 the act, and to comply, subject to the provisions of this act,
7097 with the terms and conditions thereof.

7098 (e) (i) To acquire by purchase, lease, gift, or in
7099 other manner, including quick-take eminent domain, or obtain
7100 options to acquire, and to own, maintain, use, operate and convey
7101 any and all property of any kind, real, personal, or mixed, or any



7102 interest or estate therein, within the project area, necessary for
7103 the project or any facility related to the project. The
7104 provisions of this paragraph that allow the acquisition of
7105 property by quick-take eminent domain shall be repealed by
7106 operation of law on July 1, 1994; and

7107 (ii) Notwithstanding any other provision of this
7108 paragraph (e), from and after November 6, 2000, to exercise the
7109 right of immediate possession pursuant to the provisions of
7110 Sections 11-27-81 through 11-27-89 for the purpose of acquiring
7111 land, property and/or rights-of-way in the county in which a
7112 project as defined in Section 57-75-5(f)(iv)1 is located, that are
7113 necessary for such project or any facility related to the project.

7114 (f) To acquire by purchase or lease any public lands
7115 and public property, including sixteenth section lands and lieu
7116 lands, within the project area, which are necessary for the
7117 project. Sixteenth section lands or lieu lands acquired under
7118 this act shall be deemed to be acquired for the purposes of
7119 industrial development thereon and such acquisition will serve a
7120 higher public interest in accordance with the purposes of this
7121 act.

7122 (g) If the authority identifies any land owned by the
7123 state as being necessary, for the location or use of the project,
7124 or any facility related to the project, to recommend to the
7125 Legislature the conveyance of such land or any interest therein,
7126 as the Legislature deems appropriate.



7127 (h) To make or cause to be made such examinations and
7128 surveys as may be necessary to the planning, design, construction
7129 and operation of the project.

7130 (i) From and after the date of notification to the
7131 authority by the enterprise that the state has been finally
7132 selected as the site of the project, to acquire by condemnation
7133 and to own, maintain, use, operate and convey or otherwise dispose
7134 of any and all property of any kind, real, personal or mixed, or
7135 any interest or estate therein, within the project area, necessary
7136 for the project or any facility related to the project, with the
7137 concurrence of the affected public agency, and the exercise of the
7138 powers granted by this act, according to the procedures provided
7139 by Chapter 27, Title 11, Mississippi Code of 1972, except as
7140 modified by this act.

7141 (i) Except as otherwise provided in subparagraph
7142 (iii) of this paragraph (i), in acquiring lands by condemnation,
7143 the authority shall not acquire minerals or royalties in minerals
7144 unless a competent registered professional engineer shall have
7145 certified that the acquisition of such minerals and royalties in
7146 minerals is necessary for purposes of the project; provided that
7147 limestone, clay, chalk, sand and gravel shall not be considered as
7148 minerals for the purposes of subparagraphs (i) and (ii) of this
7149 paragraph (i);

7150 (ii) Unless minerals or royalties in minerals have
7151 been acquired by condemnation or otherwise, no person or persons



7152 owning the drilling rights or the right to share in production of
7153 minerals shall be prevented from exploring, developing, or
7154 producing oil or gas with necessary rights-of-way for ingress and
7155 egress, pipelines and other means of transporting interests on any
7156 land or interest therein of the authority held or used for the
7157 purposes of this act; but any such activities shall be under such
7158 reasonable regulation by the authority as will adequately protect
7159 the project contemplated by this act as provided in paragraph (r)
7160 of this section; and

7161 (iii) In acquiring lands by condemnation,
7162 including the exercise of immediate possession, for a project, as
7163 defined in Section 57-75-5(f)(iv)1, the authority may acquire
7164 minerals or royalties in minerals.

7165 (j) To negotiate the necessary relocation or rerouting
7166 of roads and highways, railroad, telephone and telegraph lines and
7167 properties, electric power lines, pipelines and related
7168 facilities, or to require the anchoring or other protection of any
7169 of these, provided due compensation is paid to the owners thereof
7170 or agreement is had with such owners regarding the payment of the
7171 cost of such relocation, and to acquire by condemnation or
7172 otherwise easements or rights-of-way for such relocation or
7173 rerouting and to convey the same to the owners of the facilities
7174 being relocated or rerouted in connection with the purposes of
7175 this act.



7176 (k) To negotiate the necessary relocation of graves and
7177 cemeteries and to pay all reasonable costs thereof.

7178 (l) To perform or have performed any and all acts and
7179 make all payments necessary to comply with all applicable federal
7180 laws, rules or regulations including, but not limited to, the
7181 Uniform Relocation Assistance and Real Property Acquisition
7182 Policies Act of 1970 (42 USCS 4601, 4602, 4621 to 4638, and 4651
7183 to 4655) and relocation rules and regulations promulgated by any
7184 agency or department of the federal government.

7185 (m) To construct, extend, improve, maintain, and
7186 reconstruct, to cause to be constructed, extended, improved,
7187 maintained, and reconstructed, and to use and operate any and all
7188 components of the project or any facility related to the project,
7189 with the concurrence of the affected public agency, within the
7190 project area, necessary to the project and to the exercise of such
7191 powers, rights, and privileges granted the authority.

7192 (n) To incur or defray any designated portion of the
7193 cost of any component of the project or any facility related to
7194 the project acquired or constructed by any public agency.

7195 (o) (i) To lease, sell or convey any or all property
7196 acquired by the authority under the provisions of this act to the
7197 enterprise, its successors or assigns, and/or any entity for
7198 purposes in furtherance of economic development as determined by
7199 the authority, and in connection therewith to pay the costs of
7200 title search, perfection of title, title insurance and recording



7201 fees as may be required. The authority may provide in the
7202 instrument conveying such property a provision that such property
7203 shall revert to the authority if, as and when the property is
7204 declared by the transferee to be no longer needed.

7205 (ii) To lease, sell, transfer or convey on any
7206 terms agreed upon by the authority any or all real and personal
7207 property, improvements, leases, funds and contractual obligations
7208 of a project as defined in Section 57-75-5(f)(vi) and conveyed to
7209 the State of Mississippi by a Quitclaim Deed from the United
7210 States of America dated February 23, 1996, filed of record at
7211 pages 511 to 524, Deed Book Number B179, Chancery Clerk's Office,
7212 Tishomingo County, Mississippi, to any governmental authority
7213 located within the geographic boundaries of the county wherein
7214 such project exists upon agreement of such governmental authority
7215 to undertake and assume from the State of Mississippi all
7216 obligations and responsibilities in connection with ownership and
7217 operation of the project. Property leased, sold, transferred or
7218 otherwise conveyed by the authority under this paragraph (o) shall
7219 be used only for economic development purposes.

7220 (p) To enter into contracts with any person or public
7221 agency, including, but not limited to, contracts authorized by
7222 Section 57-75-17, in furtherance of any of the purposes authorized
7223 by this act upon such consideration as the authority and such
7224 person or public agency may agree. Any such contract may extend
7225 over any period of time, notwithstanding any rule of law to the



7226 contrary, may be upon such terms as the parties thereto shall
7227 agree, and may provide that it shall continue in effect until
7228 bonds specified therein, refunding bonds issued in lieu of such
7229 bonds, and all other obligations specified therein are paid or
7230 terminated. Any such contract shall be binding upon the parties
7231 thereto according to its terms. Such contracts may include an
7232 agreement to reimburse the enterprise, its successors and assigns
7233 for any assistance provided by the enterprise in the acquisition
7234 of real property for the project or any facility related to the
7235 project.

7236 (q) To establish and maintain reasonable rates and
7237 charges for the use of any facility within the project area owned
7238 or operated by the authority, and from time to time, to adjust
7239 such rates and to impose penalties for failure to pay such rates
7240 and charges when due.

7241 (r) To adopt and enforce with the concurrence of the
7242 affected public agency all necessary and reasonable rules and
7243 regulations to carry out and effectuate the implementation of the
7244 project and any land use plan or zoning classification adopted for
7245 the project area, including, but not limited to, rules,
7246 regulations, and restrictions concerning mining, construction,
7247 excavation or any other activity the occurrence of which may
7248 endanger the structure or operation of the project. Such rules
7249 may be enforced within the project area and without the project
7250 area as necessary to protect the structure and operation of the



7251 project. The authority is authorized to plan or replan, zone or
7252 rezone, and make exceptions to any regulations, whether local or
7253 state, with the concurrence of the affected public agency which
7254 are inconsistent with the design, planning, construction or
7255 operation of the project and facilities related to the project.

7256 (s) To plan, design, coordinate and implement measures
7257 and programs to mitigate impacts on the natural environment caused
7258 by the project or any facility related to the project.

7259 (t) To develop plans for technology transfer activities
7260 to ensure private sector conduits for exchange of information,
7261 technology and expertise related to the project to generate
7262 opportunities for commercial development within the state.

7263 (u) To consult with the State Department of Education
7264 and other public agencies for the purpose of improving public
7265 schools and curricula within the project area.

7266 (v) To consult with the State Board of Health and other
7267 public agencies for the purpose of improving medical centers,
7268 hospitals and public health centers in order to provide
7269 appropriate health care facilities within the project area.

7270 (w) To consult with the Office of Minority Business
7271 Enterprise Development and other public agencies for the purpose
7272 of developing plans for technical assistance and loan programs to
7273 maximize the economic impact related to the project for minority
7274 business enterprises within the State of Mississippi.



7275 (x) To deposit into the "Yellow Creek Project Area
7276 Fund" created pursuant to Section 57-75-31:

7277 (i) Any funds or aid received as authorized in
7278 this section for the project described in Section 57-75-5(f) (vi),
7279 and

7280 (ii) Any funds received from the sale or lease of
7281 property from the project described in Section 57-75-5(f) (vi)
7282 pursuant to the powers exercised under this section.

7283 (y) To manage and develop the project described in
7284 Section 57-75-5(f) (vi).

7285 (z) To promulgate rules and regulations necessary to
7286 effectuate the purposes of this act.

7287 (aa) To negotiate a fee-in-lieu with the owners of the
7288 project.

7289 (bb) To enter into contractual agreements to warrant
7290 any site work for a project defined in Section 57-75-5(f) (iv)1;
7291 provided, however, that the aggregate amount of such warranties
7292 shall not exceed Fifteen Million Dollars (\$15,000,000.00).

7293 (cc) To provide grant funds to an enterprise operating
7294 a project defined in Section 57-75-5(f) (iv)1 in an amount not to
7295 exceed Thirty-nine Million Dollars (\$39,000,000.00).

7296 (dd) (i) To own surface water transmission lines
7297 constructed with the proceeds of bonds issued pursuant to this act
7298 and in connection therewith to purchase and provide water to any



7299 project defined in Section 57-75-5(f) (iv) and to certificated
7300 water providers; and

7301 (ii) To lease such surface water transmission
7302 lines to a public agency or public utility to provide water to
7303 such project and to certificated water providers.

7304 (ee) To provide grant funds to an enterprise operating
7305 a project defined in Section 57-75-5(f) (v) or, in connection with
7306 a facility related to such a project, for job training, recruiting
7307 and infrastructure.

7308 (ff) To enter into negotiations with persons proposing
7309 projects defined in Section 57-75-5(f) (xi) and execute acquisition
7310 options and conduct planning, design and environmental impact
7311 studies with regard to such project.

7312 (gg) To establish such guidelines, rules and
7313 regulations as the authority may deem necessary and appropriate
7314 from time to time in its sole discretion, to promote the purposes
7315 of this act.

7316 (hh) In connection with projects defined in Section
7317 57-75-5(f) (ii):

7318 (i) To provide grant funds or loans to a public
7319 agency or an enterprise owning, leasing or operating a project
7320 defined in Section 57-75-5(f) (ii) in amounts not to exceed the
7321 amount authorized in Section 57-75-15(3) (b);

7322 (ii) To supervise the use of all such grant funds
7323 or loans; and



7324 (iii) To requisition money in the Mississippi
7325 Major Economic Impact Authority Revolving Loan Fund in connection
7326 with such loans.

7327 (ii) In connection with projects defined under Section
7328 57-75-5(f) (xiv):

7329 (i) To provide grant funds or loans to an
7330 enterprise owning, leasing or operating a project defined in
7331 Section 57-75-5(f) (xiv); however, the aggregate amount of any such
7332 loans under this paragraph (ii) shall not exceed Eighteen Million
7333 Dollars (\$18,000,000.00) and the aggregate amount of any such
7334 grants under this paragraph (ii) shall not exceed Six Million
7335 Dollars (\$6,000,000.00);

7336 (ii) To supervise the use of all such grant funds
7337 or loans; and

7338 (iii) Notwithstanding any provision of this act to
7339 the contrary, such loans shall be for a term not to exceed twenty
7340 (20) years as may be determined by the authority, shall bear
7341 interest at such rates as may be determined by the authority,
7342 shall, in the sole discretion of the authority, be secured in an
7343 amount and a manner as may be determined by the authority.

7344 (jj) In connection with projects defined under Section
7345 57-75-5(f) (xviii):

7346 (i) To provide grant funds of Twenty-five Million
7347 Dollars (\$25,000,000.00) to an enterprise owning or operating a
7348 project defined in Section 57-75-5(f) (xviii) to be used for real



7349 estate improvements and which may be disbursed as determined by
7350 the authority;

7351 (ii) To provide loans to an enterprise owning or
7352 operating a project defined in Section 57-75-5(f) (xviii) or make
7353 payments to a lender providing financing to the enterprise;
7354 subject to the following provisions:

7355 1. Not more than Ten Million Dollars
7356 (\$10,000,000.00) may be loaned to such an enterprise for the
7357 purpose of defraying costs incurred by the enterprise for site
7358 preparation and real property improvements during the construction
7359 of the project in excess of budgeted costs; however, the amount of
7360 any such loan shall not exceed fifty percent (50%) of such excess
7361 costs;

7362 2. Not more than Sixty Million Dollars
7363 (\$60,000,000.00) may be loaned to such an enterprise or paid to a
7364 lender providing financing to the enterprise for purposes
7365 determined appropriate by the authority, and the enterprise shall
7366 be obligated to repay the amount of the loan or payment plus any
7367 expenses incurred by the state as a result of the issuance of
7368 bonds pursuant to Section 57-75-15(3) (p); however, no such loan or
7369 payment may be made before the beginning of the fifth year after
7370 issuance by the enterprise of debt in like amount the proceeds of
7371 which are to be used in connection with the project;

7372 (iii) To supervise the use of all such loan funds;



7373 (iv) Loans under this paragraph (jj) may be for
7374 any term determined appropriate by the authority provided that the
7375 payments on any loan must be in an amount sufficient to pay the
7376 state's debt service on bonds issued for the purpose of providing
7377 funds for such a loan; and

7378 (v) The repayment obligation of the enterprise for
7379 any loan or payment authorized under this paragraph (jj) shall, in
7380 the discretion of the authority, be secured in an amount and a
7381 manner as may be determined by the authority.

7382 (kk) In connection with projects defined in Section
7383 57-75-5(f) (xxi) or a facility related to such a project:

7384 (i) To provide grant funds to reimburse public
7385 agencies, Itawamba Community College, Northeast Mississippi
7386 Community College, and/or East Mississippi Community College,
7387 public or private nonprofits or an enterprise owning or operating
7388 a project as defined in Section 57-75-5(f) (xxi) for site
7389 preparation, real estate improvements, utilities, railroads,
7390 roads, infrastructure, job training, recruiting and any other
7391 expenses approved by the authority in amounts not to exceed the
7392 amount authorized in Section 57-75-15(3) (s);

7393 (ii) To supervise the use of all such grant funds
7394 so reimbursed; and

7395 (iii) To enter into contractual agreements to
7396 warrant site preparation and availability for a project defined in
7397 Section 57-75-5(f) (xxi).



7398 (ll) In connection with a project related to a Tier One
7399 supplier:

7400 (i) To provide grant funds to reimburse public
7401 agencies, public or private nonprofits and Tier One suppliers for
7402 site preparation, real estate improvements, utilities, railroads,
7403 roads, infrastructure, job training, recruiting and any other
7404 expenses approved by the authority in amounts not to exceed the
7405 amount authorized in Section 57-75-15(3) (t);

7406 (ii) To supervise the use of all such grant funds
7407 so reimbursed.

7408 (mm) In connection with projects defined in Section
7409 57-75-5(f) (xxii) or a facility related to such a project:

7410 (i) To provide grant funds to reimburse public
7411 agencies or an enterprise owning or operating a project as defined
7412 in Section 57-75-5(f) (xxii) for site preparation, real estate
7413 improvements, utilities, fire protection, wastewater, railroads,
7414 roads, infrastructure, job training, recruiting and any other
7415 expenses approved by the authority in amounts not to exceed the
7416 amount authorized in Section 57-75-15(3) (u); and

7417 (ii) To supervise the use of all such grant funds
7418 so reimbursed.

7419 (nn) It is the policy of the authority and the
7420 authority is authorized to accommodate and support any enterprise
7421 owning or operating a project defined in Section
7422 57-75-5(f) (xviii), 57-75-5(f) (xxi), 57-75-5(f) (xxii),



7423 57-75-5(f) (xxvi), 57-75-5(f) (xxvii), 57-75-5(f) (xxviii),
7424 57-75-5(f) (xxix), 57-75-5(f) (xxx), 57-75-5(f) (xxxi),
7425 57-75-5(f) (xxxii) or 57-75-5(f) (xxxiii), or an enterprise
7426 developing or owning a project defined in Section 57-75-5(f) (xx),
7427 that wishes to have a program of diversity in contracting, and/or
7428 that wishes to do business with or cause its prime contractor to
7429 do business with Mississippi companies, including those companies
7430 that are small business concerns owned and controlled by socially
7431 and economically disadvantaged individuals. The term "socially
7432 and economically disadvantaged individuals" shall have the meaning
7433 ascribed to such term under Section 8(d) of the Small Business Act
7434 (15 USCS 637(d)) and relevant subcontracting regulations
7435 promulgated pursuant thereto; except that women shall be presumed
7436 to be socially and economically disadvantaged individuals for the
7437 purposes of this paragraph.

7438 (oo) To provide grant funds to an enterprise developing
7439 or owning a project defined in Section 57-75-5(f) (xx) for
7440 reimbursement of costs incurred by such enterprise for
7441 infrastructure improvements in the initial phase of development of
7442 the project, upon dedication of such improvements to the
7443 appropriate public agency.

7444 (pp) In connection with projects defined in Section
7445 57-75-5(f) (xxiii):

7446 (i) To provide grant funds to reimburse public
7447 agencies or an enterprise operating a project as defined in



7448 Section 57-75-5(f) (xxiii) for site preparation, utilities, real
7449 estate improvements, infrastructure, roads, public works, job
7450 training and any other expenses approved by the authority in
7451 amounts not to exceed the amount authorized in Section
7452 57-75-15(3) (v); and

7453 (ii) To supervise the use of all such grant funds
7454 so reimbursed.

7455 (qq) (i) To provide grant funds for the expansion of a
7456 publicly owned building for the project defined in Section
7457 57-75-5(f) (xxiv) or loans to an enterprise owning, leasing or
7458 operating a project defined in Section 57-75-5(f) (xxiv) for the
7459 purchase and/or relocation of equipment, or for any other purpose
7460 related to the project as approved by the authority; however, the
7461 aggregate amount of any such loans under this paragraph (qq) shall
7462 not exceed Six Million Dollars (\$6,000,000.00) and the aggregate
7463 amount of any such grants under this paragraph (qq) shall not
7464 exceed Seven Million Dollars (\$7,000,000.00);

7465 (ii) To supervise the use of all such grant funds
7466 or loans; and

7467 (iii) Notwithstanding any provision of this act to
7468 the contrary, such loans shall be for a term not to exceed ten
7469 (10) years as may be determined by the authority, shall bear a
7470 rate of interest to be determined by the authority, and shall be
7471 secured in an amount and a manner as may be determined by the
7472 authority.



7473 (rr) (i) To provide grant funds to an enterprise
7474 owning or operating a project defined in Section 57-75-5(f) (xxv)
7475 for reimbursement of costs incurred by the enterprise in
7476 reconfiguring the manufacturing plant and for the purchase of
7477 equipment, or for any other purpose related to the project as
7478 approved by the authority;

7479 (ii) To supervise the use of all such grant funds.

7480 (ss) In connection with projects defined under Section
7481 57-75-5(f) (xxvi):

7482 (i) To provide grant funds and/or loans to a
7483 public agency in an amount not to exceed Fifteen Million Dollars
7484 (\$15,000,000.00) for the construction of a publicly owned building
7485 to be leased by the enterprise owning or operating the project;

7486 (ii) To provide loan guarantees in an amount not
7487 to exceed the total cost of the project for which financing is
7488 sought or Twenty Million Dollars (\$20,000,000.00), whichever is
7489 less, for the purpose of encouraging the extension of conventional
7490 financing and the issuance of letters of credit to the enterprise
7491 owning or operating the project;

7492 (iii) In connection with any loan guarantee made
7493 pursuant to this paragraph, to make payments to lenders providing
7494 financing to the enterprise owning or operating the project and
7495 the enterprise shall be obligated to repay the amount of the
7496 payment plus any expenses incurred by the state as a result of the
7497 issuance of bonds pursuant to Section 57-75-15(3) (y);



7498 (iv) To supervise the use of all such grant funds,
7499 loan funds or payments; and

7500 (v) To require the enterprise owning or operating
7501 the project to provide security for the repayment obligation for
7502 any loan guarantee authorized under this paragraph in an amount
7503 and in a manner as may be determined by the authority.

7504 (tt) In connection with projects defined under Section
7505 57-75-5(f) (xxvii):

7506 (i) To provide loans to a public agency in an
7507 amount not to exceed Fifty Million Dollars (\$50,000,000.00) for
7508 the construction of a publicly owned building and acquisition of
7509 equipment to be leased by the enterprise owning or operating the
7510 project; and

7511 (ii) To supervise the use of all such loan funds.

7512 (uu) In connection with projects defined under Section
7513 57-75-5(f) (xxviii):

7514 (i) To provide grant funds to reimburse public
7515 agencies or an enterprise operating a project for site
7516 preparation, utilities, real estate purchase and improvements,
7517 infrastructure, roads, rail improvements, public works, job
7518 training and any other expenses approved by the authority in
7519 amounts not to exceed the amount authorized in Section
7520 57-75-15(3) (aa);

7521 (ii) To supervise the use of all such grant funds
7522 so reimbursed.



7523 (vv) In connection with projects defined under Section
7524 57-75-5(f) (xxix):

7525 (i) To provide grant funds to reimburse or
7526 otherwise defray the costs incurred by public agencies or an
7527 enterprise operating a project for site preparation, utilities,
7528 real estate purchases, purchase options and improvements,
7529 infrastructure, roads, rail improvements, public works, buildings
7530 and fixtures, job recruitment and training, as well as planning,
7531 design, environmental mitigation and environmental impact studies
7532 with respect to a project, and any other purposes approved by the
7533 authority in amounts not to exceed the amount authorized in
7534 Section 57-75-15(3) (bb);

7535 (ii) To provide loans to public agencies for site
7536 preparation, utilities, real estate purchases, purchase options
7537 and improvements, infrastructure, roads, rail improvements, public
7538 works, buildings and fixtures, job recruiting and training, as
7539 well as planning, design, environmental mitigation and
7540 environmental impact studies with respect to a project, and any
7541 other purposes approved by the authority in amounts not to exceed
7542 the amount authorized in Section 57-75-15(3) (bb);

7543 (iii) To supervise the use of all such grant funds
7544 so reimbursed and/or loans so made; and

7545 (iv) To the extent that the authority enters into
7546 any construction or similar contract for site preparation work or
7547 for the construction of any improvements on a project site, to



7548 assign or otherwise transfer to an enterprise or affiliate thereof
7549 that owns or operates such a project on such project site any and
7550 all contractual, express or implied warranties of any kind arising
7551 from such contract or work performed or materials purchased in
7552 connection therewith, and cause any such contract to contain terms
7553 and provisions designating such enterprise as a third-party
7554 beneficiary under the contract.

7555 (ww) In connection with projects defined under Section
7556 57-75-5(f) (xxx):

7557 (i) To provide grant funds to reimburse or
7558 otherwise defray the costs incurred by public agencies or an
7559 enterprise operating a project for public infrastructure needs,
7560 site preparation, building improvements, purchase of launch
7561 systems, recruitment of employees to fill new full-time jobs,
7562 providing internal company training and train prospective, new and
7563 existing employees of the enterprise associated with the project,
7564 including training of company employees who will utilize such
7565 instruction to teach other prospective, new and existing employees
7566 of the company and other workforce expenses and any other expenses
7567 approved by the authority in amounts not to exceed the amount
7568 authorized in Section 57-75-15(3) (cc); and

7569 (ii) To supervise the use of all such grant funds
7570 so reimbursed.

7571 (xx) In connection with projects defined under Section
7572 57-75-5(f) (xxx):



7573 (i) To provide grant funds to reimburse or
7574 otherwise defray the costs incurred by public agencies or any
7575 enterprise operating one or more such projects for site
7576 preparation, utilities, real estate purchases, purchase options
7577 and improvements, infrastructure, utilities, roads, rail
7578 improvements, public works, buildings and fixtures, job
7579 recruitment and training, as well as planning, design,
7580 environmental mitigation and environmental impact studies with
7581 respect to a project, and any other purposes approved by the
7582 authority in amounts not to exceed the amount authorized in
7583 Section 57-75-15(3) (dd);

7584 (ii) To provide loans to public agencies for site
7585 preparation, utilities, real estate purchases, purchase options
7586 and improvements, infrastructure, roads, rail improvements, public
7587 works, buildings and fixtures, job recruiting and training, as
7588 well as planning, design, environmental mitigation and
7589 environmental impact studies with respect to a project, and any
7590 other purposes approved by the authority in amounts not to exceed
7591 the amount authorized in Section 57-75-15(3) (dd).

7592 (yy) (i) In connection with projects defined under
7593 Section 57-75-5(f) (xxxi), the authority is further authorized to
7594 provide to the enterprises operating one or more of the projects,
7595 an annual grant in an amount not to exceed three and one-half
7596 percent (3.5%) of the additional payroll for a period of ten (10)
7597 consecutive years. Each such aggregate annual grant amount shall



7598 be remitted to one or more of the enterprises and/or one or more
7599 of their affiliates, in such sub-amounts as the enterprises shall
7600 collectively direct, or that their common direct or indirect
7601 parent company shall direct, in writing, to the authority each
7602 year during such ten-year period. The ten-year period for the
7603 series of ten (10) annual grants authorized by this paragraph (yy)
7604 shall commence no later than January 1, 2029.

7605 (ii) In the event that the annual number of
7606 full-time jobs maintained or caused to be maintained by the
7607 enterprises operating one or more projects and/or one or more
7608 affiliates thereof falls below the minimum annual number of
7609 full-time jobs required by the authority pursuant to a written
7610 agreement between the authority and the enterprises and/or any
7611 affiliate thereof for one or more years, the annual grant
7612 authorized by this paragraph (yy) may be reduced or suspended by
7613 the authority until the first calendar year during which the
7614 annual number of full-time jobs maintained or caused to be
7615 maintained by the enterprises and/or their affiliates reaches the
7616 minimum annual number of full-time jobs required by the authority
7617 pursuant to the written agreement.

7618 (iii) The annual grants authorized by this
7619 paragraph (yy) may be funded from the proceeds of bonds issued
7620 pursuant to Section 57-75-15(3) (dd); provided that the aggregate
7621 amount of the annual grants over the entire ten-year period shall
7622 not exceed Forty-five Million Dollars (\$45,000,000.00).



7623 (iv) For purposes of this paragraph (yy):
7624 1. "Additional payroll" shall mean the sum of
7625 the annual payroll amount (i.e., all annual employee income that
7626 is subject to State of Mississippi and/or federal income taxation)
7627 for any calendar year beginning January 1, 2023, which is
7628 associated with full-time jobs created and maintained by all
7629 enterprises that undertake any project and/or by any affiliates
7630 thereof, in excess of the amount the annualized payroll (i.e., all
7631 annual employee income that is subject to State of Mississippi
7632 and/or federal income taxation), which is associated with
7633 employees employed in the State of Mississippi by such enterprises
7634 or their affiliates as of September 30, 2022; and
7635 2. "Base payroll level" shall mean the
7636 annualized payroll amount (i.e., all annual employee income that
7637 is subject to State of Mississippi and/or federal income taxation)
7638 paid to employees employed in the State of Mississippi by all
7639 enterprises that undertake any project and/or by any affiliates
7640 thereof during the twelve-month period ending on September 30,
7641 2022.
7642 (v) The Mississippi Development Authority may
7643 promulgate rules and regulations necessary to administer the
7644 provisions of this paragraph (yy) and may otherwise administer and
7645 prescribe rules and restrictions with respect to the annual grant
7646 authorized by this paragraph (yy) pursuant to a written agreement



7647 between the authority and any enterprises operating one or more
7648 projects and/or any affiliate thereof.

7649 (zz) In connection with a project defined under Section
7650 57-75-5(f) (xxxii):

7651 (i) To provide grant funds to reimburse or
7652 otherwise defray the costs incurred by public agencies or any
7653 enterprise operating one or more such projects for site
7654 preparation, utilities, real estate purchases, purchase options
7655 and improvements, infrastructure, utilities, roads, rail
7656 improvements, public works, buildings and fixtures, job
7657 recruitment and training, as well as planning, design,
7658 environmental mitigation and environmental impact studies with
7659 respect to a project, and any other purposes approved by the
7660 authority in amounts not to exceed the amount authorized in
7661 Section 57-75-15(3) (ee);

7662 (ii) To provide loans, grants and other funds to
7663 public agencies for site preparation, utilities, real estate
7664 purchases, purchase options and improvements, infrastructure,
7665 roads, rail improvements, public works, buildings and fixtures,
7666 job recruiting and training, as well as planning, design,
7667 environmental mitigation and environmental impact studies with
7668 respect to a project, and any other purposes approved by the
7669 authority in amounts not to exceed the amount authorized in
7670 Section 57-75-15(3) (ee).



7671 (aaa) In connection with a project defined under
7672 Section 57-75-5(f) (xxxiii):

7673 (i) To provide grant funds to reimburse or
7674 otherwise defray the costs incurred by public agencies or any
7675 enterprise operating one or more such projects for site
7676 preparation, utilities, real estate purchases, purchase options
7677 and improvements, infrastructure, utilities, roads, rail
7678 improvements, public works, buildings and fixtures, job
7679 recruitment and training, as well as planning, design,
7680 environmental mitigation and environmental impact studies with
7681 respect to a project, and any other purposes approved by the
7682 authority in amounts not to exceed the amount authorized in
7683 Section 57-75-15(3) (ff); and

7684 (ii) To provide loans to public agencies for site
7685 preparation, utilities, real estate purchases, purchase options
7686 and improvements, infrastructure, roads, rail improvements, public
7687 works, buildings and fixtures, job recruiting and training, as
7688 well as planning, design, environmental mitigation and
7689 environmental impact studies with respect to a project, and any
7690 other purposes approved by the authority in amounts not to exceed
7691 the amount authorized in Section 57-75-15(3) (ff).

7692 (aab) (i) In addition to any other requirements or
7693 conditions under this chapter, the authority shall require that
7694 any application required by the authority for assistance regarding
7695 a project under this chapter include, at a minimum:



7696 1. A two-year business plan (which shall
7697 include pro forma balance sheets, income statements and monthly
7698 cash flow statements);

7699 2. Financial statements or tax returns for
7700 the three (3) years immediately prior to the application (if the
7701 project is a new company or enterprise, personal financial
7702 statements or tax returns will be required);

7703 3. Credit reports on all persons or entities
7704 with a twenty percent (20%) or greater interest in the project;

7705 4. Data supporting the expertise of the
7706 project's principals;

7707 5. A cost-benefit analysis of the project
7708 performed by a state institution of higher learning or other
7709 entity selected by the authority; and

7710 6. Any other information required by the
7711 authority.

7712 (ii) The authority shall require that binding
7713 commitments be entered into requiring that:

7714 1. The applicable minimum requirements of
7715 this chapter and such other requirements as the authority
7716 considers proper shall be met; and

7717 2. If the agreed upon commitments are not
7718 met, all or a portion of the funds provided under this chapter as
7719 determined by the authority shall be repaid.



7720 (iii) Where appropriate, in the discretion of the
7721 authority, the authority shall acquire a security interest in or
7722 other lien upon any applicable collateral.

7723 (iv) The provisions of this paragraph (xx) shall
7724 not apply to a project defined in Section 57-75-5(f) (xxiii).

7725 **SECTION 141.** Section 57-75-13, Mississippi Code of 1972, is
7726 brought forward as follows:

7727 57-75-13. The Board of Trustees of State Institutions of
7728 Higher Learning is hereby authorized to support the project by
7729 creating institutes and developing curricula of direct benefit to
7730 the enterprise. Upon notification to the authority by the
7731 enterprise that the state has been selected as the site of the
7732 project, the Board of Trustees of State Institutions of Higher
7733 Learning may establish and create programs to enhance the
7734 project's success.

7735 **SECTION 142.** Section 57-75-15, Mississippi Code of 1972, is
7736 brought forward as follows:

7737 **[Through June 30, 2025, this section shall read as follows:]**

7738 57-75-15. (1) Upon notification to the authority by the
7739 enterprise that the state has been finally selected as the site
7740 for the project, the State Bond Commission shall have the power
7741 and is hereby authorized and directed, upon receipt of a
7742 declaration from the authority as hereinafter provided, to borrow
7743 money and issue general obligation bonds of the state in one or
7744 more series for the purposes herein set out. Upon such



7745 notification, the authority may thereafter, from time to time,
7746 declare the necessity for the issuance of general obligation bonds
7747 as authorized by this section and forward such declaration to the
7748 State Bond Commission, provided that before such notification, the
7749 authority may enter into agreements with the United States
7750 government, private companies and others that will commit the
7751 authority to direct the State Bond Commission to issue bonds for
7752 eligible undertakings set out in subsection (4) of this section,
7753 conditioned on the siting of the project in the state.

7754 (2) Upon receipt of any such declaration from the authority,
7755 the State Bond Commission shall verify that the state has been
7756 selected as the site of the project and shall act as the issuing
7757 agent for the series of bonds directed to be issued in such
7758 declaration pursuant to authority granted in this section.

7759 (3) (a) Bonds issued under the authority of this section
7760 for projects as defined in Section 57-75-5(f)(i) shall not exceed
7761 an aggregate principal amount in the sum of Sixty-seven Million
7762 Three Hundred Fifty Thousand Dollars (\$67,350,000.00).

7763 (b) Bonds issued under the authority of this section
7764 for projects as defined in Section 57-75-5(f)(ii) shall not exceed
7765 Seventy-seven Million Dollars (\$77,000,000.00). The authority,
7766 with the express direction of the State Bond Commission, is
7767 authorized to expend any remaining proceeds of bonds issued under
7768 the authority of this act prior to January 1, 1998, for the
7769 purpose of financing projects as then defined in Section



7770 57-75-5(f)(ii) or for any other projects as defined in Section
7771 57-75-5(f)(ii), as it may be amended from time to time. No bonds
7772 shall be issued under this paragraph (b) until the State Bond
7773 Commission by resolution adopts a finding that the issuance of
7774 such bonds will improve, expand or otherwise enhance the military
7775 installation, its support areas or military operations, or will
7776 provide employment opportunities to replace those lost by closure
7777 or reductions in operations at the military installation or will
7778 support critical studies or investigations authorized by Section
7779 57-75-5(f)(ii).

7780 (c) Bonds issued under the authority of this section
7781 for projects as defined in Section 57-75-5(f)(iii) shall not
7782 exceed Ten Million Dollars (\$10,000,000.00). No bonds shall be
7783 issued under this paragraph after December 31, 1996.

7784 (d) Bonds issued under the authority of this section
7785 for projects defined in Section 57-75-5(f)(iv) shall not exceed
7786 Three Hundred Fifty-one Million Dollars (\$351,000,000.00). An
7787 additional amount of bonds in an amount not to exceed Twelve
7788 Million Five Hundred Thousand Dollars (\$12,500,000.00) may be
7789 issued under the authority of this section for the purpose of
7790 defraying costs associated with the construction of surface water
7791 transmission lines for a project defined in Section 57-75-5(f)(iv)
7792 or for any facility related to the project. No bonds shall be
7793 issued under this paragraph after June 30, 2005.



7794 (e) Bonds issued under the authority of this section
7795 for projects defined in Section 57-75-5(f)(v) and for facilities
7796 related to such projects shall not exceed Thirty-eight Million
7797 Five Hundred Thousand Dollars (\$38,500,000.00). No bonds shall be
7798 issued under this paragraph after April 1, 2005.

7799 (f) Bonds issued under the authority of this section
7800 for projects defined in Section 57-75-5(f)(vii) shall not exceed
7801 Five Million Dollars (\$5,000,000.00). No bonds shall be issued
7802 under this paragraph after June 30, 2006.

7803 (g) Bonds issued under the authority of this section
7804 for projects defined in Section 57-75-5(f)(viii) shall not exceed
7805 Four Million Five Hundred Thousand Dollars (\$4,500,000.00). No
7806 bonds shall be issued under this paragraph after June 30, 2008.

7807 (h) Bonds issued under the authority of this section
7808 for projects defined in Section 57-75-5(f)(ix) shall not exceed
7809 Five Million Dollars (\$5,000,000.00). No bonds shall be issued
7810 under this paragraph after June 30, 2007.

7811 (i) Bonds issued under the authority of this section
7812 for projects defined in Section 57-75-5(f)(x) shall not exceed
7813 Five Million Dollars (\$5,000,000.00). No bonds shall be issued
7814 under this paragraph after April 1, 2005.

7815 (j) Bonds issued under the authority of this section
7816 for projects defined in Section 57-75-5(f)(xii) shall not exceed
7817 Thirty-three Million Dollars (\$33,000,000.00). The amount of
7818 bonds that may be issued under this paragraph for projects defined



7819 in Section 57-75-5(f) (xii) may be reduced by the amount of any
7820 federal or local funds made available for such projects. No bonds
7821 shall be issued under this paragraph until local governments in or
7822 near the county in which the project is located have irrevocably
7823 committed funds to the project in an amount of not less than Two
7824 Million Five Hundred Thousand Dollars (\$2,500,000.00) in the
7825 aggregate; however, this irrevocable commitment requirement may be
7826 waived by the authority upon a finding that due to the unforeseen
7827 circumstances created by Hurricane Katrina, the local governments
7828 are unable to comply with such commitment. No bonds shall be
7829 issued under this paragraph after June 30, 2008.

7830 (k) Bonds issued under the authority of this section
7831 for projects defined in Section 57-75-5(f) (xiii) shall not exceed
7832 Three Million Dollars (\$3,000,000.00). No bonds shall be issued
7833 under this paragraph after June 30, 2009.

7834 (l) Bonds issued under the authority of this section
7835 for projects defined in Section 57-75-5(f) (xiv) shall not exceed
7836 Twenty-four Million Dollars (\$24,000,000.00). No bonds shall be
7837 issued under this paragraph until local governments in the county
7838 in which the project is located have irrevocably committed funds
7839 to the project in an amount of not less than Two Million Dollars
7840 (\$2,000,000.00). No bonds shall be issued under this paragraph
7841 after June 30, 2009.

7842 (m) Bonds issued under the authority of this section
7843 for projects defined in Section 57-75-5(f) (xv) shall not exceed



7844 Five Hundred Thousand Dollars (\$500,000.00). No bonds shall be
7845 issued under this paragraph after June 30, 2009.

7846 (n) Bonds issued under the authority of this section
7847 for projects defined in Section 57-75-5(f) (xvi) shall not exceed
7848 Ten Million Dollars (\$10,000,000.00). No bonds shall be issued
7849 under this paragraph after June 30, 2011.

7850 (o) Bonds issued under the authority of this section
7851 for projects defined in Section 57-75-5(f) (xvii) shall not exceed
7852 Three Million Five Hundred Thousand Dollars (\$3,500,000.00). No
7853 bonds shall be issued under this paragraph after June 30, 2010.

7854 (p) Bonds issued under the authority of this section
7855 for projects defined in Section 57-75-5(f) (xviii) shall not exceed
7856 Ninety-six Million Dollars (\$96,000,000.00). No bonds shall be
7857 issued under this paragraph after June 30, 2011.

7858 (q) Bonds issued under the authority of this section
7859 for projects defined in Section 57-75-5(f) (xix) shall not exceed
7860 Fifteen Million Dollars (\$15,000,000.00). No bonds shall be
7861 issued under this paragraph after June 30, 2012.

7862 (r) Bonds issued under the authority of this section
7863 for projects defined in Section 57-75-5(f) (xx) shall not exceed
7864 Twenty-three Million Dollars (\$23,000,000.00). No bonds shall be
7865 issued under this paragraph after April 25, 2013.

7866 (s) Bonds issued under the authority of this section
7867 for projects defined in Section 57-75-5(f) (xxi) shall not exceed
7868 Two Hundred Ninety-three Million Nine Hundred Thousand Dollars



7869 (\$293,900,000.00). No bonds shall be issued under this paragraph
7870 after July 1, 2020.

7871 (t) Bonds issued under the authority of this section
7872 for Tier One suppliers shall not exceed Thirty Million Dollars
7873 (\$30,000,000.00). No bonds shall be issued under this paragraph
7874 after July 1, 2020.

7875 (u) Bonds issued under the authority of this section
7876 for projects defined in Section 57-75-5(f)(xxii) shall not exceed
7877 Forty-eight Million Four Hundred Thousand Dollars
7878 (\$48,400,000.00). No bonds shall be issued under this paragraph
7879 after July 1, 2020.

7880 (v) Bonds issued under the authority of this section
7881 for projects defined in Section 57-75-5(f)(xxiii) shall not exceed
7882 Eighty-eight Million Two Hundred Fifty Thousand Dollars
7883 (\$88,250,000.00). No bonds shall be issued under this paragraph
7884 after July 1, 2009.

7885 (w) Bonds issued under the authority of this section
7886 for projects defined in Section 57-75-5(f)(xxiv) shall not exceed
7887 Thirteen Million Dollars (\$13,000,000.00). No bonds shall be
7888 issued under this paragraph after July 1, 2020.

7889 (x) Bonds issued under the authority of this section
7890 for projects defined in Section 57-75-5(f)(xxv) shall not exceed
7891 Twenty-five Million Dollars (\$25,000,000.00). No bonds shall be
7892 issued under this paragraph after July 1, 2017.



7893 (y) Bonds issued under the authority of this section
7894 for projects defined in Section 57-75-5(f) (xxvi) shall not exceed
7895 Thirty-five Million One Hundred Thousand Dollars (\$35,100,000.00).
7896 No bonds shall be issued under this paragraph after July 1, 2021.

7897 (z) Bonds issued under the authority of this section
7898 for projects defined in Section 57-75-5(f) (xxvii) shall not exceed
7899 Fifty Million Dollars (\$50,000,000.00). No bonds shall be issued
7900 under this paragraph after April 25, 2013.

7901 (aa) Bonds issued under the authority of this section
7902 for projects defined in Section 57-75-5(f) (xxviii) shall not
7903 exceed One Hundred Thirty Million Dollars (\$130,000,000.00). No
7904 bonds shall be issued under this paragraph after July 1, 2026.

7905 (bb) Bonds issued under the authority of this section
7906 for projects defined in Section 57-75-5(f) (xxix) shall not exceed
7907 Two Hundred Sixty-three Million Dollars (\$263,000,000.00). No
7908 bonds shall be issued under this paragraph after July 1, 2034.

7909 (cc) Bonds issued under the authority of this section
7910 for projects defined in Section 57-75-5(f) (xxx) shall not exceed
7911 Eleven Million Dollars (\$11,000,000.00). No bonds shall be issued
7912 under this paragraph after July 1, 2025.

7913 (dd) Bonds issued under the authority of this section
7914 for projects defined in Section 57-75-5(f) (xxxi) shall not exceed
7915 Two Hundred Forty-six Million Seven Hundred Ninety-eight Thousand
7916 Five Hundred Fifty Dollars (\$246,798,550.00); however, the total
7917 amount of bonds that may be issued under the authority of this



7918 section for projects defined in Section 57-75-5(f)(xxxi) shall be
7919 reduced by the amount of any other funds authorized by the
7920 Legislature during the 2022 First Extraordinary Session
7921 specifically for such projects. No bonds shall be issued under
7922 this paragraph after July 1, 2040.

7923 (ee) Bonds issued under the authority of this section
7924 for a project defined in Section 57-75-5(f)(xxxii) shall not
7925 exceed Four Hundred Eighty-two Million Dollars (\$482,000,000.00);
7926 however, the total amount of bonds that may be issued under the
7927 authority of this section for a project defined in Section
7928 57-75-5(f)(xxxii) shall be reduced by the amount of any other
7929 funds authorized by the Legislature specifically for such project.
7930 No bonds shall be issued under this paragraph after July 1, 2040.

7931 (ff) Bonds issued under the authority of this section
7932 for a project defined in Section 57-75-5(f)(xxxiii) shall not
7933 exceed Two Hundred Sixty Million Dollars (\$260,000,000.00);
7934 however, the total amount of bonds that may be issued under the
7935 authority of this section for a project defined in Section
7936 57-75-5(f)(xxxiii) shall be reduced by the amount of any other
7937 funds authorized by the Legislature specifically for such project.
7938 No bonds shall be issued under this paragraph after July 1, 2040.

7939 (4) (a) The proceeds from the sale of the bonds issued
7940 under this section may be applied for the following purposes:

7941 (i) Defraying all or any designated portion of the
7942 costs incurred with respect to acquisition, planning, design,



7943 construction, installation, rehabilitation, improvement,
7944 relocation and with respect to state-owned property, operation and
7945 maintenance of the project and any facility related to the project
7946 located within the project area, including costs of design and
7947 engineering, all costs incurred to provide land, easements and
7948 rights-of-way, relocation costs with respect to the project and
7949 with respect to any facility related to the project located within
7950 the project area, and costs associated with mitigation of
7951 environmental impacts and environmental impact studies;

7952 (ii) Defraying the cost of providing for the
7953 recruitment, screening, selection, training or retraining of
7954 employees, candidates for employment or replacement employees of
7955 the project and any related activity;

7956 (iii) Reimbursing the Mississippi Development
7957 Authority for expenses it incurred in regard to projects defined
7958 in Section 57-75-5(f)(iv) prior to November 6, 2000. The
7959 Mississippi Development Authority shall submit an itemized list of
7960 expenses it incurred in regard to such projects to the Chairmen of
7961 the Finance and Appropriations Committees of the Senate and the
7962 Chairmen of the Ways and Means and Appropriations Committees of
7963 the House of Representatives;

7964 (iv) Providing grants to enterprises operating
7965 projects defined in Section 57-75-5(f)(iv)1;



7966 (v) Paying any warranty made by the authority
7967 regarding site work for a project defined in Section
7968 57-75-5(f)(iv)1;

7969 (vi) Defraying the cost of marketing and promotion
7970 of a project as defined in Section 57-75-5(f)(iv)1, Section
7971 57-75-5(f)(xxi) or Section 57-75-5(f)(xxii). The authority shall
7972 submit an itemized list of costs incurred for marketing and
7973 promotion of such project to the Chairmen of the Finance and
7974 Appropriations Committees of the Senate and the Chairmen of the
7975 Ways and Means and Appropriations Committees of the House of
7976 Representatives;

7977 (vii) Providing for the payment of interest on the
7978 bonds;

7979 (viii) Providing debt service reserves;

7980 (ix) Paying underwriters' discount, original issue
7981 discount, accountants' fees, engineers' fees, attorneys' fees,
7982 rating agency fees and other fees and expenses in connection with
7983 the issuance of the bonds;

7984 (x) For purposes authorized in paragraphs (b) and
7985 (c) of this subsection (4);

7986 (xi) Providing grants to enterprises operating
7987 projects defined in Section 57-75-5(f)(v), or, in connection with
7988 a facility related to such a project, for any purposes deemed by
7989 the authority in its sole discretion to be necessary and
7990 appropriate;



7991 (xii) Providing grant funds or loans to a public
7992 agency or an enterprise owning, leasing or operating a project
7993 defined in Section 57-75-5(f) (ii);

7994 (xiii) Providing grant funds or loans to an
7995 enterprise owning, leasing or operating a project defined in
7996 Section 57-75-5(f) (xiv);

7997 (xiv) Providing grants, loans and payments to or
7998 for the benefit of an enterprise owning or operating a project
7999 defined in Section 57-75-5(f) (xviii);

8000 (xv) Purchasing equipment for a project defined in
8001 Section 57-75-5(f) (viii) subject to such terms and conditions as
8002 the authority considers necessary and appropriate;

8003 (xvi) Providing grant funds to an enterprise
8004 developing or owning a project defined in Section 57-75-5(f) (xx);

8005 (xvii) Providing grants and loans for projects as
8006 authorized in Section 57-75-11(kk), (ll), (mm), (uu), (vv) or, in
8007 connection with a facility related to such a project, for any
8008 purposes deemed by the authority in its sole discretion to be
8009 necessary and appropriate;

8010 (xviii) Providing grants for projects as
8011 authorized in Section 57-75-11(pp) for any purposes deemed by the
8012 authority in its sole discretion to be necessary and appropriate;

8013 (xix) Providing grants and loans for projects as
8014 authorized in Section 57-75-11(qq);



8015 (xx) Providing grants for projects as authorized
8016 in Section 57-75-11(rr);

8017 (xxi) Providing grants, loans and payments as
8018 authorized in Section 57-75-11(ss);

8019 (xxii) Providing grants and loans as authorized in
8020 Section 57-75-11(tt);

8021 (xxiii) Providing grants as authorized in Section
8022 57-75-11(wv) for any purposes deemed by the authority in its sole
8023 discretion to be necessary and appropriate; and

8024 (xxiv) Providing loans, grants and other funds as
8025 authorized in Sections 57-75-11(xx), 57-75-11 (yy), 57-75-11 (zz)
8026 and 57-75-11 (aaa) for any purposes deemed by the authority in its
8027 sole discretion to be necessary and appropriate.

8028 Such bonds shall be issued, from time to time, and in such
8029 principal amounts as shall be designated by the authority, not to
8030 exceed in aggregate principal amounts the amount authorized in
8031 subsection (3) of this section. Proceeds from the sale of the
8032 bonds issued under this section may be invested, subject to
8033 federal limitations, pending their use, in such securities as may
8034 be specified in the resolution authorizing the issuance of the
8035 bonds or the trust indenture securing them, and the earning on
8036 such investment applied as provided in such resolution or trust
8037 indenture.

8038 (b) (i) The proceeds of bonds issued after June 21,
8039 2002, under this section for projects described in Section



8040 57-75-5(f) (iv) may be used to reimburse reasonable actual and
8041 necessary costs incurred by the Mississippi Development Authority
8042 in providing assistance related to a project for which funding is
8043 provided from the use of proceeds of such bonds. The Mississippi
8044 Development Authority shall maintain an accounting of actual costs
8045 incurred for each project for which reimbursements are sought.
8046 Reimbursements under this paragraph (b) (i) shall not exceed Three
8047 Hundred Thousand Dollars (\$300,000.00) in the aggregate.
8048 Reimbursements under this paragraph (b) (i) shall satisfy any
8049 applicable federal tax law requirements.

8050 (ii) The proceeds of bonds issued after June 21,
8051 2002, under this section for projects described in Section
8052 57-75-5(f) (iv) may be used to reimburse reasonable actual and
8053 necessary costs incurred by the Department of Audit in providing
8054 services related to a project for which funding is provided from
8055 the use of proceeds of such bonds. The Department of Audit shall
8056 maintain an accounting of actual costs incurred for each project
8057 for which reimbursements are sought. The Department of Audit may
8058 escalate its budget and expend such funds in accordance with rules
8059 and regulations of the Department of Finance and Administration in
8060 a manner consistent with the escalation of federal funds.
8061 Reimbursements under this paragraph (b) (ii) shall not exceed One
8062 Hundred Thousand Dollars (\$100,000.00) in the aggregate.
8063 Reimbursements under this paragraph (b) (ii) shall satisfy any
8064 applicable federal tax law requirements.



8065 (c) (i) Except as otherwise provided in this
8066 subsection, the proceeds of bonds issued under this section for a
8067 project described in Section 57-75-5(f) may be used to reimburse
8068 reasonable actual and necessary costs incurred by the Mississippi
8069 Development Authority in providing assistance related to the
8070 project for which funding is provided for the use of proceeds of
8071 such bonds. The Mississippi Development Authority shall maintain
8072 an accounting of actual costs incurred for each project for which
8073 reimbursements are sought. Reimbursements under this paragraph
8074 shall not exceed Twenty-five Thousand Dollars (\$25,000.00) for
8075 each project.

8076 (ii) Except as otherwise provided in this
8077 subsection, the proceeds of bonds issued under this section for a
8078 project described in Section 57-75-5(f) may be used to reimburse
8079 reasonable actual and necessary costs incurred by the Department
8080 of Audit in providing services related to the project for which
8081 funding is provided from the use of proceeds of such bonds. The
8082 Department of Audit shall maintain an accounting of actual costs
8083 incurred for each project for which reimbursements are sought.
8084 The Department of Audit may escalate its budget and expend such
8085 funds in accordance with rules and regulations of the Department
8086 of Finance and Administration in a manner consistent with the
8087 escalation of federal funds. Reimbursements under this paragraph
8088 shall not exceed Twenty-five Thousand Dollars (\$25,000.00) for



8089 each project. Reimbursements under this paragraph shall satisfy
8090 any applicable federal tax law requirements.

8091 (5) The principal of and the interest on the bonds shall be
8092 payable in the manner hereinafter set forth. The bonds shall bear
8093 date or dates; be in such denomination or denominations; bear
8094 interest at such rate or rates; be payable at such place or places
8095 within or without the state; mature absolutely at such time or
8096 times; be redeemable before maturity at such time or times and
8097 upon such terms, with or without premium; bear such registration
8098 privileges; and be substantially in such form; all as shall be
8099 determined by resolution of the State Bond Commission except that
8100 such bonds shall mature or otherwise be retired in annual
8101 installments beginning not more than five (5) years from the date
8102 thereof and extending not more than twenty-five (25) years from
8103 the date thereof. The bonds shall be signed by the Chairman of
8104 the State Bond Commission, or by his facsimile signature, and the
8105 official seal of the State Bond Commission shall be imprinted on
8106 or affixed thereto, attested by the manual or facsimile signature
8107 of the Secretary of the State Bond Commission. Whenever any such
8108 bonds have been signed by the officials herein designated to sign
8109 the bonds, who were in office at the time of such signing but who
8110 may have ceased to be such officers before the sale and delivery
8111 of such bonds, or who may not have been in office on the date such
8112 bonds may bear, the signatures of such officers upon such bonds
8113 shall nevertheless be valid and sufficient for all purposes and



8114 have the same effect as if the person so officially signing such
8115 bonds had remained in office until the delivery of the same to the
8116 purchaser, or had been in office on the date such bonds may bear.

8117 (6) All bonds issued under the provisions of this section
8118 shall be and are hereby declared to have all the qualities and
8119 incidents of negotiable instruments under the provisions of the
8120 Uniform Commercial Code and in exercising the powers granted by
8121 this chapter, the State Bond Commission shall not be required to
8122 and need not comply with the provisions of the Uniform Commercial
8123 Code.

8124 (7) The State Bond Commission shall act as issuing agent for
8125 the bonds, prescribe the form of the bonds, determine the
8126 appropriate method for sale of the bonds, advertise for and accept
8127 bids or negotiate the sale of the bonds, issue and sell the bonds,
8128 pay all fees and costs incurred in such issuance and sale, and do
8129 any and all other things necessary and advisable in connection
8130 with the issuance and sale of the bonds. The State Bond
8131 Commission may sell such bonds on sealed bids at public sale or
8132 may negotiate the sale of the bonds for such price as it may
8133 determine to be for the best interest of the State of Mississippi.
8134 The bonds shall bear interest at such rate or rates not exceeding
8135 the limits set forth in Section 75-17-101 as shall be fixed by the
8136 State Bond Commission. All interest accruing on such bonds so
8137 issued shall be payable semiannually or annually.



8138 If the bonds are to be sold on sealed bids at public sale,
8139 notice of the sale of any bonds shall be published at least one
8140 time, the first of which shall be made not less than ten (10) days
8141 prior to the date of sale, and shall be so published in one or
8142 more newspapers having a general circulation in the City of
8143 Jackson, Mississippi, selected by the State Bond Commission.

8144 The State Bond Commission, when issuing any bonds under the
8145 authority of this section, may provide that the bonds, at the
8146 option of the state, may be called in for payment and redemption
8147 at the call price named therein and accrued interest on such date
8148 or dates named therein.

8149 (8) State bonds issued under the provisions of this section
8150 shall be the general obligations of the state and backed by the
8151 full faith and credit of the state. The Legislature shall
8152 appropriate annually an amount sufficient to pay the principal of
8153 and the interest on such bonds as they become due. All bonds
8154 shall contain recitals on their faces substantially covering the
8155 foregoing provisions of this section.

8156 (9) The State Treasurer is authorized to certify to the
8157 Department of Finance and Administration the necessity for
8158 warrants, and the Department of Finance and Administration is
8159 authorized and directed to issue such warrants payable out of any
8160 funds appropriated by the Legislature under this section for such
8161 purpose, in such amounts as may be necessary to pay when due the
8162 principal of and interest on all bonds issued under the provisions



8163 of this section. The State Treasurer shall forward the necessary
8164 amount to the designated place or places of payment of such bonds
8165 in ample time to discharge such bonds, or the interest thereon, on
8166 the due dates thereof.

8167 (10) The bonds may be issued without any other proceedings
8168 or the happening of any other conditions or things other than
8169 those proceedings, conditions and things which are specified or
8170 required by this chapter. Any resolution providing for the
8171 issuance of general obligation bonds under the provisions of this
8172 section shall become effective immediately upon its adoption by
8173 the State Bond Commission, and any such resolution may be adopted
8174 at any regular or special meeting of the State Bond Commission by
8175 a majority of its members.

8176 (11) In anticipation of the issuance of bonds hereunder, the
8177 State Bond Commission is authorized to negotiate and enter into
8178 any purchase, loan, credit or other agreement with any bank, trust
8179 company or other lending institution or to issue and sell interim
8180 notes for the purpose of making any payments authorized under this
8181 section. All borrowings made under this provision shall be
8182 evidenced by notes of the state which shall be issued from time to
8183 time, for such amounts not exceeding the amount of bonds
8184 authorized herein, in such form and in such denomination and
8185 subject to such terms and conditions of sale and issuance,
8186 prepayment or redemption and maturity, rate or rates of interest
8187 not to exceed the maximum rate authorized herein for bonds, and



8188 time of payment of interest as the State Bond Commission shall
8189 agree to in such agreement. Such notes shall constitute general
8190 obligations of the state and shall be backed by the full faith and
8191 credit of the state. Such notes may also be issued for the
8192 purpose of refunding previously issued notes. No note shall
8193 mature more than three (3) years following the date of its
8194 issuance. The State Bond Commission is authorized to provide for
8195 the compensation of any purchaser of the notes by payment of a
8196 fixed fee or commission and for all other costs and expenses of
8197 issuance and service, including paying agent costs. Such costs
8198 and expenses may be paid from the proceeds of the notes.

8199 (12) The bonds and interim notes authorized under the
8200 authority of this section may be validated in the Chancery Court
8201 of the First Judicial District of Hinds County, Mississippi, in
8202 the manner and with the force and effect provided now or hereafter
8203 by Chapter 13, Title 31, Mississippi Code of 1972, for the
8204 validation of county, municipal, school district and other bonds.
8205 The necessary papers for such validation proceedings shall be
8206 transmitted to the State Bond Attorney, and the required notice
8207 shall be published in a newspaper published in the City of
8208 Jackson, Mississippi.

8209 (13) Any bonds or interim notes issued under the provisions
8210 of this chapter, a transaction relating to the sale or securing of
8211 such bonds or interim notes, their transfer and the income
8212 therefrom shall at all times be free from taxation by the state or



8213 any local unit or political subdivision or other instrumentality
8214 of the state, excepting inheritance and gift taxes.

8215 (14) All bonds issued under this chapter shall be legal
8216 investments for trustees, other fiduciaries, savings banks, trust
8217 companies and insurance companies organized under the laws of the
8218 State of Mississippi; and such bonds shall be legal securities
8219 which may be deposited with and shall be received by all public
8220 officers and bodies of the state and all municipalities and other
8221 political subdivisions thereof for the purpose of securing the
8222 deposit of public funds.

8223 (15) The Attorney General of the State of Mississippi shall
8224 represent the State Bond Commission in issuing, selling and
8225 validating bonds herein provided for, and the Bond Commission is
8226 hereby authorized and empowered to expend from the proceeds
8227 derived from the sale of the bonds authorized hereunder all
8228 necessary administrative, legal and other expenses incidental and
8229 related to the issuance of bonds authorized under this chapter.

8230 (16) There is hereby created a special fund in the State
8231 Treasury to be known as the Mississippi Major Economic Impact
8232 Authority Fund wherein shall be deposited the proceeds of the
8233 bonds issued under this chapter and all monies received by the
8234 authority to carry out the purposes of this chapter. Expenditures
8235 authorized herein shall be paid by the State Treasurer upon
8236 warrants drawn from the fund, and the Department of Finance and



8237 Administration shall issue warrants upon requisitions signed by
8238 the director of the authority.

8239 (17) (a) There is hereby created the Mississippi Economic
8240 Impact Authority Sinking Fund from which the principal of and
8241 interest on such bonds shall be paid by appropriation. All monies
8242 paid into the sinking fund not appropriated to pay accruing bonds
8243 and interest shall be invested by the State Treasurer in such
8244 securities as are provided by law for the investment of the
8245 sinking funds of the state.

8246 (b) In the event that all or any part of the bonds and
8247 notes are purchased, they shall be cancelled and returned to the
8248 loan and transfer agent as cancelled and paid bonds and notes and
8249 thereafter all payments of interest thereon shall cease and the
8250 cancelled bonds, notes and coupons, together with any other
8251 cancelled bonds, notes and coupons, shall be destroyed as promptly
8252 as possible after cancellation but not later than two (2) years
8253 after cancellation. A certificate evidencing the destruction of
8254 the cancelled bonds, notes and coupons shall be provided by the
8255 loan and transfer agent to the seller.

8256 (c) The State Treasurer shall determine and report to
8257 the Department of Finance and Administration and Legislative
8258 Budget Office by September 1 of each year the amount of money
8259 necessary for the payment of the principal of and interest on
8260 outstanding obligations for the following fiscal year and the
8261 times and amounts of the payments. It shall be the duty of the



8262 Governor to include in every executive budget submitted to the
8263 Legislature full information relating to the issuance of bonds and
8264 notes under the provisions of this chapter and the status of the
8265 sinking fund for the payment of the principal of and interest on
8266 the bonds and notes.

8267 (d) Any monies repaid to the state from loans
8268 authorized in Section 57-75-11(hh) shall be deposited into the
8269 Mississippi Major Economic Impact Authority Sinking Fund unless
8270 the State Bond Commission, at the request of the authority, shall
8271 determine that such loan repayments are needed to provide
8272 additional loans as authorized under Section 57-75-11(hh). For
8273 purposes of providing additional loans, there is hereby created
8274 the Mississippi Major Economic Impact Authority Revolving Loan
8275 Fund and loan repayments shall be deposited into the fund. The
8276 fund shall be maintained for such period as determined by the
8277 State Bond Commission for the sole purpose of making additional
8278 loans as authorized by Section 57-75-11(hh). Unexpended amounts
8279 remaining in the fund at the end of a fiscal year shall not lapse
8280 into the State General Fund and any interest earned on amounts in
8281 such fund shall be deposited to the credit of the fund.

8282 (e) Any monies repaid to the state from loans
8283 authorized in Section 57-75-11(ii) shall be deposited into the
8284 Mississippi Major Economic Impact Authority Sinking Fund.

8285 (f) Any monies repaid to the state from loans, grants
8286 and other funds authorized in Section 57-75-11(jj),



8287 Section 57-75-11 (vv), Section 57-75-11 (xx), Section 57-75-11 (zz)
8288 and Section 57-75-11 (aaa) shall be deposited into the Mississippi
8289 Major Economic Impact Authority Sinking Fund. However:

8290 (i) Monies paid to the state from a county in
8291 which a project as defined in Section 57-75-5(f)(xxxii) is located
8292 and which is paid pursuant to any agreement under Section
8293 57-75-37(6)(c)(iii) shall, after being received from the county
8294 and properly accounted for, be deposited into the State General
8295 Fund; and

8296 (ii) Monies paid to the state from a county and/or
8297 municipality in which a project as defined in Section
8298 57-75-5(f)(xxxiii) is located and which is paid pursuant to any
8299 agreement under Section 57-75-37(7)(c)(iii) shall, after being
8300 received from the county and/or municipality and properly
8301 accounted for, be deposited into the State General Fund.

8302 (18) (a) Upon receipt of a declaration by the authority
8303 that it has determined that the state is a potential site for a
8304 project, the State Bond Commission is authorized and directed to
8305 authorize the State Treasurer to borrow money from any special
8306 fund in the State Treasury not otherwise appropriated to be
8307 utilized by the authority for the purposes provided for in this
8308 subsection.

8309 (b) The proceeds of the money borrowed under this
8310 subsection may be utilized by the authority for the purpose of
8311 defraying all or a portion of the costs incurred by the authority



8312 with respect to acquisition options and planning, design and
8313 environmental impact studies with respect to a project defined in
8314 Section 57-75-5(f)(xi) or Section 57-75-5(f)(xxix). The authority
8315 may escalate its budget and expend the proceeds of the money
8316 borrowed under this subsection in accordance with rules and
8317 regulations of the Department of Finance and Administration in a
8318 manner consistent with the escalation of federal funds.

8319 (c) The authority shall request an appropriation or
8320 additional authority to issue general obligation bonds to repay
8321 the borrowed funds and establish a date for the repayment of the
8322 funds so borrowed.

8323 (d) Borrowings made under the provisions of this
8324 subsection shall not exceed Five Hundred Thousand Dollars
8325 (\$500,000.00) at any one time.

8326 **[From and after July 1, 2025, this section shall read as**
8327 **follows:]**

8328 57-75-15. (1) Upon notification to the authority by the
8329 enterprise that the state has been finally selected as the site
8330 for the project, the State Bond Commission shall have the power
8331 and is hereby authorized and directed, upon receipt of a
8332 declaration from the authority as hereinafter provided, to borrow
8333 money and issue general obligation bonds of the state in one or
8334 more series for the purposes herein set out. Upon such
8335 notification, the authority may thereafter, from time to time,
8336 declare the necessity for the issuance of general obligation bonds



8337 as authorized by this section and forward such declaration to the
8338 State Bond Commission, provided that before such notification, the
8339 authority may enter into agreements with the United States
8340 government, private companies and others that will commit the
8341 authority to direct the State Bond Commission to issue bonds for
8342 eligible undertakings set out in subsection (4) of this section,
8343 conditioned on the siting of the project in the state.

8344 (2) Upon receipt of any such declaration from the authority,
8345 the State Bond Commission shall verify that the state has been
8346 selected as the site of the project and shall act as the issuing
8347 agent for the series of bonds directed to be issued in such
8348 declaration pursuant to authority granted in this section.

8349 (3) (a) Bonds issued under the authority of this section
8350 for projects as defined in Section 57-75-5(f) (i) shall not exceed
8351 an aggregate principal amount in the sum of Sixty-seven Million
8352 Three Hundred Fifty Thousand Dollars (\$67,350,000.00).

8353 (b) Bonds issued under the authority of this section
8354 for projects as defined in Section 57-75-5(f) (ii) shall not exceed
8355 Seventy-seven Million Dollars (\$77,000,000.00). The authority,
8356 with the express direction of the State Bond Commission, is
8357 authorized to expend any remaining proceeds of bonds issued under
8358 the authority of this act prior to January 1, 1998, for the
8359 purpose of financing projects as then defined in Section
8360 57-75-5(f) (ii) or for any other projects as defined in Section
8361 57-75-5(f) (ii), as it may be amended from time to time. No bonds



8362 shall be issued under this paragraph (b) until the State Bond
8363 Commission by resolution adopts a finding that the issuance of
8364 such bonds will improve, expand or otherwise enhance the military
8365 installation, its support areas or military operations, or will
8366 provide employment opportunities to replace those lost by closure
8367 or reductions in operations at the military installation or will
8368 support critical studies or investigations authorized by Section
8369 57-75-5(f) (ii).

8370 (c) Bonds issued under the authority of this section
8371 for projects as defined in Section 57-75-5(f) (iii) shall not
8372 exceed Ten Million Dollars (\$10,000,000.00). No bonds shall be
8373 issued under this paragraph after December 31, 1996.

8374 (d) Bonds issued under the authority of this section
8375 for projects defined in Section 57-75-5(f) (iv) shall not exceed
8376 Three Hundred Fifty-one Million Dollars (\$351,000,000.00). An
8377 additional amount of bonds in an amount not to exceed Twelve
8378 Million Five Hundred Thousand Dollars (\$12,500,000.00) may be
8379 issued under the authority of this section for the purpose of
8380 defraying costs associated with the construction of surface water
8381 transmission lines for a project defined in Section 57-75-5(f) (iv)
8382 or for any facility related to the project. No bonds shall be
8383 issued under this paragraph after June 30, 2005.

8384 (e) Bonds issued under the authority of this section
8385 for projects defined in Section 57-75-5(f) (v) and for facilities
8386 related to such projects shall not exceed Thirty-eight Million



8387 Five Hundred Thousand Dollars (\$38,500,000.00). No bonds shall be
8388 issued under this paragraph after April 1, 2005.

8389 (f) Bonds issued under the authority of this section
8390 for projects defined in Section 57-75-5(f)(vii) shall not exceed
8391 Five Million Dollars (\$5,000,000.00). No bonds shall be issued
8392 under this paragraph after June 30, 2006.

8393 (g) Bonds issued under the authority of this section
8394 for projects defined in Section 57-75-5(f)(viii) shall not exceed
8395 Four Million Five Hundred Thousand Dollars (\$4,500,000.00). No
8396 bonds shall be issued under this paragraph after June 30, 2008.

8397 (h) Bonds issued under the authority of this section
8398 for projects defined in Section 57-75-5(f)(ix) shall not exceed
8399 Five Million Dollars (\$5,000,000.00). No bonds shall be issued
8400 under this paragraph after June 30, 2007.

8401 (i) Bonds issued under the authority of this section
8402 for projects defined in Section 57-75-5(f)(x) shall not exceed
8403 Five Million Dollars (\$5,000,000.00). No bonds shall be issued
8404 under this paragraph after April 1, 2005.

8405 (j) Bonds issued under the authority of this section
8406 for projects defined in Section 57-75-5(f)(xii) shall not exceed
8407 Thirty-three Million Dollars (\$33,000,000.00). The amount of
8408 bonds that may be issued under this paragraph for projects defined
8409 in Section 57-75-5(f)(xii) may be reduced by the amount of any
8410 federal or local funds made available for such projects. No bonds
8411 shall be issued under this paragraph until local governments in or



8412 near the county in which the project is located have irrevocably
8413 committed funds to the project in an amount of not less than Two
8414 Million Five Hundred Thousand Dollars (\$2,500,000.00) in the
8415 aggregate; however, this irrevocable commitment requirement may be
8416 waived by the authority upon a finding that due to the unforeseen
8417 circumstances created by Hurricane Katrina, the local governments
8418 are unable to comply with such commitment. No bonds shall be
8419 issued under this paragraph after June 30, 2008.

8420 (k) Bonds issued under the authority of this section
8421 for projects defined in Section 57-75-5(f)(xiii) shall not exceed
8422 Three Million Dollars (\$3,000,000.00). No bonds shall be issued
8423 under this paragraph after June 30, 2009.

8424 (l) Bonds issued under the authority of this section
8425 for projects defined in Section 57-75-5(f)(xiv) shall not exceed
8426 Twenty-four Million Dollars (\$24,000,000.00). No bonds shall be
8427 issued under this paragraph until local governments in the county
8428 in which the project is located have irrevocably committed funds
8429 to the project in an amount of not less than Two Million Dollars
8430 (\$2,000,000.00). No bonds shall be issued under this paragraph
8431 after June 30, 2009.

8432 (m) Bonds issued under the authority of this section
8433 for projects defined in Section 57-75-5(f)(xv) shall not exceed
8434 Five Hundred Thousand Dollars (\$500,000.00). No bonds shall be
8435 issued under this paragraph after June 30, 2009.



8436 (n) Bonds issued under the authority of this section
8437 for projects defined in Section 57-75-5(f) (xvi) shall not exceed
8438 Ten Million Dollars (\$10,000,000.00). No bonds shall be issued
8439 under this paragraph after June 30, 2011.

8440 (o) Bonds issued under the authority of this section
8441 for projects defined in Section 57-75-5(f) (xvii) shall not exceed
8442 Three Million Five Hundred Thousand Dollars (\$3,500,000.00). No
8443 bonds shall be issued under this paragraph after June 30, 2010.

8444 (p) Bonds issued under the authority of this section
8445 for projects defined in Section 57-75-5(f) (xviii) shall not exceed
8446 Ninety-six Million Dollars (\$96,000,000.00). No bonds shall be
8447 issued under this paragraph after June 30, 2016.

8448 (q) Bonds issued under the authority of this section
8449 for projects defined in Section 57-75-5(f) (xix) shall not exceed
8450 Fifteen Million Dollars (\$15,000,000.00). No bonds shall be
8451 issued under this paragraph after June 30, 2012.

8452 (r) Bonds issued under the authority of this section
8453 for projects defined in Section 57-75-5(f) (xx) shall not exceed
8454 Twenty-three Million Dollars (\$23,000,000.00). No bonds shall be
8455 issued under this paragraph after April 25, 2013.

8456 (s) Bonds issued under the authority of this section
8457 for projects defined in Section 57-75-5(f) (xxi) shall not exceed
8458 Two Hundred Ninety-three Million Nine Hundred Thousand Dollars
8459 (\$293,900,000.00). No bonds shall be issued under this paragraph
8460 after July 1, 2020.



8461 (t) Bonds issued under the authority of this section
8462 for Tier One suppliers shall not exceed Thirty Million Dollars
8463 (\$30,000,000.00). No bonds shall be issued under this paragraph
8464 after July 1, 2020.

8465 (u) Bonds issued under the authority of this section
8466 for projects defined in Section 57-75-5(f) (xxii) shall not exceed
8467 Forty-eight Million Four Hundred Thousand Dollars
8468 (\$48,400,000.00). No bonds shall be issued under this paragraph
8469 after July 1, 2020.

8470 (v) Bonds issued under the authority of this section
8471 for projects defined in Section 57-75-5(f) (xxiii) shall not exceed
8472 Eighty-eight Million Two Hundred Fifty Thousand Dollars
8473 (\$88,250,000.00). No bonds shall be issued under this paragraph
8474 after July 1, 2009.

8475 (w) Bonds issued under the authority of this section
8476 for projects defined in Section 57-75-5(f) (xxiv) shall not exceed
8477 Thirteen Million Dollars (\$13,000,000.00). No bonds shall be
8478 issued under this paragraph after July 1, 2020.

8479 (x) Bonds issued under the authority of this section
8480 for projects defined in Section 57-75-5(f) (xxv) shall not exceed
8481 Twenty-five Million Dollars (\$25,000,000.00). No bonds shall be
8482 issued under this paragraph after July 1, 2017.

8483 (y) Bonds issued under the authority of this section
8484 for projects defined in Section 57-75-5(f) (xxvi) shall not exceed



8485 Thirty-five Million One Hundred Thousand Dollars (\$35,100,000.00).

8486 No bonds shall be issued under this paragraph after July 1, 2021.

8487 (z) Bonds issued under the authority of this section
8488 for projects defined in Section 57-75-5(f)(xxvii) shall not exceed
8489 Fifty Million Dollars (\$50,000,000.00). No bonds shall be issued
8490 under this paragraph after April 25, 2013.

8491 (aa) Bonds issued under the authority of this section
8492 for projects defined in Section 57-75-5(f)(xxviii) shall not
8493 exceed One Hundred Thirty Million Dollars (\$130,000,000.00). No
8494 bonds shall be issued under this paragraph after July 1, 2026.

8495 (bb) Bonds issued under the authority of this section
8496 for projects defined in Section 57-75-5(f)(xxix) shall not exceed
8497 Two Hundred Sixty-three Million Dollars (\$263,000,000.00). No
8498 bonds shall be issued under this paragraph after July 1, 2034.

8499 (cc) Bonds issued under the authority of this section
8500 for projects defined in Section 57-75-5(f)(xxx) shall not exceed
8501 Eleven Million Dollars (\$11,000,000.00). No bonds shall be issued
8502 under this paragraph after July 1, 2025.

8503 (dd) Bonds issued under the authority of this section
8504 for projects defined in Section 57-75-5(f)(xxxii) shall not exceed
8505 Two Hundred Forty-six Million Seven Hundred Ninety-eight Thousand
8506 Five Hundred Fifty Dollars (\$246,798,550.00); however, the total
8507 amount of bonds that may be issued under the authority of this
8508 section for projects defined in Section 57-75-5(f)(xxxii) shall be
8509 reduced by the amount of any other funds authorized by the



8510 Legislature during the 2022 First Extraordinary Session
8511 specifically for such projects. No bonds shall be issued under
8512 this paragraph after July 1, 2040.

8513 (ee) Bonds issued under the authority of this section
8514 for a project defined in Section 57-75-5(f) (xxxii) shall not
8515 exceed Four Hundred Eight-two Million Dollars (\$482,000,000.00);
8516 however, the total amount of bonds that may be issued under the
8517 authority of this section for a project defined in Section
8518 57-75-5(f) (xxxii) shall be reduced by the amount of any other
8519 funds authorized by the Legislature specifically for such project.
8520 No bonds shall be issued under this paragraph after July 1, 2040.

8521 (ff) Bonds issued under the authority of this section
8522 for a project defined in Section 57-75-5(f) (xxxiii) shall not
8523 exceed Two Hundred Sixty Million Dollars (\$260,000,000.00);
8524 however, the total amount of bonds that may be issued under the
8525 authority of this section for a project defined in Section
8526 57-75-5(f) (xxxiii) shall be reduced by the amount of any other
8527 funds authorized by the Legislature specifically for such project.
8528 No bonds shall be issued under this paragraph after July 1, 2040.

8529 (4) (a) The proceeds from the sale of the bonds issued
8530 under this section may be applied for the following purposes:

8531 (i) Defraying all or any designated portion of the
8532 costs incurred with respect to acquisition, planning, design,
8533 construction, installation, rehabilitation, improvement,
8534 relocation and with respect to state-owned property, operation and



8535 maintenance of the project and any facility related to the project
8536 located within the project area, including costs of design and
8537 engineering, all costs incurred to provide land, easements and
8538 rights-of-way, relocation costs with respect to the project and
8539 with respect to any facility related to the project located within
8540 the project area, and costs associated with mitigation of
8541 environmental impacts and environmental impact studies;

8542 (ii) Defraying the cost of providing for the
8543 recruitment, screening, selection, training or retraining of
8544 employees, candidates for employment or replacement employees of
8545 the project and any related activity;

8546 (iii) Reimbursing the Mississippi Development
8547 Authority for expenses it incurred in regard to projects defined
8548 in Section 57-75-5(f)(iv) prior to November 6, 2000. The
8549 Mississippi Development Authority shall submit an itemized list of
8550 expenses it incurred in regard to such projects to the Chairmen of
8551 the Finance and Appropriations Committees of the Senate and the
8552 Chairmen of the Ways and Means and Appropriations Committees of
8553 the House of Representatives;

8554 (iv) Providing grants to enterprises operating
8555 projects defined in Section 57-75-5(f)(iv)1;

8556 (v) Paying any warranty made by the authority
8557 regarding site work for a project defined in Section
8558 57-75-5(f)(iv)1;



8559 (vi) Defraying the cost of marketing and promotion
8560 of a project as defined in Section 57-75-5(f)(iv)1, Section
8561 57-75-5(f)(xxi) or Section 57-75-5(f)(xxii). The authority shall
8562 submit an itemized list of costs incurred for marketing and
8563 promotion of such project to the Chairmen of the Finance and
8564 Appropriations Committees of the Senate and the Chairmen of the
8565 Ways and Means and Appropriations Committees of the House of
8566 Representatives;

8567 (vii) Providing for the payment of interest on the
8568 bonds;

8569 (viii) Providing debt service reserves;

8570 (ix) Paying underwriters' discount, original issue
8571 discount, accountants' fees, engineers' fees, attorneys' fees,
8572 rating agency fees and other fees and expenses in connection with
8573 the issuance of the bonds;

8574 (x) For purposes authorized in paragraphs (b) and
8575 (c) of this subsection (4);

8576 (xi) Providing grants to enterprises operating
8577 projects defined in Section 57-75-5(f)(v), or, in connection with
8578 a facility related to such a project, for any purposes deemed by
8579 the authority in its sole discretion to be necessary and
8580 appropriate;

8581 (xii) Providing grant funds or loans to a public
8582 agency or an enterprise owning, leasing or operating a project
8583 defined in Section 57-75-5(f)(ii);



8584 (xiii) Providing grant funds or loans to an
8585 enterprise owning, leasing or operating a project defined in
8586 Section 57-75-5(f) (xiv);

8587 (xiv) Providing grants, loans and payments to or
8588 for the benefit of an enterprise owning or operating a project
8589 defined in Section 57-75-5(f) (xviii);

8590 (xv) Purchasing equipment for a project defined in
8591 Section 57-75-5(f) (viii) subject to such terms and conditions as
8592 the authority considers necessary and appropriate;

8593 (xvi) Providing grant funds to an enterprise
8594 developing or owning a project defined in Section 57-75-5(f) (xx);

8595 (xvii) Providing grants and loans for projects as
8596 authorized in Section 57-75-11(kk), (ll), (mm), (uu), (vv) or, in
8597 connection with a facility related to such a project, for any
8598 purposes deemed by the authority in its sole discretion to be
8599 necessary and appropriate;

8600 (xviii) Providing grants for projects as
8601 authorized in Section 57-75-11(pp) for any purposes deemed by the
8602 authority in its sole discretion to be necessary and appropriate;

8603 (xix) Providing grants and loans for projects as
8604 authorized in Section 57-75-11(qq);

8605 (xx) Providing grants for projects as authorized
8606 in Section 57-75-11(rr);

8607 (xxi) Providing grants, loans and payments as
8608 authorized in Section 57-75-11(ss);



8609 (xxii) Providing loans as authorized in Section
8610 57-75-11(tt);

8611 (xxiii) Providing grants as authorized in Section
8612 57-75-11(wv) for any purposes deemed by the authority in its sole
8613 discretion to be necessary and appropriate; and

8614 (xxiv) Providing loans, grants and other funds as
8615 authorized in Sections 57-75-11(xx), 57-75-11 (yy), 57-75-11 (zz)
8616 and 57-75-11 (aaa) for any purposes deemed by the authority in its
8617 sole discretion to be necessary and appropriate.

8618 Such bonds shall be issued, from time to time, and in such
8619 principal amounts as shall be designated by the authority, not to
8620 exceed in aggregate principal amounts the amount authorized in
8621 subsection (3) of this section. Proceeds from the sale of the
8622 bonds issued under this section may be invested, subject to
8623 federal limitations, pending their use, in such securities as may
8624 be specified in the resolution authorizing the issuance of the
8625 bonds or the trust indenture securing them, and the earning on
8626 such investment applied as provided in such resolution or trust
8627 indenture.

8628 (b) (i) The proceeds of bonds issued after June 21,
8629 2002, under this section for projects described in Section
8630 57-75-5(f)(iv) may be used to reimburse reasonable actual and
8631 necessary costs incurred by the Mississippi Development Authority
8632 in providing assistance related to a project for which funding is
8633 provided from the use of proceeds of such bonds. The Mississippi



8634 Development Authority shall maintain an accounting of actual costs
8635 incurred for each project for which reimbursements are sought.
8636 Reimbursements under this paragraph (b) (i) shall not exceed Three
8637 Hundred Thousand Dollars (\$300,000.00) in the aggregate.
8638 Reimbursements under this paragraph (b) (i) shall satisfy any
8639 applicable federal tax law requirements.

8640 (ii) The proceeds of bonds issued after June 21,
8641 2002, under this section for projects described in Section
8642 57-75-5(f) (iv) may be used to reimburse reasonable actual and
8643 necessary costs incurred by the Department of Audit in providing
8644 services related to a project for which funding is provided from
8645 the use of proceeds of such bonds. The Department of Audit shall
8646 maintain an accounting of actual costs incurred for each project
8647 for which reimbursements are sought. The Department of Audit may
8648 escalate its budget and expend such funds in accordance with rules
8649 and regulations of the Department of Finance and Administration in
8650 a manner consistent with the escalation of federal funds.

8651 Reimbursements under this paragraph (b) (ii) shall not exceed One
8652 Hundred Thousand Dollars (\$100,000.00) in the aggregate.

8653 Reimbursements under this paragraph (b) (ii) shall satisfy any
8654 applicable federal tax law requirements.

8655 (c) (i) Except as otherwise provided in this
8656 subsection, the proceeds of bonds issued under this section for a
8657 project described in Section 57-75-5(f) may be used to reimburse
8658 reasonable actual and necessary costs incurred by the Mississippi



8659 Development Authority in providing assistance related to the
8660 project for which funding is provided for the use of proceeds of
8661 such bonds. The Mississippi Development Authority shall maintain
8662 an accounting of actual costs incurred for each project for which
8663 reimbursements are sought. Reimbursements under this paragraph
8664 shall not exceed Twenty-five Thousand Dollars (\$25,000.00) for
8665 each project.

8666 (ii) Except as otherwise provided in this
8667 subsection, the proceeds of bonds issued under this section for a
8668 project described in Section 57-75-5(f) may be used to reimburse
8669 reasonable actual and necessary costs incurred by the Department
8670 of Audit in providing services related to the project for which
8671 funding is provided from the use of proceeds of such bonds. The
8672 Department of Audit shall maintain an accounting of actual costs
8673 incurred for each project for which reimbursements are sought.
8674 The Department of Audit may escalate its budget and expend such
8675 funds in accordance with rules and regulations of the Department
8676 of Finance and Administration in a manner consistent with the
8677 escalation of federal funds. Reimbursements under this paragraph
8678 shall not exceed Twenty-five Thousand Dollars (\$25,000.00) for
8679 each project. Reimbursements under this paragraph shall satisfy
8680 any applicable federal tax law requirements.

8681 (5) The principal of and the interest on the bonds shall be
8682 payable in the manner hereinafter set forth. The bonds shall bear
8683 date or dates; be in such denomination or denominations; bear



8684 interest at such rate or rates; be payable at such place or places
8685 within or without the state; mature absolutely at such time or
8686 times; be redeemable before maturity at such time or times and
8687 upon such terms, with or without premium; bear such registration
8688 privileges; and be substantially in such form; all as shall be
8689 determined by resolution of the State Bond Commission except that
8690 such bonds shall mature or otherwise be retired in annual
8691 installments beginning not more than five (5) years from the date
8692 thereof and extending not more than twenty-five (25) years from
8693 the date thereof. The bonds shall be signed by the Chairman of
8694 the State Bond Commission, or by his facsimile signature, and the
8695 official seal of the State Bond Commission shall be imprinted on
8696 or affixed thereto, attested by the manual or facsimile signature
8697 of the Secretary of the State Bond Commission. Whenever any such
8698 bonds have been signed by the officials herein designated to sign
8699 the bonds, who were in office at the time of such signing but who
8700 may have ceased to be such officers before the sale and delivery
8701 of such bonds, or who may not have been in office on the date such
8702 bonds may bear, the signatures of such officers upon such bonds
8703 shall nevertheless be valid and sufficient for all purposes and
8704 have the same effect as if the person so officially signing such
8705 bonds had remained in office until the delivery of the same to the
8706 purchaser, or had been in office on the date such bonds may bear.

8707 (6) All bonds issued under the provisions of this section
8708 shall be and are hereby declared to have all the qualities and



8709 incidents of negotiable instruments under the provisions of the
8710 Uniform Commercial Code and in exercising the powers granted by
8711 this chapter, the State Bond Commission shall not be required to
8712 and need not comply with the provisions of the Uniform Commercial
8713 Code.

8714 (7) The State Bond Commission shall act as issuing agent for
8715 the bonds, prescribe the form of the bonds, advertise for and
8716 accept bids, issue and sell the bonds on sealed bids at public
8717 sale, pay all fees and costs incurred in such issuance and sale,
8718 and do any and all other things necessary and advisable in
8719 connection with the issuance and sale of the bonds. The State
8720 Bond Commission may sell such bonds on sealed bids at public sale
8721 for such price as it may determine to be for the best interest of
8722 the State of Mississippi, but no such sale shall be made at a
8723 price less than par plus accrued interest to date of delivery of
8724 the bonds to the purchaser. The bonds shall bear interest at such
8725 rate or rates not exceeding the limits set forth in Section
8726 75-17-101 as shall be fixed by the State Bond Commission. All
8727 interest accruing on such bonds so issued shall be payable
8728 semiannually or annually; provided that the first interest payment
8729 may be for any period of not more than one (1) year.

8730 Notice of the sale of any bonds shall be published at least
8731 one time, the first of which shall be made not less than ten (10)
8732 days prior to the date of sale, and shall be so published in one



8733 or more newspapers having a general circulation in the City of
8734 Jackson, Mississippi, selected by the State Bond Commission.

8735 The State Bond Commission, when issuing any bonds under the
8736 authority of this section, may provide that the bonds, at the
8737 option of the state, may be called in for payment and redemption
8738 at the call price named therein and accrued interest on such date
8739 or dates named therein.

8740 (8) State bonds issued under the provisions of this section
8741 shall be the general obligations of the state and backed by the
8742 full faith and credit of the state. The Legislature shall
8743 appropriate annually an amount sufficient to pay the principal of
8744 and the interest on such bonds as they become due. All bonds
8745 shall contain recitals on their faces substantially covering the
8746 foregoing provisions of this section.

8747 (9) The State Treasurer is authorized to certify to the
8748 Department of Finance and Administration the necessity for
8749 warrants, and the Department of Finance and Administration is
8750 authorized and directed to issue such warrants payable out of any
8751 funds appropriated by the Legislature under this section for such
8752 purpose, in such amounts as may be necessary to pay when due the
8753 principal of and interest on all bonds issued under the provisions
8754 of this section. The State Treasurer shall forward the necessary
8755 amount to the designated place or places of payment of such bonds
8756 in ample time to discharge such bonds, or the interest thereon, on
8757 the due dates thereof.



8758 (10) The bonds may be issued without any other proceedings
8759 or the happening of any other conditions or things other than
8760 those proceedings, conditions and things which are specified or
8761 required by this chapter. Any resolution providing for the
8762 issuance of general obligation bonds under the provisions of this
8763 section shall become effective immediately upon its adoption by
8764 the State Bond Commission, and any such resolution may be adopted
8765 at any regular or special meeting of the State Bond Commission by
8766 a majority of its members.

8767 (11) In anticipation of the issuance of bonds hereunder, the
8768 State Bond Commission is authorized to negotiate and enter into
8769 any purchase, loan, credit or other agreement with any bank, trust
8770 company or other lending institution or to issue and sell interim
8771 notes for the purpose of making any payments authorized under this
8772 section. All borrowings made under this provision shall be
8773 evidenced by notes of the state which shall be issued from time to
8774 time, for such amounts not exceeding the amount of bonds
8775 authorized herein, in such form and in such denomination and
8776 subject to such terms and conditions of sale and issuance,
8777 prepayment or redemption and maturity, rate or rates of interest
8778 not to exceed the maximum rate authorized herein for bonds, and
8779 time of payment of interest as the State Bond Commission shall
8780 agree to in such agreement. Such notes shall constitute general
8781 obligations of the state and shall be backed by the full faith and
8782 credit of the state. Such notes may also be issued for the



8783 purpose of refunding previously issued notes. No note shall
8784 mature more than three (3) years following the date of its
8785 issuance. The State Bond Commission is authorized to provide for
8786 the compensation of any purchaser of the notes by payment of a
8787 fixed fee or commission and for all other costs and expenses of
8788 issuance and service, including paying agent costs. Such costs
8789 and expenses may be paid from the proceeds of the notes.

8790 (12) The bonds and interim notes authorized under the
8791 authority of this section may be validated in the Chancery Court
8792 of the First Judicial District of Hinds County, Mississippi, in
8793 the manner and with the force and effect provided now or hereafter
8794 by Chapter 13, Title 31, Mississippi Code of 1972, for the
8795 validation of county, municipal, school district and other bonds.
8796 The necessary papers for such validation proceedings shall be
8797 transmitted to the State Bond Attorney, and the required notice
8798 shall be published in a newspaper published in the City of
8799 Jackson, Mississippi.

8800 (13) Any bonds or interim notes issued under the provisions
8801 of this chapter, a transaction relating to the sale or securing of
8802 such bonds or interim notes, their transfer and the income
8803 therefrom shall at all times be free from taxation by the state or
8804 any local unit or political subdivision or other instrumentality
8805 of the state, excepting inheritance and gift taxes.

8806 (14) All bonds issued under this chapter shall be legal
8807 investments for trustees, other fiduciaries, savings banks, trust



8808 companies and insurance companies organized under the laws of the
8809 State of Mississippi; and such bonds shall be legal securities
8810 which may be deposited with and shall be received by all public
8811 officers and bodies of the state and all municipalities and other
8812 political subdivisions thereof for the purpose of securing the
8813 deposit of public funds.

8814 (15) The Attorney General of the State of Mississippi shall
8815 represent the State Bond Commission in issuing, selling and
8816 validating bonds herein provided for, and the Bond Commission is
8817 hereby authorized and empowered to expend from the proceeds
8818 derived from the sale of the bonds authorized hereunder all
8819 necessary administrative, legal and other expenses incidental and
8820 related to the issuance of bonds authorized under this chapter.

8821 (16) There is hereby created a special fund in the State
8822 Treasury to be known as the Mississippi Major Economic Impact
8823 Authority Fund wherein shall be deposited the proceeds of the
8824 bonds issued under this chapter and all monies received by the
8825 authority to carry out the purposes of this chapter. Expenditures
8826 authorized herein shall be paid by the State Treasurer upon
8827 warrants drawn from the fund, and the Department of Finance and
8828 Administration shall issue warrants upon requisitions signed by
8829 the director of the authority.

8830 (17) (a) There is hereby created the Mississippi Economic
8831 Impact Authority Sinking Fund from which the principal of and
8832 interest on such bonds shall be paid by appropriation. All monies



8833 paid into the sinking fund not appropriated to pay accruing bonds
8834 and interest shall be invested by the State Treasurer in such
8835 securities as are provided by law for the investment of the
8836 sinking funds of the state.

8837 (b) In the event that all or any part of the bonds and
8838 notes are purchased, they shall be cancelled and returned to the
8839 loan and transfer agent as cancelled and paid bonds and notes and
8840 thereafter all payments of interest thereon shall cease and the
8841 cancelled bonds, notes and coupons, together with any other
8842 cancelled bonds, notes and coupons, shall be destroyed as promptly
8843 as possible after cancellation but not later than two (2) years
8844 after cancellation. A certificate evidencing the destruction of
8845 the cancelled bonds, notes and coupons shall be provided by the
8846 loan and transfer agent to the seller.

8847 (c) The State Treasurer shall determine and report to
8848 the Department of Finance and Administration and Legislative
8849 Budget Office by September 1 of each year the amount of money
8850 necessary for the payment of the principal of and interest on
8851 outstanding obligations for the following fiscal year and the
8852 times and amounts of the payments. It shall be the duty of the
8853 Governor to include in every executive budget submitted to the
8854 Legislature full information relating to the issuance of bonds and
8855 notes under the provisions of this chapter and the status of the
8856 sinking fund for the payment of the principal of and interest on
8857 the bonds and notes.



8858 (d) Any monies repaid to the state from loans
8859 authorized in Section 57-75-11(hh) shall be deposited into the
8860 Mississippi Major Economic Impact Authority Sinking Fund unless
8861 the State Bond Commission, at the request of the authority, shall
8862 determine that such loan repayments are needed to provide
8863 additional loans as authorized under Section 57-75-11(hh). For
8864 purposes of providing additional loans, there is hereby created
8865 the Mississippi Major Economic Impact Authority Revolving Loan
8866 Fund and loan repayments shall be deposited into the fund. The
8867 fund shall be maintained for such period as determined by the
8868 State Bond Commission for the sole purpose of making additional
8869 loans as authorized by Section 57-75-11(hh). Unexpended amounts
8870 remaining in the fund at the end of a fiscal year shall not lapse
8871 into the State General Fund and any interest earned on amounts in
8872 such fund shall be deposited to the credit of the fund.

8873 (e) Any monies repaid to the state from loans
8874 authorized in Section 57-75-11(ii) shall be deposited into the
8875 Mississippi Major Economic Impact Authority Sinking Fund.

8876 (f) Any monies repaid to the state from loans, grants
8877 and other funds authorized in Section 57-75-11(jj), Section
8878 57-75-11 (vv), Section 57-75-11 (xx), Section 57-75-11 (zz) and
8879 Section 57-75-11 (aaa) shall be deposited into the Mississippi
8880 Major Economic Impact Authority Sinking Fund. However:

8881 (i) Monies paid to the state from a county in
8882 which a project as defined in Section 57-75-5(f)(xxxii) is located



8883 and which is paid pursuant to any agreement under Section
8884 57-75-37(6)(c)(iii) shall, after being received from the county
8885 and properly accounted for, be deposited into the State General
8886 Fund; and

8887 (ii) Monies paid to the state from a county and/or
8888 municipality in which a project as defined in Section
8889 57-75-5(f)(xxxiii) is located and which is paid pursuant to any
8890 agreement under Section 57-75-37(7)(c)(iii) shall, after being
8891 received from the county and/or municipality and properly
8892 accounted for, be deposited into the State General Fund.

8893 (18) (a) Upon receipt of a declaration by the authority
8894 that it has determined that the state is a potential site for a
8895 project, the State Bond Commission is authorized and directed to
8896 authorize the State Treasurer to borrow money from any special
8897 fund in the State Treasury not otherwise appropriated to be
8898 utilized by the authority for the purposes provided for in this
8899 subsection.

8900 (b) The proceeds of the money borrowed under this
8901 subsection may be utilized by the authority for the purpose of
8902 defraying all or a portion of the costs incurred by the authority
8903 with respect to acquisition options and planning, design and
8904 environmental impact studies with respect to a project defined in
8905 Section 57-75-5(f)(xi) or Section 57-75-5(f)(xxix). The authority
8906 may escalate its budget and expend the proceeds of the money
8907 borrowed under this subsection in accordance with rules and



8908 regulations of the Department of Finance and Administration in a
8909 manner consistent with the escalation of federal funds.

8910 (c) The authority shall request an appropriation or
8911 additional authority to issue general obligation bonds to repay
8912 the borrowed funds and establish a date for the repayment of the
8913 funds so borrowed.

8914 (d) Borrowings made under the provisions of this
8915 subsection shall not exceed Five Hundred Thousand Dollars
8916 (\$500,000.00) at any one time.

8917 **SECTION 143.** Section 57-75-17, Mississippi Code of 1972, is
8918 brought forward as follows:

8919 57-75-17. (1) For the purpose of aiding in the planning,
8920 design, undertaking and carrying out of the project or any
8921 facility related to the project, any public agency is authorized
8922 and empowered upon such terms, with or without consideration, as
8923 it may determine:

8924 (a) To enter into agreements, which may extend over any
8925 period, with the authority respecting action to be taken by such
8926 public agency with respect to the acquisition, planning,
8927 construction, improvement, operation, maintenance or funding of
8928 the project or any such facility, and which agreements may
8929 include:

8930 (i) The appropriation or payment of funds to the
8931 authority or to a trustee in amounts which shall be sufficient to
8932 enable the authority to defray any designated portion or



8933 percentage of the expenses of administering, planning, designing,
8934 constructing, acquiring, improving, operating, and maintaining the
8935 project or any facility related to the project,

8936 (ii) The appropriation or payment of funds to the
8937 authority or to a trustee to pay interest and principal (whether
8938 at maturity or upon sinking fund redemption) on bonds of the
8939 authority issued pursuant to this act and to fund reserves for
8940 debt service, for operation and maintenance and for renewals and
8941 replacements, and to fulfill requirements of any covenant with
8942 respect to debt service contained in any resolution, trust
8943 indenture or other security agreement relating to the bonds of the
8944 authority issued pursuant to this act,

8945 (iii) The furnishing of other assistance in
8946 connection with the project or facility related to the project,
8947 and

8948 (iv) The borrowing of money from the authority in
8949 connection with a project defined in Section 57-75-5(f)(ii);

8950 (b) To dedicate, sell, donate, convey or lease any
8951 property or interest in property to the authority or grant
8952 easements, licenses or other rights or privileges therein to the
8953 authority;

8954 (c) To incur the expense of any public improvements
8955 made or to be made by such public agency in exercising the powers
8956 granted in this section;



8957 (d) To lend, grant or contribute funds to the
8958 authority;

8959 (e) To cause public buildings and public facilities,
8960 including parks, playgrounds, recreational areas, community
8961 meeting facilities, water, sewer or drainage facilities, or any
8962 other works which it is otherwise empowered to undertake, to be
8963 furnished to or with respect to the project or any such facility;

8964 (f) To furnish, dedicate, close, vacate, pave, install,
8965 upgrade or improve highways, streets, roads, sidewalks, airports,
8966 railroads, or ports;

8967 (g) To plan or replan, zone or rezone any parcel of
8968 land within the public agency or make exceptions from land use,
8969 building and zoning regulations;

8970 (h) To cause administrative and other services to be
8971 furnished to the authority, including services pertaining to the
8972 acquisition of real property and the furnishing of relocation
8973 assistance; and

8974 (i) To loan to the owner, lessee or operator of any
8975 project defined in Section 57-75-5(f)(ii) the proceeds of any loan
8976 from the authority to the public entity under the provisions of
8977 this act.

8978 (2) Any contract between a public agency entered into with
8979 the authority pursuant to any of the powers granted by this act
8980 shall be binding upon said public agency according to its terms,
8981 and such public agency shall have the power to enter into such



8982 contracts as in the discretion of the governing authorities
8983 thereof would be to the best interest of the people of such public
8984 agency. Such contracts may include within the discretion of such
8985 governing authorities of public agencies defined under Section
8986 57-75-5(h) (ii) a pledge of the full faith and credit of such
8987 public agency or any other lawfully available funds for the
8988 performance thereof. If at any time title to or possession of the
8989 project or any such facility is held by any public body or
8990 governmental agency other than the authority, including any agency
8991 or instrumentality of the United States of America, the agreements
8992 referred to in this section shall inure to the benefit of and may
8993 be enforced by such public body or governmental agency.

8994 (3) Notwithstanding any provisions of this act to the
8995 contrary, any contract entered into between the authority and any
8996 public agency for the appropriation or payment of funds to the
8997 authority under item (a) (ii) or (a) (iv) of this section shall
8998 contain a provision therein requiring periodic payments by the
8999 public agency as required by the authority to pay its indebtedness
9000 and, if the public agency is not a county or municipality, such
9001 contract shall include as an additional party to the contract the
9002 county or municipality (referred to in this paragraph as "levying
9003 authority") that levies and collects taxes for the contracting
9004 public agency. If the public agency fails to pay its indebtedness
9005 for any month, the authority shall certify to the Department of
9006 Revenue, or other appropriate agency, the amount of the



9007 delinquency, and the Department of Revenue shall deduct such
9008 amount from the public agency's or levying authority's, as the
9009 case may be, next allocation of sales taxes, petroleum taxes,
9010 highway privilege taxes, severance taxes, Tennessee Valley
9011 Authority payments in lieu of taxes and homestead exemption
9012 reimbursements in that order of priority. The Department of
9013 Revenue, or other appropriate agency, shall pay the sums so
9014 deducted to the authority to be applied to the discharge of the
9015 contractual obligation.

9016 (4) Notwithstanding any provision of this act to the
9017 contrary, all loans made pursuant to Section 57-75-11(hh) and this
9018 section shall be for a term not to exceed twenty (20) years as may
9019 be determined by the authority, shall bear interest at such rates
9020 as may be determined by the authority, shall, in the sole
9021 discretion of the authority, be secured in an amount and a manner
9022 as may be determined by the authority.

9023 (5) (a) Before authorizing any loan to a public agency
9024 defined in Section 57-75-5(h)(ii), a local governmental unit, the
9025 governing authority of such local governmental unit in connection
9026 with a project defined in Section 57-75-5(f)(ii), shall adopt a
9027 resolution declaring its intention so to do, stating the amount of
9028 the loan proposed to be authorized and the purpose for which the
9029 loan is to be authorized, and the date upon which the loan will be
9030 authorized. Such resolution shall be published once a week for at
9031 least three (3) consecutive weeks in at least one (1) newspaper



9032 published in such local governmental unit. The first publication
9033 of such resolution shall be made not less than twenty-one (21)
9034 days before the date fixed in such resolution for the
9035 authorization of the loan and the last publication shall be made
9036 not more than seven (7) days before such date. If no newspaper is
9037 published in such local governmental unit, then such notice shall
9038 be given by publishing the resolution for the required time in
9039 some newspaper having a general circulation in such local
9040 governmental unit and, in addition, by posting a copy of such
9041 resolution for at least twenty-one (21) days next preceding the
9042 date fixed therein at three (3) public places in such local
9043 governmental unit. If fifteen percent (15%) of the qualified
9044 electors of the local governmental unit or fifteen hundred (1500),
9045 whichever is the lesser, file a written protest against the
9046 authorization of such loan on or before the date specified in such
9047 resolution, then an election on the question of the authorization
9048 of such loan shall be called and held as otherwise provided for in
9049 connection with the issuance of general obligation indebtedness of
9050 such local governmental unit. Notice of such election shall be
9051 given as otherwise required in connection with the issuance of
9052 general obligation indebtedness of such local governmental unit.
9053 If three-fifths (3/5) of the qualified electors voting in the
9054 election vote in favor of authorizing the loan, then the governing
9055 authority of the local governmental unit shall proceed with the
9056 loan; however, if less than three-fifths (3/5) of the qualified



9057 electors voting in the election vote in favor of authorizing the
9058 loan, then the loan shall not be incurred. If no protest be
9059 filed, then such loan may be entered into by the local
9060 governmental unit without an election on the question of the
9061 authorization of such loan, at any time within a period of two (2)
9062 years after the date specified in the resolution. However, the
9063 governing authority of any local governmental unit, in its
9064 discretion, may nevertheless call an election on such question, in
9065 which event it shall not be necessary to publish the resolution
9066 declaring its intention to authorize such loan as provided in this
9067 subsection.

9068 (b) Local governmental units may, in connection with
9069 any such loan, enter into any covenants and agreements with
9070 respect to such local governmental unit's operations, revenues,
9071 assets, monies, funds or property, or such loan, as may be
9072 prescribed by the authority.

9073 (c) Upon the making of any such loan by the authority
9074 to any local governmental unit, such local governmental unit shall
9075 be held and be deemed to have agreed that if such governmental
9076 unit fails to pay the principal of, premium, if any, and interest
9077 on any such loan as when due and payable, such governmental unit
9078 shall have waived any and all defenses to such nonpayment, and the
9079 authority, upon such nonpayment, shall thereupon avail itself of
9080 all remedies, rights and provisions of law applicable in such
9081 circumstance, including without limitation any remedies or rights



9082 theretofore agreed to by the local governmental unit, and that
9083 such loan shall for all of the purposes of this section, be held
9084 and be deemed to have become due and payable and to be unpaid.
9085 The authority may carry out the provisions of this section and
9086 exercise all of the rights and other applicable laws of this
9087 state.

9088 (d) This section shall be deemed to provide an
9089 additional, alternative and complete method for the doing of the
9090 things authorized by this section and shall be deemed and
9091 construed to be supplemental to any power conferred by other laws
9092 on public agencies and not in derogation of any such powers. Any
9093 obligation incurred pursuant to the provisions of this section
9094 shall not constitute an indebtedness of the public agency within
9095 the meaning of any constitutional or statutory limitation or
9096 restriction. For purposes of this act, a public agency shall not
9097 be required to comply with the provisions of any other law except
9098 as provided in this section.

9099 (6) Any public agency providing any utility service or
9100 services, to any project defined in Section 57-75-5(f)(iv)1 may
9101 enter into leases or subleases for any period of time not to
9102 exceed thirty (30) years, in the capacity as lessor or lessee or
9103 sublessor or sublessee of lands alone, or lands and facilities
9104 located thereon, whether the facilities are owned by the owner of
9105 the land, a lessee, sublessee or a third party, and whether the
9106 public agency is a lessor, lessee or owner of the land. Any such



9107 public agency may also enter into operating agreements and/or
9108 lease-purchase agreements with respect to land or utility
9109 facilities as owner, operator, lessor or lessee for any period of
9110 time not to exceed thirty (30) years. Any such public agency may
9111 also enter into contracts for the provision of utilities for any
9112 period of time not to exceed thirty (30) years and may set a
9113 special rate structure for such utilities.

9114 (7) (a) No well shall be permitted by any public agency
9115 responsible for the conservation of oil and gas in the State of
9116 Mississippi to be drilled on or under a tract of land which is a
9117 part of a project owned or operated by an enterprise as defined in
9118 Section 57-75-5(f) (xxix), Section 57-75-5(f) (xxxii), Section
9119 57-75-5(f) (xxxiii) or Section 57-75-5(f) (xxxiiii) and which
9120 enterprise is a nonconsenting owner as defined in Section
9121 53-3-7(1), which owns both the surface estate of said tract of
9122 land and also owns one hundred percent (100%) of the drilling
9123 rights in said tract of land.

9124 (b) No mining activities on or under land which is part
9125 of a project as defined in Section 57-75-5(f) (xxix), Section
9126 57-75-5(f) (xxxii), Section 57-75-5(f) (xxxiii) or Section
9127 57-75-5(f) (xxxiiii) shall be permitted by any public agency
9128 responsible for mining in the state without the consent of the
9129 enterprise owning or operating such project.

9130 **SECTION 144.** Section 57-75-19, Mississippi Code of 1972, is
9131 brought forward as follows:



9132 57-75-19. The authority shall not undertake to develop any
9133 project or facility related to the project within a county,
9134 municipality and/or school district without the concurrence of the
9135 affected county, municipality and/or school district.

9136 **SECTION 145.** Section 57-75-21, Mississippi Code of 1972, is
9137 brought forward as follows:

9138 57-75-21. (1) (a) The authority shall set a goal to expend
9139 not less than ten percent (10%) of the total amounts expended by
9140 the authority on planning, construction, training, research,
9141 development, testing, evaluation, personal services, procurement,
9142 and for the operation and maintenance of any facilities or
9143 activities controlled by such authority, with minority small
9144 business concerns owned and controlled by socially and
9145 economically disadvantaged individuals. For the purpose of
9146 determining the total amounts expended with such minority small
9147 business concerns, credit shall be given for that portion of any
9148 prime contract entered into with the authority which inures to the
9149 benefit of such minority small business concern as a subcontractor
9150 thereunder.

9151 (b) For the purposes of this section, the term
9152 "socially and economically disadvantaged individuals" shall have
9153 the meaning ascribed to such term under Section 8(d) of the Small
9154 Business Act (15 USCS, Section 637(d)) and relevant subcontracting
9155 regulations promulgated pursuant thereto.



9156 (c) For the purposes of this section, the term
9157 "minority small business concern" means any small business
9158 concern:

9159 (i) Which is at least fifty-one percent (51%)
9160 owned by one or more socially and economically disadvantaged
9161 individuals; or, in the case of any publicly owned businesses, at
9162 least fifty-one percent (51%) of the stock of which is owned by
9163 one or more socially and economically disadvantaged individuals;
9164 and

9165 (ii) Whose management and daily business
9166 operations are controlled by one or more of such individuals.

9167 (d) For the purpose of this section, the term "small
9168 business concern" shall mean "small business" as the latter term
9169 is defined in Section 57-10-155, Mississippi Code of 1972.

9170 (2) In order to comply in a timely manner with its minority
9171 small business participation mandate, the authority shall set an
9172 annual goal to expend not less than ten percent (10%) of its
9173 aggregate yearly expenditures with minority small business
9174 concerns.

9175 (3) The authority shall:

9176 (a) Monitor the minority small business concerns
9177 assistance programs prescribed in this section.

9178 (b) Review and determine the business capabilities of
9179 minority small business concerns.



9180 (c) Establish standards for a certification procedure
9181 for minority small business concerns seeking to do business with
9182 the authority.

9183 (d) Provide technical assistance services to minority
9184 small business concerns. Such technical assistance shall include
9185 but not be limited to:

- 9186 (i) Research;
- 9187 (ii) Assistance in obtaining bonds;
- 9188 (iii) Bid preparation;
- 9189 (iv) Certification of business concerns;
- 9190 (v) Marketing assistance; and
- 9191 (vi) Joint venture and capital development.

9192 (e) Develop alternative bidding and contracting
9193 procedures for minority small business concerns in conjunction
9194 with the State Fiscal Management Board and the Governor's Office
9195 of General Services.

9196 (f) Utilize such alternative bidding and contracting
9197 procedures in lieu of those prescribed in Title 31, Chapters 5 and
9198 7, Mississippi Code of 1972, when contracting with minority small
9199 business concerns that have qualified to bid for contracts and
9200 have satisfied any other disclosure provisions required by the
9201 authority.

9202 (g) Be authorized to accept in lieu of any bond
9203 otherwise required from minority small business concerns or small
9204 business concerns contracting with the authority, in an amount



9205 equal to one hundred percent (100%) of the total cost of the
9206 contracted project, any combination of the following:

- 9207 (i) Cash;
- 9208 (ii) Certificates of deposit from any bank or
9209 banking corporation insured by the Federal Deposit Insurance
9210 Corporation or the Federal Savings and Loan Insurance Corporation;
- 9211 (iii) Federal treasury bills;
- 9212 (iv) Letters of credit issued by a bank as that
9213 term is defined in Section 81-3-1, Mississippi Code of 1972; or
- 9214 (v) Surety bonds issued by an insurance company
9215 licensed and qualified to do business in the State of Mississippi.

9216 (h) Be authorized, in its discretion, to waive any bond
9217 required on any project which does not exceed a total dollar value
9218 of One Hundred Thousand Dollars (\$100,000.00). A retainage shall
9219 be held by the authority in an amount not to exceed fifteen
9220 percent (15%) from each draw according to American Institute of
9221 Architects (AIA) standards. Upon satisfactory completion of such
9222 project, ten percent (10%) of the total cost of the contract shall
9223 be held in an interest-bearing escrow account for one (1) year.
9224 Funds deposited in such escrow account shall stand as a surety for
9225 any defects in workmanship or materials detected within twelve
9226 (12) months of completion. The balance of all monies so escrowed
9227 including accrued interest shall be paid to the contractor at the
9228 end of such twelve-month period.



9229 (i) Be empowered to provide an incentive of bimonthly
9230 payments to any prime contractors utilizing minority small
9231 business concerns as subcontractors on twenty-five percent (25%)
9232 or more of the total dollar value of any single project or
9233 contract.

9234 (j) Submit an annual report on its progress concerning
9235 minority small business contracts to the Legislature by January 30
9236 of each year.

9237 (k) Take all steps necessary to implement the
9238 provisions of this section.

9239 **SECTION 146.** Section 57-75-22, Mississippi Code of 1972, is
9240 brought forward as follows:

9241 57-75-22. Any highways or highway segments constructed or
9242 improved by the Mississippi Department of Transportation under the
9243 provisions of this chapter for a project as defined in Section
9244 57-75-5(f)(iv) shall become a state highway and shall be placed
9245 under the jurisdiction of the Mississippi Transportation
9246 Commission for construction and maintenance.

9247 **SECTION 147.** Section 57-75-23, Mississippi Code of 1972, is
9248 brought forward as follows:

9249 57-75-23. The provisions of this act are cumulative of other
9250 statutes now or hereafter enacted relating to the authority, and
9251 the authority may exercise all presently held powers in the
9252 furtherance of this act. If any section, paragraph, sentence,
9253 clause, phrase or any part of the provisions of this act is



9254 declared to be unconstitutional or void, or for any reason is
9255 declared to be invalid or of no effect, the remaining sections,
9256 paragraphs, sentences, clauses and phrases shall in no manner be
9257 affected thereby but shall remain in full force and effect.

9258 **SECTION 148.** Section 57-75-25, Mississippi Code of 1972, is
9259 brought forward as follows:

9260 57-75-25. No member of the Legislature, elected official or
9261 appointed official, or any partner or associate of any member of
9262 the Legislature, elected official or appointed official, shall
9263 derive any income from the issuance of any bonds under this act
9264 contrary to the provisions of Section 109, Mississippi
9265 Constitution of 1890, or Article 3, Chapter 4, Title 25,
9266 Mississippi Code of 1972.

9267 **SECTION 149.** Section 57-75-27, Mississippi Code of 1972, is
9268 brought forward as follows:

9269 57-75-27. Notwithstanding any provision of Chapter 61, Title
9270 57, Mississippi Code of 1972, to the contrary, the Mississippi
9271 Major Economic Impact Authority shall certify to the Department of
9272 Economic and Community Development the amount of money necessary
9273 for the Major Economic Impact Authority to purchase land in fee
9274 simple to provide a buffer zone for the National Aeronautics and
9275 Space Administration facility to be constructed in Tishomingo
9276 County, which amount shall not be more than Seven Million Dollars
9277 (\$7,000,000.00); and the department shall, if funds have not
9278 otherwise been made available, provide a grant to the authority



9279 for such amount out of the proceeds of bonds issued under the
9280 Mississippi Business Investment Act. Any funds remaining
9281 unexpended after the purchase of land hereunder shall be deposited
9282 in the Mississippi Business Investment Sinking Fund. No funds in
9283 excess of the amount authorized in this section shall be expended
9284 pursuant to the Mississippi Business Investment Act for or in
9285 connection with the National Aeronautics and Space Administration
9286 facility to be constructed in Tishomingo County.

9287 **SECTION 150.** Section 57-75-33, Mississippi Code of 1972, is
9288 brought forward as follows:

9289 57-75-33. The board of supervisors of a county or the
9290 governing authorities of a municipality may each enter into an
9291 agreement with an enterprise operating a project as defined in
9292 Section 57-75-5(f)(iv)1, Section 57-75-5(f)(xxi), Section
9293 57-75-5(f)(xxii), Section 57-75-5(f)(xxviii), Section
9294 57-75-5(f)(xxix), Section 57-75-5(f)(xxx), Section
9295 57-75-5(f)(xxxii) or Section 57-75-5(f)(xxxiii), providing that
9296 the county or municipality will not levy any taxes, fees or
9297 assessments upon the enterprise other than taxes, fees or
9298 assessments that are generally levied upon all taxpayers, or all
9299 other taxpayers in the taxing districts in which such project is
9300 located, and the board of supervisors or the governing authorities
9301 also may each enter into a fee-in-lieu agreement as provided in
9302 Section 27-31-104 and/or Section 27-31-105(2). Such agreements
9303 may be for a period not to exceed thirty (30) years, except that



9304 any fee-in-lieu agreement entered into under this section and
9305 Section 27-31-104 and/or Section 27-31-105(2) shall become
9306 effective upon its execution by the enterprise and the county
9307 board of supervisors and/or municipal governing authorities, as
9308 the case may be, in accordance with Section 27-31-104, and
9309 continue in effect until all fee-in-lieu periods granted
9310 thereunder have expired; however, the period during which any
9311 fee-in-lieu may be granted under this section shall not exceed
9312 thirty (30) years, and no particular parcel of land, real property
9313 improvement or item of personal property shall be subject to a
9314 fee-in-lieu for a duration of more than ten (10) years.

9315 **SECTION 151.** Section 57-75-35, Mississippi Code of 1972, is
9316 brought forward as follows:

9317 57-75-35. The board of supervisors of a county or the
9318 governing authorities of a municipality may enter into an
9319 agreement with an enterprise operating a project as defined in
9320 Section 57-75-5(f)(iv)1, Section 57-75-5(f)(xxi) or 57-75-5
9321 (f)(xxii), providing that the board of supervisors or governing
9322 authorities will agree in advance to approve any request for
9323 exemption from ad valorem taxes submitted by a supplier of such
9324 enterprise in the manner provided by law and that any such
9325 exemption shall be for a period of ten (10) years. Such an
9326 agreement on the part of the board of supervisors or governing
9327 authorities may be for a period not to exceed twenty (20) years.



9328 **SECTION 152.** Section 57-75-37, Mississippi Code of 1972, is
9329 brought forward as follows:

9330 57-75-37. (1) (a) (i) Any county in which there is to be
9331 constructed a project as defined in Section 57-75-5(f) (xviii) is
9332 authorized to assist in defraying the costs incurred or to be
9333 incurred by the enterprise establishing such project by:

9334 1. Contributing a sum of up to Five Million
9335 Dollars (\$5,000,000.00) to such enterprise for use in connection
9336 with the construction of the project; and/or

9337 2. Lending a sum of up to Five Million
9338 Dollars (\$5,000,000.00) upon such terms as the board of
9339 supervisors of such county and such enterprise may agree, the
9340 proceeds of which loan shall be used by such enterprise in
9341 connection with the construction or financing of the project.

9342 (ii) In order to provide the amounts set forth in
9343 paragraph (a)(i) of this subsection (1), any such county may
9344 appropriate monies from the county's general funds or provide such
9345 amounts from the proceeds of general obligation bonds, or any
9346 combination of the foregoing. Any such county may issue the bonds
9347 for such purpose pursuant to the procedures for the issuance of
9348 bonds under Chapter 9, Title 19, Mississippi Code of 1972, or
9349 Section 19-5-99.

9350 (b) The board of supervisors of any county may donate
9351 real property for use in the location, construction and/or
9352 operation of a project as defined under Section 57-75-5(f) (xviii)



9353 to one or more economic development authorities, economic
9354 development districts, industrial development authorities or
9355 similar public agencies created pursuant to state law that engage
9356 in economic or industrial development in the county, and any such
9357 public agencies may accept such donation of real property from the
9358 county. Such public agencies also may transfer and convey among
9359 themselves, with or without consideration being paid or received,
9360 real property to be used in the location, construction and/or
9361 operation of such a project, and may accept such transfers or
9362 donations.

9363 (2) Any county or municipality in which there is to be
9364 constructed a project as defined in Section 57-75-5(f) (xxvi) or
9365 57-75-5(f) (xxvii) is authorized to:

9366 (a) Acquire the site for such project and contribute
9367 the site to the enterprise owning or operating the project;

9368 (b) Apply for grants and loans and utilize the proceeds
9369 of such grants and loans for infrastructure related to the
9370 project; and

9371 (c) Enter into a lease agreement with the enterprise
9372 owning or operating the project for a term not to exceed
9373 ninety-nine (99) years.

9374 (3) (a) As used in this subsection:

9375 (i) "Project" shall have the meaning ascribed to
9376 such term in Section 57-75-5(f) (xxviii).



9377 (ii) "Public agency" means the county in which the
9378 project is located, any municipality located in the county, and/or
9379 any economic development authority, economic development district,
9380 industrial development authority or similar public agency created
9381 pursuant to state law that engages in economic or industrial
9382 development in the county or a municipality in the county.

9383 (b) Any county in which there is to be located a
9384 project is authorized to assist as provided in this paragraph in
9385 defraying the costs incurred or to be incurred by the enterprise
9386 establishing the project and any public agency in connection with
9387 the location, construction and/or operation of the project or any
9388 facilities or public infrastructure related to the project. The
9389 county may provide such assistance by contributing or lending any
9390 sum approved for such purpose by the board of supervisors of the
9391 county, upon such terms as the board of supervisors may agree, to
9392 the entity that directly or indirectly incurs or will incur such
9393 costs or as otherwise provided in paragraph (c) of this
9394 subsection. The proceeds of the contribution or loan shall be
9395 used by the recipient in connection with the location,
9396 construction and/or operation of the project or any facilities or
9397 public infrastructure related to the project.

9398 (c) In order to provide the amounts set forth in
9399 paragraph (b) of this subsection, any such county may appropriate
9400 monies from the county's general funds or provide such amounts
9401 from the proceeds of general obligation bonds, or any combination



9402 of the foregoing. Any such county may issue the bonds for such
9403 purpose pursuant to the procedures for the issuance of bonds under
9404 Chapter 9, Title 19, Mississippi Code of 1972, or Section 19-5-99.

9405 (d) In any county in which there is to be located a
9406 project, the governing authorities of any public agency may:

9407 (i) Transfer and convey to the authority or the
9408 Mississippi Development Authority, with or without consideration
9409 being paid or received, any real and/or personal property for use
9410 in connection with the location, construction and/or operation of
9411 the project or any facilities or public infrastructure related to
9412 the project, and the authority and the Mississippi Development
9413 Authority may accept such transfers or donations;

9414 (ii) Transfer and convey among themselves, with or
9415 without consideration being paid or received, any real and/or
9416 personal property for use in connection with the location,
9417 construction and/or operation of a project or any facilities or
9418 public infrastructure related to the project, and may accept such
9419 transfers or donations; and

9420 (iii) Make grants or other contributions of funds
9421 to one another for use in connection with the location,
9422 construction and/or operation of such a project or any facilities
9423 or public infrastructure related to the project, and may accept
9424 such grants or contributions of funds.

9425 (e) In any county in which there is to be located a
9426 project, the person, entity or other agency seeking to acquire any



9427 real property to be used in connection with the location,
9428 construction and/or operation of the project, shall be exempt with
9429 respect to such property from the requirements of Section
9430 43-37-3(1)(b) and (c) if the purchase price for such property
9431 equals the lowest price negotiated between the owner of the
9432 property and the person, agency or other entity seeking to acquire
9433 the property, and at which the owner of the property is willing to
9434 sell the property.

9435 (4) (a) As used in this subsection:

9436 (i) "Project" shall have the meaning ascribed to
9437 such term in Section 57-75-5(f)(xxix).

9438 (ii) "Public agency" means the county in which the
9439 project is located, any municipality located in the county, and/or
9440 any economic development authority, economic development district,
9441 industrial development authority or similar public agency created
9442 pursuant to state law that engages in economic or industrial
9443 development in the county or a municipality in the county.

9444 (iii) "Board of education" shall have the meaning
9445 ascribed to such term in Section 29-3-1.1.

9446 (iv) "Superintendent of education" shall have the
9447 meaning ascribed to such term in Section 29-3-1.1.

9448 (b) In any county in which there is to be located a
9449 project, any public agency is authorized to assist as provided in
9450 this paragraph in defraying the costs incurred or to be incurred
9451 by the enterprise establishing the project and/or any public



9452 agency in connection with the location, construction and/or
9453 operation of the project or any facilities or public
9454 infrastructure related to the project. Any such public agency may
9455 provide such assistance by contributing or lending any sum
9456 approved for such purpose by the governing authority of such
9457 public agency, upon such terms as the governing authority of such
9458 public agency may agree, to the entity or public agency that
9459 directly or indirectly incurs or will incur such costs or as
9460 otherwise provided in paragraph (c) of this subsection. The
9461 proceeds of the contribution or loan shall be used by the
9462 recipient in connection with the location, construction and/or
9463 operation of the project or any facilities or public
9464 infrastructure related to the project, including, without
9465 limitation, to defray the costs of site preparation, utilities,
9466 real estate purchases, purchase options and improvements,
9467 infrastructure, roads, rail improvements, public works, job
9468 training, as well as planning, design and environmental impact
9469 studies with respect to a project, and any other expenses approved
9470 by any such public agency.

9471 (c) In order to provide the amounts set forth in
9472 paragraph (b) of this subsection:

9473 (i) Any such county may appropriate monies from
9474 the county's general funds or provide such amounts from the
9475 proceeds of general obligation bonds. Any such county may issue
9476 the bonds for such purpose pursuant to the procedures for the



9477 issuance of bonds under Chapter 9, Title 19, Mississippi Code of
9478 1972, Section 19-5-99 or in any other manner permitted by any
9479 local and private law or other general laws; and

9480 (ii) Any public agency may borrow or accept grants
9481 of such amounts from the authority or the Mississippi Development
9482 Authority for such duration and upon such terms and conditions
9483 approved by the governing authority of such public agency and the
9484 authority or Mississippi Development Authority, as applicable.

9485 (d) In any county in which there is to be located a
9486 project, the governing authority of any public agency may:

9487 (i) Transfer and convey to the authority or the
9488 Mississippi Development Authority, with or without consideration
9489 being paid or received, any real and/or personal property for use
9490 in connection with the location, construction and/or operation of
9491 the project or any facilities or public infrastructure related to
9492 the project, and the authority and the Mississippi Development
9493 Authority may accept such transfers or donations;

9494 (ii) Transfer and convey among themselves, with or
9495 without consideration being paid or received, any real and/or
9496 personal property for use in connection with the location,
9497 construction and/or operation of a project or any facilities or
9498 public infrastructure related to the project, and may accept such
9499 transfers or donations;

9500 (iii) Make grants or other contributions of funds
9501 to:



9502 1. One another for use in connection with the
9503 location, construction and/or operation of such a project or any
9504 facilities or public infrastructure related to the project, and
9505 may accept such grants or contributions of funds; and/or

9506 2. A local water association incorporated as
9507 a nonprofit corporation and located within such county for the
9508 purpose of defraying the costs incurred or to be incurred thereby
9509 in connection with water or wastewater-related infrastructure
9510 improvements, including an elevated water tank, located within the
9511 project area; and

9512 (iv) Make one or more periodic grants or other
9513 contributions of funds to an enterprise or affiliate thereof
9514 owning and/or operating a project in such amount or amounts
9515 approved by such governing authority, and enter into an agreement
9516 with such enterprise to make such periodic grants or other
9517 contributions of funds; however, the duration of any such
9518 obligation of the public agency to make such grants or other
9519 contributions shall not exceed thirty (30) years.

9520 (e) In any county in which there is to be located a
9521 project, the public agency seeking to acquire any real property to
9522 be used in connection with the location, construction and/or
9523 operation of the project, shall be exempt with respect to such
9524 property from the requirements of Section 43-37-3(1)(b) and (c) if
9525 the purchase price for such property equals the lowest price
9526 negotiated between the owner of the property and the public agency



9527 seeking to acquire the property, and at which the owner of the
9528 property is willing to sell the property, and any such public
9529 agency is further authorized to procure an option to purchase any
9530 such real property for such purchase price authorized by this
9531 subsection for the lowest option payment at which the owner of the
9532 property is willing to grant such option.

9533 (f) In any county in which there is to be located a
9534 project, upon the sale of any sixteenth section lands for
9535 industrial purposes as provided by law for such project, the board
9536 of education controlling such lands, the superintendent of
9537 education and the Mississippi Development Authority, on behalf of
9538 the state, may sell and convey all minerals in, on and under any
9539 such lands for such consideration determined to be adequate by,
9540 and upon such terms and conditions prescribed by, such board of
9541 education, superintendent of education and the Mississippi
9542 Development Authority.

9543 (g) In any county in which there is to be located a
9544 project, the governing authority of the applicable public agency
9545 may enter into an agreement binding on future governing
9546 authorities, for any period not to exceed thirty (30) years to:

9547 (i) Waive any and all fees and expenses associated
9548 with building permits and privilege licenses required for the
9549 project;

9550 (ii) Establish and/or maintain a rate structure
9551 for water supplied to the project and wastewater received from the



9552 project, which shall be no higher than the lowest tariff prices
9553 for such water and wastewater charged to any customer of equal or
9554 lesser volume located within the boundaries of the public agency;

9555 (iii) Provide firefighting, hazardous materials
9556 emergency response, technical rescue and medical response
9557 assistance to the enterprise owning or operating the project; and

9558 (iv) Require any contractor hired by the public
9559 agency for purposes of entering onto the project site for such
9560 project to perform work-related to the provision of water supply
9561 or wastewater services, to procure customary liability insurance
9562 designating the enterprise owning or operating the project as an
9563 additional insured and to contractually indemnify such enterprise
9564 for any losses incurred by the enterprise as a result of such
9565 contractor's negligence and/or willful acts or omissions arising
9566 from the contractor's entry upon such project site.

9567 (5) (a) As used in this subsection:

9568 (i) "Project" shall have the meaning ascribed to
9569 such term in Section 57-75-5(f)(xxxi).

9570 (ii) "Public agency" means the county in which the
9571 project is located, any municipality located in the county, and/or
9572 any economic development authority, economic development district,
9573 industrial development authority, port authority or airport
9574 authority or similar public agency created pursuant to state law.

9575 (iii) "Board of education" shall have the meaning
9576 ascribed to such term in Section 29-3-1.1.



9577 (iv) "Superintendent of education" shall have the
9578 meaning ascribed to such term in Section 29-3-1.1.

9579 (b) In any county in which there is to be located a
9580 project, any public agency is authorized to assist as provided in
9581 this paragraph in defraying the costs incurred or to be incurred
9582 by the enterprise establishing the project and/or any public
9583 agency in connection with the location, construction and/or
9584 operation of the project or any facilities or public
9585 infrastructure related to the project. Any such public agency may
9586 provide such assistance by contributing or lending any sum
9587 approved for such purpose by the governing authority of such
9588 public agency, upon such terms as the governing authority of such
9589 public agency may agree, to the entity or public agency that
9590 directly or indirectly incurs or will incur such costs or as
9591 otherwise provided in paragraph (c) of this subsection. The
9592 proceeds of the contribution or loan shall be used by the
9593 recipient in connection with the location, construction and/or
9594 operation of the project or any facilities or public
9595 infrastructure related to the project, including, without
9596 limitation, to defray the costs of site preparation, utilities,
9597 real estate purchases, purchase options and improvements,
9598 infrastructure, roads, rail improvements, public works, job
9599 training, as well as planning, design and environmental impact
9600 studies with respect to a project, and any other expenses approved
9601 by any such public agency.



9602 (c) In order to provide the amounts set forth in
9603 paragraph (b) of this subsection:

9604 (i) Any such county may appropriate monies from
9605 the county's general funds or provide such amounts from the
9606 proceeds of general obligation bonds. Any such county may issue
9607 the bonds for such purpose pursuant to the procedures for the
9608 issuance of bonds under Chapter 9, Title 19, Mississippi Code of
9609 1972, Section 19-5-99 or in any other manner permitted by any
9610 local and private law or other general laws; and

9611 (ii) Any public agency may borrow or accept grants
9612 of such amounts from the authority or the Mississippi Development
9613 Authority for such duration and upon such terms and conditions
9614 approved by the governing authority of such public agency and the
9615 authority or Mississippi Development Authority, as applicable.

9616 (d) In any county in which there is to be located a
9617 project, the governing authorities of public agencies may:

9618 (i) Transfer and convey among themselves, with or
9619 without consideration being paid or received, any real and/or
9620 personal property for use in connection with the location,
9621 construction and/or operation of a project or any facilities or
9622 public infrastructure related to the project, and may accept such
9623 transfers or donations;

9624 (ii) Make grants or other contributions of funds
9625 to one another for use in connection with the location,
9626 construction and/or operation of such a project or any facilities



9627 or public infrastructure related to the project, and may accept
9628 such grants or contributions of funds; and

9629 (iii) Make one or more grants or other
9630 contributions of funds to an enterprise or affiliate thereof
9631 owning and/or operating a project in such amount or amounts
9632 approved by such governing authority, and enter into an agreement
9633 with such enterprise to make such grants or other contributions of
9634 funds; however, the duration of any such obligation of the public
9635 agency to make such grants or other contributions shall not exceed
9636 thirty (30) years.

9637 (e) In any county in which there is to be located a
9638 project, the public agency seeking to acquire any real property to
9639 be used in connection with the location, construction and/or
9640 operation of the project, shall be exempt with respect to such
9641 property from the requirements of Section 43-37-3(1)(b) and (c) if
9642 the purchase price for such property equals the lowest price
9643 negotiated between the owner of the property and the public agency
9644 seeking to acquire the property, and at which the owner of the
9645 property is willing to sell the property, and any such public
9646 agency is further authorized to procure an option to purchase any
9647 such real property for such purchase price authorized by this
9648 subsection for the lowest option payment at which the owner of the
9649 property is willing to grant such option.

9650 (f) In any county in which there is to be located a
9651 project, upon the sale of land owned by an industrial development



9652 authority, port authority or airport authority for industrial
9653 purposes as provided by law for such project, the governing
9654 authorities controlling such lands may sell and convey all
9655 minerals in, on and under any such lands for such consideration
9656 determined to be adequate by, and upon such terms and conditions
9657 prescribed by, such governing authority or may otherwise enter
9658 into a written agreement with the enterprise owning and/or
9659 operating such project pursuant to which such governing authority
9660 of the industrial development authority, port authority or airport
9661 authority, as the case may be, may agree to perpetually refrain
9662 from using the surface of such land upon which the project is
9663 located to access any minerals located thereunder in which such
9664 public agency has a retained ownership interest. Any such written
9665 agreement shall be binding upon future governing authorities.

9666 (g) In any county in which there is to be located a
9667 project, the governing authority of the applicable public agency
9668 may enter into an agreement binding on future governing
9669 authorities, for any period not to exceed thirty (30) years to:

9670 (i) Waive any and all fees and expenses associated
9671 with building permits and privilege licenses required for the
9672 project;

9673 (ii) Establish and/or maintain a rate structure
9674 for water supplied to the project and wastewater received from the
9675 project, which shall be no higher than the lowest tariff prices
9676 for such water and wastewater charged to any customer of equal or



9677 lesser volume located within the boundaries of the public agency;
9678 and

9679 (iii) Require any contractor hired by the public
9680 agency for purposes of entering onto the project site for such
9681 project to perform work related to the provision of water supply
9682 or wastewater services, to procure customary liability insurance
9683 designating the enterprise owning or operating the project as an
9684 additional insured and to contractually indemnify such enterprise
9685 for any losses incurred by the enterprise as a result of such
9686 contractor's negligence and/or willful acts or omissions arising
9687 from the contractor's entry upon such project site.

9688 (6) (a) As used in this subsection:

9689 (i) "Project" shall have the meaning ascribed to
9690 such term in Section 57-75-5(f)(xxxii).

9691 (ii) "Public agency" means the county in which the
9692 project is located, any municipality located in the county, and/or
9693 any economic development authority, economic development district,
9694 industrial development authority, port authority, airport
9695 authority, public utility or similar public agency created
9696 pursuant to state law.

9697 (b) In any county in which there is to be located a
9698 project, any public agency is authorized to assist as provided in
9699 this paragraph in defraying the costs incurred or to be incurred
9700 by the enterprise establishing the project and/or any public
9701 agency in connection with the location, construction and/or



9702 operation of the project or any facilities or public
9703 infrastructure related to the project. Any such public agency may
9704 provide such assistance by contributing or lending any sum
9705 approved for such purpose by the governing authority of such
9706 public agency, upon such terms as the governing authority of such
9707 public agency may agree, to the entity or public agency that
9708 directly or indirectly incurs or will incur such costs or as
9709 otherwise provided in paragraph (c) of this subsection. The
9710 proceeds of the contribution or loan shall be used by the
9711 recipient in connection with the location, construction and/or
9712 operation of the project or any facilities or public
9713 infrastructure related to the project, including, without
9714 limitation, to defray the costs of site preparation, utilities,
9715 real estate purchases, purchase options and improvements,
9716 infrastructure, roads, rail improvements, public works, job
9717 training, as well as planning, design and environmental impact
9718 studies with respect to a project, and any other expenses approved
9719 by any such public agency. Any such public agency may
9720 alternatively provide such assistance by undertaking the
9721 acquisition of real and/or personal property, or interests
9722 therein, with respect to, and the design, engineering,
9723 construction and installation of, any facilities or public
9724 infrastructure related to the project regardless of whether it is
9725 authorized by applicable statutes to operate such facilities or
9726 public infrastructure and/or provide any utility services



9727 therefrom following the completion thereof; provided that, if the
9728 public agency is authorized by applicable statutes to operate such
9729 facilities or public infrastructure following the completion
9730 thereof, such public agency may transfer, and if the public agency
9731 is not authorized by applicable statutes to operate such
9732 facilities or public infrastructure and/or provide any utility
9733 services therefrom following the completion thereof, the public
9734 agency shall transfer, such facilities or public infrastructure to
9735 another public agency that is authorized by applicable statutes to
9736 operate such facilities or public infrastructure and/or provide
9737 any utility services therefrom.

9738 (c) In order to provide the amounts or otherwise
9739 perform any permitted actions set forth in paragraph (b) of this
9740 subsection:

9741 (i) Any such county may appropriate monies from
9742 the county's general funds or provide such amounts from the
9743 proceeds of general obligation bonds or other indebtedness
9744 permitted by any local and private law or other general laws. Any
9745 such county may issue the bonds for such purpose pursuant to the
9746 procedures for the issuance of bonds under Chapter 9, Title 19,
9747 Mississippi Code of 1972, Section 19-5-99 or in any other manner
9748 permitted by any local and private law or other general laws; and

9749 (ii) Any public agency may borrow or accept grants
9750 or other funds of such amounts from the authority or the
9751 Mississippi Development Authority for such duration and upon such



9752 terms and conditions approved by the governing authority of such
9753 public agency and the authority or Mississippi Development
9754 Authority, as applicable.

9755 (iii) Any such county may enter into one or more
9756 agreements with the authority or Mississippi Development Authority
9757 approved by the board of supervisors of the county and, as
9758 applicable, to remit to the authority or Mississippi Development
9759 Authority, as applicable, on an annual or other periodic basis for
9760 a duration up to thirty (30) years, a portion of any fee-in-lieu
9761 of ad valorem taxes, together with a portion of any county ad
9762 valorem taxes, derived from the project. Any such written
9763 agreement shall be binding upon future boards of supervisors of
9764 the county.

9765 (d) In any county in which there is to be located a
9766 project, the governing authorities of public agencies may:

9767 (i) Transfer and convey among themselves, or to
9768 the authority, the Mississippi Development Authority, the
9769 Mississippi Department of Transportation or any other state
9770 agency, with or without consideration being paid or received, any
9771 real and/or personal property for use in connection with the
9772 location, construction and/or operation of a project or any
9773 facilities or public infrastructure related to the project, and
9774 may accept such transfers or donations;

9775 (ii) Make grants or other contributions of funds
9776 to any public agency and/or any local water association



9777 incorporated as a nonprofit corporation and located within such
9778 county for the purpose of defraying the costs incurred or to be
9779 incurred thereby in connection with water or wastewater-related
9780 infrastructure improvements, including one or more water tanks,
9781 related to the project, and/or undertake the acquisition of real
9782 and/or personal property, or interests therein, with respect to,
9783 and the design, engineering, construction and installation of, any
9784 water or wastewater-related infrastructure, including one or more
9785 water tanks, related to the project, and thereafter transfer and
9786 convey to any other public agency and/or any local water
9787 association any real and/or personal property for use in
9788 connection with water or wastewater-related infrastructure
9789 improvements, including one or more water tanks, related to the
9790 project, in consideration solely of the acceptance by the public
9791 agency and/or the local water association, as applicable, of such
9792 improvements and its agreement to operate the improvements to
9793 provide water or wastewater-related services to the project;

9794 (iii) Make grants or other contributions of funds
9795 to a municipality located within such county for the purpose of
9796 defraying the costs incurred or to be incurred thereby in
9797 connection with natural gas-related infrastructure improvements
9798 related to the project, and/or undertake the acquisition of real
9799 and/or personal property, or interests therein, with respect to,
9800 and the design, engineering, construction and installation of, any
9801 natural gas-related infrastructure improvements related to the



9802 project, and thereafter transfer and convey to any such
9803 municipality any real and/or personal property for use in
9804 connection with natural gas-related infrastructure improvements
9805 related to the project, in consideration solely of the acceptance
9806 by the municipality of such improvements and its agreement to
9807 operate the improvements to provide natural gas-related services
9808 to the project;

9809 (iv) Make grants or other contributions of funds
9810 to one another, or to the authority, the Mississippi Development
9811 Authority, the Mississippi Department of Transportation or any
9812 other state agency, for use in connection with the location,
9813 construction and/or operation of such a project or any facilities
9814 or public infrastructure related to the project, and may accept
9815 such grants or contributions of funds;

9816 (v) Make one or more grants or other contributions
9817 of funds to an enterprise or affiliate thereof owning and/or
9818 operating a project in such amount or amounts approved by such
9819 governing authority, and enter into an agreement with such
9820 enterprise that is binding on future governing authorities to make
9821 such grants or other contributions of funds; however, the duration
9822 of any such obligation of the public agency to make such grants or
9823 other contributions shall not exceed thirty (30) years; and

9824 (vi) Provide firefighting, hazardous materials
9825 emergency response, technical rescue and medical response
9826 assistance to the enterprise owning or operating the project, and



9827 enter into an agreement binding on future governing authorities
9828 with such enterprise to provide such firefighting, hazardous
9829 materials emergency response, technical rescue and medical
9830 response assistance for a term not to exceed thirty (30) years, to
9831 be determined by the governing authority of the public agency
9832 entering into such agreement.

9833 (e) In any county in which there is to be located a
9834 project, the public agency seeking to acquire any real property to
9835 be used in connection with the location, construction and/or
9836 operation of the project or any facilities or public
9837 infrastructure related to the project, shall be exempt with
9838 respect to such property from the requirements of Section
9839 43-37-3(1)(b) and (c) if the purchase price for such property
9840 equals the lowest price negotiated between the owner of the
9841 property and the public agency seeking to acquire the property,
9842 and at which the owner of the property is willing to sell the
9843 property, and any such public agency is further authorized to
9844 procure an option to purchase any such real property for such
9845 purchase price authorized by this subsection for the lowest option
9846 payment at which the owner of the property is willing to grant
9847 such option.

9848 (f) In any county in which there is to be located a
9849 project, upon the conveyance or other disposition of land owned by
9850 a public agency for industrial purposes as provided by law for
9851 such project, the governing authority of the public agency



9852 controlling such lands may enter into a written agreement with the
9853 enterprise owning and/or operating such project pursuant to which
9854 such governing authority may agree to perpetually refrain from
9855 using the surface of such land upon which the project is located
9856 to access any minerals located thereunder in which such public
9857 agency has a retained ownership interest. Any such written
9858 agreement shall be binding upon future governing authorities.

9859 (g) In any county in which there is to be located a
9860 project, the governing authority of the applicable public agency
9861 may enter into an agreement binding on future governing
9862 authorities, for any period not to exceed thirty (30) years to:

9863 (i) Waive any and all fees and expenses associated
9864 with building permits and privilege licenses required for the
9865 project;

9866 (ii) Establish and/or maintain a rate structure
9867 for water and natural gas supplied to the project and wastewater
9868 received from the project, which shall be no higher than the
9869 lowest tariff prices for such water, natural gas and wastewater
9870 charged to any customer of equal or lesser volume located within
9871 the boundaries of the public agency; and

9872 (iii) Require any contractor hired by the public
9873 agency for purposes of entering onto the project site for such
9874 project to perform work related to the provision of water or
9875 natural gas supply or wastewater services, to procure customary
9876 liability insurance designating the enterprise owning or operating



9877 the project as an additional insured and to contractually
9878 indemnify such enterprise for any losses incurred by the
9879 enterprise as a result of such contractor's negligence and/or
9880 willful acts or omissions arising from the contractor's entry upon
9881 such project site.

9882 (7) (a) As used in this subsection:

9883 (i) "Project" shall have the meaning ascribed to
9884 such term in Section 57-75-5(f) (xxxiii).

9885 (ii) "Public agency" means the county in which the
9886 project is located, any municipality located in the county, and/or
9887 any economic development authority, economic development district,
9888 industrial development authority, port authority, airport
9889 authority, public utility or similar public agency created
9890 pursuant to state law.

9891 (b) In any county in which there is to be located a
9892 project, any public agency is authorized to assist as provided in
9893 this paragraph in defraying the costs incurred or to be incurred
9894 by the enterprise establishing the project and/or any public
9895 agency in connection with the location, construction and/or
9896 operation of the project or any facilities or public
9897 infrastructure related to the project. Any such public agency may
9898 provide such assistance by contributing or lending any sum
9899 approved for such purpose by the governing authority of such
9900 public agency, upon such terms as the governing authority of such
9901 public agency may agree, to the entity or public agency that



9902 directly or indirectly incurs or will incur such costs or as
9903 otherwise provided in paragraph (c) of this subsection. The
9904 proceeds of the contribution or loan shall be used by the
9905 recipient in connection with the location, construction and/or
9906 operation of the project or any facilities or public
9907 infrastructure related to the project, including, without
9908 limitation, to defray the costs of site preparation, utilities,
9909 real estate purchases, purchase options and improvements,
9910 infrastructure, roads, rail improvements, public works, job
9911 training, as well as planning, design and environmental impact
9912 studies with respect to a project, and any other expenses approved
9913 by any such public agency. Any such public agency may
9914 alternatively provide such assistance by undertaking the
9915 acquisition of real and/or personal property, or interests
9916 therein, with respect to, and the design, engineering,
9917 construction and installation of, any facilities or public
9918 infrastructure related to the project regardless of whether it is
9919 the public agency authorized by applicable statutes to operate
9920 such facilities or public infrastructure and/or provide any
9921 utility services therefrom following the completion thereof;
9922 provided that, if the public agency is authorized by applicable
9923 statutes to operate such facilities or public infrastructure
9924 following the completion thereof, such public agency may transfer,
9925 and if the public agency is not authorized by applicable statutes
9926 to operate such facilities or public infrastructure and/or provide



9927 any utility services therefrom following the completion thereof,
9928 the public agency shall transfer such facilities or public
9929 infrastructure to another public agency that is authorized by
9930 applicable statutes to operate such facilities or public
9931 infrastructure and/or provide any utility services therefrom.

9932 (c) In order to provide the amounts or otherwise
9933 perform any permitted actions set forth in paragraph (b) of this
9934 subsection:

9935 (i) Any such county may appropriate monies from
9936 the county's general fund or provide such amounts from the
9937 proceeds of general obligation bonds or other indebtedness
9938 permitted by any local and private law or other general laws. Any
9939 such county may issue the bonds for such purpose pursuant to the
9940 procedures for the issuance of bonds under Title 19, Chapter 9,
9941 Mississippi Code of 1972, Section 19-5-99 or in any other manner
9942 permitted by any local and private law or other general laws;

9943 (ii) Any public agency may borrow or accept grants
9944 or other funds of such amounts from the authority or the
9945 Mississippi Development Authority for such duration and upon such
9946 terms and conditions approved by the governing authority of such
9947 public agency and the authority or Mississippi Development
9948 Authority, as applicable; and

9949 (iii) Any such county and/or municipality may
9950 enter into one or more agreements with the authority or
9951 Mississippi Development Authority approved by the board of



9952 supervisors of such county and/or the governing authority of such
9953 municipality, as applicable, to remit to the authority or
9954 Mississippi Development Authority, as applicable, on an annual or
9955 other periodic basis for a duration up to thirty (30) years, a
9956 portion of any fee-in-lieu of ad valorem taxes, together with a
9957 portion of any ad valorem taxes that the county and/or
9958 municipality derives from the project. Any such written agreement
9959 shall be binding upon future governing authorities of the county
9960 and/or municipality, as applicable.

9961 (d) In any county in which there is to be located a
9962 project, the governing authorities of public agencies may:

9963 (i) Transfer and convey among themselves, or to
9964 the authority, the Mississippi Development Authority, the
9965 Mississippi Department of Transportation or any other state
9966 agency, with or without consideration being paid or received, any
9967 real and/or personal property for use in connection with the
9968 location, construction and/or operation of a project or any
9969 facilities or public infrastructure related to the project, and
9970 may accept such transfers or donations;

9971 (ii) Make grants or other contributions of funds
9972 to any public agency and/or any local water association
9973 incorporated as a nonprofit corporation and located within such
9974 county for the purpose of defraying the costs incurred or to be
9975 incurred thereby in connection with water or wastewater-related
9976 infrastructure improvements, including one or more water tanks,



9977 related to the project, and/or undertake the acquisition of real
9978 and/or personal property, or interests therein, with respect to,
9979 and the design, engineering, construction and installation of, any
9980 water or wastewater-related infrastructure, including one or more
9981 water tanks, related to the project, and thereafter transfer and
9982 convey to any other public agency and/or any local water
9983 association any real and/or personal property for use in
9984 connection with water or wastewater-related infrastructure
9985 improvements, including one or more water tanks, related to the
9986 project, in consideration solely of the acceptance by the public
9987 agency and/or the local water association, as applicable, of such
9988 improvements and its agreement to operate the improvements to
9989 provide water or wastewater-related services to the project;

9990 (iii) Make grants or other contributions of funds
9991 to one another, or to the authority, the Mississippi Development
9992 Authority, the Mississippi Department of Transportation or any
9993 other state agency, for use in connection with the location,
9994 construction and/or operation of such a project or any facilities
9995 or public infrastructure related to the project, and may accept
9996 such grants or contributions of funds;

9997 (iv) Make one or more grants or other
9998 contributions of funds to an enterprise or affiliate thereof
9999 owning and/or operating a project in such amount or amounts
10000 approved by such governing authority, and enter into an agreement
10001 with such enterprise that is binding on future governing



10002 authorities to make such grants or other contributions of funds;
10003 however, the duration of any such obligation of the public agency
10004 to make such grants or other contributions shall not exceed thirty
10005 (30) years; and

10006 (v) Provide firefighting, hazardous materials
10007 emergency response, technical rescue and medical response
10008 assistance to the enterprise owning or operating the project, and
10009 enter into an agreement binding on future governing authorities
10010 with such enterprise to provide such firefighting, hazardous
10011 materials emergency response, technical rescue and medical
10012 response assistance for a term not to exceed thirty (30) years, to
10013 be determined by the governing authority of the public agency
10014 entering into such agreement.

10015 (e) In any county in which there is to be located a
10016 project, the public agency seeking to acquire any real property to
10017 be used in connection with the location, construction and/or
10018 operation of the project or any facilities or public
10019 infrastructure related to the project, shall be exempt with
10020 respect to such property from the requirements of Section
10021 43-37-3(1)(b) and (c) if the purchase price for such property
10022 equals the lowest price negotiated between the owner of the
10023 property and the public agency seeking to acquire the property,
10024 and at which the owner of the property is willing to sell the
10025 property, and any such public agency is further authorized to
10026 procure an option to purchase any such real property for such



10027 purchase price authorized by this subsection for the lowest option
10028 payment at which the owner of the property is willing to grant
10029 such option.

10030 (f) In any county in which there is to be located a
10031 project, upon the conveyance or other disposition of land owned by
10032 a public agency for industrial purposes as provided by law for
10033 such project, the governing authority of the public agency
10034 controlling such lands may enter into a written agreement with the
10035 enterprise owning and/or operating such project pursuant to which
10036 such governing authority may agree to perpetually refrain from
10037 using the surface of such land upon which the project is located
10038 to access any minerals located thereunder in which such public
10039 agency has a retained ownership interest. Any such written
10040 agreement shall be binding upon future governing authorities.

10041 (g) In any county in which there is to be located a
10042 project, the governing authority of the applicable public agency
10043 may enter into an agreement binding on future governing
10044 authorities, for any period not to exceed thirty (30) years, to:

10045 (i) Waive or reduce any fees and expenses
10046 associated with building permits and privilege licenses required
10047 for the project;

10048 (ii) Establish and/or maintain a rate structure
10049 for potable water to the project, nonpotable and treated,
10050 reclaimed wastewater supplied to the project for nonpotable
10051 purposes, and wastewater received from the project, which rates



10052 shall be established and/or maintained, as applicable, in the
10053 manner prescribed by state law and the local tariffs of the public
10054 agency providing such water and accepting such wastewater; and

10055 (iii) Require any contractor hired by the public
10056 agency for purposes of entering onto the project site for such
10057 project to perform work related to the provision of water or
10058 wastewater services, to procure customary liability insurance
10059 designating the enterprise owning or operating the project as an
10060 additional insured and to contractually indemnify such enterprise
10061 for any losses incurred by the enterprise as a result of such
10062 contractor's negligence and/or willful acts or omissions arising
10063 from the contractor's entry upon such project site.

10064 (h) In any county in which there is to be located a
10065 project, the governing authority of any public agency accepting
10066 and treating wastewater from the project may provide and sell to
10067 any public agency providing water to the project treated,
10068 reclaimed wastewater supplied for nonpotable purposes for resale
10069 by such public agency providing water to the project to any
10070 enterprise or affiliate thereof owning and/or operating the
10071 project or any portion thereof for use in the operation of the
10072 project for cooling or other exclusively nonpotable purposes.
10073 Such public agencies may enter into an agreement binding on future
10074 governing authorities thereof, for any period designated thereby,
10075 to memorialize the terms and conditions of the provision, sale and
10076 use of treated, reclaimed wastewater supplied for nonpotable



10077 purposes to the project, including, but not limited to, the rates
10078 applicable for such reclaimed wastewater supplied for nonpotable
10079 purposes.

10080 (8) The powers and authority granted in this section are an
10081 additional, alternative and supplemental method for doing the
10082 things authorized by this section and are additional and
10083 supplemental to, and not in derogation of, any other powers
10084 conferred by law.

10085 **SECTION 153.** Section 63-11-47, Mississippi Code of 1972, is
10086 brought forward as follows:

10087 63-11-47. The Commissioner of Public Safety, acting in
10088 concert with the Mississippi Forensics Laboratory created pursuant
10089 to Section 45-1-17, is hereby expressly authorized and directed to
10090 determine the equipment and supplies which are adequate and
10091 necessary from both a medical and law enforcement standpoint for
10092 administration of this chapter. The Commissioner of Public
10093 Safety, upon receiving such recommendation from the Mississippi
10094 Forensics Laboratory, shall recommend an equipment standard for
10095 such equipment to the Department of Finance and Administration.
10096 The Department of Finance and Administration, using such a uniform
10097 standard for said equipment, shall advertise its intention of
10098 purchasing said equipment by one (1) publication in at least one
10099 (1) newspaper having general circulation in the State of
10100 Mississippi at least ten (10) days before the purchase of such
10101 equipment and supplies, and the advertisement shall clearly and



10102 distinctly describe the articles to be purchased, and shall
10103 receive sealed bids thereon which shall be opened in public at a
10104 time and place to be specified in the advertisement.

10105 The Department of Finance and Administration shall accept the
10106 lowest and best bid for said equipment and supplies; in its
10107 discretion, it may reject any and all bids submitted. The lowest
10108 and best bid for said equipment and supplies accepted by the
10109 Department of Finance and Administration shall be the
10110 state-approved price of said equipment for purchase by the state,
10111 county and city governments.

10112 Title to all such testing equipment in the state purchased
10113 hereunder shall remain in the Commissioner of Public Safety
10114 regardless of what entity pays the purchase price.

10115 The state, counties and municipalities may purchase in the
10116 name of the Commissioner of Public Safety such equipment and
10117 supplies from other vendors of said equipment and supplies
10118 necessary to implement this chapter, provided they purchase of the
10119 same quality and standard as certified to the Department of
10120 Finance and Administration and approved by the department.
10121 However, such equipment and supplies shall not be purchased by the
10122 state, counties and municipalities unless it is at a price
10123 equivalent to or lower than that approved by the Department of
10124 Finance and Administration, pursuant to the bid procedure as
10125 outlined herein.



10126 **SECTION 154.** Section 65-25-53, Mississippi Code of 1972, is
10127 brought forward as follows:

10128 65-25-53. The commissioners appointed by such governing body
10129 or municipality, or the commissioners whose terms are continued in
10130 force as above authorized, shall, subject to the approval of such
10131 governing body, have the following authority, powers, and rights:
10132 Said commission shall manage and control the affairs of the bridge
10133 as a separate proprietary venture, apart from other public roads
10134 and bridges within the county, and shall provide for the regular
10135 inspection, repair, maintenance, and upkeep of said bridge and its
10136 approaches, which expenses and all liabilities which may exist or
10137 later come into being or be claimed to exist shall be wholly borne
10138 from the bridge properties themselves and the revenues received
10139 from the lease of such properties to private or public utilities.
10140 In connection with operating the affairs of the said bridge and
10141 maintaining the same, said commission is vested with the following
10142 powers and authority, subject to the veto power or approval of the
10143 governing body owning the said bridge, viz: (1) Contracts and
10144 purchases shall be made on the same basis and under the same
10145 requirements of advertisement for bids as those made by the board
10146 of supervisors; (2) the commissioners may employ a superintendent
10147 or manager of the bridge properties and fix the amount of his
10148 salary, and either employ or delegate to said manager the
10149 employment of subordinate personnel and provide for the wages and
10150 compensation of such employees, and, should the commission so



10151 determine, may require the manager or other employees to post bond
10152 in such sum as the commission may designate for the faithful
10153 discharge of their duties as such employees; however, the number
10154 of persons employed in an election year shall not exceed the
10155 average number employed during the preceding three (3) years,
10156 except that additional employees may be hired on a temporary basis
10157 in cases of emergency when the specific reasons therefor shall be
10158 entered on the minutes of the commission; (3) provide for an
10159 adequate bookkeeping system pertinent to the affairs of said
10160 bridge and for regular audits, with the revenues derived following
10161 the freeing of said bridge to vehicular traffic, if any there be
10162 over and above cost of operating and maintaining the said bridge,
10163 to be kept by the clerk of the said board or treasurer of the said
10164 municipality in a separate account and to so remain, properly
10165 invested in the same manner as sinking funds of the county or
10166 municipality may be invested, said assets to be subject to bear
10167 and discharge the liabilities of the said bridge and not to be
10168 utilized for any other or different purpose until a period of at
10169 least five (5) years following the freeing of the said bridge from
10170 tolls (unless sooner there be another free bridge constructed and
10171 opened to public travel crossing said Mississippi River located
10172 not more than one (1) mile from said bridge, in which event that
10173 factor, rather than the five-year time limit, shall be
10174 determinative), and then not until a determination is made by the
10175 board or governing authority that such funds, to the extent



10176 amassed, will not be further needed for operational maintenance
10177 purposes; and that said audits thus caused to be made shall be
10178 done by a certified public accountant or accountants duly
10179 qualified under the laws of this state; (4) that, without in
10180 anywise sacrificing or waiving the entire exempt status of the
10181 said bridge properties from ad valorem taxation, to pay a sum or
10182 sums in lieu of ad valorem taxes which, by agreement with the
10183 taxing authorities of this or any neighboring state, will in no
10184 event exceed in any year a sum equaling more than one-half ($\frac{1}{2}$) of
10185 the average amount paid per year by way of such taxes or in lieu
10186 thereof over the five-year period preceding June 15, 1966; (5)
10187 employ nationally recognized engineers and such other professional
10188 assistance as may be deemed necessary, and to pay reasonable
10189 compensation for such services; (6) to have and exercise any other
10190 authority and right conferred by existing laws, state or federal,
10191 applicable to the operation of such bridge; and (7) fulfill the
10192 requirements of any outstanding lease contracts to the extent that
10193 the bridge properties will permit and the revenues to be derived
10194 from such leases will allow, but without incurring any pecuniary
10195 liability on the part of the governing authorities or taxpayers
10196 generally.

10197 **SECTION 155.** Section 65-27-7, Mississippi Code of 1972, is
10198 brought forward as follows:

10199 65-27-7. The bond given by the keeper of a toll ferry,
10200 bridge, turnpike, causeway, or plank road may be put in suit by



10201 the county, or by any person damaged, for a breach thereof; and
10202 the bond may be sued on from time to time until the whole penalty
10203 be recovered. The board of supervisors may require such bonds to
10204 be renewed when proper.

10205 **SECTION 156.** Section 47-5-357, Mississippi Code of 1972, is
10206 brought forward as follows:

10207 47-5-357. (1) (a) Due to the unique and time sensitive
10208 requirements of growing and harvesting products produced by the
10209 prison agricultural enterprises, the Department of Finance and
10210 Administration and the department shall establish a prudent
10211 purchasing policy which may exempt from bid requirements those
10212 commodities, items or services which are needed for the efficient
10213 and effective management of the prison agricultural enterprises.

10214 (b) Due to the unique and time sensitive requirements
10215 of growing and harvesting products produced by the prison
10216 agricultural enterprises, the Department of Finance and
10217 Administration and the department shall establish a prudent
10218 leasing policy which may exempt from bid requirements agricultural
10219 equipment which is needed for the efficient and effective
10220 management of the prison agricultural enterprises.

10221 (2) The Department of Finance and Administration shall, by
10222 order entered on its minutes, list those commodities, items and
10223 services exempted from bid requirements as provided in Section
10224 31-7-12.



10225 **SECTION 157.** Section 19-31-37, Mississippi Code of 1972, is
10226 brought forward as follows:

10227 19-31-37. The district shall comply with the provisions of
10228 Section 31-7-1 et seq., regarding the construction of public works
10229 or the purchase of materials or supplies.

10230 **SECTION 158.** Section 17-25-5, Mississippi Code of 1972, is
10231 brought forward as follows:

10232 17-25-5. (1) Every municipality and county of the State of
10233 Mississippi shall grant competency examination reciprocity to any
10234 contractor, including, but not limited to, any electrical,
10235 plumbing, heating and air conditioning, water and sewer, roofing
10236 or mechanical contractor, who is licensed by another municipality
10237 or county of this state without imposing any further competency
10238 examination requirements provided:

10239 (a) That the contractor furnishes evidence that he has
10240 a license issued on the basis of a competency examination
10241 administered in one (1) municipality or county of the State of
10242 Mississippi which has an examining board that regularly gives a
10243 written examination which has been approved by the State Board of
10244 Public Contractors or the Building Officials Association of
10245 Mississippi;

10246 (b) That he furnishes evidence that he actually took
10247 and passed the written examination which qualified him for such
10248 license; however, in lieu thereof, he may furnish evidence that
10249 he was issued a license prior to May 1, 1972, and prior to the



10250 existence of a written examination by a county or municipality
10251 which has an examining board that requires written examination to
10252 qualify for a license;

10253 (c) That he has been actively engaged in the business
10254 for which he is licensed for two (2) years or more;

10255 (d) That he has held a license for his business for one
10256 (1) year or more; and

10257 (e) That he pays the license fee to the municipality or
10258 county to which application is made for a license unless he holds
10259 a current certificate of responsibility issued by the State Board
10260 of Public Contractors, in which case no license fee shall be
10261 collected.

10262 (2) (a) Any contractor who operates more than one (1)
10263 separate place of business within the state must obtain the
10264 appropriate privilege license and pay the privilege license fee
10265 for each location if required by the local jurisdiction.

10266 (b) Every jurisdiction in which a contractor does
10267 business may impose its own separate bonding requirements on the
10268 contractor desiring to do business there.

10269 **SECTION 159.** Section 45-1-39, Mississippi Code of 1972, is
10270 brought forward as follows:

10271 **45-1-39.** (1) For the purposes of this section, the
10272 following words and phrases shall have the following meanings
10273 unless the context clearly indicates otherwise:



10274 (a) "Project" means the project for construction of
10275 interior elements at the new Department of Public Safety building
10276 in Pearl, Mississippi.

10277 (b) "Bureau" means the Bureau of Building, Ground, and
10278 Real Property Management.

10279 (c) "Contract" means the contract for the project which
10280 shall be awarded under the construction-manager-at-risk
10281 methodology as otherwise provided for herein.

10282 (d) "Standards" means the American Institute of
10283 Architects (AIA) A133-2019 Owner/Construction Manager as
10284 Constructor Agreement-Cost of the Work Plus Fee with GMP, the AIA
10285 A133-2019 Exhibit A: GMP Amendment, and the AIA A133-2019 Exhibit
10286 B: Insurance and Bonds, with such revisions, qualifications, and
10287 assumptions as the bureau and the construction manager deem
10288 appropriate due to market conditions and the overall nature of the
10289 project.

10290 (2) The Legislature finds that the size and nature of the
10291 project require the use of the construction-manager-at-risk
10292 methodology and that the resulting opportunities for savings in
10293 construction time and cost justify the direct negotiation of the
10294 contract between the bureau and a construction manager. The bureau
10295 shall negotiate and execute the contract based on the standards.

10296 (3) The project and the contract are hereby exempt from the
10297 public purchasing requirements of Sections 31-7-13 and 31-7-13.2.



10298 **SECTION 160.** Section 47-5-64, Mississippi Code of 1972, is
10299 brought forward as follows:

10300 47-5-64. (1) The commissioner is hereby directed to
10301 determine the number of acres and location of land under the
10302 department's jurisdiction that are needed for security purposes,
10303 for Prison Agricultural Enterprises and for nonagricultural
10304 purposes. The commissioner shall designate and reserve such
10305 additional land for agricultural or nonagricultural enterprise
10306 projects of the department, as he deems necessary. The
10307 commissioner shall then recommend to the Department of Finance and
10308 Administration the number of acres of department land that should
10309 be leased to private entities and the term of the leases.

10310 (2) The Department of Finance and Administration is
10311 authorized to lease for agricultural purposes that Penitentiary
10312 land so recommended for not less than three (3) nor more than
10313 eight (8) years, with the approval of the Public Procurement
10314 Review Board.

10315 (3) The Department of Finance and Administration, with the
10316 approval of the Governor, the Secretary of State and the
10317 Commissioner of the Department of Corrections, is authorized to
10318 lease Penitentiary land for power generation projects or other
10319 commercial or industrial projects at the same time that it leases
10320 the land as prescribed in subsection (2) of this section. The
10321 Department of Finance and Administration is authorized to



10322 negotiate all aspects of leases or related agreements executed
10323 under this subsection consistent with the following:

10324 (a) The period of the lease term combined with the term
10325 of renewal shall not exceed forty (40) years.

10326 (b) Any lease or renewal lease shall:

10327 (i) Provide for periodic rent adjustments
10328 throughout the term of the lease; and

10329 (ii) Require the lessee to provide a
10330 decommissioning and restoration bond or other security securing
10331 the lessee's obligation to remove all aboveground and underground
10332 facilities to a depth of at least three (3) feet underground and
10333 to restore the surface to a condition similar to its condition
10334 before the commencement of the lease.

10335 (c) Any lease or renewal lease may provide for any
10336 combination of the following: base rent, bonuses, percentage of
10337 income payments, royalty payments or other terms and conditions
10338 that the Department of Finance and Administration deems necessary
10339 to maintain a fair and equitable return to the state and to
10340 protect the leased land throughout the term of the lease or
10341 renewal lease.

10342 (d) Oil, gas and mineral rights in the leased land
10343 shall be reserved to the State of Mississippi.

10344 (e) This subsection does not authorize the sale or
10345 transfer of title to any state lands.



10346 (f) The Department of Finance and Administration may
10347 charge fees and expenses, not to exceed costs, incurred in
10348 administering this subsection.

10349 (g) Any monies derived from leasing lands under this
10350 subsection shall be deposited to the Prison Agricultural
10351 Enterprise Fund as provided in Section 47-5-66.

10352 **SECTION 161.** Section 47-5-66, Mississippi Code of 1972, is
10353 brought forward as follows:

10354 47-5-66. (1) Except as provided in Section 47-5-64(3), it
10355 shall be the duty of the Department of Finance and Administration,
10356 with the approval of the Public Procurement Review Board, to lease
10357 lands at public contract upon the submission of two (2) or more
10358 sealed bids to the Department of Finance and Administration after
10359 having advertised the land for rent in newspapers of general
10360 circulation published in Jackson, Mississippi; Memphis, Tennessee;
10361 the county in which the land is located; and contiguous counties
10362 for a period of not less than two (2) successive weeks. The first
10363 publication shall be made not less than ten (10) days before the
10364 date of the public contract, and the last publication shall be
10365 made not more than seven (7) days before that date. The
10366 Department of Finance and Administration may reject any and all
10367 bids. If all bids on a tract or parcel of land are rejected, the
10368 Department of Finance and Administration may then advertise for
10369 new bids on that tract or parcel of land. Successful bidders
10370 shall take possession of their leaseholds at the time authorized



10371 by the Department of Finance and Administration. However, rent
10372 shall be due no later than the day upon which the lessee shall
10373 assume possession of the leasehold, and shall be due on the
10374 anniversary date for each following year of the lease. The
10375 Department of Finance and Administration may provide in any lease
10376 that rent shall be paid in full in advance or paid in
10377 installments, as may be necessary or appropriate. In addition,
10378 the Department of Finance and Administration may accept, and the
10379 lease may provide for, assignments of federal, state or other
10380 agricultural support payments, growing crops or the proceeds from
10381 the sale thereof, promissory notes, or any other good and valuable
10382 consideration offered by any lessee to meet the rent requirements
10383 of the lease. If a promissory note is offered by a lessee, it
10384 shall be secured by a first lien on the crop of the lessee, or the
10385 proceeds from the sale thereof. The lien shall be filed pursuant
10386 to Article 9 of the Uniform Commercial Code and Section 1324 of
10387 the Food Security Act of 1985, as enacted or amended. If the note
10388 is not paid at maturity, it shall bear interest at the rate
10389 provided for judgments and decrees in Section 75-17-7 from its
10390 maturity date until the note is paid. The note shall provide for
10391 the payment of all costs of collection and reasonable attorney's
10392 fees if default is made in the payment of the note. The payment
10393 of rent by promissory note or any means other than cash in advance
10394 shall be subject to the approval of the Public Procurement Review



10395 Board, which shall place the approval of record in the minutes of
10396 the board.

10397 (2) There is created a special fund to be designated as the
10398 "Prison Agricultural Enterprises Fund" and to be used for the
10399 purpose of conducting, operating and managing the agricultural and
10400 nonagricultural enterprises of the department. Any monies derived
10401 from the leasing of Penitentiary lands, from the sales of timber
10402 as provided in Section 47-5-56, from the prison's agricultural
10403 enterprises or earmarked for the Prison Industries Fund shall be
10404 deposited to the special fund. However, fifteen percent (15%) of
10405 the monies derived from the leasing of Penitentiary lands under
10406 Section 47-5-64(3) shall be deposited to a special fund to be
10407 distributed annually on a student pro rata basis to the public
10408 schools located in Sunflower County by the Department of Finance
10409 and Administration.

10410 (3) All profits derived from prison industries shall be
10411 placed in a special fund in the State Treasury to be known as the
10412 "Prison Industries Fund," to be appropriated each year by the
10413 Legislature to the nonprofit corporation, which is required to be
10414 organized under the provisions of Section 47-5-535, for the
10415 purpose of operating and managing the prison industries.

10416 (4) The state shall have the rights and remedies for the
10417 security and collection of the rents given by law to landlords.

10418 (5) Lands leased for agricultural purposes under Section
10419 47-5-64(2) shall be subject to a fee-in-lieu of ad valorem taxes,



10420 including taxes levied for school purposes. The fee-in-lieu shall
10421 be Nine Dollars (\$9.00) per acre. Upon the execution of the
10422 agricultural leases to private entities as authorized by Section
10423 47-5-64(2), the Department of Finance and Administration shall
10424 collect the in lieu fee and shall forward the fees to the tax
10425 collector in which the land is located. The tax collector shall
10426 disburse the fees to the appropriate county or municipal governing
10427 authority on a pro rata basis. The sum apportioned to a school
10428 district shall not be less than the school district's pro rata
10429 share based upon the proportion that the millage imposed for the
10430 school district by the appropriate levying authority bears to the
10431 millage imposed by the levying authority for all other county or
10432 municipal purposes. Any funds obtained by the corporation as a
10433 result of sale of goods and services manufactured and provided by
10434 it shall be accounted for separate and apart from any funds
10435 received by the corporation through appropriation from the State
10436 Legislature. All nonappropriated funds generated by the
10437 corporation shall not be subject to appropriation by the State
10438 Legislature.

10439 (6) Any land leased, as provided under Section 47-5-64(2),
10440 shall not be leased for an amount less than would be received if
10441 such land were to be leased under any federal loan program. In
10442 addition, all leases shall be subject to the final approval of the
10443 Public Procurement Review Board before such leases are to become
10444 effective.



10445 **SECTION 162.** Section 47-5-105, Mississippi Code of 1972, is
10446 brought forward as follows:

10447 47-5-105. The award of all contracts within the purview of
10448 the Department of Finance and Administration under Section
10449 27-104-7 in excess of Five Hundred Thousand Dollars (\$500,000.00)
10450 entered into by the commissioner shall be approved by the Public
10451 Procurement Review Board and shall be entered on the minutes of
10452 such board before any funds shall be expended therefor. Provided
10453 further, that the entrance of the award of contracts on the
10454 minutes of the Public Procurement Review Board shall contain a
10455 detailed accounting of all bids entered showing clearly the lowest
10456 bid and best bid that was awarded in each and every case and, if
10457 the bid accepted is not the lowest, then the reasons and
10458 justification for not accepting the lowest bid shall be spread on
10459 the minutes. A true copy of the minutes of each meeting of the
10460 Public Procurement Review Board shall be sent monthly to the
10461 Governor, members of the Legislative Budget Office and Chairmen of
10462 the Corrections Committees of the Senate and the House of
10463 Representatives.

10464 **SECTION 163.** Section 47-5-20, Mississippi Code of 1972, is
10465 brought forward as follows:

10466 47-5-20. The commissioner shall have the following powers
10467 and duties:

10468 (a) To establish the general policy of the department;



10469 (b) To approve proposals for the location of new
10470 facilities, for major renovation activities, and for the creation
10471 of new programs and divisions within the department as well as for
10472 the abolition of the same; provided, however, that the
10473 commissioner shall approve the location of no new facility unless
10474 the board of supervisors of the county or the governing
10475 authorities of the municipality in which the new facility is to be
10476 located shall have had the opportunity with at least sixty (60)
10477 days' prior notice to disapprove the location of the proposed
10478 facility. If either the board of supervisors or the governing
10479 authorities shall disapprove the facility, it shall not be located
10480 in that county or municipality. Said notice shall be made by
10481 certified mail, return receipt requested, to the members of the
10482 board or governing authorities and to the clerk thereof;

10483 (c) Except as otherwise provided or required by law, to
10484 open bids and approve the sale of any products or manufactured
10485 goods by the department according to applicable provisions of law
10486 regarding bidding and sale of state property, and according to
10487 rules and regulations established by the State Fiscal Management
10488 Board;

10489 (d) To adopt administrative rules and regulations
10490 including, but not limited to, offender transfer procedures, award
10491 of administrative earned time, personnel procedures, employment
10492 practices.



10493 **SECTION 164.** Section 47-5-47, Mississippi Code of 1972, is
10494 brought forward as follows:

10495 47-5-47. It shall be unlawful for any person related by
10496 affinity or consanguinity within the third degree computed
10497 according to the rules of the civil law to the Governor,
10498 Lieutenant Governor or commissioner to accept any employment in
10499 the state correctional system, neither shall the commissioner or
10500 other officer or employee of the state correctional system be
10501 directly or indirectly interested in any contract, purchase or
10502 sale for or in behalf of or on account of the state correctional
10503 system.

10504 **SECTION 165.** Section 47-5-79, Mississippi Code of 1972, is
10505 brought forward as follows:

10506 47-5-79. All contracts for the purchase of materials,
10507 supplies, equipment and sustenance for the offenders of the
10508 correctional system shall be made under the provisions of the
10509 State Purchasing Law, same being Sections 31-7-1 through 31-7-55.

10510 **SECTION 166.** Section 59-9-25, Mississippi Code of 1972, is
10511 brought forward as follows:

10512 59-9-25. The board of supervisors of such county, acting
10513 through its county port authority, and the governing authorities
10514 of the municipality in which the port of entry is located, acting
10515 through its port commission, may, in their discretion and acting
10516 jointly, enter into a contract or contracts for the development,
10517 construction, repair, maintenance or operation of any seaports,



10518 wharves, piers, docks, ways, elevators, compresses, warehouses,
10519 tourism facilities, service facilities, roadways, floating dry
10520 docks, graving docks, marine railways, tugboats, and water, air
10521 and rail terminals and other structures, facilities and lands
10522 needful for the convenient use of the same in the aid of commerce,
10523 or any other property at the port of entry under the joint
10524 jurisdiction of said county port authority and such port
10525 commission under such terms and conditions as both bodies may deem
10526 best economically to the city and county wherein the port of entry
10527 is located. In the letting of contracts, and in advertisement for
10528 bids thereon, for the development, construction, repair,
10529 maintenance or operation of any structures, facilities and lands
10530 acquired pursuant to any of the provisions of this chapter, the
10531 said board of supervisors, the governing authorities of the said
10532 municipality, the county port authority and the municipal port
10533 commission shall comply with all the requirements of the general
10534 laws of the State of Mississippi governing the advertisement for
10535 bids and letting of contracts by county boards of supervisors.
10536 However, where the rentals provided in a lease will be sufficient
10537 to fully retire the cost of the particular facility, contracts for
10538 the construction, repair, maintenance and operation of the
10539 facility may be negotiated and consummated with the lessee of the
10540 facility without the necessity of advertising and obtaining
10541 competitive bids therefor. The county port authority is given
10542 full power and authority to employ engineers, attorneys and other



10543 professional and technical assistance in and about the operations,
10544 development and advancement of harbors and ports of such county,
10545 and to pay reasonable compensation therefor, such employment and
10546 compensation therefor to be approved by the board of supervisors
10547 of such county. The county port authority, and the port
10548 commission of the port of entry are jointly vested with the power
10549 and authority herein conferred, subject to the approval of the
10550 board of supervisors and the governing authorities of the
10551 municipality of all joint undertakings of such county port
10552 authority and port commission.

10553 **SECTION 167.** Section 71-5-116, Mississippi Code of 1972, is
10554 brought forward as follows:

10555 71-5-116. The Mississippi Department of Employment Security
10556 will develop an annual report which tracks data received from
10557 contractors. Contractors will cooperate with the Mississippi
10558 Department of Employment Security to accumulate relevant data.
10559 Collected data and reports are intended solely to allow the
10560 Mississippi Department of Employment Security to improve workforce
10561 training programs, tailoring trainings to employer needs and
10562 hiring trends for in-demand jobs in Mississippi.

10563 **SECTION 168.** Section 65-17-105, Mississippi Code of 1972, is
10564 brought forward as follows:

10565 65-17-105. The road accountant shall be the purchasing agent
10566 of the county and, by and with the consent of the board of



10567 supervisors, shall purchase all materials, implements, and
10568 supplies used in such road and bridge work.

10569 **SECTION 169.** Section 65-19-61, Mississippi Code of 1972, is
10570 brought forward as follows:

10571 65-19-61. The board of supervisors of the county in which a
10572 road district organized under this chapter is situated shall have
10573 plenary power of supervision and control over all of the official
10574 acts of the road commissioners and the road superintendent, and
10575 shall refuse to ratify or confirm any contract or report of any
10576 action of such commissioners or superintendent, when the same is
10577 reported to them, which is not for the best interest of such
10578 district. They shall require the letting of contracts and the
10579 purchase of teams, materials, lumber, supplies, and all other
10580 property for the use of the district to be made after
10581 advertisement and competitive bidding when such method is deemed
10582 likely to best subserve the interest of the district and be most
10583 economical.

10584 **SECTION 170.** Section 65-19-77, Mississippi Code of 1972, is
10585 brought forward as follows:

10586 65-19-77. The road superintendent shall have the power to
10587 purchase nails, lumber, tools, and other things necessary, where
10588 the need for the same is immediate and the value of said purchase
10589 does not exceed Fifty Dollars (\$50.00). In cases of emergency he
10590 shall have power to contract for the immediate repair of a bridge,
10591 causeway, culvert, or a bad place in the road, provided such



10592 contract is not for a sum greater than Fifty Dollars (\$50.00) and
10593 the need of the repair immediate and urgent. Such purchases and
10594 contracts shall be subject to ratification by the road
10595 commissioners and the board of supervisors.

10596 **SECTION 171.** Section 61-13-1, Mississippi Code of 1972, is
10597 brought forward as follows:

10598 61-13-1. The Department of Finance and Administration of the
10599 State of Mississippi is authorized and empowered to purchase or
10600 lease, operate and maintain nonmilitary aircraft for use by the
10601 Governor's Office, state departments, agencies, boards and
10602 commissions, the Legislature, its officers and employees, all
10603 under the general direction of the Department of Finance and
10604 Administration.

10605 **SECTION 172.** Section 61-13-5, Mississippi Code of 1972, is
10606 brought forward as follows:

10607 61-13-5. The purchase of aircraft to be used for the purpose
10608 in this chapter shall be in compliance with Sections 31-7-1
10609 through 31-7-21. The Department of Finance and Administration is
10610 hereby exempt from the requirements of Section 27-104-7(2)(f) when
10611 procuring aircraft maintenance, parts, equipment and/or services.
10612 It shall be the responsibility of the Executive Director of the
10613 Department of Finance and Administration to ensure commercially
10614 reasonable practices, including competitive pricing and superb
10615 industry maintenance standards. The selection process of
10616 maintenance facility shall consider: their capability and



10617 experience, the scope of work, the cost, and the length of time
10618 the aircraft will be out of service. The process undertaken by
10619 the Department of Finance and Administration for procurement of
10620 the maintenance facility shall be reported to the Public
10621 Procurement Review Board.

10622 **SECTION 173.** Section 7-7-51, Mississippi Code of 1972, is
10623 brought forward as follows:

10624 7-7-51. The State Fiscal Officer is hereby given the
10625 authority, and it shall be his duty, to procure on competitive
10626 bids and install or have installed all machines, equipment,
10627 records and other things necessary for the performance of the
10628 duties imposed upon the State Fiscal Officer by Sections 7-7-1
10629 through 7-7-65. Such machines and equipment as are to be
10630 purchased shall be purchased in full compliance with the laws of
10631 the state pertaining thereto and, if in the discretion of the
10632 State Fiscal Officer, it is to the best interests of the state, he
10633 may rent certain machines and equipment.

10634 **SECTION 174.** Section 7-7-23, Mississippi Code of 1972, is
10635 brought forward as follows:

10636 7-7-23. (1) Purchases of equipment, supplies, materials or
10637 services of whatever kind or nature for any department, officer,
10638 institution or other agency of the state, the cost of which is to
10639 be paid from funds in the State Treasury on State Fiscal Officer
10640 disbursement warrants, may be made only by written purchase orders
10641 duly signed by the official authorized so to do, on forms



10642 prescribed by the State Fiscal Officer. Purchases of such
10643 equipment, supplies, materials, or services, as specified herein,
10644 made without the issuance of such purchase orders shall not be
10645 deemed to be obligations of the state unless the State Fiscal
10646 Officer, by general rule or special order, permits certain
10647 purchases to be made without same. As many copies of each
10648 purchase order shall be prepared as may be prescribed by the State
10649 Fiscal Officer, but at least one (1) copy shall be furnished the
10650 vendor, one (1) copy shall be furnished the State Fiscal Officer,
10651 and one (1) copy shall be retained by the department or agency for
10652 whose benefit the purchase is made. The State Fiscal Officer, by
10653 general rule or special order, may allow for the submission of
10654 purchase orders in a format not requiring a signature. It shall
10655 be the duty of the proper official in each department or agency to
10656 forward the copy of each purchase order to the State Fiscal
10657 Officer on the same day the said order is issued. All purchase
10658 orders covering purchases to be paid for out of funds appropriated
10659 for any fiscal year shall be executed by June 30 of the fiscal
10660 year and shall be filed with and received for recording by the
10661 State Fiscal Officer within five (5) working days thereafter, and
10662 for electronically submitted purchase orders, the State Fiscal
10663 Officer shall issue regulations as to the last filing date
10664 required for purchase orders; otherwise, the same shall not be
10665 deemed to constitute valid obligations against the state within
10666 the meaning of Section 64 of the Constitution. The provisions of



10667 this subsection shall not apply to contracts for services of
10668 investigators employed by any agency of the state government
10669 authorized by law to employ such investigators.

10670 (2) The State Fiscal Officer may approve electronically
10671 submitted purchase orders, thereby releasing such purchase orders
10672 and recording the encumbrances. For purposes of electronically
10673 submitted purchase orders, the State Fiscal Officer may exempt
10674 agencies from furnishing a copy of the purchase order to the State
10675 Fiscal Officer as required in subsection (1) above.

10676 **SECTION 175.** Section 7-7-25, Mississippi Code of 1972, is
10677 brought forward as follows:

10678 7-7-25. Upon receipt of each purchase order filed with the
10679 State Fiscal Officer under the provisions of Section 7-7-23, the
10680 State Fiscal Officer shall, upon approval of such purchase order,
10681 make due entry of the same on the record of encumbrances, which
10682 shall be established in the General Accounting Office, showing
10683 separately thereon an account for each department, institution or
10684 other agency and the law authorizing the appropriation from which
10685 the same is to be paid, if from appropriated funds. Encumbrances
10686 so made and entered shall, until paid, be shown in the General
10687 Accounting Office's books of account so as to be used as a
10688 liability against the then cash balance of the particular fund
10689 which is applicable, whether general or special, and against the
10690 appropriation balance, if the encumbrance is to be paid from
10691 appropriated funds.



10692 **SECTION 176.** Section 59-17-31, Mississippi Code of 1972, is
10693 brought forward as follows:

10694 59-17-31. The board or the State Inland Port Authority, in
10695 the performance of its duties, may employ such personnel and make
10696 all contracts and purchases incidental to or necessary for the
10697 advancement, promotion, development, establishment, insurance,
10698 maintenance, repair, improvement and operation of any ports,
10699 harbors, rivers, channels and waterways, including, if required
10700 for its protection, retirement benefits, workers' compensation
10701 insurance and other employee benefits for the benefit of any
10702 employees of the board or State Inland Port Authority. The board
10703 or State Inland Port Authority shall make such contracts or
10704 purchases in accordance with state purchasing laws. Contracts let
10705 for any port, harbor, river, channel or waterway improvements
10706 shall be advertised as required by law for the letting of public
10707 contracts, and such contracts shall be awarded to the lowest and
10708 best bidder, who shall make such bond as shall be required by the
10709 board or State Inland Port Authority, conditioned for the faithful
10710 prosecution and completion of the work according to such contract,
10711 such bond to be furnished by a corporate surety company qualified
10712 to do business in this state. However, the board may negotiate
10713 and enter into contracts with responsible lessees for the
10714 construction of facilities by lessees, such as those referred to
10715 in Section 59-17-13, Mississippi Code of 1972, and the acquisition
10716 thereof by the board upon such terms and conditions and for such



10717 amounts as may be approved by the board. Where the rentals
10718 provided in the lease will be sufficient to fully repay the cost
10719 of the particular facility or where the monetary consideration for
10720 a deed is sufficient to fully repay the cost of land acquired for
10721 industrial operations described in the deed, contracts for
10722 construction, repairs, maintenance and operation of the facility
10723 or for the sale of the land may be negotiated and consummated
10724 without the necessity of advertising and obtaining competitive
10725 bids therefor.

10726 The authority is granted the power to sue and be sued in its
10727 own name.

10728 **SECTION 177.** Section 59-5-37, Mississippi Code of 1972, is
10729 brought forward as follows:

10730 59-5-37. (1) The board or State Port Authority, in the
10731 performance of its duties, may employ such personnel and make all
10732 contracts and purchases incidental to or necessary for the
10733 advancement, promotion, development, establishment, insurance,
10734 maintenance, repair, improvement and operation of any ports,
10735 harbors, rivers, channels and waterways including, if required for
10736 its protection, retirement benefits, workers' compensation
10737 insurance and other employee benefits for the benefit of any
10738 employees of the board or State Port Authority. The board or
10739 State Port Authority may establish a trade development and
10740 promotion account to pay all direct and necessary expenses for the



10741 promotion and development of the state port. The authority is
10742 granted the power to sue and be sued in its own name.

10743 (2) (a) The board or State Port Authority may, in its
10744 discretion, make such contracts or purchases according to the
10745 state purchasing laws. Contracts let for any port, harbor, river,
10746 channel or waterway improvements shall be advertised as required
10747 by law for the letting of public contracts, and such contracts
10748 shall be awarded to the lowest and best bidder who shall make bond
10749 as shall be required by the board or State Port Authority
10750 conditioned for the faithful prosecution and completion of work
10751 according to such contracts, such bond to be furnished by a
10752 corporate surety company qualified to do business in this state.
10753 However, the board may negotiate and enter into contracts with
10754 responsible lessees for the construction of facilities by lessees,
10755 such as those referred to in Section 59-5-11, and the acquisition
10756 thereof by the board upon such terms and conditions and for such
10757 amount as may be approved by the board.

10758 (b) The State Port Authority shall be considered to be
10759 a "governing authority" under the state public purchasing laws as
10760 that term is defined in Section 31-7-1 and used in Sections 31-7-1
10761 through 31-7-73, and shall not be subject to the jurisdiction of
10762 the Department of Finance and Administration, the Public
10763 Procurement Review Board or the Bureau of Building, Grounds and
10764 Real Property Management under the provisions of Sections
10765 27-104-7, 29-5-2 and 31-11-3.



10766 (3) (a) The board or State Port Authority, in its
10767 discretion, may use the design-build method of contracting for the
10768 renovation, repair and/or making of other improvements to not more
10769 than one (1) freezer and related equipment and/or facilities at
10770 the State Port at Gulfport, Mississippi. Notwithstanding any
10771 other provision of law to the contrary, any port or port
10772 commission may use the design-build method of contracting for the
10773 renovation, repair and/or making of other improvements to
10774 equipment and/or facilities at the port. For the purposes of this
10775 subsection (3), the term "design-build method of contracting"
10776 means a contract that combines the design and construction phases
10777 of a project into a single contract and the contractor is required
10778 to satisfactorily perform, at a minimum, both the design and
10779 construction of the project.

10780 (b) This subsection (3) shall stand repealed from and
10781 after July 1, 2024.

10782 **SECTION 178.** Section 27-115-49, Mississippi Code of 1972, is
10783 brought forward as follows:

10784 27-115-49. (1) The corporation shall enter into its
10785 contracts for major procurements after bidding. The corporation
10786 may adopt administrative rules and regulations pursuant to the
10787 provisions of this chapter providing for special procedures
10788 whereby the Mississippi Lottery Corporation may make any class of
10789 procurement.



10790 (2) In its bidding processes, the corporation may do its own
10791 bidding and procurement or may utilize the services of the
10792 Department of Finance and Administration, the Department of
10793 Information Technology Services, or other state agencies as
10794 appropriate and necessary. The president of the corporation may,
10795 with approval of the board, declare an emergency for purchasing
10796 purposes which shall be governed by the administrative rules and
10797 regulations adopted by the board.

10798 **SECTION 179.** Section 27-104-7, Mississippi Code of 1972, is
10799 brought forward as follows:

10800 27-104-7. (1) (a) There is created the Public Procurement
10801 Review Board, which shall be reconstituted on January 1, 2018, and
10802 shall be composed of the following members:

10803 (i) Three (3) individuals appointed by the
10804 Governor with the advice and consent of the Senate;

10805 (ii) Two (2) individuals appointed by the
10806 Lieutenant Governor with the advice and consent of the Senate; and

10807 (iii) The Executive Director of the Department of
10808 Finance and Administration, serving as an ex officio and nonvoting
10809 member.

10810 (b) The initial terms of each appointee shall be as
10811 follows:

10812 (i) One (1) member appointed by the Governor to
10813 serve for a term ending on June 30, 2019;



10814 (ii) One (1) member appointed by the Governor to
10815 serve for a term ending on June 30, 2020;

10816 (iii) One (1) member appointed by the Governor to
10817 serve for a term ending on June 30, 2021;

10818 (iv) One (1) member appointed by the Lieutenant
10819 Governor to serve for a term ending on June 30, 2019; and

10820 (v) One (1) member appointed by the Lieutenant
10821 Governor to serve for a term ending on June 30, 2020.

10822 After the expiration of the initial terms, all appointed
10823 members' terms shall be for a period of four (4) years from the
10824 expiration date of the previous term, and until such time as the
10825 member's successor is duly appointed and qualified.

10826 (c) When appointing members to the Public Procurement
10827 Review Board, the Governor and Lieutenant Governor shall take into
10828 consideration persons who possess at least five (5) years of
10829 management experience in general business, health care or finance
10830 for an organization, corporation or other public or private
10831 entity. Any person, or any employee or owner of a company, who
10832 receives any grants, procurements or contracts that are subject to
10833 approval under this section shall not be appointed to the Public
10834 Procurement Review Board. Any person, or any employee or owner of
10835 a company, who is a principal of the source providing a personal
10836 or professional service shall not be appointed to the Public
10837 Procurement Review Board if the principal owns or controls a
10838 greater than five percent (5%) interest or has an ownership value



10839 of One Million Dollars (\$1,000,000.00) in the source's business,
10840 whichever is smaller. No member shall be an officer or employee
10841 of the State of Mississippi while serving as a voting member on
10842 the Public Procurement Review Board.

10843 (d) Members of the Public Procurement Review Board
10844 shall be entitled to per diem as authorized by Section 25-3-69 and
10845 travel reimbursement as authorized by Section 25-3-41.

10846 (e) The members of the Public Procurement Review Board
10847 shall elect a chair from among the membership, and he or she shall
10848 preside over the meetings of the board. The board shall annually
10849 elect a vice chair, who shall serve in the absence of the chair.
10850 No business shall be transacted, including adoption of rules of
10851 procedure, without the presence of a quorum of the board. Three
10852 (3) members shall be a quorum. No action shall be valid unless
10853 approved by a majority of the members present and voting, entered
10854 upon the minutes of the board and signed by the chair. Necessary
10855 clerical and administrative support for the board shall be
10856 provided by the Department of Finance and Administration. Minutes
10857 shall be kept of the proceedings of each meeting, copies of which
10858 shall be filed on a monthly basis with the chairs of the
10859 Accountability, Efficiency and Transparency Committees of the
10860 Senate and House of Representatives and the chairs of the
10861 Appropriations Committees of the Senate and House of
10862 Representatives.



10863 (2) The Public Procurement Review Board shall have the
10864 following powers and responsibilities:

10865 (a) Approve all purchasing regulations governing the
10866 purchase or lease by any agency, as defined in Section 31-7-1, of
10867 commodities and equipment, except computer equipment acquired
10868 pursuant to Sections 25-53-1 through 25-53-29;

10869 (b) Adopt regulations governing the approval of
10870 contracts let for the construction and maintenance of state
10871 buildings and other state facilities as well as related contracts
10872 for architectural and engineering services.

10873 The provisions of this paragraph (b) shall not apply to such
10874 contracts involving buildings and other facilities of state
10875 institutions of higher learning which are self-administered as
10876 provided under this paragraph (b) or Section 37-101-15(m);

10877 (c) Adopt regulations governing any lease or rental
10878 agreement by any state agency or department, including any state
10879 agency financed entirely by federal funds, for space outside the
10880 buildings under the jurisdiction of the Department of Finance and
10881 Administration. These regulations shall require each agency
10882 requesting to lease such space to provide the following
10883 information that shall be published by the Department of Finance
10884 and Administration on its website: the agency to lease the space;
10885 the terms of the lease; the approximate square feet to be leased;
10886 the use for the space; a description of a suitable space; the
10887 general location desired for the leased space; the contact



10888 information for a person from the agency; the deadline date for
10889 the agency to have received a lease proposal; any other specific
10890 terms or conditions of the agency; and any other information
10891 deemed appropriate by the Division of Real Property Management of
10892 the Department of Finance and Administration or the Public
10893 Procurement Review Board. The information shall be provided
10894 sufficiently in advance of the time the space is needed to allow
10895 the Division of Real Property Management of the Department of
10896 Finance and Administration to review and preapprove the lease
10897 before the time for advertisement begins;

10898 (d) Adopt, in its discretion, regulations to set aside
10899 at least five percent (5%) of anticipated annual expenditures for
10900 the purchase of commodities from minority businesses; however, all
10901 such set-aside purchases shall comply with all purchasing
10902 regulations promulgated by the department and shall be subject to
10903 all bid requirements. Set-aside purchases for which competitive
10904 bids are required shall be made from the lowest and best minority
10905 business bidder; however, if no minority bid is available or if
10906 the minority bid is more than two percent (2%) higher than the
10907 lowest bid, then bids shall be accepted and awarded to the lowest
10908 and best bidder. However, the provisions in this paragraph shall
10909 not be construed to prohibit the rejection of a bid when only one
10910 (1) bid is received. Such rejection shall be placed in the
10911 minutes. For the purposes of this paragraph, the term "minority
10912 business" means a business which is owned by a person who is a



10913 citizen or lawful permanent resident of the United States and who
10914 is:

10915 (i) Black: having origins in any of the black
10916 racial groups of Africa;

10917 (ii) Hispanic: of Mexican, Puerto Rican, Cuban,
10918 Central or South American, or other Spanish or Portuguese culture
10919 or origin regardless of race;

10920 (iii) Asian-American: having origins in any of
10921 the original people of the Far East, Southeast Asia, the Indian
10922 subcontinent, or the Pacific Islands;

10923 (iv) American Indian or Alaskan Native: having
10924 origins in any of the original people of North America; or

10925 (v) Female;

10926 (e) In consultation with and approval by the Chairs of
10927 the Senate and House Public Property Committees, approve leases,
10928 for a term not to exceed eighteen (18) months, entered into by
10929 state agencies for the purpose of providing parking arrangements
10930 for state employees who work in the Woolfolk Building, the Carroll
10931 Gartin Justice Building or the Walter Sillers Office Building;

10932 (f) (i) Except as otherwise provided in subparagraph
10933 (ii) of this paragraph, promulgate rules and regulations governing
10934 the solicitation and selection of contractual services personnel,
10935 including personal and professional services contracts for any
10936 form of consulting, policy analysis, public relations, marketing,
10937 public affairs, legislative advocacy services or any other



10938 contract that the board deems appropriate for oversight, with the
10939 exception of:

10940 1. Any personal service contracts entered
10941 into by any agency that employs only nonstate service employees as
10942 defined in Section 25-9-107(c);

10943 2. Any personal service contracts entered
10944 into for computer or information technology-related services
10945 governed by the Mississippi Department of Information Technology
10946 Services;

10947 3. Any personal service contracts entered
10948 into by the individual state institutions of higher learning;

10949 4. Any personal service contracts entered
10950 into by the Mississippi Department of Transportation;

10951 5. Any personal service contracts entered
10952 into by the Department of Human Services through June 30, 2019,
10953 which the Executive Director of the Department of Human Services
10954 determines would be useful in establishing and operating the
10955 Department of Child Protection Services;

10956 6. Any personal service contracts entered
10957 into by the Department of Child Protection Services through June
10958 30, 2019;

10959 7. Any contracts for entertainers and/or
10960 performers at the Mississippi State Fairgrounds entered into by
10961 the Mississippi Fair Commission;



10962 8. Any contracts entered into by the
10963 Department of Finance and Administration when procuring aircraft
10964 maintenance, parts, equipment and/or services;

10965 9. Any contract entered into by the
10966 Department of Public Safety for service on specialized equipment
10967 and/or software required for the operation of such specialized
10968 equipment for use by the Office of Forensics Laboratories;

10969 10. Any personal or professional service
10970 contract entered into by the Mississippi Department of Health or
10971 the Department of Revenue solely in connection with their
10972 respective responsibilities under the Mississippi Medical Cannabis
10973 Act from February 2, 2022, through June 30, 2026;

10974 11. Any contract for attorney, accountant,
10975 actuary auditor, architect, engineer, anatomical pathologist, or
10976 utility rate expert services;

10977 12. Any personal service contracts approved
10978 by the Executive Director of the Department of Finance and
10979 Administration and entered into by the Coordinator of Mental
10980 Health Accessibility through June 30, 2022;

10981 13. Any personal or professional services
10982 contract entered into by the State Department of Health in
10983 carrying out its responsibilities under the ARPA Rural Water
10984 Associations Infrastructure Grant Program through June 30, 2026;
10985 and



10986 14. And any personal or professional services
10987 contract entered into by the Mississippi Department of
10988 Environmental Quality in carrying out its responsibilities under
10989 the Mississippi Municipality and County Water Infrastructure Grant
10990 Program Act of 2022, through June 30, 2026.

10991 Any such rules and regulations shall provide for maintaining
10992 continuous internal audit covering the activities of such agency
10993 affecting its revenue and expenditures as required under Section
10994 7-7-3(6) (d). Any rules and regulation changes related to personal
10995 and professional services contracts that the Public Procurement
10996 Review Board may propose shall be submitted to the Chairs of the
10997 Accountability, Efficiency and Transparency Committees of the
10998 Senate and House of Representatives and the Chairs of the
10999 Appropriation Committees of the Senate and House of
11000 Representatives at least fifteen (15) days before the board votes
11001 on the proposed changes, and those rules and regulation changes,
11002 if adopted, shall be promulgated in accordance with the
11003 Mississippi Administrative Procedures Act.

11004 (ii) From and after July 1, 2024, the Public
11005 Procurement Review Board shall promulgate rules and regulations
11006 that require the Department of Finance and Administration to
11007 conduct personal and professional services solicitations as
11008 provided in subparagraph (i) of this paragraph for those services
11009 in excess of Seventy-five Thousand Dollars (\$75,000.00) for the
11010 Department of Marine Resources, the Department of Wildlife,



11011 Fisheries and Parks, the Mississippi Emergency Management Agency
11012 and the Mississippi Development Authority, with assistance to be
11013 provided from these entities. Any powers that have been conferred
11014 upon agencies in order to comply with the provisions of this
11015 section for personal and professional services solicitations shall
11016 be conferred upon the Department of Finance and Administration to
11017 conduct personal and professional services solicitations for the
11018 Department of Marine Resources, the Department of Wildlife,
11019 Fisheries and Parks, the Mississippi Emergency Management Agency
11020 and the Mississippi Development Authority for those services in
11021 excess of Seventy-five Thousand Dollars (\$75,000.00). The
11022 Department of Finance and Administration shall make any
11023 submissions that are required to be made by other agencies to the
11024 Public Procurement Review Board for the Department of Marine
11025 Resources, the Department of Wildlife, Fisheries and Parks, the
11026 Mississippi Emergency Management Agency and the Mississippi
11027 Development Authority.

11028 The provisions of this subparagraph (ii) shall stand repealed
11029 on June 30, 2027;

11030 (g) Approve all personal and professional services
11031 contracts involving the expenditures of funds in excess of
11032 Seventy-five Thousand Dollars (\$75,000.00), except as provided in
11033 paragraph (f) of this subsection (2) and in subsection (8);

11034 (h) Develop mandatory standards with respect to
11035 contractual services personnel that require invitations for public



11036 bid, requests for proposals, record keeping and financial
11037 responsibility of contractors. The Public Procurement Review
11038 Board shall, unless exempted under this paragraph (h) or under
11039 paragraph (i) or (o) of this subsection (2), require the agency
11040 involved to submit the procurement to a competitive procurement
11041 process, and may reserve the right to reject any or all resulting
11042 procurements;

11043 (i) Prescribe certain circumstances by which agency
11044 heads may enter into contracts for personal and professional
11045 services without receiving prior approval from the Public
11046 Procurement Review Board. The Public Procurement Review Board may
11047 establish a preapproved list of providers of various personal and
11048 professional services for set prices with which state agencies may
11049 contract without bidding or prior approval from the board;

11050 (i) Agency requirements may be fulfilled by
11051 procuring services performed incident to the state's own programs.
11052 The agency head shall determine in writing whether the price
11053 represents a fair market value for the services. When the
11054 procurements are made from other governmental entities, the
11055 private sector need not be solicited; however, these contracts
11056 shall still be submitted for approval to the Public Procurement
11057 Review Board.

11058 (ii) Contracts between two (2) state agencies,
11059 both under Public Procurement Review Board purview, shall not
11060 require Public Procurement Review Board approval. However, the



11061 contracts shall still be entered into the enterprise resource
11062 planning system;

11063 (j) Provide standards for the issuance of requests for
11064 proposals, the evaluation of proposals received, consideration of
11065 costs and quality of services proposed, contract negotiations, the
11066 administrative monitoring of contract performance by the agency
11067 and successful steps in terminating a contract;

11068 (k) Present recommendations for governmental
11069 privatization and to evaluate privatization proposals submitted by
11070 any state agency;

11071 (l) Authorize personal and professional service
11072 contracts to be effective for more than one (1) year provided a
11073 funding condition is included in any such multiple year contract,
11074 except the State Board of Education, which shall have the
11075 authority to enter into contractual agreements for student
11076 assessment for a period up to ten (10) years. The State Board of
11077 Education shall procure these services in accordance with the
11078 Public Procurement Review Board procurement regulations;

11079 (m) Request the State Auditor to conduct a performance
11080 audit on any personal or professional service contract;

11081 (n) Prepare an annual report to the Legislature
11082 concerning the issuance of personal and professional services
11083 contracts during the previous year, collecting any necessary
11084 information from state agencies in making such report;



11085 (o) Develop and implement the following standards and
11086 procedures for the approval of any sole source contract for
11087 personal and professional services regardless of the value of the
11088 procurement:

11089 (i) For the purposes of this paragraph (o), the
11090 term "sole source" means only one (1) source is available that can
11091 provide the required personal or professional service.

11092 (ii) An agency that has been issued a binding,
11093 valid court order mandating that a particular source or provider
11094 must be used for the required service must include a copy of the
11095 applicable court order in all future sole source contract reviews
11096 for the particular personal or professional service referenced in
11097 the court order.

11098 (iii) Any agency alleging to have a sole source
11099 for any personal or professional service, other than those
11100 exempted under paragraph (f) of this subsection (2) and subsection
11101 (8), shall publish on the procurement portal website established
11102 by Sections 25-53-151 and 27-104-165, for at least fourteen (14)
11103 days, the terms of the proposed contract for those services. In
11104 addition, the publication shall include, but is not limited to,
11105 the following information:

11106 1. The personal or professional service
11107 offered in the contract;



11108 2. An explanation of why the personal or
11109 professional service is the only one that can meet the needs of
11110 the agency;

11111 3. An explanation of why the source is the
11112 only person or entity that can provide the required personal or
11113 professional service;

11114 4. An explanation of why the amount to be
11115 expended for the personal or professional service is reasonable;
11116 and

11117 5. The efforts that the agency went through
11118 to obtain the best possible price for the personal or professional
11119 service.

11120 (iv) If any person or entity objects and proposes
11121 that the personal or professional service published under
11122 subparagraph (iii) of this paragraph (o) is not a sole source
11123 service and can be provided by another person or entity, then the
11124 objecting person or entity shall notify the Public Procurement
11125 Review Board and the agency that published the proposed sole
11126 source contract with a detailed explanation of why the personal or
11127 professional service is not a sole source service.

11128 (v) 1. If the agency determines after review that
11129 the personal or professional service in the proposed sole source
11130 contract can be provided by another person or entity, then the
11131 agency must withdraw the sole source contract publication from the
11132 procurement portal website and submit the procurement of the



11133 personal or professional service to an advertised competitive bid
11134 or selection process.

11135 2. If the agency determines after review that
11136 there is only one (1) source for the required personal or
11137 professional service, then the agency may appeal to the Public
11138 Procurement Review Board. The agency has the burden of proving
11139 that the personal or professional service is only provided by one
11140 (1) source.

11141 3. If the Public Procurement Review Board has
11142 any reasonable doubt as to whether the personal or professional
11143 service can only be provided by one (1) source, then the agency
11144 must submit the procurement of the personal or professional
11145 service to an advertised competitive bid or selection process. No
11146 action taken by the Public Procurement Review Board in this appeal
11147 process shall be valid unless approved by a majority of the
11148 members of the Public Procurement Review Board present and voting.

11149 (vi) The Public Procurement Review Board shall
11150 prepare and submit a quarterly report to the House of
11151 Representatives and Senate Accountability, Efficiency and
11152 Transparency Committees that details the sole source contracts
11153 presented to the Public Procurement Review Board and the reasons
11154 that the Public Procurement Review Board approved or rejected each
11155 contract. These quarterly reports shall also include the
11156 documentation and memoranda required in subsection (4) of this
11157 section. An agency that submitted a sole source contract shall be



11158 prepared to explain the sole source contract to each committee by
11159 December 15 of each year upon request by the committee;

11160 (p) Assess any fines and administrative penalties
11161 provided for in Sections 31-7-401 through 31-7-423.

11162 (3) All submissions shall be made sufficiently in advance of
11163 each monthly meeting of the Public Procurement Review Board as
11164 prescribed by the Public Procurement Review Board. If the Public
11165 Procurement Review Board rejects any contract submitted for review
11166 or approval, the Public Procurement Review Board shall clearly set
11167 out the reasons for its action, including, but not limited to, the
11168 policy that the agency has violated in its submitted contract and
11169 any corrective actions that the agency may take to amend the
11170 contract to comply with the rules and regulations of the Public
11171 Procurement Review Board.

11172 (4) All sole source contracts for personal and professional
11173 services awarded by state agencies, other than those exempted
11174 under Section 27-104-7(2) (f) and (8), whether approved by an
11175 agency head or the Public Procurement Review Board, shall contain
11176 in the procurement file a written determination for the approval,
11177 using a request form furnished by the Public Procurement Review
11178 Board. The written determination shall document the basis for the
11179 determination, including any market analysis conducted in order to
11180 ensure that the service required was practicably available from
11181 only one (1) source. A memorandum shall accompany the request
11182 form and address the following four (4) points:



11183 (a) Explanation of why this service is the only service
11184 that can meet the needs of the purchasing agency;

11185 (b) Explanation of why this vendor is the only
11186 practicably available source from which to obtain this service;

11187 (c) Explanation of why the price is considered
11188 reasonable; and

11189 (d) Description of the efforts that were made to
11190 conduct a noncompetitive negotiation to get the best possible
11191 price for the taxpayers.

11192 (5) In conjunction with the State Personnel Board, the
11193 Public Procurement Review Board shall develop and promulgate rules
11194 and regulations to define the allowable legal relationship between
11195 contract employees and the contracting departments, agencies and
11196 institutions of state government under the jurisdiction of the
11197 State Personnel Board, in compliance with the applicable rules and
11198 regulations of the federal Internal Revenue Service (IRS) for
11199 federal employment tax purposes. Under these regulations, the
11200 usual common law rules are applicable to determine and require
11201 that such worker is an independent contractor and not an employee,
11202 requiring evidence of lawful behavioral control, lawful financial
11203 control and lawful relationship of the parties. Any state
11204 department, agency or institution shall only be authorized to
11205 contract for personnel services in compliance with those
11206 regulations.



11207 (6) No member of the Public Procurement Review Board shall
11208 use his or her official authority or influence to coerce, by
11209 threat of discharge from employment, or otherwise, the purchase of
11210 commodities, the contracting for personal or professional
11211 services, or the contracting for public construction under this
11212 chapter.

11213 (7) Notwithstanding any other laws or rules to the contrary,
11214 the provisions of subsection (2) of this section shall not be
11215 applicable to the Mississippi State Port Authority at Gulfport.

11216 (8) Nothing in this section shall impair or limit the
11217 authority of the Board of Trustees of the Public Employees'
11218 Retirement System to enter into any personal or professional
11219 services contracts directly related to their constitutional
11220 obligation to manage the trust funds, including, but not limited
11221 to, actuarial, custodial banks, cash management, investment
11222 consultant and investment management contracts. Nothing in this
11223 section shall impair or limit the authority of the State Treasurer
11224 to enter into any personal or professional services contracts
11225 involving the management of trust funds, including, but not
11226 limited to, actuarial, custodial banks, cash management,
11227 investment consultant and investment management contracts.

11228 (9) Through December 31, 2024, the provisions of this
11229 section related to rental agreements or leasing of real property
11230 for the purpose of conducting agency business shall not apply to
11231 the Office of Workforce Development created in Section 37-153-7.



11232 **SECTION 180.** Section 25-53-191, Mississippi Code of 1972, is
11233 brought forward as follows:

11234 25-53-191. (1) For the purposes of this section, the
11235 following terms shall have the meanings ascribed to them in this
11236 section unless the context otherwise clearly requires:

11237 (a) "Department" means the Mississippi Department of
11238 Information Technology.

11239 (b) "State agency" means any agency, department,
11240 commission, board, bureau, institution or other instrumentality of
11241 the state.

11242 (c) "Wireless communication device" means a cellular
11243 telephone, pager or a personal digital assistant device having
11244 wireless communication capability.

11245 (2) Before a wireless communication device may be assigned,
11246 issued or made available to an agency officer or employee, the
11247 agency head, or his designee, shall sign a statement certifying
11248 the need or reason for issuing the device. No officer or employee
11249 of any state agency, except for an officer or employee of the
11250 Mississippi Emergency Management Agency, shall be assigned or
11251 issued more than one (1) such wireless communication device. No
11252 officer or employee of any state agency to whom has been assigned,
11253 issued or made available the use of a wireless communication
11254 device, the cost of which is paid through the use of public funds,
11255 shall use such device for personal use.



11256 (3) A state agency shall not reimburse any officer or
11257 employee for use of his or her personal wireless communication
11258 device.

11259 (4) Every state agency that, at the expense of the state
11260 agency, assigns, issues or makes available to any of its officers
11261 or employees a wireless communication device shall obtain and
11262 maintain detailed billing for every wireless communication device
11263 account. A list of approved vendors for the procurement of
11264 wireless communication devices and the delivery of wireless
11265 communication device services shall be developed for all state
11266 agencies by the Mississippi Department of Information Technology
11267 Services. The department shall exercise the option of selecting
11268 one (1) vendor from which to procure wireless communication
11269 devices and to provide wireless communication device services, or
11270 if it deems such to be most advantageous to the state agencies, it
11271 may select multiple vendors. The department shall select a vendor
11272 or vendors on the basis of lowest and best bid proposals. A state
11273 agency may not procure a wireless communication device from any
11274 vendor or contract for wireless communication device services with
11275 any vendor unless the vendor appears on the list approved by the
11276 department. A contract entered into in violation of this section
11277 shall be void and unenforceable.

11278 (5) The department shall promulgate a model acceptable use
11279 policy defining the appropriate use of all wireless communication
11280 devices. The department shall include in its definition of



11281 appropriate use a prohibition on the downloading, accessing, or
11282 using of a prohibited technology pursuant to the National Security
11283 on State Devices and Networks Act. The acceptable use policy
11284 should specify that these resources, including both devices and
11285 services, are provided at the state agency's expense as tools for
11286 accomplishing the business missions of the state agency; that all
11287 those resources are for business use; and that more than
11288 incidental personal use of those resources is prohibited. The
11289 acceptable use policy should require that each official and
11290 employee issued one (1) of the above devices or authorized to
11291 access one (1) of the above services sign the policy and that the
11292 signed copy be placed in the personnel file of the official or
11293 employee. The acceptable use policy should also require that the
11294 use of these resources be tracked, verified and signed by the
11295 official or employee and the supervisor of the official or
11296 employee at each billing cycle or other appropriate interval. All
11297 state agencies shall adopt the model policy or adopt a policy that
11298 is, at minimum, as stringent as the model policy and shall provide
11299 a copy of the policy to the department.

11300 (6) All state agencies shall purchase or acquire only the
11301 lowest cost cellular telephone, pager or personal digital
11302 assistance device which will carry out its intended use.

11303 (7) The University of Mississippi Medical Center and its
11304 employees, the Mississippi State University Extension Service and
11305 its agents and faculty members, the Mississippi State University



11306 Agricultural and Forestry Experiment Station and its faculty
11307 members, the Mississippi State University Forestry and Wildlife
11308 Research Center and its faculty members, and the Mississippi State
11309 University College of Veterinary Medicine and its faculty members
11310 shall be exempt from the application of this section.

11311 (8) Employees of State Institutions of Higher Learning shall
11312 be exempt from the provisions of this section when incurring
11313 international usage charges for the business-related use of their
11314 personal wireless communication devices during business-related
11315 international travel. Such exemption shall only apply after a
11316 determination by the employer-institution that reimbursement to
11317 the employee for the use of his or her personal wireless
11318 communication device is the lowest-cost option to prevent business
11319 interruption during such travel.

11320 (9) The State Auditor shall conduct necessary audits to
11321 ensure compliance with the provisions of this section.

11322 **SECTION 181.** Section 65-1-87, Mississippi Code of 1972, is
11323 brought forward as follows:

11324 65-1-87. The Mississippi State Highway Commission is hereby
11325 authorized and empowered to purchase war surplus equipment,
11326 supplies, and materials from the General Services Administration
11327 of the United States of America without the necessity of
11328 advertising for bids for such materials and equipment and
11329 supplies, even though the cost of such materials, equipment, and
11330 supplies exceed the sum of One Thousand Dollars (\$1,000.00),



11331 provided that such equipment, materials, and supplies shall be
11332 purchased for less than the then prevailing market price.

11333 **SECTION 182.** Section 73-13-45, Mississippi Code of 1972, is
11334 brought forward as follows:

11335 73-13-45. (1) (a) Neither the state, nor any of its
11336 political subdivisions, such as a county, city or town, shall
11337 award construction contracts of any public work involving the
11338 practice of engineering or architecture unless the plans,
11339 specifications and estimates have been prepared and such work
11340 supervised by a registered professional engineer or architect;
11341 however, nothing in this subsection shall be held to apply to such
11342 public work in which the expenditure does not exceed One Hundred
11343 Thousand Dollars (\$100,000.00).

11344 (b) The state and any of its political subdivisions,
11345 such as a county, city or town, may engage in construction of
11346 public buildings involving the practice of engineering or
11347 architecture and using political subdivision workforces without
11348 the supervision of a licensed professional engineer or architect,
11349 provided that the total cost of the public building does not
11350 exceed One Hundred Fifty Thousand Dollars (\$150,000.00). This
11351 paragraph (1)(b) shall not supersede any rules and regulations
11352 promulgated by the State Department of Health and the Department
11353 of Environmental Quality.

11354 (2) (a) In the awarding of public contracts for
11355 professional engineering services, preference shall be given to



11356 resident professional engineers over those nonresident
11357 professional engineers domiciled in a state having laws which
11358 grant a preference to the professional engineers who are residents
11359 of that state. Nonresident professional engineers shall be
11360 awarded Mississippi public contracts only on the same basis as the
11361 nonresident professional's state awards contracts to Mississippi
11362 professional engineers under similar circumstances. When a
11363 nonresident professional engineer submits a proposal for a public
11364 project, he shall attach thereto a copy of his resident state's
11365 current statute, resolution, policy, procedure or executive order
11366 pertaining to such state's treatment of nonresident professional
11367 engineers. Resident professional engineers actually domiciled in
11368 Mississippi, be they corporate, individuals or partnerships, shall
11369 be granted preference over nonresidents in the awarding of
11370 contracts in the same manner and to the same extent as provided by
11371 the laws of the state of domicile of the nonresident. As used in
11372 this section, the term "resident professional engineer" includes a
11373 nonresident person, firm or corporation that has been qualified to
11374 do business in this state and has maintained a permanent full-time
11375 office in the State of Mississippi for not less than two (2) years
11376 prior to submitting a proposal for a public project, and the
11377 subsidiaries and affiliates of such a person, firm or corporation.
11378 (b) The provisions of this subsection shall not apply
11379 to any contract for any project upon which federal funds would be



11380 withheld because of the preference requirements of this
11381 subsection.

11382 (c) Any contract, agreement or arrangement for
11383 professional engineering services negotiated, made or entered
11384 into, directly or indirectly, by the state, counties,
11385 municipalities or any political subdivision thereof, or by any
11386 special districts, which is in any way in violation of the
11387 provisions of this subsection is hereby declared to be void as
11388 contrary to the public policy of this state and shall not be given
11389 effect or enforced by any court of this state or by any of its
11390 officers or employees.

11391 (d) Nothing in this subsection shall affect the
11392 validity of any contract in existence prior to July 1, 1989.

11393 (e) For purposes of this section, the term
11394 "professional engineering services" means those within the scope
11395 of the practice of professional engineering as defined by Sections
11396 73-13-1 through 73-13-45, or those performed by any registered
11397 professional engineer in connection with professional employment
11398 or practice.

11399 **SECTION 183.** Section 73-63-55, Mississippi Code of 1972, is
11400 brought forward as follows:

11401 73-63-55. (1) In awarding public contracts for professional
11402 geological services, preference shall be given to resident
11403 registered professional geologists over those nonresident
11404 professional geologists domiciled in a state having laws which



11405 grant a preference to the professional geologists who are
11406 residents of that state. Nonresident registered professional
11407 geologists shall be awarded Mississippi public contracts only on
11408 the same basis as the nonresident professional's state awards
11409 contracts to Mississippi registered professional geologists under
11410 similar circumstances. When a nonresident professional geologist
11411 submits a proposal for a public project, that person shall attach
11412 a copy of the resident state's current statute, resolution,
11413 policy, procedure or executive order pertaining to that state's
11414 treatment of nonresident professional geologists. Resident
11415 registered professional geologists actually domiciled in
11416 Mississippi, be they corporate, individuals or partnerships, shall
11417 be granted preference over nonresidents in the awarding of
11418 contracts in the same manner and to the same extent as provided by
11419 the laws of the state of domicile of the nonresident. As used in
11420 this section, the term "resident registered professional
11421 geologist" includes a nonresident person that has been qualified
11422 to do business in this state and has maintained a permanent
11423 full-time office in the State of Mississippi for not less than two
11424 (2) years prior to submitting a proposal for a public project, and
11425 the subsidiaries and affiliates of that person.

11426 (2) This section shall not apply to any contract for any
11427 project upon which federal funds would be withheld because of the
11428 preference requirements of this subsection.



11429 (3) Any contract, agreement or arrangement for professional
11430 geological services negotiated, made or entered into, directly or
11431 indirectly, by the state, counties, municipalities or any
11432 political subdivision thereof, or by any special districts, which
11433 is in any way in violation of this section, is declared to be void
11434 as contrary to the public policy of this state and shall not be
11435 given effect or enforced by any court of this state or by any of
11436 its officers or employees.

11437 (4) Nothing in this section shall affect the validity of any
11438 contract in existence before July 1, 1997.

11439 (5) For purposes of this section, "professional geological
11440 services" means the practice of geology or those services
11441 performed by any registered professional geologist in connection
11442 with professional employment or practice.

11443 **SECTION 184.** Section 17-17-121, Mississippi Code of 1972, is
11444 brought forward as follows:

11445 17-17-121. Contracts for acquisition, purchase, construction
11446 and/or installation of a project contemplated by Sections
11447 17-17-101 through 17-17-135 shall be effected in the manner
11448 prescribed by law for public contracts; provided, however, that
11449 where (a) the municipality finds and records such finding on its
11450 minutes, that because of availability or particular nature of a
11451 project, it would not be in the public interest or would less
11452 effectively achieve the purposes of Sections 17-17-101 through
11453 17-17-135 to enter into such contracts upon the basis of public



11454 bidding pursuant to advertising, (b) the industry concurs in such
11455 finding, and (c) such finding is approved by the board, public
11456 bidding pursuant to advertisement may be dispensed with and such
11457 contracts may be entered into based upon negotiation; and provided
11458 further, that the industry, at its option, may negotiate such
11459 contracts in the name of the municipality.

11460 **SECTION 185.** Section 25-53-25, Mississippi Code of 1972, is
11461 brought forward as follows:

11462 25-53-25. (1) Nothing in this chapter shall be construed to
11463 imply exemption from the public purchases law, being Section
11464 31-7-1 et seq.

11465 (2) The authority may establish policies and procedures for
11466 the purpose of delegating the bidding and contracting
11467 responsibilities related to the procurement of computer equipment
11468 or services to the purchasing agency. Such policies and
11469 procedures must address the following issues:

11470 (a) Establish categories of equipment or services
11471 affected;

11472 (b) Establish maximum unit and/or ceiling prices of
11473 such procurements;

11474 (c) Establish reporting, monitoring and control of such
11475 procurements; and

11476 (d) Establish other such rules and regulations as
11477 necessary to fully implement the purposes of this section.



11478 Nothing in this subsection shall be construed to imply exemption
11479 from the public purchases law, being Section 31-7-1 et seq.

11480 (3) Acquisitions of computer equipment and services by
11481 institutions of higher learning or junior colleges wholly with
11482 federal funds and not with state general funds shall be exempt
11483 from the provisions of this chapter; however, nothing in this
11484 subsection shall be construed to imply an exemption of such
11485 acquisitions from the public purchases law, being Section 31-7-1
11486 et seq.

11487 (4) [Repealed]

11488 **SECTION 186.** Section 5-3-72, Mississippi Code of 1972, is
11489 brought forward as follows:

11490 5-3-72. The Joint Committee on Performance Evaluation and
11491 Expenditure Review (PEER) shall evaluate on a biennial basis the
11492 procurement process utilized by all state agencies, including, but
11493 not limited to, the contract review, reporting and recordkeeping
11494 requirements in Section 25-9-120, and the bid requirements in
11495 Section 31-7-13. Upon completion of its evaluation, the PEER
11496 Committee shall submit a report to the Legislature with
11497 recommendations for improving the procurement process. The
11498 Department of Finance and Administration and the Personal Service
11499 Contract Review Board shall cooperate with the PEER Committee to
11500 carry out the provisions of this section.

11501 **SECTION 187.** Section 25-53-151, Mississippi Code of 1972, is
11502 brought forward as follows:



11503 25-53-151. (1) There is established in the State Treasury
11504 the "Electronic Government Services Fund," into which shall be
11505 deposited specific funds appropriated by the Legislature for
11506 developing and providing electronic government services within the
11507 State of Mississippi. Any funds in the Electronic Government
11508 Services Fund at the end of a fiscal year shall not lapse into the
11509 State General Fund, but shall be available for expenditure in the
11510 subsequent fiscal year. The funds in the Electronic Government
11511 Fund shall be available for expenditure pursuant to specific
11512 appropriation by the Legislature beginning in fiscal year 2002, to
11513 the Mississippi Department of Information Technology Services.

11514 (2) There is hereby established an Electronic Government
11515 Oversight Committee to oversee the implementation of E-Government
11516 and related technology initiatives. Duties of this committee
11517 would include: (a) prioritize and make recommendations for all
11518 electronic government services, in order to cut across state and
11519 local governmental organizational structures; (b) address policy
11520 issues such as privacy, security, transaction fees and
11521 accessibility; (c) review ongoing fiscal and operational
11522 management and support of portal; (d) provide a mechanism for
11523 gathering input from citizens, businesses and government entities;
11524 (e) encourage self-service models for citizens through state
11525 websites and other electronic services; and (f) promote economic
11526 development and efficient delivery of government services by
11527 encouraging governmental and private sector entities to conduct



11528 their business and transactions using electronic media. The
11529 Electronic Government Oversight Committee shall be composed of the
11530 following: (a) the Executive Director of the Mississippi
11531 Department of Information Technology Services, or his designee;
11532 (b) the State Auditor, or his designee; (c) the State Treasurer,
11533 or his designee; (d) the Secretary of State, or his designee; (e)
11534 the Executive Director of the Department of Finance and
11535 Administration, or his designee; (f) the Commissioner of Public
11536 Safety, or his designee; (g) the Commissioner of Revenue, or his
11537 designee. The committee shall annually elect one (1) member to
11538 serve as chairman and one (1) member to serve as vice chairman,
11539 who shall act as chairman in the absence of the chairman. The
11540 committee shall meet monthly or upon the call of the chairman, and
11541 shall make necessary reports and recommendations to the
11542 Legislature and the appropriate agencies of state government. All
11543 agencies of state government shall cooperate with the committee in
11544 providing requested information, shall work closely with and
11545 provide information to the committee and shall report to the
11546 committee at its request. The Mississippi Department of
11547 Information Technology Services shall provide administrative
11548 support for the committee. Nonlegislative members of the
11549 committee shall serve without compensation.

11550 (3) The Electronic Government Oversight Committee shall
11551 advise and provide direction to the Department of Finance and
11552 Administration to develop a procurement portal that will enable



11553 potential vendors of goods and services to access relevant and
11554 necessary information related to the sale of the following types
11555 of goods and services to the State of Mississippi and its
11556 agencies:

11557 (a) Commodities, as defined by Section 31-7-1;

11558 (b) Contract personnel, as defined by Sections 25-9-107
11559 and 25-9-120; and

11560 (c) Computer equipment and services, as defined by
11561 Section 25-53-3.

11562 (4) The procurement portal provided for in subsection (3)
11563 must provide potential vendors with the following:

11564 (a) A searchable database of business procurement
11565 opportunities with the state which includes a breakdown by product
11566 or service and by the organization seeking the product or service;

11567 (b) Listings of the published date and closing date for
11568 each business procurement opportunity;

11569 (c) A "Frequently Asked Questions" section regarding
11570 doing business with the respective agencies;

11571 (d) A breakdown of "Frequently Asked Questions"
11572 regarding the selection process with the respective agencies;

11573 (e) An open-air forum for questions and answers
11574 relating to the procurement process, in general, as well as
11575 specifically relating to a single contract; and



11576 (f) Links to individual agency websites and contacts to
11577 enable potential vendors to obtain more specific information, if
11578 necessary.

11579 (5) The procurement portal must be linked to the
11580 Transparency Mississippi website established in accordance with
11581 Sections 27-104-151 through 27-104-163. The Mississippi
11582 Department of Information Technology Services shall develop and
11583 maintain a link to the procurement portal from the state website.

11584 From and after July 1, 2018, the expenses of this agency
11585 shall be defrayed by appropriation from the State General Fund.
11586 In addition, in order to receive the maximum use and benefit from
11587 information technology and services, expenses for the provision of
11588 statewide shared services that facilitate cost-effective
11589 information processing and telecommunication solutions shall be
11590 defrayed by pass-through funding and shall be deposited into the
11591 Mississippi Department of Information Technology Services
11592 Revolving Fund unless otherwise specified by the Legislature.
11593 These funds shall only be utilized to pay the actual costs
11594 incurred by the Mississippi Department of Information Technology
11595 Services for providing these shared services to state agencies.
11596 Furthermore, state agencies shall work in full cooperation with
11597 the Board of the Mississippi Department of Information Technology
11598 Services (MDITS) to identify computer equipment or services to
11599 minimize duplication, reduce costs, and improve the efficiency of
11600 providing common technology services across agency boundaries.



11601 **SECTION 188.** Section 25-53-3, Mississippi Code of 1972, is
11602 brought forward as follows:

11603 25-53-3. (1) Whenever the term "Central Data Processing
11604 Authority" or the term "authority," when referring to the Central
11605 Data Processing Authority, is used in any law, rule, regulation,
11606 document or elsewhere, it shall be construed to mean the
11607 Mississippi Department of Information Technology Services.

11608 (2) For the purposes of this chapter the following terms
11609 shall have the meanings ascribed in this section unless the
11610 context otherwise requires:

11611 (a) "Central Data Processing Authority" and "CDPA" mean
11612 "Mississippi Department of Information Technology Services
11613 (MDITS)" and the term "authority" means "board of the MDITS."

11614 (b) "Bureau of Systems Policy and Planning," "Bureau of
11615 Telecommunications," "Bureau of Central Data Processing" and
11616 "bureau" mean "Mississippi Department of Information Technology
11617 Services."

11618 (c) "Computer equipment or services" means any
11619 information technology, computer or computer related
11620 telecommunications equipment, electronic word processing and
11621 office systems, or services utilized in connection therewith,
11622 including, but not limited to, all phases of computer software and
11623 consulting services, and insurance on all state-owned computer
11624 equipment.



11625 (d) "Acquisition" of computer or telecommunications
11626 equipment or services means the purchase, lease, rental, or
11627 acquisition in any other manner of any such computer or
11628 telecommunications equipment or services.

11629 (e) "Agency" means and includes all the various state
11630 agencies, officers, departments, boards, commissions, offices and
11631 institutions of the state.

11632 (f) "Governing authority" means boards of supervisors,
11633 governing boards of all school districts, all boards of directors
11634 of public water supply districts, boards of directors of master
11635 public water supply districts, municipal public utility
11636 commissions, governing authorities of all municipalities, port
11637 authorities, commissioners and boards of trustees of any public
11638 hospitals and any political subdivision of the state supported,
11639 wholly or in part, by public funds of the state or political
11640 subdivisions thereof.

11641 (g) "Bid" means any of the valid source selection
11642 techniques and competitive procurement methods appropriate to
11643 information technology procurement in the public sector,
11644 including, but not limited to, competitive sealed bidding,
11645 competitive sealed proposals, simplified small purchase
11646 procedures, sole source procurements, and emergency procurements.

11647 (h) "Telecommunications transmission facility" means
11648 any transmission medium, switch, instrument, inside wiring system



11649 or other facility which is used, in whole or part, to provide any
11650 transmission.

11651 (i) "Equipment support contract" means a contract which
11652 covers a single, specific class or classes of telecommunications
11653 equipment or service and all features associated with that class,
11654 through which state agencies may purchase or lease the item of
11655 equipment or service specified by issuing a purchase order under
11656 the terms of the contract without the necessity of further
11657 competitive bidding.

11658 (j) "Inside wiring system" means any wiring which:

11659 (i) Directly or indirectly, interconnects any
11660 terminal equipment with any other terminal equipment or with any
11661 regulated facility or common carrier services; and

11662 (ii) Is located at the premises of the customer
11663 and is not inside any terminal equipment.

11664 (k) "Procurement" means the selling, buying,
11665 purchasing, renting, leasing or otherwise obtaining
11666 telecommunications equipment, system or related services, as well
11667 as activities engaged in, resulting in or expected to result in
11668 selling, buying, purchasing, renting, leasing or otherwise
11669 obtaining telecommunications equipment.

11670 (l) "Telecommunications equipment, systems, related
11671 services" are limited to the equipment and means to provide:

11672 (i) Telecommunications transmission facilities.



11673 (ii) Telephone systems, including voice processing
11674 systems.
11675 (iii) Facsimile systems.
11676 (iv) Radio paging services.
11677 (v) Mobile telephone services, including cellular
11678 mobile telephone service.
11679 (vi) Intercom and paging systems.
11680 (vii) Video teleconferencing systems.
11681 (viii) Personal communications networks and
11682 services.
11683 (ix) Any and all systems based on emerging and
11684 future telecommunications technologies relative to (i) through
11685 (viii) above.
11686 (m) "Telecommunications system lease contract" means a
11687 contract between a supplier of telecommunications systems,
11688 including equipment and related services, and the Mississippi
11689 Department of Information Technology Services through which
11690 telecommunications systems, including equipment and related
11691 services, may be leased for a term which shall not exceed sixty
11692 (60) months for a system lease valued less than One Million
11693 Dollars (\$1,000,000.00) and shall not exceed one hundred twenty
11694 (120) months for a system lease valued One Million Dollars
11695 (\$1,000,000.00) or more.
11696 (n) "Tariffed or regulated service" means
11697 telecommunications service offered by common carriers and subject



11698 to control by the Mississippi Public Service Commission or the
11699 Federal Communications Commission.

11700 (o) "State Data Center" means one or more facilities
11701 operated by the Mississippi Department of Information Technology
11702 Services to provide information technology resources requiring
11703 enterprise computing resources or any other centrally managed
11704 information resources.

11705 **SECTION 189.** Section 27-115-69, Mississippi Code of 1972, is
11706 brought forward as follows:

11707 27-115-69. (1) The corporation may purchase, lease or
11708 lease-purchase such goods or services as are necessary for
11709 effectuating the purposes of this chapter. The corporation shall
11710 not contract with any person or entity for the total operation and
11711 administration of the lottery, but it may make procurements which
11712 integrate such functions as lottery game design, lottery ticket
11713 distribution to retailers, supply of goods and services and
11714 advertising. In all procurement decisions, the corporation shall
11715 take into account the particularly sensitive nature of the lottery
11716 and shall act to promote and ensure security, honesty, fairness
11717 and integrity in the operation and administration of the lottery
11718 and the objectives of raising net proceeds for the benefit of the
11719 public.

11720 (2) The corporation shall investigate the financial
11721 responsibility, security and integrity of any lottery system
11722 vendor who submits a bid, proposal or offer. At the time of



11723 submitting such bid, proposal or offer to the corporation, the
11724 corporation shall require the following items:

11725 (a) A disclosure of the vendor's name and address and,
11726 as applicable, the name and address of the following:

11727 (i) If the vendor is a corporation, the officers,
11728 directors and each stockholder in such corporation; however, in
11729 the case of owners of equity securities of a publicly traded
11730 corporation, only the names and addresses of those known to the
11731 corporation to own five percent (5%) or more of such securities
11732 need be disclosed.

11733 (ii) If the vendor is a trust, the trustee and all
11734 persons entitled to receive income or benefits from the trust.

11735 (iii) If the vendor is an association, the
11736 members, officers and directors.

11737 (iv) If the vendor is a partnership or joint
11738 venture, all of the general partners, limited partners, or joint
11739 venturers.

11740 (b) A disclosure of all the states and jurisdictions in
11741 which the vendor does business, and the nature of the business for
11742 each such state or jurisdiction.

11743 (c) A disclosure of all the states and jurisdictions in
11744 which the vendor has contracts to supply gaming goods or services,
11745 including, but not limited to, lottery goods and services, and the
11746 nature of the goods or services involved for each such state or
11747 jurisdiction.



11748 (d) A disclosure of all the states and jurisdictions in
11749 which the vendor has applied for, has sought renewal of, has
11750 received, has been denied, has pending, or has had revoked a
11751 gaming license of any kind, or had fines or penalties assessed on
11752 their license, contract, or operation, and the disposition of such
11753 in each such state or jurisdiction. If any lottery license or
11754 contract has been revoked or has not been renewed or any lottery
11755 license or application has remained pending for more than six (6)
11756 months, then it shall be disclosed.

11757 (e) A disclosure of the details of any finding of a
11758 plea, conviction or adjudication for guilt, in a state or federal
11759 court, of the vendor for any felony or any other criminal offense
11760 other than a traffic violation.

11761 (f) A disclosure of the details of any bankruptcy,
11762 insolvency, reorganization, corporate or individual purchase or
11763 takeover of another corporation, including bonded indebtedness, or
11764 any pending litigation of the vendor.

11765 (g) Such additional disclosures and information as the
11766 corporation may determine to be appropriate for the procurement
11767 involved. If the vendor subcontracts any substantial portion of
11768 the work to be performed under the contract to a subcontractor,
11769 the vendor shall disclose all of the information required by this
11770 subsection for the subcontractor as if the subcontractor were
11771 itself a vendor.



11772 (3) In no case shall the corporation enter into a contract
11773 for a procurement of any video lottery or video lottery terminal
11774 or any other illegal lottery device, and shall only enter into a
11775 contract for a procurement for any lottery system with a vendor
11776 who has complied with the disclosures required by the corporation
11777 and described in subsection (2) of this section, and any contract
11778 with such a vendor is void and unenforceable. Any contract with a
11779 vendor who does not comply with such requirements for periodically
11780 updating such disclosures during the tenure of a contract as may
11781 be specified in such contract is voidable and may be terminated by
11782 the corporation. The provisions of this section shall be
11783 construed broadly and liberally to achieve the ends of full
11784 disclosure of all information necessary to allow for a full and
11785 complete evaluation by the corporation of the competence,
11786 integrity, background and character of vendors.

11787 (4) (a) A contract shall not be entered into with any
11788 vendor who has been found guilty of a felony related to the
11789 security or integrity of the lottery in this or any other
11790 jurisdiction or with any vendor who is found to be in possession
11791 of any illegal lottery device.

11792 (b) A contract shall not be entered into with any
11793 vendor who has not first obtained a signed tax clearance from the
11794 Commissioner of Revenue indicating that the vendor is current in
11795 filing all applicable tax returns and in payment of all taxes,



11796 interest and penalties owed to the State of Mississippi, excluding
11797 items under formal appeal pursuant to applicable statutes.

11798 (5) The corporation may require that each vendor shall, at
11799 the execution of the contract with the corporation, post a
11800 performance bond or letter of credit from a bank acceptable to the
11801 corporation, in an amount established by the corporation subject
11802 to the provisions of Section 27-115-61. In lieu of the bond, a
11803 vendor may, to assure the faithful performance of its obligations,
11804 deposit and maintain with the corporation securities that are
11805 interest-bearing or accruing and that are rated in one (1) of the
11806 three (3) highest classifications by an established nationally
11807 recognized investment rating service. Securities eligible under
11808 this subsection are limited to:

11809 (a) Certificates of deposit issued by solvent banks or
11810 savings associations approved by the corporation and which are
11811 organized and existing under the laws of this state or under the
11812 laws of the United States.

11813 (b) United States bonds, notes, and bills for which the
11814 full faith and credit of the government of the United States is
11815 pledged for the payment of principal and interest.

11816 (c) Corporate bonds approved by the corporation. The
11817 corporation which issued the bonds shall not be an affiliate or
11818 subsidiary of the depositor. Such securities shall be held in
11819 trust.



11820 (6) Every contract entered into by the corporation pursuant
11821 to this section shall contain a provision for payment of
11822 liquidated damages to the corporation for any breach of contract
11823 by the vendor.

11824 (7) Each vendor shall be qualified to do business in this
11825 state and shall file appropriate tax returns as provided by the
11826 laws of this state. All contracts under this section shall be
11827 governed by the laws of this state.

11828 **SECTION 190.** Section 29-5-2, Mississippi Code of 1972, is
11829 brought forward as follows:

11830 29-5-2. The duties of the Department of Finance and
11831 Administration shall be as follows:

11832 (a) (i) To exercise general supervision and care over
11833 and keep in good condition the following state property located in
11834 the City of Jackson: the New State Capitol Building, the Woolfolk
11835 State Office Building and Parking Garage, the Carroll Gartin
11836 Justice Building, the Walter Sillers Office Building and Parking
11837 Garage, the War Veterans' Memorial Building, the Charlotte Capers
11838 Building, the William F. Winter Archives and History Building, the
11839 Mississippi Museum Complex, the Gulf, Mobile and Ohio Train Depot
11840 (GM&O Depot), the Old State Capitol Building, the Governor's
11841 Mansion, the Heber Ladner Building, the Robert E. Lee Office
11842 Building, the Robert E. Lee Parking Garage, the former Naval
11843 Reserve Center, 515 East Amite Street, 620 North Street, 660 North
11844 Street, 700 North State Street, 350 High Street, 401 North Lamar



11845 Street, 455 North Lamar Street, the State Records Center, the
11846 Robert G. Clark, Jr. Building, the Mississippi State Fairgrounds
11847 Complex, the former Central High Building, the Mississippi
11848 Workers' Compensation Commission Office Building, as well as all
11849 state-owned or leased buildings situated on seat of government
11850 property.

11851 (ii) To exercise general supervision and care over
11852 and keep in good condition the Dr. Eldon Langston Bolton Building
11853 located in Biloxi, Mississippi.

11854 (iii) To exercise general supervision and care
11855 over and keep in good condition the State Service Center, located
11856 at the intersection of U.S. Highway 49 and John Merl Tatum
11857 Industrial Drive in Hattiesburg, Mississippi.

11858 (iv) To exercise general supervision and care over
11859 and keep in good condition any property purchased, constructed or
11860 otherwise acquired by the State of Mississippi for conducting
11861 state business and not specifically under the supervision and care
11862 by any other state entity, but which is reasonably assumed the
11863 department would be responsible for such, as approved by the
11864 Public Procurement Review Board, including, but not limited to:

- 11865 1. The National Aeronautics and Space
11866 Administration (NASA) Shared Services Center and Lockheed Martin
11867 Building at Stennis Space Center;
- 11868 2. The Mississippi Sports Hall of Fame;
- 11869 3. The Mississippi Crafts Center;



- 11870 4. The Mississippi Children's Museum; and
11871 5. The Mississippi Arts and Entertainment
11872 Center.

11873 (b) To assign suitable office space for the various
11874 state departments, officers and employees who are provided with an
11875 office in any of the buildings under the jurisdiction or control
11876 of the Department of Finance and Administration. However, the
11877 assignment of space in the New Capitol Building shall be
11878 designated by duly passed resolution of the combined Senate Rules
11879 Committee and the House Management Committee, meeting as a joint
11880 committee, approved by the Lieutenant Governor and Speaker of the
11881 House of Representatives. A majority vote of the members of the
11882 Senate Rules Committee and a majority vote of the members of the
11883 House Management Committee shall be required on all actions taken,
11884 resolutions or reports adopted, and all other matters considered
11885 by the full combined committee on occasions when the Senate Rules
11886 Committee and the House Management Committee shall meet as a full
11887 combined committee.

11888 (c) To approve or disapprove with the concurrence of
11889 the Public Procurement Review Board, any lease or rental
11890 agreements by any state agency or department, including any state
11891 agency financed entirely by federal and special funds, for space
11892 outside the buildings under the jurisdiction of the Department of
11893 Finance and Administration, including space necessary for parking
11894 to be used by state employees who work in the Woolfolk Building,



11895 the Carroll Gartin Justice Building or the Walter Sillers Office
11896 Building. In no event shall any employee, officer, department,
11897 federally funded agency or bureau of the state be authorized to
11898 enter into a lease or rental agreement without prior approval of
11899 the Department of Finance and Administration and the Public
11900 Procurement Review Board.

11901 The Department of Finance and Administration is authorized to
11902 use architects, engineers, building inspectors and other personnel
11903 for the purpose of making inspections as may be deemed necessary
11904 in carrying out its duties and maintaining the facilities.

11905 This section is not intended to apply to locations for which
11906 the Department of Finance and Administration has decided to
11907 solicit proposals in accordance with subsection (e) of this
11908 section.

11909 (d) To acquire by lease, lease-purchase agreement, or
11910 otherwise, as provided in Section 27-104-107, and to assign
11911 through the Office of General Services, by lease or sublease
11912 agreement from the office, and with the concurrence of the Public
11913 Procurement Review Board, to any state agency or department,
11914 including any state agency financed entirely by federal and
11915 special funds, appropriate office space in the buildings acquired.

11916 (e) To solicit and approve or disapprove,
11917 notwithstanding any rule of law to the contrary, and with the
11918 concurrence of the Public Procurement Review Board, any lease, use
11919 or rental agreement for a charge or other consideration for space



11920 not exceeding three thousand (3,000) square feet in any individual
11921 building listed in subsection (a) of this section, with a private
11922 entry who will provide food and/or catering services for state
11923 employees, visitors and the general public.

11924 The department shall select the entity using a competitive
11925 process which shall be publicly advertised. In addition to
11926 satisfying any other requirements for the Public Procurement
11927 Review Board's approval, the department must demonstrate that any
11928 agreement entered into under this section will neither result in a
11929 net cost to the state, nor impair or impede the function of state
11930 agencies at such location.

11931 **SECTION 191.** Section 25-53-21, Mississippi Code of 1972, is
11932 brought forward as follows:

11933 25-53-21. The executive director shall have the following
11934 duties, responsibilities and authority:

11935 (a) He shall conduct continuing studies of all
11936 information technology activities carried out by all agencies of
11937 the state and shall develop a long-range plan for the efficient
11938 and economical performance of such activities in state government.
11939 Such plan shall be submitted to the authority for its approval
11940 and, having been approved by the authority, shall be implemented
11941 by the executive director and all state agencies. Such plan shall
11942 be continuously reviewed and modifications thereof shall be
11943 proposed to the authority by the executive director as
11944 developments in information technology techniques and changes in



11945 the structure, activities, and functions of state government may
11946 require.

11947 (b) He shall review the purchasing practices of all
11948 state agencies in the area of the purchasing of supplies for
11949 information technology and make recommendations to the authority
11950 and to the Public Procurement Review Board for the institution of
11951 purchasing procedures which will ensure the most economical
11952 procurement of such supplies commensurate with the efficient
11953 operation of all departments and agencies of state government.

11954 (c) He shall see that all reports required of all
11955 agencies are promptly and accurately made in accordance with the
11956 rules and regulations adopted by the authority. Either in person
11957 or through his authorized agents, he shall make such inspections
11958 of information technology operations being conducted by any of the
11959 agencies of the state as may be necessary for the performance of
11960 his duties.

11961 (d) He shall suggest and cause to be brought about
11962 cooperation between the several state agencies in order to provide
11963 efficiency in information technology operation. He shall,
11964 together with the heads of the agencies involved, reduce to
11965 writing and execute cooperative plans for the acquisition and
11966 operation of information technology equipment, and any such plan
11967 so adopted shall be carried out in accordance with the provisions
11968 of such plan unless the same shall be amended by the joint action
11969 of the executive director and the heads of agencies involved. The



11970 executive director shall report to the authority the details of
11971 any plan so adopted and all amendments or modifications thereof,
11972 and shall otherwise report to the authority and to the Public
11973 Procurement Review Board any failure on the part of any agency to
11974 carry out the provisions of such plan. In the event the head of
11975 any agency involved or the executive director shall propose
11976 amendments to a plan so adopted and such amendment is disapproved
11977 by the head of another agency involved or the executive director,
11978 an appeal may be taken to the authority which may, after full
11979 consideration thereof, order the adoption of the proposed
11980 amendment or any modification thereof. The executive director
11981 shall make decisions on all questions of the division of the cost
11982 of information technology operations among the several agencies,
11983 but his findings shall be subject to the approval or modification
11984 by the authority on appeal to it.

11985 (e) He shall review all contracts for acquisition of
11986 computer and/or telecommunications equipment or services now or
11987 hereafter in force and may require the renegotiation, termination,
11988 amendment or execution of any such contracts in proper form and in
11989 accordance with the policies and rules and regulations and subject
11990 to the direction of the authority. In the negotiation and
11991 execution of such contracts, the executive director may negotiate
11992 a limitation on the liability to the state of prospective
11993 contractors provided such limitation affords the state reasonable



11994 protection and the limitation is approved by the state entity for
11995 whom the acquisition is being made.

11996 (f) He shall act as the purchasing and contracting
11997 agent for the State of Mississippi in the negotiation and
11998 execution of all contracts for the acquisition of computer
11999 equipment or services. He shall receive, review, and promptly
12000 approve or disapprove all requests of agencies of the state for
12001 the acquisition of computer equipment or services, which are
12002 submitted in accordance with rules and regulations of the
12003 authority. In the event that any such request is disapproved, he
12004 shall immediately notify the requesting agency and the members of
12005 the authority in writing of such disapproval, stating his reasons
12006 therefor. The disapproval of any request by the executive
12007 director of the authority may be appealed to the authority or to
12008 the Public Procurement Review Board, respectively, in such manner
12009 as may be authorized by such reasonable rules and regulations
12010 hereby authorized to be adopted by the authority and by the Public
12011 Procurement Review Board to govern the same. The executive
12012 director shall report the approval of all such requests to the
12013 authority in such manner as may be directed by the authority, and
12014 shall execute any such contracts only after complying with rules
12015 and regulations which may be adopted by the authority in relation
12016 thereto. Any contracts for personal or professional services
12017 entered into by the executive director shall be exempted from the



12018 requirements of Section 25-9-120(3) relating to submission of such
12019 contract to the State Personal Service Contract Review Board.

12020 (g) He shall suggest and cause to be brought about
12021 cooperation between the several state agencies, departments and
12022 institutions in order that work may be done by one agency for
12023 another agency, and equipment in one agency may be made available
12024 to another agency, and suggest and cause to be brought about such
12025 improvements as may be necessary in joint or cooperative
12026 information technology operations.

12027 (h) He shall be designated as the "Chief Information
12028 Confidentiality Officer" after being duly sworn to the oath of
12029 this office by the chairman of the authority and shall be
12030 responsible for administering the oath to other qualified officers
12031 he may designate.

12032 (i) He shall appoint employees of the Mississippi
12033 Department of Information Technology Services, or at his
12034 discretion, employees of other state agencies and institutions
12035 that are responsible for handling or processing data for any
12036 agency or institution other than that for which they are employed,
12037 to a position of information custodial care that shall be known as
12038 "Information Confidentiality Officer." The selection and swearing
12039 of all officers shall be reported to the authority at the next
12040 regular meeting and names, affirmation dates and employment dates
12041 shall be recorded in the permanent minutes of the authority.



12042 **SECTION 192.** Section 57-69-3, Mississippi Code of 1972, is
12043 brought forward as follows:

12044 57-69-3. Unless the context requires otherwise, the
12045 following words shall have the following meanings for the purposes
12046 of this chapter:

12047 (a) "Class of contract basis" means an entire group of
12048 contracts having a common characteristic.

12049 (b) "Commercially useful function" means being
12050 responsible for execution of a contract or a distinct element of
12051 the work under a contract by actually performing, managing, and
12052 supervising the work involved.

12053 (c) "Contract" means all types of state agreements,
12054 regardless of what they may be called, for the purchase of
12055 supplies or services or for construction or major repairs.
12056 "Contract" includes the following:

12057 (i) Awards and notices of award.

12058 (ii) Contracts of a fixed price, cost,
12059 cost-plus-a-fixed-fee, or incentive types.

12060 (iii) Contracts providing for the issuance of job
12061 or task orders.

12062 (iv) Leases.

12063 (v) Letter contracts.

12064 (vi) Purchase orders.

12065 (vii) Any supplemental agreements with respect to
12066 (i) through (vi) of this paragraph.



12067 (d) "Contracting base" means the dollar amount of
12068 contracts for public works and procurement of goods and services
12069 awarded by a state agency or a state educational institution
12070 during a fiscal year.

12071 (e) "Contract by contract basis" means a single
12072 contract within a specific class of contracts.

12073 (f) "Contractor" means a party who enters into a
12074 contract to provide a state or educational institution with goods
12075 or services, including construction, or a subcontractor or
12076 sublessee of such a party.

12077 (g) "Director" means the Executive Director of the
12078 Office of Minority Business Enterprises of the Mississippi
12079 Development Authority.

12080 (h) "Educational institutions" means the state
12081 universities, vocational institutions, and any other
12082 state-supported educational institutions.

12083 (i) "Joint venture" means an association of two (2) or
12084 more persons or businesses to carry out a single business
12085 enterprise for profit for which purpose they combine their
12086 property, capital, efforts, skills, and knowledge, and in which
12087 they exercise control and share in profits and losses in
12088 proportion to their contribution to the enterprise.

12089 (j) "Minority" means a person who is a citizen or
12090 lawful permanent resident of the United States and who is:



12091 (i) Black: having origins in any of the black
12092 racial groups of Africa.

12093 (ii) Hispanic: of Mexican, Puerto Rican, Cuban,
12094 Central or South American, or other Spanish or Portuguese culture
12095 or origin regardless of race.

12096 (iii) Asian American: having origins in any of
12097 the original peoples of the Far East, Southeast Asia, the Indian
12098 subcontinent, or the Pacific Islands.

12099 (iv) American Indian or Alaskan Native: having
12100 origins in any of the original peoples of North America.

12101 (v) Female.

12102 (k) "Minority business enterprise" or "minority owned
12103 business" means a socially and economically disadvantaged small
12104 business concern organized for profit performing a commercially
12105 useful function which is owned and controlled by one or more
12106 individuals or minority business enterprises certified by the
12107 office, at least seventy-five percent (75%) of whom are resident
12108 citizens of the State of Mississippi. For purposes of this
12109 paragraph, the term "socially and economically disadvantaged small
12110 business concern" shall have the meaning ascribed to such term
12111 under the Small Business Act (15 USCS, Section 637(a)). Owned and
12112 controlled means a business in which one or more minorities or
12113 minority business enterprises certified by the office own at least
12114 fifty-one percent (51%) or in the case of a corporation at least
12115 fifty-one percent (51%) of the voting stock and control at least



12116 fifty-one percent (51%) of the management and daily business
12117 operations of the business. The term "minority business
12118 enterprise" does not include any medical cannabis establishment as
12119 defined in the Mississippi Medical Cannabis Act.

12120 (l) "Minority business enterprise supplier" means a
12121 socially and economically disadvantaged small business concern
12122 which is owned and controlled by one or more individuals, at least
12123 seventy-five percent (75%) of whom are resident citizens of the
12124 State of Mississippi. For purposes of this paragraph, the term
12125 "socially and economically disadvantaged small business concern"
12126 shall have the meaning ascribed to such term under the Small
12127 Business Act (15 USCS, Section 637(a)) except that the net worth
12128 of the business may not be greater than Seven Hundred Fifty
12129 Thousand Dollars (\$750,000.00). Owned and controlled means a
12130 business in which one or more minorities own at least fifty-one
12131 percent (51%) or in the case of a corporation at least fifty-one
12132 percent (51%) of the voting stock and control at least fifty-one
12133 percent (51%) of the management and daily business operations of
12134 the business. The term "minority business enterprise supplier"
12135 does not include any medical cannabis establishment as defined in
12136 the Mississippi Medical Cannabis Act.

12137 (m) "Office" means the Office of Minority Business
12138 Enterprises of the Mississippi Development Authority.

12139 (n) "Procurement" means the purchase, lease, or rental
12140 of any goods or services.



12141 (o) "Commodities" means the various items described in
12142 Section 31-7-1(e).

12143 (p) "Professional services" means all personal service
12144 contracts utilized by state agencies and institutions.

12145 (q) "Small business" means a small business as defined
12146 by the Small Business Administration of the United States
12147 government which for purposes of size eligibility or other factors
12148 meets the applicable criteria set forth in Part 121 of Title 13 of
12149 the Code of Federal Regulations as amended, and which has its
12150 principal place of business in Mississippi.

12151 (r) "State agency" includes the State of Mississippi
12152 and all agencies, departments, offices, divisions, boards,
12153 commissions, and correctional and other types of institutions.
12154 "State agency" does not include the Mississippi Department of
12155 Transportation nor the judicial or legislative branches of
12156 government except to the extent that procurement or public works
12157 for these branches is performed by a state agency.

12158 **SECTION 193.** Section 27-104-103, Mississippi Code of 1972,
12159 is brought forward as follows:

12160 27-104-103. (1) The Department of Finance and
12161 Administration shall have the following duties and powers:

12162 (a) To provide administrative guidance to the various
12163 departments and agencies of state government;

12164 (b) To facilitate the expedient delivery of services
12165 and programs for the benefit of the citizens of the state;



12166 (c) To analyze and develop efficient management
12167 practices and assist departments and agencies in implementing
12168 effective and efficient work management systems;

12169 (d) To conduct management review of state agencies and
12170 departments and recommend a management plan to state departments
12171 and agencies when corrective action is required;

12172 (e) To, at least annually, report to the Governor and
12173 the Legislature on programs and actions taken to improve the
12174 conduct of state operations and to prepare and recommend
12175 management programs for effective and efficient management of the
12176 operations of state government;

12177 (f) To allocate the federal-state programs funds to the
12178 departments responsible for the delivery of the programs and
12179 services for which the appropriation was made;

12180 (g) To coordinate the planning functions of all
12181 agencies in the executive branch of government and review any and
12182 all plans which are developed by those agencies and departments;

12183 (h) To collect and maintain the necessary data on which
12184 to base budget and policy development issues;

12185 (i) To develop and analyze policy recommendations to
12186 the Governor;

12187 (j) To develop and manage the executive budget process;

12188 (k) To prepare the executive branch budget
12189 recommendations;



12190 (l) To review and monitor the expenditures of the
12191 executive agencies and departments of government;

12192 (m) To manage the state's fiscal affairs;

12193 (n) To administer programs relating to general
12194 services, public procurement, insurance and the Bond Advisory
12195 Division;

12196 (o) To administer the state's aircraft operation.

12197 (2) The department shall have the following additional
12198 powers and duties under Chapter 18 of Title 17:

12199 (a) It shall acquire the site submitted by the
12200 Mississippi Hazardous Waste Facility Siting Authority and, if
12201 determined necessary, design, finance, construct and operate a
12202 state commercial hazardous waste management facility;

12203 (b) It may acquire by deed, purchase, lease, contract,
12204 gift, devise or otherwise any real or personal property,
12205 structures, rights-of-way, franchises, easements and other
12206 interest in land which is necessary and convenient for the
12207 construction or operation of the state commercial hazardous waste
12208 management facility, upon such terms and conditions as it deems
12209 advisable, hold, mortgage, pledge or otherwise encumber the same,
12210 and lease, sell, convey or otherwise dispose of the same in such a
12211 manner as may be necessary or advisable to carry out the purposes
12212 of Chapter 18 of Title 17;

12213 (c) It shall develop and implement, in consultation
12214 with the Department of Environmental Quality, schedules of user



12215 fees, franchise fees and other charges, including nonregulatory
12216 penalties and surcharges applicable to the state commercial
12217 hazardous waste management facility;

12218 (d) It may employ consultants and contractors to
12219 provide services including site acquisition, design, construction,
12220 operation, closure, post-closure and perpetual care of the state
12221 commercial hazardous waste management facility;

12222 (e) It may apply for and accept loans, grants and gifts
12223 from any federal or state agency or any political subdivision or
12224 any private or public organization;

12225 (f) It shall make plans, surveys, studies and
12226 investigations as may be necessary or desirable with respect to
12227 the acquisition, development and use of real property and the
12228 design, construction, operation, closure and long-term care of the
12229 state commercial hazardous waste management facility;

12230 (g) It shall have the authority to preempt any local
12231 ordinance or restriction which prohibits or has the effect of
12232 prohibiting the establishment or operation of the state commercial
12233 hazardous waste management facility;

12234 (h) It may negotiate any agreement for site
12235 acquisition, design, construction, operation, closure,
12236 post-closure and perpetual care of the state commercial hazardous
12237 waste management facility and may negotiate any agreement with any
12238 local governmental unit pursuant to Chapter 18 of Title 17;



12239 (i) It may promulgate rules and regulations necessary
12240 to effectuate the purposes of Chapter 18 of Title 17 not
12241 inconsistent therewith;

12242 (j) If funds are not appropriated or if the
12243 appropriated funds are insufficient to carry out the provisions of
12244 Chapter 18 of Title 17, the department shall expend any funds
12245 available to it from any source to defray its costs to implement
12246 Chapter 18 of Title 17 through February 1, 1991;

12247 (k) To carry out such duties and responsibilities
12248 assigned to it by the Public Procurement Review Board as provided
12249 in Section 27-104-7(2)(f);

12250 (l) To establish, with the approval of the Public
12251 Procurement Review Board, rules and regulations that prohibit
12252 agencies from requiring that a vendor be located in the same
12253 municipality or surrounding area as the agency. Such rules and
12254 regulations shall further prohibit agencies from giving preference
12255 to any vendor based on location. Such rules and regulations shall
12256 provide that a winning bidder without a local office shall be
12257 given a reasonable opportunity to open an office in Mississippi
12258 when such local office is necessary to deliver the relevant
12259 services.

12260 The provisions of this paragraph (l) shall stand repealed on
12261 June 30, 2027.

12262 (3) From and after July 1, 2016, the expenses of the
12263 Department of Finance and Administration shall be defrayed by



12264 appropriation from the State General Fund and all user charges and
12265 fees authorized under law such as rents, MAGIC fees, and other
12266 fees for services shall be deposited into the State General Fund
12267 as authorized by law.

12268 (4) From and after July 1, 2016, the Department of Finance
12269 and Administration shall not charge another state agency a fee,
12270 assessment, rent or other charge for services or resources
12271 received by that state agency from the department.

12272 **SECTION 194.** Section 77-3-42, Mississippi Code of 1972, is
12273 brought forward as follows:

12274 77-3-42. (1) (a) No public utility, the rates of which are
12275 subject to regulation under the provisions of this chapter, shall
12276 increase its rate or rate schedule in addition to its base rate as
12277 a result of what is commonly referred to as "fuel adjustment
12278 clauses" increase or "fuel adjustment riders" if the application
12279 of such clause or rider shall result in ultimate cost recovery
12280 exceeding the actual cost of fuel burned or consumed in its
12281 generating facilities and the cost of purchased energy.

12282 (b) For the purpose of such fuel adjustment clause or
12283 rider, the cost of fuel as used herein shall include only the
12284 actual cost of the fuel and its transportation and may include
12285 such other cost items which are as of the effective date of this
12286 section allowed by the federal energy regulatory commission for
12287 inclusion in wholesale fuel adjustment clauses under its
12288 jurisdiction. In addition thereto fuel cost may include direct



12289 costs associated with burning the fuel at the generating plant,
12290 such as fuel-handling expenses and the cost of fuel sampling and
12291 analysis.

12292 (2) (a) The commission is hereby directed to cause a
12293 continuous monitoring by the public utilities staff and a complete
12294 audit, as necessary but not less than annually, of all fuel
12295 purchases for which fuel adjustment clauses or riders have been
12296 placed in effect prior to and after the effective date of this
12297 section, which shall totally verify fuel costs as might be
12298 consumed in generating plants and all purchased energy of such
12299 electric utilities in Mississippi with said audit being based upon
12300 generally accepted auditing standards which would accurately
12301 provide detailed information as to the actual monthly utility fuel
12302 costs. Such audit shall be completely independent of any audit
12303 performed on behalf of such utility.

12304 (b) The commission is hereby directed to promulgate
12305 rules and regulations, not inconsistent with the laws, (i) to
12306 define allowable costs for inclusion in fuel adjustments, (ii) to
12307 establish guidelines for defining what elements constitute a just
12308 and reasonable fuel adjustment clause or rider, (iii) to establish
12309 guidelines for defining what elements constitute efficient and
12310 economical procurement and use of energy and fuel, and (iv) to
12311 establish general guidelines for making the required review of
12312 fuel adjustment clauses or riders as required by this section.



12313 Such rules and regulations shall be spread upon the minutes of the
12314 commission.

12315 (c) Such audits shall include (i) a determination if
12316 fuel and associated costs are properly identified and recorded in
12317 the appropriate uniform system of accounts, (ii) a determination
12318 if purchased energy and associated costs are properly identified,
12319 (iii) an assessment of a utility's practices for economical
12320 purchase and use of fuel and electric energy, and (iv) an
12321 assessment of the relevant contract terms and conditions and any
12322 variations from contract terms.

12323 (3) The audits required by this section shall extend to the
12324 fuel acquisition activities of any corporation which is owned in
12325 whole or in part by any such public utility under the jurisdiction
12326 of the commission or owned in whole or in part by a public utility
12327 holding company which is the parent company of any public utility
12328 under the jurisdiction of the commission. Public utilities under
12329 the jurisdiction of this commission, the rates of which are
12330 subject to regulation under the provisions of this chapter, shall
12331 not purchase fuel and/or energy from a company or corporation
12332 which is owned in whole or in part by that public utility or by
12333 the parent company of that public utility unless the selling
12334 company or corporation assents to audits as provided for under
12335 this section.

12336 (4) Upon receipt of each audit report, the certified public
12337 accountant of the public utilities staff shall review the report



12338 and furnish the commissioners with a written summary of, and his
12339 comments on, the report. The commission shall meet within one (1)
12340 week after receipt of the accountant's summary, and shall spread
12341 upon the minutes of the commission that it has reviewed said
12342 summary and further shall describe any action which it takes
12343 regarding the audit report or the fact that no action was
12344 required. Any costs included in a fuel adjustment clause or rider
12345 by a public utility under the jurisdiction of the commission found
12346 in violation of this section shall, by order of the commission, be
12347 refunded to the appropriate person or persons. In lieu of
12348 payment, the utility may credit the service account with the
12349 amount due under this subsection if the consumer entitled to the
12350 refund is, at that time, a consumer of the utility.

12351 (5) Periodically, and not less frequently than annually, the
12352 commission shall review the audit reports, the reports of the
12353 certified public accountant of the public utilities staff, any
12354 reports of the public utilities staff relating to its monitoring
12355 of fuel purchases, and all other relevant information relating to
12356 fuel purchases, fuel adjustment clauses or riders, and purchased
12357 energy for the purpose of determining (a) whether or not the
12358 utility is properly and correctly employing the use of the fuel
12359 adjustment clause or rider applicable to its operations and
12360 billing procedures, (b) whether or not the utility has engaged in
12361 practices in the acquisition of fuel or purchased energy which are
12362 efficient and economical, and (c) whether or not there is reason



12363 to question the practices, contracts, operations or procedures of
12364 the utility in the purchase or acquisition of fuel or purchased
12365 energy relative to efficiency, economy and the public interest.

12366 If the commission, after following the procedures described
12367 above, has reasonable cause to believe that inefficient or
12368 uneconomical procurement or use of fuel or purchased energy has
12369 resulted in unreasonable or unjust charges or costs to the
12370 consumers, then the commission shall initiate a procedure for
12371 hearing as provided for in Section 77-3-47 for the purpose of
12372 determining whether or not any of the costs or charges included in
12373 the fuel adjustment charges to the consumers were unreasonable or
12374 unjust. If the commission upon hearing shall find that any
12375 charges for the purchase or procurement of fuel or purchased
12376 energy were unreasonable or unjust, then the commission shall
12377 order that such costs or charges be refunded to the appropriate
12378 person or persons together with interest at the same rate
12379 prescribed in Section 77-3-39, Section 77-3-69 and Section
12380 77-3-71. In lieu of payment, the utility may credit the service
12381 account with the amount due under this subsection if the consumer
12382 entitled to the refund is, at that time, a consumer of the
12383 utility.

12384 (6) (a) The commission shall maintain at all times complete
12385 and current data relating to sales and purchases of electric
12386 capacity of all utilities, including copies of contracts and
12387 agreements for the purchase of electric capacity, amendments to



12388 such contracts, records of purchases and sales of electric
12389 capacity, and all other relevant information and data deemed
12390 appropriate by the commission for carrying out the provisions of
12391 this section.

12392 (b) The commission is hereby directed to review, not
12393 less frequently than annually, the information and data described
12394 above. If, from said review the commission has reasonable cause
12395 to believe that inefficient or uneconomical sales or purchases of
12396 electric capacity by a utility, the rates of which are subject to
12397 regulation by the commission, have resulted in unreasonable or
12398 unjust charges or costs to the consumers, then the commission
12399 shall initiate a procedure for hearing as provided for in Section
12400 77-3-47 for the purpose of determining whether or not any of the
12401 costs or charges for sales or purchases of electric capacity
12402 included in the charges to consumers were unreasonable or unjust.
12403 If the commission, upon hearing, shall find that any such charges
12404 for the sale or purchase of electric capacity were unreasonable or
12405 unjust, then the commission shall order that such costs or charges
12406 be refunded to the appropriate person or persons, together with
12407 interest thereon at the same rate prescribed in Section 77-3-39,
12408 Section 77-3-69 and Section 77-3-71. In lieu of payment, the
12409 utility may credit the service account with the amount due under
12410 this subsection if the consumer entitled to the refund is, at that
12411 time, a consumer of the utility.



12412 (7) The commission shall provide a full and complete report
12413 of said audits to the Legislature on or before March 15 of each
12414 year. The report shall include certification by the commission
12415 that the information is true and correct as well as other
12416 clarifications of the audit information and any recommendations
12417 for correcting imperfections in statutes relative to existing fuel
12418 or purchased gas adjustments.

12419 (8) Nothing in this section shall prohibit the commission
12420 from entering an order in a declared emergency allowing public
12421 utilities under such emergency circumstances to adjust their rates
12422 for a period not to exceed sixty (60) days upon declaration of
12423 said emergency. There shall be a full hearing and a complete and
12424 total accounting as to total costs of said commission order to
12425 public utilities customers, with detailed accounting of such
12426 emergency fuel adjustment clause order being made available to the
12427 public.

12428 (9) This section shall not apply to a municipality,
12429 including a joint agency organized pursuant to Section 77-5-701 et
12430 seq., as amended.

12431 **SECTION 195.** Section 25-53-29, Mississippi Code of 1972, is
12432 brought forward as follows:

12433 25-53-29. (1) For the purposes of this section the term
12434 "bureau" shall mean the "Mississippi Department of Information
12435 Technology Services." The authority shall have the following



12436 powers and responsibilities to carry out the establishment of
12437 policy and provide for long-range planning and consulting:

12438 (a) Provide a high level of technical expertise for
12439 agencies, institutions, political subdivisions and other
12440 governmental entities as follows: planning; consulting; project
12441 management; systems and performance review; system definition;
12442 design; application programming; training; development and
12443 documentation; implementation; maintenance; and other tasks as may
12444 be required, within the resources available to the bureau.

12445 (b) Publish written planning guides, policies and
12446 procedures for use by agencies and institutions in planning future
12447 electronic information service systems. The bureau may require
12448 agencies and institutions to submit data, including periodic
12449 electronic equipment inventory listings, information on agency
12450 staffing, systems under study, planned applications for the
12451 future, and other information needed for the purposes of preparing
12452 the state master plan. The bureau may require agencies and
12453 institutions to submit any additional data required for purposes
12454 of preparing the state master plan.

12455 (c) Inspect agency facilities and equipment, interview
12456 agency employees and review records at any time deemed necessary
12457 by the bureau for the purpose of identifying cost-effective
12458 applications of electronic information technology. Upon
12459 conclusion of any inspection, the bureau shall issue a management
12460 letter containing cost estimates and recommendations to the agency



12461 head and governing board concerning applications identified that
12462 would result in staff reductions, other monetary savings and
12463 improved delivery of public services.

12464 (d) Conduct classroom and on-site training for end
12465 users for applications and systems developed by the bureau.

12466 (e) Provide consulting services to agencies and
12467 institutions or Mississippi governmental subdivisions requesting
12468 technical assistance in electronic information services technology
12469 applications and systems. The bureau may submit proposals and
12470 enter into contracts to provide services to agencies and
12471 institutions or governmental subdivisions for such purposes.

12472 (2) The bureau shall annually issue a three-year master plan
12473 in writing to the Governor, available on request to any member of
12474 the Legislature, including recommended statewide strategies and
12475 goals for the effective and efficient use of information
12476 technology and services in state government. The report shall
12477 also include recommended information policy actions and other
12478 recommendations for consideration by the Governor and members of
12479 the Legislature.

12480 (3) The bureau shall make an annual report in writing to the
12481 Governor, available on request to any member of the Legislature,
12482 to include a full and detailed account of the work of the
12483 authority for the preceding year. The report shall contain
12484 recommendations to agencies and institutions resulting from
12485 inspections or consulting contracts. The report shall also



12486 contain a summary of the master plan, progress made, and
12487 legislative and policy recommendations for consideration by the
12488 Governor and members of the Legislature.

12489 (4) The bureau may charge fees to agencies and institutions
12490 for services rendered to them. The bureau may charge fees to
12491 vendors to recover the cost of providing procurement services and
12492 the delivery of procurement awards to public bodies. The amounts
12493 of such fees shall be set by the authority upon recommendation of
12494 the Executive Director of the MDITS, and all such fees collected
12495 shall be paid into the fund established for carrying out the
12496 purposes of this section.

12497 (5) It is the intention of the Legislature that the
12498 employees of the bureau performing services defined by this
12499 section be staffed by highly qualified persons possessing
12500 technical, consulting and programming expertise. Such employees
12501 shall be considered nonstate service employees as defined in
12502 Section 25-9-107(c) (x) and may be compensated at a rate comparable
12503 to the prevailing rate of individuals in qualified professional
12504 consulting firms in the private sector. Such compensation rates
12505 shall be determined by the State Personnel Director. The number
12506 of such positions shall be set by annual appropriation of the
12507 Legislature. Qualifications and compensation of the bureau
12508 employees shall be set by the State Personnel Board upon
12509 recommendation of the Executive Director of the MDITS. The total
12510 number of positions and classification of positions may be



12511 increased or decreased during a fiscal year depending upon work
12512 load and availability of funds.

12513 (6) The bureau may, from time to time, at the discretion of
12514 the Executive Director of the MDITS, contract with firms or
12515 qualified individuals to be used to augment the bureau's
12516 professional staff in order to assure timely completion and
12517 implementation of assigned tasks, provided that funds are
12518 available in the fund established for carrying out the purposes of
12519 this section. Such individuals may be employees of any agency,
12520 bureau or institution provided that these individuals or firms
12521 meet the requirements of other individuals or firms doing business
12522 with the state through the Mississippi Department of Information
12523 Technology Services. Individuals who are employees of an agency
12524 or institution may contract with the Mississippi Department of
12525 Information Technology Services only with the concurrence of the
12526 agency or institution for whom they are employed.

12527 From and after July 1, 2018, the expenses of this agency
12528 shall be defrayed by appropriation from the State General Fund.
12529 In addition, in order to receive the maximum use and benefit from
12530 information technology and services, expenses for the provision of
12531 statewide shared services that facilitate cost-effective
12532 information processing and telecommunication solutions shall be
12533 defrayed by pass-through funding and shall be deposited into the
12534 Mississippi Department of Information Technology Services
12535 Revolving Fund unless otherwise specified by the Legislature.



12536 These funds shall only be utilized to pay the actual costs
12537 incurred by the Mississippi Department of Information Technology
12538 Services for providing these shared services to state agencies.
12539 Furthermore, state agencies shall work in full cooperation with
12540 the Board of the Mississippi Department of Information Technology
12541 Services (MDITS) to identify computer equipment or services to
12542 minimize duplication, reduce costs, and improve the efficiency of
12543 providing common technology services across agency boundaries.

12544 **SECTION 196.** Section 25-61-9, Mississippi Code of 1972, is
12545 brought forward as follows:

12546 25-61-9. (1) (a) Records furnished to public bodies by
12547 third parties which contain trade secrets or confidential
12548 commercial or financial information shall not be subject to
12549 inspection, examination, copying or reproduction under this
12550 chapter until notice to third parties has been given, but the
12551 records shall be released no later than twenty-one (21) days from
12552 the date the third parties are given notice by the public body
12553 unless the third parties have filed in chancery court a petition
12554 seeking a protective order on or before the expiration of the
12555 twenty-one-day time period. Any party seeking the protective
12556 order shall give notice to the party requesting the information in
12557 accordance with the Mississippi Rules of Civil Procedure.

12558 (b) If a court determines that a person or entity has
12559 made duplicative requests for public records that are the subject
12560 of a protective order under paragraph (a) of this subsection, the



12561 court shall order the requesting person or entity to reimburse the
12562 third party's costs and attorney's fees for seeking additional
12563 protective orders for the same or substantially similar requests
12564 for public records.

12565 (2) If any public record which is held to be exempt from
12566 disclosure pursuant to this chapter contains material which is not
12567 exempt pursuant to this chapter, the public body shall separate
12568 the exempt material and make the nonexempt material available for
12569 examination or copying, or both, as provided for in this chapter.

12570 (3) Trade secrets and confidential commercial and financial
12571 information of a proprietary nature developed by a college,
12572 university or public hospital under contract with a firm,
12573 business, partnership, association, corporation, individual or
12574 other like entity shall not be subject to inspection, examination,
12575 copying or reproduction under this chapter.

12576 (4) Misappropriation of a trade secret shall be governed by
12577 the provisions of the Mississippi Uniform Trade Secrets Act,
12578 Sections 75-26-1 through 75-26-19.

12579 (5) A waste minimization plan and any updates developed by
12580 generators and facility operators under the Mississippi
12581 Comprehensive Multimedia Waste Minimization Act of 1990 shall be
12582 retained at the facility and shall not be subject to inspection,
12583 examination, copying or reproduction under this chapter.

12584 (6) Data processing software obtained by an agency under a
12585 licensing agreement that prohibits its disclosure and which



12586 software is a trade secret, as defined in Section 75-26-3, and
12587 data processing software produced by a public body which is
12588 sensitive must not be subject to inspection, copying or
12589 reproduction under this chapter.

12590 As used in this subsection, "sensitive" means only those
12591 portions of data processing software, including the specifications
12592 and documentation, used to:

12593 (a) Collect, process, store, and retrieve information
12594 which is exempt under this chapter.

12595 (b) Control and direct access authorizations and
12596 security measures for automated systems.

12597 (c) Collect, process, store, and retrieve information,
12598 disclosure of which would require a significant intrusion into the
12599 business of the public body.

12600 (7) For all procurement contracts awarded by state agencies,
12601 the provisions of the contract which contain the commodities
12602 purchased or the personal or professional services provided, the
12603 unit prices contained within the procurement contracts, the
12604 overall price to be paid, and the term of the contract shall not
12605 be deemed to be a trade secret or confidential commercial or
12606 financial information under this section, and shall be available
12607 for examination, copying or reproduction as provided for in this
12608 chapter. Any party seeking a protective order for a procurement
12609 contract awarded by state agencies shall give notice to and
12610 provide the reasons for the protective order to the party



12611 requesting the information in accordance with the Mississippi
12612 Rules of Civil Procedure. The notice and reasons for the
12613 protective order must be posted on the Mississippi procurement
12614 portal for a minimum of seven (7) days before filing the petition
12615 seeking the protective order in chancery court. Any party seeking
12616 a protective order in violation of this subsection may be barred
12617 by a state agency from submitting bids, proposals or
12618 qualifications for procurement for a period not to exceed five (5)
12619 years.

12620 **SECTION 197.** Section 47-5-66, Mississippi Code of 1972, is
12621 brought forward as follows:

12622 47-5-66. (1) Except as provided in Section 47-5-64(3), it
12623 shall be the duty of the Department of Finance and Administration,
12624 with the approval of the Public Procurement Review Board, to lease
12625 lands at public contract upon the submission of two (2) or more
12626 sealed bids to the Department of Finance and Administration after
12627 having advertised the land for rent in newspapers of general
12628 circulation published in Jackson, Mississippi; Memphis, Tennessee;
12629 the county in which the land is located; and contiguous counties
12630 for a period of not less than two (2) successive weeks. The first
12631 publication shall be made not less than ten (10) days before the
12632 date of the public contract, and the last publication shall be
12633 made not more than seven (7) days before that date. The
12634 Department of Finance and Administration may reject any and all
12635 bids. If all bids on a tract or parcel of land are rejected, the



12636 Department of Finance and Administration may then advertise for
12637 new bids on that tract or parcel of land. Successful bidders
12638 shall take possession of their leaseholds at the time authorized
12639 by the Department of Finance and Administration. However, rent
12640 shall be due no later than the day upon which the lessee shall
12641 assume possession of the leasehold, and shall be due on the
12642 anniversary date for each following year of the lease. The
12643 Department of Finance and Administration may provide in any lease
12644 that rent shall be paid in full in advance or paid in
12645 installments, as may be necessary or appropriate. In addition,
12646 the Department of Finance and Administration may accept, and the
12647 lease may provide for, assignments of federal, state or other
12648 agricultural support payments, growing crops or the proceeds from
12649 the sale thereof, promissory notes, or any other good and valuable
12650 consideration offered by any lessee to meet the rent requirements
12651 of the lease. If a promissory note is offered by a lessee, it
12652 shall be secured by a first lien on the crop of the lessee, or the
12653 proceeds from the sale thereof. The lien shall be filed pursuant
12654 to Article 9 of the Uniform Commercial Code and Section 1324 of
12655 the Food Security Act of 1985, as enacted or amended. If the note
12656 is not paid at maturity, it shall bear interest at the rate
12657 provided for judgments and decrees in Section 75-17-7 from its
12658 maturity date until the note is paid. The note shall provide for
12659 the payment of all costs of collection and reasonable attorney's
12660 fees if default is made in the payment of the note. The payment



12661 of rent by promissory note or any means other than cash in advance
12662 shall be subject to the approval of the Public Procurement Review
12663 Board, which shall place the approval of record in the minutes of
12664 the board.

12665 (2) There is created a special fund to be designated as the
12666 "Prison Agricultural Enterprises Fund" and to be used for the
12667 purpose of conducting, operating and managing the agricultural and
12668 nonagricultural enterprises of the department. Any monies derived
12669 from the leasing of Penitentiary lands, from the sales of timber
12670 as provided in Section 47-5-56, from the prison's agricultural
12671 enterprises or earmarked for the Prison Industries Fund shall be
12672 deposited to the special fund. However, fifteen percent (15%) of
12673 the monies derived from the leasing of Penitentiary lands under
12674 Section 47-5-64(3) shall be deposited to a special fund to be
12675 distributed annually on a student pro rata basis to the public
12676 schools located in Sunflower County by the Department of Finance
12677 and Administration.

12678 (3) All profits derived from prison industries shall be
12679 placed in a special fund in the State Treasury to be known as the
12680 "Prison Industries Fund," to be appropriated each year by the
12681 Legislature to the nonprofit corporation, which is required to be
12682 organized under the provisions of Section 47-5-535, for the
12683 purpose of operating and managing the prison industries.

12684 (4) The state shall have the rights and remedies for the
12685 security and collection of the rents given by law to landlords.



12686 (5) Lands leased for agricultural purposes under Section
12687 47-5-64(2) shall be subject to a fee-in-lieu of ad valorem taxes,
12688 including taxes levied for school purposes. The fee-in-lieu shall
12689 be Nine Dollars (\$9.00) per acre. Upon the execution of the
12690 agricultural leases to private entities as authorized by Section
12691 47-5-64(2), the Department of Finance and Administration shall
12692 collect the in lieu fee and shall forward the fees to the tax
12693 collector in which the land is located. The tax collector shall
12694 disburse the fees to the appropriate county or municipal governing
12695 authority on a pro rata basis. The sum apportioned to a school
12696 district shall not be less than the school district's pro rata
12697 share based upon the proportion that the millage imposed for the
12698 school district by the appropriate levying authority bears to the
12699 millage imposed by the levying authority for all other county or
12700 municipal purposes. Any funds obtained by the corporation as a
12701 result of sale of goods and services manufactured and provided by
12702 it shall be accounted for separate and apart from any funds
12703 received by the corporation through appropriation from the State
12704 Legislature. All nonappropriated funds generated by the
12705 corporation shall not be subject to appropriation by the State
12706 Legislature.

12707 (6) Any land leased, as provided under Section 47-5-64(2),
12708 shall not be leased for an amount less than would be received if
12709 such land were to be leased under any federal loan program. In
12710 addition, all leases shall be subject to the final approval of the



12711 Public Procurement Review Board before such leases are to become
12712 effective.

12713 **SECTION 198.** Section 49-2-9, Mississippi Code of 1972, is
12714 brought forward as follows:

12715 49-2-9. (1) Effective July 1, 1979, the commission shall
12716 have the following powers and duties:

12717 (a) To formulate the policy of the department regarding
12718 natural resources within the jurisdiction of the department;

12719 (b) To adopt, modify, repeal, and promulgate, after due
12720 notice and hearing, and where not otherwise prohibited by federal
12721 or state law, to make exceptions to and grant exemptions and
12722 variances from, and to enforce rules and regulations implementing
12723 or effectuating the powers and duties of the commission under any
12724 and all statutes within the commission's jurisdiction, and as the
12725 commission may deem necessary to prevent, control and abate
12726 existing or potential pollution;

12727 (c) To apply for, receive and expend any federal or
12728 state funds or contributions, gifts, devises, bequests or funds
12729 from any other source;

12730 (d) To commission or conduct studies designed to
12731 determine alternative methods of managing or using the natural
12732 resources of this state, in a manner to insure efficiency and
12733 maximum productivity;

12734 (e) To enter into, and to authorize the executive
12735 director to execute with the approval of the commission,



12736 contracts, grants and cooperative agreements with any federal or
12737 state agency or subdivision thereof, or any public or private
12738 institution located inside or outside the State of Mississippi, or
12739 any person, corporation or association in connection with carrying
12740 out the provisions of this chapter; but this authority under this
12741 chapter and under any and all statutes within the commission's
12742 jurisdiction, except those statutes relating to the Bureau of
12743 Recreation and Parks, shall not include contracts, grants or
12744 cooperative agreements which do not develop data or information
12745 usable by the commission, or which provide goods, services or
12746 facilities to the commission or any of its bureaus, and shall
12747 exclude any monies for special interest groups for purposes of
12748 lobbying or otherwise promoting their special interests; and

12749 (f) To discharge such other duties, responsibilities
12750 and powers as are necessary to implement the provisions of this
12751 chapter.

12752 (2) The Mississippi Department of Environmental Quality,
12753 Office of Geology and Energy Resources shall be responsible for
12754 program management, procurement, development and maintenance of
12755 the Mississippi Digital Earth Model, which should include the
12756 following seven (7) core data layers of a digital land base
12757 computer model of the State of Mississippi:

- 12758 (a) Geodetic control;
12759 (b) Elevation and bathymetry;
12760 (c) Orthoimagery;



12761 (d) Hydrography;
12762 (e) Transportation;
12763 (f) Government boundaries; and
12764 (g) Cadastral. With respect to the cadastral layer,
12765 the authority and responsibility of the Mississippi Department of
12766 Environmental Quality, Office of Geology and Energy Resources
12767 shall be limited to compiling information submitted by counties.

12768 For all seven (7) framework layers, the Mississippi
12769 Department of Environmental Quality, Office of Geology and Energy
12770 Resources shall be the integrator of data from all sources and the
12771 guarantor of data completeness and consistency and shall
12772 administer the council's policies and standards for the
12773 procurement of remote sensing and geographic information system
12774 data by state and local governmental entities.

12775 **SECTION 199.** Section 43-27-35, Mississippi Code of 1972, is
12776 brought forward as follows:

12777 43-27-35. (1) The Department of Finance and Administration,
12778 for and on behalf of the Department of Human Services and the
12779 State of Mississippi, may enter into a purchase contract, a
12780 lease-purchase agreement or other similar contract for the
12781 acquisition of land, buildings or equipment that would be suitable
12782 for use by the Department of Human Services in providing housing
12783 and facilities for youth under its jurisdiction regardless of the
12784 ages of such youths and that would assist the Department of Human
12785 Services in the performance of its duties under Chapter 27, Title



12786 43, Mississippi Code of 1972. Before entering into any such
12787 contract or agreement, the Department of Finance and
12788 Administration must first demonstrate to the Public Procurement
12789 Review Board satisfactory evidence that the contract or agreement
12790 would be economically advantageous to the Department of Human
12791 Services.

12792 (2) Acquisition of the property described in subsection (1)
12793 of this section shall be made only as provided in subsection (3)
12794 and upon legislative approval or upon approval of the State Bond
12795 Commission in accordance with the manner and procedure prescribed
12796 in Section 27-104-107.

12797 (3) If Newton County is selected as a site to house a
12798 facility under this section, the governing authorities of any
12799 municipality in which all or part of the facility is to be located
12800 and the Board of Supervisors of Newton County shall adopt
12801 resolutions spread on their minutes requesting the location of the
12802 facility in such municipality and the county. If such resolutions
12803 are adopted, the qualified electors of the municipality, if all or
12804 part of the facility is to be located in a municipality, shall
12805 vote in an election to be set by the governing authorities to
12806 determine if a facility shall be sited. If a majority of the
12807 qualified electors voting in the election vote in favor of siting
12808 a facility, a second election set by the board of supervisors
12809 shall be held in the county. If a majority of the qualified
12810 electors of the county voting in the election vote in favor of



12811 siting a facility, a facility shall be sited. If a majority of
12812 the qualified electors of the municipality voting in the election
12813 vote against siting a facility, a second election shall not be
12814 held in the county and a facility shall not be sited.

12815 **SECTION 200.** Section 25-58-21, Mississippi Code of 1972, is
12816 brought forward as follows:

12817 25-58-21. (1) There is established the Mississippi
12818 Coordinating Council for Remote Sensing and Geographic Information
12819 Systems, hereinafter referred to as the "council." The council
12820 shall set and assure enforcement of policies and standards to make
12821 it easier for remote sensing and geographic information system
12822 users around the state to share information and to facilitate
12823 cost-sharing arrangements to reduce the costs of acquiring remote
12824 sensing and geographic information system data. The council shall
12825 not oversee or regulate the activities of higher education
12826 entities where it relates to the fields of teaching or research;
12827 however, the council shall be informed of these activities for the
12828 purpose of coordinating these higher education activities with
12829 other public remote sensing and GIS initiatives to achieve the
12830 maximum benefit for the State of Mississippi and its taxpayers.

12831 The council's responsibilities include, but are not limited to:

12832 (a) Coordination of remote sensing and geographic
12833 information system activities within Mississippi;

12834 (b) Establishing policies and standards to guide
12835 Mississippi Department of Information Technology Services (MDITS)



12836 in the review and approval of state and local government
12837 procurement of both hardware and software development relating to
12838 remote sensing and geographic information systems;

12839 (c) Oversight of MDITS' implementation of these
12840 responsibilities;

12841 (d) Preparing a plan, with proposed state funding
12842 priorities, for Mississippi's remote sensing and geographic
12843 information system activities, including development, operation
12844 and maintenance of the Mississippi Digital Earth Model;

12845 (e) Oversight of the Mississippi Department of
12846 Environmental Quality's development and maintenance of the
12847 Mississippi Digital Earth Model, including establishing policies
12848 and standards for the procurement of remote sensing and geographic
12849 information system data by state and local governmental entities
12850 and establishing the order in which the seven (7) core data layers
12851 shall be developed;

12852 (f) Designating Mississippi's official representative
12853 to the National States Geographic Information Council and to any
12854 other national or regional remote sensing or geographical
12855 information system organizations on which Mississippi has an
12856 official seat;

12857 (g) Establishing and designating the members of an
12858 advisory committee made up of policy level officials from major
12859 state, local, regional and federal agencies, including, but not
12860 limited to, the National Association of Space Administration, the



12861 Mississippi Institute for Forestry Inventory, the Mississippi
12862 Department of Wildlife, Fisheries and Parks, the Mississippi
12863 Public Utilities Staff, the Department of Marine Resources, the
12864 county E911 coordinator, the State Health Officer, the
12865 Commissioner of Agriculture and Commerce, the State Tax
12866 Commission, the Council of Consulting Engineers and the
12867 Mississippi Band of Choctaw Indians, as well as members of the
12868 private sector;

12869 (h) Creating a staff level technical users committee,
12870 in which any public or private sector entity in Mississippi
12871 interested in remote sensing and geographic information may be
12872 allowed to participate;

12873 (i) Coordinating with the State Tax Commission to
12874 assure that state and local governmental entities do not have to
12875 comply with two (2) sets of requirements imposed by different
12876 organizations.

12877 (2) The Mississippi Coordinating Council for Remote Sensing
12878 and Geographic Information Systems will be composed of the
12879 following members:

12880 (a) The Executive Director of the Mississippi
12881 Department of Environmental Quality;

12882 (b) The Executive Director of the Mississippi
12883 Department of Information Technology Services;

12884 (c) The Executive Director of the Mississippi
12885 Department of Transportation;



12886 (d) The Executive Director of the Mississippi Emergency
12887 Management Agency;

12888 (e) The Executive Director of the Mississippi
12889 Development Authority;

12890 (f) The Secretary of State;

12891 (g) The Executive Director of the Mississippi Forestry
12892 Commission;

12893 (h) The Director of the Mississippi State Board of
12894 Registered Professional Geologists;

12895 (i) A representative from the Institutions of Higher
12896 Learning, appointed by the Commissioner of the Institutions of
12897 Higher Learning;

12898 (j) One (1) mayor, serving a municipality, appointed by
12899 the Executive Director of the Mississippi Municipal League;

12900 (k) The Executive Director of the Mississippi Municipal
12901 League or his designee who will serve as the member;

12902 (l) One (1) county supervisor appointed by the
12903 Executive Director of the Mississippi Association of Supervisors;

12904 (m) The Executive Director of the Mississippi
12905 Association of Supervisors or his designee who will serve as the
12906 member;

12907 (n) A member of the Tax Assessors/Collectors
12908 Association or the executive director of the association, to be
12909 appointed by the president of that association;



12910 (o) A representative of the Planning and Development
12911 Districts, appointed by the Governor;

12912 (p) A Senator, as a nonvoting member, appointed by the
12913 Lieutenant Governor;

12914 (q) A Representative, as a nonvoting member, appointed
12915 by the Speaker of the House;

12916 (r) A county surveyor who is a member of the
12917 Mississippi Association of Professional Surveyors, appointed by
12918 the president of the association; and

12919 The members listed in paragraphs (a) through (g) may appoint
12920 a designee, but the designee must be the head of an office,
12921 bureau, division or branch within the member's agency.

12922 The members of the council shall serve for a term concurrent
12923 with their service as an elected or appointed official or
12924 concurrent with the term of the appointing official.

12925 The Executive Director of the Department of Environmental
12926 Quality shall serve as council chair and the Executive Director of
12927 Information Technology Services as vice chair for the first two
12928 (2) years. After the first two (2) years, the council shall elect
12929 from its members a chair and vice chair, for terms to be specified
12930 by the council.

12931 With regard to the designee chosen by the Executive Director
12932 of the Mississippi Municipal League or the Executive Director of
12933 the Mississippi Association of Supervisors, the designee shall



12934 become a permanent member of the council for a term concurrent
12935 with the term of the appointing executive director.

12936 (3) At the direction of the chairman of the council and
12937 contingent upon the availability of sufficient funds, each member
12938 may receive reimbursement for reasonable expenses, including
12939 travel expenses in accordance with rates established pursuant to
12940 Section 25-3-41, incurred in attending meetings of the council.
12941 Any member of the council who is also a state employee may not
12942 receive per diem compensation for attending meetings of the study
12943 committee, but may be reimbursed in accordance with Section
12944 25-3-41 for mileage and actual expenses incurred in the
12945 performance of the duties, if authorized by vote, at a meeting of
12946 the council, which action must be recorded in the official minutes
12947 of the meeting. Legislative members of the council will be paid
12948 from the contingent expense funds of their respective houses in
12949 the same amounts as provided for committee meetings when the
12950 Legislature is not in session.

12951 (4) The council may accept money from any source, public or
12952 private, to be expended in implementing the duties under this
12953 section.

12954 (5) The council may utilize staff employed by the agencies
12955 affected by this section and any other assistance made available
12956 to it.

12957 **SECTION 201.** Section 65-43-3, Mississippi Code of 1972, is
12958 brought forward as follows:



12959 65-43-3. (1) (a) In addition to and as an alternative to
12960 any other authority granted by law, including, but not limited to,
12961 Section 65-43-1, any governmental entities, as defined in Section
12962 65-43-1, in their discretion, may contract, individually or
12963 jointly with other governmental entities, with any persons,
12964 corporations, partnerships or other businesses licensed to do
12965 business in the State of Mississippi (hereinafter referred to as
12966 "companies" or "company") for the purpose of designing, financing,
12967 constructing, operating and maintaining one or more new toll roads
12968 or toll bridges in the state for motor vehicle traffic, including
12969 tollbooths and related facilities, at those locations where an
12970 alternate untolled route exists. Such contracts may provide that
12971 the governmental entities may grant certain rights (including, but
12972 not limited to, the right to exclusively operate and maintain) in
12973 land held by the governmental entities, whether in fee simple, as
12974 an easement or other interest, to a company for design,
12975 construction, operation and/or maintenance of roadways, highways
12976 or bridges for motor vehicle traffic, tollbooths and related
12977 facilities. All such highways, pavement, bridges,
12978 drainage-related structures and other infrastructure comprising
12979 the projects shall be built and maintained in accordance with not
12980 less than the minimum highway design, construction and maintenance
12981 standards established by the contracting governmental entity for
12982 such highways, infrastructure and facilities. The contracting
12983 governmental entity shall conduct periodic inspections of any such



12984 project throughout the term of the contract to ensure compliance
12985 by the company. Failure of a company to comply with minimum
12986 standards established for the project by the contracting
12987 governmental entity shall constitute a breach and shall subject
12988 the company to liability on its bond or security or to rescission
12989 of the contract in accordance with the terms and provisions of the
12990 contract.

12991 (b) A governmental entity may not enter into a contract
12992 under this section with (i) any company designated as a foreign
12993 terrorist organization pursuant to Presidential Executive Order
12994 13224 or Section 302 of the federal Antiterrorism or Effective
12995 Death Penalty Act of 1996, (ii) any company under the control of a
12996 so-designated foreign terrorist organization, or (iii) any company
12997 controlled by a foreign person if to do so would violate any order
12998 of the Committee on Foreign Investment in the United States under
12999 the Foreign Investment and National Security Act of 2007, H.R.
13000 566, 110th Cong. (2007), Public Law 110-49, 121 Stat. 246. These
13001 requirements also shall apply to any proposed transfer or
13002 assignment of any contract entered into under this section.

13003 (2) (a) Every contract entered into by a governmental
13004 entity under this section (except for contracts entered into with
13005 another governmental entity or following termination of a
13006 predecessor contract entered into under this section), at a
13007 minimum, must provide for the design and construction of a new
13008 toll road or toll bridge project and may also provide for the



13009 financing, acquisition, lease, maintenance, and/or operation of a
13010 new toll road or toll bridge project.

13011 (b) If a governmental entity enters into a contract
13012 with a company as authorized by this section, such governmental
13013 entity shall use a competitive procurement process that provides
13014 the best value for the governmental entity. The governmental
13015 entity may accept unsolicited proposals for a proposed new toll
13016 road or solicit proposals in accordance with this section.

13017 (c) A governmental entity shall publish a request for
13018 competing proposals and qualifications in a newspaper having a
13019 general circulation within such governmental entity or, if the
13020 governmental entity is the Mississippi Transportation Commission,
13021 shall publish the request in a newspaper having a general
13022 circulation at the seat of government and, if the governmental
13023 entity has a website, shall post the request on such website.
13024 Such request shall include the criteria used to evaluate the
13025 proposals, the relative weight given to the criteria and a
13026 deadline by which proposals must be received. At a minimum, a
13027 proposal submitted in response to such request must contain:

13028 (i) Information regarding the proposed project
13029 location, scope and limits;

13030 (ii) Information regarding the company's
13031 qualifications, experience, technical competence, and capability
13032 to develop the project; and



13033 (iii) A proposed financial plan for the proposed
13034 project that includes, at a minimum, the projected project costs,
13035 projected revenues and proposed sources of funds.

13036 A governmental entity may interview a company submitting a
13037 solicited or unsolicited proposal. In evaluating such proposals,
13038 a governmental entity may solicit input from other sources
13039 regarding such proposals.

13040 (d) The governmental entity shall rank each proposal
13041 based on the criteria described in the request for proposals and
13042 select the company whose proposal offers the best value to the
13043 governmental entity. The governmental entity may enter into
13044 discussions with the company whose proposal offers the best value.
13045 If at any point during the discussions it appears to the
13046 governmental entity that the highest ranking proposal will not
13047 provide the governmental entity with the overall best value, the
13048 governmental entity may enter into discussions with the company
13049 submitting the next highest ranking proposal.

13050 (e) The governmental entity may withdraw a request for
13051 competing proposals and qualifications at any time and for any
13052 reason and may reject any one (1) or all proposals. In either
13053 case, the governmental entity may then publish a new request for
13054 competing proposals and qualifications. A governmental entity
13055 shall not be required to pay any company for the costs of
13056 preparing or submitting proposals.



13057 (f) The governmental entity shall prescribe the general
13058 form of a contract authorized by this section and may include any
13059 matter the governmental entity considers advantageous to it. The
13060 governmental entity and the company shall negotiate the specific
13061 terms of the contract.

13062 (g) Except as provided under this subsection (2), no
13063 such contract entered into hereunder shall be subject to the
13064 provisions of Section 65-1-8, Section 31-7-13 or any other public
13065 bid or public procurement laws of this state.

13066 (h) The Transportation Commission shall evaluate each
13067 proposal based on the criteria established by the commission. The
13068 Transportation Commission shall approve or disapprove a proposal
13069 within ninety (90) days after receipt of the proposal. If the
13070 Transportation Commission needs additional information, it may
13071 delay approval for an additional sixty (60) days.

13072 (i) Any right or interest arising under or as a result
13073 of any contract entered into under this section by a governmental
13074 entity with a company involving a franchise, license agreement,
13075 concession agreement, operating agreement, construction agreement,
13076 design agreement and/or any other similar contractual arrangement
13077 in connection with the financing, design, construction,
13078 acquisition, maintenance and/or operation of a toll road or toll
13079 bridge project shall not constitute any right, title or interest
13080 in land or other real property or real estate or in personal
13081 property within the meaning of Article 1, Chapter 35, Title 27,



13082 Mississippi Code of 1972, in the toll road or toll bridge project,
13083 including tollbooths and related toll facilities (including, but
13084 not limited to, land, pavement, drainage-related structures, and
13085 other infrastructure and property related thereto) in which a
13086 governmental entity is the title owner of such property and/or
13087 holder of easements, rights-of-way and/or other interests for such
13088 toll road or toll bridge project.

13089 (3) Every contract entered into by a governmental entity
13090 under this section shall require a company to enter into bond and
13091 provide such security as the governmental entity determines may be
13092 necessary or advisable to ensure timely completion and proper
13093 execution and performance of the contract. The term of the
13094 contract shall not exceed fifty (50) years, with the exception of
13095 extensions, automatic renewals or other contractual terms as
13096 agreed to by the governmental entity in the original or a
13097 subsequent agreement. The governmental entities are authorized to
13098 acquire such property or interests in property as may be
13099 necessary, by gift, purchase or eminent domain, for construction
13100 and maintenance of the highways or bridges built pursuant to
13101 contracts entered into under this section. Upon expiration,
13102 termination or rescission of the contract, any and all rights
13103 and/or interests that the company may have in the land,
13104 infrastructure, facilities or other improvements to the property
13105 subject to contract shall terminate and automatically, by
13106 operation of law, be returned or conveyed to and vested in the



13107 State of Mississippi or the contracting governmental entity. Upon
13108 termination, expiration or rescission of the contract, the
13109 collection of tolls shall cease.

13110 (4) The governmental entity having jurisdiction over the
13111 toll highway or bridge may, after notice and public hearing,
13112 establish, charge and collect motor vehicle operator tolls for use
13113 of the highway or bridge and its facilities. Alternatively,
13114 during the term of any contract entered into under this section,
13115 the company may establish, charge and collect motor vehicle
13116 operators tolls for use of the highway or bridge and its
13117 facilities. The amount of such tolls, and any modification
13118 thereto, shall be subject to approval by the contracting
13119 governmental entity after notice and public hearing. All such
13120 contracts entered into with the Mississippi Transportation
13121 Commission may require a company to pay a percentage or other
13122 specified portion of all tolls collected to the Mississippi
13123 Department of Transportation. If bonds are issued pursuant to
13124 Section 65-43-13, then all such tolls paid to the department shall
13125 be deposited into the special bond sinking fund under Section
13126 65-43-11, and may be expended only as authorized by the
13127 Legislature. If bonds are not issued pursuant to Section
13128 65-43-13, then all such tolls paid to the department shall be
13129 deposited into the department's highway fund to be used by the
13130 department for the construction and maintenance of highways.



13131 (5) If a toll road is a designated evacuation route and a
13132 declaration of a state of emergency is issued by the President of
13133 the United States or by the Governor, the collection of tolls
13134 shall cease until the termination of the state of emergency.

13135 (6) All statutes of this state relating to vehicle and
13136 traffic regulation and control shall be applicable to motor
13137 vehicles operated upon highways and bridges constructed under this
13138 section and shall be enforceable by the Mississippi Department of
13139 Public Safety, the Mississippi Highway Safety Patrol or any other
13140 law enforcement agency having jurisdiction over such highways and
13141 bridges.

13142 (7) The State of Mississippi, the Mississippi Transportation
13143 Commission, the Mississippi Department of Transportation,
13144 counties, municipalities or any other agency or political
13145 subdivision, or any officer or employee thereof, shall not be
13146 liable for any tortious act or omission arising out of the
13147 construction, maintenance or operation of any highway or bridge
13148 project under the provisions of this section where the act or
13149 omission occurs during the term of any such contract entered into
13150 by the Mississippi Transportation Commission or other governmental
13151 entity and a company.

13152 **SECTION 202.** Section 37-101-413, Mississippi Code of 1972,
13153 is brought forward as follows:



13154 37-101-413. (1) As used in this section, the term "state
13155 institutions of higher learning" means those institutions
13156 identified in Section 37-101-1 and the University Research Center.

13157 (2) The Board of Trustees of State Institutions of Higher
13158 Learning may establish an equipment leasing and purchase program
13159 for the use of the state institutions of higher learning. In
13160 establishing and administering the program, the board may perform
13161 the following actions:

13162 (a) Adopt policies and procedures to implement the
13163 program;

13164 (b) Establish offices or subordinate units as may be
13165 necessary for the administration of the program;

13166 (c) Adopt rules and regulations pertaining to the
13167 program;

13168 (d) Acquire by purchase, lease or lease-purchase
13169 contract and retain or transfer ownership or possession of
13170 instructional and other equipment;

13171 (e) Contract for the leasing of such properties and for
13172 the financing of leases and purchases;

13173 (f) Enter into contracts with others to provide any
13174 services deemed necessary and advisable by the board;

13175 (g) Make purchases and enter into leases according to
13176 the requirements of the state public purchasing laws and the
13177 requirements of those laws establishing the Mississippi Department
13178 of Information Technology Services;



13179 (h) Enter into lease financing agreements in connection
13180 with purchases made under the authority of this section;

13181 (i) Require the transfer of appropriations of general
13182 funds or self-generated funds from the state institutions to those
13183 funds that the board may determine are required in connection with
13184 any lease financing agreements;

13185 (j) Develop administrative methods for determining age,
13186 useful life, replacement value, current use, condition and other
13187 characteristics of instructional and research equipment at the
13188 state institutions and research facilities;

13189 (k) Determine obsolescence of the equipment and
13190 establish priorities for replacement or provision of the equipment
13191 or its transfer to another state institution that can continue to
13192 utilize it; and

13193 (l) Develop long-range plans for the orderly and
13194 systematic acquisition and utilization of the instructional and
13195 research equipment in order to eliminate waste and duplication,
13196 provide the maximum efficiency of use for expenditures, and
13197 achieve equitable allocations of equipment funds to the state
13198 institutions consistent with the roles of the institutions and
13199 disciplines served.

13200 (3) All institutions of higher learning desiring to
13201 purchase, lease or lease-purchase equipment involving an
13202 expenditure or expenditures of more than Five Thousand Dollars
13203 (\$5,000.00) must procure that equipment under the equipment



13204 leasing and purchase program unless funds for the procurement of
13205 the equipment under the program are unavailable or the equipment
13206 can be procured elsewhere at an overall cost lower than that for
13207 which the equipment can be procured under the program.

13208 **SECTION 203.** Section 25-53-5, Mississippi Code of 1972, is
13209 brought forward as follows:

13210 25-53-5. The authority shall have the following powers,
13211 duties, and responsibilities:

13212 (a) (i) The authority shall provide for the
13213 development of plans for the efficient acquisition and utilization
13214 of computer equipment and services by all agencies of state
13215 government, and provide for their implementation. In so doing,
13216 the authority may use the MDITS' staff, at the discretion of the
13217 executive director of the authority, or the authority may contract
13218 for the services of qualified consulting firms in the field of
13219 information technology and utilize the service of such consultants
13220 as may be necessary for such purposes. Pursuant to Section
13221 25-53-1, the provisions of this section shall not apply to the
13222 Department of Human Services for a period of three (3) years
13223 beginning on July 1, 2017. Pursuant to Section 25-53-1, the
13224 provisions of this section shall not apply to the Department of
13225 Child Protection Services for a period of three (3) years
13226 beginning July 1, 2017.

13227 (ii) [Repealed]



13228 (b) The authority shall immediately institute
13229 procedures for carrying out the purposes of this chapter and
13230 supervise the efficient execution of the powers and duties of the
13231 office of executive director of the authority. In the execution
13232 of its functions under this chapter, the authority shall maintain
13233 as a paramount consideration the successful internal organization
13234 and operation of the several agencies so that efficiency existing
13235 therein shall not be adversely affected or impaired. In executing
13236 its functions in relation to the institutions of higher learning
13237 and junior colleges in the state, the authority shall take into
13238 consideration the special needs of such institutions in relation
13239 to the fields of teaching and scientific research.

13240 (c) Title of whatever nature of all computer equipment
13241 now vested in any agency of the State of Mississippi is hereby
13242 vested in the authority, and no such equipment shall be disposed
13243 of in any manner except in accordance with the direction of the
13244 authority or under the provisions of such rules and regulations as
13245 may hereafter be adopted by the authority in relation thereto.

13246 (d) The authority shall adopt rules, regulations, and
13247 procedures governing the acquisition of computer and
13248 telecommunications equipment and services which shall, to the
13249 fullest extent practicable, ensure the maximum of competition
13250 between all manufacturers of supplies or equipment or services.
13251 In the writing of specifications, in the making of contracts
13252 relating to the acquisition of such equipment and services, and in



13253 the performance of its other duties the authority shall provide
13254 for the maximum compatibility of all information systems hereafter
13255 installed or utilized by all state agencies and may require the
13256 use of common computer languages where necessary to accomplish the
13257 purposes of this chapter. The authority may establish by
13258 regulation and charge reasonable fees on a nondiscriminatory basis
13259 for the furnishing to bidders of copies of bid specifications and
13260 other documents issued by the authority.

13261 (e) The authority shall adopt rules and regulations
13262 governing the sharing with, or the sale or lease of information
13263 technology services to any nonstate agency or person. Such
13264 regulations shall provide that any such sharing, sale or lease
13265 shall be restricted in that same shall be accomplished only where
13266 such services are not readily available otherwise within the
13267 state, and then only at a charge to the user not less than the
13268 prevailing rate of charge for similar services by private
13269 enterprise within this state.

13270 (f) The authority may, in its discretion, establish a
13271 special technical advisory committee or committees to study and
13272 make recommendations on technology matters within the competence
13273 of the authority as the authority may see fit. Persons serving on
13274 the Information Resource Council, its task forces, or any such
13275 technical advisory committees shall be entitled to receive their
13276 actual and necessary expenses actually incurred in the performance
13277 of such duties, together with mileage as provided by law for state



13278 employees, provided the same has been authorized by a resolution
13279 duly adopted by the authority and entered on its minutes prior to
13280 the performance of such duties.

13281 (g) The authority may provide for the development and
13282 require the adoption of standardized computer programs and may
13283 provide for the dissemination of information to and the
13284 establishment of training programs for the personnel of the
13285 various information technology centers of state agencies and
13286 personnel of the agencies utilizing the services thereof.

13287 (h) The authority shall adopt reasonable rules and
13288 regulations requiring the reporting to the authority through the
13289 office of executive director of such information as may be
13290 required for carrying out the purposes of this chapter and may
13291 also establish such reasonable procedures to be followed in the
13292 presentation of bills for payment under the terms of all contracts
13293 for the acquisition of computer equipment and services now or
13294 hereafter in force as may be required by the authority or by the
13295 executive director in the execution of their powers and duties.

13296 (i) The authority shall require such adequate
13297 documentation of information technology procedures utilized by the
13298 various state agencies and may require the establishment of such
13299 organizational structures within state agencies relating to
13300 information technology operations as may be necessary to
13301 effectuate the purposes of this chapter.



13302 (j) The authority may adopt such further reasonable
13303 rules and regulations as may be necessary to fully implement the
13304 purposes of this chapter. All rules and regulations adopted by
13305 the authority shall be published and disseminated in readily
13306 accessible form to all affected state agencies, and to all current
13307 suppliers of computer equipment and services to the state, and to
13308 all prospective suppliers requesting the same. Such rules and
13309 regulations shall be kept current, be periodically revised, and
13310 copies thereof shall be available at all times for inspection by
13311 the public at reasonable hours in the offices of the authority.
13312 Whenever possible no rule, regulation or any proposed amendment to
13313 such rules and regulations shall be finally adopted or enforced
13314 until copies of the proposed rules and regulations have been
13315 furnished to all interested parties for their comment and
13316 suggestions.

13317 (k) The authority shall establish rules and regulations
13318 which shall provide for the submission of all contracts proposed
13319 to be executed by the executive director for computer equipment
13320 and/or telecommunications or services, including cloud computing,
13321 to the authority for approval before final execution, and the
13322 authority may provide that such contracts involving the
13323 expenditure of less than such specified amount as may be
13324 established by the authority may be finally executed by the
13325 executive director without first obtaining such approval by the
13326 authority.



13327 (1) The authority is authorized to consider new
13328 technologies, such as cloud computing, to purchase, lease, or rent
13329 computer equipment or services and to operate that equipment and
13330 use those services in providing services to one or more state
13331 agencies when in its opinion such operation will provide maximum
13332 efficiency and economy in the functions of any such agency or
13333 agencies.

13334 (m) Upon the request of the governing body of a
13335 political subdivision or instrumentality, the authority shall
13336 assist the political subdivision or instrumentality in its
13337 development of plans for the efficient acquisition and utilization
13338 of computer equipment and services. An appropriate fee shall be
13339 charged the political subdivision by the authority for such
13340 assistance.

13341 (n) The authority shall adopt rules and regulations
13342 governing the protest procedures to be followed by any actual or
13343 prospective bidder, offerer or contractor who is aggrieved in
13344 connection with the solicitation or award of a contract for the
13345 acquisition of computer equipment or services. Such rules and
13346 regulations shall prescribe the manner, time and procedure for
13347 making protests and may provide that a protest not timely filed
13348 shall be summarily denied. The authority may require the
13349 protesting party, at the time of filing the protest, to post a
13350 bond, payable to the state, in an amount that the authority
13351 determines sufficient to cover any expense or loss incurred by the



13352 state, the authority or any state agency as a result of the
13353 protest if the protest subsequently is determined by a court of
13354 competent jurisdiction to have been filed without any substantial
13355 basis or reasonable expectation to believe that the protest was
13356 meritorious; however, in no event may the amount of the bond
13357 required exceed a reasonable estimate of the total project cost.
13358 The authority, in its discretion, also may prohibit any
13359 prospective bidder, offerer or contractor who is a party to any
13360 litigation involving any such contract with the state, the
13361 authority or any agency of the state to participate in any other
13362 such bid, offer or contract, or to be awarded any such contract,
13363 during the pendency of the litigation.

13364 (o) The authority shall make a report in writing to the
13365 Legislature each year in the month of January. Such report shall
13366 contain a full and detailed account of the work of the authority
13367 for the preceding year as specified in Section 25-53-29(3).

13368 All acquisitions of computer equipment and services involving
13369 the expenditure of funds in excess of the dollar amount
13370 established in Section 31-7-13(c), or rentals or leases in excess
13371 of the dollar amount established in Section 31-7-13(c) for the
13372 term of the contract, shall be based upon competitive and open
13373 specifications, and contracts therefor shall be entered into only
13374 after advertisements for bids are published in one or more daily
13375 newspapers having a general circulation in the state not less than
13376 fourteen (14) days prior to receiving sealed bids therefor. The



13377 authority may reserve the right to reject any or all bids, and if
13378 all bids are rejected, the authority may negotiate a contract
13379 within the limitations of the specifications so long as the terms
13380 of any such negotiated contract are equal to or better than the
13381 comparable terms submitted by the lowest and best bidder, and so
13382 long as the total cost to the State of Mississippi does not exceed
13383 the lowest bid. If the authority accepts one (1) of such bids, it
13384 shall be that which is the lowest and best. Through June 30,
13385 2024, the provisions of this paragraph shall not apply to
13386 acquisitions of information technology equipment and services made
13387 by the Mississippi Department of Health and the Mississippi
13388 Department of Revenue for the purposes of implementing,
13389 administering and enforcing the provisions of the Mississippi
13390 Medical Cannabis Act.

13391 (p) When applicable, the authority may procure
13392 equipment, systems and related services in accordance with the law
13393 or regulations, or both, which govern the Bureau of Purchasing of
13394 the Office of General Services or which govern the Mississippi
13395 Department of Information Technology Services procurement of
13396 telecommunications equipment, software and services.

13397 (q) The authority is authorized to purchase, lease, or
13398 rent information technology and services for the purpose of
13399 establishing pilot projects to investigate emerging technologies.
13400 These acquisitions shall be limited to new technologies and shall
13401 be limited to an amount set by annual appropriation of the



13402 Legislature. These acquisitions shall be exempt from the
13403 advertising and bidding requirement.

13404 (r) To promote the maximum use and benefit from
13405 technology and services now in operation or which will in the
13406 future be placed in operation and to identify opportunities,
13407 minimize duplication, reduce costs and improve the efficiency of
13408 providing common technology services the authority is authorized
13409 to:

13410 (i) Enter into master agreements for computer or
13411 telecommunications equipment or services, including cloud
13412 computing, available for shared use by state agencies, institutes
13413 of higher learning and governing authorities; and

13414 (ii) Enter into contracts for the acquisition of
13415 computer or telecommunications equipment or services, including
13416 cloud computing, that have been acquired by other entities,
13417 located within or outside of the State of Mississippi, so long as
13418 it is determined by the authority to be in the best interest of
13419 the state. The acquisitions provided in this paragraph (r) shall
13420 be exempt from the advertising and bidding requirements of Section
13421 25-53-1 et seq.

13422 (s) All fees collected by the Mississippi Department of
13423 Information Technology Services shall be deposited into the
13424 Mississippi Department of Information Technology Services
13425 Revolving Fund unless otherwise specified by the Legislature.



13426 (t) The authority shall work closely with the council
13427 to bring about effective coordination of policies, standards and
13428 procedures relating to procurement of remote sensing and
13429 geographic information systems (GIS) resources. In addition, the
13430 authority is responsible for development, operation and
13431 maintenance of a delivery system infrastructure for geographic
13432 information systems data. The authority shall provide a warehouse
13433 for Mississippi's geographic information systems data.

13434 (u) The authority shall manage one or more State Data
13435 Centers to provide information technology services on a
13436 cost-sharing basis. In determining the appropriate services to be
13437 provided through the State Data Center, the authority should
13438 consider those services that:

- 13439 (i) Result in savings to the state as a whole;
- 13440 (ii) Improve and enhance the security and
13441 reliability of the state's information and business systems; and
- 13442 (iii) Optimize the efficient use of the state's
13443 information technology assets, including, but not limited to,
13444 promoting partnerships with the state institutions of higher
13445 learning and community colleges to capitalize on advanced
13446 information technology resources.

13447 (v) The authority shall increase federal participation
13448 in the cost of the State Data Center to the extent provided by law
13449 and its shared technology infrastructure through providing such
13450 shared services to agencies that receive federal funds. With



13451 regard to state institutions of higher learning and community
13452 colleges, the authority may provide shared services when mutually
13453 agreeable, following a determination by both the authority and the
13454 Board of Trustees of State Institutions of Higher Learning or the
13455 Mississippi Community College Board, as the case may be, that the
13456 sharing of services is mutually beneficial.

13457 (w) The authority, in its discretion, may require new
13458 or replacement agency business applications to be hosted at the
13459 State Data Center. With regard to state institutions of higher
13460 learning and community colleges, the authority and the Board of
13461 Trustees of State Institutions of Higher Learning or the
13462 Mississippi Community College Board, as the case may be, may agree
13463 that institutions of higher learning or community colleges may
13464 utilize business applications that are hosted at the State Data
13465 Center, following a determination by both the authority and the
13466 applicable board that the hosting of those applications is
13467 mutually beneficial. In addition, the authority may establish
13468 partnerships to capitalize on the advanced technology resources of
13469 the Board of Trustees of State Institutions of Higher Learning or
13470 the Mississippi Community College Board, following a determination
13471 by both the authority and the applicable board that such a
13472 partnership is mutually beneficial.

13473 (x) The authority shall provide a periodic update
13474 regarding reform-based information technology initiatives to the



13475 Chairmen of the House and Senate Accountability, Efficiency and
13476 Transparency Committees.

13477 From and after July 1, 2018, the expenses of this agency
13478 shall be defrayed by appropriation from the State General Fund.
13479 In addition, in order to receive the maximum use and benefit from
13480 information technology and services, expenses for the provision of
13481 statewide shared services that facilitate cost-effective
13482 information processing and telecommunication solutions shall be
13483 defrayed by pass-through funding and shall be deposited into the
13484 Mississippi Department of Information Technology Services
13485 Revolving Fund unless otherwise specified by the Legislature.
13486 These funds shall only be utilized to pay the actual costs
13487 incurred by the Mississippi Department of Information Technology
13488 Services for providing these shared services to state agencies.
13489 Furthermore, state agencies shall work in full cooperation with
13490 the Board of the Mississippi Department of Information Technology
13491 Services to identify computer equipment or services to minimize
13492 duplication, reduce costs, and improve the efficiency of providing
13493 common technology services across agency boundaries.

13494 **SECTION 204.** Section 25-53-191, Mississippi Code of 1972, is
13495 brought forward as follows:

13496 25-53-191. (1) For the purposes of this section, the
13497 following terms shall have the meanings ascribed to them in this
13498 section unless the context otherwise clearly requires:



13499 (a) "Department" means the Mississippi Department of
13500 Information Technology.

13501 (b) "State agency" means any agency, department,
13502 commission, board, bureau, institution or other instrumentality of
13503 the state.

13504 (c) "Wireless communication device" means a cellular
13505 telephone, pager or a personal digital assistant device having
13506 wireless communication capability.

13507 (2) Before a wireless communication device may be assigned,
13508 issued or made available to an agency officer or employee, the
13509 agency head, or his designee, shall sign a statement certifying
13510 the need or reason for issuing the device. No officer or employee
13511 of any state agency, except for an officer or employee of the
13512 Mississippi Emergency Management Agency, shall be assigned or
13513 issued more than one (1) such wireless communication device. No
13514 officer or employee of any state agency to whom has been assigned,
13515 issued or made available the use of a wireless communication
13516 device, the cost of which is paid through the use of public funds,
13517 shall use such device for personal use.

13518 (3) A state agency shall not reimburse any officer or
13519 employee for use of his or her personal wireless communication
13520 device.

13521 (4) Every state agency that, at the expense of the state
13522 agency, assigns, issues or makes available to any of its officers
13523 or employees a wireless communication device shall obtain and



13524 maintain detailed billing for every wireless communication device
13525 account. A list of approved vendors for the procurement of
13526 wireless communication devices and the delivery of wireless
13527 communication device services shall be developed for all state
13528 agencies by the Mississippi Department of Information Technology
13529 Services. The department shall exercise the option of selecting
13530 one (1) vendor from which to procure wireless communication
13531 devices and to provide wireless communication device services, or
13532 if it deems such to be most advantageous to the state agencies, it
13533 may select multiple vendors. The department shall select a vendor
13534 or vendors on the basis of lowest and best bid proposals. A state
13535 agency may not procure a wireless communication device from any
13536 vendor or contract for wireless communication device services with
13537 any vendor unless the vendor appears on the list approved by the
13538 department. A contract entered into in violation of this section
13539 shall be void and unenforceable.

13540 (5) The department shall promulgate a model acceptable use
13541 policy defining the appropriate use of all wireless communication
13542 devices. The department shall include in its definition of
13543 appropriate use a prohibition on the downloading, accessing, or
13544 using of a prohibited technology pursuant to the National Security
13545 on State Devices and Networks Act. The acceptable use policy
13546 should specify that these resources, including both devices and
13547 services, are provided at the state agency's expense as tools for
13548 accomplishing the business missions of the state agency; that all



13549 those resources are for business use; and that more than
13550 incidental personal use of those resources is prohibited. The
13551 acceptable use policy should require that each official and
13552 employee issued one (1) of the above devices or authorized to
13553 access one (1) of the above services sign the policy and that the
13554 signed copy be placed in the personnel file of the official or
13555 employee. The acceptable use policy should also require that the
13556 use of these resources be tracked, verified and signed by the
13557 official or employee and the supervisor of the official or
13558 employee at each billing cycle or other appropriate interval. All
13559 state agencies shall adopt the model policy or adopt a policy that
13560 is, at minimum, as stringent as the model policy and shall provide
13561 a copy of the policy to the department.

13562 (6) All state agencies shall purchase or acquire only the
13563 lowest cost cellular telephone, pager or personal digital
13564 assistance device which will carry out its intended use.

13565 (7) The University of Mississippi Medical Center and its
13566 employees, the Mississippi State University Extension Service and
13567 its agents and faculty members, the Mississippi State University
13568 Agricultural and Forestry Experiment Station and its faculty
13569 members, the Mississippi State University Forestry and Wildlife
13570 Research Center and its faculty members, and the Mississippi State
13571 University College of Veterinary Medicine and its faculty members
13572 shall be exempt from the application of this section.



13573 (8) Employees of State Institutions of Higher Learning shall
13574 be exempt from the provisions of this section when incurring
13575 international usage charges for the business-related use of their
13576 personal wireless communication devices during business-related
13577 international travel. Such exemption shall only apply after a
13578 determination by the employer-institution that reimbursement to
13579 the employee for the use of his or her personal wireless
13580 communication device is the lowest-cost option to prevent business
13581 interruption during such travel.

13582 (9) The State Auditor shall conduct necessary audits to
13583 ensure compliance with the provisions of this section.

13584 **SECTION 205.** Section 37-101-15, Mississippi Code of 1972, is
13585 brought forward as follows:

13586 37-101-15. (a) The Board of Trustees of State Institutions
13587 of Higher Learning shall succeed to and continue to exercise
13588 control of all records, books, papers, equipment, and supplies,
13589 and all lands, buildings, and other real and personal property
13590 belonging to or assigned to the use and benefit of the board of
13591 trustees formerly supervising and controlling the institutions of
13592 higher learning named in Section 37-101-1. The board shall have
13593 and exercise control of the use, distribution and disbursement of
13594 all funds, appropriations and taxes, now and hereafter in
13595 possession, levied and collected, received, or appropriated for
13596 the use, benefit, support, and maintenance or capital outlay
13597 expenditures of the institutions of higher learning, including the



13598 authorization of employees to sign vouchers for the disbursement
13599 of funds for the various institutions, except where otherwise
13600 specifically provided by law.

13601 (b) The board shall have general supervision of the affairs
13602 of all the institutions of higher learning, including the
13603 departments and the schools thereof. The board shall have the
13604 power in its discretion to determine who shall be privileged to
13605 enter, to remain in, or to graduate therefrom. The board shall
13606 have general supervision of the conduct of libraries and
13607 laboratories, the care of dormitories, buildings, and grounds; the
13608 business methods and arrangement of accounts and records; the
13609 organization of the administrative plan of each institution; and
13610 all other matters incident to the proper functioning of the
13611 institutions. The board shall have the authority to establish
13612 minimum standards of achievement as a prerequisite for entrance
13613 into any of the institutions under its jurisdiction, which
13614 standards need not be uniform between the various institutions and
13615 which may be based upon such criteria as the board may establish.

13616 (c) The board shall exercise all the powers and prerogatives
13617 conferred upon it under the laws establishing and providing for
13618 the operation of the several institutions herein specified. The
13619 board shall adopt such bylaws and regulations from time to time as
13620 it deems expedient for the proper supervision and control of the
13621 several institutions of higher learning, insofar as such bylaws
13622 and regulations are not repugnant to the Constitution and laws,



13623 and not inconsistent with the object for which these institutions
13624 were established. The board shall have power and authority to
13625 prescribe rules and regulations for policing the campuses and all
13626 buildings of the respective institutions, to authorize the arrest
13627 of all persons violating on any campus any criminal law of the
13628 state, and to have such law violators turned over to the civil
13629 authorities.

13630 (d) For all institutions specified herein, the board shall
13631 provide a uniform system of recording and of accounting approved
13632 by the State Department of Audit. The board shall annually
13633 prepare, or cause to be prepared, a budget for each institution of
13634 higher learning for the succeeding year which must be prepared and
13635 in readiness for at least thirty (30) days before the convening of
13636 the regular session of the Legislature. All relationships and
13637 negotiations between the State Legislature and its various
13638 committees and the institutions named herein shall be carried on
13639 through the board of trustees. No official, employee or agent
13640 representing any of the separate institutions shall appear before
13641 the Legislature or any committee thereof except upon the written
13642 order of the board or upon the request of the Legislature or a
13643 committee thereof.

13644 (e) For all institutions specified herein, the board shall
13645 prepare an annual report to the Legislature setting forth the
13646 disbursements of all monies appropriated to the respective
13647 institutions. Each report to the Legislature shall show how the



13648 money appropriated to the several institutions has been expended,
13649 beginning and ending with the fiscal years of the institutions,
13650 showing the name of each teacher, officer, and employee, and the
13651 salary paid each, and an itemized statement of each and every item
13652 of receipts and expenditures. Each report must be balanced, and
13653 must begin with the former balance. If any property belonging to
13654 the state or the institution is used for profit, the reports shall
13655 show the expense incurred in managing the property and the amount
13656 received therefrom. The reports shall also show a summary of the
13657 gross receipts and gross disbursements for each year and shall
13658 show the money on hand at the beginning of the fiscal period of
13659 the institution next preceding each session of the Legislature and
13660 the necessary amount of expense to be incurred from said date to
13661 January 1 following. The board shall keep the annual expenditures
13662 of each institution herein mentioned within the income derived
13663 from legislative appropriations and other sources, but in case of
13664 emergency arising from acts of providence, epidemics, fire or
13665 storm with the written approval of the Governor and by written
13666 consent of a majority of the senators and of the representatives
13667 it may exceed the income. The board shall require a surety bond
13668 in a surety company authorized to do business in this state of
13669 every employee who is the custodian of funds belonging to one or
13670 more of the institutions mentioned herein, which bond shall be in
13671 a sum to be fixed by the board in an amount that will properly



13672 safeguard the said funds, the premium for which shall be paid out
13673 of the funds appropriated for said institutions.

13674 (f) The board shall have the power and authority to elect
13675 the heads of the various institutions of higher learning and to
13676 contract with all deans, professors, and other members of the
13677 teaching staff, and all administrative employees of said
13678 institutions for a term not exceeding four (4) years. The board
13679 shall have the power and authority to terminate any such contract
13680 at any time for malfeasance, inefficiency, or contumacious
13681 conduct, but never for political reasons. It shall be the policy
13682 of the board to permit the executive head of each institution to
13683 nominate for election by the board all subordinate employees of
13684 the institution over which he presides. It shall be the policy of
13685 the board to elect all officials for a definite tenure of service
13686 and to reelect during the period of satisfactory service. The
13687 board shall have the power to make any adjustments it thinks
13688 necessary between the various departments and schools of any
13689 institution or between the different institutions.

13690 (g) The board shall keep complete minutes and records of all
13691 proceedings which shall be open for inspection by any citizen of
13692 the state.

13693 (h) The board shall have the power to enter into an energy
13694 performance contract, energy services contract, on a
13695 shared-savings, lease or lease-purchase basis, for energy



13696 efficiency services and/or equipment as prescribed in Section
13697 31-7-14.

13698 (i) The Board of Trustees of State Institutions of Higher
13699 Learning, for and on behalf of Jackson State University, is hereby
13700 authorized to convey by donation or otherwise easements across
13701 portions of certain real estate located in the City of Jackson,
13702 Hinds County, Mississippi, for right-of-way required for the Metro
13703 Parkway Project.

13704 (j) In connection with any international contract between
13705 the board or one (1) of the state's institutions of higher
13706 learning and any party outside of the United States, the board or
13707 institution that is the party to the international contract is
13708 hereby authorized and empowered to include in the contract a
13709 provision for the resolution by arbitration of any controversy
13710 between the parties to the contract relating to such contract or
13711 the failure or refusal to perform any part of the contract. Such
13712 provision shall be valid, enforceable and irrevocable without
13713 regard to the justiciable character of the controversy. Provided,
13714 however, that in the event either party to such contract initiates
13715 litigation against the other with respect to the contract, the
13716 arbitration provision shall be deemed waived unless asserted as a
13717 defense on or before the responding party is required to answer
13718 such litigation.

13719 (k) The Board of Trustees of State Institutions of Higher
13720 Learning ("board"), on behalf of any institution under its



13721 jurisdiction, shall purchase and maintain business property
13722 insurance and business personal property insurance on all
13723 university-owned buildings and/or contents as required by federal
13724 law and regulations of the Federal Emergency Management Agency
13725 (FEMA) as is necessary for receiving public assistance or
13726 reimbursement for repair, reconstruction, replacement or other
13727 damage to those buildings and/or contents caused by the Hurricane
13728 Katrina Disaster of 2005 or subsequent disasters. The board is
13729 authorized to expend funds from any available source for the
13730 purpose of obtaining and maintaining that property insurance. The
13731 board is authorized to enter into agreements with the Department
13732 of Finance and Administration, local school districts,
13733 community/junior college districts, community hospitals and/or
13734 other state agencies to pool their liabilities to participate in a
13735 group business property and/or business personal property
13736 insurance program, subject to uniform rules and regulations as may
13737 be adopted by the Department of Finance and Administration.

13738 (1) The Board of Trustees of State Institutions of Higher
13739 Learning, or its designee, may approve the payment or
13740 reimbursement of reasonable travel expenses incurred by candidates
13741 for open positions at the board's executive office or at any of
13742 the state institutions of higher learning, when the job candidate
13743 has incurred expenses in traveling to a job interview at the
13744 request of the board, the Commissioner of Higher Education or a
13745 state institution of higher learning administrator.



13746 (m) (i) The Board of Trustees of State Institutions of
13747 Higher Learning is authorized to administer and approve contracts
13748 for the construction and maintenance of buildings and other
13749 facilities of the state institutions of higher learning, including
13750 related contracts for architectural and engineering services,
13751 which are paid for with self-generated funds.

13752 (ii) Additionally, the board is authorized to oversee,
13753 administer and approve contracts for the construction and
13754 maintenance of buildings and other facilities of the state
13755 institutions of higher learning, including related contracts for
13756 architectural and engineering services, which are funded in whole
13757 or in part by general obligation bonds of the State of Mississippi
13758 at institutions designated annually by the board as being capable
13759 to procure and administer all such contracts. Prior to the
13760 disbursement of funds, an agreement for each project between the
13761 institution and the Department of Finance and Administration shall
13762 be executed. The approval and execution of the agreement shall
13763 not be withheld by either party unless the withholding party
13764 provides a written, detailed explanation of the basis for
13765 withholding to the other party. The agreement shall stipulate the
13766 responsibilities of each party, applicable procurement
13767 regulations, documentation and reporting requirements, conditions
13768 prior to, and schedule of, disbursement of general obligation bond
13769 funds to the institution and provisions concerning handling any
13770 remaining general obligation bonds at the completion of the



13771 project. Such agreement shall not include provisions that
13772 constitute additional qualifications or criteria that act to
13773 invalidate the designation of an institution as capable of
13774 procuring and administering such project. Inclusion of any such
13775 provisions may be appealed to the Public Procurement Review Board.
13776 This paragraph (ii) shall stand repealed from and after July 1,
13777 2025.

13778 **SECTION 206.** This act shall take effect and be in force from
13779 and after July 1, 2024, and shall stand repealed on June 30, 2024.

