

By: Representative Lamar

To: Ways and Means

COMMITTEE SUBSTITUTE  
FOR  
HOUSE BILL NO. 1942

1 AN ACT TO PROVIDE FOR AN INCOME TAX AND INSURANCE PREMIUM TAX  
2 CREDIT FOR TAXPAYERS THAT PAY A QUALIFIED COMMUNITY DEVELOPMENT  
3 ENTITY FOR QUALIFIED EQUITY INVESTMENTS; TO DEFINE CERTAIN TERMS  
4 FOR THE PURPOSES OF THE TAX CREDIT; TO PROVIDE THAT THE AMOUNT OF  
5 THE CREDIT SHALL BE EQUAL TO A CERTAIN PERCENTAGE OF THE ADJUSTED  
6 PURCHASE PRICE PAID TO THE QUALIFIED COMMUNITY DEVELOPMENT ENTITY  
7 FOR THE QUALIFIED EQUITY INVESTMENT; TO PROVIDE THAT THE MAXIMUM  
8 AGGREGATE AMOUNT OF THE CREDITS THAT MAY BE ALLOCATED TO ALL  
9 TAXPAYERS IN ANY ONE STATE FISCAL YEAR SHALL NOT EXCEED  
10 \$20,000,000.00 AND THAT THE CREDITS SHALL BE ALLOCATED BY THE  
11 MISSISSIPPI DEVELOPMENT AUTHORITY; TO PROVIDE FOR THE RECAPTURE OF  
12 ALL OR A PORTION OF THE CREDIT UNDER CERTAIN CIRCUMSTANCES; TO  
13 DEFINE THE TERMS "NEW MARKETS TAX CREDIT TRANSACTION," "PUBLIC  
14 BENEFIT CORPORATION," "PUBLIC ENTITY OR PUBLIC ENTITIES" AND  
15 "PUBLIC PROPERTY OR FACILITIES"; TO AUTHORIZE PUBLIC ENTITIES TO  
16 CREATE PUBLIC BENEFIT CORPORATIONS FOR THE PURPOSE OF ENTERING  
17 INTO FINANCING AGREEMENTS AND ENGAGING IN NEW MARKETS TAX CREDIT  
18 TRANSACTIONS; TO AUTHORIZE PUBLIC ENTITIES TO ENTER INTO FINANCING  
19 ARRANGEMENTS IN ORDER TO TRANSFER PUBLIC PROPERTY OR FACILITIES TO  
20 OR FROM PUBLIC BENEFIT CORPORATIONS; TO AUTHORIZE PUBLIC ENTITIES  
21 AND PUBLIC BENEFIT CORPORATIONS, WITH RESPECT TO NEW MARKETS TAX  
22 CREDIT TRANSACTIONS, TO ENTER INTO FINANCING ARRANGEMENTS WITH  
23 GOVERNMENTAL, NONPROFIT OR FOR PROFIT ENTITIES IN ORDER TO  
24 LEVERAGE FUNDS NOT OTHERWISE AVAILABLE TO PUBLIC ENTITIES FOR THE  
25 ACQUISITION, CONSTRUCTION OR RENOVATION OF PROPERTIES TRANSFERRED  
26 TO A PUBLIC BENEFIT CORPORATION; TO AMEND SECTION 27-15-129,  
27 MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE INVESTMENTS THAT MAY  
28 REDUCE A TAXPAYER'S INSURANCE PREMIUM TAX LIABILITY UNDER SUCH  
29 SECTION SHALL NOT INCLUDE ANY INVESTMENT FOR WHICH A TAX CREDIT IS  
30 ALLOCATED UNDER THIS ACT; TO AMEND SECTION 31-7-13, MISSISSIPPI  
31 CODE OF 1972, TO CONFORM TO THE PROVISIONS OF THIS ACT; AND FOR  
32 RELATED PURPOSES.

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



34           **SECTION 1.** (1) As used in this section, the following words  
35 and phrases shall have the meanings as defined in this subsection  
36 unless the context clearly requires otherwise:

37           (a) "Applicable percentage" means sixteen percent (16%)  
38 for each of the first through third credit allowance dates for  
39 purposes of the taxes imposed by Section 27-7-5 or the taxes  
40 imposed by Sections 27-15-103, 27-15-109 and 27-15-123.

41           (b) "CDFI fund" means the Community Development  
42 Financial Institutions fund of the United States Department of the  
43 Treasury.

44           (c) "Credit allowance date" means, with respect to any  
45 qualified equity investment: (i) the date on which the qualified  
46 equity investment is initially made; and (ii) each of the  
47 subsequent two (2) anniversary dates of the date the qualified  
48 equity investment was initially made.

49           (d) "MDA" means the Mississippi Development Authority.

50           (e) "Mississippi qualified community development  
51 entity" means a qualified community development entity that is or  
52 whose controlling entity is headquartered in the State of  
53 Mississippi.

54           (f) "Principal business operations" means the physical  
55 location where at least sixty percent (60%) of a qualified active  
56 low-income community business' employees work. An entity that has  
57 agreed to relocate employees or a Mississippi business that has  
58 agreed to hire employees using the proceeds of a qualified



59 low-income community investment to establish principal business  
60 operations in Mississippi is deemed to have principal business  
61 operations in Mississippi if the entity satisfies the requirements  
62 of this paragraph within one hundred eighty (180) days of  
63 receiving the qualified low-income community investment or another  
64 date as agreed by the business and the MDA.

65 (g) "Purchase price" means the amount paid to the  
66 qualified community development entity for a qualified equity  
67 investment.

68 (h) "Qualified active low-income community business"  
69 shall have the meaning ascribed to such term in Section 45D of the  
70 Internal Revenue Code of 1986, as amended, provided such entity  
71 has its principal business operations within the state's  
72 geographical boundary. An entity is deemed a qualified active  
73 low-income community business for the duration of a qualified  
74 low-income community investment if the qualified community  
75 development entity reasonably expects, at the time it makes the  
76 qualified low-income community investment, that the entity will  
77 continue to satisfy the requirements for being a qualified active  
78 low-income community business throughout the entire period of the  
79 qualified low-income community investment.

80 (i) "Qualified community development entity" shall have  
81 the meaning ascribed to such term in Section 45D of the Internal  
82 Revenue Code of 1986, as amended, provided that:



83 (i) The entity, or an affiliate thereof, has  
84 previously entered into an allocation agreement with the CDFI fund  
85 with respect to credits authorized by Section 45D of the Internal  
86 Revenue Code of 1986, as amended;

87 (ii) Such allocation agreement includes the State  
88 of Mississippi within the service area set forth in the allocation  
89 agreement; and

90 (iii) Except for Mississippi qualified community  
91 development entities, the entity, together with affiliates:

92 1. Has made qualified low-income community  
93 investments under Section 57-105-1 et seq. of at least Thirty  
94 Million Dollars (\$30,000,000.00) in Mississippi qualified active  
95 low-income community businesses;

96 2. Has made at least One Hundred Million  
97 Dollars (\$100,000,000) of investments in businesses located in  
98 Mississippi; or

99 3. Has received at least four (4) original  
100 tax credit certificates from the MDA.

101 (j) "Qualified equity investment" means an equity  
102 investment in a qualified community development entity, if the  
103 equity investment:

104 (i) Is acquired after the effective date of this  
105 act at its original issuance solely in exchange for cash, and if  
106 not so acquired, was a qualified equity investment in the hands of  
107 a prior holder;



108 (ii) Has at least eighty-five percent (85%) of its  
109 cash purchase price used by the qualified community development  
110 entity to make qualified low-income community investments in  
111 qualified active low-income community businesses that have their  
112 principal business operations in the State of Mississippi; and

113 (iii) Is:

114 1. Designated by the qualified community  
115 development entity as a qualified equity investment under this  
116 section; and

117 2. Is at least fifty percent (50%) designated  
118 by the qualified community development entity as a qualified  
119 equity investment under Section 45D of the Internal Revenue Code  
120 of 1986, as amended.

121 (k) "Qualified low-income community investment" shall  
122 have the meaning ascribed to such term in Section 45D of the  
123 Internal Revenue Code of 1986, as amended; provided, however, that  
124 the maximum amount of qualified low-income community investments  
125 issued for a single qualified active low-income community  
126 business, on an aggregate basis with all of its affiliates, that  
127 may be included for purposes of complying with subsection  
128 (4) (d) (iii) of this section shall not exceed Ten Million Dollars  
129 (\$10,000,000.00), in the aggregate, whether issued by one (1) or  
130 several qualified community development entities and exclusive of  
131 repaid or redeemed qualified low-income community investments in  
132 such business.



133           (2) A person or entity that holds a qualified equity  
134 investment on the credit allowance date shall be entitled to a  
135 credit applicable against the taxes imposed by Sections 27-7-5,  
136 27-15-103, 27-15-109 and 27-15-123 during the taxable year that  
137 includes the credit allowance date. The amount of the credit  
138 shall be equal to the applicable percentage for such taxable year  
139 of the purchase price paid to the qualified community development  
140 entity for the qualified equity investment. The amount of the  
141 credit that may be utilized in any one (1) tax year shall be  
142 limited to an amount not greater than the total tax liability of  
143 the claimant for the taxes imposed by the above-referenced  
144 sections. The credit shall not be refundable or transferable.  
145 Any unused portion of the credit may be carried forward for seven  
146 (7) taxable years beyond the credit allowance date on which the  
147 credit was earned. The maximum aggregate amount of qualified  
148 equity investments that may be allocated by the MDA may not exceed  
149 an amount that would result in taxpayers claiming in any one (1)  
150 state fiscal year credits in excess of Twenty Million Dollars  
151 (\$20,000,000.00), exclusive of credits that might be carried  
152 forward from previous taxable years; however, a maximum of  
153 Eighteen Million Dollars (\$18,000,000.00) with respect to such  
154 allocations may be allocated as credits for taxes imposed by  
155 Sections 27-15-103, 27-15-109 and 27-15-123. Any person or entity  
156 claiming a credit under this section against the taxes imposed by  
157 Sections 27-7-5, 27-15-103, 27-15-109 and 27-15-123 shall not be



158 required to pay any additional tax under Section 27-15-123 as a  
159 result of claiming such credit. The MDA shall allocate credits  
160 within this limit as provided for in subsection (4) of this  
161 section.

162 (3) Tax credits authorized by this section that are earned  
163 by a partnership, limited liability company, S corporation or  
164 other similar pass-through entity, shall be allocated among its  
165 partners, members or shareholders, respectively, either in  
166 proportion to their ownership interest in such entity or as the  
167 partners, members or shareholders mutually agree as provided in an  
168 executed document. Such allocation shall be made each taxable  
169 year of such pass-through entity which contains a credit allowance  
170 date. An allocation or pass-through of a credit is not considered  
171 a sale for the purposes of this section or any other state law.

172 (4) (a) For three (3) consecutive fiscal years beginning  
173 July 1, 2024, qualified community development entities shall apply  
174 to the MDA for an award of credits and related qualified equity  
175 investment authority on a form provided by the MDA that includes:

176 (i) The name, address, and tax identification  
177 number of the applicant, and evidence of the applicant's  
178 certification as a qualified community development entity by the  
179 CDFI fund;

180 (ii) A copy of the allocation agreement executed  
181 by the applicant or its controlling entity, and the CDFI fund;



182 (iii) A certificate executed by an executive  
183 officer of the applicant attesting that the allocation agreement  
184 remains in effect and has not been revoked or canceled by the CDFI  
185 fund;

186 (iv) A description of the proposed amount,  
187 structure, and purchaser of the equity investment;

188 (v) The amount of qualified equity investment  
189 authority sought which collectively may not exceed the applicant  
190 or its controlling entity's available qualified equity investment  
191 authority under Section 45D of the Internal Revenue Code of 1986,  
192 as amended multiplied by two (2);

193 (vi) Evidence of the applicant or its controlling  
194 entity's available qualified equity investment authority under  
195 Section 45D of the Internal Revenue Code of 1986, as amended;

196 (vii) A nonrefundable application fee of One  
197 Thousand Dollars (\$1,000.00);

198 (viii) Except for Mississippi qualified community  
199 development entities, evidence that the applicant, on a collective  
200 basis with its affiliates, satisfies at least one (1) of the  
201 requirements of subsection (1)(i)(iii) of this section for the  
202 definition of qualified community development entity; and

203 (ix) Other information as required by the MDA  
204 pursuant to paragraph (c) of this subsection.

205 (b) The MDA shall set a date to accept applications not  
206 less than thirty (30) days but not more than forty-five (45) days





207 after the CDFI fund announces allocation awards under a notice of  
208 funding availability that was published in the Federal Register.  
209 In the event that the CDFI fund is unable to publish a notice of  
210 funding of allocation awards because of a lack of award authority  
211 under Section 45D of the Internal Revenue Code of 1986, as  
212 amended, with respect to the fiscal year beginning July 1, 2026,  
213 the MDA shall set a date for accepting applications and waive the  
214 requirement that a qualified community development entity  
215 designate at least fifty percent (50%) of qualified equity  
216 investment authority awarded as a qualified equity investment  
217 under Section 45D of the Internal Revenue Code of 1986, as  
218 amended, provided that the MDA shall give a preference in the  
219 award of tax credits to qualified community development entities  
220 that apply with remaining allocation under Section 45D of the  
221 Internal Revenue Code of 1986, as amended.

222 (c) The MDA shall award credits and the related  
223 qualified equity investment authority, subject to the limitations  
224 set forth in subsection (2) of this section, fifty percent (50%)  
225 to applicants that agree to utilize qualified equity investment  
226 authority for loan funds. The MDA may require additional  
227 information in the application to delineate between types of  
228 applications. Within forty-five (45) days with respect to a loan  
229 fund application and ninety (90) days for all other applications,  
230 the MDA shall grant or deny the application in full or in part.  
231 If the MDA denies any part of the application, the MDA shall



232 inform the applicant of the grounds for the denial. If the  
233 applicant provides the information required by the MDA or  
234 otherwise completes its application within fifteen (15) days of  
235 the notice of denial, the application is deemed complete as of the  
236 original date of submission. If the applicant fails to provide  
237 the requested information or complete its application within the  
238 fifteen-day period, the applicant must submit a new application.  
239 If requests for either allocation are not fully subscribed, the  
240 MDA shall reallocate such remaining allocation to the other  
241 allocation pool. Once the MDA has allocated credits to a  
242 qualified community development entity, the corresponding  
243 qualified equity investment must be issued and, if applicable,  
244 fifty percent (50%) of such qualified equity investment must be  
245 designated under Section 45D of the Internal Revenue Code of 1986,  
246 as amended, not later than one hundred twenty (120) days from the  
247 date of such allocation. If the qualified equity investment is  
248 not issued and, if applicable, such designation under Section 45D  
249 of the Internal Revenue Code of 1986, as amended, is not made  
250 within such time period, the allocation shall be cancelled and  
251 returned to the MDA for reallocation. If the actual dollar amount  
252 of qualified equity investment is lower than the amount awarded by  
253 the MDA, the MDA shall adjust the tax credit allowed under this  
254 section and reissue awards to other applicants that did not  
255 receive the awards requested pro rata. Qualified community  
256 development entities shall provide the MDA evidence of qualified



257 equity investments and designation under Section 45D of the  
258 Internal Revenue Code of 1986, as amended, if applicable, within  
259 one hundred thirty (130) days from the date of an allocation. An  
260 applicant certified an award under this paragraph may transfer all  
261 or a portion of its certified qualified equity investment  
262 authority to any affiliated qualified community development entity  
263 by sending written notice to the MDA endorsing the certificate.

264 (d) The Department of Revenue may recapture credits  
265 under this section if:

266 (i) Any amount of the federal tax credit available  
267 with respect to a qualified equity investment that is eligible for  
268 a credit under this section is recaptured under Section 45D of the  
269 Internal Revenue Code of 1986, as amended;

270 (ii) The qualified community development entity  
271 redeems a qualified equity investment prior to the seventh  
272 anniversary of the issuance of the qualified equity investment; or

273 (iii) The qualified community development entity  
274 fails to invest at least eighty-five percent (85%) of the cash  
275 purchase price of the qualified equity investment in qualified  
276 low-income community investments within twelve (12) months of the  
277 issuance of the qualified equity investment and maintain that  
278 level of investment until the seventh anniversary of the initial  
279 credit allowance date for the qualified equity investment.

280 A qualified community development entity shall notify the  
281 Department of Revenue of any of the events set forth in this



282 paragraph (d) within five (5) days of actual knowledge of such  
283 event.

284 (e) For purposes of paragraph (d)(iii) of this  
285 subsection, an investment is considered maintained by a qualified  
286 community development entity even if the investment has been sold  
287 or repaid, provided that the qualified community development  
288 entity reinvests an amount equal to the capital returned to or  
289 recovered by the qualified community development entity from the  
290 original investment, exclusive of any profits realized, in another  
291 qualified low-income community investment in this state within  
292 twelve (12) months after the receipt of that capital. Periodic  
293 loan repayments received by a qualified community development  
294 entity from a qualified active low-income community business  
295 within a calendar year must be treated as maintained in qualified  
296 low-income community investments if a qualified community  
297 development entity reinvests the repayments in qualified  
298 low-income community investments by the end of the following  
299 calendar year.

300 (f) A qualified community development entity is not  
301 required to reinvest capital returned from qualified low-income  
302 community investments after the sixth anniversary of the issuance  
303 of the qualified equity investment, the proceeds of which were  
304 used to make the qualified low-income community investment, and  
305 the qualified low-income community investment is considered held



306 by the qualified community development entity through the seventh  
307 anniversary of the qualified equity investment's issuance.

308 (g) The MDA shall provide notice to the qualified  
309 community development entity and the Department of Revenue of any  
310 proposed recapture of credits pursuant to this subsection. The  
311 notice must specify the conditions under which the deficiency  
312 resulting in the proposed recapture occurred and state that the  
313 credits will be recaptured within ninety (90) days unless the  
314 qualified community development entity complies with the  
315 conditions identified in the notice. If the entity does not  
316 comply with the conditions identified in the notice within the  
317 ninety-day period, the Department of Revenue shall provide the  
318 entity from whom the credit is to be recaptured with a final order  
319 of recapture. Any credit for which a final recapture order has  
320 been issued must be recaptured by the Department of Revenue from  
321 the entity who claimed the credit on a tax return. The qualified  
322 equity investment authority of the recaptured credits must be  
323 returned to the MDA and must first be awarded pro rata to  
324 applicants that have received awards of qualified equity  
325 investment authority and complied with this subsection. If  
326 credits are recaptured under this section, any remaining credit is  
327 forfeited.

328 (h) The MDA shall not make awards of credits and  
329 related qualified equity investment authority after July 1, 2027.



330           (5) Each qualified community development entity that  
331 receives qualified equity investments to make qualified low-income  
332 community investments in Mississippi must annually report to the  
333 MDA the North American Industry Classification System Code, the  
334 county, the dollars invested, the number of jobs assisted and the  
335 number of jobs assisted with wages over one hundred percent (100%)  
336 of the federal poverty level for a family of four (4) of each  
337 qualified low-income community investment.

338           (6) The MDA shall file an annual report on all qualified  
339 low-income community investments with the Governor, the Clerk of  
340 the House of Representatives, the Secretary of the Senate and the  
341 Secretary of State describing the North American Industry  
342 Classification System Code, the county, the dollars invested, the  
343 number of jobs assisted and the number of jobs assisted with wages  
344 over one hundred percent (100%) of the federal poverty level for a  
345 family of four (4) of each qualified low-income community  
346 investment. The annual report will be posted on the MDA Internet  
347 website.

348           (7) (a) The purpose of this subsection is to authorize the  
349 creation and establishment of public benefit corporations for  
350 financing arrangements regarding public property and facilities.

351                   (b) As used in this subsection:

352                           (i) "New Markets Tax Credit transaction" means any  
353 financing transaction which utilizes either this section or  
354 Section 45D of the Internal Revenue Code of 1986, as amended.



355                   (ii) "Public benefit corporation" means a  
356 nonprofit corporation formed or designated by a public entity to  
357 carry out the purposes of this subsection.

358                   (iii) "Public entity or public entities" includes  
359 utility districts, regional solid waste authorities, regional  
360 utility authorities, community hospitals, regional airport  
361 authorities, municipal airport authorities, community and junior  
362 colleges, educational building corporations established by or on  
363 behalf of the state institutions of higher learning, school  
364 districts, planning and development districts, county economic  
365 development districts, urban renewal agencies, any other regional  
366 or local economic development authority, agency or governmental  
367 entity, and any other regional or local industrial development  
368 authority, agency or governmental entity.

369                   (iv) "Public property or facilities" means any  
370 property or facilities owned or leased by a public entity or  
371 public benefit corporation.

372                   (c) Notwithstanding any other provision of law to the  
373 contrary, public entities are authorized pursuant to this  
374 subsection to create one or more public benefit corporations or  
375 designate an existing corporation as a public benefit corporation  
376 for the purpose of entering into financing agreements and engaging  
377 in New Markets Tax Credit transactions, which shall include,  
378 without limitation, arrangements to plan, acquire, renovate,  
379 construct, lease, sublease, manage, operate and/or improve new or



380 existing public property or facilities located within the  
381 boundaries or service area of the public entity. Any financing  
382 arrangement authorized under this subsection shall further any  
383 purpose of the public entity and may include a term of up to fifty  
384 (50) years.

385 (d) Notwithstanding any other provision of law to the  
386 contrary and in order to facilitate the acquisition, renovation,  
387 construction, leasing, subleasing, management, operating and/or  
388 improvement of new or existing public property or facilities to  
389 further any purpose of a public entity, public entities are  
390 authorized to enter into financing arrangements in order to  
391 transfer public property or facilities to and/or from public  
392 benefit corporations, including, without limitation, sales,  
393 sale-leasebacks, leases and lease-leasebacks, provided such  
394 transfer is related to any New Markets Tax Credit transaction  
395 furthering any purpose of the public entity. Any such transfer  
396 under this paragraph (d) and the public property or facilities  
397 transferred in connection therewith shall be exempted from any  
398 limitation or requirements with respect to leasing, acquiring,  
399 and/or constructing public property or facilities.

400 (e) With respect to a New Markets Tax Credit  
401 transaction, public entities and public benefit corporations are  
402 authorized to enter into financing arrangements with any  
403 governmental, nonprofit or for-profit entity in order to leverage  
404 funds not otherwise available to public entities for the





405 acquisition, construction and/or renovation of properties  
406 transferred to such public benefit corporations. The use of any  
407 funds loaned by or contributed by a public benefit corporation or  
408 borrowed by or otherwise made available to a public benefit  
409 corporation in such financing arrangement shall be dedicated  
410 solely to (i) the development of new properties or facilities  
411 and/or the renovation of existing properties or facilities or  
412 operation of properties or facilities, and/or (ii) the payment of  
413 costs and expenditures related to any such financing arrangements,  
414 including, but not limited to, funding any reserves required in  
415 connection therewith, the repayment of any indebtedness incurred  
416 in connection therewith, and the payment of fees and expenses  
417 incurred in connection with the closing, administration,  
418 accounting and/or compliance with respect to the New Markets Tax  
419 Credit transaction.

420 (f) A public benefit corporation created pursuant to  
421 this subsection shall not be a political subdivision of the state  
422 but shall be a nonprofit corporation organized and governed under  
423 the provisions of the laws of this state and shall be a special  
424 purpose corporation established to facilitate New Markets Tax  
425 Credit transactions consistent with the requirements of this  
426 section.

427 (g) Neither this subsection nor anything herein  
428 contained is or shall be construed as a restriction or limitation  
429 upon any powers which the public entity or public benefit



430 corporation might otherwise have under any laws of this state, and  
431 this subsection is cumulative to any such powers. This subsection  
432 does and shall be construed to provide a complete additional and  
433 alternative method for the doing of the things authorized thereby  
434 and shall be regarded as supplemental and additional to powers  
435 conferred by other laws.

436 (8) The MDA shall promulgate rules and regulations to  
437 implement the provisions of this section.

438 **SECTION 2.** Section 27-15-129, Mississippi Code of 1972, is  
439 amended as follows:

440 27-15-129. (1) The amount of premium tax payable pursuant  
441 to Sections 27-15-103, 27-15-109, 27-15-119 and 83-31-45,  
442 Mississippi Code of 1972, shall be reduced from the amount  
443 otherwise fixed in such sections if the payer files a sworn  
444 statement with the required annual report showing as of the  
445 beginning of the reporting period that at least the following  
446 amounts of the total admitted assets of the payer were invested  
447 and maintained in qualifying Mississippi investments as  
448 hereinafter defined in subsection (2) of this section over the  
449 period covered by such report:

450	Percentage of Total Admitted	Percentage of Premium
451	Assets in Qualifying	Tax Payable
452	Mississippi Investments	
453	1%	99%
454	2%	98%



455	3%	97%
456	4%	96%
457	5%	95%
458	6%	94%
459	7%	93%
460	8%	92%
461	9%	91%
462	10%	80%
463	15%	70%
464	20%	60%
465	25%	50%

466           (2) For the purpose of this section, "a qualifying  
467 Mississippi investment" is hereby defined as follows:

468                   (a) Certificates of deposit issued by any bank or  
469 savings and loan association domiciled in this state;

470                   (b) Bonds of this state or bonds of municipal, school,  
471 road or levee districts, or other political subdivisions of this  
472 state;

473                   (c) Loans evidenced by notes and secured by deeds of  
474 trust on property located in this state;

475                   (d) Real property located in this state;

476                   (e) Policy loans to residents of Mississippi, or other  
477 loans to residents of this state, or to corporations domiciled in  
478 this state;



479 (f) Common or preferred stock, bonds and other  
480 evidences of indebtedness of corporations domiciled in this state;  
481 and

482 (g) Cash on deposit in any bank or savings and loan  
483 association domiciled in this state.

484 "A qualifying Mississippi investment" shall not include any  
485 investment for which a credit is allocated under Section  
486 57-105-1 \* \* \*, Section 57-115-1 et seq., and/or Section 1 of this  
487 act.

488 (3) If the credits, or any part thereof, authorized by the  
489 preceding provisions of this section shall be held by a court of  
490 final jurisdiction to be unconstitutional and void for any reason  
491 or to make the annual premium taxes levied by Sections 27-15-103,  
492 27-15-109, 27-15-119 and 83-31-45, Mississippi Code of 1972,  
493 unlawfully discriminatory or otherwise invalid under the  
494 Fourteenth Amendment or the Commerce Clause of the Constitution of  
495 the United States or under any state or other federal  
496 constitutional provisions, it is hereby expressly declared that  
497 such fact shall in no way affect the validity of the annual  
498 premium taxes levied thereby, and that such provisions would have  
499 been enacted even though the Legislature had known this credit  
500 section would be held invalid.

501 (4) This section shall apply to taxes accruing and  
502 investments existing from and after July 1, 1985.



503           **SECTION 3.** Section 31-7-13, Mississippi Code of 1972, is  
504 amended as follows:

505           31-7-13. All agencies and governing authorities shall  
506 purchase their commodities and printing; contract for garbage  
507 collection or disposal; contract for solid waste collection or  
508 disposal; contract for sewage collection or disposal; contract for  
509 public construction; and contract for rentals as herein provided.

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

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

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

519 **not over \$75,000.00.** Purchases which involve an expenditure of  
520 more than Five Thousand Dollars (\$5,000.00) but not more than  
521 Seventy-five Thousand Dollars (\$75,000.00), exclusive of freight  
522 and shipping charges, may be made from the lowest and best bidder  
523 without publishing or posting advertisement for bids, provided at  
524 least two (2) competitive written bids have been obtained. Any  
525 state agency or community or junior college purchasing commodities  
526 or procuring construction pursuant to this paragraph (b) may  
527 authorize its purchasing agent, or his designee, to accept the



528 lowest competitive written bid under Seventy-five Thousand Dollars  
529 (\$75,000.00). Any governing authority purchasing commodities  
530 pursuant to this paragraph (b) may authorize its purchasing agent,  
531 or his designee, with regard to governing authorities other than  
532 counties, or its purchase clerk, or his designee, with regard to  
533 counties, to accept the lowest and best competitive written bid.  
534 Such authorization shall be made in writing by the governing  
535 authority and shall be maintained on file in the primary office of  
536 the agency and recorded in the official minutes of the governing  
537 authority, as appropriate. The purchasing agent or the purchase  
538 clerk, or his designee, as the case may be, and not the governing  
539 authority, shall be liable for any penalties and/or damages as may  
540 be imposed by law for any act or omission of the purchasing agent  
541 or purchase clerk, or his designee, constituting a violation of  
542 law in accepting any bid without approval by the governing  
543 authority. The term "competitive written bid" shall mean a bid  
544 submitted on a bid form furnished by the buying agency or  
545 governing authority and signed by authorized personnel  
546 representing the vendor, or a bid submitted on a vendor's  
547 letterhead or identifiable bid form and signed by authorized  
548 personnel representing the vendor. "Competitive" shall mean that  
549 the bids are developed based upon comparable identification of the  
550 needs and are developed independently and without knowledge of  
551 other bids or prospective bids. Any bid item for construction in  
552 excess of Five Thousand Dollars (\$5,000.00) shall be broken down



553 by components to provide detail of component description and  
554 pricing. These details shall be submitted with the written bids  
555 and become part of the bid evaluation criteria. Bids may be  
556 submitted by facsimile, electronic mail or other generally  
557 accepted method of information distribution. Bids submitted by  
558 electronic transmission shall not require the signature of the  
559 vendor's representative unless required by agencies or governing  
560 authorities.

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

562 (i) **Publication requirement.**

563 1. Purchases which involve an expenditure of  
564 more than Seventy-five Thousand Dollars (\$75,000.00), exclusive of  
565 freight and shipping charges, may be made from the lowest and best  
566 bidder after advertising for competitive bids once each week for  
567 two (2) consecutive weeks in a regular newspaper published in the  
568 county or municipality in which such agency or governing authority  
569 is located. However, all American Recovery and Reinvestment Act  
570 projects in excess of Twenty-five Thousand Dollars (\$25,000.00)  
571 shall be bid. All references to American Recovery and  
572 Reinvestment Act projects in this section shall not apply to  
573 programs identified in Division B of the American Recovery and  
574 Reinvestment Act.

575 2. Reverse auctions shall be the primary  
576 method for receiving bids during the bidding process. If a  
577 purchasing entity determines that a reverse auction is not in the



578 best interest of the state, then that determination must be  
579 approved by the Public Procurement Review Board. The purchasing  
580 entity shall submit a detailed explanation of why a reverse  
581 auction would not be in the best interest of the state and present  
582 an alternative process to be approved by the Public Procurement  
583 Review Board. If the Public Procurement Review Board authorizes  
584 the purchasing entity to solicit bids with a method other than  
585 reverse auction, then the purchasing entity may designate the  
586 other methods by which the bids will be received, including, but  
587 not limited to, bids sealed in an envelope, bids received  
588 electronically in a secure system, or bids received by any other  
589 method that promotes open competition and has been approved by the  
590 Office of Purchasing and Travel. However, reverse auction shall  
591 not be used for any public contract for design, construction,  
592 improvement, repair or remodeling of any public facilities,  
593 including the purchase of materials, supplies, equipment or goods  
594 for same and including buildings, roads and bridges. The Public  
595 Procurement Review Board must approve any contract entered into by  
596 alternative process. The provisions of this item 2 shall not  
597 apply to the individual state institutions of higher learning.  
598 The provisions of this item 2 requiring reverse auction as the  
599 primary method of receiving bids shall not apply to term contract  
600 purchases as provided in paragraph (n) of this section; however, a  
601 purchasing entity may, in its discretion, utilize reverse auction  
602 for such purchases. The provisions of this item 2 shall not apply





603 to individual public schools, including public charter schools and  
604 public school districts, only when purchasing copyrighted  
605 educational supplemental materials and software as a service  
606 product. For such purchases, a local school board may authorize a  
607 purchasing entity in its jurisdiction to use a Request for  
608 Qualifications which promotes open competition and meets the  
609 requirements of the Office of Purchasing and Travel.

610                   3. The date as published for the bid opening  
611 shall not be less than seven (7) working days after the last  
612 published notice; however, if the purchase involves a construction  
613 project in which the estimated cost is in excess of Seventy-five  
614 Thousand Dollars (\$75,000.00), such bids shall not be opened in  
615 less than fifteen (15) working days after the last notice is  
616 published and the notice for the purchase of such construction  
617 shall be published once each week for two (2) consecutive weeks.  
618 However, all American Recovery and Reinvestment Act projects in  
619 excess of Twenty-five Thousand Dollars (\$25,000.00) shall be bid.  
620 For any projects in excess of Twenty-five Thousand Dollars  
621 (\$25,000.00) under the American Recovery and Reinvestment Act,  
622 publication shall be made one (1) time and the bid opening for  
623 construction projects shall not be less than ten (10) working days  
624 after the date of the published notice. The notice of intention  
625 to let contracts or purchase equipment shall state the time and  
626 place at which bids shall be received, list the contracts to be  
627 made or types of equipment or supplies to be purchased, and, if



628 all plans and/or specifications are not published, refer to the  
629 plans and/or specifications on file. If there is no newspaper  
630 published in the county or municipality, then such notice shall be  
631 given by posting same at the courthouse, or for municipalities at  
632 the city hall, and at two (2) other public places in the county or  
633 municipality, and also by publication once each week for two (2)  
634 consecutive weeks in some newspaper having a general circulation  
635 in the county or municipality in the above-provided manner. On  
636 the same date that the notice is submitted to the newspaper for  
637 publication, the agency or governing authority involved shall mail  
638 written notice to, or provide electronic notification to the main  
639 office of the Mississippi Procurement Technical Assistance Program  
640 under the Mississippi Development Authority that contains the same  
641 information as that in the published notice. Submissions received  
642 by the Mississippi Procurement Technical Assistance Program for  
643 projects funded by the American Recovery and Reinvestment Act  
644 shall be displayed on a separate and unique Internet web page  
645 accessible to the public and maintained by the Mississippi  
646 Development Authority for the Mississippi Procurement Technical  
647 Assistance Program. Those American Recovery and Reinvestment Act  
648 related submissions shall be publicly posted within twenty-four  
649 (24) hours of receipt by the Mississippi Development Authority and  
650 the bid opening shall not occur until the submission has been  
651 posted for ten (10) consecutive days. The Department of Finance  
652 and Administration shall maintain information regarding contracts



653 and other expenditures from the American Recovery and Reinvestment  
654 Act, on a unique Internet web page accessible to the public. The  
655 Department of Finance and Administration shall promulgate rules  
656 regarding format, content and deadlines, unless otherwise  
657 specified by law, of the posting of award notices, contract  
658 execution and subsequent amendments, links to the contract  
659 documents, expenditures against the awarded contracts and general  
660 expenditures of funds from the American Recovery and Reinvestment  
661 Act. Within one (1) working day of the contract award, the agency  
662 or governing authority shall post to the designated web page  
663 maintained by the Department of Finance and Administration, notice  
664 of the award, including the award recipient, the contract amount,  
665 and a brief summary of the contract in accordance with rules  
666 promulgated by the department. Within one (1) working day of the  
667 contract execution, the agency or governing authority shall post  
668 to the designated web page maintained by the Department of Finance  
669 and Administration a summary of the executed contract and make a  
670 copy of the appropriately redacted contract documents available  
671 for linking to the designated web page in accordance with the  
672 rules promulgated by the department. The information provided by  
673 the agency or governing authority shall be posted to the web page  
674 for the duration of the American Recovery and Reinvestment Act  
675 funding or until the project is completed, whichever is longer.

676 (ii) **Bidding process amendment procedure.** If all  
677 plans and/or specifications are published in the notification,



678 then the plans and/or specifications may not be amended. If all  
679 plans and/or specifications are not published in the notification,  
680 then amendments to the plans/specifications, bid opening date, bid  
681 opening time and place may be made, provided that the agency or  
682 governing authority maintains a list of all prospective bidders  
683 who are known to have received a copy of the bid documents and all  
684 such prospective bidders are sent copies of all amendments. This  
685 notification of amendments may be made via mail, facsimile,  
686 electronic mail or other generally accepted method of information  
687 distribution. No addendum to bid specifications may be issued  
688 within two (2) working days of the time established for the  
689 receipt of bids unless such addendum also amends the bid opening  
690 to a date not less than five (5) working days after the date of  
691 the addendum.

692 (iii) **Filing requirement.** In all cases involving  
693 governing authorities, before the notice shall be published or  
694 posted, the plans or specifications for the construction or  
695 equipment being sought shall be filed with the clerk of the board  
696 of the governing authority. In addition to these requirements, a  
697 bid file shall be established which shall indicate those vendors  
698 to whom such solicitations and specifications were issued, and  
699 such file shall also contain such information as is pertinent to  
700 the bid.

701 (iv) **Specification restrictions.**



702                   1. Specifications pertinent to such bidding  
703 shall be written so as not to exclude comparable equipment of  
704 domestic manufacture. However, if valid justification is  
705 presented, the Department of Finance and Administration or the  
706 board of a governing authority may approve a request for specific  
707 equipment necessary to perform a specific job. Further, such  
708 justification, when placed on the minutes of the board of a  
709 governing authority, may serve as authority for that governing  
710 authority to write specifications to require a specific item of  
711 equipment needed to perform a specific job. In addition to these  
712 requirements, from and after July 1, 1990, vendors of relocatable  
713 classrooms and the specifications for the purchase of such  
714 relocatable classrooms published by local school boards shall meet  
715 all pertinent regulations of the State Board of Education,  
716 including prior approval of such bid by the State Department of  
717 Education.

718                   2. Specifications for construction projects  
719 may include an allowance for commodities, equipment, furniture,  
720 construction materials or systems in which prospective bidders are  
721 instructed to include in their bids specified amounts for such  
722 items so long as the allowance items are acquired by the vendor in  
723 a commercially reasonable manner and approved by the  
724 agency/governing authority. Such acquisitions shall not be made  
725 to circumvent the public purchasing laws.



726 (v) **Electronic bids.** Agencies and governing  
727 authorities shall provide a secure electronic interactive system  
728 for the submittal of bids requiring competitive bidding that shall  
729 be an additional bidding option for those bidders who choose to  
730 submit their bids electronically. The Department of Finance and  
731 Administration shall provide, by regulation, the standards that  
732 agencies must follow when receiving electronic bids. Agencies and  
733 governing authorities shall make the appropriate provisions  
734 necessary to accept electronic bids from those bidders who choose  
735 to submit their bids electronically for all purchases requiring  
736 competitive bidding under this section. Any special condition or  
737 requirement for the electronic bid submission shall be specified  
738 in the advertisement for bids required by this section. Agencies  
739 or governing authorities that are currently without available high  
740 speed Internet access shall be exempt from the requirement of this  
741 subparagraph (v) until such time that high speed Internet access  
742 becomes available. Any county having a population of less than  
743 twenty thousand (20,000) shall be exempt from the provisions of  
744 this subparagraph (v). Any municipality having a population of  
745 less than ten thousand (10,000) shall be exempt from the  
746 provisions of this subparagraph (v). The provisions of this  
747 subparagraph (v) shall not require any bidder to submit bids  
748 electronically. When construction bids are submitted  
749 electronically, the requirement for including a certificate of  
750 responsibility, or a statement that the bid enclosed does not



751 exceed Fifty Thousand Dollars (\$50,000.00), on the exterior of the  
752 bid envelope as indicated in Section 31-3-21(1) and (2) shall be  
753 deemed in compliance with by including same as an attachment with  
754 the electronic bid submittal.

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

756 (i) **Decision procedure.** Purchases may be made  
757 from the lowest and best bidder. In determining the lowest and  
758 best bid, freight and shipping charges shall be included.  
759 Life-cycle costing, total cost bids, warranties, guaranteed  
760 buy-back provisions and other relevant provisions may be included  
761 in the best bid calculation. All best bid procedures for state  
762 agencies must be in compliance with regulations established by the  
763 Department of Finance and Administration. If any governing  
764 authority accepts a bid other than the lowest bid actually  
765 submitted, it shall place on its minutes detailed calculations and  
766 narrative summary showing that the accepted bid was determined to  
767 be the lowest and best bid, including the dollar amount of the  
768 accepted bid and the dollar amount of the lowest bid. No agency  
769 or governing authority shall accept a bid based on items not  
770 included in the specifications.

771 (ii) **Decision procedure for Certified Purchasing**  
772 **Offices.** In addition to the decision procedure set forth in  
773 subparagraph (i) of this paragraph (d), Certified Purchasing  
774 Offices may also use the following procedure: Purchases may be  
775 made from the bidder offering the best value. In determining the



776 best value bid, freight and shipping charges shall be included.  
777 Life-cycle costing, total cost bids, warranties, guaranteed  
778 buy-back provisions, documented previous experience, training  
779 costs and other relevant provisions, including, but not limited  
780 to, a bidder having a local office and inventory located within  
781 the jurisdiction of the governing authority, may be included in  
782 the best value calculation. This provision shall authorize  
783 Certified Purchasing Offices to utilize a Request For Proposals  
784 (RFP) process when purchasing commodities. All best value  
785 procedures for state agencies must be in compliance with  
786 regulations established by the Department of Finance and  
787 Administration. No agency or governing authority shall accept a  
788 bid based on items or criteria not included in the specifications.

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

790 **Landmarks.** In addition to the decision procedure set forth in  
791 subparagraph (i) of this paragraph (d), where purchase involves  
792 renovation, restoration, or both, of the State Capitol Building or  
793 any other historical building designated for at least five (5)  
794 years as a Mississippi Landmark by the Board of Trustees of the  
795 Department of Archives and History under the authority of Sections  
796 39-7-7 and 39-7-11, the agency or governing authority may use the  
797 following procedure: Purchases may be made from the lowest and  
798 best prequalified bidder. Prequalification of bidders shall be  
799 determined not less than fifteen (15) working days before the  
800 first published notice of bid opening. Prequalification criteria





801 shall be limited to bidder's knowledge and experience in  
802 historical restoration, preservation and renovation. In  
803 determining the lowest and best bid, freight and shipping charges  
804 shall be included. Life-cycle costing, total cost bids,  
805 warranties, guaranteed buy-back provisions and other relevant  
806 provisions may be included in the best bid calculation. All best  
807 bid and prequalification procedures for state agencies must be in  
808 compliance with regulations established by the Department of  
809 Finance and Administration. If any governing authority accepts a  
810 bid other than the lowest bid actually submitted, it shall place  
811 on its minutes detailed calculations and narrative summary showing  
812 that the accepted bid was determined to be the lowest and best  
813 bid, including the dollar amount of the accepted bid and the  
814 dollar amount of the lowest bid. No agency or governing authority  
815 shall accept a bid based on items not included in the  
816 specifications.

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

823                   (e) **Lease-purchase authorization.** For the purposes of  
824 this section, the term "equipment" shall mean equipment, furniture  
825 and, if applicable, associated software and other applicable



826 direct costs associated with the acquisition. Any lease-purchase  
827 of equipment which an agency is not required to lease-purchase  
828 under the master lease-purchase program pursuant to Section  
829 31-7-10 and any lease-purchase of equipment which a governing  
830 authority elects to lease-purchase may be acquired by a  
831 lease-purchase agreement under this paragraph (e). Lease-purchase  
832 financing may also be obtained from the vendor or from a  
833 third-party source after having solicited and obtained at least  
834 two (2) written competitive bids, as defined in paragraph (b) of  
835 this section, for such financing without advertising for such  
836 bids. Solicitation for the bids for financing may occur before or  
837 after acceptance of bids for the purchase of such equipment or,  
838 where no such bids for purchase are required, at any time before  
839 the purchase thereof. No such lease-purchase agreement shall be  
840 for an annual rate of interest which is greater than the overall  
841 maximum interest rate to maturity on general obligation  
842 indebtedness permitted under Section 75-17-101, and the term of  
843 such lease-purchase agreement shall not exceed the useful life of  
844 equipment covered thereby as determined according to the upper  
845 limit of the asset depreciation range (ADR) guidelines for the  
846 Class Life Asset Depreciation Range System established by the  
847 Internal Revenue Service pursuant to the United States Internal  
848 Revenue Code and regulations thereunder as in effect on December  
849 31, 1980, or comparable depreciation guidelines with respect to  
850 any equipment not covered by ADR guidelines. Any lease-purchase



851 agreement entered into pursuant to this paragraph (e) may contain  
852 any of the terms and conditions which a master lease-purchase  
853 agreement may contain under the provisions of Section 31-7-10(5),  
854 and shall contain an annual allocation dependency clause  
855 substantially similar to that set forth in Section 31-7-10(8).  
856 Each agency or governing authority entering into a lease-purchase  
857 transaction pursuant to this paragraph (e) shall maintain with  
858 respect to each such lease-purchase transaction the same  
859 information as required to be maintained by the Department of  
860 Finance and Administration pursuant to Section 31-7-10(13).  
861 However, nothing contained in this section shall be construed to  
862 permit agencies to acquire items of equipment with a total  
863 acquisition cost in the aggregate of less than Ten Thousand  
864 Dollars (\$10,000.00) by a single lease-purchase transaction. All  
865 equipment, and the purchase thereof by any lessor, acquired by  
866 lease-purchase under this paragraph and all lease-purchase  
867 payments with respect thereto shall be exempt from all Mississippi  
868 sales, use and ad valorem taxes. Interest paid on any  
869 lease-purchase agreement under this section shall be exempt from  
870 State of Mississippi income taxation.

871 (f) **Alternate bid authorization.** When necessary to  
872 ensure ready availability of commodities for public works and the  
873 timely completion of public projects, no more than two (2)  
874 alternate bids may be accepted by a governing authority for  
875 commodities. No purchases may be made through use of such



876 alternate bids procedure unless the lowest and best bidder cannot  
877 deliver the commodities contained in his bid. In that event,  
878 purchases of such commodities may be made from one (1) of the  
879 bidders whose bid was accepted as an alternate.

880           (g) **Construction contract change authorization.** In the  
881 event a determination is made by an agency or governing authority  
882 after a construction contract is let that changes or modifications  
883 to the original contract are necessary or would better serve the  
884 purpose of the agency or the governing authority, such agency or  
885 governing authority may, in its discretion, order such changes  
886 pertaining to the construction that are necessary under the  
887 circumstances without the necessity of further public bids;  
888 provided that such change shall be made in a commercially  
889 reasonable manner and shall not be made to circumvent the public  
890 purchasing statutes. In addition to any other authorized person,  
891 the architect or engineer hired by an agency or governing  
892 authority with respect to any public construction contract shall  
893 have the authority, when granted by an agency or governing  
894 authority, to authorize changes or modifications to the original  
895 contract without the necessity of prior approval of the agency or  
896 governing authority when any such change or modification is less  
897 than one percent (1%) of the total contract amount. The agency or  
898 governing authority may limit the number, manner or frequency of  
899 such emergency changes or modifications.



900           (h) **Petroleum purchase alternative.** In addition to  
901 other methods of purchasing authorized in this chapter, when any  
902 agency or governing authority shall have a need for gas, diesel  
903 fuel, oils and/or other petroleum products in excess of the amount  
904 set forth in paragraph (a) of this section, such agency or  
905 governing authority may purchase the commodity after having  
906 solicited and obtained at least two (2) competitive written bids,  
907 as defined in paragraph (b) of this section. If two (2)  
908 competitive written bids are not obtained, the entity shall comply  
909 with the procedures set forth in paragraph (c) of this section.  
910 In the event any agency or governing authority shall have  
911 advertised for bids for the purchase of gas, diesel fuel, oils and  
912 other petroleum products and coal and no acceptable bids can be  
913 obtained, such agency or governing authority is authorized and  
914 directed to enter into any negotiations necessary to secure the  
915 lowest and best contract available for the purchase of such  
916 commodities.

917           (i) **Road construction petroleum products price**  
918 **adjustment clause authorization.** Any agency or governing  
919 authority authorized to enter into contracts for the construction,  
920 maintenance, surfacing or repair of highways, roads or streets,  
921 may include in its bid proposal and contract documents a price  
922 adjustment clause with relation to the cost to the contractor,  
923 including taxes, based upon an industry-wide cost index, of  
924 petroleum products including asphalt used in the performance or



925 execution of the contract or in the production or manufacture of  
926 materials for use in such performance. Such industry-wide index  
927 shall be established and published monthly by the Mississippi  
928 Department of Transportation with a copy thereof to be mailed,  
929 upon request, to the clerks of the governing authority of each  
930 municipality and the clerks of each board of supervisors  
931 throughout the state. The price adjustment clause shall be based  
932 on the cost of such petroleum products only and shall not include  
933 any additional profit or overhead as part of the adjustment. The  
934 bid proposals or document contract shall contain the basis and  
935 methods of adjusting unit prices for the change in the cost of  
936 such petroleum products.

937           (j) **State agency emergency purchase procedure.** If the  
938 governing board or the executive head, or his designees, of any  
939 agency of the state shall determine that an emergency exists in  
940 regard to the purchase of any commodities or repair contracts, so  
941 that the delay incident to giving opportunity for competitive  
942 bidding would be detrimental to the interests of the state, then  
943 the head of such agency, or his designees, shall file with the  
944 Department of Finance and Administration (i) a statement  
945 explaining the conditions and circumstances of the emergency,  
946 which shall include a detailed description of the events leading  
947 up to the situation and the negative impact to the entity if the  
948 purchase is made following the statutory requirements set forth in  
949 paragraph (a), (b) or (c) of this section, and (ii) a certified



950 copy of the appropriate minutes of the board of such agency  
951 requesting the emergency purchase, if applicable. Upon receipt of  
952 the statement and applicable board certification, the State Fiscal  
953 Officer, or his designees, may, in writing, authorize the purchase  
954 or repair without having to comply with competitive bidding  
955 requirements.

956       If the governing board or the executive head, or his  
957 designees, of any agency determines that an emergency exists in  
958 regard to the purchase of any commodities or repair contracts, so  
959 that the delay incident to giving opportunity for competitive  
960 bidding would threaten the health or safety of any person, or the  
961 preservation or protection of property, then the provisions in  
962 this section for competitive bidding shall not apply, and any  
963 officer or agent of the agency having general or specific  
964 authority for making the purchase or repair contract shall approve  
965 the bill presented for payment, and he shall certify in writing  
966 from whom the purchase was made, or with whom the repair contract  
967 was made.

968       Total purchases made under this paragraph (j) shall only be  
969 for the purpose of meeting needs created by the emergency  
970 situation. Following the emergency purchase, documentation of the  
971 purchase, including a description of the commodity purchased, the  
972 purchase price thereof and the nature of the emergency shall be  
973 filed with the Department of Finance and Administration. Any



974 contract awarded pursuant to this paragraph (j) shall not exceed a  
975 term of one (1) year.

976 Purchases under the grant program established under Section  
977 37-68-7 in response to COVID-19 and the directive that school  
978 districts create a distance learning plan and fulfill technology  
979 needs expeditiously shall be deemed an emergency purchase for  
980 purposes of this paragraph (j).

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

982 If the governing authority, or the governing authority acting  
983 through its designee, shall determine that an emergency exists in  
984 regard to the purchase of any commodities or repair contracts, so  
985 that the delay incident to giving opportunity for competitive  
986 bidding would be detrimental to the interest of the governing  
987 authority, then the provisions herein for competitive bidding  
988 shall not apply and any officer or agent of such governing  
989 authority having general or special authority therefor in making  
990 such purchase or repair shall approve the bill presented therefor,  
991 and he shall certify in writing thereon from whom such purchase  
992 was made, or with whom such a repair contract was made. At the  
993 board meeting next following the emergency purchase or repair  
994 contract, documentation of the purchase or repair contract,  
995 including a description of the commodity purchased, the price  
996 thereof and the nature of the emergency shall be presented to the  
997 board and shall be placed on the minutes of the board of such  
998 governing authority. Purchases under the grant program





999 established under Section 37-68-7 in response to COVID-19 and the  
1000 directive that school districts create a distance learning plan  
1001 and fulfill technology needs expeditiously shall be deemed an  
1002 emergency purchase for purposes of this paragraph (k).

1003 (1) **Hospital purchase, lease-purchase and lease**  
1004 **authorization.**

1005 (i) The commissioners or board of trustees of any  
1006 public hospital may contract with such lowest and best bidder for  
1007 the purchase or lease-purchase of any commodity under a contract  
1008 of purchase or lease-purchase agreement whose obligatory payment  
1009 terms do not exceed five (5) years.

1010 (ii) In addition to the authority granted in  
1011 subparagraph (i) of this paragraph (1), the commissioners or board  
1012 of trustees is authorized to enter into contracts for the lease of  
1013 equipment or services, or both, which it considers necessary for  
1014 the proper care of patients if, in its opinion, it is not  
1015 financially feasible to purchase the necessary equipment or  
1016 services. Any such contract for the lease of equipment or  
1017 services executed by the commissioners or board shall not exceed a  
1018 maximum of five (5) years' duration and shall include a  
1019 cancellation clause based on unavailability of funds. If such  
1020 cancellation clause is exercised, there shall be no further  
1021 liability on the part of the lessee. Any such contract for the  
1022 lease of equipment or services executed on behalf of the  
1023 commissioners or board that complies with the provisions of this



1024 subparagraph (ii) shall be excepted from the bid requirements set  
1025 forth in this section.

1026 (m) **Exceptions from bidding requirements.** Excepted  
1027 from bid requirements are:

1028 (i) **Purchasing agreements approved by department.**

1029 Purchasing agreements, contracts and maximum price regulations  
1030 executed or approved by the Department of Finance and  
1031 Administration.

1032 (ii) **Outside equipment repairs.** Repairs to  
1033 equipment, when such repairs are made by repair facilities in the  
1034 private sector; however, engines, transmissions, rear axles and/or  
1035 other such components shall not be included in this exemption when  
1036 replaced as a complete unit instead of being repaired and the need  
1037 for such total component replacement is known before disassembly  
1038 of the component; however, invoices identifying the equipment,  
1039 specific repairs made, parts identified by number and name,  
1040 supplies used in such repairs, and the number of hours of labor  
1041 and costs therefor shall be required for the payment for such  
1042 repairs.

1043 (iii) **In-house equipment repairs.** Purchases of  
1044 parts for repairs to equipment, when such repairs are made by  
1045 personnel of the agency or governing authority; however, entire  
1046 assemblies, such as engines or transmissions, shall not be  
1047 included in this exemption when the entire assembly is being  
1048 replaced instead of being repaired.



1049 (iv) **Raw gravel or dirt.** Raw unprocessed deposits  
1050 of gravel or fill dirt which are to be removed and transported by  
1051 the purchaser.

1052 (v) **Governmental equipment auctions.** Motor  
1053 vehicles or other equipment purchased from a federal agency or  
1054 authority, another governing authority or state agency of the  
1055 State of Mississippi, or any governing authority or state agency  
1056 of another state at a public auction held for the purpose of  
1057 disposing of such vehicles or other equipment. Any purchase by a  
1058 governing authority under the exemption authorized by this  
1059 subparagraph (v) shall require advance authorization spread upon  
1060 the minutes of the governing authority to include the listing of  
1061 the item or items authorized to be purchased and the maximum bid  
1062 authorized to be paid for each item or items.

1063 (vi) **Intergovernmental sales and transfers.**  
1064 Purchases, sales, transfers or trades by governing authorities or  
1065 state agencies when such purchases, sales, transfers or trades are  
1066 made by a private treaty agreement or through means of  
1067 negotiation, from any federal agency or authority, another  
1068 governing authority or state agency of the State of Mississippi,  
1069 or any state agency or governing authority of another state.  
1070 Nothing in this section shall permit such purchases through public  
1071 auction except as provided for in subparagraph (v) of this  
1072 paragraph (m). It is the intent of this section to allow  
1073 governmental entities to dispose of and/or purchase commodities



1074 from other governmental entities at a price that is agreed to by  
1075 both parties. This shall allow for purchases and/or sales at  
1076 prices which may be determined to be below the market value if the  
1077 selling entity determines that the sale at below market value is  
1078 in the best interest of the taxpayers of the state. Governing  
1079 authorities shall place the terms of the agreement and any  
1080 justification on the minutes, and state agencies shall obtain  
1081 approval from the Department of Finance and Administration, prior  
1082 to releasing or taking possession of the commodities.

1083 (vii) **Perishable supplies or food.** Perishable  
1084 supplies or food purchased for use in connection with hospitals,  
1085 the school lunch programs, homemaking programs and for the feeding  
1086 of county or municipal prisoners.

1087 (viii) **Single-source items.** Noncompetitive items  
1088 available from one (1) source only. In connection with the  
1089 purchase of noncompetitive items only available from one (1)  
1090 source, a certification of the conditions and circumstances  
1091 requiring the purchase shall be filed by the agency with the  
1092 Department of Finance and Administration and by the governing  
1093 authority with the board of the governing authority. Upon receipt  
1094 of that certification the Department of Finance and Administration  
1095 or the board of the governing authority, as the case may be, may,  
1096 in writing, authorize the purchase, which authority shall be noted  
1097 on the minutes of the body at the next regular meeting thereafter.  
1098 In those situations, a governing authority is not required to



1099 obtain the approval of the Department of Finance and  
1100 Administration. Following the purchase, the executive head of the  
1101 state agency, or his designees, shall file with the Department of  
1102 Finance and Administration, documentation of the purchase,  
1103 including a description of the commodity purchased, the purchase  
1104 price thereof and the source from whom it was purchased.

1105 (ix) **Waste disposal facility construction**  
1106 **contracts.** Construction of incinerators and other facilities for  
1107 disposal of solid wastes in which products either generated  
1108 therein, such as steam, or recovered therefrom, such as materials  
1109 for recycling, are to be sold or otherwise disposed of; however,  
1110 in constructing such facilities, a governing authority or agency  
1111 shall publicly issue requests for proposals, advertised for in the  
1112 same manner as provided herein for seeking bids for public  
1113 construction projects, concerning the design, construction,  
1114 ownership, operation and/or maintenance of such facilities,  
1115 wherein such requests for proposals when issued shall contain  
1116 terms and conditions relating to price, financial responsibility,  
1117 technology, environmental compatibility, legal responsibilities  
1118 and such other matters as are determined by the governing  
1119 authority or agency to be appropriate for inclusion; and after  
1120 responses to the request for proposals have been duly received,  
1121 the governing authority or agency may select the most qualified  
1122 proposal or proposals on the basis of price, technology and other  
1123 relevant factors and from such proposals, but not limited to the



1124 terms thereof, negotiate and enter contracts with one or more of  
1125 the persons or firms submitting proposals.

1126                   (x) **Hospital group purchase contracts.** Supplies,  
1127 commodities and equipment purchased by hospitals through group  
1128 purchase programs pursuant to Section 31-7-38.

1129                   (xi) **Information technology products.** Purchases  
1130 of information technology products made by governing authorities  
1131 under the provisions of purchase schedules, or contracts executed  
1132 or approved by the Mississippi Department of Information  
1133 Technology Services and designated for use by governing  
1134 authorities.

1135                   (xii) **Energy efficiency services and equipment.**  
1136 Energy efficiency services and equipment acquired by school  
1137 districts, community and junior colleges, institutions of higher  
1138 learning and state agencies or other applicable governmental  
1139 entities on a shared-savings, lease or lease-purchase basis  
1140 pursuant to Section 31-7-14.

1141                   (xiii) **Municipal electrical utility system fuel.**  
1142 Purchases of coal and/or natural gas by municipally owned electric  
1143 power generating systems that have the capacity to use both coal  
1144 and natural gas for the generation of electric power.

1145                   (xiv) **Library books and other reference materials.**  
1146 Purchases by libraries or for libraries of books and periodicals;  
1147 processed film, videocassette tapes, filmstrips and slides;  
1148 recorded audiotapes, cassettes and diskettes; and any such items



1149 as would be used for teaching, research or other information  
1150 distribution; however, equipment such as projectors, recorders,  
1151 audio or video equipment, and monitor televisions are not exempt  
1152 under this subparagraph.

1153 (xv) **Unmarked vehicles.** Purchases of unmarked  
1154 vehicles when such purchases are made in accordance with  
1155 purchasing regulations adopted by the Department of Finance and  
1156 Administration pursuant to Section 31-7-9(2).

1157 (xvi) **Election ballots.** Purchases of ballots  
1158 printed pursuant to Section 23-15-351.

1159 (xvii) **Multichannel interactive video systems.**  
1160 From and after July 1, 1990, contracts by Mississippi Authority  
1161 for Educational Television with any private educational  
1162 institution or private nonprofit organization whose purposes are  
1163 educational in regard to the construction, purchase, lease or  
1164 lease-purchase of facilities and equipment and the employment of  
1165 personnel for providing multichannel interactive video systems  
1166 (ITSF) in the school districts of this state.

1167 (xviii) **Purchases of prison industry products by**  
1168 **the Department of Corrections, regional correctional facilities or**  
1169 **privately owned prisons.** Purchases made by the Mississippi  
1170 Department of Corrections, regional correctional facilities or  
1171 privately owned prisons involving any item that is manufactured,  
1172 processed, grown or produced from the state's prison industries.



1173                   (xix)    **Undercover operations equipment.** Purchases  
1174 of surveillance equipment or any other high-tech equipment to be  
1175 used by law enforcement agents in undercover operations, provided  
1176 that any such purchase shall be in compliance with regulations  
1177 established by the Department of Finance and Administration.

1178                   (xx)     **Junior college books for rent.** Purchases by  
1179 community or junior colleges of textbooks which are obtained for  
1180 the purpose of renting such books to students as part of a book  
1181 service system.

1182                   (xxi)   **Certain school district purchases.**  
1183 Purchases of commodities made by school districts from vendors  
1184 with which any levying authority of the school district, as  
1185 defined in Section 37-57-1, has contracted through competitive  
1186 bidding procedures for purchases of the same commodities.

1187                   (xxii)   **Garbage, solid waste and sewage contracts.**  
1188 Contracts for garbage collection or disposal, contracts for solid  
1189 waste collection or disposal and contracts for sewage collection  
1190 or disposal.

1191                   (xxiii)   **Municipal water tank maintenance**  
1192 **contracts.** Professional maintenance program contracts for the  
1193 repair or maintenance of municipal water tanks, which provide  
1194 professional services needed to maintain municipal water storage  
1195 tanks for a fixed annual fee for a duration of two (2) or more  
1196 years.





1197                   (xxiv)   **Purchases of Mississippi Industries for the**  
1198 **Blind products or services.** Purchases made by state agencies or  
1199 governing authorities involving any item that is manufactured,  
1200 processed or produced by, or any services provided by, the  
1201 Mississippi Industries for the Blind.

1202                   (xxv)   **Purchases of state-adopted textbooks.**  
1203 Purchases of state-adopted textbooks by public school districts.

1204                   (xxvi)   **Certain purchases under the Mississippi**  
1205 **Major Economic Impact Act.** Contracts entered into pursuant to the  
1206 provisions of Section 57-75-9(2), (3) and (4).

1207                   (xxvii) **Used heavy or specialized machinery or**  
1208 **equipment for installation of soil and water conservation**  
1209 **practices purchased at auction.** Used heavy or specialized  
1210 machinery or equipment used for the installation and  
1211 implementation of soil and water conservation practices or  
1212 measures purchased subject to the restrictions provided in  
1213 Sections 69-27-331 through 69-27-341. Any purchase by the State  
1214 Soil and Water Conservation Commission under the exemption  
1215 authorized by this subparagraph shall require advance  
1216 authorization spread upon the minutes of the commission to include  
1217 the listing of the item or items authorized to be purchased and  
1218 the maximum bid authorized to be paid for each item or items.

1219                   (xxviii) **Hospital lease of equipment or services.**  
1220 Leases by hospitals of equipment or services if the leases are in  
1221 compliance with paragraph (1)(ii).



1222                   (xxix)   **Purchases made pursuant to qualified**  
1223 **cooperative purchasing agreements.** Purchases made by certified  
1224 purchasing offices of state agencies or governing authorities  
1225 under cooperative purchasing agreements previously approved by the  
1226 Office of Purchasing and Travel and established by or for any  
1227 municipality, county, parish or state government or the federal  
1228 government, provided that the notification to potential  
1229 contractors includes a clause that sets forth the availability of  
1230 the cooperative purchasing agreement to other governmental  
1231 entities. Such purchases shall only be made if the use of the  
1232 cooperative purchasing agreements is determined to be in the best  
1233 interest of the governmental entity.

1234                   (xxx)   **School yearbooks.** Purchases of school  
1235 yearbooks by state agencies or governing authorities; however,  
1236 state agencies and governing authorities shall use for these  
1237 purchases the RFP process as set forth in the Mississippi  
1238 Procurement Manual adopted by the Office of Purchasing and Travel.

1239                   (xxxi)   **Design-build method of contracting and**  
1240 **certain other contracts.** Contracts entered into under the  
1241 provisions of Section 31-7-13.1, 37-101-44 or 65-1-85.

1242                   (xxxii)   **Toll roads and bridge construction**  
1243 **projects.** Contracts entered into under the provisions of Section  
1244 65-43-1 or 65-43-3.



1245 (xxxiii) **Certain purchases under Section 57-1-221.**  
1246 Contracts entered into pursuant to the provisions of Section  
1247 57-1-221.

1248 (xxxiv) **Certain transfers made pursuant to the**  
1249 **provisions of Section 57-105-1(7).** Transfers of public property  
1250 or facilities under Section 57-105-1(7) and construction related  
1251 to such public property or facilities.

1252 (xxxv) **Certain purchases or transfers entered into**  
1253 **with local electrical power associations.** Contracts or agreements  
1254 entered into under the provisions of Section 55-3-33.

1255 (xxxvi) **Certain purchases by an academic medical**  
1256 **center or health sciences school.** Purchases by an academic  
1257 medical center or health sciences school, as defined in Section  
1258 37-115-50, of commodities that are used for clinical purposes and  
1259 1. intended for use in the diagnosis of disease or other  
1260 conditions or in the cure, mitigation, treatment or prevention of  
1261 disease, and 2. medical devices, biological, drugs and  
1262 radiation-emitting devices as defined by the United States Food  
1263 and Drug Administration.

1264 (xxxvii) **Certain purchases made under the Alyce G.**  
1265 **Clarke Mississippi Lottery Law.** Contracts made by the Mississippi  
1266 Lottery Corporation pursuant to the Alyce G. Clarke Mississippi  
1267 Lottery Law.

1268 (xxxviii) **Certain purchases made by the Department**  
1269 **of Health and the Department of Revenue.** Purchases made by the



1270 Department of Health and the Department of Revenue solely for the  
1271 purpose of fulfilling their respective responsibilities under the  
1272 Mississippi Medical Cannabis Act. This subparagraph shall stand  
1273 repealed on June 30, 2026.

1274 (xxxvix) Certain transfers made pursuant to the  
1275 provisions of Section 1(7) of this act. Transfers of public  
1276 property or facilities under Section 1(7) of this act and  
1277 construction related to such public property or facilities.

1278 (n) **Term contract authorization.** All contracts for the  
1279 purchase of:

1280 (i) All contracts for the purchase of commodities,  
1281 equipment and public construction (including, but not limited to,  
1282 repair and maintenance), may be let for periods of not more than  
1283 sixty (60) months in advance, subject to applicable statutory  
1284 provisions prohibiting the letting of contracts during specified  
1285 periods near the end of terms of office. Term contracts for a  
1286 period exceeding twenty-four (24) months shall also be subject to  
1287 ratification or cancellation by governing authority boards taking  
1288 office subsequent to the governing authority board entering the  
1289 contract.

1290 (ii) Bid proposals and contracts may include price  
1291 adjustment clauses with relation to the cost to the contractor  
1292 based upon a nationally published industry-wide or nationally  
1293 published and recognized cost index. The cost index used in a  
1294 price adjustment clause shall be determined by the Department of



1295 Finance and Administration for the state agencies and by the  
1296 governing board for governing authorities. The bid proposal and  
1297 contract documents utilizing a price adjustment clause shall  
1298 contain the basis and method of adjusting unit prices for the  
1299 change in the cost of such commodities, equipment and public  
1300 construction.

1301           (o) **Purchase law violation prohibition and vendor**  
1302 **penalty.** No contract or purchase as herein authorized shall be  
1303 made for the purpose of circumventing the provisions of this  
1304 section requiring competitive bids, nor shall it be lawful for any  
1305 person or concern to submit individual invoices for amounts within  
1306 those authorized for a contract or purchase where the actual value  
1307 of the contract or commodity purchased exceeds the authorized  
1308 amount and the invoices therefor are split so as to appear to be  
1309 authorized as purchases for which competitive bids are not  
1310 required. Submission of such invoices shall constitute a  
1311 misdemeanor punishable by a fine of not less than Five Hundred  
1312 Dollars (\$500.00) nor more than One Thousand Dollars (\$1,000.00),  
1313 or by imprisonment for thirty (30) days in the county jail, or  
1314 both such fine and imprisonment. In addition, the claim or claims  
1315 submitted shall be forfeited.

1316           (p) **Electrical utility petroleum-based equipment**  
1317 **purchase procedure.** When in response to a proper advertisement  
1318 therefor, no bid firm as to price is submitted to an electric  
1319 utility for power transformers, distribution transformers, power



1320 breakers, reclosers or other articles containing a petroleum  
1321 product, the electric utility may accept the lowest and best bid  
1322 therefor although the price is not firm.

1323           (q) **Fuel management system bidding procedure.** Any  
1324 governing authority or agency of the state shall, before  
1325 contracting for the services and products of a fuel management or  
1326 fuel access system, enter into negotiations with not fewer than  
1327 two (2) sellers of fuel management or fuel access systems for  
1328 competitive written bids to provide the services and products for  
1329 the systems. In the event that the governing authority or agency  
1330 cannot locate two (2) sellers of such systems or cannot obtain  
1331 bids from two (2) sellers of such systems, it shall show proof  
1332 that it made a diligent, good-faith effort to locate and negotiate  
1333 with two (2) sellers of such systems. Such proof shall include,  
1334 but not be limited to, publications of a request for proposals and  
1335 letters soliciting negotiations and bids. For purposes of this  
1336 paragraph (q), a fuel management or fuel access system is an  
1337 automated system of acquiring fuel for vehicles as well as  
1338 management reports detailing fuel use by vehicles and drivers, and  
1339 the term "competitive written bid" shall have the meaning as  
1340 defined in paragraph (b) of this section. Governing authorities  
1341 and agencies shall be exempt from this process when contracting  
1342 for the services and products of fuel management or fuel access  
1343 systems under the terms of a state contract established by the  
1344 Office of Purchasing and Travel.



1345           (r) **Solid waste contract proposal procedure.** Before  
1346 entering into any contract for garbage collection or disposal,  
1347 contract for solid waste collection or disposal or contract for  
1348 sewage collection or disposal, which involves an expenditure of  
1349 more than Seventy-five Thousand Dollars (\$75,000.00), a governing  
1350 authority or agency shall issue publicly a request for proposals  
1351 concerning the specifications for such services which shall be  
1352 advertised for in the same manner as provided in this section for  
1353 seeking bids for purchases which involve an expenditure of more  
1354 than the amount provided in paragraph (c) of this section. Any  
1355 request for proposals when issued shall contain terms and  
1356 conditions relating to price, financial responsibility,  
1357 technology, legal responsibilities and other relevant factors as  
1358 are determined by the governing authority or agency to be  
1359 appropriate for inclusion; all factors determined relevant by the  
1360 governing authority or agency or required by this paragraph (r)  
1361 shall be duly included in the advertisement to elicit proposals.  
1362 After responses to the request for proposals have been duly  
1363 received, the governing authority or agency shall select the most  
1364 qualified proposal or proposals on the basis of price, technology  
1365 and other relevant factors and from such proposals, but not  
1366 limited to the terms thereof, negotiate and enter into contracts  
1367 with one or more of the persons or firms submitting proposals. If  
1368 the governing authority or agency deems none of the proposals to  
1369 be qualified or otherwise acceptable, the request for proposals



1370 process may be reinitiated. Notwithstanding any other provisions  
1371 of this paragraph, where a county with at least thirty-five  
1372 thousand (35,000) nor more than forty thousand (40,000)  
1373 population, according to the 1990 federal decennial census, owns  
1374 or operates a solid waste landfill, the governing authorities of  
1375 any other county or municipality may contract with the governing  
1376 authorities of the county owning or operating the landfill,  
1377 pursuant to a resolution duly adopted and spread upon the minutes  
1378 of each governing authority involved, for garbage or solid waste  
1379 collection or disposal services through contract negotiations.

1380 (s) **Minority set-aside authorization.** Notwithstanding  
1381 any provision of this section to the contrary, any agency or  
1382 governing authority, by order placed on its minutes, may, in its  
1383 discretion, set aside not more than twenty percent (20%) of its  
1384 anticipated annual expenditures for the purchase of commodities  
1385 from minority businesses; however, all such set-aside purchases  
1386 shall comply with all purchasing regulations promulgated by the  
1387 Department of Finance and Administration and shall be subject to  
1388 bid requirements under this section. Set-aside purchases for  
1389 which competitive bids are required shall be made from the lowest  
1390 and best minority business bidder. For the purposes of this  
1391 paragraph, the term "minority business" means a business which is  
1392 owned by a majority of persons who are United States citizens or  
1393 permanent resident aliens (as defined by the Immigration and  
1394 Naturalization Service) of the United States, and who are Asian,





1395 Black, Hispanic or Native American, according to the following  
1396 definitions:

1397 (i) "Asian" means persons having origins in any of  
1398 the original people of the Far East, Southeast Asia, the Indian  
1399 subcontinent, or the Pacific Islands.

1400 (ii) "Black" means persons having origins in any  
1401 black racial group of Africa.

1402 (iii) "Hispanic" means persons of Spanish or  
1403 Portuguese culture with origins in Mexico, South or Central  
1404 America, or the Caribbean Islands, regardless of race.

1405 (iv) "Native American" means persons having  
1406 origins in any of the original people of North America, including  
1407 American Indians, Eskimos and Aleuts.

1408 (t) **Construction punch list restriction.** The  
1409 architect, engineer or other representative designated by the  
1410 agency or governing authority that is contracting for public  
1411 construction or renovation may prepare and submit to the  
1412 contractor only one (1) preliminary punch list of items that do  
1413 not meet the contract requirements at the time of substantial  
1414 completion and one (1) final list immediately before final  
1415 completion and final payment.

1416 (u) **Procurement of construction services by state**  
1417 **institutions of higher learning.** Contracts for privately financed  
1418 construction of auxiliary facilities on the campus of a state  
1419 institution of higher learning may be awarded by the Board of



1420 Trustees of State Institutions of Higher Learning to the lowest  
1421 and best bidder, where sealed bids are solicited, or to the  
1422 offeror whose proposal is determined to represent the best value  
1423 to the citizens of the State of Mississippi, where requests for  
1424 proposals are solicited.

1425           (v) **Insurability of bidders for public construction or**  
1426 **other public contracts.** In any solicitation for bids to perform  
1427 public construction or other public contracts to which this  
1428 section applies, including, but not limited to, contracts for  
1429 repair and maintenance, for which the contract will require  
1430 insurance coverage in an amount of not less than One Million  
1431 Dollars (\$1,000,000.00), bidders shall be permitted to either  
1432 submit proof of current insurance coverage in the specified amount  
1433 or demonstrate ability to obtain the required coverage amount of  
1434 insurance if the contract is awarded to the bidder. Proof of  
1435 insurance coverage shall be submitted within five (5) business  
1436 days from bid acceptance.

1437           (w) **Purchase authorization clarification.** Nothing in  
1438 this section shall be construed as authorizing any purchase not  
1439 authorized by law.

1440           (x) **Mississippi Regional Pre-Need Disaster Clean Up**  
1441 **Act.** (i) The Department of Finance and Administration shall  
1442 enter into nine (9) contracts for the pre-need purchase of labor,  
1443 services, work, materials, equipment, supplies or other personal  
1444 property for disaster-related solid waste collection, disposal or



1445 monitoring. One (1) contract shall be entered into for each of  
1446 the nine (9) Mississippi Emergency Management Association  
1447 districts:

1448                   1. Coahoma, DeSoto, Grenada, Panola, Quitman,  
1449 Tallahatchie, Tate, Tunica and Yalobusha Counties;

1450                   2. Alcorn, Benton, Itawamba, Lafayette, Lee,  
1451 Marshall, Pontotoc, Prentiss, Tippah, Tishomingo and Union  
1452 Counties;

1453                   3. Attala, Bolivar, Carroll, Holmes,  
1454 Humphreys, Leflore, Montgomery, Sunflower and Washington Counties;

1455                   4. Calhoun, Chickasaw, Choctaw, Clay,  
1456 Lowndes, Monroe, Noxubee, Oktibbeha, Webster and Winston Counties;

1457                   5. Claiborne, Copiah, Hinds, Issaquena,  
1458 Madison, Rankin, Sharkey, Simpson, Warren and Yazoo Counties;

1459                   6. Clarke, Jasper, Kemper, Lauderdale, Leake,  
1460 Neshoba, Newton, Scott, and Smith Counties and the Mississippi  
1461 Band of Choctaw Indians;

1462                   7. Adams, Amite, Franklin, Jefferson,  
1463 Lawrence, Lincoln, Pike, Walthall and Wilkinson Counties;

1464                   8. Covington, Forrest, Greene, Jefferson  
1465 Davis, Jones, Lamar, Marion, Perry and Wayne Counties; and

1466                   9. George, Hancock, Harrison, Jackson, Pearl  
1467 River and Stone Counties.

1468           Any such contract shall set forth the manner of awarding such  
1469 a contract, the method of payment, and any other matter deemed



1470 necessary to carry out the purposes of the agreement. Such  
1471 contract may be entered into only for a term of one (1) year, with  
1472 an option for an additional one-year extension after the  
1473 conclusion of the first year of the contract, and only after  
1474 having solicited bids or proposals, as appropriate, which shall be  
1475 publicly advertised by posting on a web page maintained by the  
1476 Department of Finance and Administration through submission of  
1477 such advertisement to the Mississippi Procurement Technical  
1478 Assistance Program under the Mississippi Development Authority.  
1479 The bid opening shall not occur until after the submission has  
1480 been posted for at least ten (10) consecutive days. The state's  
1481 share of expenditures for solid waste collection, disposal or  
1482 monitoring under any contract shall be appropriated and paid in  
1483 the manner set forth in the contract and in the same manner as for  
1484 other solid waste collection, disposal, or monitoring expenses of  
1485 the state. Any contract entered into under this paragraph shall  
1486 not be subject to the provisions of Section 17-13-11.

1487 (ii) Any board of supervisors of any county or any  
1488 governing authority of any municipality may opt in to the benefits  
1489 and services provided under the appropriate and relevant contract  
1490 established in subparagraph (i) of this paragraph at the time of a  
1491 disaster event in that county or municipality. At the time of opt  
1492 in, the county or municipality shall assume responsibility for  
1493 payment in full to the contractor for the disaster-related solid  
1494 waste collection, disposal or monitoring services provided.



1495 Nothing in this subparagraph (ii) shall be construed as requiring  
1496 a county or municipality to opt in to any such contract  
1497 established in subparagraph (i) of this paragraph.

1498           **SECTION 4.** This act shall take effect and be in force from  
1499 and after July 1, 2024.

