

## Senate Amendments to House Bill No. 1942

TO THE CLERK OF THE HOUSE:

THIS IS TO INFORM YOU THAT THE SENATE HAS ADOPTED THE AMENDMENTS SET OUT BELOW:

### AMENDMENT NO. 1

Amend by striking all after the enacting clause and inserting in lieu thereof the following:

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 seven percent (7%)  
38 for each of the first through seventh 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 later of: 1. the date on  
46 which the qualified equity investment is initially made; or 2. the  
47 date upon which the MDA issues a tax credit certificate under  
48 subsection (4) of this section; and (ii) each of the subsequent  
49 six (6) anniversary dates of the applicable date from subparagraph  
50 (i) of this paragraph.

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

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

56 (f) "Principal business operations" means the physical  
57 location where at least sixty percent (60%) of a qualified active  
58 low-income community business' employees work. An entity that has  
59 agreed to relocate employees or a Mississippi business that has  
60 agreed to hire employees using the proceeds of a qualified  
61 low-income community investment to establish principal business  
62 operations in Mississippi is deemed to have principal business  
63 operations in Mississippi if the entity satisfies the requirements  
64 of this paragraph within one hundred eighty (180) days of  
65 receiving the qualified low-income community investment or another  
66 date as agreed by the business and the MDA.

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

70 (h) "Qualified active low-income community business"  
71 shall have the meaning ascribed to such term in Section 45D of the  
72 Internal Revenue Code of 1986, as amended, provided such entity  
73 has its principal business operations within the state's  
74 geographical boundary. An entity is deemed a qualified active  
75 low-income community business for the duration of a qualified  
76 low-income community investment if the qualified community

77 development entity reasonably expects, at the time it makes the  
78 qualified low-income community investment, that the entity will  
79 continue to satisfy the requirements for being a qualified active  
80 low-income community business throughout the entire period of the  
81 qualified low-income community investment. A business that  
82 otherwise satisfies this definition but for being located in a  
83 low-income community, as defined in Section 45D of the Internal  
84 Revenue Code of 1986, as amended, and 26 CFR 1.45D-1, shall  
85 satisfy this definition if the business is located in a recovery  
86 zone.

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

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

94 (ii) Such allocation agreement includes the State  
95 of Mississippi within the service area set forth in the allocation  
96 agreement; and

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

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

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

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

108                   (j) "Qualified equity investment" means an equity  
109 investment in a qualified community development entity, if the  
110 equity investment:

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

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

120                           (iii) Is:

121                                   1. Designated by the qualified community  
122 development entity as a qualified equity investment under this  
123 section; and

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

128           (k) "Qualified low-income community investment" shall  
129 have the meaning ascribed to such term in Section 45D of the  
130 Internal Revenue Code of 1986, as amended; provided, however, that  
131 the maximum amount of qualified low-income community investments  
132 issued for a single qualified active low-income community  
133 business, on an aggregate basis with all of its affiliates, that  
134 may be included for purposes of complying with subsection  
135 (4) (d) (iii) of this section shall not exceed Ten Million Dollars  
136 (\$10,000,000.00), in the aggregate, whether issued by one (1) or  
137 several qualified community development entities and exclusive of  
138 repaid or redeemed qualified low-income community investments in  
139 such business.

140           (1) "Recovery zone" means any county for which the  
141 Federal Emergency Management Agency of the United States  
142 Department of Homeland Security has made a determination that the  
143 county is eligible for both individual and public assistance under  
144 the declaration of major disaster for the State of Mississippi for  
145 the duration of the declaration. Follow-on investments in a  
146 qualified active low-income community business that was qualified  
147 by its location in a recovery zone at the time of the initial  
148 investment shall be considered qualified low-income community  
149 investments even if made after the end of the declaration, subject  
150 to the other provisions of this section.

151           (2) A person or entity that holds a qualified equity  
152 investment on the credit allowance date shall be entitled to a  
153 credit applicable against the taxes imposed by Sections 27-7-5,

154 27-15-103, 27-15-109 and 27-15-123 during the taxable year that  
155 includes the credit allowance date. The amount of the credit  
156 shall be equal to the applicable percentage for such taxable year  
157 of the purchase price paid to the qualified community development  
158 entity for the qualified equity investment. The amount of the  
159 credit that may be utilized in any one (1) tax year shall be  
160 limited to an amount not greater than the total tax liability of  
161 the claimant for the taxes imposed by the above-referenced  
162 sections. The credit shall not be refundable or transferable.  
163 Any unused portion of the credit may be carried forward for seven  
164 (7) taxable years beyond the credit allowance date on which the  
165 credit was earned. The maximum aggregate amount of qualified  
166 equity investments that may be allocated by the MDA under this  
167 section may not exceed an amount that would result in taxpayers  
168 claiming in any one (1) state fiscal year credits in excess of  
169 Twenty-one Million Dollars (\$21,000,000.00), exclusive of the  
170 fiscal year cap on credits set forth in Section 57-105-1, and  
171 exclusive of credits that might be carried forward from previous  
172 taxable years; however, a maximum of Eighteen Million Dollars  
173 (\$18,000,000.00) with respect to such allocations may be allocated  
174 as credits for taxes imposed by Sections 27-15-103, 27-15-109 and  
175 27-15-123. Any person or entity claiming a credit under this  
176 section against the taxes imposed by Sections 27-7-5, 27-15-103,  
177 27-15-109 and 27-15-123 shall not be required to pay any  
178 additional tax under Section 27-15-123 as a result of claiming

179 such credit. The MDA shall allocate credits within this limit as  
180 provided for in subsection (4) of this section.

181 (3) Tax credits authorized by this section that are earned  
182 by a partnership, limited liability company, S corporation or  
183 other similar pass-through entity, shall be allocated among its  
184 partners, members or shareholders, respectively, either in  
185 proportion to their ownership interest in such entity or as the  
186 partners, members or shareholders mutually agree as provided in an  
187 executed document. Such allocation shall be made each taxable  
188 year of such pass-through entity which contains a credit allowance  
189 date. An allocation or pass-through of a credit is not considered  
190 a sale for the purposes of this section or any other state law.

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

195 (i) The name, address, and tax identification  
196 number of the applicant, and evidence of the applicant's  
197 certification as a qualified community development entity by the  
198 CDFI fund;

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

201 (iii) A certificate executed by an executive  
202 officer of the applicant attesting that the allocation agreement  
203 remains in effect and has not been revoked or canceled by the CDFI  
204 fund;

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

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

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

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

217 (viii) Except for Mississippi qualified community  
218 development entities, evidence that the applicant, on a collective  
219 basis with its affiliates, satisfies at least one (1) of the  
220 requirements of subsection (1)(i)(iii) of this section for the  
221 definition of qualified community development entity; and

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

224 (b) The MDA shall set a date to accept applications not  
225 less than thirty (30) days but not more than forty-five (45) days  
226 after the CDFI fund announces allocation awards under a notice of  
227 funding availability that was published in the Federal Register.  
228 In the event that the CDFI fund is unable to publish a notice of  
229 funding of allocation awards because of a lack of award authority  
230 under Section 45D of the Internal Revenue Code of 1986, as



231 amended, with respect to the fiscal year beginning July 1, 2026,  
232 the MDA shall set a date for accepting applications and waive the  
233 requirement that a qualified community development entity  
234 designate at least fifty percent (50%) of qualified equity  
235 investment authority awarded as a qualified equity investment  
236 under Section 45D of the Internal Revenue Code of 1986, as  
237 amended, provided that the MDA shall give a preference in the  
238 award of tax credits to qualified community development entities  
239 that apply with remaining allocation under Section 45D of the  
240 Internal Revenue Code of 1986, as amended.

241 (c) The MDA shall award credits and the related  
242 qualified equity investment authority, subject to the limitations  
243 set forth in subsection (2) of this section, fifty percent (50%)  
244 to applicants that agree to utilize qualified equity investment  
245 authority for loan funds. The MDA may require additional  
246 information in the application to delineate between types of  
247 applications. Within forty-five (45) days with respect to a loan  
248 fund application and ninety (90) days for all other applications,  
249 the MDA shall grant or deny the application in full or in part.  
250 If the MDA denies any part of the application, the MDA shall  
251 inform the applicant of the grounds for the denial. If the  
252 applicant provides the information required by the MDA or  
253 otherwise completes its application within fifteen (15) days of  
254 the notice of denial, the application is deemed complete as of the  
255 original date of submission. If the applicant fails to provide  
256 the requested information or complete its application within the

257 fifteen-day period, the applicant must submit a new application.  
258 If requests for either allocation are not fully subscribed, the  
259 MDA shall reallocate such remaining allocation to the other  
260 allocation pool. Once the MDA has allocated credits to a  
261 qualified community development entity, the corresponding  
262 qualified equity investment must be issued and, if applicable,  
263 fifty percent (50%) of such qualified equity investment must be  
264 designated under Section 45D of the Internal Revenue Code of 1986,  
265 as amended, not later than one hundred twenty (120) days from the  
266 date of such allocation. If the qualified equity investment is  
267 not issued and, if applicable, such designation under Section 45D  
268 of the Internal Revenue Code of 1986, as amended, is not made  
269 within such time period, the allocation shall be cancelled and  
270 returned to the MDA for reallocation. If the actual dollar amount  
271 of qualified equity investment is lower than the amount awarded by  
272 the MDA, the MDA shall adjust the tax credit allowed under this  
273 section and reissue awards to other applicants that did not  
274 receive the awards requested pro rata. Qualified community  
275 development entities shall provide the MDA evidence of qualified  
276 equity investments and designation under Section 45D of the  
277 Internal Revenue Code of 1986, as amended, if applicable, within  
278 one hundred thirty (130) days from the date of an allocation. An  
279 applicant certified an award under this paragraph may transfer all  
280 or a portion of its certified qualified equity investment  
281 authority to any affiliated qualified community development entity  
282 by sending written notice to the MDA endorsing the certificate.

283 If there are credits for loan funds or nonloan funds available in  
284 any application round after MDA's initial award of credits, the  
285 MDA shall set a date to accept applications without reserving  
286 credits by type of applicant. If there are still remaining  
287 credits after this additional application round, the MDA shall set  
288 a date to accept applications from applicants that otherwise meet  
289 the requirements of this section except for subsection (1)(i)(iii)  
290 of this section. The MDA and such applicants shall otherwise  
291 comply with all other requirements of this section. Applicants  
292 that do meet the requirement of subsection (1)(i)(iii) of this  
293 section are eligible to apply under such additional application  
294 round.

295 (d) The Department of Revenue may recapture credits  
296 under this section if:

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

301 (ii) The qualified community development entity  
302 redeems a qualified equity investment prior to the seventh  
303 anniversary of the issuance of the qualified equity investment; or

304 (iii) The qualified community development entity  
305 fails to invest at least eighty-five percent (85%) of the cash  
306 purchase price of the qualified equity investment in qualified  
307 low-income community investments within twelve (12) months of the  
308 issuance of the qualified equity investment and maintain that

309 level of investment until the seventh anniversary of the initial  
310 credit allowance date for the qualified equity investment.

311 A qualified community development entity shall notify the  
312 Department of Revenue of any of the events set forth in this  
313 paragraph (d) within five (5) days of actual knowledge of such  
314 event.

315 (e) For purposes of paragraph (d)(iii) of this  
316 subsection, an investment is considered maintained by a qualified  
317 community development entity even if the investment has been sold  
318 or repaid, provided that the qualified community development  
319 entity reinvests an amount equal to the capital returned to or  
320 recovered by the qualified community development entity from the  
321 original investment, exclusive of any profits realized, in another  
322 qualified low-income community investment in this state within  
323 twelve (12) months after the receipt of that capital. Periodic  
324 loan repayments received by a qualified community development  
325 entity from a qualified active low-income community business  
326 within a calendar year must be treated as maintained in qualified  
327 low-income community investments if a qualified community  
328 development entity reinvests the repayments in qualified  
329 low-income community investments by the end of the following  
330 calendar year.

331 (f) A qualified community development entity is not  
332 required to reinvest capital returned from qualified low-income  
333 community investments after the sixth anniversary of the issuance  
334 of the qualified equity investment, the proceeds of which were

335 used to make the qualified low-income community investment, and  
336 the qualified low-income community investment is considered held  
337 by the qualified community development entity through the seventh  
338 anniversary of the qualified equity investment's issuance.

339 (g) The MDA shall provide notice to the qualified  
340 community development entity and the Department of Revenue of any  
341 proposed recapture of credits pursuant to this subsection. The  
342 notice must specify the conditions under which the deficiency  
343 resulting in the proposed recapture occurred and state that the  
344 credits will be recaptured within ninety (90) days unless the  
345 qualified community development entity complies with the  
346 conditions identified in the notice. If the entity does not  
347 comply with the conditions identified in the notice within the  
348 ninety-day period, the Department of Revenue shall provide the  
349 entity from whom the credit is to be recaptured with a final order  
350 of recapture. Any credit for which a final recapture order has  
351 been issued must be recaptured by the Department of Revenue from  
352 the entity that claimed the credit on a tax return. The qualified  
353 equity investment authority of the recaptured credits must be  
354 returned to the MDA and must first be awarded pro rata to  
355 applicants that have received awards of qualified equity  
356 investment authority and complied with this subsection. If  
357 credits are recaptured under this section, any remaining credit is  
358 forfeited.

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

361           (5) Each qualified community development entity that  
362 receives qualified equity investments to make qualified low-income  
363 community investments in Mississippi must annually report to the  
364 MDA the North American Industry Classification System Code, the  
365 county, the dollars invested, the number of jobs assisted and the  
366 number of jobs assisted with wages over one hundred percent (100%)  
367 of the federal poverty level for a family of four (4) of each  
368 qualified low-income community investment.

369           (6) The MDA shall file an annual report on all qualified  
370 low-income community investments with the Governor, the Clerk of  
371 the House of Representatives, the Secretary of the Senate and the  
372 Secretary of State describing the North American Industry  
373 Classification System Code, the county, the dollars invested, the  
374 number of jobs assisted and the number of jobs assisted with wages  
375 over one hundred percent (100%) of the federal poverty level for a  
376 family of four (4) of each qualified low-income community  
377 investment. The annual report will be posted on the MDA internet  
378 website.

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

382                   (b) As used in this subsection:

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

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

389                   (iii) "Public entity or public entities" includes  
390 utility districts, regional solid waste authorities, regional  
391 utility authorities, community hospitals, regional airport  
392 authorities, municipal airport authorities, community and junior  
393 colleges, educational building corporations established by or on  
394 behalf of the state institutions of higher learning, school  
395 districts, planning and development districts, county economic  
396 development districts, urban renewal agencies, any other regional  
397 or local economic development authority, agency or governmental  
398 entity, and any other regional or local industrial development  
399 authority, agency or governmental entity.

400                   (iv) "Public property or facilities" means any  
401 property or facilities owned or leased by a public entity or  
402 public benefit corporation.

403                   (c) Notwithstanding any other provision of law to the  
404 contrary, public entities are authorized pursuant to this  
405 subsection to create one or more public benefit corporations or  
406 designate an existing corporation as a public benefit corporation  
407 for the purpose of entering into financing agreements and engaging  
408 in New Markets Tax Credit transactions, which shall include,  
409 without limitation, arrangements to plan, acquire, renovate,  
410 construct, lease, sublease, manage, operate and/or improve new or  
411 existing public property or facilities located within the

412 boundaries or service area of the public entity. Any financing  
413 arrangement authorized under this subsection shall further any  
414 purpose of the public entity and may include a term of up to fifty  
415 (50) years.

416 (d) Notwithstanding any other provision of law to the  
417 contrary and in order to facilitate the acquisition, renovation,  
418 construction, leasing, subleasing, management, operating and/or  
419 improvement of new or existing public property or facilities to  
420 further any purpose of a public entity, public entities are  
421 authorized to enter into financing arrangements in order to  
422 transfer public property or facilities to and/or from public  
423 benefit corporations, including, without limitation, sales,  
424 sale-leasebacks, leases and lease-leasebacks, provided such  
425 transfer is related to any New Markets Tax Credit transaction  
426 furthering any purpose of the public entity. Any such transfer  
427 under this paragraph (d) and the public property or facilities  
428 transferred in connection therewith shall be exempted from any  
429 limitation or requirements with respect to leasing, acquiring,  
430 and/or constructing public property or facilities.

431 (e) With respect to a New Markets Tax Credit  
432 transaction, public entities and public benefit corporations are  
433 authorized to enter into financing arrangements with any  
434 governmental, nonprofit or for-profit entity in order to leverage  
435 funds not otherwise available to public entities for the  
436 acquisition, construction and/or renovation of properties  
437 transferred to such public benefit corporations. The use of any



438 funds loaned by or contributed by a public benefit corporation or  
439 borrowed by or otherwise made available to a public benefit  
440 corporation in such financing arrangement shall be dedicated  
441 solely to (i) the development of new properties or facilities  
442 and/or the renovation of existing properties or facilities or  
443 operation of properties or facilities, and/or (ii) the payment of  
444 costs and expenditures related to any such financing arrangements,  
445 including, but not limited to, funding any reserves required in  
446 connection therewith, the repayment of any indebtedness incurred  
447 in connection therewith, and the payment of fees and expenses  
448 incurred in connection with the closing, administration,  
449 accounting and/or compliance with respect to the New Markets Tax  
450 Credit transaction.

451 (f) A public benefit corporation created pursuant to  
452 this subsection shall not be a political subdivision of the state  
453 but shall be a nonprofit corporation organized and governed under  
454 the provisions of the laws of this state and shall be a special  
455 purpose corporation established to facilitate New Markets Tax  
456 Credit transactions consistent with the requirements of this  
457 section.

458 (g) Neither this subsection nor anything herein  
459 contained is or shall be construed as a restriction or limitation  
460 upon any powers which the public entity or public benefit  
461 corporation might otherwise have under any laws of this state, and  
462 this subsection is cumulative to any such powers. This subsection  
463 does and shall be construed to provide a complete additional and

464 alternative method for doing the things authorized thereby and  
465 shall be regarded as supplemental and additional to powers  
466 conferred by other laws.

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

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

471 27-15-129. (1) The amount of premium tax payable pursuant  
472 to Sections 27-15-103, 27-15-109, 27-15-119 and 83-31-45,  
473 Mississippi Code of 1972, shall be reduced from the amount  
474 otherwise fixed in such sections if the payer files a sworn  
475 statement with the required annual report showing as of the  
476 beginning of the reporting period that at least the following  
477 amounts of the total admitted assets of the payer were invested  
478 and maintained in qualifying Mississippi investments as  
479 hereinafter defined in subsection (2) of this section over the  
480 period covered by such report:

481	Percentage of Total Admitted	Percentage of Premium
482	Assets in Qualifying	Tax Payable
483	Mississippi Investments	
484	1%	99%
485	2%	98%
486	3%	97%
487	4%	96%
488	5%	95%
489	6%	94%

490	7%	93%
491	8%	92%
492	9%	91%
493	10%	80%
494	15%	70%
495	20%	60%
496	25%	50%

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

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

501 (b) Bonds of this state or bonds of municipal, school,  
502 road or levee districts, or other political subdivisions of this  
503 state;

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

506 (d) Real property located in this state;

507 (e) Policy loans to residents of Mississippi, or other  
508 loans to residents of this state, or to corporations domiciled in  
509 this state;

510 (f) Common or preferred stock, bonds and other  
511 evidences of indebtedness of corporations domiciled in this state;  
512 and

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

515 "A qualifying Mississippi investment" shall not include any  
516 investment for which a credit is allocated under Section  
517 57-105-1 \* \* \*, Section 57-115-1 et seq., and/or Section 1 of this  
518 act.

519 (3) If the credits, or any part thereof, authorized by the  
520 preceding provisions of this section shall be held by a court of  
521 final jurisdiction to be unconstitutional and void for any reason  
522 or to make the annual premium taxes levied by Sections 27-15-103,  
523 27-15-109, 27-15-119 and 83-31-45, Mississippi Code of 1972,  
524 unlawfully discriminatory or otherwise invalid under the  
525 Fourteenth Amendment or the Commerce Clause of the Constitution of  
526 the United States or under any state or other federal  
527 constitutional provisions, it is hereby expressly declared that  
528 such fact shall in no way affect the validity of the annual  
529 premium taxes levied thereby, and that such provisions would have  
530 been enacted even though the Legislature had known this credit  
531 section would be held invalid.

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

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

536 31-7-13. All agencies and governing authorities shall  
537 purchase their commodities and printing; contract for garbage  
538 collection or disposal; contract for solid waste collection or  
539 disposal; contract for sewage collection or disposal; contract for  
540 public construction; and contract for rentals as herein provided.

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

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

549 (b) **Bidding procedure for purchases over \$5,000.00 but**  
550 **not over \$75,000.00.** Purchases which involve an expenditure of  
551 more than Five Thousand Dollars (\$5,000.00) but not more than  
552 Seventy-five Thousand Dollars (\$75,000.00), exclusive of freight  
553 and shipping charges, may be made from the lowest and best bidder  
554 without publishing or posting advertisement for bids, provided at  
555 least two (2) competitive written bids have been obtained. Any  
556 state agency or community or junior college purchasing commodities  
557 or procuring construction pursuant to this paragraph (b) may  
558 authorize its purchasing agent, or his designee, to accept the  
559 lowest competitive written bid under Seventy-five Thousand Dollars  
560 (\$75,000.00). Any governing authority purchasing commodities  
561 pursuant to this paragraph (b) may authorize its purchasing agent,  
562 or his designee, with regard to governing authorities other than  
563 counties, or its purchase clerk, or his designee, with regard to  
564 counties, to accept the lowest and best competitive written bid.  
565 Such authorization shall be made in writing by the governing  
566 authority and shall be maintained on file in the primary office of

567 the agency and recorded in the official minutes of the governing  
568 authority, as appropriate. The purchasing agent or the purchase  
569 clerk, or his designee, as the case may be, and not the governing  
570 authority, shall be liable for any penalties and/or damages as may  
571 be imposed by law for any act or omission of the purchasing agent  
572 or purchase clerk, or his designee, constituting a violation of  
573 law in accepting any bid without approval by the governing  
574 authority. The term "competitive written bid" shall mean a bid  
575 submitted on a bid form furnished by the buying agency or  
576 governing authority and signed by authorized personnel  
577 representing the vendor, or a bid submitted on a vendor's  
578 letterhead or identifiable bid form and signed by authorized  
579 personnel representing the vendor. "Competitive" shall mean that  
580 the bids are developed based upon comparable identification of the  
581 needs and are developed independently and without knowledge of  
582 other bids or prospective bids. Any bid item for construction in  
583 excess of Five Thousand Dollars (\$5,000.00) shall be broken down  
584 by components to provide detail of component description and  
585 pricing. These details shall be submitted with the written bids  
586 and become part of the bid evaluation criteria. Bids may be  
587 submitted by facsimile, electronic mail or other generally  
588 accepted method of information distribution. Bids submitted by  
589 electronic transmission shall not require the signature of the  
590 vendor's representative unless required by agencies or governing  
591 authorities.

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

593 (i) **Publication requirement.**

594 1. Purchases which involve an expenditure of  
595 more than Seventy-five Thousand Dollars (\$75,000.00), exclusive of  
596 freight and shipping charges, may be made from the lowest and best  
597 bidder after advertising for competitive bids once each week for  
598 two (2) consecutive weeks in a regular newspaper published in the  
599 county or municipality in which such agency or governing authority  
600 is located. However, all American Recovery and Reinvestment Act  
601 projects in excess of Twenty-five Thousand Dollars (\$25,000.00)  
602 shall be bid. All references to American Recovery and  
603 Reinvestment Act projects in this section shall not apply to  
604 programs identified in Division B of the American Recovery and  
605 Reinvestment Act.

606 2. Reverse auctions shall be the primary  
607 method for receiving bids during the bidding process. If a  
608 purchasing entity determines that a reverse auction is not in the  
609 best interest of the state, then that determination must be  
610 approved by the Public Procurement Review Board. The purchasing  
611 entity shall submit a detailed explanation of why a reverse  
612 auction would not be in the best interest of the state and present  
613 an alternative process to be approved by the Public Procurement  
614 Review Board. If the Public Procurement Review Board authorizes  
615 the purchasing entity to solicit bids with a method other than  
616 reverse auction, then the purchasing entity may designate the  
617 other methods by which the bids will be received, including, but  
618 not limited to, bids sealed in an envelope, bids received

619 electronically in a secure system, or bids received by any other  
620 method that promotes open competition and has been approved by the  
621 Office of Purchasing and Travel. However, reverse auction shall  
622 not be used for any public contract for design, construction,  
623 improvement, repair or remodeling of any public facilities,  
624 including the purchase of materials, supplies, equipment or goods  
625 for same and including buildings, roads and bridges. The Public  
626 Procurement Review Board must approve any contract entered into by  
627 alternative process. The provisions of this item 2 shall not  
628 apply to the individual state institutions of higher learning.  
629 The provisions of this item 2 requiring reverse auction as the  
630 primary method of receiving bids shall not apply to term contract  
631 purchases as provided in paragraph (n) of this section; however, a  
632 purchasing entity may, in its discretion, utilize reverse auction  
633 for such purchases. The provisions of this item 2 shall not apply  
634 to individual public schools, including public charter schools and  
635 public school districts, only when purchasing copyrighted  
636 educational supplemental materials and software as a service  
637 product. For such purchases, a local school board may authorize a  
638 purchasing entity in its jurisdiction to use a Request for  
639 Qualifications which promotes open competition and meets the  
640 requirements of the Office of Purchasing and Travel.

641           3. The date as published for the bid opening  
642 shall not be less than seven (7) working days after the last  
643 published notice; however, if the purchase involves a construction  
644 project in which the estimated cost is in excess of Seventy-five



645 Thousand Dollars (\$75,000.00), such bids shall not be opened in  
646 less than fifteen (15) working days after the last notice is  
647 published and the notice for the purchase of such construction  
648 shall be published once each week for two (2) consecutive weeks.  
649 However, all American Recovery and Reinvestment Act projects in  
650 excess of Twenty-five Thousand Dollars (\$25,000.00) shall be bid.  
651 For any projects in excess of Twenty-five Thousand Dollars  
652 (\$25,000.00) under the American Recovery and Reinvestment Act,  
653 publication shall be made one (1) time and the bid opening for  
654 construction projects shall not be less than ten (10) working days  
655 after the date of the published notice. The notice of intention  
656 to let contracts or purchase equipment shall state the time and  
657 place at which bids shall be received, list the contracts to be  
658 made or types of equipment or supplies to be purchased, and, if  
659 all plans and/or specifications are not published, refer to the  
660 plans and/or specifications on file. If there is no newspaper  
661 published in the county or municipality, then such notice shall be  
662 given by posting same at the courthouse, or for municipalities at  
663 the city hall, and at two (2) other public places in the county or  
664 municipality, and also by publication once each week for two (2)  
665 consecutive weeks in some newspaper having a general circulation  
666 in the county or municipality in the above-provided manner. On  
667 the same date that the notice is submitted to the newspaper for  
668 publication, the agency or governing authority involved shall mail  
669 written notice to, or provide electronic notification to the main  
670 office of the Mississippi Procurement Technical Assistance Program

671 under the Mississippi Development Authority that contains the same  
672 information as that in the published notice. Submissions received  
673 by the Mississippi Procurement Technical Assistance Program for  
674 projects funded by the American Recovery and Reinvestment Act  
675 shall be displayed on a separate and unique Internet web page  
676 accessible to the public and maintained by the Mississippi  
677 Development Authority for the Mississippi Procurement Technical  
678 Assistance Program. Those American Recovery and Reinvestment Act  
679 related submissions shall be publicly posted within twenty-four  
680 (24) hours of receipt by the Mississippi Development Authority and  
681 the bid opening shall not occur until the submission has been  
682 posted for ten (10) consecutive days. The Department of Finance  
683 and Administration shall maintain information regarding contracts  
684 and other expenditures from the American Recovery and Reinvestment  
685 Act, on a unique Internet web page accessible to the public. The  
686 Department of Finance and Administration shall promulgate rules  
687 regarding format, content and deadlines, unless otherwise  
688 specified by law, of the posting of award notices, contract  
689 execution and subsequent amendments, links to the contract  
690 documents, expenditures against the awarded contracts and general  
691 expenditures of funds from the American Recovery and Reinvestment  
692 Act. Within one (1) working day of the contract award, the agency  
693 or governing authority shall post to the designated web page  
694 maintained by the Department of Finance and Administration, notice  
695 of the award, including the award recipient, the contract amount,  
696 and a brief summary of the contract in accordance with rules

697 promulgated by the department. Within one (1) working day of the  
698 contract execution, the agency or governing authority shall post  
699 to the designated web page maintained by the Department of Finance  
700 and Administration a summary of the executed contract and make a  
701 copy of the appropriately redacted contract documents available  
702 for linking to the designated web page in accordance with the  
703 rules promulgated by the department. The information provided by  
704 the agency or governing authority shall be posted to the web page  
705 for the duration of the American Recovery and Reinvestment Act  
706 funding or until the project is completed, whichever is longer.

707 (ii) **Bidding process amendment procedure.** If all  
708 plans and/or specifications are published in the notification,  
709 then the plans and/or specifications may not be amended. If all  
710 plans and/or specifications are not published in the notification,  
711 then amendments to the plans/specifications, bid opening date, bid  
712 opening time and place may be made, provided that the agency or  
713 governing authority maintains a list of all prospective bidders  
714 who are known to have received a copy of the bid documents and all  
715 such prospective bidders are sent copies of all amendments. This  
716 notification of amendments may be made via mail, facsimile,  
717 electronic mail or other generally accepted method of information  
718 distribution. No addendum to bid specifications may be issued  
719 within two (2) working days of the time established for the  
720 receipt of bids unless such addendum also amends the bid opening  
721 to a date not less than five (5) working days after the date of  
722 the addendum.

723                   (iii) **Filing requirement.** In all cases involving  
724 governing authorities, before the notice shall be published or  
725 posted, the plans or specifications for the construction or  
726 equipment being sought shall be filed with the clerk of the board  
727 of the governing authority. In addition to these requirements, a  
728 bid file shall be established which shall indicate those vendors  
729 to whom such solicitations and specifications were issued, and  
730 such file shall also contain such information as is pertinent to  
731 the bid.

732                   (iv) **Specification restrictions.**

733                   1. Specifications pertinent to such bidding  
734 shall be written so as not to exclude comparable equipment of  
735 domestic manufacture. However, if valid justification is  
736 presented, the Department of Finance and Administration or the  
737 board of a governing authority may approve a request for specific  
738 equipment necessary to perform a specific job. Further, such  
739 justification, when placed on the minutes of the board of a  
740 governing authority, may serve as authority for that governing  
741 authority to write specifications to require a specific item of  
742 equipment needed to perform a specific job. In addition to these  
743 requirements, from and after July 1, 1990, vendors of relocatable  
744 classrooms and the specifications for the purchase of such  
745 relocatable classrooms published by local school boards shall meet  
746 all pertinent regulations of the State Board of Education,  
747 including prior approval of such bid by the State Department of  
748 Education.

749                   2. Specifications for construction projects  
750 may include an allowance for commodities, equipment, furniture,  
751 construction materials or systems in which prospective bidders are  
752 instructed to include in their bids specified amounts for such  
753 items so long as the allowance items are acquired by the vendor in  
754 a commercially reasonable manner and approved by the  
755 agency/governing authority. Such acquisitions shall not be made  
756 to circumvent the public purchasing laws.

757                   (v) **Electronic bids.** Agencies and governing  
758 authorities shall provide a secure electronic interactive system  
759 for the submittal of bids requiring competitive bidding that shall  
760 be an additional bidding option for those bidders who choose to  
761 submit their bids electronically. The Department of Finance and  
762 Administration shall provide, by regulation, the standards that  
763 agencies must follow when receiving electronic bids. Agencies and  
764 governing authorities shall make the appropriate provisions  
765 necessary to accept electronic bids from those bidders who choose  
766 to submit their bids electronically for all purchases requiring  
767 competitive bidding under this section. Any special condition or  
768 requirement for the electronic bid submission shall be specified  
769 in the advertisement for bids required by this section. Agencies  
770 or governing authorities that are currently without available high  
771 speed Internet access shall be exempt from the requirement of this  
772 subparagraph (v) until such time that high speed Internet access  
773 becomes available. Any county having a population of less than  
774 twenty thousand (20,000) shall be exempt from the provisions of

775 this subparagraph (v). Any municipality having a population of  
776 less than ten thousand (10,000) shall be exempt from the  
777 provisions of this subparagraph (v). The provisions of this  
778 subparagraph (v) shall not require any bidder to submit bids  
779 electronically. When construction bids are submitted  
780 electronically, the requirement for including a certificate of  
781 responsibility, or a statement that the bid enclosed does not  
782 exceed Fifty Thousand Dollars (\$50,000.00), on the exterior of the  
783 bid envelope as indicated in Section 31-3-21(1) and (2) shall be  
784 deemed in compliance with by including same as an attachment with  
785 the electronic bid submittal.

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

787 (i) **Decision procedure.** Purchases may be made  
788 from the lowest and best bidder. In determining the lowest and  
789 best bid, freight and shipping charges shall be included.  
790 Life-cycle costing, total cost bids, warranties, guaranteed  
791 buy-back provisions and other relevant provisions may be included  
792 in the best bid calculation. All best bid procedures for state  
793 agencies must be in compliance with regulations established by the  
794 Department of Finance and Administration. If any governing  
795 authority accepts a bid other than the lowest bid actually  
796 submitted, it shall place on its minutes detailed calculations and  
797 narrative summary showing that the accepted bid was determined to  
798 be the lowest and best bid, including the dollar amount of the  
799 accepted bid and the dollar amount of the lowest bid. No agency

800 or governing authority shall accept a bid based on items not  
801 included in the specifications.

802                   (ii) **Decision procedure for Certified Purchasing**  
803 **Offices.** In addition to the decision procedure set forth in  
804 subparagraph (i) of this paragraph (d), Certified Purchasing  
805 Offices may also use the following procedure: Purchases may be  
806 made from the bidder offering the best value. In determining the  
807 best value bid, freight and shipping charges shall be included.  
808 Life-cycle costing, total cost bids, warranties, guaranteed  
809 buy-back provisions, documented previous experience, training  
810 costs and other relevant provisions, including, but not limited  
811 to, a bidder having a local office and inventory located within  
812 the jurisdiction of the governing authority, may be included in  
813 the best value calculation. This provision shall authorize  
814 Certified Purchasing Offices to utilize a Request For Proposals  
815 (RFP) process when purchasing commodities. All best value  
816 procedures for state agencies must be in compliance with  
817 regulations established by the Department of Finance and  
818 Administration. No agency or governing authority shall accept a  
819 bid based on items or criteria not included in the specifications.

820                   (iii) **Decision procedure for Mississippi**  
821 **Landmarks.** In addition to the decision procedure set forth in  
822 subparagraph (i) of this paragraph (d), where purchase involves  
823 renovation, restoration, or both, of the State Capitol Building or  
824 any other historical building designated for at least five (5)  
825 years as a Mississippi Landmark by the Board of Trustees of the

826 Department of Archives and History under the authority of Sections  
827 39-7-7 and 39-7-11, the agency or governing authority may use the  
828 following procedure: Purchases may be made from the lowest and  
829 best prequalified bidder. Prequalification of bidders shall be  
830 determined not less than fifteen (15) working days before the  
831 first published notice of bid opening. Prequalification criteria  
832 shall be limited to bidder's knowledge and experience in  
833 historical restoration, preservation and renovation. In  
834 determining the lowest and best bid, freight and shipping charges  
835 shall be included. Life-cycle costing, total cost bids,  
836 warranties, guaranteed buy-back provisions and other relevant  
837 provisions may be included in the best bid calculation. All best  
838 bid and prequalification procedures for state agencies must be in  
839 compliance with regulations established by the Department of  
840 Finance and Administration. If any governing authority accepts a  
841 bid other than the lowest bid actually submitted, it shall place  
842 on its minutes detailed calculations and narrative summary showing  
843 that the accepted bid was determined to be the lowest and best  
844 bid, including the dollar amount of the accepted bid and the  
845 dollar amount of the lowest bid. No agency or governing authority  
846 shall accept a bid based on items not included in the  
847 specifications.

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

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



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

854           (e) **Lease-purchase authorization.** For the purposes of  
855 this section, the term "equipment" shall mean equipment, furniture  
856 and, if applicable, associated software and other applicable  
857 direct costs associated with the acquisition. Any lease-purchase  
858 of equipment which an agency is not required to lease-purchase  
859 under the master lease-purchase program pursuant to Section  
860 31-7-10 and any lease-purchase of equipment which a governing  
861 authority elects to lease-purchase may be acquired by a  
862 lease-purchase agreement under this paragraph (e). Lease-purchase  
863 financing may also be obtained from the vendor or from a  
864 third-party source after having solicited and obtained at least  
865 two (2) written competitive bids, as defined in paragraph (b) of  
866 this section, for such financing without advertising for such  
867 bids. Solicitation for the bids for financing may occur before or  
868 after acceptance of bids for the purchase of such equipment or,  
869 where no such bids for purchase are required, at any time before  
870 the purchase thereof. No such lease-purchase agreement shall be  
871 for an annual rate of interest which is greater than the overall  
872 maximum interest rate to maturity on general obligation  
873 indebtedness permitted under Section 75-17-101, and the term of  
874 such lease-purchase agreement shall not exceed the useful life of  
875 equipment covered thereby as determined according to the upper  
876 limit of the asset depreciation range (ADR) guidelines for the  
877 Class Life Asset Depreciation Range System established by the

878 Internal Revenue Service pursuant to the United States Internal  
879 Revenue Code and regulations thereunder as in effect on December  
880 31, 1980, or comparable depreciation guidelines with respect to  
881 any equipment not covered by ADR guidelines. Any lease-purchase  
882 agreement entered into pursuant to this paragraph (e) may contain  
883 any of the terms and conditions which a master lease-purchase  
884 agreement may contain under the provisions of Section 31-7-10(5),  
885 and shall contain an annual allocation dependency clause  
886 substantially similar to that set forth in Section 31-7-10(8).  
887 Each agency or governing authority entering into a lease-purchase  
888 transaction pursuant to this paragraph (e) shall maintain with  
889 respect to each such lease-purchase transaction the same  
890 information as required to be maintained by the Department of  
891 Finance and Administration pursuant to Section 31-7-10(13).  
892 However, nothing contained in this section shall be construed to  
893 permit agencies to acquire items of equipment with a total  
894 acquisition cost in the aggregate of less than Ten Thousand  
895 Dollars (\$10,000.00) by a single lease-purchase transaction. All  
896 equipment, and the purchase thereof by any lessor, acquired by  
897 lease-purchase under this paragraph and all lease-purchase  
898 payments with respect thereto shall be exempt from all Mississippi  
899 sales, use and ad valorem taxes. Interest paid on any  
900 lease-purchase agreement under this section shall be exempt from  
901 State of Mississippi income taxation.

902 (f) **Alternate bid authorization.** When necessary to  
903 ensure ready availability of commodities for public works and the

904 timely completion of public projects, no more than two (2)  
905 alternate bids may be accepted by a governing authority for  
906 commodities. No purchases may be made through use of such  
907 alternate bids procedure unless the lowest and best bidder cannot  
908 deliver the commodities contained in his bid. In that event,  
909 purchases of such commodities may be made from one (1) of the  
910 bidders whose bid was accepted as an alternate.

911           (g) **Construction contract change authorization.** In the  
912 event a determination is made by an agency or governing authority  
913 after a construction contract is let that changes or modifications  
914 to the original contract are necessary or would better serve the  
915 purpose of the agency or the governing authority, such agency or  
916 governing authority may, in its discretion, order such changes  
917 pertaining to the construction that are necessary under the  
918 circumstances without the necessity of further public bids;  
919 provided that such change shall be made in a commercially  
920 reasonable manner and shall not be made to circumvent the public  
921 purchasing statutes. In addition to any other authorized person,  
922 the architect or engineer hired by an agency or governing  
923 authority with respect to any public construction contract shall  
924 have the authority, when granted by an agency or governing  
925 authority, to authorize changes or modifications to the original  
926 contract without the necessity of prior approval of the agency or  
927 governing authority when any such change or modification is less  
928 than one percent (1%) of the total contract amount. The agency or

929 governing authority may limit the number, manner or frequency of  
930 such emergency changes or modifications.

931           (h) **Petroleum purchase alternative.** In addition to  
932 other methods of purchasing authorized in this chapter, when any  
933 agency or governing authority shall have a need for gas, diesel  
934 fuel, oils and/or other petroleum products in excess of the amount  
935 set forth in paragraph (a) of this section, such agency or  
936 governing authority may purchase the commodity after having  
937 solicited and obtained at least two (2) competitive written bids,  
938 as defined in paragraph (b) of this section. If two (2)  
939 competitive written bids are not obtained, the entity shall comply  
940 with the procedures set forth in paragraph (c) of this section.  
941 In the event any agency or governing authority shall have  
942 advertised for bids for the purchase of gas, diesel fuel, oils and  
943 other petroleum products and coal and no acceptable bids can be  
944 obtained, such agency or governing authority is authorized and  
945 directed to enter into any negotiations necessary to secure the  
946 lowest and best contract available for the purchase of such  
947 commodities.

948           (i) **Road construction petroleum products price**  
949 **adjustment clause authorization.** Any agency or governing  
950 authority authorized to enter into contracts for the construction,  
951 maintenance, surfacing or repair of highways, roads or streets,  
952 may include in its bid proposal and contract documents a price  
953 adjustment clause with relation to the cost to the contractor,  
954 including taxes, based upon an industry-wide cost index, of

955 petroleum products including asphalt used in the performance or  
956 execution of the contract or in the production or manufacture of  
957 materials for use in such performance. Such industry-wide index  
958 shall be established and published monthly by the Mississippi  
959 Department of Transportation with a copy thereof to be mailed,  
960 upon request, to the clerks of the governing authority of each  
961 municipality and the clerks of each board of supervisors  
962 throughout the state. The price adjustment clause shall be based  
963 on the cost of such petroleum products only and shall not include  
964 any additional profit or overhead as part of the adjustment. The  
965 bid proposals or document contract shall contain the basis and  
966 methods of adjusting unit prices for the change in the cost of  
967 such petroleum products.

968           (j) **State agency emergency purchase procedure.** If the  
969 governing board or the executive head, or his designees, of any  
970 agency of the state shall determine that an emergency exists in  
971 regard to the purchase of any commodities or repair contracts, so  
972 that the delay incident to giving opportunity for competitive  
973 bidding would be detrimental to the interests of the state, then  
974 the head of such agency, or his designees, shall file with the  
975 Department of Finance and Administration (i) a statement  
976 explaining the conditions and circumstances of the emergency,  
977 which shall include a detailed description of the events leading  
978 up to the situation and the negative impact to the entity if the  
979 purchase is made following the statutory requirements set forth in  
980 paragraph (a), (b) or (c) of this section, and (ii) a certified

981 copy of the appropriate minutes of the board of such agency  
982 requesting the emergency purchase, if applicable. Upon receipt of  
983 the statement and applicable board certification, the State Fiscal  
984 Officer, or his designees, may, in writing, authorize the purchase  
985 or repair without having to comply with competitive bidding  
986 requirements.

987         If the governing board or the executive head, or his  
988 designees, of any agency determines that an emergency exists in  
989 regard to the purchase of any commodities or repair contracts, so  
990 that the delay incident to giving opportunity for competitive  
991 bidding would threaten the health or safety of any person, or the  
992 preservation or protection of property, then the provisions in  
993 this section for competitive bidding shall not apply, and any  
994 officer or agent of the agency having general or specific  
995 authority for making the purchase or repair contract shall approve  
996 the bill presented for payment, and he shall certify in writing  
997 from whom the purchase was made, or with whom the repair contract  
998 was made.

999         Total purchases made under this paragraph (j) shall only be  
1000 for the purpose of meeting needs created by the emergency  
1001 situation. Following the emergency purchase, documentation of the  
1002 purchase, including a description of the commodity purchased, the  
1003 purchase price thereof and the nature of the emergency shall be  
1004 filed with the Department of Finance and Administration. Any  
1005 contract awarded pursuant to this paragraph (j) shall not exceed a  
1006 term of one (1) year.

1007 Purchases under the grant program established under Section  
1008 37-68-7 in response to COVID-19 and the directive that school  
1009 districts create a distance learning plan and fulfill technology  
1010 needs expeditiously shall be deemed an emergency purchase for  
1011 purposes of this paragraph (j).

1012 (k) **Governing authority emergency purchase procedure.**

1013 If the governing authority, or the governing authority acting  
1014 through its designee, shall determine that an emergency exists in  
1015 regard to the purchase of any commodities or repair contracts, so  
1016 that the delay incident to giving opportunity for competitive  
1017 bidding would be detrimental to the interest of the governing  
1018 authority, then the provisions herein for competitive bidding  
1019 shall not apply and any officer or agent of such governing  
1020 authority having general or special authority therefor in making  
1021 such purchase or repair shall approve the bill presented therefor,  
1022 and he shall certify in writing thereon from whom such purchase  
1023 was made, or with whom such a repair contract was made. At the  
1024 board meeting next following the emergency purchase or repair  
1025 contract, documentation of the purchase or repair contract,  
1026 including a description of the commodity purchased, the price  
1027 thereof and the nature of the emergency shall be presented to the  
1028 board and shall be placed on the minutes of the board of such  
1029 governing authority. Purchases under the grant program  
1030 established under Section 37-68-7 in response to COVID-19 and the  
1031 directive that school districts create a distance learning plan

1032 and fulfill technology needs expeditiously shall be deemed an  
1033 emergency purchase for purposes of this paragraph (k).

1034           (1) **Hospital purchase, lease-purchase and lease**  
1035 **authorization.**

1036                   (i) The commissioners or board of trustees of any  
1037 public hospital may contract with such lowest and best bidder for  
1038 the purchase or lease-purchase of any commodity under a contract  
1039 of purchase or lease-purchase agreement whose obligatory payment  
1040 terms do not exceed five (5) years.

1041                   (ii) In addition to the authority granted in  
1042 subparagraph (i) of this paragraph (1), the commissioners or board  
1043 of trustees is authorized to enter into contracts for the lease of  
1044 equipment or services, or both, which it considers necessary for  
1045 the proper care of patients if, in its opinion, it is not  
1046 financially feasible to purchase the necessary equipment or  
1047 services. Any such contract for the lease of equipment or  
1048 services executed by the commissioners or board shall not exceed a  
1049 maximum of five (5) years' duration and shall include a  
1050 cancellation clause based on unavailability of funds. If such  
1051 cancellation clause is exercised, there shall be no further  
1052 liability on the part of the lessee. Any such contract for the  
1053 lease of equipment or services executed on behalf of the  
1054 commissioners or board that complies with the provisions of this  
1055 subparagraph (ii) shall be excepted from the bid requirements set  
1056 forth in this section.



1057 (m) **Exceptions from bidding requirements.** Excepted  
1058 from bid requirements are:

1059 (i) **Purchasing agreements approved by department.**  
1060 Purchasing agreements, contracts and maximum price regulations  
1061 executed or approved by the Department of Finance and  
1062 Administration.

1063 (ii) **Outside equipment repairs.** Repairs to  
1064 equipment, when such repairs are made by repair facilities in the  
1065 private sector; however, engines, transmissions, rear axles and/or  
1066 other such components shall not be included in this exemption when  
1067 replaced as a complete unit instead of being repaired and the need  
1068 for such total component replacement is known before disassembly  
1069 of the component; however, invoices identifying the equipment,  
1070 specific repairs made, parts identified by number and name,  
1071 supplies used in such repairs, and the number of hours of labor  
1072 and costs therefor shall be required for the payment for such  
1073 repairs.

1074 (iii) **In-house equipment repairs.** Purchases of  
1075 parts for repairs to equipment, when such repairs are made by  
1076 personnel of the agency or governing authority; however, entire  
1077 assemblies, such as engines or transmissions, shall not be  
1078 included in this exemption when the entire assembly is being  
1079 replaced instead of being repaired.

1080 (iv) **Raw gravel or dirt.** Raw unprocessed deposits  
1081 of gravel or fill dirt which are to be removed and transported by  
1082 the purchaser.

1083                   (v) **Governmental equipment auctions.** Motor  
1084 vehicles or other equipment purchased from a federal agency or  
1085 authority, another governing authority or state agency of the  
1086 State of Mississippi, or any governing authority or state agency  
1087 of another state at a public auction held for the purpose of  
1088 disposing of such vehicles or other equipment. Any purchase by a  
1089 governing authority under the exemption authorized by this  
1090 subparagraph (v) shall require advance authorization spread upon  
1091 the minutes of the governing authority to include the listing of  
1092 the item or items authorized to be purchased and the maximum bid  
1093 authorized to be paid for each item or items.

1094                   (vi) **Intergovernmental sales and transfers.**  
1095 Purchases, sales, transfers or trades by governing authorities or  
1096 state agencies when such purchases, sales, transfers or trades are  
1097 made by a private treaty agreement or through means of  
1098 negotiation, from any federal agency or authority, another  
1099 governing authority or state agency of the State of Mississippi,  
1100 or any state agency or governing authority of another state.  
1101 Nothing in this section shall permit such purchases through public  
1102 auction except as provided for in subparagraph (v) of this  
1103 paragraph (m). It is the intent of this section to allow  
1104 governmental entities to dispose of and/or purchase commodities  
1105 from other governmental entities at a price that is agreed to by  
1106 both parties. This shall allow for purchases and/or sales at  
1107 prices which may be determined to be below the market value if the  
1108 selling entity determines that the sale at below market value is

1109 in the best interest of the taxpayers of the state. Governing  
1110 authorities shall place the terms of the agreement and any  
1111 justification on the minutes, and state agencies shall obtain  
1112 approval from the Department of Finance and Administration, prior  
1113 to releasing or taking possession of the commodities.

1114 (vii) **Perishable supplies or food.** Perishable  
1115 supplies or food purchased for use in connection with hospitals,  
1116 the school lunch programs, homemaking programs and for the feeding  
1117 of county or municipal prisoners.

1118 (viii) **Single-source items.** Noncompetitive items  
1119 available from one (1) source only. In connection with the  
1120 purchase of noncompetitive items only available from one (1)  
1121 source, a certification of the conditions and circumstances  
1122 requiring the purchase shall be filed by the agency with the  
1123 Department of Finance and Administration and by the governing  
1124 authority with the board of the governing authority. Upon receipt  
1125 of that certification the Department of Finance and Administration  
1126 or the board of the governing authority, as the case may be, may,  
1127 in writing, authorize the purchase, which authority shall be noted  
1128 on the minutes of the body at the next regular meeting thereafter.  
1129 In those situations, a governing authority is not required to  
1130 obtain the approval of the Department of Finance and  
1131 Administration. Following the purchase, the executive head of the  
1132 state agency, or his designees, shall file with the Department of  
1133 Finance and Administration, documentation of the purchase,

1134 including a description of the commodity purchased, the purchase  
1135 price thereof and the source from whom it was purchased.

1136                   (ix) **Waste disposal facility construction**  
1137 **contracts.** Construction of incinerators and other facilities for  
1138 disposal of solid wastes in which products either generated  
1139 therein, such as steam, or recovered therefrom, such as materials  
1140 for recycling, are to be sold or otherwise disposed of; however,  
1141 in constructing such facilities, a governing authority or agency  
1142 shall publicly issue requests for proposals, advertised for in the  
1143 same manner as provided herein for seeking bids for public  
1144 construction projects, concerning the design, construction,  
1145 ownership, operation and/or maintenance of such facilities,  
1146 wherein such requests for proposals when issued shall contain  
1147 terms and conditions relating to price, financial responsibility,  
1148 technology, environmental compatibility, legal responsibilities  
1149 and such other matters as are determined by the governing  
1150 authority or agency to be appropriate for inclusion; and after  
1151 responses to the request for proposals have been duly received,  
1152 the governing authority or agency may select the most qualified  
1153 proposal or proposals on the basis of price, technology and other  
1154 relevant factors and from such proposals, but not limited to the  
1155 terms thereof, negotiate and enter contracts with one or more of  
1156 the persons or firms submitting proposals.

1157                   (x) **Hospital group purchase contracts.** Supplies,  
1158 commodities and equipment purchased by hospitals through group  
1159 purchase programs pursuant to Section 31-7-38.

1160                   (xi)   **Information technology products.** Purchases  
1161 of information technology products made by governing authorities  
1162 under the provisions of purchase schedules, or contracts executed  
1163 or approved by the Mississippi Department of Information  
1164 Technology Services and designated for use by governing  
1165 authorities.

1166                   (xii)   **Energy efficiency services and equipment.**  
1167 Energy efficiency services and equipment acquired by school  
1168 districts, community and junior colleges, institutions of higher  
1169 learning and state agencies or other applicable governmental  
1170 entities on a shared-savings, lease or lease-purchase basis  
1171 pursuant to Section 31-7-14.

1172                   (xiii)   **Municipal electrical utility system fuel.**  
1173 Purchases of coal and/or natural gas by municipally owned electric  
1174 power generating systems that have the capacity to use both coal  
1175 and natural gas for the generation of electric power.

1176                   (xiv)   **Library books and other reference materials.**  
1177 Purchases by libraries or for libraries of books and periodicals;  
1178 processed film, videocassette tapes, filmstrips and slides;  
1179 recorded audiotapes, cassettes and diskettes; and any such items  
1180 as would be used for teaching, research or other information  
1181 distribution; however, equipment such as projectors, recorders,  
1182 audio or video equipment, and monitor televisions are not exempt  
1183 under this subparagraph.

1184                   (xv)   **Unmarked vehicles.** Purchases of unmarked  
1185 vehicles when such purchases are made in accordance with

1186 purchasing regulations adopted by the Department of Finance and  
1187 Administration pursuant to Section 31-7-9(2).

1188                   (xvi) **Election ballots.** Purchases of ballots  
1189 printed pursuant to Section 23-15-351.

1190                   (xvii) **Multichannel interactive video systems.**  
1191 From and after July 1, 1990, contracts by Mississippi Authority  
1192 for Educational Television with any private educational  
1193 institution or private nonprofit organization whose purposes are  
1194 educational in regard to the construction, purchase, lease or  
1195 lease-purchase of facilities and equipment and the employment of  
1196 personnel for providing multichannel interactive video systems  
1197 (ITSF) in the school districts of this state.

1198                   (xviii) **Purchases of prison industry products by**  
1199 **the Department of Corrections, regional correctional facilities or**  
1200 **privately owned prisons.** Purchases made by the Mississippi  
1201 Department of Corrections, regional correctional facilities or  
1202 privately owned prisons involving any item that is manufactured,  
1203 processed, grown or produced from the state's prison industries.

1204                   (xix) **Undercover operations equipment.** Purchases  
1205 of surveillance equipment or any other high-tech equipment to be  
1206 used by law enforcement agents in undercover operations, provided  
1207 that any such purchase shall be in compliance with regulations  
1208 established by the Department of Finance and Administration.

1209                   (xx) **Junior college books for rent.** Purchases by  
1210 community or junior colleges of textbooks which are obtained for

1211 the purpose of renting such books to students as part of a book  
1212 service system.

1213 (xxi) **Certain school district purchases.**

1214 Purchases of commodities made by school districts from vendors  
1215 with which any levying authority of the school district, as  
1216 defined in Section 37-57-1, has contracted through competitive  
1217 bidding procedures for purchases of the same commodities.

1218 (xxii) **Garbage, solid waste and sewage contracts.**

1219 Contracts for garbage collection or disposal, contracts for solid  
1220 waste collection or disposal and contracts for sewage collection  
1221 or disposal.

1222 (xxiii) **Municipal water tank maintenance**

1223 **contracts.** Professional maintenance program contracts for the  
1224 repair or maintenance of municipal water tanks, which provide  
1225 professional services needed to maintain municipal water storage  
1226 tanks for a fixed annual fee for a duration of two (2) or more  
1227 years.

1228 (xxiv) **Purchases of Mississippi Industries for the**

1229 **Blind products or services.** Purchases made by state agencies or  
1230 governing authorities involving any item that is manufactured,  
1231 processed or produced by, or any services provided by, the  
1232 Mississippi Industries for the Blind.

1233 (xxv) **Purchases of state-adopted textbooks.**

1234 Purchases of state-adopted textbooks by public school districts.

1235                   (xxvi)   **Certain purchases under the Mississippi**  
1236 **Major Economic Impact Act.** Contracts entered into pursuant to the  
1237 provisions of Section 57-75-9(2), (3) and (4).

1238                   (xxvii)   **Used heavy or specialized machinery or**  
1239 **equipment for installation of soil and water conservation**  
1240 **practices purchased at auction.** Used heavy or specialized  
1241 machinery or equipment used for the installation and  
1242 implementation of soil and water conservation practices or  
1243 measures purchased subject to the restrictions provided in  
1244 Sections 69-27-331 through 69-27-341. Any purchase by the State  
1245 Soil and Water Conservation Commission under the exemption  
1246 authorized by this subparagraph shall require advance  
1247 authorization spread upon the minutes of the commission to include  
1248 the listing of the item or items authorized to be purchased and  
1249 the maximum bid authorized to be paid for each item or items.

1250                   (xxviii)   **Hospital lease of equipment or services.**  
1251 Leases by hospitals of equipment or services if the leases are in  
1252 compliance with paragraph (1)(ii).

1253                   (xxix)   **Purchases made pursuant to qualified**  
1254 **cooperative purchasing agreements.** Purchases made by certified  
1255 purchasing offices of state agencies or governing authorities  
1256 under cooperative purchasing agreements previously approved by the  
1257 Office of Purchasing and Travel and established by or for any  
1258 municipality, county, parish or state government or the federal  
1259 government, provided that the notification to potential  
1260 contractors includes a clause that sets forth the availability of



1261 the cooperative purchasing agreement to other governmental  
1262 entities. Such purchases shall only be made if the use of the  
1263 cooperative purchasing agreements is determined to be in the best  
1264 interest of the governmental entity.

1265                   (xxx) **School yearbooks.** Purchases of school  
1266 yearbooks by state agencies or governing authorities; however,  
1267 state agencies and governing authorities shall use for these  
1268 purchases the RFP process as set forth in the Mississippi  
1269 Procurement Manual adopted by the Office of Purchasing and Travel.

1270                   (xxxii) **Design-build method of contracting and**  
1271 **certain other contracts.** Contracts entered into under the  
1272 provisions of Section 31-7-13.1, 37-101-44 or 65-1-85.

1273                   (xxxiii) **Toll roads and bridge construction**  
1274 **projects.** Contracts entered into under the provisions of Section  
1275 65-43-1 or 65-43-3.

1276                   (xxxiiii) **Certain purchases under Section 57-1-221.**  
1277 Contracts entered into pursuant to the provisions of Section  
1278 57-1-221.

1279                   (xxxiv) **Certain transfers made pursuant to the**  
1280 **provisions of Section 57-105-1(7).** Transfers of public property  
1281 or facilities under Section 57-105-1(7) and construction related  
1282 to such public property or facilities.

1283                   (xxxv) **Certain purchases or transfers entered into**  
1284 **with local electrical power associations.** Contracts or agreements  
1285 entered into under the provisions of Section 55-3-33.

1286 (xxxvi) **Certain purchases by an academic medical**  
1287 **center or health sciences school.** Purchases by an academic  
1288 medical center or health sciences school, as defined in Section  
1289 37-115-50, of commodities that are used for clinical purposes and  
1290 1. intended for use in the diagnosis of disease or other  
1291 conditions or in the cure, mitigation, treatment or prevention of  
1292 disease, and 2. medical devices, biological, drugs and  
1293 radiation-emitting devices as defined by the United States Food  
1294 and Drug Administration.

1295 (xxxvii) **Certain purchases made under the Alyce G.**  
1296 **Clarke Mississippi Lottery Law.** Contracts made by the Mississippi  
1297 Lottery Corporation pursuant to the Alyce G. Clarke Mississippi  
1298 Lottery Law.

1299 (xxxviii) **Certain purchases made by the Department**  
1300 **of Health and the Department of Revenue.** Purchases made by the  
1301 Department of Health and the Department of Revenue solely for the  
1302 purpose of fulfilling their respective responsibilities under the  
1303 Mississippi Medical Cannabis Act. This subparagraph shall stand  
1304 repealed on June 30, 2026.

1305 **(xxxvix) Certain transfers made pursuant to the**  
1306 **provisions of Section 1(7) of this act.** Transfers of public  
1307 property or facilities under Section 1(7) of this act and  
1308 construction related to such public property or facilities.

1309 (n) **Term contract authorization.** All contracts for the  
1310 purchase of:

1311 (i) All contracts for the purchase of commodities,  
1312 equipment and public construction (including, but not limited to,  
1313 repair and maintenance), may be let for periods of not more than  
1314 sixty (60) months in advance, subject to applicable statutory  
1315 provisions prohibiting the letting of contracts during specified  
1316 periods near the end of terms of office. Term contracts for a  
1317 period exceeding twenty-four (24) months shall also be subject to  
1318 ratification or cancellation by governing authority boards taking  
1319 office subsequent to the governing authority board entering the  
1320 contract.

1321 (ii) Bid proposals and contracts may include price  
1322 adjustment clauses with relation to the cost to the contractor  
1323 based upon a nationally published industry-wide or nationally  
1324 published and recognized cost index. The cost index used in a  
1325 price adjustment clause shall be determined by the Department of  
1326 Finance and Administration for the state agencies and by the  
1327 governing board for governing authorities. The bid proposal and  
1328 contract documents utilizing a price adjustment clause shall  
1329 contain the basis and method of adjusting unit prices for the  
1330 change in the cost of such commodities, equipment and public  
1331 construction.

1332 (o) **Purchase law violation prohibition and vendor**  
1333 **penalty.** No contract or purchase as herein authorized shall be  
1334 made for the purpose of circumventing the provisions of this  
1335 section requiring competitive bids, nor shall it be lawful for any  
1336 person or concern to submit individual invoices for amounts within

1337 those authorized for a contract or purchase where the actual value  
1338 of the contract or commodity purchased exceeds the authorized  
1339 amount and the invoices therefor are split so as to appear to be  
1340 authorized as purchases for which competitive bids are not  
1341 required. Submission of such invoices shall constitute a  
1342 misdemeanor punishable by a fine of not less than Five Hundred  
1343 Dollars (\$500.00) nor more than One Thousand Dollars (\$1,000.00),  
1344 or by imprisonment for thirty (30) days in the county jail, or  
1345 both such fine and imprisonment. In addition, the claim or claims  
1346 submitted shall be forfeited.

1347           (p) **Electrical utility petroleum-based equipment**  
1348 **purchase procedure.** When in response to a proper advertisement  
1349 therefor, no bid firm as to price is submitted to an electric  
1350 utility for power transformers, distribution transformers, power  
1351 breakers, reclosers or other articles containing a petroleum  
1352 product, the electric utility may accept the lowest and best bid  
1353 therefor although the price is not firm.

1354           (q) **Fuel management system bidding procedure.** Any  
1355 governing authority or agency of the state shall, before  
1356 contracting for the services and products of a fuel management or  
1357 fuel access system, enter into negotiations with not fewer than  
1358 two (2) sellers of fuel management or fuel access systems for  
1359 competitive written bids to provide the services and products for  
1360 the systems. In the event that the governing authority or agency  
1361 cannot locate two (2) sellers of such systems or cannot obtain  
1362 bids from two (2) sellers of such systems, it shall show proof

1363 that it made a diligent, good-faith effort to locate and negotiate  
1364 with two (2) sellers of such systems. Such proof shall include,  
1365 but not be limited to, publications of a request for proposals and  
1366 letters soliciting negotiations and bids. For purposes of this  
1367 paragraph (q), a fuel management or fuel access system is an  
1368 automated system of acquiring fuel for vehicles as well as  
1369 management reports detailing fuel use by vehicles and drivers, and  
1370 the term "competitive written bid" shall have the meaning as  
1371 defined in paragraph (b) of this section. Governing authorities  
1372 and agencies shall be exempt from this process when contracting  
1373 for the services and products of fuel management or fuel access  
1374 systems under the terms of a state contract established by the  
1375 Office of Purchasing and Travel.

1376 (r) **Solid waste contract proposal procedure.** Before  
1377 entering into any contract for garbage collection or disposal,  
1378 contract for solid waste collection or disposal or contract for  
1379 sewage collection or disposal, which involves an expenditure of  
1380 more than Seventy-five Thousand Dollars (\$75,000.00), a governing  
1381 authority or agency shall issue publicly a request for proposals  
1382 concerning the specifications for such services which shall be  
1383 advertised for in the same manner as provided in this section for  
1384 seeking bids for purchases which involve an expenditure of more  
1385 than the amount provided in paragraph (c) of this section. Any  
1386 request for proposals when issued shall contain terms and  
1387 conditions relating to price, financial responsibility,  
1388 technology, legal responsibilities and other relevant factors as

1389 are determined by the governing authority or agency to be  
1390 appropriate for inclusion; all factors determined relevant by the  
1391 governing authority or agency or required by this paragraph (r)  
1392 shall be duly included in the advertisement to elicit proposals.  
1393 After responses to the request for proposals have been duly  
1394 received, the governing authority or agency shall select the most  
1395 qualified proposal or proposals on the basis of price, technology  
1396 and other relevant factors and from such proposals, but not  
1397 limited to the terms thereof, negotiate and enter into contracts  
1398 with one or more of the persons or firms submitting proposals. If  
1399 the governing authority or agency deems none of the proposals to  
1400 be qualified or otherwise acceptable, the request for proposals  
1401 process may be reinitiated. Notwithstanding any other provisions  
1402 of this paragraph, where a county with at least thirty-five  
1403 thousand (35,000) nor more than forty thousand (40,000)  
1404 population, according to the 1990 federal decennial census, owns  
1405 or operates a solid waste landfill, the governing authorities of  
1406 any other county or municipality may contract with the governing  
1407 authorities of the county owning or operating the landfill,  
1408 pursuant to a resolution duly adopted and spread upon the minutes  
1409 of each governing authority involved, for garbage or solid waste  
1410 collection or disposal services through contract negotiations.

1411 (s) **Minority set-aside authorization.** Notwithstanding  
1412 any provision of this section to the contrary, any agency or  
1413 governing authority, by order placed on its minutes, may, in its  
1414 discretion, set aside not more than twenty percent (20%) of its

1415 anticipated annual expenditures for the purchase of commodities  
1416 from minority businesses; however, all such set-aside purchases  
1417 shall comply with all purchasing regulations promulgated by the  
1418 Department of Finance and Administration and shall be subject to  
1419 bid requirements under this section. Set-aside purchases for  
1420 which competitive bids are required shall be made from the lowest  
1421 and best minority business bidder. For the purposes of this  
1422 paragraph, the term "minority business" means a business which is  
1423 owned by a majority of persons who are United States citizens or  
1424 permanent resident aliens (as defined by the Immigration and  
1425 Naturalization Service) of the United States, and who are Asian,  
1426 Black, Hispanic or Native American, according to the following  
1427 definitions:

1428                   (i) "Asian" means persons having origins in any of  
1429 the original people of the Far East, Southeast Asia, the Indian  
1430 subcontinent, or the Pacific Islands.

1431                   (ii) "Black" means persons having origins in any  
1432 black racial group of Africa.

1433                   (iii) "Hispanic" means persons of Spanish or  
1434 Portuguese culture with origins in Mexico, South or Central  
1435 America, or the Caribbean Islands, regardless of race.

1436                   (iv) "Native American" means persons having  
1437 origins in any of the original people of North America, including  
1438 American Indians, Eskimos and Aleuts.

1439                   (t) **Construction punch list restriction.** The  
1440 architect, engineer or other representative designated by the

1441 agency or governing authority that is contracting for public  
1442 construction or renovation may prepare and submit to the  
1443 contractor only one (1) preliminary punch list of items that do  
1444 not meet the contract requirements at the time of substantial  
1445 completion and one (1) final list immediately before final  
1446 completion and final payment.

1447           (u) **Procurement of construction services by state**  
1448 **institutions of higher learning.** Contracts for privately financed  
1449 construction of auxiliary facilities on the campus of a state  
1450 institution of higher learning may be awarded by the Board of  
1451 Trustees of State Institutions of Higher Learning to the lowest  
1452 and best bidder, where sealed bids are solicited, or to the  
1453 offeror whose proposal is determined to represent the best value  
1454 to the citizens of the State of Mississippi, where requests for  
1455 proposals are solicited.

1456           (v) **Insurability of bidders for public construction or**  
1457 **other public contracts.** In any solicitation for bids to perform  
1458 public construction or other public contracts to which this  
1459 section applies, including, but not limited to, contracts for  
1460 repair and maintenance, for which the contract will require  
1461 insurance coverage in an amount of not less than One Million  
1462 Dollars (\$1,000,000.00), bidders shall be permitted to either  
1463 submit proof of current insurance coverage in the specified amount  
1464 or demonstrate ability to obtain the required coverage amount of  
1465 insurance if the contract is awarded to the bidder. Proof of



1466 insurance coverage shall be submitted within five (5) business  
1467 days from bid acceptance.

1468 (w) **Purchase authorization clarification.** Nothing in  
1469 this section shall be construed as authorizing any purchase not  
1470 authorized by law.

1471 (x) **Mississippi Regional Pre-Need Disaster Clean Up**  
1472 **Act.** (i) The Department of Finance and Administration shall  
1473 enter into nine (9) contracts for the pre-need purchase of labor,  
1474 services, work, materials, equipment, supplies or other personal  
1475 property for disaster-related solid waste collection, disposal or  
1476 monitoring. One (1) contract shall be entered into for each of  
1477 the nine (9) Mississippi Emergency Management Association  
1478 districts:

1479 1. Coahoma, DeSoto, Grenada, Panola, Quitman,  
1480 Tallahatchie, Tate, Tunica and Yalobusha Counties;

1481 2. Alcorn, Benton, Itawamba, Lafayette, Lee,  
1482 Marshall, Pontotoc, Prentiss, Tippah, Tishomingo and Union  
1483 Counties;

1484 3. Attala, Bolivar, Carroll, Holmes,  
1485 Humphreys, Leflore, Montgomery, Sunflower and Washington Counties;

1486 4. Calhoun, Chickasaw, Choctaw, Clay,  
1487 Lowndes, Monroe, Noxubee, Oktibbeha, Webster and Winston Counties;

1488 5. Claiborne, Copiah, Hinds, Issaquena,  
1489 Madison, Rankin, Sharkey, Simpson, Warren and Yazoo Counties;

1490                   6. Clarke, Jasper, Kemper, Lauderdale, Leake,  
1491 Neshoba, Newton, Scott, and Smith Counties and the Mississippi  
1492 Band of Choctaw Indians;

1493                   7. Adams, Amite, Franklin, Jefferson,  
1494 Lawrence, Lincoln, Pike, Walthall and Wilkinson Counties;

1495                   8. Covington, Forrest, Greene, Jefferson  
1496 Davis, Jones, Lamar, Marion, Perry and Wayne Counties; and

1497                   9. George, Hancock, Harrison, Jackson, Pearl  
1498 River and Stone Counties.

1499           Any such contract shall set forth the manner of awarding such  
1500 a contract, the method of payment, and any other matter deemed  
1501 necessary to carry out the purposes of the agreement. Such  
1502 contract may be entered into only for a term of one (1) year, with  
1503 an option for an additional one-year extension after the  
1504 conclusion of the first year of the contract, and only after  
1505 having solicited bids or proposals, as appropriate, which shall be  
1506 publicly advertised by posting on a web page maintained by the  
1507 Department of Finance and Administration through submission of  
1508 such advertisement to the Mississippi Procurement Technical  
1509 Assistance Program under the Mississippi Development Authority.  
1510 The bid opening shall not occur until after the submission has  
1511 been posted for at least ten (10) consecutive days. The state's  
1512 share of expenditures for solid waste collection, disposal or  
1513 monitoring under any contract shall be appropriated and paid in  
1514 the manner set forth in the contract and in the same manner as for  
1515 other solid waste collection, disposal, or monitoring expenses of

1516 the state. Any contract entered into under this paragraph shall  
1517 not be subject to the provisions of Section 17-13-11.

1518 (ii) Any board of supervisors of any county or any  
1519 governing authority of any municipality may opt in to the benefits  
1520 and services provided under the appropriate and relevant contract  
1521 established in subparagraph (i) of this paragraph at the time of a  
1522 disaster event in that county or municipality. At the time of opt  
1523 in, the county or municipality shall assume responsibility for  
1524 payment in full to the contractor for the disaster-related solid  
1525 waste collection, disposal or monitoring services provided.  
1526 Nothing in this subparagraph (ii) shall be construed as requiring  
1527 a county or municipality to opt in to any such contract  
1528 established in subparagraph (i) of this paragraph.

1529 **SECTION 4.** This act shall take effect and be in force from  
1530 and after July 1, 2024, and shall stand repealed on June 30, 2024.

**Further, amend by striking the title in its entirety and  
inserting in lieu thereof the following:**

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 \$21,000,000.00 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.

SS26\HB1942A.J

Amanda White  
Secretary of the Senate