

By: Senator(s) Johnson

To: Finance

SENATE BILL NO. 3070

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 \$48,000,000.00 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 of an entity where at least sixty percent (60%) of a  
56 qualified active low-income community business's employees work.  
57 An entity that has agreed to relocate employees or a Mississippi  
58 business that has agreed to hire employees using the proceeds of a



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



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

86 (ii) Includes the State of Mississippi within the  
87 service area set forth in the allocation agreement; and

88 (iii) Except for Mississippi qualified community  
89 development entities, has invested, together with affiliates, at  
90 least Seventy-five Million Dollars (\$75,000,000.00) in Mississippi  
91 qualified active low-income community businesses or other  
92 Mississippi investments or has received at least five (5) tax  
93 credit certificates from the MDA.

94 (j) "Qualified equity investment" means an equity  
95 investment in a qualified community development entity, if the  
96 equity investment:

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

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

106 (iii) Is:



107                   1. Designated by the qualified community  
108 development entity as a qualified equity investment under this  
109 section; and

110                   2. At least fifty percent (50%) designated by  
111 the qualified community development entity as a qualified equity  
112 investment under Section 45D of the Internal Revenue Code of 1986,  
113 as amended.

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

125                   (2) A taxpayer that holds a qualified equity investment on  
126 the credit allowance date shall be entitled to a credit applicable  
127 against the taxes imposed by Sections 27-7-5, 27-15-103, 27-15-109  
128 and 27-15-123 during the taxable year that includes the credit  
129 allowance date. The amount of the credit shall be equal to the  
130 applicable percentage of the purchase price paid to the qualified  
131 community development entity for the qualified equity investment.



132 The amount of the credit that may be utilized in any one (1) tax  
133 year shall be limited to an amount not greater than the total tax  
134 liability of the taxpayer for the taxes imposed by the  
135 above-referenced sections. The credit shall not be refundable or  
136 transferable. Any unused portion of the credit may be carried  
137 forward for seven (7) taxable years beyond the credit allowance  
138 date on which the credit was earned. The maximum aggregate amount  
139 of qualified equity investments that may be allocated by the MDA  
140 may not exceed an amount that would result in taxpayers claiming  
141 in any one (1) state fiscal year credits in excess of Forty-eight  
142 Million Dollars (\$48,000,000.00), exclusive of credits that might  
143 be carried forward from previous taxable years; however, a maximum  
144 of Five Million Dollars (\$5,000,000.00) with respect to such  
145 allocations may be allocated as credits for taxes imposed by  
146 Sections 27-15-103, 27-15-109 and 27-15-123. Any taxpayer  
147 claiming a credit under this section against the taxes imposed by  
148 Sections 27-7-5, 27-15-103, 27-15-109 and 27-15-123 shall not be  
149 required to pay any additional tax under Section 27-15-123 as a  
150 result of claiming such credit. The MDA shall allocate credits  
151 within this limit as provided for in subsection (4) of this  
152 section.

153 (3) Tax credits authorized by this section that are earned  
154 by a partnership, limited liability company, S corporation or  
155 other similar pass-through entity, shall be allocated among all  
156 partners, members or shareholders, respectively, either in



157 proportion to their ownership interest in such entity or as the  
158 partners, members or shareholders mutually agree as provided in an  
159 executed document. Such allocation shall be made each taxable  
160 year of such pass-through entity which contains a credit allowance  
161 date. A pass-through of a credit is not considered a sale for the  
162 purposes of this section or any other state law.

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

167 (i) The name, address, and tax identification  
168 number of the applicant, and evidence of the applicant's  
169 certification as a qualified community development entity by the  
170 CDFI fund;

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

173 (iii) A certificate executed by an executive  
174 officer of the applicant attesting that the allocation agreement  
175 remains in effect and has not been revoked or canceled by the CDFI  
176 fund;

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

179 (v) The amount of qualified equity investment  
180 authority sought which collectively may not exceed the applicant  
181 or its controlling entity's available qualified equity investment



182 authority under Section 45D of the Internal Revenue Code of 1986,  
183 as amended, multiplied by two (2);

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

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

189 (viii) Except for Mississippi qualified community  
190 development entities, evidence that the applicant, on a collective  
191 basis with its affiliates, has invested at least Seventy-five  
192 Million Dollars (\$75,000,000.00) in Mississippi qualified active  
193 low-income community businesses or other Mississippi investments  
194 or received at least five (5) tax credit certificates from the  
195 MDA; and

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

198 (b) The MDA shall set a date to accept applications not  
199 less than thirty (30) days but not more than forty-five (45) days  
200 after the CDFI fund announces allocation awards under a notice of  
201 funding availability that was published in the Federal Register.  
202 In the event that the CDFI fund is unable to publish a notice of  
203 funding of allocation awards because of a lack of award authority  
204 under Section 45D of the Internal Revenue Code of 1986, as  
205 amended, with respect to the fiscal year beginning July 1, 2026,  
206 the MDA shall waive the requirement that a qualified community





207 development entity designate at least fifty percent (50%) of  
208 qualified equity investment authority awarded as a qualified  
209 equity investment under Section 45D of the Internal Revenue Code  
210 of 1986, as amended, provided that the MDA shall give a preference  
211 in the award of tax credits to qualified community development  
212 entities that apply with remaining allocation under Section 45D of  
213 the Internal Revenue Code of 1986, as amended.

214 (c) The MDA shall award credits and the related  
215 qualified equity investment authority, subject to the limitations  
216 set forth in subsection (2) of this section, fifty percent (50%)  
217 to applicants that agree to utilize qualified equity investment  
218 authority for loan funds. The MDA may require additional  
219 information in the application to delineate between types of  
220 applications. Within thirty (30) days with respect to a loan fund  
221 application and ninety (90) days for all other applications, the  
222 MDA shall grant or deny the application in full or in part. If  
223 the MDA denies any part of the application, the MDA shall inform  
224 the applicant of the grounds for the denial. If the applicant  
225 provides the information required by the MDA or otherwise  
226 completes its application within fifteen (15) days of the notice  
227 of denial, the application is deemed complete as of the original  
228 date of submission. If the applicant fails to provide the  
229 requested information or complete its application within the  
230 fifteen-day period, the applicant must submit a new application.  
231 If requests for either allocation are not fully subscribed, the



232 MDA shall reallocate such remaining allocation to the other  
233 allocation pool. Once the MDA has allocated credits to a  
234 qualified community development entity, the corresponding  
235 qualified equity investment must be issued and, if applicable,  
236 fifty percent (50%) of such qualified equity investment must be  
237 designated under Section 45D of the Internal Revenue Code of 1986,  
238 as amended, not later than one hundred twenty (120) days from the  
239 date of such allocation. If the qualified equity investment is  
240 not issued and, if applicable, such designation under Section 45D  
241 of the Internal Revenue Code of 1986, as amended, is not made  
242 within such time period, the allocation shall be cancelled and  
243 returned to the MDA for reallocation. If the actual dollar amount  
244 of qualified equity investment is lower than the amount awarded by  
245 the MDA, the MDA shall adjust the tax credit allowed under this  
246 section and reissue awards to other applicants that did not  
247 receive the awards requested pro rata. Qualified community  
248 development entities shall provide the MDA evidence of qualified  
249 equity investments and designation under Section 45D of the  
250 Internal Revenue Code of 1986, as amended, if applicable, within  
251 one hundred thirty (130) days from the date of an allocation. An  
252 applicant certified an award under this paragraph may transfer all  
253 or a portion of its certified qualified equity investment  
254 authority to any affiliated qualified community development entity  
255 by sending written notice to the MDA endorsing the certificate.



256 (d) The Department of Revenue may recapture credits  
257 under this section if:

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

262 (ii) The qualified community development entity  
263 redeems or makes principal repayment with respect to a qualified  
264 equity investment prior to the seventh anniversary of the issuance  
265 of the qualified equity investment; or

266 (iii) The qualified community development entity  
267 fails to invest at least eighty-five percent (85%) of the cash  
268 purchase price of the qualified equity investment in qualified  
269 low-income community investments within twelve (12) months of the  
270 issuance of the qualified equity investment and maintain that  
271 level of investment until the last credit allowance date for the  
272 qualified equity investment.

273 A qualified community development entity shall notify the  
274 Department of Revenue of any of the events set forth in this  
275 paragraph (d) within five (5) days of actual knowledge of such  
276 event.

277 (e) For purposes of paragraph (d)(iii) of this  
278 subsection, an investment is considered maintained by a qualified  
279 community development entity even if the investment has been sold  
280 or repaid, provided that the qualified community development



281 entity reinvests an amount equal to the capital returned to or  
282 recovered by the qualified community development entity from the  
283 original investment, exclusive of any profits realized, in another  
284 qualified low-income community investment in this state within  
285 twelve (12) months after the receipt of that capital. Periodic  
286 loan repayments received by a qualified community development  
287 entity from a qualified active low-income community business  
288 within a calendar year must be treated as maintained in qualified  
289 low-income community investments if a qualified community  
290 development entity reinvests the repayments in qualified  
291 low-income community investments by the end of the following  
292 calendar year.

293 (f) A qualified community development entity is not  
294 required to reinvest capital returned from qualified low-income  
295 community investments after the sixth anniversary of the issuance  
296 of the qualified equity investment, the proceeds of which were  
297 used to make the qualified low-income community investment, and  
298 the qualified low-income community investment is considered held  
299 by the qualified community development entity through the seventh  
300 anniversary of the qualified equity investment's issuance.

301 (g) The MDA shall provide notice to the qualified  
302 community development entity and the Department of Revenue of any  
303 proposed recapture of credits pursuant to this subsection. The  
304 notice must specify the conditions under which the deficiency  
305 resulting in the proposed recapture occurred and state that the



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

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

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



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

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

344 (b) As used in this subsection:

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

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

351 (iii) "Public entity or public entities" includes  
352 utility districts, regional solid waste authorities, regional  
353 utility authorities, community hospitals, regional airport  
354 authorities, municipal airport authorities, community and junior  
355 colleges, educational building corporations established by or on



356 behalf of the state institutions of higher learning, school  
357 districts, planning and development districts, county economic  
358 development districts, urban renewal agencies, any other regional  
359 or local economic development authority, agency or governmental  
360 entity, and any other regional or local industrial development  
361 authority, agency or governmental entity.

362 (iv) "Public property or facilities" means any  
363 property or facilities owned or leased by a public entity or  
364 public benefit corporation.

365 (c) Notwithstanding any other provision of law to the  
366 contrary, public entities are authorized pursuant to this  
367 subsection to create one or more public benefit corporations or  
368 designate an existing corporation as a public benefit corporation  
369 for the purpose of entering into financing agreements and engaging  
370 in New Markets Tax Credit transactions, which shall include,  
371 without limitation, arrangements to plan, acquire, renovate,  
372 construct, lease, sublease, manage, operate and/or improve new or  
373 existing public property or facilities located within the  
374 boundaries or service area of the public entity. Any financing  
375 arrangement authorized under this subsection shall further any  
376 purpose of the public entity and may include a term of up to fifty  
377 (50) years.

378 (d) Notwithstanding any other provision of law to the  
379 contrary and in order to facilitate the acquisition, renovation,  
380 construction, leasing, subleasing, management, operating and/or



381 improvement of new or existing public property or facilities to  
382 further any purpose of a public entity, public entities are  
383 authorized to enter into financing arrangements in order to  
384 transfer public property or facilities to and/or from public  
385 benefit corporations, including, without limitation, sales,  
386 sale-leasebacks, leases and lease-leasebacks, provided such  
387 transfer is related to any New Markets Tax Credit transaction  
388 furthering any purpose of the public entity. Any such transfer  
389 under this paragraph (d) and the public property or facilities  
390 transferred in connection therewith shall be exempted from any  
391 limitation or requirements with respect to leasing, acquiring,  
392 and/or constructing public property or facilities.

393 (e) With respect to a New Markets Tax Credit  
394 transaction, public entities and public benefit corporations are  
395 authorized to enter into financing arrangements with any  
396 governmental, nonprofit or for-profit entity in order to leverage  
397 funds not otherwise available to public entities for the  
398 acquisition, construction and/or renovation of properties  
399 transferred to such public benefit corporations. The use of any  
400 funds loaned by or contributed by a public benefit corporation or  
401 borrowed by or otherwise made available to a public benefit  
402 corporation in such financing arrangement shall be dedicated  
403 solely to (i) the development of new properties or facilities  
404 and/or the renovation of existing properties or facilities or  
405 operation of properties or facilities, and/or (ii) the payment of





406 costs and expenditures related to any such financing arrangements,  
407 including, but not limited to, funding any reserves required in  
408 connection therewith, the repayment of any indebtedness incurred  
409 in connection therewith, and the payment of fees and expenses  
410 incurred in connection with the closing, administration,  
411 accounting and/or compliance with respect to the New Markets Tax  
412 Credit transaction.

413 (f) A public benefit corporation created pursuant to  
414 this subsection shall not be a political subdivision of the state  
415 but shall be a nonprofit corporation organized and governed under  
416 the provisions of the laws of this state and shall be a special  
417 purpose corporation established to facilitate New Markets Tax  
418 Credit transactions consistent with the requirements of this  
419 section.

420 (g) Neither this subsection nor anything herein  
421 contained is or shall be construed as a restriction or limitation  
422 upon any powers which the public entity or public benefit  
423 corporation might otherwise have under any laws of this state, and  
424 this subsection is cumulative to any such powers. This subsection  
425 does and shall be construed to provide a complete additional and  
426 alternative method for doing the things authorized thereby and  
427 shall be regarded as supplemental and additional to powers  
428 conferred by other laws.

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



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

433           27-15-129. (1) The amount of premium tax payable pursuant  
434 to Sections 27-15-103, 27-15-109, 27-15-119 and 83-31-45,  
435 Mississippi Code of 1972, shall be reduced from the amount  
436 otherwise fixed in such sections if the payer files a sworn  
437 statement with the required annual report showing as of the  
438 beginning of the reporting period that at least the following  
439 amounts of the total admitted assets of the payer were invested  
440 and maintained in qualifying Mississippi investments as  
441 hereinafter defined in subsection (2) of this section over the  
442 period covered by such report:

443	Percentage of Total Admitted	Percentage of Premium
444	Assets in Qualifying	Tax Payable
445	Mississippi Investments	
446	1%	99%
447	2%	98%
448	3%	97%
449	4%	96%
450	5%	95%
451	6%	94%
452	7%	93%
453	8%	92%
454	9%	91%
455	10%	80%



456                            15%                            70%  
457                            20%                            60%  
458                            25%                            50%

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

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

463                            (b) Bonds of this state or bonds of municipal, school,  
464 road or levee districts, or other political subdivisions of this  
465 state;

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

468                            (d) Real property located in this state;

469                            (e) Policy loans to residents of Mississippi, or other  
470 loans to residents of this state, or to corporations domiciled in  
471 this state;

472                            (f) Common or preferred stock, bonds and other  
473 evidences of indebtedness of corporations domiciled in this state;  
474 and

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

477            "A qualifying Mississippi investment" shall not include any  
478 investment for which a credit is allocated under Section  
479 57-105-1 \* \* \*, Section 57-115-1 et seq., and/or Section 1 of this  
480 act.



481 (3) If the credits, or any part thereof, authorized by the  
482 preceding provisions of this section shall be held by a court of  
483 final jurisdiction to be unconstitutional and void for any reason  
484 or to make the annual premium taxes levied by Sections 27-15-103,  
485 27-15-109, 27-15-119 and 83-31-45, Mississippi Code of 1972,  
486 unlawfully discriminatory or otherwise invalid under the  
487 Fourteenth Amendment or the Commerce Clause of the Constitution of  
488 the United States or under any state or other federal  
489 constitutional provisions, it is hereby expressly declared that  
490 such fact shall in no way affect the validity of the annual  
491 premium taxes levied thereby, and that such provisions would have  
492 been enacted even though the Legislature had known this credit  
493 section would be held invalid.

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

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

498 31-7-13. All agencies and governing authorities shall  
499 purchase their commodities and printing; contract for garbage  
500 collection or disposal; contract for solid waste collection or  
501 disposal; contract for sewage collection or disposal; contract for  
502 public construction; and contract for rentals as herein provided.

503 (a) **Bidding procedure for purchases not over \$5,000.00.**  
504 Purchases which do not involve an expenditure of more than Five  
505 Thousand Dollars (\$5,000.00), exclusive of freight or shipping



506 charges, may be made without advertising or otherwise requesting  
507 competitive bids. However, nothing contained in this paragraph  
508 (a) shall be construed to prohibit any agency or governing  
509 authority from establishing procedures which require competitive  
510 bids on purchases of Five Thousand Dollars (\$5,000.00) or less.

511 (b) **Bidding procedure for purchases over \$5,000.00 but**  
512 **not over \$75,000.00.** Purchases which involve an expenditure of  
513 more than Five Thousand Dollars (\$5,000.00) but not more than  
514 Seventy-five Thousand Dollars (\$75,000.00), exclusive of freight  
515 and shipping charges, may be made from the lowest and best bidder  
516 without publishing or posting advertisement for bids, provided at  
517 least two (2) competitive written bids have been obtained. Any  
518 state agency or community or junior college purchasing commodities  
519 or procuring construction pursuant to this paragraph (b) may  
520 authorize its purchasing agent, or his designee, to accept the  
521 lowest competitive written bid under Seventy-five Thousand Dollars  
522 (\$75,000.00). Any governing authority purchasing commodities  
523 pursuant to this paragraph (b) may authorize its purchasing agent,  
524 or his designee, with regard to governing authorities other than  
525 counties, or its purchase clerk, or his designee, with regard to  
526 counties, to accept the lowest and best competitive written bid.  
527 Such authorization shall be made in writing by the governing  
528 authority and shall be maintained on file in the primary office of  
529 the agency and recorded in the official minutes of the governing  
530 authority, as appropriate. The purchasing agent or the purchase



531 clerk, or his designee, as the case may be, and not the governing  
532 authority, shall be liable for any penalties and/or damages as may  
533 be imposed by law for any act or omission of the purchasing agent  
534 or purchase clerk, or his designee, constituting a violation of  
535 law in accepting any bid without approval by the governing  
536 authority. The term "competitive written bid" shall mean a bid  
537 submitted on a bid form furnished by the buying agency or  
538 governing authority and signed by authorized personnel  
539 representing the vendor, or a bid submitted on a vendor's  
540 letterhead or identifiable bid form and signed by authorized  
541 personnel representing the vendor. "Competitive" shall mean that  
542 the bids are developed based upon comparable identification of the  
543 needs and are developed independently and without knowledge of  
544 other bids or prospective bids. Any bid item for construction in  
545 excess of Five Thousand Dollars (\$5,000.00) shall be broken down  
546 by components to provide detail of component description and  
547 pricing. These details shall be submitted with the written bids  
548 and become part of the bid evaluation criteria. Bids may be  
549 submitted by facsimile, electronic mail or other generally  
550 accepted method of information distribution. Bids submitted by  
551 electronic transmission shall not require the signature of the  
552 vendor's representative unless required by agencies or governing  
553 authorities.

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

555 (i) **Publication requirement.**



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

568                   2. Reverse auctions shall be the primary  
569 method for receiving bids during the bidding process. If a  
570 purchasing entity determines that a reverse auction is not in the  
571 best interest of the state, then that determination must be  
572 approved by the Public Procurement Review Board. The purchasing  
573 entity shall submit a detailed explanation of why a reverse  
574 auction would not be in the best interest of the state and present  
575 an alternative process to be approved by the Public Procurement  
576 Review Board. If the Public Procurement Review Board authorizes  
577 the purchasing entity to solicit bids with a method other than  
578 reverse auction, then the purchasing entity may designate the  
579 other methods by which the bids will be received, including, but  
580 not limited to, bids sealed in an envelope, bids received



581 electronically in a secure system, or bids received by any other  
582 method that promotes open competition and has been approved by the  
583 Office of Purchasing and Travel. However, reverse auction shall  
584 not be used for any public contract for design, construction,  
585 improvement, repair or remodeling of any public facilities,  
586 including the purchase of materials, supplies, equipment or goods  
587 for same and including buildings, roads and bridges. The Public  
588 Procurement Review Board must approve any contract entered into by  
589 alternative process. The provisions of this item 2 shall not  
590 apply to the individual state institutions of higher learning.  
591 The provisions of this item 2 requiring reverse auction as the  
592 primary method of receiving bids shall not apply to term contract  
593 purchases as provided in paragraph (n) of this section; however, a  
594 purchasing entity may, in its discretion, utilize reverse auction  
595 for such purchases. The provisions of this item 2 shall not apply  
596 to individual public schools, including public charter schools and  
597 public school districts, only when purchasing copyrighted  
598 educational supplemental materials and software as a service  
599 product. For such purchases, a local school board may authorize a  
600 purchasing entity in its jurisdiction to use a Request for  
601 Qualifications which promotes open competition and meets the  
602 requirements of the Office of Purchasing and Travel.

603                   3. The date as published for the bid opening  
604 shall not be less than seven (7) working days after the last  
605 published notice; however, if the purchase involves a construction





606 project in which the estimated cost is in excess of Seventy-five  
607 Thousand Dollars (\$75,000.00), such bids shall not be opened in  
608 less than fifteen (15) working days after the last notice is  
609 published and the notice for the purchase of such construction  
610 shall be published once each week for two (2) consecutive weeks.  
611 However, all American Recovery and Reinvestment Act projects in  
612 excess of Twenty-five Thousand Dollars (\$25,000.00) shall be bid.  
613 For any projects in excess of Twenty-five Thousand Dollars  
614 (\$25,000.00) under the American Recovery and Reinvestment Act,  
615 publication shall be made one (1) time and the bid opening for  
616 construction projects shall not be less than ten (10) working days  
617 after the date of the published notice. The notice of intention  
618 to let contracts or purchase equipment shall state the time and  
619 place at which bids shall be received, list the contracts to be  
620 made or types of equipment or supplies to be purchased, and, if  
621 all plans and/or specifications are not published, refer to the  
622 plans and/or specifications on file. If there is no newspaper  
623 published in the county or municipality, then such notice shall be  
624 given by posting same at the courthouse, or for municipalities at  
625 the city hall, and at two (2) other public places in the county or  
626 municipality, and also by publication once each week for two (2)  
627 consecutive weeks in some newspaper having a general circulation  
628 in the county or municipality in the above-provided manner. On  
629 the same date that the notice is submitted to the newspaper for  
630 publication, the agency or governing authority involved shall mail



631 written notice to, or provide electronic notification to the main  
632 office of the Mississippi Procurement Technical Assistance Program  
633 under the Mississippi Development Authority that contains the same  
634 information as that in the published notice. Submissions received  
635 by the Mississippi Procurement Technical Assistance Program for  
636 projects funded by the American Recovery and Reinvestment Act  
637 shall be displayed on a separate and unique Internet web page  
638 accessible to the public and maintained by the Mississippi  
639 Development Authority for the Mississippi Procurement Technical  
640 Assistance Program. Those American Recovery and Reinvestment Act  
641 related submissions shall be publicly posted within twenty-four  
642 (24) hours of receipt by the Mississippi Development Authority and  
643 the bid opening shall not occur until the submission has been  
644 posted for ten (10) consecutive days. The Department of Finance  
645 and Administration shall maintain information regarding contracts  
646 and other expenditures from the American Recovery and Reinvestment  
647 Act, on a unique Internet web page accessible to the public. The  
648 Department of Finance and Administration shall promulgate rules  
649 regarding format, content and deadlines, unless otherwise  
650 specified by law, of the posting of award notices, contract  
651 execution and subsequent amendments, links to the contract  
652 documents, expenditures against the awarded contracts and general  
653 expenditures of funds from the American Recovery and Reinvestment  
654 Act. Within one (1) working day of the contract award, the agency  
655 or governing authority shall post to the designated web page



656 maintained by the Department of Finance and Administration, notice  
657 of the award, including the award recipient, the contract amount,  
658 and a brief summary of the contract in accordance with rules  
659 promulgated by the department. Within one (1) working day of the  
660 contract execution, the agency or governing authority shall post  
661 to the designated web page maintained by the Department of Finance  
662 and Administration a summary of the executed contract and make a  
663 copy of the appropriately redacted contract documents available  
664 for linking to the designated web page in accordance with the  
665 rules promulgated by the department. The information provided by  
666 the agency or governing authority shall be posted to the web page  
667 for the duration of the American Recovery and Reinvestment Act  
668 funding or until the project is completed, whichever is longer.

669 (ii) **Bidding process amendment procedure.** If all  
670 plans and/or specifications are published in the notification,  
671 then the plans and/or specifications may not be amended. If all  
672 plans and/or specifications are not published in the notification,  
673 then amendments to the plans/specifications, bid opening date, bid  
674 opening time and place may be made, provided that the agency or  
675 governing authority maintains a list of all prospective bidders  
676 who are known to have received a copy of the bid documents and all  
677 such prospective bidders are sent copies of all amendments. This  
678 notification of amendments may be made via mail, facsimile,  
679 electronic mail or other generally accepted method of information  
680 distribution. No addendum to bid specifications may be issued



681 within two (2) working days of the time established for the  
682 receipt of bids unless such addendum also amends the bid opening  
683 to a date not less than five (5) working days after the date of  
684 the addendum.

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

694                   (iv) **Specification restrictions.**

695                   1. Specifications pertinent to such bidding  
696 shall be written so as not to exclude comparable equipment of  
697 domestic manufacture. However, if valid justification is  
698 presented, the Department of Finance and Administration or the  
699 board of a governing authority may approve a request for specific  
700 equipment necessary to perform a specific job. Further, such  
701 justification, when placed on the minutes of the board of a  
702 governing authority, may serve as authority for that governing  
703 authority to write specifications to require a specific item of  
704 equipment needed to perform a specific job. In addition to these  
705 requirements, from and after July 1, 1990, vendors of relocatable



706 classrooms and the specifications for the purchase of such  
707 relocatable classrooms published by local school boards shall meet  
708 all pertinent regulations of the State Board of Education,  
709 including prior approval of such bid by the State Department of  
710 Education.

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

719                   (v) **Electronic bids.** Agencies and governing  
720 authorities shall provide a secure electronic interactive system  
721 for the submittal of bids requiring competitive bidding that shall  
722 be an additional bidding option for those bidders who choose to  
723 submit their bids electronically. The Department of Finance and  
724 Administration shall provide, by regulation, the standards that  
725 agencies must follow when receiving electronic bids. Agencies and  
726 governing authorities shall make the appropriate provisions  
727 necessary to accept electronic bids from those bidders who choose  
728 to submit their bids electronically for all purchases requiring  
729 competitive bidding under this section. Any special condition or  
730 requirement for the electronic bid submission shall be specified



731 in the advertisement for bids required by this section. Agencies  
732 or governing authorities that are currently without available high  
733 speed Internet access shall be exempt from the requirement of this  
734 subparagraph (v) until such time that high speed Internet access  
735 becomes available. Any county having a population of less than  
736 twenty thousand (20,000) shall be exempt from the provisions of  
737 this subparagraph (v). Any municipality having a population of  
738 less than ten thousand (10,000) shall be exempt from the  
739 provisions of this subparagraph (v). The provisions of this  
740 subparagraph (v) shall not require any bidder to submit bids  
741 electronically. When construction bids are submitted  
742 electronically, the requirement for including a certificate of  
743 responsibility, or a statement that the bid enclosed does not  
744 exceed Fifty Thousand Dollars (\$50,000.00), on the exterior of the  
745 bid envelope as indicated in Section 31-3-21(1) and (2) shall be  
746 deemed in compliance with by including same as an attachment with  
747 the electronic bid submittal.

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

749 (i) **Decision procedure.** Purchases may be made  
750 from the lowest and best bidder. In determining the lowest and  
751 best bid, freight and shipping charges shall be included.  
752 Life-cycle costing, total cost bids, warranties, guaranteed  
753 buy-back provisions and other relevant provisions may be included  
754 in the best bid calculation. All best bid procedures for state  
755 agencies must be in compliance with regulations established by the



756 Department of Finance and Administration. If any governing  
757 authority accepts a bid other than the lowest bid actually  
758 submitted, it shall place on its minutes detailed calculations and  
759 narrative summary showing that the accepted bid was determined to  
760 be the lowest and best bid, including the dollar amount of the  
761 accepted bid and the dollar amount of the lowest bid. No agency  
762 or governing authority shall accept a bid based on items not  
763 included in the specifications.

764 (ii) **Decision procedure for Certified Purchasing**  
765 **Offices.** In addition to the decision procedure set forth in  
766 subparagraph (i) of this paragraph (d), Certified Purchasing  
767 Offices may also use the following procedure: Purchases may be  
768 made from the bidder offering the best value. In determining the  
769 best value bid, freight and shipping charges shall be included.  
770 Life-cycle costing, total cost bids, warranties, guaranteed  
771 buy-back provisions, documented previous experience, training  
772 costs and other relevant provisions, including, but not limited  
773 to, a bidder having a local office and inventory located within  
774 the jurisdiction of the governing authority, may be included in  
775 the best value calculation. This provision shall authorize  
776 Certified Purchasing Offices to utilize a Request For Proposals  
777 (RFP) process when purchasing commodities. All best value  
778 procedures for state agencies must be in compliance with  
779 regulations established by the Department of Finance and



780 Administration. No agency or governing authority shall accept a  
781 bid based on items or criteria not included in the specifications.

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

783 **Landmarks.** In addition to the decision procedure set forth in  
784 subparagraph (i) of this paragraph (d), where purchase involves  
785 renovation, restoration, or both, of the State Capitol Building or  
786 any other historical building designated for at least five (5)  
787 years as a Mississippi Landmark by the Board of Trustees of the  
788 Department of Archives and History under the authority of Sections  
789 39-7-7 and 39-7-11, the agency or governing authority may use the  
790 following procedure: Purchases may be made from the lowest and  
791 best prequalified bidder. Prequalification of bidders shall be  
792 determined not less than fifteen (15) working days before the  
793 first published notice of bid opening. Prequalification criteria  
794 shall be limited to bidder's knowledge and experience in  
795 historical restoration, preservation and renovation. In  
796 determining the lowest and best bid, freight and shipping charges  
797 shall be included. Life-cycle costing, total cost bids,  
798 warranties, guaranteed buy-back provisions and other relevant  
799 provisions may be included in the best bid calculation. All best  
800 bid and prequalification procedures for state agencies must be in  
801 compliance with regulations established by the Department of  
802 Finance and Administration. If any governing authority accepts a  
803 bid other than the lowest bid actually submitted, it shall place  
804 on its minutes detailed calculations and narrative summary showing





805 that the accepted bid was determined to be the lowest and best  
806 bid, including the dollar amount of the accepted bid and the  
807 dollar amount of the lowest bid. No agency or governing authority  
808 shall accept a bid based on items not included in the  
809 specifications.

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

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

816 (e) **Lease-purchase authorization.** For the purposes of  
817 this section, the term "equipment" shall mean equipment, furniture  
818 and, if applicable, associated software and other applicable  
819 direct costs associated with the acquisition. Any lease-purchase  
820 of equipment which an agency is not required to lease-purchase  
821 under the master lease-purchase program pursuant to Section  
822 31-7-10 and any lease-purchase of equipment which a governing  
823 authority elects to lease-purchase may be acquired by a  
824 lease-purchase agreement under this paragraph (e). Lease-purchase  
825 financing may also be obtained from the vendor or from a  
826 third-party source after having solicited and obtained at least  
827 two (2) written competitive bids, as defined in paragraph (b) of  
828 this section, for such financing without advertising for such  
829 bids. Solicitation for the bids for financing may occur before or



830 after acceptance of bids for the purchase of such equipment or,  
831 where no such bids for purchase are required, at any time before  
832 the purchase thereof. No such lease-purchase agreement shall be  
833 for an annual rate of interest which is greater than the overall  
834 maximum interest rate to maturity on general obligation  
835 indebtedness permitted under Section 75-17-101, and the term of  
836 such lease-purchase agreement shall not exceed the useful life of  
837 equipment covered thereby as determined according to the upper  
838 limit of the asset depreciation range (ADR) guidelines for the  
839 Class Life Asset Depreciation Range System established by the  
840 Internal Revenue Service pursuant to the United States Internal  
841 Revenue Code and regulations thereunder as in effect on December  
842 31, 1980, or comparable depreciation guidelines with respect to  
843 any equipment not covered by ADR guidelines. Any lease-purchase  
844 agreement entered into pursuant to this paragraph (e) may contain  
845 any of the terms and conditions which a master lease-purchase  
846 agreement may contain under the provisions of Section 31-7-10(5),  
847 and shall contain an annual allocation dependency clause  
848 substantially similar to that set forth in Section 31-7-10(8).  
849 Each agency or governing authority entering into a lease-purchase  
850 transaction pursuant to this paragraph (e) shall maintain with  
851 respect to each such lease-purchase transaction the same  
852 information as required to be maintained by the Department of  
853 Finance and Administration pursuant to Section 31-7-10(13).  
854 However, nothing contained in this section shall be construed to



855 permit agencies to acquire items of equipment with a total  
856 acquisition cost in the aggregate of less than Ten Thousand  
857 Dollars (\$10,000.00) by a single lease-purchase transaction. All  
858 equipment, and the purchase thereof by any lessor, acquired by  
859 lease-purchase under this paragraph and all lease-purchase  
860 payments with respect thereto shall be exempt from all Mississippi  
861 sales, use and ad valorem taxes. Interest paid on any  
862 lease-purchase agreement under this section shall be exempt from  
863 State of Mississippi income taxation.

864           (f) **Alternate bid authorization.** When necessary to  
865 ensure ready availability of commodities for public works and the  
866 timely completion of public projects, no more than two (2)  
867 alternate bids may be accepted by a governing authority for  
868 commodities. No purchases may be made through use of such  
869 alternate bids procedure unless the lowest and best bidder cannot  
870 deliver the commodities contained in his bid. In that event,  
871 purchases of such commodities may be made from one (1) of the  
872 bidders whose bid was accepted as an alternate.

873           (g) **Construction contract change authorization.** In the  
874 event a determination is made by an agency or governing authority  
875 after a construction contract is let that changes or modifications  
876 to the original contract are necessary or would better serve the  
877 purpose of the agency or the governing authority, such agency or  
878 governing authority may, in its discretion, order such changes  
879 pertaining to the construction that are necessary under the



880 circumstances without the necessity of further public bids;  
881 provided that such change shall be made in a commercially  
882 reasonable manner and shall not be made to circumvent the public  
883 purchasing statutes. In addition to any other authorized person,  
884 the architect or engineer hired by an agency or governing  
885 authority with respect to any public construction contract shall  
886 have the authority, when granted by an agency or governing  
887 authority, to authorize changes or modifications to the original  
888 contract without the necessity of prior approval of the agency or  
889 governing authority when any such change or modification is less  
890 than one percent (1%) of the total contract amount. The agency or  
891 governing authority may limit the number, manner or frequency of  
892 such emergency changes or modifications.

893 (h) **Petroleum purchase alternative.** In addition to  
894 other methods of purchasing authorized in this chapter, when any  
895 agency or governing authority shall have a need for gas, diesel  
896 fuel, oils and/or other petroleum products in excess of the amount  
897 set forth in paragraph (a) of this section, such agency or  
898 governing authority may purchase the commodity after having  
899 solicited and obtained at least two (2) competitive written bids,  
900 as defined in paragraph (b) of this section. If two (2)  
901 competitive written bids are not obtained, the entity shall comply  
902 with the procedures set forth in paragraph (c) of this section.  
903 In the event any agency or governing authority shall have  
904 advertised for bids for the purchase of gas, diesel fuel, oils and



905 other petroleum products and coal and no acceptable bids can be  
906 obtained, such agency or governing authority is authorized and  
907 directed to enter into any negotiations necessary to secure the  
908 lowest and best contract available for the purchase of such  
909 commodities.

910           (i) **Road construction petroleum products price**  
911 **adjustment clause authorization.** Any agency or governing  
912 authority authorized to enter into contracts for the construction,  
913 maintenance, surfacing or repair of highways, roads or streets,  
914 may include in its bid proposal and contract documents a price  
915 adjustment clause with relation to the cost to the contractor,  
916 including taxes, based upon an industry-wide cost index, of  
917 petroleum products including asphalt used in the performance or  
918 execution of the contract or in the production or manufacture of  
919 materials for use in such performance. Such industry-wide index  
920 shall be established and published monthly by the Mississippi  
921 Department of Transportation with a copy thereof to be mailed,  
922 upon request, to the clerks of the governing authority of each  
923 municipality and the clerks of each board of supervisors  
924 throughout the state. The price adjustment clause shall be based  
925 on the cost of such petroleum products only and shall not include  
926 any additional profit or overhead as part of the adjustment. The  
927 bid proposals or document contract shall contain the basis and  
928 methods of adjusting unit prices for the change in the cost of  
929 such petroleum products.



930           (j) **State agency emergency purchase procedure.** If the  
931 governing board or the executive head, or his designees, of any  
932 agency of the state shall determine that an emergency exists in  
933 regard to the purchase of any commodities or repair contracts, so  
934 that the delay incident to giving opportunity for competitive  
935 bidding would be detrimental to the interests of the state, then  
936 the head of such agency, or his designees, shall file with the  
937 Department of Finance and Administration (i) a statement  
938 explaining the conditions and circumstances of the emergency,  
939 which shall include a detailed description of the events leading  
940 up to the situation and the negative impact to the entity if the  
941 purchase is made following the statutory requirements set forth in  
942 paragraph (a), (b) or (c) of this section, and (ii) a certified  
943 copy of the appropriate minutes of the board of such agency  
944 requesting the emergency purchase, if applicable. Upon receipt of  
945 the statement and applicable board certification, the State Fiscal  
946 Officer, or his designees, may, in writing, authorize the purchase  
947 or repair without having to comply with competitive bidding  
948 requirements.

949           If the governing board or the executive head, or his  
950 designees, of any agency determines that an emergency exists in  
951 regard to the purchase of any commodities or repair contracts, so  
952 that the delay incident to giving opportunity for competitive  
953 bidding would threaten the health or safety of any person, or the  
954 preservation or protection of property, then the provisions in



955 this section for competitive bidding shall not apply, and any  
956 officer or agent of the agency having general or specific  
957 authority for making the purchase or repair contract shall approve  
958 the bill presented for payment, and he shall certify in writing  
959 from whom the purchase was made, or with whom the repair contract  
960 was made.

961 Total purchases made under this paragraph (j) shall only be  
962 for the purpose of meeting needs created by the emergency  
963 situation. Following the emergency purchase, documentation of the  
964 purchase, including a description of the commodity purchased, the  
965 purchase price thereof and the nature of the emergency shall be  
966 filed with the Department of Finance and Administration. Any  
967 contract awarded pursuant to this paragraph (j) shall not exceed a  
968 term of one (1) year.

969 Purchases under the grant program established under Section  
970 37-68-7 in response to COVID-19 and the directive that school  
971 districts create a distance learning plan and fulfill technology  
972 needs expeditiously shall be deemed an emergency purchase for  
973 purposes of this paragraph (j).

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

975 If the governing authority, or the governing authority acting  
976 through its designee, shall determine that an emergency exists in  
977 regard to the purchase of any commodities or repair contracts, so  
978 that the delay incident to giving opportunity for competitive  
979 bidding would be detrimental to the interest of the governing



980 authority, then the provisions herein for competitive bidding  
981 shall not apply and any officer or agent of such governing  
982 authority having general or special authority therefor in making  
983 such purchase or repair shall approve the bill presented therefor,  
984 and he shall certify in writing thereon from whom such purchase  
985 was made, or with whom such a repair contract was made. At the  
986 board meeting next following the emergency purchase or repair  
987 contract, documentation of the purchase or repair contract,  
988 including a description of the commodity purchased, the price  
989 thereof and the nature of the emergency shall be presented to the  
990 board and shall be placed on the minutes of the board of such  
991 governing authority. Purchases under the grant program  
992 established under Section 37-68-7 in response to COVID-19 and the  
993 directive that school districts create a distance learning plan  
994 and fulfill technology needs expeditiously shall be deemed an  
995 emergency purchase for purposes of this paragraph (k).

996 (1) **Hospital purchase, lease-purchase and lease**  
997 **authorization.**

998 (i) The commissioners or board of trustees of any  
999 public hospital may contract with such lowest and best bidder for  
1000 the purchase or lease-purchase of any commodity under a contract  
1001 of purchase or lease-purchase agreement whose obligatory payment  
1002 terms do not exceed five (5) years.

1003 (ii) In addition to the authority granted in  
1004 subparagraph (i) of this paragraph (1), the commissioners or board





1005 of trustees is authorized to enter into contracts for the lease of  
1006 equipment or services, or both, which it considers necessary for  
1007 the proper care of patients if, in its opinion, it is not  
1008 financially feasible to purchase the necessary equipment or  
1009 services. Any such contract for the lease of equipment or  
1010 services executed by the commissioners or board shall not exceed a  
1011 maximum of five (5) years' duration and shall include a  
1012 cancellation clause based on unavailability of funds. If such  
1013 cancellation clause is exercised, there shall be no further  
1014 liability on the part of the lessee. Any such contract for the  
1015 lease of equipment or services executed on behalf of the  
1016 commissioners or board that complies with the provisions of this  
1017 subparagraph (ii) shall be excepted from the bid requirements set  
1018 forth in this section.

1019 (m) **Exceptions from bidding requirements.** Excepted  
1020 from bid requirements are:

1021 (i) **Purchasing agreements approved by department.**  
1022 Purchasing agreements, contracts and maximum price regulations  
1023 executed or approved by the Department of Finance and  
1024 Administration.

1025 (ii) **Outside equipment repairs.** Repairs to  
1026 equipment, when such repairs are made by repair facilities in the  
1027 private sector; however, engines, transmissions, rear axles and/or  
1028 other such components shall not be included in this exemption when  
1029 replaced as a complete unit instead of being repaired and the need



1030 for such total component replacement is known before disassembly  
1031 of the component; however, invoices identifying the equipment,  
1032 specific repairs made, parts identified by number and name,  
1033 supplies used in such repairs, and the number of hours of labor  
1034 and costs therefor shall be required for the payment for such  
1035 repairs.

1036 (iii) **In-house equipment repairs.** Purchases of  
1037 parts for repairs to equipment, when such repairs are made by  
1038 personnel of the agency or governing authority; however, entire  
1039 assemblies, such as engines or transmissions, shall not be  
1040 included in this exemption when the entire assembly is being  
1041 replaced instead of being repaired.

1042 (iv) **Raw gravel or dirt.** Raw unprocessed deposits  
1043 of gravel or fill dirt which are to be removed and transported by  
1044 the purchaser.

1045 (v) **Governmental equipment auctions.** Motor  
1046 vehicles or other equipment purchased from a federal agency or  
1047 authority, another governing authority or state agency of the  
1048 State of Mississippi, or any governing authority or state agency  
1049 of another state at a public auction held for the purpose of  
1050 disposing of such vehicles or other equipment. Any purchase by a  
1051 governing authority under the exemption authorized by this  
1052 subparagraph (v) shall require advance authorization spread upon  
1053 the minutes of the governing authority to include the listing of



1054 the item or items authorized to be purchased and the maximum bid  
1055 authorized to be paid for each item or items.

1056 (vi) **Intergovernmental sales and transfers.**

1057 Purchases, sales, transfers or trades by governing authorities or  
1058 state agencies when such purchases, sales, transfers or trades are  
1059 made by a private treaty agreement or through means of  
1060 negotiation, from any federal agency or authority, another  
1061 governing authority or state agency of the State of Mississippi,  
1062 or any state agency or governing authority of another state.

1063 Nothing in this section shall permit such purchases through public  
1064 auction except as provided for in subparagraph (v) of this  
1065 paragraph (m). It is the intent of this section to allow  
1066 governmental entities to dispose of and/or purchase commodities  
1067 from other governmental entities at a price that is agreed to by  
1068 both parties. This shall allow for purchases and/or sales at  
1069 prices which may be determined to be below the market value if the  
1070 selling entity determines that the sale at below market value is  
1071 in the best interest of the taxpayers of the state. Governing  
1072 authorities shall place the terms of the agreement and any  
1073 justification on the minutes, and state agencies shall obtain  
1074 approval from the Department of Finance and Administration, prior  
1075 to releasing or taking possession of the commodities.

1076 (vii) **Perishable supplies or food.** Perishable  
1077 supplies or food purchased for use in connection with hospitals,



1078 the school lunch programs, homemaking programs and for the feeding  
1079 of county or municipal prisoners.

1080 (viii) **Single-source items.** Noncompetitive items  
1081 available from one (1) source only. In connection with the  
1082 purchase of noncompetitive items only available from one (1)  
1083 source, a certification of the conditions and circumstances  
1084 requiring the purchase shall be filed by the agency with the  
1085 Department of Finance and Administration and by the governing  
1086 authority with the board of the governing authority. Upon receipt  
1087 of that certification the Department of Finance and Administration  
1088 or the board of the governing authority, as the case may be, may,  
1089 in writing, authorize the purchase, which authority shall be noted  
1090 on the minutes of the body at the next regular meeting thereafter.  
1091 In those situations, a governing authority is not required to  
1092 obtain the approval of the Department of Finance and  
1093 Administration. Following the purchase, the executive head of the  
1094 state agency, or his designees, shall file with the Department of  
1095 Finance and Administration, documentation of the purchase,  
1096 including a description of the commodity purchased, the purchase  
1097 price thereof and the source from whom it was purchased.

1098 (ix) **Waste disposal facility construction**  
1099 **contracts.** Construction of incinerators and other facilities for  
1100 disposal of solid wastes in which products either generated  
1101 therein, such as steam, or recovered therefrom, such as materials  
1102 for recycling, are to be sold or otherwise disposed of; however,



1103 in constructing such facilities, a governing authority or agency  
1104 shall publicly issue requests for proposals, advertised for in the  
1105 same manner as provided herein for seeking bids for public  
1106 construction projects, concerning the design, construction,  
1107 ownership, operation and/or maintenance of such facilities,  
1108 wherein such requests for proposals when issued shall contain  
1109 terms and conditions relating to price, financial responsibility,  
1110 technology, environmental compatibility, legal responsibilities  
1111 and such other matters as are determined by the governing  
1112 authority or agency to be appropriate for inclusion; and after  
1113 responses to the request for proposals have been duly received,  
1114 the governing authority or agency may select the most qualified  
1115 proposal or proposals on the basis of price, technology and other  
1116 relevant factors and from such proposals, but not limited to the  
1117 terms thereof, negotiate and enter contracts with one or more of  
1118 the persons or firms submitting proposals.

1119                   (x) **Hospital group purchase contracts.** Supplies,  
1120 commodities and equipment purchased by hospitals through group  
1121 purchase programs pursuant to Section 31-7-38.

1122                   (xi) **Information technology products.** Purchases  
1123 of information technology products made by governing authorities  
1124 under the provisions of purchase schedules, or contracts executed  
1125 or approved by the Mississippi Department of Information  
1126 Technology Services and designated for use by governing  
1127 authorities.



1128                   (xii)   **Energy efficiency services and equipment.**  
1129 Energy efficiency services and equipment acquired by school  
1130 districts, community and junior colleges, institutions of higher  
1131 learning and state agencies or other applicable governmental  
1132 entities on a shared-savings, lease or lease-purchase basis  
1133 pursuant to Section 31-7-14.

1134                   (xiii)   **Municipal electrical utility system fuel.**  
1135 Purchases of coal and/or natural gas by municipally owned electric  
1136 power generating systems that have the capacity to use both coal  
1137 and natural gas for the generation of electric power.

1138                   (xiv)   **Library books and other reference materials.**  
1139 Purchases by libraries or for libraries of books and periodicals;  
1140 processed film, videocassette tapes, filmstrips and slides;  
1141 recorded audiotapes, cassettes and diskettes; and any such items  
1142 as would be used for teaching, research or other information  
1143 distribution; however, equipment such as projectors, recorders,  
1144 audio or video equipment, and monitor televisions are not exempt  
1145 under this subparagraph.

1146                   (xv)   **Unmarked vehicles.** Purchases of unmarked  
1147 vehicles when such purchases are made in accordance with  
1148 purchasing regulations adopted by the Department of Finance and  
1149 Administration pursuant to Section 31-7-9(2).

1150                   (xvi)   **Election ballots.** Purchases of ballots  
1151 printed pursuant to Section 23-15-351.



1152                   (xvii)   **Multichannel interactive video systems.**  
1153   From and after July 1, 1990, contracts by Mississippi Authority  
1154   for Educational Television with any private educational  
1155   institution or private nonprofit organization whose purposes are  
1156   educational in regard to the construction, purchase, lease or  
1157   lease-purchase of facilities and equipment and the employment of  
1158   personnel for providing multichannel interactive video systems  
1159   (ITSF) in the school districts of this state.

1160                   (xviii)   **Purchases of prison industry products by**  
1161   **the Department of Corrections, regional correctional facilities or**  
1162   **privately owned prisons.** Purchases made by the Mississippi  
1163   Department of Corrections, regional correctional facilities or  
1164   privately owned prisons involving any item that is manufactured,  
1165   processed, grown or produced from the state's prison industries.

1166                   (xix)   **Undercover operations equipment.** Purchases  
1167   of surveillance equipment or any other high-tech equipment to be  
1168   used by law enforcement agents in undercover operations, provided  
1169   that any such purchase shall be in compliance with regulations  
1170   established by the Department of Finance and Administration.

1171                   (xx)   **Junior college books for rent.** Purchases by  
1172   community or junior colleges of textbooks which are obtained for  
1173   the purpose of renting such books to students as part of a book  
1174   service system.

1175                   (xxi)   **Certain school district purchases.**  
1176   Purchases of commodities made by school districts from vendors



1177 with which any levying authority of the school district, as  
1178 defined in Section 37-57-1, has contracted through competitive  
1179 bidding procedures for purchases of the same commodities.

1180 (xxii) **Garbage, solid waste and sewage contracts.**  
1181 Contracts for garbage collection or disposal, contracts for solid  
1182 waste collection or disposal and contracts for sewage collection  
1183 or disposal.

1184 (xxiii) **Municipal water tank maintenance**  
1185 **contracts.** Professional maintenance program contracts for the  
1186 repair or maintenance of municipal water tanks, which provide  
1187 professional services needed to maintain municipal water storage  
1188 tanks for a fixed annual fee for a duration of two (2) or more  
1189 years.

1190 (xxiv) **Purchases of Mississippi Industries for the**  
1191 **Blind products or services.** Purchases made by state agencies or  
1192 governing authorities involving any item that is manufactured,  
1193 processed or produced by, or any services provided by, the  
1194 Mississippi Industries for the Blind.

1195 (xxv) **Purchases of state-adopted textbooks.**  
1196 Purchases of state-adopted textbooks by public school districts.

1197 (xxvi) **Certain purchases under the Mississippi**  
1198 **Major Economic Impact Act.** Contracts entered into pursuant to the  
1199 provisions of Section 57-75-9(2), (3) and (4).

1200 (xxvii) **Used heavy or specialized machinery or**  
1201 **equipment for installation of soil and water conservation**





1202 **practices purchased at auction.** Used heavy or specialized  
1203 machinery or equipment used for the installation and  
1204 implementation of soil and water conservation practices or  
1205 measures purchased subject to the restrictions provided in  
1206 Sections 69-27-331 through 69-27-341. Any purchase by the State  
1207 Soil and Water Conservation Commission under the exemption  
1208 authorized by this subparagraph shall require advance  
1209 authorization spread upon the minutes of the commission to include  
1210 the listing of the item or items authorized to be purchased and  
1211 the maximum bid authorized to be paid for each item or items.

1212 (xxviii) **Hospital lease of equipment or services.**  
1213 Leases by hospitals of equipment or services if the leases are in  
1214 compliance with paragraph (1)(ii).

1215 (xxix) **Purchases made pursuant to qualified**  
1216 **cooperative purchasing agreements.** Purchases made by certified  
1217 purchasing offices of state agencies or governing authorities  
1218 under cooperative purchasing agreements previously approved by the  
1219 Office of Purchasing and Travel and established by or for any  
1220 municipality, county, parish or state government or the federal  
1221 government, provided that the notification to potential  
1222 contractors includes a clause that sets forth the availability of  
1223 the cooperative purchasing agreement to other governmental  
1224 entities. Such purchases shall only be made if the use of the  
1225 cooperative purchasing agreements is determined to be in the best  
1226 interest of the governmental entity.



1227                    (xxx) **School yearbooks.** Purchases of school  
1228 yearbooks by state agencies or governing authorities; however,  
1229 state agencies and governing authorities shall use for these  
1230 purchases the RFP process as set forth in the Mississippi  
1231 Procurement Manual adopted by the Office of Purchasing and Travel.

1232                    (xxxii) **Design-build method of contracting and**  
1233 **certain other contracts.** Contracts entered into under the  
1234 provisions of Section 31-7-13.1, 37-101-44 or 65-1-85.

1235                    (xxxiii) **Toll roads and bridge construction**  
1236 **projects.** Contracts entered into under the provisions of Section  
1237 65-43-1 or 65-43-3.

1238                    (xxxiiii) **Certain purchases under Section 57-1-221.**  
1239 Contracts entered into pursuant to the provisions of Section  
1240 57-1-221.

1241                    (xxxv) **Certain transfers made pursuant to the**  
1242 **provisions of Section 57-105-1(7).** Transfers of public property  
1243 or facilities under Section 57-105-1(7) and construction related  
1244 to such public property or facilities.

1245                    (xxxvi) **Certain purchases or transfers entered into**  
1246 **with local electrical power associations.** Contracts or agreements  
1247 entered into under the provisions of Section 55-3-33.

1248                    (xxxvii) **Certain purchases by an academic medical**  
1249 **center or health sciences school.** Purchases by an academic  
1250 medical center or health sciences school, as defined in Section  
1251 37-115-50, of commodities that are used for clinical purposes and



1252 1. intended for use in the diagnosis of disease or other  
1253 conditions or in the cure, mitigation, treatment or prevention of  
1254 disease, and 2. medical devices, biological, drugs and  
1255 radiation-emitting devices as defined by the United States Food  
1256 and Drug Administration.

1257 (xxxvii) **Certain purchases made under the Alyce G.**  
1258 **Clarke Mississippi Lottery Law.** Contracts made by the Mississippi  
1259 Lottery Corporation pursuant to the Alyce G. Clarke Mississippi  
1260 Lottery Law.

1261 (xxxviii) **Certain purchases made by the Department**  
1262 **of Health and the Department of Revenue.** Purchases made by the  
1263 Department of Health and the Department of Revenue solely for the  
1264 purpose of fulfilling their respective responsibilities under the  
1265 Mississippi Medical Cannabis Act. This subparagraph shall stand  
1266 repealed on June 30, 2026.

1267 (xxxvix) **Certain transfers made pursuant to the**  
1268 **provisions of Section 1(7) of this act.** Transfers of public  
1269 property or facilities under Section 1(7) of this act and  
1270 construction related to such public property or facilities.

1271 (n) **Term contract authorization.** All contracts for the  
1272 purchase of:

1273 (i) All contracts for the purchase of commodities,  
1274 equipment and public construction (including, but not limited to,  
1275 repair and maintenance), may be let for periods of not more than  
1276 sixty (60) months in advance, subject to applicable statutory



1277 provisions prohibiting the letting of contracts during specified  
1278 periods near the end of terms of office. Term contracts for a  
1279 period exceeding twenty-four (24) months shall also be subject to  
1280 ratification or cancellation by governing authority boards taking  
1281 office subsequent to the governing authority board entering the  
1282 contract.

1283 (ii) Bid proposals and contracts may include price  
1284 adjustment clauses with relation to the cost to the contractor  
1285 based upon a nationally published industry-wide or nationally  
1286 published and recognized cost index. The cost index used in a  
1287 price adjustment clause shall be determined by the Department of  
1288 Finance and Administration for the state agencies and by the  
1289 governing board for governing authorities. The bid proposal and  
1290 contract documents utilizing a price adjustment clause shall  
1291 contain the basis and method of adjusting unit prices for the  
1292 change in the cost of such commodities, equipment and public  
1293 construction.

1294 (o) **Purchase law violation prohibition and vendor**  
1295 **penalty.** No contract or purchase as herein authorized shall be  
1296 made for the purpose of circumventing the provisions of this  
1297 section requiring competitive bids, nor shall it be lawful for any  
1298 person or concern to submit individual invoices for amounts within  
1299 those authorized for a contract or purchase where the actual value  
1300 of the contract or commodity purchased exceeds the authorized  
1301 amount and the invoices therefor are split so as to appear to be



1302 authorized as purchases for which competitive bids are not  
1303 required. Submission of such invoices shall constitute a  
1304 misdemeanor punishable by a fine of not less than Five Hundred  
1305 Dollars (\$500.00) nor more than One Thousand Dollars (\$1,000.00),  
1306 or by imprisonment for thirty (30) days in the county jail, or  
1307 both such fine and imprisonment. In addition, the claim or claims  
1308 submitted shall be forfeited.

1309 (p) **Electrical utility petroleum-based equipment**  
1310 **purchase procedure.** When in response to a proper advertisement  
1311 therefor, no bid firm as to price is submitted to an electric  
1312 utility for power transformers, distribution transformers, power  
1313 breakers, reclosers or other articles containing a petroleum  
1314 product, the electric utility may accept the lowest and best bid  
1315 therefor although the price is not firm.

1316 (q) **Fuel management system bidding procedure.** Any  
1317 governing authority or agency of the state shall, before  
1318 contracting for the services and products of a fuel management or  
1319 fuel access system, enter into negotiations with not fewer than  
1320 two (2) sellers of fuel management or fuel access systems for  
1321 competitive written bids to provide the services and products for  
1322 the systems. In the event that the governing authority or agency  
1323 cannot locate two (2) sellers of such systems or cannot obtain  
1324 bids from two (2) sellers of such systems, it shall show proof  
1325 that it made a diligent, good-faith effort to locate and negotiate  
1326 with two (2) sellers of such systems. Such proof shall include,



1327 but not be limited to, publications of a request for proposals and  
1328 letters soliciting negotiations and bids. For purposes of this  
1329 paragraph (q), a fuel management or fuel access system is an  
1330 automated system of acquiring fuel for vehicles as well as  
1331 management reports detailing fuel use by vehicles and drivers, and  
1332 the term "competitive written bid" shall have the meaning as  
1333 defined in paragraph (b) of this section. Governing authorities  
1334 and agencies shall be exempt from this process when contracting  
1335 for the services and products of fuel management or fuel access  
1336 systems under the terms of a state contract established by the  
1337 Office of Purchasing and Travel.

1338 (r) **Solid waste contract proposal procedure.** Before  
1339 entering into any contract for garbage collection or disposal,  
1340 contract for solid waste collection or disposal or contract for  
1341 sewage collection or disposal, which involves an expenditure of  
1342 more than Seventy-five Thousand Dollars (\$75,000.00), a governing  
1343 authority or agency shall issue publicly a request for proposals  
1344 concerning the specifications for such services which shall be  
1345 advertised for in the same manner as provided in this section for  
1346 seeking bids for purchases which involve an expenditure of more  
1347 than the amount provided in paragraph (c) of this section. Any  
1348 request for proposals when issued shall contain terms and  
1349 conditions relating to price, financial responsibility,  
1350 technology, legal responsibilities and other relevant factors as  
1351 are determined by the governing authority or agency to be



1352 appropriate for inclusion; all factors determined relevant by the  
1353 governing authority or agency or required by this paragraph (r)  
1354 shall be duly included in the advertisement to elicit proposals.  
1355 After responses to the request for proposals have been duly  
1356 received, the governing authority or agency shall select the most  
1357 qualified proposal or proposals on the basis of price, technology  
1358 and other relevant factors and from such proposals, but not  
1359 limited to the terms thereof, negotiate and enter into contracts  
1360 with one or more of the persons or firms submitting proposals. If  
1361 the governing authority or agency deems none of the proposals to  
1362 be qualified or otherwise acceptable, the request for proposals  
1363 process may be reinitiated. Notwithstanding any other provisions  
1364 of this paragraph, where a county with at least thirty-five  
1365 thousand (35,000) nor more than forty thousand (40,000)  
1366 population, according to the 1990 federal decennial census, owns  
1367 or operates a solid waste landfill, the governing authorities of  
1368 any other county or municipality may contract with the governing  
1369 authorities of the county owning or operating the landfill,  
1370 pursuant to a resolution duly adopted and spread upon the minutes  
1371 of each governing authority involved, for garbage or solid waste  
1372 collection or disposal services through contract negotiations.

1373 (s) **Minority set-aside authorization.** Notwithstanding  
1374 any provision of this section to the contrary, any agency or  
1375 governing authority, by order placed on its minutes, may, in its  
1376 discretion, set aside not more than twenty percent (20%) of its



1377 anticipated annual expenditures for the purchase of commodities  
1378 from minority businesses; however, all such set-aside purchases  
1379 shall comply with all purchasing regulations promulgated by the  
1380 Department of Finance and Administration and shall be subject to  
1381 bid requirements under this section. Set-aside purchases for  
1382 which competitive bids are required shall be made from the lowest  
1383 and best minority business bidder. For the purposes of this  
1384 paragraph, the term "minority business" means a business which is  
1385 owned by a majority of persons who are United States citizens or  
1386 permanent resident aliens (as defined by the Immigration and  
1387 Naturalization Service) of the United States, and who are Asian,  
1388 Black, Hispanic or Native American, according to the following  
1389 definitions:

1390 (i) "Asian" means persons having origins in any of  
1391 the original people of the Far East, Southeast Asia, the Indian  
1392 subcontinent, or the Pacific Islands.

1393 (ii) "Black" means persons having origins in any  
1394 black racial group of Africa.

1395 (iii) "Hispanic" means persons of Spanish or  
1396 Portuguese culture with origins in Mexico, South or Central  
1397 America, or the Caribbean Islands, regardless of race.

1398 (iv) "Native American" means persons having  
1399 origins in any of the original people of North America, including  
1400 American Indians, Eskimos and Aleuts.





1401                   (t)   **Construction punch list restriction.**   The  
1402 architect, engineer or other representative designated by the  
1403 agency or governing authority that is contracting for public  
1404 construction or renovation may prepare and submit to the  
1405 contractor only one (1) preliminary punch list of items that do  
1406 not meet the contract requirements at the time of substantial  
1407 completion and one (1) final list immediately before final  
1408 completion and final payment.

1409                   (u)   **Procurement of construction services by state**  
1410 **institutions of higher learning.**   Contracts for privately financed  
1411 construction of auxiliary facilities on the campus of a state  
1412 institution of higher learning may be awarded by the Board of  
1413 Trustees of State Institutions of Higher Learning to the lowest  
1414 and best bidder, where sealed bids are solicited, or to the  
1415 offeror whose proposal is determined to represent the best value  
1416 to the citizens of the State of Mississippi, where requests for  
1417 proposals are solicited.

1418                   (v)   **Insurability of bidders for public construction or**  
1419 **other public contracts.**   In any solicitation for bids to perform  
1420 public construction or other public contracts to which this  
1421 section applies, including, but not limited to, contracts for  
1422 repair and maintenance, for which the contract will require  
1423 insurance coverage in an amount of not less than One Million  
1424 Dollars (\$1,000,000.00), bidders shall be permitted to either  
1425 submit proof of current insurance coverage in the specified amount



1426 or demonstrate ability to obtain the required coverage amount of  
1427 insurance if the contract is awarded to the bidder. Proof of  
1428 insurance coverage shall be submitted within five (5) business  
1429 days from bid acceptance.

1430 (w) **Purchase authorization clarification.** Nothing in  
1431 this section shall be construed as authorizing any purchase not  
1432 authorized by law.

1433 (x) **Mississippi Regional Pre-Need Disaster Clean Up**  
1434 **Act.** (i) The Department of Finance and Administration shall  
1435 enter into nine (9) contracts for the pre-need purchase of labor,  
1436 services, work, materials, equipment, supplies or other personal  
1437 property for disaster-related solid waste collection, disposal or  
1438 monitoring. One (1) contract shall be entered into for each of  
1439 the nine (9) Mississippi Emergency Management Association  
1440 districts:

1441 1. Coahoma, DeSoto, Grenada, Panola, Quitman,  
1442 Tallahatchie, Tate, Tunica and Yalobusha Counties;

1443 2. Alcorn, Benton, Itawamba, Lafayette, Lee,  
1444 Marshall, Pontotoc, Prentiss, Tippah, Tishomingo and Union  
1445 Counties;

1446 3. Attala, Bolivar, Carroll, Holmes,  
1447 Humphreys, Leflore, Montgomery, Sunflower and Washington Counties;

1448 4. Calhoun, Chickasaw, Choctaw, Clay,  
1449 Lowndes, Monroe, Noxubee, Oktibbeha, Webster and Winston Counties;



1450                   5. Claiborne, Copiah, Hinds, Issaquena,  
1451 Madison, Rankin, Sharkey, Simpson, Warren and Yazoo Counties;  
1452                   6. Clarke, Jasper, Kemper, Lauderdale, Leake,  
1453 Neshoba, Newton, Scott, and Smith Counties and the Mississippi  
1454 Band of Choctaw Indians;  
1455                   7. Adams, Amite, Franklin, Jefferson,  
1456 Lawrence, Lincoln, Pike, Walthall and Wilkinson Counties;  
1457                   8. Covington, Forrest, Greene, Jefferson  
1458 Davis, Jones, Lamar, Marion, Perry and Wayne Counties; and  
1459                   9. George, Hancock, Harrison, Jackson, Pearl  
1460 River and Stone Counties.

1461           Any such contract shall set forth the manner of awarding such  
1462 a contract, the method of payment, and any other matter deemed  
1463 necessary to carry out the purposes of the agreement. Such  
1464 contract may be entered into only for a term of one (1) year, with  
1465 an option for an additional one-year extension after the  
1466 conclusion of the first year of the contract, and only after  
1467 having solicited bids or proposals, as appropriate, which shall be  
1468 publicly advertised by posting on a web page maintained by the  
1469 Department of Finance and Administration through submission of  
1470 such advertisement to the Mississippi Procurement Technical  
1471 Assistance Program under the Mississippi Development Authority.  
1472 The bid opening shall not occur until after the submission has  
1473 been posted for at least ten (10) consecutive days. The state's  
1474 share of expenditures for solid waste collection, disposal or



1475 monitoring under any contract shall be appropriated and paid in  
1476 the manner set forth in the contract and in the same manner as for  
1477 other solid waste collection, disposal, or monitoring expenses of  
1478 the state. Any contract entered into under this paragraph shall  
1479 not be subject to the provisions of Section 17-13-11.

1480 (ii) Any board of supervisors of any county or any  
1481 governing authority of any municipality may opt in to the benefits  
1482 and services provided under the appropriate and relevant contract  
1483 established in subparagraph (i) of this paragraph at the time of a  
1484 disaster event in that county or municipality. At the time of opt  
1485 in, the county or municipality shall assume responsibility for  
1486 payment in full to the contractor for the disaster-related solid  
1487 waste collection, disposal or monitoring services provided.  
1488 Nothing in this subparagraph (ii) shall be construed as requiring  
1489 a county or municipality to opt in to any such contract  
1490 established in subparagraph (i) of this paragraph.

1491 **SECTION 4.** This act shall take effect and be in force from  
1492 and after July 1, 2024.

