

By: Representative Zuber

To: State Affairs

HOUSE BILL NO. 958

1 AN ACT TO BRING FORWARD SECTIONS 31-1-1, 31-1-21, 31-1-25,
2 31-1-27, 31-3-1, 31-3-2, 31-3-3, 31-3-5, 31-3-7, 31-3-9, 31-3-11,
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32 65-43-3, 37-101-413, 25-53-5, 25-53-191, 37-101-15, 25-53-23,
33 25-53-29, 25-53-171 AND 25-53-201, MISSISSIPPI CODE OF 1972, FOR
34 THE PURPOSE OF POSSIBLE AMENDMENT; AND FOR RELATED PURPOSES.



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

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

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

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

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



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

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

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

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

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

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

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

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



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

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

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

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

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

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



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

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

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

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

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

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

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

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



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

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

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

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

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

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



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

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

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

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

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

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

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



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

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



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

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

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



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

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

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



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

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

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

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

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



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

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

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

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

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

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

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



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

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



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

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

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

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

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



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

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

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

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



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

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

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



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

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

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



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

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



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

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

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



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

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

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

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

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



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

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

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



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

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

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

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

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

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



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

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



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

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



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

610 (a) The amount of the contract.

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

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

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



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

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

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



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

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

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

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

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



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

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

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

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

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



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

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

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

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

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

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



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

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

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

747 If in the event of an overpayment to a contractor the
748 contracting authority is unable to obtain reimbursement for such
749 overpayments from the contractor, the chief administrative officer
750 of the contracting authority shall notify the contractor, its
751 surety and the State Treasurer or other holder of the security, of



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

757 In the event the contractor shall default in the performance
758 of the contract or any portion thereof, the securities deposited
759 by him in lieu of retainage and all interest and coupons and
760 income accruing on said securities after said default may be sold
761 by the state or any agency or department thereof, or any political
762 subdivision, and the proceeds of said sale used as if such
763 proceeds represented the retainage provided for under the
764 contract. For the purposes of this section, the term "retainage"
765 means money, or other security as agreed to by the parties to a
766 construction contract, earned by the contractor, subcontractor or
767 lower-tier sub-subcontractor or supplier, as the case may be, for
768 work properly performed or materials suitably stored if payment
769 for stored materials is provided for in the contract, which has
770 been retained by the owner conditioned on final completion, to
771 include, but not be limited to, deliverable and nondeliverable
772 requirements such as completion of contractual closeout, provision
773 of equipment manuals, provision of warranty documents, completion
774 of punch list and acceptance of all work in connection with a
775 project by the contractor, subcontractor or lower-tier
776 sub-subcontractor or supplier.



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

779 31-5-17. Every public officer, contractor, superintendent,
780 or agent engaged in or in charge of the construction of any state
781 or public building or public work of any kind for the State of
782 Mississippi or for any board, city commission, governmental
783 agency, or municipality of the State of Mississippi shall employ
784 only workmen and laborers who have actually resided in Mississippi
785 for two (2) years next preceding such employment.

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

788 31-5-19. In the event workmen or laborers qualified under
789 the provisions of Section 31-5-17 are not available, then the
790 contractor, officer, superintendent, agent, or person in charge of
791 such work shall notify in writing the mayor of the city in which
792 said work is being done, the president of the board of supervisors
793 of the county in which said work is being done, the Governor where
794 said work is being done for the State of Mississippi, and the
795 president, chairman, or executive officer of such board, city
796 commission, or governmental agency for which said work is being
797 done, of such fact. Unless the mayor, Governor, president,
798 executive officer, or chairman aforesaid, as the case may be,
799 shall forthwith supply such contractor, officer, superintendent,
800 agent, or person in charge of said works with the satisfactory
801 workmen or laborers needed, said contractor, officer,



802 superintendent, agent, or person shall be authorized to employ
803 workmen or laborers who are not qualified under the provisions of
804 Section 31-5-17 to make up the deficiency. Nothing herein shall
805 be construed to prevent the State of Mississippi, any county,
806 municipality, board, or commission from placing or letting any
807 contract for the erection or construction of any public building
808 or public work in the open market, or soliciting bids from
809 persons, firms, or corporations without the State of Mississippi.
810 Any person, persons, firm, or corporation from without the State
811 of Mississippi that may obtain such contracts for public buildings
812 or public works shall comply with the provisions of Section
813 31-5-17 upon undertaking the said contract or work.

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

816 31-5-21. Any contractor, officer, superintendent, agent, or
817 person in charge of said work who shall violate any of the
818 provisions of Section 31-5-17, shall be liable upon conviction
819 before a court of competent jurisdiction to a fine of not more
820 than One Hundred Dollars (\$100.00) or to imprisonment of not more
821 than sixty (60) days, or both at the discretion of the court; and
822 every day's employment of each workman or laborer in such
823 violation shall constitute a separate offense.

824 However, where any workman or laborer furnishes such employer
825 with a certificate by the sheriff, chancery clerk, or county
826 registrar of the county of his domicile to the effect that such



827 workman or laborer has actually resided in this state two (2)
828 years next preceding such employment, such employer, acting in
829 good faith, shall be relieved of any liability by reason of
830 employing such person.

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

833 31-5-23. In the construction of any building, highway, road,
834 bridge, or other public work or improvement by the State of
835 Mississippi or any of its political subdivisions or
836 municipalities, only materials grown, produced, prepared, made
837 and/or manufactured within the State of Mississippi should be
838 used. Paint, varnish and lacquer shall be used which shall
839 contain as vehicles tung oil and either ester gum or modified
840 resin (with rosin as the principal base of constituents), and
841 turpentine shall be used as solvent or thinner, all of which said
842 products shall be produced in Mississippi. However, preference
843 shall not be given to materials grown, produced, prepared, made
844 and/or manufactured in the State of Mississippi when other
845 materials of like quality produced without the State of
846 Mississippi may be purchased or secured at less cost, or any other
847 materials of better quality produced without the State of
848 Mississippi can be secured at a reasonable cost.

849 The duty is hereby enjoined upon all public officers or
850 bodies having the right to contract for the purchase of materials
851 for any such public work to be paid for by the State of



852 Mississippi or any of its political subdivisions or municipalities
853 to faithfully observe the provisions of this section.

854 All contracts hereafter let to any person, firm or
855 corporation for the construction or doing of any public work shall
856 contain a provision enjoining a like duty upon the contractor with
857 respect to the purchase of materials as would have rested upon the
858 public officer or body letting the contract had he or it done the
859 work and purchased the materials.

860 Nothing herein shall in any manner apply to any public work
861 or improvement which will be paid for either in whole or in part
862 by funds contributed either directly or indirectly by the United
863 States.

864 This section is declaratory of public policy of the State of
865 Mississippi.

866 The boards of supervisors of the State of Mississippi are
867 hereby enjoined, in the letting of contracts in pursuance to
868 Section 65-9-19, to use any and all low gravity oil from the
869 various oil fields in this state in the construction, maintenance,
870 and upkeep of the rural roads, and to faithfully observe the
871 provisions hereof.

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

874 31-5-25. (1) All sums due contractors under all public
875 construction contracts shall be paid as follows:



876 (a) Partial, progress or interim payments: All
877 partial, progress or interim payments or monies owed contractors
878 shall be paid when due and payable under the terms of the
879 contract. If they are not paid within forty-five (45) calendar
880 days from the day they were due and payable, then they shall bear
881 interest from the due date until paid at the rate of one percent
882 (1%) per month until fully paid.

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

885 (i) At the completion of the project or after the
886 work has been substantially completed in accordance with the terms
887 and provisions of the contract;

888 (ii) When the owner beneficially uses or occupies
889 the project except in the case where the project involves
890 renovation or alteration to an existing facility in which the
891 owner maintains beneficial use or occupancy during the course of
892 the project;

893 (iii) When the project is certified as having been
894 completed by the architect or engineer authorized to make such
895 certification; or

896 (iv) When the project is certified as having been
897 completed by the contracting authority representing the State of
898 Mississippi or any of its political subdivisions, whichever event
899 shall first occur.



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

905 In no event shall said final payment due the contractor be
906 made until the consent of the contractor's surety has been
907 obtained in writing and delivered to the proper contracting
908 authority.

909 (c) Contracts for the construction of prison facilities
910 let or approved by the State Prison Emergency Construction and
911 Management Board when exercising its emergency powers to remove
912 two thousand (2,000) inmates from county jails are exempt from
913 this section; however, this exemption does not apply to contracts
914 for the construction of private correctional facilities and
915 additional facilities at the South Mississippi Correctional
916 Institution and the Central Mississippi Correctional Facility.
917 This paragraph shall stand repealed from and after July 1, 1996.

918 (2) Contractors shall submit monthly certification to the
919 project engineer or architect indicating payments to
920 subcontractors on prior payment request.

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

923 31-5-27. When a contractor receives any payment under a
924 public construction contract, the contractor shall, upon receipt



925 of that payment, pay each subcontractor and material supplier in
926 proportion to the percentage of work completed by each
927 subcontractor and material supplier. If for any reason the
928 contractor receives less than the full payment due under the
929 public construction contract, the contractor shall be obligated to
930 disburse on a pro rata basis those funds received, with the
931 contractor, subcontractors and material suppliers each receiving a
932 prorated portion based on the amount due on the payment. If the
933 contractor without reasonable cause fails to make any payment to
934 his subcontractors and material suppliers within fifteen (15) days
935 after the receipt of payment under the public construction
936 contract, the contractor shall pay to his subcontractors and
937 material suppliers, in addition to the payment due them, a penalty
938 in the amount of one-half of one percent (1/2 of 1%) per day of
939 the delinquency, calculated from the expiration of the fifteen-day
940 period until fully paid. The total penalty shall not exceed
941 fifteen percent (15%) of the outstanding balance due.

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

944 31-5-29. Sections 31-5-25 and 31-5-27, shall apply as to all
945 public construction contracts entered into by all state agencies,
946 commissions, boards and districts and by all municipalities,
947 counties and other political subdivisions of the State of
948 Mississippi.



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

951 31-5-31. Any person, firm or corporation who leases, rents
952 or sells to any subcontractor any equipment to be used in a road
953 construction contract, wherein a performance and payment bond is
954 required of the general contractor, shall notify the general
955 contractor involved in such contract that credit is being extended
956 by them to the subcontractor and stating the terms of the credit
957 agreement. In the event the subcontractor does not meet his
958 payment obligations as set forth in the credit agreement, the
959 creditor shall notify the general contractor of the nonpayment
960 within thirty (30) days after such payment is due. The creditor
961 shall notify the general contractor upon receipt of any payment
962 which had been reported as past due.

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

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

969 31-5-33. (1) In any contract for the construction, repair,
970 alteration or demolition of any building, structure or facility
971 awarded by the State of Mississippi, or any agency, unit or
972 department of the State of Mississippi, or by any political
973 subdivision thereof, which contract provides for progress payments



974 in installments based upon an estimated percentage of completion
975 with a percentage of the contract proceeds to be retained by the
976 state agency, unit or department, or by the political subdivision
977 or contractor pending completion of the contract, such retainage
978 shall be five percent (5%), and the amount retained by the prime
979 contractor from each payment due the subcontractor shall not
980 exceed the percentage withheld by the state, or any agency, unit
981 or department of the state, or by any political subdivision
982 thereof, from the prime contractor. For the purposes of this
983 section and Section 31-5-15, the term "retainage" means that
984 money, or other security as agreed to by the parties to a
985 construction contract, earned by the contractor, subcontractor or
986 lower-tier sub-subcontractor or supplier, as the case may be, for
987 work properly performed or materials suitably stored if payment
988 for stored materials is provided for in the contract, which has
989 been retained by the owner conditioned on final completion and
990 acceptance of all work in connection with a project or projects by
991 the contractor, subcontractor or lower-tier sub-subcontractor or
992 supplier.

993 On any contract as described herein, of which the total
994 amount is Two Hundred Fifty Thousand Dollars (\$250,000.00) or
995 greater, or on any contract with a subcontractor, regardless of
996 amount, five percent (5%) shall be retained until the work is at
997 least fifty percent (50%) complete, on schedule and satisfactory
998 in the architect's and/or engineer's opinion, at which time fifty



999 percent (50%) of the retainage held to date shall be returned to
1000 the prime contractor for distribution to the appropriate
1001 subcontractors and suppliers. Provided, however, that future
1002 retainage shall be withheld at the rate of two and one-half
1003 percent (2-1/2%).

1004 (2) The provisions of this section shall not apply to
1005 contracts let by the Mississippi Transportation Commission for the
1006 construction, improvement or maintenance of roads and bridges.

1007 **SECTION 30.** Section 31-5-35, Mississippi Code of 1972, is
1008 brought forward as follows:

1009 31-5-35. No state, county, or municipal employee, and no
1010 person acting or purporting to act on behalf of such employee, or
1011 any state, county or municipal agency, shall, with respect to any
1012 public building or construction contract which is about to be or
1013 which has been competitively bid or negotiated, require the bidder
1014 to make application to or furnish financial data to, or to obtain
1015 or procure any of the surety bonds, or surety bond components of
1016 wrap-up insurance, that is specified in connection with such
1017 contract or specified by any law, from any particular insurance or
1018 surety company, agent or broker.

1019 **SECTION 31.** Section 31-5-37, Mississippi Code of 1972, is
1020 brought forward as follows:

1021 31-5-37. (1) All public works projects utilizing funds
1022 received by state or local governmental entities resulting from a
1023 federally declared disaster or a spill of national significance,



1024 including damages, penalties, fines or supplemental projects paid
1025 or financed by responsible parties pursuant to a court order,
1026 negotiated settlement, or other instrument, including under any
1027 law distributing such fines and penalties including the federal
1028 Resources and Ecosystems Sustainability, Tourist Opportunities and
1029 Revived Economy of the Gulf Coast Act of 2011 (R.E.S.T.O.R.E.),
1030 the Oil Pollution Act of 1990 or the Federal Water Pollution
1031 Control Act or similar legislation, shall be subject to the hiring
1032 policies established by this section.

1033 (2) Contractors submitting bids for public works projects
1034 that involve an expenditure of Five Thousand Dollars (\$5,000.00)
1035 or more and that are financed, in whole or in part, through the
1036 use of funds described in subsection (1) of this section shall
1037 submit with their bid a certification that they will comply with
1038 the provisions of this section if they are awarded a contract.
1039 The contractor shall submit to the agency or governing authority
1040 that solicited the bid and the Mississippi Department of
1041 Employment Security an employment plan within seven (7) days after
1042 the award of the contract which shall include the following:

1043 (a) The types of jobs involved in the public works
1044 project;

1045 (b) The skill level of the jobs involved in the
1046 project;

1047 (c) Wage information on the jobs involved in the
1048 project;



1049 (d) The number of vacant positions that the contractor
1050 and any subcontractor needs to fill;

1051 (e) How the contractor and any subcontractor will
1052 recruit, low-wage and unemployed individuals for job vacancies;

1053 (f) Such other information as may be required by the
1054 Mississippi Department of Employment Security; and

1055 (g) Proof of registration with the Mississippi
1056 Department of Employment Security for taxation in accordance with
1057 the provisions of Title 71.

1058 (3) From the date written notice of the contract award is
1059 received and until ten (10) business days after the receipt of the
1060 employment plan by the Mississippi Department of Employment
1061 Security, the contractor and any subcontractor shall not hire any
1062 personnel to fill vacant positions necessary for the public works
1063 project except residents of the State of Mississippi who are to be
1064 verified by the Mississippi Department of Employment Security
1065 and/or those qualified individuals who are submitted by the
1066 Mississippi Department of Employment Security. For purposes of
1067 this subsection, the contractor or subcontractor is authorized to
1068 employ Mississippi residents to begin work immediately, and such
1069 persons are to be verified by the Mississippi Department of
1070 Employment Security after employment by the contractor or
1071 subcontractor. During the ten-day period the Mississippi
1072 Department of Employment Security shall submit qualified
1073 individuals to the contractor to consider for the vacant



1074 positions. The contractor shall review the individuals submitted
1075 by the department before hiring individuals who are not submitted
1076 by the department. The contract award shall be vacated if the
1077 contractor fails to comply with the provisions of this subsection.

1078 **SECTION 32.** Section 31-5-39, Mississippi Code of 1972, is
1079 brought forward as follows:

1080 31-5-39. On or before the date and time established to
1081 receive bids for any contract related to the construction of any
1082 building, highway, road, bridge or other public work or
1083 improvement by the State of Mississippi, its agencies,
1084 departments, institutions, or instrumentalities of the state or
1085 political subdivisions of the state, such entity shall establish a
1086 cost estimate for the project. The cost estimate shall reflect
1087 the total amount of funds allocated to the project, including the
1088 specific amount allocated for construction. Additional funds may
1089 be allocated to a project at any time, including for purposes of
1090 awarding a contract to the lowest and best bidder. Additional
1091 funds may not be allocated after the date and time established for
1092 the receipt of bids for the purpose of increasing negotiation
1093 authority.

1094 **SECTION 33.** Section 31-5-41, Mississippi Code of 1972, is
1095 brought forward as follows:

1096 31-5-41. With respect to all public or private contracts or
1097 agreements, for the construction, alteration, repair or
1098 maintenance of buildings, structures, highway bridges, viaducts,



1099 water, sewer or gas distribution systems, or other work dealing
1100 with construction, or for any moving, demolition or excavation
1101 connected therewith, every covenant, promise and/or agreement
1102 contained therein to indemnify or hold harmless another person
1103 from that person's own negligence is void as against public policy
1104 and wholly unenforceable.

1105 This section does not apply to construction bonds or
1106 insurance contracts or agreements.

1107 **SECTION 34.** Section 31-5-51, Mississippi Code of 1972, is
1108 brought forward as follows:

1109 31-5-51. (1) Any person entering into a formal contract
1110 with the state or any county, city or political subdivision
1111 thereof, or other public authority for the construction,
1112 alteration or repair of any public building or public work, before
1113 entering into such contract, shall furnish to such public body,
1114 except as provided in subsection (5) of this section, bonds with
1115 good and sufficient surety as follows:

1116 (a) A performance bond payable to, in favor of or for
1117 the protection of such public body, as owner, for the work to be
1118 done in an amount not less than the amount of the contract,
1119 conditioned for the full and faithful performance of the contract;

1120 (b) A payment bond payable to such public body but
1121 conditioned for the prompt payment of all persons supplying labor
1122 or material used in the prosecution of the work under said



1123 contract, for the use of each such person, in an amount not less
1124 than the amount of the contract; and

1125 (c) The bonds herein provided for may be made by any
1126 surety company which is authorized to do business in the State of
1127 Mississippi and listed on the United States Treasury Department's
1128 list of acceptable sureties, or such bonds may be guaranteed by a
1129 personal surety as provided for herein. The personal surety shall
1130 deposit with the State Treasurer cash or certificates of deposit
1131 in an amount not less than the amount of the contract, and the
1132 State Treasurer shall hold same in trust and on deposit for the
1133 benefit of the public body that is a party to the contract
1134 providing for the construction, alteration or repair of the public
1135 building or for the public work.

1136 (2) Every person who has furnished labor or material used in
1137 the prosecution of the work provided for in such contract, in
1138 respect of which a payment bond is furnished and who has not been
1139 paid in full therefor before the expiration of a period of ninety
1140 (90) days after the date on which the last of the labor was
1141 performed by him or the last of the materials was furnished by him
1142 and for which such claim is made, provided the same has been
1143 approved, where required, by the public authority or its architect
1144 or engineers, or such approval is being withheld as a result of
1145 unreasonable acts of the contractor, shall have the right to sue
1146 on such payment bond for the amount, or the balance thereof that
1147 is due and payable, but unpaid at the time of institution of such



1148 suit and to prosecute said action to final execution and judgment.
1149 Notwithstanding anything to the contrary contained herein, if the
1150 amount claimed in such action is subject to contractual provisions
1151 or conditions, between the parties involved in such action, the
1152 action shall be abated pending the performance of such provisions
1153 and the fulfillment of such conditions.

1154 (3) Any person having direct contractual relationship with a
1155 subcontractor but no contractual relationship express or implied
1156 with the contractor furnishing said payment bond shall have a
1157 right of action upon the said payment bond upon giving written
1158 notice to said contractor within ninety (90) days from the date on
1159 which such person did or performed the last of the labor or
1160 furnished or supplied the last of the material for which such
1161 claim is made, stating with substantial accuracy the amount
1162 claimed and the name of the party to whom the material was
1163 furnished or supplied or for whom the labor was done or performed.
1164 Such notice shall be given in writing by the claimant to the
1165 contractor or surety at any place where the contractor or surety
1166 maintains an office or conducts business. Such notice may be
1167 personally delivered by the claimant to the contractor or surety,
1168 or it may be mailed by certified mail, return receipt requested,
1169 postage prepaid, to the contractor or surety. No such action may
1170 be maintained by any person not having a direct contractual
1171 relationship with the contractor-principal, unless the notice
1172 required by this section shall have been given.



1173 (4) The only persons protected by such payment bond, subject
1174 to the notice provisions of this section are:

1175 (a) Subcontractors and material suppliers of the
1176 contractor;

1177 (b) Sub-subcontractors and material suppliers of those
1178 subcontractors named in subsection (4)(a) of this section; and

1179 (c) Laborers who have performed work on the project
1180 site.

1181 (5) Whenever a contract is less than Twenty-five Thousand
1182 Dollars (\$25,000.00) the owners may elect to make a lump sum
1183 payment at the completion of the job. Lump sum payments will not
1184 be made until completion and acceptance by the governing agency.
1185 In such a case a performance bond or payment bond will not be
1186 required.

1187 (6) Except as otherwise provided in subsection (1)(c) for a
1188 personal surety, no surety or surety company shall be allowed to
1189 guarantee or write bonds for the benefit of the public body that
1190 is a party to a contract providing for the construction,
1191 alteration or repair of a public building or for public work,
1192 unless that surety is listed on the United States Treasury
1193 Department's list of acceptable sureties. If the surety is not
1194 listed on the United States Treasury Department's list of
1195 acceptable sureties, the public body for which the public work is
1196 being performed shall be liable to the extent that the surety
1197 would be liable.



1198 (7) Any person entering into a formal contract with the
1199 state which exceeds Five Thousand Dollars (\$5,000.00), or with a
1200 county, city or other public authority which exceeds Twenty-five
1201 Thousand Dollars (\$25,000.00), for the construction, alteration or
1202 repair of any public building or public work, before entering into
1203 such contract, shall furnish to the public body proof of general
1204 liability insurance coverage in an amount not less than One
1205 Million Dollars (\$1,000,000.00) for bodily injury and property
1206 damage. Exempted from the provisions of this subsection are any
1207 persons who enter into a contract with the Mississippi Department
1208 of Rehabilitation Services for the construction, alteration or
1209 repair of the home of a disabled individual who has been
1210 determined eligible for services by the Mississippi Department of
1211 Rehabilitation Services.

1212 **SECTION 35.** Section 31-5-52, Mississippi Code of 1972, is
1213 brought forward as follows:

1214 31-5-52. The use of either the design-build method of
1215 project delivery as provided in Section 31-7-13.1 or the
1216 construction manager at risk method of project delivery as
1217 provided in Section 31-7-13.2 must comply with the provisions of
1218 Section 31-5-51.

1219 **SECTION 36.** Section 31-5-53, Mississippi Code of 1972, is
1220 brought forward as follows:

1221 31-5-53. (a) When suit is instituted on a performance bond
1222 given in accordance with this chapter, it shall be commenced



1223 within one (1) year after the obligee shall have made final
1224 payment on the contract; provided, however, if the contract is
1225 abandoned by the general contractor as bond principal or is
1226 terminated by the bond obligee, suit shall be commenced within one
1227 (1) year after the earlier of the abandonment by the bond
1228 principal or termination by the bond obligee.

1229 (b) When suit is instituted on a payment bond given in
1230 accordance with this chapter, it shall be commenced within one (1)
1231 year after the day on which the last of the labor was performed or
1232 material was supplied by the person bringing the action and not
1233 later.

1234 (c) Any suit brought on a performance or payment bond given
1235 in accordance with this chapter shall be brought in the county in
1236 which the contract or some part thereof was performed or in the
1237 county in which service of process may be obtained upon either the
1238 principal or the surety on such bond.

1239 **SECTION 37.** Section 31-5-55, Mississippi Code of 1972, is
1240 brought forward as follows:

1241 31-5-55. Any person supplying labor or materials for the
1242 prosecution of the work shall, upon request to the owner or
1243 obligee, or to the contractor or principal, be furnished promptly
1244 with a true and correct copy of the contract and bonds within
1245 thirty (30) days of the request or the recipient of the request
1246 shall thereafter become liable for reasonable attorney's fees and



1247 costs in any subsequent action under this section. The written
1248 request may be evidenced by any reliable means of delivery.

1249 **SECTION 38.** Section 31-5-57, Mississippi Code of 1972, is
1250 brought forward as follows:

1251 31-5-57. Whenever any person supplying labor or material in
1252 the prosecution of the work brings an action on such payment bond
1253 and the trial judge finds that the defense raised to such action
1254 by the contractor or surety was not reasonable, or not in good
1255 faith, or merely for the purpose of delaying payment, then the
1256 trial judge may, in his discretion, award the claimant a
1257 reasonable amount to be determined by the trial judge as
1258 claimant's attorney's fees in bringing such successful action.
1259 Likewise, if the trial judge finds that such action was brought by
1260 claimant without just cause or in bad faith, the trial judge may,
1261 in his discretion, award the contractor or surety a reasonable
1262 amount to be determined by the trial judge as attorney's fees for
1263 defending such action; provided, however, this section shall not
1264 affect the right of any person to recover attorney's fees where
1265 provided by contract or bond.

1266 **SECTION 39.** Section 31-7-1, Mississippi Code of 1972, is
1267 brought forward as follows:

1268 31-7-1. The following terms are defined for the purposes of
1269 this chapter to have the following meanings:

1270 (a) "Agency" means any state board, commission,
1271 committee, council, university, department or unit thereof created



1272 by the Constitution or statutes if such board, commission,
1273 committee, council, university, department, unit or the head
1274 thereof is authorized to appoint subordinate staff by the
1275 Constitution or statute, except a legislative or judicial board,
1276 commission, committee, council, department or unit thereof; except
1277 a charter school authorized by the Mississippi Charter School
1278 Authorizer Board; and except the Mississippi State Port Authority;
1279 except the Mississippi School of the Arts (MSA) established in
1280 Section 37-140-1 et seq. for the sole purpose of the application
1281 of the term "agency" as it pertains to the Public Procurement
1282 Review Board's powers and responsibilities as defined in Section
1283 27-104-7(2) (a), but without application to the use of the term
1284 within this chapter, effective July 1, 2020; and except the
1285 Mississippi School for the Blind and the Mississippi School for
1286 the Deaf (MSBD) for the sole purpose of the application of the
1287 term "agency" as it pertains to the Public Procurement Review
1288 Board's powers and responsibilities as defined in Section
1289 27-104-7(2) (a), but without application to the use of the term
1290 within this chapter, effective July 1, 2021. An academic medical
1291 center or health sciences school as defined in Section 37-115-50
1292 is not an "agency" for those purchases of commodities as defined
1293 in this section that are used for clinical purposes and (i)
1294 intended for use in the diagnosis of disease or other conditions
1295 or in the cure, mitigation, treatment or prevention of disease,
1296 and (ii) medical devices, biological, drugs and radiation emitting



1297 devices as defined by the United States Food and Drug
1298 Administration.

1299 (b) "Governing authority" means boards of supervisors,
1300 governing boards of all school districts, all boards of directors
1301 of public water supply districts, boards of directors of master
1302 public water supply districts, municipal public utility
1303 commissions, governing authorities of all municipalities, port
1304 authorities, Mississippi State Port Authority, commissioners and
1305 boards of trustees of any public hospitals, boards of trustees of
1306 public library systems, district attorneys, school attendance
1307 officers and any political subdivision of the state supported
1308 wholly or in part by public funds of the state or political
1309 subdivisions thereof, including commissions, boards and agencies
1310 created or operated under the authority of any county or
1311 municipality of this state. The term "governing authority" shall
1312 not include economic development authorities supported in part by
1313 private funds, or commissions appointed to hold title to and
1314 oversee the development and management of lands and buildings
1315 which are donated by private individuals to the public for the use
1316 and benefit of the community and which are supported in part by
1317 private funds. The term "governing authority" also shall not
1318 include the governing board of a charter school. The term
1319 "governing authority" also shall not include the Mississippi
1320 School of the Arts established in Section 37-140-1 et seq., for
1321 the sole purpose of the application of the term "agency" as it



1322 pertains to the Public Procurement Review Board's powers and
1323 responsibilities as defined in Section 27-104-7(2) (a), but without
1324 application to the use of the term within this chapter, effective
1325 July 1, 2020. The term "governing authority" also shall not
1326 include the Mississippi School for the Blind and the Mississippi
1327 School for the Deaf (MSBD) for the sole purpose of the application
1328 of the term "governing authority" as it pertains to the Public
1329 Procurement Review Board's powers and responsibilities as defined
1330 in Section 27-104-7(2) (a), but without application to the use of
1331 the term within this chapter, effective July 1, 2021.

1332 (c) "Purchasing agent" means any administrator,
1333 superintendent, purchase clerk or other chief officer so
1334 designated having general or special authority to negotiate for
1335 and make private contract for or purchase for any governing
1336 authority or agency, including issue purchase orders, invitations
1337 for bid, requests for proposals, and receive and accept bids.

1338 (d) "Public funds" means and includes any appropriated
1339 funds, special funds, fees or any other emoluments received by an
1340 agency or governing authority.

1341 (e) "Commodities" means and includes the various
1342 commodities, goods, merchandise, furniture, equipment, automotive
1343 equipment of every kind, and other personal property purchased by
1344 the agencies of the state and governing authorities, but not
1345 commodities purchased for resale or raw materials converted into
1346 products for resale.



1347 (i) "Equipment" shall be construed to include:
1348 automobiles, trucks, tractors, office appliances and all other
1349 equipment of every kind and description.

1350 (ii) "Furniture" shall be construed to include:
1351 desks, chairs, tables, seats, filing cabinets, bookcases and all
1352 other items of a similar nature as well as dormitory furniture,
1353 appliances, carpets and all other items of personal property
1354 generally referred to as home, office or school furniture.

1355 (f) "Emergency" means any circumstances caused by fire,
1356 flood, explosion, storm, earthquake, epidemic, riot, insurrection
1357 or caused by any inherent defect due to defective construction, or
1358 when the immediate preservation of order or of public health is
1359 necessary by reason of unforeseen emergency, or when the immediate
1360 restoration of a condition of usefulness of any public building,
1361 equipment, road or bridge appears advisable, or in the case of a
1362 public utility when there is a failure of any machine or other
1363 thing used and useful in the generation, production or
1364 distribution of electricity, water or natural gas, or in the
1365 transportation or treatment of sewage; or when the delay incident
1366 to obtaining competitive bids could cause adverse impact upon the
1367 governing authorities or agency, its employees or its citizens; or
1368 in the case of a public airport, when the delay incident to
1369 publishing an advertisement for competitive bids would endanger
1370 public safety in a specific (not general) manner, result in or



1371 perpetuate a specific breach of airport security, or prevent the
1372 airport from providing specific air transportation services.

1373 (g) "Construction" means the process of building,
1374 altering, improving, renovating or demolishing a public structure,
1375 public building, or other public real property. It does not
1376 include routine operation, routine repair or regularly scheduled
1377 maintenance of existing public structures, public buildings or
1378 other public real property.

1379 (h) "Purchase" means buying, renting, leasing or
1380 otherwise acquiring.

1381 (i) "Certified purchasing office" means any purchasing
1382 office in which fifty percent (50%) or more of the purchasing
1383 agents hold a certification from the Universal Public Purchasing
1384 Certification Council or other nationally recognized purchasing
1385 certification, and in which, in the case of a state agency
1386 purchasing office, in addition to the national certification, one
1387 hundred percent (100%) of the purchasing officials hold a
1388 certification from the State of Mississippi's Basic or Advanced
1389 Purchasing Certification Program.

1390 (j) "Certified Mississippi Purchasing Agent" means a
1391 state agency purchasing official who holds a certification from
1392 the Mississippi Basic Purchasing Certification Program as
1393 established by the Office of Purchasing, Travel and Fleet
1394 Management.



1395 (k) "Certified Mississippi Procurement Manager" means a
1396 state agency purchasing official who holds a certification from
1397 the Mississippi Advanced Purchasing Certification Program as
1398 established by the Office of Purchasing, Travel and Fleet
1399 Management.

1400 **SECTION 40.** Section 31-7-3, Mississippi Code of 1972, is
1401 brought forward as follows:

1402 31-7-3. The Department of Finance and Administration shall
1403 administer the provisions of this chapter.

1404 The purposes or aims of the Department of Finance and
1405 Administration in carrying out said provisions shall be to
1406 coordinate and promote efficiency and economy in the purchase of
1407 commodities by the agencies of the state.

1408 **SECTION 41.** Section 31-7-5, Mississippi Code of 1972, is
1409 brought forward as follows:

1410 31-7-5. The Department of Finance and Administration shall
1411 prescribe rules and regulations governing the manner in which the
1412 authority and duties granted to it by law may be carried out. It
1413 shall employ suitable and competent personnel, necessary to carry
1414 out its purposes. The Department of Finance and Administration
1415 may establish an Office of Purchasing, Travel and Fleet Management
1416 and employ a competent person as Director of the Office of
1417 Purchasing, Travel and Fleet Management who shall be nonstate
1418 service and paid a salary as determined by the Executive Director



1419 of the Department of Finance and Administration with the approval
1420 of the State Personnel Board.

1421 **SECTION 42.** Section 31-7-7, Mississippi Code of 1972, is
1422 brought forward as follows:

1423 31-7-7. Through its director and other supervisory personnel
1424 and, upon its request, through the agencies of the state, the
1425 Office of General Services shall supervise the performance of the
1426 following duties imposed upon it by this chapter:

1427 (a) A study of the purchases of commodities by the
1428 agencies of the state; the compilation, exchange and coordination
1429 of information concerning same; and the distribution of such
1430 information to the agencies and governing authorities requesting
1431 same.

1432 (b) The planning and coordination of purchases in
1433 volume for the agencies in order to take advantage of and secure
1434 the economies possible by volume purchasing; the arrangement of
1435 agreements between agencies and between governing authorities
1436 whereby one may make a purchase or purchases for the other or
1437 whereby an agency may make a purchase for a governing authority;
1438 the arrangement of agreements whereby purchases of commodities can
1439 be made between an agency and another agency or governing
1440 authority at a fair price, less depreciated value; the
1441 negotiations and execution of purchasing agreements and contracts
1442 through and under which the Office of General Services may require
1443 state agencies to purchase; and the obtaining or establishment of



1444 methods for obtaining of competitive bid prices upon which any
1445 agency of the state may purchase at the price approved by the
1446 Office of General Services.

1447 (c) The arrangement of provisions in purchase contracts
1448 of the state, or any agency, providing that the same price for
1449 which a commodity is available to an agency, may also, during the
1450 period of time provided therein, be available to any governing
1451 authority.

1452 **SECTION 43.** Section 31-7-9, Mississippi Code of 1972, is
1453 brought forward as follows:

1454 31-7-9. (1) (a) The Office of Purchasing, Travel and Fleet
1455 Management shall adopt purchasing regulations governing the
1456 purchase by any agency of any commodity or commodities and
1457 establishing standards and specifications for a commodity or
1458 commodities and the maximum fair prices of a commodity or
1459 commodities, subject to the approval of the Public Procurement
1460 Review Board. It shall have the power to amend, add to or
1461 eliminate purchasing regulations. The adoption of, amendment,
1462 addition to or elimination of purchasing regulations shall be
1463 based upon a determination by the Office of Purchasing, Travel and
1464 Fleet Management with the approval of the Public Procurement
1465 Review Board, that such action is reasonable and practicable and
1466 advantageous to promote efficiency and economy in the purchase of
1467 commodities by the agencies of the state. Upon the adoption of
1468 any purchasing regulation, or an amendment, addition or



1469 elimination therein, copies of same shall be furnished to the
1470 State Auditor and to all agencies affected thereby. Thereafter,
1471 and except as otherwise may be provided in subsection (2) of this
1472 section, no agency of the state shall purchase any commodities
1473 covered by existing purchasing regulations unless such commodities
1474 be in conformity with the standards and specifications set forth
1475 in the purchasing regulations and unless the price thereof does
1476 not exceed the maximum fair price established by such purchasing
1477 regulations. The Office of Purchasing, Travel and Fleet
1478 Management shall furnish to any county or municipality or other
1479 local public agency of the state requesting same, copies of
1480 purchasing regulations adopted by the Office of Purchasing, Travel
1481 and Fleet Management and any amendments, changes or eliminations
1482 of same that may be made from time to time.

1483 (b) The Office of Purchasing, Travel and Fleet
1484 Management may adopt purchasing regulations governing the use of
1485 credit cards, procurement cards and purchasing club membership
1486 cards to be used by state agencies, governing authorities of
1487 counties and municipalities, school districts and the Chickasawhay
1488 Natural Gas District. Use of the cards shall be in strict
1489 compliance with the regulations promulgated by the office. Any
1490 amounts due on the cards shall incur interest charges as set forth
1491 in Section 31-7-305 and shall not be considered debt.

1492 (c) Pursuant to the provision of Section 37-61-33(2),
1493 the Office of Purchasing, Travel and Fleet Management of the



1494 Department of Finance and Administration is authorized to issue
1495 procurement cards or credentials for a digital solution to all
1496 public school district classroom teachers, charter school
1497 teachers, full- or part-time gifted or special education teachers
1498 and other necessary direct support personnel at the beginning of
1499 the school year, but no later than August 1 of each year, for the
1500 purchase of instructional supplies using Educational Enhancement
1501 Funds. The cards will be issued in equal amounts per teacher
1502 determined by the total number of qualifying personnel and the
1503 then current state appropriation for classroom instructional
1504 supplies under the Education Enhancement Fund. All purchases
1505 shall be in accordance with state law and teachers are responsible
1506 for verification of capital asset requirements when pooling monies
1507 to purchase equipment. The cards will expire on a predetermined
1508 date at the end of each school year, but not before April 1 of
1509 each year. All unexpended amounts will be carried forward, to be
1510 combined with the following year's instructional supply fund
1511 allocation, and reallocated for the following year. The
1512 Department of Finance and Administration is authorized to loan any
1513 start-up funds at the beginning of the school year to fund this
1514 procurement system for instructional supplies with loan repayment
1515 being made from sales tax receipts earmarked for the Education
1516 Enhancement Fund.

1517 (d) In a sale of goods or services, the seller shall
1518 not impose a surcharge on a buyer who uses a state-issued credit



1519 card, procurement card, travel card, or fuel card. The Department
1520 of Finance and Administration shall have exclusive jurisdiction to
1521 enforce and adopt rules relating to this paragraph. Any rules
1522 adopted under this paragraph shall be consistent with federal laws
1523 and regulations governing credit card transactions described by
1524 this paragraph. This paragraph does not create a cause of action
1525 against an individual for a violation of this paragraph.

1526 (2) The Office of Purchasing, Travel and Fleet Management
1527 shall adopt, subject to the approval of the Public Procurement
1528 Review Board, purchasing regulations governing the purchase of
1529 unmarked vehicles to be used by the Bureau of Narcotics and
1530 Department of Public Safety in official investigations pursuant to
1531 Section 25-1-87. Such regulations shall ensure that purchases of
1532 such vehicles shall be at a fair price and shall take into
1533 consideration the peculiar needs of the Bureau of Narcotics and
1534 Department of Public Safety in undercover operations.

1535 (3) The Office of Purchasing, Travel and Fleet Management
1536 shall adopt, subject to the approval of the Public Procurement
1537 Review Board, regulations governing the certification process for
1538 certified purchasing offices, including the Mississippi Purchasing
1539 Certification Program, which shall be required of all purchasing
1540 agents at state agencies. Such regulations shall require entities
1541 desiring to be classified as certified purchasing offices to
1542 submit applications and applicable documents on an annual basis,
1543 and in the case of a state agency purchasing office, to have one



1544 hundred percent (100%) participation and completion by purchasing
1545 agents in the Mississippi Purchasing Certification Program, at
1546 which time the Office of Purchasing, Travel and Fleet Management
1547 may provide the governing entity with a certification valid for
1548 one (1) year from the date of issuance. The Office of Purchasing,
1549 Travel and Fleet Management shall set a fee in an amount that
1550 recovers its costs to administer the Mississippi Purchasing
1551 Certification Program, which shall be assessed to the
1552 participating state agencies.

1553 (4) The Office of Purchasing, Travel and Fleet Management
1554 shall adopt purchasing regulations authorizing rural water
1555 associations to purchase at the state contract price afforded to
1556 agencies and governing authorities under this chapter.

1557 **SECTION 44.** Section 31-7-10, Mississippi Code of 1972, is
1558 brought forward as follows:

1559 31-7-10. (1) For the purposes of this section, the term
1560 "equipment" shall mean equipment, furniture, and if applicable,
1561 associated software and other applicable direct costs associated
1562 with the acquisition. In addition to its other powers and duties,
1563 the Department of Finance and Administration shall have the
1564 authority to develop a master lease-purchase program and, pursuant
1565 to that program, shall have the authority to execute on behalf of
1566 the state master lease-purchase agreements for equipment to be
1567 used by an agency, as provided in this section. Each agency
1568 electing to acquire equipment by a lease-purchase agreement shall



1569 participate in the Department of Finance and Administration's
1570 master lease-purchase program, unless the Department of Finance
1571 and Administration makes a determination that such equipment
1572 cannot be obtained under the program or unless the equipment can
1573 be obtained elsewhere at an overall cost lower than that for which
1574 the equipment can be obtained under the program. Such
1575 lease-purchase agreements may include the refinancing or
1576 consolidation, or both, of any state agency lease-purchase
1577 agreements entered into after June 30, 1990.

1578 (2) All funds designated by agencies for procurement of
1579 equipment and financing thereof under the master lease-purchase
1580 program shall be paid into a special fund created in the State
1581 Treasury known as the "Master Lease-Purchase Program Fund," which
1582 shall be used by the Department of Finance and Administration for
1583 payment to the lessors for equipment acquired under master
1584 lease-purchase agreements.

1585 (3) Upon final approval of an appropriation bill, each
1586 agency shall submit to the Public Procurement Review Board a
1587 schedule of proposed equipment acquisitions for the master
1588 lease-purchase program. Upon approval of an equipment schedule by
1589 the Public Procurement Review Board with the advice of the
1590 Department of Information Technology Services, the Office of
1591 Purchasing, Travel and Fleet Management, and the Division of
1592 Energy and Transportation of the Mississippi Development Authority
1593 as it pertains to energy efficient climate control systems, the



1594 Public Procurement Review Board shall forward a copy of the
1595 equipment schedule to the Department of Finance and
1596 Administration.

1597 (4) The level of lease-purchase debt recommended by the
1598 Department of Finance and Administration shall be subject to
1599 approval by the State Bond Commission. After such approval, the
1600 Department of Finance and Administration shall be authorized to
1601 advertise and solicit written competitive proposals for a lessor,
1602 who will purchase the equipment pursuant to bid awards made by the
1603 using agency under a given category and then transfer the
1604 equipment to the Department of Finance and Administration as
1605 lessee, pursuant to a master lease-purchase agreement.

1606 The Department of Finance and Administration shall select the
1607 successful proposer for the financing of equipment under the
1608 master lease-purchase program with the approval of the State Bond
1609 Commission.

1610 (5) Each master lease-purchase agreement, and any subsequent
1611 amendments, shall include such terms and conditions as the State
1612 Bond Commission shall determine to be appropriate and in the
1613 public interest, and may include any covenants deemed necessary or
1614 desirable to protect the interests of the lessor, including, but
1615 not limited to, provisions setting forth the interest rate (or
1616 method for computing interest rates) for financing pursuant to
1617 such agreement, covenants concerning application of payments and
1618 funds held in the Master Lease-Purchase Program Fund, covenants to



1619 maintain casualty insurance with respect to equipment subject to
1620 the master lease-purchase agreement (and all state agencies are
1621 specifically authorized to purchase any insurance required by a
1622 master lease-purchase agreement) and covenants precluding or
1623 limiting the right of the lessee or user to acquire equipment
1624 within a specified time (not to exceed five (5) years) after
1625 cancellation on the basis of a failure to appropriate funds for
1626 payment of amounts due under a lease-purchase agreement covering
1627 comparable equipment. The State Bond Commission shall transmit
1628 copies of each such master lease-purchase agreement and each such
1629 amendment to the Joint Legislative Budget Committee. To the
1630 extent provided in any master lease-purchase agreement, title to
1631 equipment leased pursuant thereto shall be deemed to be vested in
1632 the state or the user of the equipment (as specified in such
1633 master lease-purchase agreement), subject to default under or
1634 termination of such master lease-purchase agreement.

1635 A master lease-purchase agreement may provide for payment by
1636 the lessor to the lessee of the purchase price of the equipment to
1637 be acquired pursuant thereto prior to the date on which payment is
1638 due to the vendor for such equipment and that the lease payments
1639 by the lessee shall commence as though the equipment had been
1640 provided on the date of payment. If the lessee, or lessee's
1641 escrow agent, has sufficient funds for payment of equipment
1642 purchases prior to payment due date to vendor of equipment, such
1643 funds shall be held or utilized on an as-needed basis for payment



1644 of equipment purchases either by the State Treasurer (in which
1645 event the master lease-purchase agreement may include provisions
1646 concerning the holding of such funds, the creation of a security
1647 interest for the benefit of the lessor in such funds until
1648 disbursed and other appropriate provisions approved by the Bond
1649 Commission) or by a corporate trustee selected by the Department
1650 of Finance and Administration (in which event the Department of
1651 Finance and Administration shall have the authority to enter into
1652 an agreement with such a corporate trustee containing terms and
1653 conditions approved by the Bond Commission). Earnings on any
1654 amount paid by the lessor prior to the acquisition of the
1655 equipment may be used to make lease payments under the master
1656 lease-purchase agreement or applied to pay costs and expenses
1657 incurred in connection with such lease-purchase agreement. In
1658 such event, the equipment-use agreements with the user agency may
1659 provide for lease payments to commence upon the date of payment by
1660 the lessor and may also provide for a credit against such payments
1661 to the extent that investment receipts from investment of the
1662 purchase price are to be used to make lease-purchase payments.

1663 (6) The annual rate of interest paid under any
1664 lease-purchase agreement authorized under this section shall not
1665 exceed the maximum interest rate to maturity on general obligation
1666 indebtedness permitted under Section 75-17-101.

1667 (7) The Department of Finance and Administration shall
1668 furnish the equipment to the various agencies, also known as the



1669 user, pursuant to an equipment-use agreement developed by the
1670 Department of Finance and Administration. Such agreements shall
1671 require that all monthly payments due from such agency be paid,
1672 transferred or allocated into the Master Lease-Purchase Program
1673 Fund pursuant to a schedule established by the Department of
1674 Finance and Administration. In the event such sums are not paid
1675 by the defined payment period, the Executive Director of the
1676 Department of Finance and Administration shall issue a requisition
1677 for a warrant to draw such amount as may be due from any funds
1678 appropriated for the use of the agency which has failed to make
1679 the payment as agreed.

1680 (8) All master lease-purchase agreements executed under the
1681 authority of this section shall contain the following annual
1682 allocation dependency clause or an annual allocation dependency
1683 clause which is substantially equivalent thereto: "The
1684 continuation of each equipment schedule to this agreement is
1685 contingent in whole or in part upon the appropriation of funds by
1686 the Legislature to make the lease-purchase payments required under
1687 such equipment schedule. If the Legislature fails to appropriate
1688 sufficient funds to provide for the continuation of the
1689 lease-purchase payments under any such equipment schedule, then
1690 the obligations of the lessee and of the agency to make such
1691 lease-purchase payments and the corresponding provisions of any
1692 such equipment schedule to this agreement shall terminate on the
1693 last day of the fiscal year for which appropriations were made."



1694 (9) The maximum lease term for any equipment acquired under
1695 the master lease-purchase program shall not exceed the useful life
1696 of such equipment as determined according to the upper limit of
1697 the asset depreciation range (ADR) guidelines for the Class Life
1698 Asset Depreciation Range System established by the Internal
1699 Revenue Service pursuant to the United States Internal Revenue
1700 Code and Regulations thereunder as in effect on December 31, 1980,
1701 or comparable depreciation guidelines with respect to any
1702 equipment not covered by ADR guidelines. The Department of
1703 Finance and Administration shall be deemed to have met the
1704 requirements of this subsection if the term of a master
1705 lease-purchase agreement does not exceed the weighted average
1706 useful life of all equipment covered by such agreement and the
1707 schedules thereto as determined by the Department of Finance and
1708 Administration. For purposes of this subsection, the "term of a
1709 master lease-purchase agreement" shall be the weighted average
1710 maturity of all principal payments to be made under such master
1711 lease-purchase agreement and all schedules thereto.

1712 (10) Interest paid on any master lease-purchase agreement
1713 under this section shall be exempt from State of Mississippi
1714 income taxation. All equipment, and the purchase thereof by any
1715 lessor, acquired under the master lease-purchase program and all
1716 lease-purchase payments with respect thereto shall be exempt from
1717 all Mississippi sales, use and ad valorem taxes.



1718 (11) The Governor, in his annual executive budget to the
1719 Legislature, shall recommend appropriations sufficient to provide
1720 funds to pay all amounts due and payable during the applicable
1721 fiscal year under master lease-purchase agreements entered into
1722 pursuant to this section.

1723 (12) Any master lease-purchase agreement reciting in
1724 substance that such agreement has been entered into pursuant to
1725 this section shall be conclusively deemed to have been entered
1726 into in accordance with all of the provisions and conditions set
1727 forth in this section. Any defect or irregularity arising with
1728 respect to procedures applicable to the acquisition of any
1729 equipment shall not invalidate or otherwise limit the obligation
1730 of the Department of Finance and Administration, or the state or
1731 any agency of the state, under any master lease-purchase agreement
1732 or any equipment-use agreement.

1733 (13) There shall be maintained by the Department of Finance
1734 and Administration, with respect to each master lease-purchase
1735 agreement, an itemized statement of the cash price, interest
1736 rates, interest costs, commissions, debt service schedules and all
1737 other costs and expenses paid by the state incident to the
1738 lease-purchase of equipment under such agreement.

1739 (14) Lease-purchase agreements entered into by the Board of
1740 Trustees of State Institutions of Higher Learning pursuant to the
1741 authority of Section 37-101-413 or by any other agency which has
1742 specific statutory authority other than pursuant to Section



1743 31-7-13(e) to acquire equipment by lease-purchase shall not be
1744 made pursuant to the master lease-purchase program under this
1745 section, unless the Board of Trustees of State Institutions of
1746 Higher Learning or such other agency elects to participate as to
1747 part or all of its lease-purchase acquisitions in the master
1748 lease-purchase program pursuant to this section.

1749 (15) The Department of Finance and Administration may
1750 develop a master lease-purchase program for school districts and,
1751 pursuant to that program, may execute on behalf of the school
1752 districts master lease-purchase agreements for equipment to be
1753 used by the school districts. The form and structure of this
1754 program shall be substantially the same as set forth in this
1755 section for the master lease-purchase program for state agencies.
1756 If sums due from a school district under the master lease-purchase
1757 program are not paid by the expiration of the defined payment
1758 period, the Executive Director of the Department of Finance and
1759 Administration may withhold such amount that is due from the
1760 school district's allotments of the total funding formula funds as
1761 determined by Sections 37-151-200 through 37-151-215.

1762 (16) The Department of Finance and Administration may
1763 develop a master lease-purchase program for community and junior
1764 college districts and, pursuant to that program, may execute on
1765 behalf of the community and junior college districts master
1766 lease-purchase agreements for equipment to be used by the
1767 community and junior college districts. The form and structure of



1768 this program must be substantially the same as set forth in this
1769 section for the master lease-purchase program for state agencies.
1770 If sums due from a community or junior college district under the
1771 master lease-purchase program are not paid by the expiration of
1772 the defined payment period, the Executive Director of the
1773 Department of Finance and Administration may withhold an amount
1774 equal to the amount due under the program from any funds allocated
1775 for that community or junior college district in the state
1776 appropriations for the use and support of the community and junior
1777 colleges.

1778 (17) From and after July 1, 2016, the expenses of this
1779 agency shall be defrayed by appropriation from the State General
1780 Fund and all user charges and fees authorized under this section
1781 shall be deposited into the State General Fund as authorized by
1782 law.

1783 (18) From and after July 1, 2016, no state agency shall
1784 charge another state agency a fee, assessment, rent or other
1785 charge for services or resources received by authority of this
1786 section.

1787 **SECTION 45.** Section 31-7-11, Mississippi Code of 1972, is
1788 brought forward as follows:

1789 31-7-11. Each agency of the state shall furnish information
1790 relative to its purchase of commodities, and as to its method of
1791 purchasing such commodities, to the Department of Finance and



1792 Administration annually and at such other times as the Department
1793 of Finance and Administration may request.

1794 The Department of Finance and Administration shall have
1795 supervision over the purchasing and purchasing practices of each
1796 state agency and may by regulation or order correct any practice
1797 that appears contrary to the provisions of this chapter or to the
1798 best interests of the state. If it shall appear that any agency
1799 is not practicing economy in its purchasing or is permitting
1800 favoritism or any improper purchasing practice, the Department of
1801 Finance and Administration shall require that the agency
1802 immediately cease such improper activity, with full and complete
1803 authority in the Department of Finance and Administration to carry
1804 into effect its directions in such regard.

1805 All purchases, trade-ins, sales or transfer of personal
1806 property made by any officer, board, agency, department or branch
1807 of the state government except the Legislature shall be subject to
1808 the approval of the Department of Finance and Administration.
1809 Such transaction shall be made in accordance with rules and
1810 regulations of the Department of Finance and Administration
1811 relating to the purchase of state-owned motor vehicles and all
1812 other personal property. The title of such property shall remain
1813 in the name of the state.

1814 **SECTION 46.** Section 31-7-12, Mississippi Code of 1972, is
1815 brought forward as follows:



1816 31-7-12. (1) Except in regard to purchases of unmarked
1817 vehicles made in accordance with purchasing regulations adopted by
1818 the Department of Finance and Administration pursuant to Section
1819 31-7-9(2), all agencies shall purchase commodities at the state
1820 contract price from the approved source, unless approval is
1821 granted by the Department of Finance and Administration to solicit
1822 purchases outside the terms of the contracts. However, prices
1823 accepted by an agency shall be less than the prices set by the
1824 state contract. Prices accepted by an agency shall be obtained in
1825 compliance with paragraph (a), (b) or (c) of Section 31-7-13. It
1826 shall be the responsibility of the Department of Finance and
1827 Administration to ascertain that the resulting prices shall
1828 provide a cost effective alternative to the established state
1829 contract.

1830 (2) Governing authorities may purchase commodities approved
1831 by the Department of Finance and Administration from the state
1832 contract vendor, or from any source offering the identical
1833 commodity, at a price not exceeding the state contract price
1834 established by the Department of Finance and Administration for
1835 such commodity, without obtaining or advertising for competitive
1836 bids. Governing authorities that do not exercise the option to
1837 purchase such commodities from the state contract vendor or from
1838 another source offering the identical commodity at a price not
1839 exceeding the state contract price established by the Department
1840 of Finance and Administration shall make such purchases pursuant



1841 to the provisions of Section 31-7-13 without regard to state
1842 contract prices established by the Department of Finance and
1843 Administration, unless such purchases are authorized to be made
1844 under subsection (5) of this section.

1845 (3) Nothing in this section shall prohibit governing
1846 authorities from purchasing, pursuant to subsection (2) of this
1847 section, commodities approved by the Department of Finance and
1848 Administration at a price not exceeding the state contract price
1849 established by the Department of Finance and Administration.

1850 (4) The Department of Finance and Administration shall
1851 ensure that the prices of all commodities on the state contract
1852 are the lowest and best prices available from any source offering
1853 that commodity at the same level of quality or service, utilizing
1854 the reasonable standards established therefor by the Department of
1855 Finance and Administration. If the Department of Finance and
1856 Administration does not list an approved price for the particular
1857 item involved, purchase shall be made according to statutory
1858 bidding and licensing requirements. To encourage prudent
1859 purchasing practices, the Department of Finance and Administration
1860 shall be authorized and empowered to exempt certain commodities
1861 from the requirement that the lowest and best price be approved by
1862 order placed on its minutes.

1863 (5) Any school district may purchase commodities from
1864 vendors with which any levying authority of the school district,
1865 as defined in Section 37-57-1, has contracted through competitive



1866 bidding procedures pursuant to Section 31-7-13 for purchases of
1867 the same commodities. Purchases authorized by this subsection may
1868 be made by a school district without obtaining or advertising for
1869 competitive bids, and such purchases shall be made at the same
1870 prices and under the same conditions as purchases of the same
1871 commodities are to be made by the levying authority of the school
1872 district under the contract with the vendor.

1873 **SECTION 47.** Section 31-7-13, Mississippi Code of 1972, is
1874 brought forward as follows:

1875 31-7-13. All agencies and governing authorities shall
1876 purchase their commodities and printing; contract for garbage
1877 collection or disposal; contract for solid waste collection or
1878 disposal; contract for sewage collection or disposal; contract for
1879 public construction; and contract for rentals as herein provided.

1880 (a) **Bidding procedure for purchases not over \$5,000.00.**

1881 Purchases which do not involve an expenditure of more than Five
1882 Thousand Dollars (\$5,000.00), exclusive of freight or shipping
1883 charges, may be made without advertising or otherwise requesting
1884 competitive bids. However, nothing contained in this paragraph

1885 (a) shall be construed to prohibit any agency or governing
1886 authority from establishing procedures which require competitive
1887 bids on purchases of Five Thousand Dollars (\$5,000.00) or less.

1888 (b) **Bidding procedure for purchases over \$5,000.00 but**

1889 **not over \$75,000.00.** Purchases which involve an expenditure of
1890 more than Five Thousand Dollars (\$5,000.00) but not more than



1891 Seventy-five Thousand Dollars (\$75,000.00), exclusive of freight
1892 and shipping charges, may be made from the lowest and best bidder
1893 without publishing or posting advertisement for bids, provided at
1894 least two (2) competitive written bids have been obtained. Any
1895 state agency or community or junior college purchasing commodities
1896 or procuring construction pursuant to this paragraph (b) may
1897 authorize its purchasing agent, or his designee, to accept the
1898 lowest competitive written bid under Seventy-five Thousand Dollars
1899 (\$75,000.00). Any governing authority purchasing commodities
1900 pursuant to this paragraph (b) may authorize its purchasing agent,
1901 or his designee, with regard to governing authorities other than
1902 counties, or its purchase clerk, or his designee, with regard to
1903 counties, to accept the lowest and best competitive written bid.
1904 Such authorization shall be made in writing by the governing
1905 authority and shall be maintained on file in the primary office of
1906 the agency and recorded in the official minutes of the governing
1907 authority, as appropriate. The purchasing agent or the purchase
1908 clerk, or his designee, as the case may be, and not the governing
1909 authority, shall be liable for any penalties and/or damages as may
1910 be imposed by law for any act or omission of the purchasing agent
1911 or purchase clerk, or his designee, constituting a violation of
1912 law in accepting any bid without approval by the governing
1913 authority. The term "competitive written bid" shall mean a bid
1914 submitted on a bid form furnished by the buying agency or
1915 governing authority and signed by authorized personnel



1916 representing the vendor, or a bid submitted on a vendor's
1917 letterhead or identifiable bid form and signed by authorized
1918 personnel representing the vendor. "Competitive" shall mean that
1919 the bids are developed based upon comparable identification of the
1920 needs and are developed independently and without knowledge of
1921 other bids or prospective bids. Any bid item for construction in
1922 excess of Five Thousand Dollars (\$5,000.00) shall be broken down
1923 by components to provide detail of component description and
1924 pricing. These details shall be submitted with the written bids
1925 and become part of the bid evaluation criteria. Bids may be
1926 submitted by facsimile, electronic mail or other generally
1927 accepted method of information distribution. Bids submitted by
1928 electronic transmission shall not require the signature of the
1929 vendor's representative unless required by agencies or governing
1930 authorities.

1931 (c) **Bidding procedure for purchases over \$75,000.00.**

1932 (i) **Publication requirement.**

1933 1. Purchases which involve an expenditure of
1934 more than Seventy-five Thousand Dollars (\$75,000.00), exclusive of
1935 freight and shipping charges, may be made from the lowest and best
1936 bidder after advertising for competitive bids once each week for
1937 two (2) consecutive weeks in a regular newspaper published in the
1938 county or municipality in which such agency or governing authority
1939 is located. However, all American Recovery and Reinvestment Act
1940 projects in excess of Twenty-five Thousand Dollars (\$25,000.00)



1941 shall be bid. All references to American Recovery and
1942 Reinvestment Act projects in this section shall not apply to
1943 programs identified in Division B of the American Recovery and
1944 Reinvestment Act.

1945 2. Reverse auctions shall be the primary
1946 method for receiving bids during the bidding process. If a
1947 purchasing entity determines that a reverse auction is not in the
1948 best interest of the state, then that determination must be
1949 approved by the Public Procurement Review Board. The purchasing
1950 entity shall submit a detailed explanation of why a reverse
1951 auction would not be in the best interest of the state and present
1952 an alternative process to be approved by the Public Procurement
1953 Review Board. If the Public Procurement Review Board authorizes
1954 the purchasing entity to solicit bids with a method other than
1955 reverse auction, then the purchasing entity may designate the
1956 other methods by which the bids will be received, including, but
1957 not limited to, bids sealed in an envelope, bids received
1958 electronically in a secure system, or bids received by any other
1959 method that promotes open competition and has been approved by the
1960 Office of Purchasing and Travel. However, reverse auction shall
1961 not be used for any public contract for design, construction,
1962 improvement, repair or remodeling of any public facilities,
1963 including the purchase of materials, supplies, equipment or goods
1964 for same and including buildings, roads and bridges. The Public
1965 Procurement Review Board must approve any contract entered into by



1966 alternative process. The provisions of this item 2 shall not
1967 apply to the individual state institutions of higher learning.
1968 The provisions of this item 2 requiring reverse auction as the
1969 primary method of receiving bids shall not apply to term contract
1970 purchases as provided in paragraph (n) of this section; however, a
1971 purchasing entity may, in its discretion, utilize reverse auction
1972 for such purchases. The provisions of this item 2 shall not apply
1973 to individual public schools, including public charter schools and
1974 public school districts, only when purchasing copyrighted
1975 educational supplemental materials and software as a service
1976 product. For such purchases, a local school board may authorize a
1977 purchasing entity in its jurisdiction to use a Request for
1978 Qualifications which promotes open competition and meets the
1979 requirements of the Office of Purchasing and Travel.

1980 3. The date as published for the bid opening
1981 shall not be less than seven (7) working days after the last
1982 published notice; however, if the purchase involves a construction
1983 project in which the estimated cost is in excess of Seventy-five
1984 Thousand Dollars (\$75,000.00), such bids shall not be opened in
1985 less than fifteen (15) working days after the last notice is
1986 published and the notice for the purchase of such construction
1987 shall be published once each week for two (2) consecutive weeks.
1988 The notice of intention to let contracts or purchase equipment
1989 shall state the time and place at which bids shall be received,
1990 list the contracts to be made or types of equipment or supplies to



1991 be purchased, and, if all plans and/or specifications are not
1992 published, refer to the plans and/or specifications on file. If
1993 there is no newspaper published in the county or municipality,
1994 then such notice shall be given by posting same at the courthouse,
1995 or for municipalities at the city hall, and at two (2) other
1996 public places in the county or municipality, and also by
1997 publication once each week for two (2) consecutive weeks in some
1998 newspaper having a general circulation in the county or
1999 municipality in the above-provided manner. On the same date that
2000 the notice is submitted to the newspaper for publication, the
2001 agency or governing authority involved shall mail written notice
2002 to, or provide electronic notification to the main office of the
2003 Mississippi Procurement Technical Assistance Program under the
2004 Mississippi Development Authority that contains the same
2005 information as that in the published notice. Within one (1)
2006 working day of the contract award, the agency or governing
2007 authority shall post to the designated web page maintained by the
2008 Department of Finance and Administration, notice of the award,
2009 including the award recipient, the contract amount, and a brief
2010 summary of the contract in accordance with rules promulgated by
2011 the department. Within one (1) working day of the contract
2012 execution, the agency or governing authority shall post to the
2013 designated web page maintained by the Department of Finance and
2014 Administration a summary of the executed contract and make a copy
2015 of the appropriately redacted contract documents available for



2016 linking to the designated web page in accordance with the rules
2017 promulgated by the department. The information provided by the
2018 agency or governing authority shall be posted to the web page
2019 until the project is completed.

2020 4. Agencies and governing authorities using
2021 federal funds for the procurement of any good or service,
2022 including exempt personal and professional services, must comply
2023 with the Uniform Administrative Requirements, Cost Principles, and
2024 Audit Requirements for Federal Awards - Subpart D - Post Federal
2025 Award Requirements Procurement Standards, in accordance with 2 CFR
2026 200.317 through 2 CFR 200.327.

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



2041 to a date not less than five (5) working days after the date of
2042 the addendum.

2043 (iii) **Filing requirement.** In all cases involving
2044 governing authorities, before the notice shall be published or
2045 posted, the plans or specifications for the construction or
2046 equipment being sought shall be filed with the clerk of the board
2047 of the governing authority. In addition to these requirements, a
2048 bid file shall be established which shall indicate those vendors
2049 to whom such solicitations and specifications were issued, and
2050 such file shall also contain such information as is pertinent to
2051 the bid.

2052 (iv) **Specification restrictions.**

2053 1. Specifications pertinent to such bidding
2054 shall be written so as not to exclude comparable equipment of
2055 domestic manufacture. However, if valid justification is
2056 presented, the Department of Finance and Administration or the
2057 board of a governing authority may approve a request for specific
2058 equipment necessary to perform a specific job. Further, such
2059 justification, when placed on the minutes of the board of a
2060 governing authority, may serve as authority for that governing
2061 authority to write specifications to require a specific item of
2062 equipment needed to perform a specific job. In addition to these
2063 requirements, from and after July 1, 1990, vendors of relocatable
2064 classrooms and the specifications for the purchase of such
2065 relocatable classrooms published by local school boards shall meet



2066 all pertinent regulations of the State Board of Education,
2067 including prior approval of such bid by the State Department of
2068 Education.

2069 2. Specifications for construction projects
2070 may include an allowance for commodities, equipment, furniture,
2071 construction materials or systems in which prospective bidders are
2072 instructed to include in their bids specified amounts for such
2073 items so long as the allowance items are acquired by the vendor in
2074 a commercially reasonable manner and approved by the
2075 agency/governing authority. Such acquisitions shall not be made
2076 to circumvent the public purchasing laws.

2077 (v) **Electronic bids.** Agencies and governing
2078 authorities shall provide a secure electronic interactive system
2079 for the submittal of bids requiring competitive bidding that shall
2080 be an additional bidding option for those bidders who choose to
2081 submit their bids electronically. The Department of Finance and
2082 Administration shall provide, by regulation, the standards that
2083 agencies must follow when receiving electronic bids. Agencies and
2084 governing authorities shall make the appropriate provisions
2085 necessary to accept electronic bids from those bidders who choose
2086 to submit their bids electronically for all purchases requiring
2087 competitive bidding under this section. Any special condition or
2088 requirement for the electronic bid submission shall be specified
2089 in the advertisement for bids required by this section. Agencies
2090 or governing authorities that are currently without available high



2091 speed Internet access shall be exempt from the requirement of this
2092 subparagraph (v) until such time that high speed Internet access
2093 becomes available. Any county having a population of less than
2094 twenty thousand (20,000) shall be exempt from the provisions of
2095 this subparagraph (v). Any municipality having a population of
2096 less than ten thousand (10,000) shall be exempt from the
2097 provisions of this subparagraph (v). The provisions of this
2098 subparagraph (v) shall not require any bidder to submit bids
2099 electronically. When construction bids are submitted
2100 electronically, the requirement for including a certificate of
2101 responsibility, or a statement that the bid enclosed does not
2102 exceed Fifty Thousand Dollars (\$50,000.00), on the exterior of the
2103 bid envelope as indicated in Section 31-3-21(1) and (2) shall be
2104 deemed in compliance with by including same as an attachment with
2105 the electronic bid submittal.

2106 (d) **Lowest and best bid decision procedure.**

2107 (i) **Decision procedure.** Purchases may be made
2108 from the lowest and best bidder. In determining the lowest and
2109 best bid, freight and shipping charges shall be included.
2110 Life-cycle costing, total cost bids, warranties, guaranteed
2111 buy-back provisions and other relevant provisions may be included
2112 in the best bid calculation. All best bid procedures for state
2113 agencies must be in compliance with regulations established by the
2114 Department of Finance and Administration. If any governing
2115 authority accepts a bid other than the lowest bid actually



2116 submitted, it shall place on its minutes detailed calculations and
2117 narrative summary showing that the accepted bid was determined to
2118 be the lowest and best bid, including the dollar amount of the
2119 accepted bid and the dollar amount of the lowest bid. No agency
2120 or governing authority shall accept a bid based on items not
2121 included in the specifications.

2122 (ii) **Decision procedure for Certified Purchasing**
2123 **Offices.** In addition to the decision procedure set forth in
2124 subparagraph (i) of this paragraph (d), Certified Purchasing
2125 Offices may also use the following procedure: Purchases may be
2126 made from the bidder offering the best value. In determining the
2127 best value bid, freight and shipping charges shall be included.
2128 Life-cycle costing, total cost bids, warranties, guaranteed
2129 buy-back provisions, documented previous experience, training
2130 costs and other relevant provisions, including, but not limited
2131 to, a bidder having a local office and inventory located within
2132 the jurisdiction of the governing authority, may be included in
2133 the best value calculation. This provision shall authorize
2134 Certified Purchasing Offices to utilize a Request For Proposals
2135 (RFP) process when purchasing commodities. All best value
2136 procedures for state agencies must be in compliance with
2137 regulations established by the Department of Finance and
2138 Administration. No agency or governing authority shall accept a
2139 bid based on items or criteria not included in the specifications.



2140 (iii) **Decision procedure for Mississippi**
2141 **Landmarks.** In addition to the decision procedure set forth in
2142 subparagraph (i) of this paragraph (d), where purchase involves
2143 renovation, restoration, or both, of the State Capitol Building or
2144 any other historical building designated for at least five (5)
2145 years as a Mississippi Landmark by the Board of Trustees of the
2146 Department of Archives and History under the authority of Sections
2147 39-7-7 and 39-7-11, the agency or governing authority may use the
2148 following procedure: Purchases may be made from the lowest and
2149 best prequalified bidder. Prequalification of bidders shall be
2150 determined not less than fifteen (15) working days before the
2151 first published notice of bid opening. Prequalification criteria
2152 shall be limited to bidder's knowledge and experience in
2153 historical restoration, preservation and renovation. In
2154 determining the lowest and best bid, freight and shipping charges
2155 shall be included. Life-cycle costing, total cost bids,
2156 warranties, guaranteed buy-back provisions and other relevant
2157 provisions may be included in the best bid calculation. All best
2158 bid and prequalification procedures for state agencies must be in
2159 compliance with regulations established by the Department of
2160 Finance and Administration. If any governing authority accepts a
2161 bid other than the lowest bid actually submitted, it shall place
2162 on its minutes detailed calculations and narrative summary showing
2163 that the accepted bid was determined to be the lowest and best
2164 bid, including the dollar amount of the accepted bid and the



2165 dollar amount of the lowest bid. No agency or governing authority
2166 shall accept a bid based on items not included in the
2167 specifications.

2168 (iv) **Construction project negotiations authority.**

2169 If the lowest and best bid is not more than ten percent (10%)
2170 above the amount of funds allocated for a public construction or
2171 renovation project, then the agency or governing authority shall
2172 be permitted to negotiate with the lowest bidder in order to enter
2173 into a contract for an amount not to exceed the funds allocated.

2174 (e) **Lease-purchase authorization.** For the purposes of
2175 this section, the term "equipment" shall mean equipment, furniture
2176 and, if applicable, associated software and other applicable
2177 direct costs associated with the acquisition. Any lease-purchase
2178 of equipment which an agency is not required to lease-purchase
2179 under the master lease-purchase program pursuant to Section
2180 31-7-10 and any lease-purchase of equipment which a governing
2181 authority elects to lease-purchase may be acquired by a
2182 lease-purchase agreement under this paragraph (e). Lease-purchase
2183 financing may also be obtained from the vendor or from a
2184 third-party source after having solicited and obtained at least
2185 two (2) written competitive bids, as defined in paragraph (b) of
2186 this section, for such financing without advertising for such
2187 bids. Solicitation for the bids for financing may occur before or
2188 after acceptance of bids for the purchase of such equipment or,
2189 where no such bids for purchase are required, at any time before



2190 the purchase thereof. No such lease-purchase agreement shall be
2191 for an annual rate of interest which is greater than the overall
2192 maximum interest rate to maturity on general obligation
2193 indebtedness permitted under Section 75-17-101, and the term of
2194 such lease-purchase agreement shall not exceed the useful life of
2195 equipment covered thereby as determined according to the upper
2196 limit of the asset depreciation range (ADR) guidelines for the
2197 Class Life Asset Depreciation Range System established by the
2198 Internal Revenue Service pursuant to the United States Internal
2199 Revenue Code and regulations thereunder as in effect on December
2200 31, 1980, or comparable depreciation guidelines with respect to
2201 any equipment not covered by ADR guidelines. Any lease-purchase
2202 agreement entered into pursuant to this paragraph (e) may contain
2203 any of the terms and conditions which a master lease-purchase
2204 agreement may contain under the provisions of Section 31-7-10(5),
2205 and shall contain an annual allocation dependency clause
2206 substantially similar to that set forth in Section 31-7-10(8).
2207 Each agency or governing authority entering into a lease-purchase
2208 transaction pursuant to this paragraph (e) shall maintain with
2209 respect to each such lease-purchase transaction the same
2210 information as required to be maintained by the Department of
2211 Finance and Administration pursuant to Section 31-7-10(13).
2212 However, nothing contained in this section shall be construed to
2213 permit agencies to acquire items of equipment with a total
2214 acquisition cost in the aggregate of less than Ten Thousand



2215 Dollars (\$10,000.00) by a single lease-purchase transaction. All
2216 equipment, and the purchase thereof by any lessor, acquired by
2217 lease-purchase under this paragraph and all lease-purchase
2218 payments with respect thereto shall be exempt from all Mississippi
2219 sales, use and ad valorem taxes. Interest paid on any
2220 lease-purchase agreement under this section shall be exempt from
2221 State of Mississippi income taxation.

2222 (f) **Alternate bid authorization.** When necessary to
2223 ensure ready availability of commodities for public works and the
2224 timely completion of public projects, no more than two (2)
2225 alternate bids may be accepted by a governing authority for
2226 commodities. No purchases may be made through use of such
2227 alternate bids procedure unless the lowest and best bidder cannot
2228 deliver the commodities contained in his bid. In that event,
2229 purchases of such commodities may be made from one (1) of the
2230 bidders whose bid was accepted as an alternate.

2231 (g) **Construction contract change authorization.** In the
2232 event a determination is made by an agency or governing authority
2233 after a construction contract is let that changes or modifications
2234 to the original contract are necessary or would better serve the
2235 purpose of the agency or the governing authority, such agency or
2236 governing authority may, in its discretion, order such changes
2237 pertaining to the construction that are necessary under the
2238 circumstances without the necessity of further public bids;
2239 provided that such change shall be made in a commercially



2240 reasonable manner and shall not be made to circumvent the public
2241 purchasing statutes. In addition to any other authorized person,
2242 the architect or engineer hired by an agency or governing
2243 authority with respect to any public construction contract shall
2244 have the authority, when granted by an agency or governing
2245 authority, to authorize changes or modifications to the original
2246 contract without the necessity of prior approval of the agency or
2247 governing authority when any such change or modification is less
2248 than one percent (1%) of the total contract amount. The agency or
2249 governing authority may limit the number, manner or frequency of
2250 such emergency changes or modifications.

2251 (h) **Petroleum purchase alternative.** In addition to
2252 other methods of purchasing authorized in this chapter, when any
2253 agency or governing authority shall have a need for gas, diesel
2254 fuel, oils and/or other petroleum products in excess of the amount
2255 set forth in paragraph (a) of this section, such agency or
2256 governing authority may purchase the commodity after having
2257 solicited and obtained at least two (2) competitive written bids,
2258 as defined in paragraph (b) of this section. If two (2)
2259 competitive written bids are not obtained, the entity shall comply
2260 with the procedures set forth in paragraph (c) of this section.
2261 In the event any agency or governing authority shall have
2262 advertised for bids for the purchase of gas, diesel fuel, oils and
2263 other petroleum products and coal and no acceptable bids can be
2264 obtained, such agency or governing authority is authorized and



2265 directed to enter into any negotiations necessary to secure the
2266 lowest and best contract available for the purchase of such
2267 commodities.

2268 (i) **Road construction petroleum products price**
2269 **adjustment clause authorization.** Any agency or governing
2270 authority authorized to enter into contracts for the construction,
2271 maintenance, surfacing or repair of highways, roads or streets,
2272 may include in its bid proposal and contract documents a price
2273 adjustment clause with relation to the cost to the contractor,
2274 including taxes, based upon an industry-wide cost index, of
2275 petroleum products including asphalt used in the performance or
2276 execution of the contract or in the production or manufacture of
2277 materials for use in such performance. Such industry-wide index
2278 shall be established and published monthly by the Mississippi
2279 Department of Transportation with a copy thereof to be mailed,
2280 upon request, to the clerks of the governing authority of each
2281 municipality and the clerks of each board of supervisors
2282 throughout the state. The price adjustment clause shall be based
2283 on the cost of such petroleum products only and shall not include
2284 any additional profit or overhead as part of the adjustment. The
2285 bid proposals or document contract shall contain the basis and
2286 methods of adjusting unit prices for the change in the cost of
2287 such petroleum products.

2288 (j) **State agency emergency purchase procedure.** If the
2289 governing board or the executive head, or his designees, of any



2290 agency of the state shall determine that an emergency exists in
2291 regard to the purchase of any commodities or repair contracts, so
2292 that the delay incident to giving opportunity for competitive
2293 bidding would be detrimental to the interests of the state, then
2294 the head of such agency, or his designees, shall file with the
2295 Department of Finance and Administration (i) a statement
2296 explaining the conditions and circumstances of the emergency,
2297 which shall include a detailed description of the events leading
2298 up to the situation and the negative impact to the entity if the
2299 purchase is made following the statutory requirements set forth in
2300 paragraph (a), (b) or (c) of this section, and (ii) a certified
2301 copy of the appropriate minutes of the board of such agency
2302 requesting the emergency purchase, if applicable. Upon receipt of
2303 the statement and applicable board certification, the State Fiscal
2304 Officer, or his designees, may, in writing, authorize the purchase
2305 or repair without having to comply with competitive bidding
2306 requirements.

2307 If the governing board or the executive head, or his
2308 designees, of any agency determines that an emergency exists in
2309 regard to the purchase of any commodities or repair contracts, so
2310 that the delay incident to giving opportunity for competitive
2311 bidding would threaten the health or safety of any person, or the
2312 preservation or protection of property, then the provisions in
2313 this section for competitive bidding shall not apply, and any
2314 officer or agent of the agency having general or specific



2315 authority for making the purchase or repair contract shall approve
2316 the bill presented for payment, and he shall certify in writing
2317 from whom the purchase was made, or with whom the repair contract
2318 was made.

2319 Total purchases made under this paragraph (j) shall only be
2320 for the purpose of meeting needs created by the emergency
2321 situation. Following the emergency purchase, documentation of the
2322 purchase, including a description of the commodity purchased, the
2323 purchase price thereof and the nature of the emergency shall be
2324 filed with the Department of Finance and Administration. Any
2325 contract awarded pursuant to this paragraph (j) shall not exceed a
2326 term of one (1) year.

2327 Purchases under the grant program established under Section
2328 37-68-7 in response to COVID-19 and the directive that school
2329 districts create a distance learning plan and fulfill technology
2330 needs expeditiously shall be deemed an emergency purchase for
2331 purposes of this paragraph (j).

2332 (k) **Governing authority emergency purchase procedure.**

2333 If the governing authority, or the governing authority acting
2334 through its designee, shall determine that an emergency exists in
2335 regard to the purchase of any commodities or repair contracts, so
2336 that the delay incident to giving opportunity for competitive
2337 bidding would be detrimental to the interest of the governing
2338 authority, then the provisions herein for competitive bidding
2339 shall not apply and any officer or agent of such governing



2340 authority having general or special authority therefor in making
2341 such purchase or repair shall approve the bill presented therefor,
2342 and he shall certify in writing thereon from whom such purchase
2343 was made, or with whom such a repair contract was made. At the
2344 board meeting next following the emergency purchase or repair
2345 contract, documentation of the purchase or repair contract,
2346 including a description of the commodity purchased, the price
2347 thereof and the nature of the emergency shall be presented to the
2348 board and shall be placed on the minutes of the board of such
2349 governing authority. Purchases under the grant program
2350 established under Section 37-68-7 in response to COVID-19 and the
2351 directive that school districts create a distance learning plan
2352 and fulfill technology needs expeditiously shall be deemed an
2353 emergency purchase for purposes of this paragraph (k).

2354 (1) **Hospital purchase, lease-purchase and lease**
2355 **authorization.**

2356 (i) The commissioners or board of trustees of any
2357 public hospital may contract with such lowest and best bidder for
2358 the purchase or lease-purchase of any commodity under a contract
2359 of purchase or lease-purchase agreement whose obligatory payment
2360 terms do not exceed five (5) years.

2361 (ii) In addition to the authority granted in
2362 subparagraph (i) of this paragraph (1), the commissioners or board
2363 of trustees is authorized to enter into contracts for the lease of
2364 equipment or services, or both, which it considers necessary for



2365 the proper care of patients if, in its opinion, it is not
2366 financially feasible to purchase the necessary equipment or
2367 services. Any such contract for the lease of equipment or
2368 services executed by the commissioners or board shall not exceed a
2369 maximum of five (5) years' duration and shall include a
2370 cancellation clause based on unavailability of funds. If such
2371 cancellation clause is exercised, there shall be no further
2372 liability on the part of the lessee. Any such contract for the
2373 lease of equipment or services executed on behalf of the
2374 commissioners or board that complies with the provisions of this
2375 subparagraph (ii) shall be excepted from the bid requirements set
2376 forth in this section.

2377 (m) **Exceptions from bidding requirements.** Excepted
2378 from bid requirements are:

2379 (i) **Purchasing agreements approved by department.**
2380 Purchasing agreements, contracts and maximum price regulations
2381 executed or approved by the Department of Finance and
2382 Administration.

2383 (ii) **Outside equipment repairs.** Repairs to
2384 equipment, when such repairs are made by repair facilities in the
2385 private sector; however, engines, transmissions, rear axles and/or
2386 other such components shall not be included in this exemption when
2387 replaced as a complete unit instead of being repaired and the need
2388 for such total component replacement is known before disassembly
2389 of the component; however, invoices identifying the equipment,



2390 specific repairs made, parts identified by number and name,
2391 supplies used in such repairs, and the number of hours of labor
2392 and costs therefor shall be required for the payment for such
2393 repairs.

2394 (iii) **In-house equipment repairs.** Purchases of
2395 parts for repairs to equipment, when such repairs are made by
2396 personnel of the agency or governing authority; however, entire
2397 assemblies, such as engines or transmissions, shall not be
2398 included in this exemption when the entire assembly is being
2399 replaced instead of being repaired.

2400 (iv) **Raw gravel or dirt.** Raw unprocessed deposits
2401 of gravel or fill dirt which are to be removed and transported by
2402 the purchaser.

2403 (v) **Governmental equipment auctions.** Motor
2404 vehicles or other equipment purchased from a federal agency or
2405 authority, another governing authority or state agency of the
2406 State of Mississippi, or any governing authority or state agency
2407 of another state at a public auction held for the purpose of
2408 disposing of such vehicles or other equipment. Any purchase by a
2409 governing authority under the exemption authorized by this
2410 subparagraph (v) shall require advance authorization spread upon
2411 the minutes of the governing authority to include the listing of
2412 the item or items authorized to be purchased and the maximum bid
2413 authorized to be paid for each item or items.



2414 (vi) **Intergovernmental sales and transfers.**
2415 Purchases, sales, transfers or trades by governing authorities or
2416 state agencies when such purchases, sales, transfers or trades are
2417 made by a private treaty agreement or through means of
2418 negotiation, from any federal agency or authority, another
2419 governing authority or state agency of the State of Mississippi,
2420 or any state agency or governing authority of another state.
2421 Nothing in this section shall permit such purchases through public
2422 auction except as provided for in subparagraph (v) of this
2423 paragraph (m). It is the intent of this section to allow
2424 governmental entities to dispose of and/or purchase commodities
2425 from other governmental entities at a price that is agreed to by
2426 both parties. This shall allow for purchases and/or sales at
2427 prices which may be determined to be below the market value if the
2428 selling entity determines that the sale at below market value is
2429 in the best interest of the taxpayers of the state. Governing
2430 authorities shall place the terms of the agreement and any
2431 justification on the minutes, and state agencies shall obtain
2432 approval from the Department of Finance and Administration, prior
2433 to releasing or taking possession of the commodities.

2434 (vii) **Perishable supplies or food.** Perishable
2435 supplies or food purchased for use in connection with hospitals,
2436 the school lunch programs, homemaking programs and for the feeding
2437 of county or municipal prisoners.



2438 (viii) **Single-source items.** Noncompetitive items
2439 available from one (1) source only. In connection with the
2440 purchase of noncompetitive items only available from one (1)
2441 source, a certification of the conditions and circumstances
2442 requiring the purchase shall be filed by the agency with the
2443 Department of Finance and Administration and by the governing
2444 authority with the board of the governing authority. Upon receipt
2445 of that certification the Department of Finance and Administration
2446 or the board of the governing authority, as the case may be, may,
2447 in writing, authorize the purchase, which authority shall be noted
2448 on the minutes of the body at the next regular meeting thereafter.
2449 In those situations, a governing authority is not required to
2450 obtain the approval of the Department of Finance and
2451 Administration. Following the purchase, the executive head of the
2452 state agency, or his designees, shall file with the Department of
2453 Finance and Administration, documentation of the purchase,
2454 including a description of the commodity purchased, the purchase
2455 price thereof and the source from whom it was purchased.

2456 (ix) **Waste disposal facility construction**
2457 **contracts.** Construction of incinerators and other facilities for
2458 disposal of solid wastes in which products either generated
2459 therein, such as steam, or recovered therefrom, such as materials
2460 for recycling, are to be sold or otherwise disposed of; however,
2461 in constructing such facilities, a governing authority or agency
2462 shall publicly issue requests for proposals, advertised for in the



2463 same manner as provided herein for seeking bids for public
2464 construction projects, concerning the design, construction,
2465 ownership, operation and/or maintenance of such facilities,
2466 wherein such requests for proposals when issued shall contain
2467 terms and conditions relating to price, financial responsibility,
2468 technology, environmental compatibility, legal responsibilities
2469 and such other matters as are determined by the governing
2470 authority or agency to be appropriate for inclusion; and after
2471 responses to the request for proposals have been duly received,
2472 the governing authority or agency may select the most qualified
2473 proposal or proposals on the basis of price, technology and other
2474 relevant factors and from such proposals, but not limited to the
2475 terms thereof, negotiate and enter contracts with one or more of
2476 the persons or firms submitting proposals.

2477 (x) **Hospital group purchase contracts.** Supplies,
2478 commodities and equipment purchased by hospitals through group
2479 purchase programs pursuant to Section 31-7-38.

2480 (xi) **Information technology products.** Purchases
2481 of information technology products made by governing authorities
2482 under the provisions of purchase schedules, or contracts executed
2483 or approved by the Mississippi Department of Information
2484 Technology Services and designated for use by governing
2485 authorities.

2486 (xii) **Energy efficiency services and equipment.**
2487 Energy efficiency services and equipment acquired by school



2488 districts, community and junior colleges, institutions of higher
2489 learning and state agencies or other applicable governmental
2490 entities on a shared-savings, lease or lease-purchase basis
2491 pursuant to Section 31-7-14.

2492 (xiii) **Municipal electrical utility system fuel.**
2493 Purchases of coal and/or natural gas by municipally owned electric
2494 power generating systems that have the capacity to use both coal
2495 and natural gas for the generation of electric power.

2496 (xiv) **Library books and other reference materials.**
2497 Purchases by libraries or for libraries of books and periodicals;
2498 processed film, videocassette tapes, filmstrips and slides;
2499 recorded audiotapes, cassettes and diskettes; and any such items
2500 as would be used for teaching, research or other information
2501 distribution; however, equipment such as projectors, recorders,
2502 audio or video equipment, and monitor televisions are not exempt
2503 under this subparagraph.

2504 (xv) **Unmarked vehicles.** Purchases of unmarked
2505 vehicles when such purchases are made in accordance with
2506 purchasing regulations adopted by the Department of Finance and
2507 Administration pursuant to Section 31-7-9(2).

2508 (xvi) **Election ballots.** Purchases of ballots
2509 printed pursuant to Section 23-15-351.

2510 (xvii) **Multichannel interactive video systems.**
2511 From and after July 1, 1990, contracts by Mississippi Authority
2512 for Educational Television with any private educational



2513 institution or private nonprofit organization whose purposes are
2514 educational in regard to the construction, purchase, lease or
2515 lease-purchase of facilities and equipment and the employment of
2516 personnel for providing multichannel interactive video systems
2517 (ITSF) in the school districts of this state.

2518 (xviii) **Purchases of prison industry products by**
2519 **the Department of Corrections, regional correctional facilities or**
2520 **privately owned prisons.** Purchases made by the Mississippi
2521 Department of Corrections, regional correctional facilities or
2522 privately owned prisons involving any item that is manufactured,
2523 processed, grown or produced from the state's prison industries.

2524 (xix) **Undercover operations equipment.** Purchases
2525 of surveillance equipment or any other high-tech equipment to be
2526 used by law enforcement agents in undercover operations, provided
2527 that any such purchase shall be in compliance with regulations
2528 established by the Department of Finance and Administration.

2529 (xx) **Junior college books for rent.** Purchases by
2530 community or junior colleges of textbooks which are obtained for
2531 the purpose of renting such books to students as part of a book
2532 service system.

2533 (xxi) **Certain school district purchases.**
2534 Purchases of commodities made by school districts from vendors
2535 with which any levying authority of the school district, as
2536 defined in Section 37-57-1, has contracted through competitive
2537 bidding procedures for purchases of the same commodities.



2538 (xxii) **Garbage, solid waste and sewage contracts.**
2539 Contracts for garbage collection or disposal, contracts for solid
2540 waste collection or disposal and contracts for sewage collection
2541 or disposal.

2542 (xxiii) **Municipal water tank maintenance**
2543 **contracts.** Professional maintenance program contracts for the
2544 repair or maintenance of municipal water tanks, which provide
2545 professional services needed to maintain municipal water storage
2546 tanks for a fixed annual fee for a duration of two (2) or more
2547 years.

2548 (xxiv) **Purchases of Mississippi Industries for the**
2549 **Blind products or services.** Purchases made by state agencies or
2550 governing authorities involving any item that is manufactured,
2551 processed or produced by, or any services provided by, the
2552 Mississippi Industries for the Blind.

2553 (xxv) **Purchases of state-adopted textbooks.**
2554 Purchases of state-adopted textbooks by public school districts.

2555 (xxvi) **Certain purchases under the Mississippi**
2556 **Major Economic Impact Act.** Contracts entered into pursuant to the
2557 provisions of Section 57-75-9(2), (3) and (4).

2558 (xxvii) **Used heavy or specialized machinery or**
2559 **equipment for installation of soil and water conservation**
2560 **practices purchased at auction.** Used heavy or specialized
2561 machinery or equipment used for the installation and
2562 implementation of soil and water conservation practices or



2563 measures purchased subject to the restrictions provided in
2564 Sections 69-27-331 through 69-27-341. Any purchase by the State
2565 Soil and Water Conservation Commission under the exemption
2566 authorized by this subparagraph shall require advance
2567 authorization spread upon the minutes of the commission to include
2568 the listing of the item or items authorized to be purchased and
2569 the maximum bid authorized to be paid for each item or items.

2570 (xxviii) **Hospital lease of equipment or services.**
2571 Leases by hospitals of equipment or services if the leases are in
2572 compliance with paragraph (1)(ii).

2573 (xxix) **Purchases made pursuant to qualified**
2574 **cooperative purchasing agreements.** Purchases made by certified
2575 purchasing offices of state agencies or governing authorities
2576 under cooperative purchasing agreements previously approved by the
2577 Office of Purchasing and Travel and established by or for any
2578 municipality, county, parish or state government or the federal
2579 government, provided that the notification to potential
2580 contractors includes a clause that sets forth the availability of
2581 the cooperative purchasing agreement to other governmental
2582 entities. Such purchases shall only be made if the use of the
2583 cooperative purchasing agreements is determined to be in the best
2584 interest of the governmental entity.

2585 (xxx) **School yearbooks.** Purchases of school
2586 yearbooks by state agencies or governing authorities; however,
2587 state agencies and governing authorities shall use for these



2588 purchases the RFP process as set forth in the Mississippi
2589 Procurement Manual adopted by the Office of Purchasing and Travel.

2590 (xxxii) **Design-build method of contracting and**
2591 **certain other contracts.** Contracts entered into under the
2592 provisions of Section 31-7-13.1, 37-101-44 or 65-1-85.

2593 (xxxiii) **Toll roads and bridge construction**
2594 **projects.** Contracts entered into under the provisions of Section
2595 65-43-1 or 65-43-3.

2596 (xxxiiii) **Certain purchases under Section 57-1-221.**
2597 Contracts entered into pursuant to the provisions of Section
2598 57-1-221.

2599 (xxxv) **Certain transfers made pursuant to the**
2600 **provisions of Section 57-105-1(7).** Transfers of public property
2601 or facilities under Section 57-105-1(7) and construction related
2602 to such public property or facilities.

2603 (xxxvi) **Certain purchases or transfers entered into**
2604 **with local electrical power associations.** Contracts or agreements
2605 entered into under the provisions of Section 55-3-33.

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



2613 radiation-emitting devices as defined by the United States Food
2614 and Drug Administration.

2615 (xxxvii) **Certain purchases made under the Alyce G.**
2616 **Clarke Mississippi Lottery Law.** Contracts made by the Mississippi
2617 Lottery Corporation pursuant to the Alyce G. Clarke Mississippi
2618 Lottery Law.

2619 (xxxviii) **Certain purchases made by the Department**
2620 **of Health and the Department of Revenue.** Purchases made by the
2621 Department of Health and the Department of Revenue solely for the
2622 purpose of fulfilling their respective responsibilities under the
2623 Mississippi Medical Cannabis Act. This subparagraph shall stand
2624 repealed on June 30, 2026.

2625 (xxxix) **Purchases made by state agencies related**
2626 **to museum exhibits.** Purchases made by an agency related to the
2627 fabrication, construction, installation or refurbishing of museum
2628 exhibits. An agency making a purchase under this exemption in
2629 excess of the bid threshold set forth in paragraph (c) of this
2630 section shall publicly advertise a Request for Qualifications or
2631 Request for Proposals in which price as an evaluation factor is at
2632 least twenty percent (20%) out of the one hundred percent (100%)
2633 total weight, but shall be otherwise exempt. Any contract arising
2634 from a purchase using this exemption must be approved by the
2635 Public Procurement Review Board prior to execution by the agency.
2636 The agency shall submit a written report on December 1 of each
2637 year to the Chairs of the Senate and House Appropriations



2638 Committees, the Chairs of the Senate and House Accountability,
2639 Efficiency and Transparency Committees and the Chair of the Public
2640 Procurement Review Board, identifying all purchases made by the
2641 agency using this exemption in which the cost of the option
2642 selected by the agency was more than twenty-five percent (25%)
2643 higher than the lowest cost option available.

2644 (n) **Term contract authorization.** All contracts for the
2645 purchase of:

2646 (i) All contracts for the purchase of commodities,
2647 equipment and public construction (including, but not limited to,
2648 repair and maintenance), may be let for periods of not more than
2649 sixty (60) months in advance, subject to applicable statutory
2650 provisions prohibiting the letting of contracts during specified
2651 periods near the end of terms of office. Term contracts for a
2652 period exceeding twenty-four (24) months shall also be subject to
2653 ratification or cancellation by governing authority boards taking
2654 office subsequent to the governing authority board entering the
2655 contract.

2656 (ii) Bid proposals and contracts may include price
2657 adjustment clauses with relation to the cost to the contractor
2658 based upon a nationally published industry-wide or nationally
2659 published and recognized cost index. The cost index used in a
2660 price adjustment clause shall be determined by the Department of
2661 Finance and Administration for the state agencies and by the
2662 governing board for governing authorities. The bid proposal and



2663 contract documents utilizing a price adjustment clause shall
2664 contain the basis and method of adjusting unit prices for the
2665 change in the cost of such commodities, equipment and public
2666 construction.

2667 (o) **Purchase law violation prohibition and vendor**
2668 **penalty.** No contract or purchase as herein authorized shall be
2669 made for the purpose of circumventing the provisions of this
2670 section requiring competitive bids, nor shall it be lawful for any
2671 person or concern to submit individual invoices for amounts within
2672 those authorized for a contract or purchase where the actual value
2673 of the contract or commodity purchased exceeds the authorized
2674 amount and the invoices therefor are split so as to appear to be
2675 authorized as purchases for which competitive bids are not
2676 required. Submission of such invoices shall constitute a
2677 misdemeanor punishable by a fine of not less than Five Hundred
2678 Dollars (\$500.00) nor more than One Thousand Dollars (\$1,000.00),
2679 or by imprisonment for thirty (30) days in the county jail, or
2680 both such fine and imprisonment. In addition, the claim or claims
2681 submitted shall be forfeited.

2682 (p) **Electrical utility petroleum-based equipment**
2683 **purchase procedure.** When in response to a proper advertisement
2684 therefor, no bid firm as to price is submitted to an electric
2685 utility for power transformers, distribution transformers, power
2686 breakers, reclosers or other articles containing a petroleum



2687 product, the electric utility may accept the lowest and best bid
2688 therefor although the price is not firm.

2689 (q) **Fuel management system bidding procedure.** Any
2690 governing authority or agency of the state shall, before
2691 contracting for the services and products of a fuel management or
2692 fuel access system, enter into negotiations with not fewer than
2693 two (2) sellers of fuel management or fuel access systems for
2694 competitive written bids to provide the services and products for
2695 the systems. In the event that the governing authority or agency
2696 cannot locate two (2) sellers of such systems or cannot obtain
2697 bids from two (2) sellers of such systems, it shall show proof
2698 that it made a diligent, good-faith effort to locate and negotiate
2699 with two (2) sellers of such systems. Such proof shall include,
2700 but not be limited to, publications of a request for proposals and
2701 letters soliciting negotiations and bids. For purposes of this
2702 paragraph (q), a fuel management or fuel access system is an
2703 automated system of acquiring fuel for vehicles as well as
2704 management reports detailing fuel use by vehicles and drivers, and
2705 the term "competitive written bid" shall have the meaning as
2706 defined in paragraph (b) of this section. Governing authorities
2707 and agencies shall be exempt from this process when contracting
2708 for the services and products of fuel management or fuel access
2709 systems under the terms of a state contract established by the
2710 Office of Purchasing and Travel.



2711 (r) **Solid waste contract proposal procedure.** Before
2712 entering into any contract for garbage collection or disposal,
2713 contract for solid waste collection or disposal or contract for
2714 sewage collection or disposal, which involves an expenditure of
2715 more than Seventy-five Thousand Dollars (\$75,000.00), a governing
2716 authority or agency shall issue publicly a request for proposals
2717 concerning the specifications for such services which shall be
2718 advertised for in the same manner as provided in this section for
2719 seeking bids for purchases which involve an expenditure of more
2720 than the amount provided in paragraph (c) of this section. Any
2721 request for proposals when issued shall contain terms and
2722 conditions relating to price, financial responsibility,
2723 technology, legal responsibilities and other relevant factors as
2724 are determined by the governing authority or agency to be
2725 appropriate for inclusion; all factors determined relevant by the
2726 governing authority or agency or required by this paragraph (r)
2727 shall be duly included in the advertisement to elicit proposals.
2728 After responses to the request for proposals have been duly
2729 received, the governing authority or agency shall select the most
2730 qualified proposal or proposals on the basis of price, technology
2731 and other relevant factors and from such proposals, but not
2732 limited to the terms thereof, negotiate and enter into contracts
2733 with one or more of the persons or firms submitting proposals. If
2734 the governing authority or agency deems none of the proposals to
2735 be qualified or otherwise acceptable, the request for proposals



2736 process may be reinitiated. Notwithstanding any other provisions
2737 of this paragraph, where a county with at least thirty-five
2738 thousand (35,000) nor more than forty thousand (40,000)
2739 population, according to the 1990 federal decennial census, owns
2740 or operates a solid waste landfill, the governing authorities of
2741 any other county or municipality may contract with the governing
2742 authorities of the county owning or operating the landfill,
2743 pursuant to a resolution duly adopted and spread upon the minutes
2744 of each governing authority involved, for garbage or solid waste
2745 collection or disposal services through contract negotiations.

2746 (s) **Minority set-aside authorization.** Notwithstanding
2747 any provision of this section to the contrary, any agency or
2748 governing authority, by order placed on its minutes, may, in its
2749 discretion, set aside not more than twenty percent (20%) of its
2750 anticipated annual expenditures for the purchase of commodities
2751 from minority businesses; however, all such set-aside purchases
2752 shall comply with all purchasing regulations promulgated by the
2753 Department of Finance and Administration and shall be subject to
2754 bid requirements under this section. Set-aside purchases for
2755 which competitive bids are required shall be made from the lowest
2756 and best minority business bidder. For the purposes of this
2757 paragraph, the term "minority business" means a business which is
2758 owned by a majority of persons who are United States citizens or
2759 permanent resident aliens (as defined by the Immigration and
2760 Naturalization Service) of the United States, and who are Asian,



2761 Black, Hispanic or Native American, according to the following
2762 definitions:

2763 (i) "Asian" means persons having origins in any of
2764 the original people of the Far East, Southeast Asia, the Indian
2765 subcontinent, or the Pacific Islands.

2766 (ii) "Black" means persons having origins in any
2767 black racial group of Africa.

2768 (iii) "Hispanic" means persons of Spanish or
2769 Portuguese culture with origins in Mexico, South or Central
2770 America, or the Caribbean Islands, regardless of race.

2771 (iv) "Native American" means persons having
2772 origins in any of the original people of North America, including
2773 American Indians, Eskimos and Aleuts.

2774 (t) **Construction punch list restriction.** The
2775 architect, engineer or other representative designated by the
2776 agency or governing authority that is contracting for public
2777 construction or renovation may prepare and submit to the
2778 contractor only one (1) preliminary punch list of items that do
2779 not meet the contract requirements at the time of substantial
2780 completion and one (1) final list immediately before final
2781 completion and final payment.

2782 (u) **Procurement of construction services by state**
2783 **institutions of higher learning.** Contracts for privately financed
2784 construction of auxiliary facilities on the campus of a state
2785 institution of higher learning may be awarded by the Board of



2786 Trustees of State Institutions of Higher Learning to the lowest
2787 and best bidder, where sealed bids are solicited, or to the
2788 offeror whose proposal is determined to represent the best value
2789 to the citizens of the State of Mississippi, where requests for
2790 proposals are solicited.

2791 (v) **Insurability of bidders for public construction or**
2792 **other public contracts.** In any solicitation for bids to perform
2793 public construction or other public contracts to which this
2794 section applies, including, but not limited to, contracts for
2795 repair and maintenance, for which the contract will require
2796 insurance coverage in an amount of not less than One Million
2797 Dollars (\$1,000,000.00), bidders shall be permitted to either
2798 submit proof of current insurance coverage in the specified amount
2799 or demonstrate ability to obtain the required coverage amount of
2800 insurance if the contract is awarded to the bidder. Proof of
2801 insurance coverage shall be submitted within five (5) business
2802 days from bid acceptance.

2803 (w) **Purchase authorization clarification.** Nothing in
2804 this section shall be construed as authorizing any purchase not
2805 authorized by law.

2806 (x) **Mississippi Regional Pre-Need Disaster Clean Up**
2807 **Act.** (i) The Department of Finance and Administration shall
2808 develop and implement a process that creates a preferred vendor
2809 list for both disaster debris removal and monitoring.



2810 (ii) Any board of supervisors of any county or any
2811 governing authority of any municipality may opt in to the benefits
2812 and services provided under the appropriate and relevant contract
2813 established in subparagraph (i) of this paragraph at the time of a
2814 disaster event in that county or municipality. At the time of opt
2815 in, the county or municipality shall assume responsibility for
2816 payment in full to the contractor for the disaster-related solid
2817 waste collection, disposal or monitoring services provided.
2818 Nothing in this subparagraph (ii) shall be construed as requiring
2819 a county or municipality to opt in to any such contract
2820 established in subparagraph (i) of this paragraph.

2821 **SECTION 48.** Section 31-7-13.1, Mississippi Code of 1972, is
2822 brought forward as follows:

2823 31-7-13.1. (1) The method of contracting for construction
2824 described in this section shall be known as the " design-build
2825 method" of construction contracting. This method of construction
2826 contracting may be used on residential buildings, residential
2827 mixed-use developments, parking garages and other prescriptive
2828 type facilities. The design-build method of construction
2829 contracting may only be used when the Department of Finance and
2830 Administration or a governing authority has determined that it
2831 satisfies the public interest better than traditional design-bid
2832 or when the Legislature has specifically required or authorized
2833 the use of this method in the legislation authorizing a project.
2834 At a minimum, the determination must include a detailed



2835 explanation of why using the design-build method for a particular
2836 project satisfies the public need better than the traditional
2837 design-bid-build method based on the following criteria:

2838 (a) The project provides a savings in time or cost over
2839 traditional methods; and

2840 (b) The size and type of the project is suitable for
2841 design-build.

2842 (2) For each proposed design-build project, either a fixed
2843 firm price or guaranteed maximum price contract must be adopted.
2844 Before solicitation of proposals, the agency or governing
2845 authority shall develop a scope of work statement that provides
2846 prospective offerors with sufficient information regarding the
2847 requirements of the agency or governing authority. The scope of
2848 work statement must include, but is not limited to, the following
2849 information:

2850 (a) Location and nature of proposed site(s) that
2851 include preliminary geotechnical information from borings as well
2852 as survey drawings that show topography, adjacent buildings and
2853 utilities;

2854 (b) Any mandatory requirements such as minimum number
2855 and types of spaces, any minimum or maximum building area(s) or
2856 height(s), applicable energy codes and/or efficiency targets,
2857 applicable zoning regulations and any aesthetic or character
2858 defining standards;



2859 (c) Any mandatory material and/or system performance
2860 requirements and/or specifications; and

2861 (d) General budget parameters, schedule or delivery
2862 requirements, relevant criteria for evaluation of proposals, and
2863 any other information necessary to enable the design-builders to
2864 submit proposals that meet the needs of the agency or governing
2865 authority.

2866 (3) The agency or governing authority shall cause to be
2867 published once a week, for at least two (2) consecutive weeks in a
2868 regular newspaper published in the county in which the project is
2869 to be located, or a newspaper with statewide circulation, a notice
2870 inviting proposals for the design-build construction project. On
2871 the same date that the notice is submitted to the newspaper for
2872 publication, the agency or governing authority involved shall post
2873 the notice on the Mississippi Procurement Portal or mail written
2874 notice to, or provide electronic notification to, the main office
2875 of the Mississippi Procurement Technical Assistance Program under
2876 the Mississippi Development Authority that contains the same
2877 information as that in the published notice. The proposals shall
2878 not be opened in less than fifteen (15) working days after the
2879 last notice is published. The notice must inform potential
2880 offerors of how to obtain the scope of work statement developed
2881 for the project, and the notice must contain such other
2882 information to describe adequately the general nature and scope of
2883 the project so as to promote full, equal and open competition.



2884 (4) The agency or governing authority shall accept initial
2885 proposals only from entities able to provide an experienced and
2886 qualified design-build team that includes, at a minimum, an
2887 architectural or engineering firm licensed and registered in
2888 Mississippi and a contractor properly licensed and domiciled in
2889 Mississippi for the type of work required.

2890 (5) Proposals that include criteria other than cost only
2891 shall be evaluated by an evaluation committee established by the
2892 procuring entity. The evaluation committee shall be composed of
2893 not less than three (3) people, at least one (1) of which shall be
2894 an architect or engineer licensed and registered in Mississippi.
2895 Selection criteria of the evaluation committee shall be limited to
2896 the following:

2897 (a) The bidder's knowledge and experience in executing
2898 projects of similar size and complexity;

2899 (b) The experience and qualifications of the proposed
2900 office and construction management personnel;

2901 (c) The experience and qualifications of the
2902 subcontractors proposed;

2903 (d) The experience and qualifications of the architect
2904 or engineer and consultants;

2905 (e) Schedule control; and

2906 (f) Cost factors.

2907 Cost as an evaluation factor shall be given the highest
2908 criteria weighting and at least thirty-five percent (35%) out of



2909 the one hundred percent (100%) total weight of all the other
2910 evaluation factors.

2911 (6) If the agency or governing authority accepts a proposal
2912 other than the proposal with the lowest costs that was actually
2913 submitted, the agency or governing authority shall enter on its
2914 minutes detailed calculations and a narrative summary showing why
2915 the accepted proposal was determined to provide the best value,
2916 and the agency or governing authority shall state specifically on
2917 its minutes the justification for its award.

2918 (7) All facilities that are governed by this section shall
2919 be designed and constructed to comply with standards equal to or
2920 exceeding the minimum building code standards employed by the
2921 state as required under Section 31-11-33 in force at the time of
2922 contracting. All private contractors or private entities
2923 contracting or performing under this section must comply at all
2924 times with all applicable laws, codes and other legal requirements
2925 pertaining to the project.

2926 (8) An agency or governing authority may not award a
2927 stipulated fee to an offeror for preparation costs to submit a
2928 response to the request for proposals.

2929 (9) This section shall not authorize the awarding of
2930 construction contracts according to any contracting method that
2931 does not require the contractor to satisfactorily perform, at a
2932 minimum, both any balance of design, using an independent



2933 professional licensed in Mississippi, and construction of the
2934 project for which the contract is awarded.

2935 (10) The provisions of this section shall not affect any
2936 procurement by the Mississippi Transportation Commission.

2937 (11) The provisions of this section shall not apply to
2938 procurement authorized in Section 59-5-37(3).

2939 **SECTION 49.** Section 31-7-13.2, Mississippi Code of 1972, is
2940 brought forward as follows:

2941 31-7-13.2 (1) When used in this section, "construction
2942 manager at risk" means a method of project delivery in which a
2943 construction manager guarantees a maximum price for the
2944 construction of a project and in which the governing authority or
2945 board, before using this method of project delivery, shall include
2946 a detailed explanation of why using the construction manager at
2947 risk method of project delivery for a particular project satisfies
2948 the public need better than that traditional design-bid-build
2949 method based on the following criteria:

2950 (a) The use of construction manager at risk for the
2951 project provides a savings in time or cost over traditional
2952 methods; and

2953 (b) The size and type of the project is suitable for
2954 use of the construction management at risk method of project
2955 delivery.

2956 (2) When the construction manager at risk method of project
2957 delivery is used:



2958 (a) There may be a separate contract for design
2959 services and a separate contract for construction services;

2960 (b) The contract for construction services may be
2961 entered into at the same time as a contract for the design
2962 services or later;

2963 (c) Design and construction of the project may be in
2964 sequential or concurrent phases; and

2965 (d) Finance, maintenance, operation, reconstruction or
2966 other related services may be included for a guaranteed maximum
2967 price.

2968 (3) When procuring design professional services under a
2969 construction manager at risk project delivery method, the agency
2970 or governing authority shall procure the services of a design
2971 professional pursuant to qualifications-based selection
2972 procedures.

2973 (4) Before the substantial completion of the design
2974 documents, the agency or governing authority may elect to hire a
2975 construction manager.

2976 (5) When procuring construction management services, the
2977 agency or governing authority shall follow the
2978 qualifications-based selection procedures as outlined in
2979 subsection (10) of this section or the competitive sealed proposal
2980 procedures as outlined in Section 31-17-13.

2981 (6) The agency or governing authority may require the
2982 architect or engineer and the construction manager, by contract,



2983 to cooperate in the design, planning and scheduling, and
2984 construction process. The contract shall not make the primary
2985 designer or construction manager a subcontractor or joint-venture
2986 partner to the other or limit the primary designer's or
2987 construction manager's independent obligations to the agency or
2988 governing authority.

2989 (7) Notwithstanding anything to the contrary in this
2990 chapter:

2991 (a) Each project for construction under a construction
2992 manager at risk contract shall be a specific, single project with
2993 a minimum construction cost of Twenty-five Million Dollars
2994 (\$25,000,000.00).

2995 (b) Each project under a construction manager at risk
2996 contract shall be a specific, single project. For the purposes of
2997 this paragraph, "specific, single project" means a project that is
2998 constructed at a single location, at a common location or for a
2999 common purpose.

3000 (8) Agencies shall retain an independent architectural or
3001 engineering firm to provide guidance and administration of the
3002 professional engineering or professional architecture aspects of
3003 the project throughout the development of the scope, design, and
3004 construction of the project.

3005 (9) The state shall, on an annual basis, compile and make
3006 public all proceedings, records, contracts and other public



3007 records relating to procurement transactions authorized under this
3008 section.

3009 (10) For purposes of this section, the "qualifications-based
3010 selection procedure" shall include:

3011 (a) Publicly announcing all requirements for
3012 construction management at risk, architectural, engineering, and
3013 land surveying services, to procure these services on the basis of
3014 demonstrated competence and qualifications, and to negotiate
3015 contracts at fair and reasonable prices after the most qualified
3016 firm has been selected.

3017 (b) Agencies or governing authorities shall establish
3018 procedures to prequalify firms seeking to provide construction
3019 management at risk, architectural, engineering, and land surveying
3020 services or may use prequalification lists from other state
3021 agencies or governing authorities to meet the requirements of this
3022 section.

3023 (c) Whenever a project requiring construction
3024 management at risk, architectural, engineering, or land surveying
3025 services is proposed for an agency or governing authority, the
3026 agency or governing authority shall provide advance notice
3027 published in a professional services bulletin or advertised within
3028 the official state newspaper setting forth the projects and
3029 services to be procured for not less than fourteen (14) days. The
3030 professional services bulletin shall be mailed to each firm that
3031 has requested the information or is prequalified under Section



3032 31-7-13. The professional services bulletin shall include a
3033 description of each project and shall state the time and place for
3034 interested firms to submit a letter of interest and, if required
3035 by the public notice, a statement of qualifications.

3036 (d) The agency or governing authority shall evaluate
3037 the firms submitting letters of interest and other prequalified
3038 firms, taking into account qualifications. The agency or
3039 governing authority may consider, but shall not be limited to,
3040 considering:

- 3041 (i) Ability of professional personnel;
- 3042 (ii) Past record and experience;
- 3043 (iii) Performance data on file;
- 3044 (iv) Willingness to meet time requirements;
- 3045 (v) Location;
- 3046 (vi) Workload of the firm; and
- 3047 (vii) Any other qualifications-based factors as
3048 the agency or governing authority may determine in writing are
3049 applicable.

3050 The agency or governing authority may conduct discussions
3051 with and require public presentations by firms deemed to be the
3052 most qualified regarding their qualifications, approach to the
3053 project and ability to furnish the required services.

3054 (e) The agency or governing authority shall establish a
3055 committee to select firms to provide construction management at
3056 risk, architectural, engineering, and land surveying services. A



3057 selection committee may include at least one (1) public member
3058 nominated by a statewide association of the profession affected.
3059 The public member may not be employed or associated with any firm
3060 holding a contract with the agency or governing authority nor may
3061 the public member's firm be considered for a contract with that
3062 agency or governing authority while serving as a public member of
3063 the committee. In no case shall the agency or governing
3064 authority, before selecting a firm for negotiation under paragraph
3065 (f) of this subsection (10), seek formal or informal submission of
3066 verbal or written estimates of costs or proposals in terms of
3067 dollars, hours required, percentage of construction cost, or any
3068 other measure of compensation.

3069 (f) On the basis of evaluations, discussions, and any
3070 presentations, the agency or governing authority shall select no
3071 less than three (3) firms that it determines to be qualified to
3072 provide services for the project and rank them in order of
3073 qualifications to provide services regarding the specific project.
3074 The agency or governing authority shall then contact the firm
3075 ranked most preferred to negotiate a contract at a fair and
3076 reasonable compensation. If fewer than three (3) firms submit
3077 letters of interest and the agency or governing authority
3078 determines that one (1) or both of those firms are so qualified,
3079 the agency or governing authority may proceed to negotiate a
3080 contract under paragraph (g) of this subsection (10).



3081 (g) The agency or governing authority shall prepare a
3082 written description of the scope of the proposed services to be
3083 used as a basis for negotiations and shall negotiate a contract
3084 with the highest qualified firm at compensation that the agency or
3085 governing authority determines in writing to be fair and
3086 reasonable. In making this decision, the agency or governing
3087 authority shall take into account the estimated value, scope,
3088 complexity, and professional nature of the services to be
3089 rendered. In no case may the agency or governing authority
3090 establish a maximum overhead rate or other payment formula
3091 designed to eliminate firms from contention or restrict
3092 competition or negotiation of fees. If the agency or governing
3093 authority is unable to negotiate a satisfactory contract with the
3094 firm that is most preferred, negotiations with that firm shall be
3095 terminated. The agency or governing authority shall then begin
3096 negotiations with the firm that is next preferred. If the agency
3097 or governing authority is unable to negotiate a satisfactory
3098 contract with that firm, negotiations with that firm shall be
3099 terminated. The agency or governing authority shall then begin
3100 negotiations with the firm that is next preferred. If the agency
3101 or governing authority is unable to negotiate a satisfactory
3102 contract with any of the selected firms, the agency or governing
3103 authority shall reevaluate the construction management at risk,
3104 architectural, engineering, or land surveying services requested,
3105 including the estimated value, scope, complexity, and fee



3106 requirements. The agency or governing authority shall then
3107 compile a second list of not less than three (3) qualified firms
3108 and proceed in accordance with the provisions of this section. A
3109 firm negotiating a contract with an agency or governing authority
3110 shall negotiate subcontracts for architectural, engineering, and
3111 land surveying services at compensation that the firm determines
3112 in writing to be fair and reasonable based upon a written
3113 description of the scope of the proposed services.

3114 (11) (a) The construction manager selected by the agency or
3115 governing authority to provide construction management at risk
3116 services shall solicit bids for construction on the project
3117 pursuant to Section 31-7-13. The construction manager shall be
3118 entitled to enter into contracts for construction with the lowest
3119 and best bidders, as determined in consultation with the agency or
3120 governing authority. Before soliciting bids or entering into any
3121 such contract, the construction manager, in consultation with the
3122 agency or governing authority, may prequalify any contractors or
3123 vendors seeking to submit a bid on the project, taking into
3124 account defined qualifications which may include, but not be
3125 limited to, the following:

3126 (i) Past experience and performance record on
3127 projects of similar size and scope;

3128 (ii) Current financial status and ability to
3129 provide acceptable payment and performance bonds and meet defined
3130 insurance requirements;



3131 (iii) Current workload and backlog of committed
3132 work for the period scheduled for the project under consideration;
3133 (iv) Safety record to include prior citations and
3134 fines if applicable;
3135 (v) History of legal disputes or performance
3136 defaults;
3137 (vi) Identification and experience of project
3138 personnel and required manpower;
3139 (vii) Plan for and ability to meet the applicable
3140 project schedule; and
3141 (viii) Any other qualification-based factors as
3142 the agency, governing authority or construction manager may
3143 determine are applicable.

3144 (b) The construction manager, in consultation with the
3145 agency or governing authority, shall publish the defined
3146 qualifications that shall be considered in the prequalification
3147 process at least two (2) weeks in advance of any prequalification
3148 of contractors or vendors seeking to submit a bid on the project.
3149 Publication shall be in a regular newspaper published in the
3150 county or municipality in which the agency or governing authority
3151 is located. The agency or governing authority shall also post the
3152 defined prequalification requirements on its website.

3153 (c) The failure of a bidder to provide information in a
3154 timely and complete manner in response to any prequalification
3155 process may result in the disqualification of such bidder in the



3156 discretion of the agency, governing authority, and construction
3157 manager.

3158 (d) Except as otherwise provided in Section 25-61-9,
3159 confidential and proprietary information furnished by a bidder
3160 pursuant to this section shall not be disclosed outside of the
3161 agency, governing authority, or construction manager without the
3162 prior written consent of the bidder. The bidder shall identify
3163 and label any information considered to be confidential and
3164 proprietary at the time of submission of the same to the agency,
3165 governing authority, or construction manager.

3166 (12) The provisions of this section shall not affect any
3167 procurement by the Mississippi Transportation Commission.

3168 **SECTION 50.** Section 31-7-13.3, Mississippi Code of 1972, is
3169 brought forward as follows:

3170 31-7-13.3. (1) Any governing authority accepting electronic
3171 bid submissions for procurements may charge the bidder a fee, or
3172 may require a fee to be paid to a third-party service provider,
3173 for an electronic bid submission. The amount of the fee shall not
3174 exceed Fifty Dollars (\$50.00) per bid.

3175 (2) Any governing authority using the reverse auction method
3176 of procurement may charge the winning bidder a fee, or require the
3177 winning bidder to pay a fee to a third-party service provider, for
3178 participation in a reverse auction. The amount of the fee shall
3179 not exceed four percent (4%) of the winning bid amount.



3180 **SECTION 51.** Section 31-7-14, Mississippi Code of 1972, is
3181 brought forward as follows:

3182 31-7-14. (1) (a) For purposes of this section, the
3183 following words and phrases shall have the meaning ascribed
3184 herein, unless the context clearly indicates otherwise:

3185 (i) "Division" means the Energy Division of the
3186 Mississippi Development Authority.

3187 (ii) "Energy services" or "energy efficient
3188 services" means energy efficiency equipment, services relating to
3189 the installation, operation and maintenance of equipment and
3190 improvements reasonably required to existing or new equipment and
3191 existing or new improvements and facilities including, but not
3192 limited to, heating, ventilation and air-conditioning systems,
3193 lighting, windows, insulation and energy management controls, life
3194 safety measures that provide long-term, operating-cost reductions,
3195 building operation programs that reduce operating costs,
3196 alternative fuel motor vehicles including vehicles that have been
3197 converted to such and ancillary equipment related to or associated
3198 with the fueling of alternative fuel motor vehicles, or other
3199 energy-conservation-related improvements, including improvements
3200 or equipment related to renewable energy, water and other natural
3201 resources conservation, including accuracy and measurement of
3202 water distribution and/or consumption, and other equipment,
3203 services and improvements providing verifiable cost savings.



3204 (iii) "Energy services provider" means a person or
3205 business with a successful record of documented energy savings
3206 projects that is experienced in the design, implementation and
3207 installation of energy conservation measures; has the technical
3208 capabilities to verify that such measures generate energy and
3209 operational cost savings or enhanced revenues; has the ability to
3210 guarantee the savings; has the ability to secure or arrange the
3211 financing necessary to support the implementation of the energy
3212 conservation measures; and is approved by the division.

3213 Approval by the division of an energy services provider shall
3214 be granted in a prequalification process.

3215 Such energy services providers may petition the division to
3216 review their qualifications and deem them to be qualified for
3217 inclusion on a prequalification list if they meet the
3218 qualifications set forth by the division.

3219 Any energy services project that has been competitively bid
3220 and awarded prior to any change in law shall be allowed to
3221 continue under the laws current at the time the project was
3222 awarded.

3223 The division shall ensure that small businesses are not
3224 disadvantaged in the determination of a qualified energy services
3225 provider.

3226 (iv) "Entity" means the board of trustees of any
3227 public school district, junior college, institution of higher



3228 learning, publicly owned hospital, state agency or governmental
3229 authority under this chapter.

3230 (v) "Energy services contract" means an agreement
3231 to provide energy services which include, but are not limited to,
3232 the design, installation, financing and maintenance or management
3233 of the energy systems or equipment in order to improve its energy
3234 efficiency. Payments for the contract are not contingent upon the
3235 actual savings realized from the equipment.

3236 (vi) "Energy performance contract" means an
3237 agreement to provide energy services which includes, but is not
3238 limited to, the design, installation, financing and maintenance or
3239 management of the energy systems or equipment in order to improve
3240 its energy efficiency.

3241 (vii) "Shared-savings contract" means an agreement
3242 where the contractor and the entity each receive a preagreed
3243 percentage or dollar value of the energy cost savings over the
3244 life of the contract.

3245 (viii) "Reduce operating costs" means elimination
3246 of future expenses or avoidance of future replacement expenditures
3247 as a result of new equipment installed or services performed.
3248 Material savings, labor savings, cancelled maintenance contracts,
3249 et cetera, shall be considered as being viable to reduce operating
3250 costs. Reduce operating costs may be included in the performance
3251 contract or energy services agreement solely at the discretion of
3252 the entity. A contract that otherwise satisfies the requirements



3253 of this section shall satisfy the requirements allowing use of an
3254 energy performance, energy services or shared-savings contract
3255 even if the sole expense being eliminated is maintenance expense.

3256 (ix) "Capital cost avoidance" means planned
3257 capital improvement expenditures that will be avoided through
3258 implementation of the energy services project. Capital cost
3259 avoidance may be included in an energy services contract or an
3260 energy performance contract solely at the discretion of the
3261 entity. Capital cost avoidance may be claimed as an annual
3262 avoidance or as a one-time avoidance in a specific year of the
3263 contract term, depending upon the nature of the avoided capital
3264 cost.

3265 (x) "Alternative fuel motor vehicle" means a motor
3266 vehicle propelled by alternative fuel either as a dedicated
3267 alternative fuel vehicle, as a bi-fuel vehicle using alternative
3268 fuel as one of its fuels, or as a dual fuel vehicle using
3269 alternative fuel as one of its fuels.

3270 (xi) "Energy conservation measure" means the
3271 individual items or components of a large energy services or
3272 energy efficient services program.

3273 (xii) "Simple payback period" means the amount of
3274 time for the recuperation of the initial investment. The simple
3275 payback period is calculated by dividing the initial investment by
3276 the annual savings. The simple payback period for any contract
3277 shall not exceed twenty (20) years. The simple payback period of



3278 an individual energy conservation measure shall not be considered
3279 in any evaluation provided the simple payback period for the
3280 contract does not exceed twenty (20) years.

3281 (b) An entity may enter into an energy services
3282 contract, energy performance contract, shared-savings contract,
3283 any of which may contain a lease, or lease-purchase contract for
3284 energy efficiency equipment, services relating to the
3285 installation, operation and maintenance of equipment or
3286 improvements reasonably required to existing or new equipment and
3287 existing or new improvements and facilities and shall contract in
3288 accordance with the following provisions:

3289 (i) The division may assemble a list of
3290 prequalified energy services providers. The division shall use
3291 objective criteria in the selection process. The criteria for
3292 evaluation shall include, but shall not be limited to, the
3293 following factors: to assess the capability of the qualified
3294 energy services provider in the area of design engineering,
3295 installation, maintenance and repairs associated with energy
3296 services or guaranteed energy performance contracts;
3297 qualifications including engineering depth and experience,
3298 post-installation project monitoring, data collection, and
3299 verification of and reporting of savings; overall project
3300 experience and qualifications; management capability; ability to
3301 access long-term sources of project financing; financial health
3302 and stability, litigation history with customers and other factors



3303 determined by the division to be relevant and appropriate and
3304 related to the ability to perform the project. The division shall
3305 either accept or reject an application for prequalification from
3306 an energy services provider within sixty (60) days after receipt.
3307 If the division fails to act within sixty (60) days from the date
3308 of receiving an application, then the application shall
3309 automatically be accepted and the energy services provider shall
3310 be added to the prequalified list.

3311 (ii) An entity shall publicly issue requests for
3312 proposals, advertised in the same manner as provided in Section
3313 31-7-13 for seeking competitive sealed bids, concerning the
3314 provision of energy efficiency services relating to the
3315 installation, operation and maintenance of equipment, improvements
3316 reasonably required to existing or new equipment and existing or
3317 new improvements and facilities or the design, installation,
3318 ownership, operation and maintenance of energy efficiency
3319 equipment. Those requests for proposals shall contain terms and
3320 conditions relating to submission of proposals, evaluation and
3321 selection of proposals, financial terms, legal responsibilities,
3322 and any other matters as the entity determines to be appropriate
3323 for inclusion.

3324 (iii) Upon receiving responses to the request for
3325 proposals, the entity may select the most qualified proposal or
3326 proposals on the basis of experience and qualifications of the
3327 proposers, the technical approach, the financial arrangements, the



3328 overall benefits to the entity and any other relevant factors
3329 determined to be appropriate.

3330 (iv) An entity shall negotiate and enter into
3331 contracts with the person, persons, firm or firms submitting the
3332 proposal selected as the most qualified under this section.

3333 (v) The annual rate of interest paid under any
3334 lease-purchase agreement authorized by this section shall not
3335 exceed the maximum interest rate to maturity on general obligation
3336 indebtedness permitted under Section 75-17-101.

3337 (vi) The maximum lease-purchase term for any
3338 equipment acquired under this section shall not exceed the lesser
3339 of twenty (20) years or the average useful life of the energy
3340 conservation measures from the date the energy conservation
3341 measures have been completed and accepted by the governmental
3342 unit.

3343 (vii) This subsection shall, with respect to the
3344 procurement of energy efficiency services and/or equipment,
3345 supersede any contradictory or conflicting provisions of Chapter
3346 7, Title 31, Mississippi Code of 1972, and other laws with respect
3347 to awarding public contracts.

3348 (2) (a) The division may contract with a party selected
3349 under this subsection to provide financing to entities and private
3350 "nonprofit" hospitals, to purchase energy efficiency equipment,
3351 services relating to the installation, operation and maintenance
3352 of equipment or improvements reasonably required to existing or



3353 new equipment and existing or new improvements and facilities or
3354 an energy saving performance contract, energy services contract,
3355 or lease-purchase basis. Any energy efficiency lease financing
3356 contract entered into by the division before May 15, 1992, shall
3357 be valid and binding when the contract was entered into under this
3358 subsection.

3359 (b) The entities and private "nonprofit" hospitals that
3360 decide to contract for energy efficiency equipment, services
3361 relating to the installation, operation and maintenance of
3362 equipment or improvements reasonably required to existing or new
3363 equipment and existing or new improvements and facilities on a
3364 lease, energy services contract or lease-purchase basis, may
3365 request financial assistance from the division.

3366 (c) The provisions of any energy efficiency
3367 lease-purchase agreements authorized under this subsection (2)
3368 shall comply with the requirements of subsection (1)(b)(v) of this
3369 section. The term of any lease or lease-purchase agreement for
3370 energy efficiency services and/or equipment entered into under
3371 this section shall not exceed twenty (20) years, commencing on the
3372 completion of the installation of equipment or improvements under
3373 the contract.

3374 (d) Any entity or private "nonprofit" hospital having
3375 approval of the division may borrow money in anticipation of
3376 entering into a lease-purchase agreement pursuant to subsection
3377 (2)(b) of this section. Any borrowing may be upon terms and



3378 conditions as may be agreed upon by the borrowing entity and the
3379 party advancing interim funds; however, the principal on any
3380 borrowing shall be repaid within a period of time not to exceed
3381 one hundred eighty (180) days. In borrowing money under this
3382 paragraph (d), it is not necessary to publish notice of intention
3383 to do so or to secure the consent of the qualified electors,
3384 either by election or otherwise. Any borrowing may be negotiated
3385 between the parties and is not required to be publicly bid, may be
3386 evidenced by negotiable notes or lease and shall not be considered
3387 when computing any limitation of indebtedness of the borrowing
3388 entity established by law. The principal, interest and costs of
3389 incurring any borrowing shall not exceed the principal amount of
3390 the final contract or agreement approved by the division, and
3391 accepted by the borrowing entity, under subsection (2) (b) of this
3392 section.

3393 (e) This subsection (2) shall, with respect to the
3394 procurement of energy efficiency services and/or equipment,
3395 supersede the provisions of any contradictory or conflicting
3396 provisions of Chapter 7, Title 31, Mississippi Code of 1972, and
3397 other laws with respect to awarding public contracts.

3398 (3) All lease-purchase agreements authorized by this section
3399 and the income from those agreements shall be exempt from all
3400 taxation within the State of Mississippi, except gift, transfer
3401 and inheritance taxes.



3402 (4) (a) An entity may contract for energy efficiency
3403 equipment services relating to the installation, operation or
3404 maintenance of equipment or improvements reasonably required to
3405 existing or new equipment and existing or new improvements and
3406 facilities on a shared-savings basis or performance basis.

3407 (b) If an entity decides to enter into a contract for
3408 energy efficiency equipment, services relating to the
3409 installation, operation or maintenance of equipment or
3410 improvements reasonably required to existing or new equipment and
3411 existing or new improvements and facilities on a shared-savings
3412 basis or performance basis, the entity shall issue a request for
3413 proposals or a request for qualifications, as determined necessary
3414 by the division, in the same manner as prescribed under subsection
3415 (1)(b) of this section. The entity shall notify the division in
3416 writing of its intention to issue a request for proposals or a
3417 request for qualifications.

3418 (c) The terms of any shared-savings contract, energy
3419 services contract, or energy performance contract entered into
3420 under this section may not exceed twenty (20) years, commencing on
3421 the completion of the installation of equipment or improvements
3422 under the contract.

3423 (d) The terms of any shared-savings or energy
3424 performance contract entered into under this section must contain
3425 a guarantee of savings clause from the company providing energy
3426 efficiency equipment services relating to the installation,



3427 operation and maintenance of equipment or improvements reasonably
3428 required to existing or new equipment and existing or new
3429 improvements and facilities.

3430 (5) (a) By March 1 and September 1 of each year, each
3431 entity that enters into an energy performance contract or
3432 shared-savings contract shall report to the division its energy
3433 usage by meter in dollars and consumption by fuel type for the
3434 previous six-month period determined by the division.

3435 (b) The division shall remove qualified status of an
3436 energy services provider that fails to meet the reporting
3437 requirements of paragraph (a) of this subsection after two (2)
3438 such violations.

3439 (c) Any costs associated with the reporting made under
3440 this subsection (5) shall be paid by the energy services provider.

3441 (6) The contract may be construed to provide flexibility to
3442 public agencies in structuring agreements entered into hereunder
3443 so that economic benefits may be maximized.

3444 (7) This section shall stand repealed on July 1, 2025.

3445 **SECTION 52.** Section 31-7-14.1, Mississippi Code of 1972, is
3446 brought forward as follows:

3447 31-7-14.1. (1) Any agency as defined in this chapter that
3448 receives state budgetary consideration and has submitted a
3449 detailed energy management plan to the Energy Division of the
3450 Department of Economic and Community Development, referred to in
3451 this section as "division," as required under Section 57-39-111



3452 shall undertake energy efficiency projects for the purpose of
3453 producing energy and/or dollar savings whereby a portion of the
3454 savings may be retained by the participating agency. The plan
3455 shall describe specific measures to be implemented to reduce the
3456 agency's energy consumption by energy unit measure or energy cost.
3457 The division shall provide assistance in preparing the detailed
3458 energy management plan according to prescribed guidelines and
3459 reporting procedures. The plan shall specify a project
3460 description of the energy efficiency measures to be undertaken,
3461 including, but not limited to, type of measure, cost, estimated
3462 savings in dollars and energy units, project and measure location,
3463 and terms and conditions of project financing.

3464 (2) (a) Utilizing data submitted under Sections 57-39-107
3465 and 57-39-109, the division shall develop and approve energy
3466 consumption baselines before project implementation, if feasible,
3467 and measure energy consumption after project implementation
3468 considering adjustments for any agency growth or reduction and
3469 seasonal variances, and calculate total energy savings. The
3470 division shall derive a baseline use allocation to be utilized and
3471 submitted in each participating agency's annual budget.

3472 (b) For purposes of this section, "net savings" and
3473 "net revenues" mean any funds remaining after payment of project
3474 capital costs, including debt service, and other payments and
3475 reserves as required by a bond resolution, loan agreement or other



3476 financing agreement and payment of project operating and
3477 maintenance expenses.

3478 (3) Net savings and net revenues generated from projects
3479 shall be apportioned as follows:

3480 (a) Any agency initiating energy savings through the
3481 implementation of an energy efficiency project may retain one-half
3482 (1/2) of all such net savings which may be used for any
3483 nonrecurring capital projects; and

3484 (b) The remaining net savings and net revenues from
3485 conservation projects shall be remitted to the State General Fund.

3486 The Energy Division shall verify the net savings and net
3487 revenues on an annual basis.

3488 (4) The use by an agency of net savings and net revenues
3489 from energy efficiency projects shall be in addition to, and shall
3490 not supplant or replace, funding from traditional sources for
3491 their normal operations and maintenance or capital budgets. It is
3492 the intent of this subsection to ensure that the agencies receive
3493 the full benefit intended by this section, and that the effect
3494 will not be diminished by budget adjustments inconsistent with
3495 this intent.

3496 **SECTION 53.** Section 31-7-15, Mississippi Code of 1972, is
3497 brought forward as follows:

3498 31-7-15. (1) Whenever two (2) or more competitive bids are
3499 received, one or more of which relates to commodities grown,
3500 processed or manufactured within this state, and whenever all



3501 things stated in such received bids are equal with respect to
3502 price, quality and service, the commodities grown, processed or
3503 manufactured within this state shall be given preference. A
3504 similar preference shall be given to commodities grown, processed
3505 or manufactured within this state whenever purchases are made
3506 without competitive bids, and when practical the Department of
3507 Finance and Administration may by regulation establish reasonable
3508 preferential policies for other commodities, giving preference to
3509 resident suppliers of this state.

3510 (2) Any foreign manufacturing company with a factory in the
3511 state and with over fifty (50) employees working in the state
3512 shall have preference over any other foreign company where both
3513 price and quality are the same, regardless of where the product is
3514 manufactured.

3515 (3) On or before January 1, 1991, the Department of Finance
3516 and Administration shall adopt bid and product specifications to
3517 be utilized by all state agencies that encourage the procurement
3518 of commodities made from recovered materials. Preference in
3519 awarding contracts for commodities shall be given to commodities
3520 offered at a competitive price.

3521 (4) Each state agency is required to procure products made
3522 from recovered materials when those products are available at a
3523 competitive price. For purposes of this subsection, "competitive
3524 price" means a price not greater than ten percent (10%) above the
3525 lowest and best bidder. A decision not to procure products made



3526 from recovered materials must be based on a determination that
3527 such procurement:

3528 (a) Is not available within a reasonable period of
3529 time; or

3530 (b) Fails to meet the performance standards set forth
3531 in the applicable specifications; or

3532 (c) Is not available at a competitive price.

3533 (5) Whenever economically feasible, each state agency is
3534 required to purchase products manufactured or sold by the
3535 Mississippi Industries for the Blind.

3536 **SECTION 54.** Section 31-7-16, Mississippi Code of 1972, is
3537 brought forward as follows:

3538 31-7-16. In the event equipment is required which is capable
3539 of being manufactured or assembled in separate units such as
3540 school bus chassis and bodies or other bodies of equipment
3541 installed upon chassis, and there is a manufacturer of such bodies
3542 located within the State of Mississippi, a public purchase may be
3543 made of such chassis and such body or equipment as separate items.

3544 **SECTION 55.** Section 31-7-18, Mississippi Code of 1972, is
3545 brought forward as follows:

3546 31-7-18. In addition to the method of purchasing authorized
3547 in this chapter, said governing authorities are hereby authorized
3548 to accept the lowest bid received from a motor vehicle dealer
3549 domiciled within the county of the governing authority for the
3550 purchase of any motor vehicle having a gross vehicle weight rating



3551 of less than twenty-six thousand (26,000) pounds that shall not
3552 exceed a sum equal to three percent (3%) greater than the price or
3553 cost which the dealer pays the manufacturer, as evidenced by the
3554 factory invoice for the motor vehicle. In the event said county
3555 does not have an authorized motor vehicle dealer, said board or
3556 governing authority may, in like manner, receive bids from motor
3557 vehicle dealers in any adjoining county.

3558 No purchase of a motor vehicle under the provisions of this
3559 section shall be valid unless the purchase is made according to
3560 statutory bidding and licensing requirements. Provided, however,
3561 that the governing authorities may choose to purchase a motor
3562 vehicle from the authorized state contract dealer without having
3563 to advertise and receive bids therefor.

3564 No purchase shall be made in excess of the approved state
3565 contract price by any of the aforementioned governing authorities
3566 when such authorities are situated wholly or in part in the county
3567 wherein the authorized state contract dealer for a particular item
3568 is domiciled.

3569 **SECTION 56.** Section 31-7-21, Mississippi Code of 1972, is
3570 brought forward as follows:

3571 31-7-21. The provisions of this chapter shall neither repeal
3572 nor modify the functions of the Governor's Office of General
3573 Services as set forth in Sections 31-11-1 through 31-11-89.

3574 **SECTION 57.** Section 31-7-23, Mississippi Code of 1972, is
3575 brought forward as follows:



3576 31-7-23. Any rebates, refunds, coupons, merit points,
3577 gratuities or any article of value tendered or received by any
3578 agency or governing authority from any vendor of material,
3579 supplies, equipment or other articles shall inure to the benefit
3580 of the agency or governing authority making the purchase. The
3581 agency or governing authority may, in accordance with its best
3582 interest, either take delivery of the article of value tendered
3583 and use the same or convert it to cash by selling it for its fair
3584 and reasonable value, making use of the proceeds from such sale
3585 for the exclusive benefit of the agency or governing authority.

3586 **SECTION 58.** Section 31-7-38, Mississippi Code of 1972, is
3587 brought forward as follows:

3588 31-7-38. The board of trustees or governing board of any
3589 hospital or regional mental health center owned or owned and
3590 operated separately or jointly by the State of Mississippi or any
3591 of its branches, agencies, departments or subdivisions, or by one
3592 or more counties, cities, towns, supervisors districts or election
3593 districts, or combinations thereof, may authorize by resolution
3594 the organization and operation of, or the participation in, a
3595 group purchasing program with other hospitals or regional mental
3596 health centers, for the purchase of supplies, commodities and
3597 equipment when it appears to the board of trustees or governing
3598 board that such a group purchasing program could or would affect
3599 economy or efficiency in their operations. Purchases by hospitals
3600 or regional mental health centers participating in group



3601 purchasing programs of supplies, commodities and equipment through
3602 such programs shall be exempt from the provisions of Sections
3603 31-7-9, 31-7-10, 31-7-11, 31-7-12 and 31-7-13.

3604 **SECTION 59.** Section 31-7-47, Mississippi Code of 1972, is
3605 brought forward as follows:

3606 31-7-47. In the letting of public contracts, preference
3607 shall be given to resident contractors, and a nonresident bidder
3608 domiciled in a state, city, county, parish, province, nation or
3609 political subdivision having laws granting preference to local
3610 contractors shall be awarded Mississippi public contracts only on
3611 the same basis as the nonresident bidder's state, city, county,
3612 parish, province, nation or political subdivision awards contracts
3613 to Mississippi contractors bidding under similar circumstances.
3614 Resident contractors actually domiciled in Mississippi, be they
3615 corporate, individuals or partnerships, are to be granted
3616 preference over nonresidents in awarding of contracts in the same
3617 manner and to the same extent as provided by the laws of the
3618 state, city, county, parish, province, nation or political
3619 subdivision of domicile of the nonresident.

3620 **SECTION 60.** Section 31-7-49, Mississippi Code of 1972, is
3621 brought forward as follows:

3622 31-7-49. In placing orders for purchases under bids received
3623 and contracts awarded under the provisions of this chapter, the
3624 governing authority, by orders entered on its minutes, may
3625 authorize its members, or agents designated by its order, to place



3626 orders for the purchase of such supplies and materials from time
3627 to time during the period covered by the contract, as such
3628 supplies and materials are needed. Claims for such supplies so
3629 ordered by an individual board member or other duly authorized
3630 agent shall not be allowed and paid by the board until such claims
3631 shall have been approved in writing by the individual board member
3632 or agent who ordered such supplies or the successor to such member
3633 or agent.

3634 **SECTION 61.** Section 31-7-53, Mississippi Code of 1972, is
3635 brought forward as follows:

3636 31-7-53. In making any and all purchases of fertilizer for
3637 all state institutions and agencies, the board, officer, or
3638 employee given the authority to make such purchases shall take
3639 into consideration the chemical analysis and percentage of plant
3640 food unit value in such fertilizer in determining the lowest and
3641 best bid. No awards of contracts shall be made until the best
3642 price is determined on the basis of the chemical analysis as to
3643 the plant food unit value of the product, and the contract shall
3644 be awarded on the basis of such an analysis of the plant food unit
3645 value.

3646 This section does not apply for the purchase of material by
3647 research agencies of the state for use in experimental projects.

3648 The State Penitentiary Board, the Board of Trustees of the
3649 State Institutions of Higher Learning, and any other agency,
3650 department, or board of trustees of the State of Mississippi are



3651 hereby authorized to purchase all needed quantities of anhydrous
3652 ammonia and ammonium nitrate fertilizers available through the
3653 facilities of Mississippi State University of Agriculture and
3654 Applied Science. Such purchase may be at public or private sale,
3655 provided that such fertilizers can be obtained for not more than
3656 the price that the same are then available to such board, agency,
3657 or department from any other source.

3658 **SECTION 62.** Section 31-7-55, Mississippi Code of 1972, is
3659 brought forward as follows:

3660 31-7-55. **[For penalties applicable to violations occurring**
3661 **between January 1, 1981, and August 15, 1988, the following**
3662 **provisions govern.]**

3663 (1) It is hereby declared to be unlawful and a violation of
3664 public policy of the State of Mississippi for any elected or
3665 appointed public officer of the state or the executive head of a
3666 state board, commission, department, subdivision of the state
3667 government or governing authority to make any purchases without
3668 the full compliance with the provisions of Chapter 7, Title 31,
3669 Mississippi Code of 1972. Any elected or appointed public officer
3670 of the state or the executive head of a state board, commission,
3671 department, subdivision of the state government or governing
3672 authority who violates the provisions of Chapter 7, Title 31,
3673 Mississippi Code of 1972, shall be deemed guilty of a misdemeanor
3674 and, upon conviction therefor, shall be fined not less than One
3675 Hundred Dollars (\$100.00) and not more than Five Hundred Dollars



3676 (\$500.00) for each separate offense, or sentenced to the county
3677 jail for not more than six (6) months, or both such fine and
3678 imprisonment, and shall be removed from his office or position.

3679 (2) Any person diverting the benefits of any article of
3680 value tendered or received by any agency or governing authority to
3681 his or her personal use, in violation of Section 31-7-23, shall be
3682 guilty of a misdemeanor and, upon conviction, shall be punished by
3683 a fine of not less than One Hundred Dollars (\$100.00) nor more
3684 than Five Hundred Dollars (\$500.00), or sentenced to the county
3685 jail for not more than six (6) months, or by both such fine and
3686 imprisonment, and shall be required to return the money value of
3687 the article unlawfully diverted to the agency involved.

3688 **[The following provisions apply to violations which occur on**
3689 **or after August 16, 1988.]**

3690 (1) It is hereby declared to be unlawful and a violation of
3691 public policy of the State of Mississippi for any elected or
3692 appointed public officer of an agency or a governing authority, or
3693 the executive head, any employee or agent of an agency or
3694 governing authority to make any purchases without the full
3695 compliance with the provisions of Chapter 7, Title 31, Mississippi
3696 Code of 1972.

3697 (2) Except as otherwise provided in subsection (4) of this
3698 section, any person who intentionally, willfully and knowingly
3699 violates the provisions of Chapter 7, Title 31, Mississippi Code
3700 of 1972, shall be deemed guilty of a misdemeanor and, upon



3701 conviction thereof, shall be fined not less than One Hundred
3702 Dollars (\$100.00) and not more than Five Hundred Dollars (\$500.00)
3703 for each separate offense, or sentenced to the county jail for not
3704 more than six (6) months, or both such fine and imprisonment, and
3705 shall be removed from his office or position.

3706 (3) Any person who intentionally, willfully and knowingly
3707 violates the provisions of subsection (1) of Section 31-7-57 shall
3708 be guilty of a misdemeanor and, upon conviction thereof, shall be
3709 fined not less than One Hundred Dollars (\$100.00) and not more
3710 than Five Hundred Dollars (\$500.00), or sentenced to the county
3711 jail for not more than six (6) months, or both such fine and
3712 imprisonment, and shall be removed from his office or position.

3713 (4) Any person diverting the benefits of any article of
3714 value tendered or received by any agency or governing authority to
3715 his or her personal use, in violation of Section 31-7-23, if the
3716 value of such article be less than Five Hundred Dollars (\$500.00),
3717 shall be guilty of a misdemeanor and, upon conviction, shall be
3718 punished by a fine of not less than One Hundred Dollars (\$100.00)
3719 nor more than Five Hundred Dollars (\$500.00), or sentenced to the
3720 county jail for not more than six (6) months, or by both such fine
3721 and imprisonment, shall be removed from his office or position,
3722 and shall be required to return the money value of the article
3723 unlawfully diverted to the agency or governing authority involved.
3724 If the value of the article be Five Hundred Dollars (\$500.00) or
3725 more, such person shall be guilty of a felony and, upon



3726 conviction, shall be punished by a fine of not less than One
3727 Thousand Dollars (\$1,000.00) nor more than Five Thousand Dollars
3728 (\$5,000.00), or sentenced to the Department of Corrections for not
3729 less than one (1) year nor more than five (5) years, or by both
3730 such fine and imprisonment, shall be removed from his office or
3731 position, and shall be required to return the money value of the
3732 article unlawfully diverted to the agency or governing authority
3733 involved.

3734 (5) The provisions of this section are supplemental to any
3735 other criminal statutes of this state.

3736 **SECTION 63.** Section 31-7-57, Mississippi Code of 1972, is
3737 brought forward as follows:

3738 31-7-57. (1) Any elected or appointed public officer of an
3739 agency or a governing authority, or the executive head, any
3740 employee or agent of an agency or governing authority, who
3741 appropriates or authorizes the expenditure of any money to an
3742 object not authorized by law, shall be liable personally for up to
3743 the full amount of the appropriation or expenditure as will fully
3744 and completely compensate and repay such public funds for any
3745 actual loss caused by such appropriation or expenditure, to be
3746 recovered by suit in the name of the governmental entity involved,
3747 or in the name of any person who is a taxpayer suing for the use
3748 of the governmental entity involved, and such taxpayer shall be
3749 liable for costs in such case. In the case of a governing board
3750 of an agency or governing authority, only the individual members



3751 of the governing board who voted for the appropriation or
3752 authorization for expenditure shall be liable under this
3753 subsection.

3754 (2) No individual member, officer, employee or agent of any
3755 agency or board of a governing authority shall let contracts or
3756 purchase commodities or equipment except in the manner provided by
3757 law, including the provisions of Section 25-9-120(3), Mississippi
3758 Code of 1972, relating to personal and professional service
3759 contracts by state agencies; nor shall any such agency or board of
3760 a governing authority ratify any such contract or purchase made by
3761 any individual member, officer, employee or agent thereof, or pay
3762 for the same out of public funds unless such contract or purchase
3763 was made in the manner provided by law; provided, however, that
3764 any vendor who, in good faith, delivers commodities or printing or
3765 performs any services under a contract to or for the agency or
3766 governing authority, shall be entitled to recover the fair market
3767 value of such commodities, printing or services, notwithstanding
3768 some error or failure by the agency or governing authority to
3769 follow the law, if the contract was for an object authorized by
3770 law and the vendor had no control of, participation in, or actual
3771 knowledge of the error or failure by the agency or governing
3772 authority.

3773 (3) The individual members, officers, employees or agents of
3774 any agency or governing authority as defined in Section 31-7-1
3775 causing any public funds to be expended, any contract made or let,



3776 any payment made on any contract or any purchase made, or any
3777 payment made, in any manner whatsoever, contrary to or without
3778 complying with any statute of the State of Mississippi, regulating
3779 or prescribing the manner in which such contracts shall be let,
3780 payment on any contract made, purchase made, or any other payment
3781 or expenditure made, shall be liable, individually, and upon their
3782 official bond, for compensatory damages, in such sum up to the
3783 full amount of such contract, purchase, expenditure or payment as
3784 will fully and completely compensate and repay such public funds
3785 for any actual loss caused by such unlawful expenditure.

3786 (4) In addition to the foregoing provision, for any
3787 violation of any statute of the State of Mississippi prescribing
3788 the manner in which contracts shall be let, purchases made,
3789 expenditure or payment made, any individual member, officer,
3790 employee or agent of any agency or governing authority who shall
3791 substantially depart from the statutory method of letting
3792 contracts, making payments thereon, making purchases or expending
3793 public funds shall be liable, individually and on his official
3794 bond, for penal damages in such amount as may be assessed by any
3795 court of competent jurisdiction, up to three (3) times the amount
3796 of the contract, purchase, expenditure or payment. The person so
3797 charged may offer mitigating circumstances to be considered by the
3798 court in the assessment of any penal damages.



3799 (5) Any sum recovered under the provisions hereof shall be
3800 credited to the account from which such unlawful expenditure was
3801 made.

3802 (6) Except as otherwise provided in subsection (1) of this
3803 section, any individual member of an agency or governing authority
3804 as defined in Section 31-7-1 shall not be individually liable
3805 under this section if he voted against payment for contracts let
3806 or purchases made contrary to law and had his vote recorded in the
3807 official minutes of the board or governing authority at the time
3808 of such vote, or was absent at the time of such vote.

3809 **SECTION 64.** Section 31-7-59, Mississippi Code of 1972, is
3810 brought forward as follows:

3811 31-7-59. (1) Any municipality of over one hundred thousand
3812 (100,000) population, according to the latest decennial census and
3813 qualified to do so, is hereby empowered to purchase from the
3814 General Services Administration of the United States of America,
3815 without advertising for bids, any and all articles of supplies and
3816 equipment necessary for the operation of said municipality so long
3817 as the purchase price of such articles is below the purchase price
3818 of similar articles on a state contract accepted by the Office of
3819 General Services.

3820 (2) The aforesaid supplies and equipment may likewise
3821 be purchased from the General Services Administration without
3822 advertising for bids even though the Office of General Services
3823 does not have same listed on statewide contracts so long as the



3824 purchase price thereof is ten percent (10%) below the latest
3825 purchase price of comparable supplies and equipment.

3826 **SECTION 65.** Section 31-7-61, Mississippi Code of 1972, is
3827 brought forward as follows:

3828 31-7-61. It shall be unlawful for any person knowingly to
3829 purchase or to authorize or requisition the purchase of beef other
3830 than beef raised and produced within the United States when such
3831 purchase is to be paid by the state government or any of its
3832 political subdivisions out of public funds of any nature.

3833 However, all canned meats not available which are processed in the
3834 United States shall be exempt from Sections 31-7-61 through
3835 31-7-65.

3836 **SECTION 66.** Section 31-7-63, Mississippi Code of 1972, is
3837 brought forward as follows:

3838 31-7-63. Any person who violates the provisions of Section
3839 31-7-61 shall be guilty of a misdemeanor and upon conviction shall
3840 be punished by imprisonment for not more than thirty (30) days or
3841 by a fine of not less than One Hundred Dollars (\$100.00) nor more
3842 than Five Hundred Dollars (\$500.00). In addition to any criminal
3843 sanction authorized herein, a civil proceeding may be brought by a
3844 district attorney or county prosecuting attorney for recovery of
3845 funds paid out in violation of this section.

3846 **SECTION 67.** Section 31-7-65, Mississippi Code of 1972, is
3847 brought forward as follows:



3848 31-7-65. The Commissioner of Agriculture and Commerce of the
3849 State of Mississippi shall notify all state agencies, political
3850 subdivisions or public institutions within the State of
3851 Mississippi as to the provisions of Sections 31-7-61 through
3852 31-7-65.

3853 **SECTION 68.** Section 31-7-67, Mississippi Code of 1972, is
3854 brought forward as follows:

3855 31-7-67. (1) For the purposes of this section, the
3856 following words and phrases shall have the meanings ascribed in
3857 this section unless the context clearly indicates otherwise:

3858 (a) "sUAS" means a small unmanned aircraft system, also
3859 called a drone, including the unmanned aircraft itself and any
3860 additional support equipment, control stations, data links,
3861 telemetry, communications and navigation equipment or any other
3862 equipment necessary to operate the unmanned aircraft.

3863 (b) "Domestic manufacturer" means a manufacturing
3864 company incorporated and headquartered in the United States of
3865 America and whose majority ownership is comprised of American
3866 citizens and which manufactures drones at a facility in the United
3867 States of America. If such company is owned by another entity,
3868 that entity must also be an American company.

3869 (c) "Domestic sUAS company" means a company which
3870 provides maintenance, repair, and other technical services for
3871 small unmanned aircraft systems, including drones, which is



3872 incorporated, headquartered and primarily provides such services
3873 in the United States of America.

3874 (d) "Collision avoidance system" means a system of
3875 hardware or software designed to mitigate collision risk for
3876 drones.

3877 (2) Beginning January 1, 2025, all small unmanned aircraft
3878 systems and drones purchased by the State of Mississippi or any
3879 agency or political subdivision thereof shall be purchased
3880 exclusively from a domestic manufacturer and shall possess
3881 collision avoidance systems. All maintenance, repair and other
3882 technical services on drones owned by the State of Mississippi or
3883 any agency or political subdivision thereof shall be performed by
3884 a domestic sUAS company. All infrastructure inspection services
3885 requiring the use of sUAS and contracted for on behalf of the
3886 State shall be performed using domestically manufactured sUAS.

3887 (3) In public procurement under Title 31, Chapter 7,
3888 domestic manufacturers operating within the State of Mississippi
3889 shall be granted a ten percent (10%) bid preference over
3890 non-Mississippi manufacturers and domestic sUAS companies shall be
3891 granted a ten percent (10%) bid preference over non-Mississippi
3892 companies. Additionally, all agencies and public entities may
3893 solicit a minimum of one (1) bid from a Mississippi-based small
3894 unmanned aircraft system manufacturer.

3895 (4) Except as provided in subsection (6), an agency may not
3896 purchase or operate a small unmanned aircraft system manufactured



3897 in the People's Republic of China. For purposes of this section,
3898 the term "manufactured" includes a small unmanned aircraft system
3899 that is assembled in a country other than the People's Republic of
3900 China but which is comprised of more than a negligible amount of
3901 parts, software, components or raw materials originating in the
3902 People's Republic of China.

3903 (5) The provisions of this section shall not apply to a
3904 state institution of higher learning with a federally designated
3905 research center when such institution is conducting research
3906 regarding sUAS and related matters.

3907 (6) The provisions of this section shall not apply to small
3908 unmanned aircraft systems manufactured in the People's Republic of
3909 China and purchased prior to January 1, 2025.

3910 **SECTION 69.** Section 31-7-73, Mississippi Code of 1972, is
3911 brought forward as follows:

3912 31-7-73. Any state agency, as defined in Section 31-7-1,
3913 Mississippi Code of 1972, shall be authorized and empowered, in
3914 its discretion, to enter into an energy performance contract,
3915 energy services contract, on a shared-savings, lease or
3916 lease-purchase basis, for energy efficiency services and/or
3917 equipment as provided for in Section 31-7-14.

3918 **SECTION 70.** Section 31-7-301, Mississippi Code of 1972, is
3919 brought forward as follows:

3920 31-7-301. (1) The Legislature hereby declares that it is
3921 essential to the efficient operation of public bodies of this



3922 state that adequate supplies of goods and services continue to be
3923 available from private sources; that the good name and credit of
3924 the state may be promoted by timely and responsible payment of
3925 just claims; and that fair compensation be awarded suppliers when
3926 payments of their claims are delayed without justification.

3927 (2) The term "public bodies" shall mean all state agencies,
3928 political subdivisions, school districts, municipalities and
3929 public corporations, whether created by charter, statute or
3930 executive order, whether supported wholly or in part by public
3931 funds, or which expend public funds.

3932 **SECTION 71.** Section 31-7-303, Mississippi Code of 1972, is
3933 brought forward as follows:

3934 31-7-303. (1) The requisition for payment of an invoice
3935 submitted to a public body and required by law to be filed with
3936 the State Fiscal Management Board shall be filed with the State
3937 Fiscal Management Board not later than thirty (30) days after
3938 receipt of the invoice and receipt, inspection and approval of the
3939 goods or services, except that in the case of a bona fide dispute
3940 the requisition for payment shall contain a statement of the
3941 dispute and authorize payment only in the amount not disputed. If
3942 a requisition for payment filed within the thirty-day period is
3943 returned by the State Fiscal Management Board because of an error,
3944 it shall nevertheless be deemed timely filed. The thirty-day
3945 filing requirement may be waived by the State Fiscal Management
3946 Board on a showing of exceptional circumstances in accordance with



3947 rules and regulations established by the State Fiscal Management
3948 Board.

3949 (2) The warrant, in payment of an invoice submitted to a
3950 public body of the state, shall be mailed or otherwise delivered
3951 by the public body not later than fifteen (15) days after filing
3952 of the requisition for payment; however, this requirement may be
3953 waived by the State Fiscal Management Board on a showing of
3954 exceptional circumstances in accordance with rules and regulations
3955 of the State Fiscal Management Board or as otherwise provided in
3956 Section 7-7-35, Mississippi Code of 1972.

3957 **SECTION 72.** Section 31-7-305, Mississippi Code of 1972, is
3958 brought forward as follows:

3959 31-7-305. (1) All public bodies of the state, including
3960 those which issue checks and those which file requisitions for
3961 payment with the State Fiscal Management Board, shall keep a
3962 record of the date of receipt of the invoice, dates of receipt,
3963 inspection and approval of the goods or services, date of issuing
3964 the check or date of filing the requisition for payment, as the
3965 case may be, and date of mailing or otherwise delivering the
3966 warrant or check in payment thereof. In the event that the State
3967 Fiscal Management Board mails or otherwise delivers the warrant
3968 directly to the claimant, pursuant to Section 7-7-35, Mississippi
3969 Code of 1972, the State Fiscal Management Board shall notify the
3970 public body of the date thereof. The provisions of this section



3971 are supplemental to the requirements of Sections 19-13-29,
3972 21-39-7, 21-39-13 and 37-5-93, Mississippi Code of 1972.

3973 (2) All public bodies that are authorized to issue checks in
3974 payment of goods and services and are not required to issue
3975 requisitions for payment to the State Fiscal Management Board
3976 shall mail or otherwise deliver such checks no later than
3977 forty-five (45) days after receipt of the invoice and receipt,
3978 inspection and approval of the goods or services; however, in the
3979 event of a bona fide dispute, the public body shall pay only the
3980 amount not disputed.

3981 (3) If a warrant or check, as the case may be, in payment of
3982 an invoice is not mailed or otherwise delivered within forty-five
3983 (45) days after receipt of the invoice and receipt, inspection and
3984 approval of the goods and services, the public body shall be
3985 liable to the vendor, in addition to the amount of the invoice,
3986 for interest at a rate of one and one-half percent (1-1/2%) per
3987 month or portion thereof on the unpaid balance from the expiration
3988 of such forty-five-day period until such time as the warrant or
3989 check is mailed or otherwise delivered to the vendor. The
3990 provisions of this subsection (3) shall apply only to undisputed
3991 amounts for which payment has been authorized. In the case of an
3992 error on the part of the vendor, the forty-five-day period shall
3993 begin to run upon receipt of a corrected invoice by the public
3994 body and upon compliance with the other provisions of this
3995 section. The various public bodies shall be responsible for



3996 initiating the penalty payments required by this subsection and
3997 shall use this subsection as authority to make such payments.
3998 Also, at the time of initiating such penalty payment, the public
3999 body shall specify in writing an explanation of the delay and
4000 shall attach such explanation to the requisition for payment of
4001 the penalty or to the file copy of the check issued by the public
4002 body, as the case may be.

4003 (4) (a) In the event of a bona fide dispute as to an
4004 invoice, or any portion thereof, the dispute shall be settled
4005 within thirty (30) days after interest penalties could begin to be
4006 assessed, if it were not for the dispute.

4007 (b) If a warrant or check, as the case may be, in
4008 payment of an invoice, subject to a prior dispute, is not mailed
4009 or otherwise delivered within thirty (30) days after settlement of
4010 the dispute, the public body shall be liable to the vendor, in
4011 addition to the amount of the invoice, for interest at a rate of
4012 one and one-half percent (1-1/2%) per month or portion thereof on
4013 the unpaid balance from the expiration of said thirty-day period
4014 until such time as the warrant or check is mailed or otherwise
4015 delivered to the vendor. At the time of initiating such penalty
4016 payment, the public body shall specify in writing an explanation
4017 of the delay and shall attach such explanation to the requisition
4018 for payment of the penalty or to the file copy of the check issued
4019 by the public body, as the case may be. The interest penalty



4020 prescribed in this paragraph shall be in lieu of the penalty
4021 provided in subsection (3).

4022 **SECTION 73.** Section 31-7-307, Mississippi Code of 1972, is
4023 brought forward as follows:

4024 31-7-307. (1) The budget request submitted by a public body
4025 to the Legislature shall specifically disclose the amount of any
4026 interest paid by any public body pursuant to Sections 31-7-301
4027 through 31-7-317. However, no provision of Sections 31-7-301
4028 through 31-7-317 authorizes a new appropriation to cover such
4029 interest penalties, and public bodies shall not seek to increase
4030 appropriations for the purpose of obtaining funds to pay any
4031 interest penalties.

4032 (2) All public bodies of the state, including those which
4033 issue checks and those which file requisitions for payment with
4034 the State Fiscal Management Board, shall monthly notify the State
4035 Fiscal Management Board of the number and dollar amount of late
4036 payments by the public body along with the amounts of interest
4037 paid and the specific steps being taken to reduce the incidence of
4038 late payments.

4039 (3) If the terms of the invoice provide a discount for
4040 payment in less than forty-five (45) days, public bodies shall
4041 preferentially process it and use all diligence to obtain the
4042 savings by compliance with the invoice terms, if it would be cost
4043 effective.



4044 **SECTION 74.** Section 31-7-309, Mississippi Code of 1972, is
4045 brought forward as follows:

4046 31-7-309. Whenever a vendor brings formal administrative or
4047 judicial action to collect interest due under Sections 31-7-301
4048 through 31-7-317, the public body shall be required to pay any
4049 reasonable attorney's fees if the vendor prevails.

4050 **SECTION 75.** Section 31-7-311, Mississippi Code of 1972, is
4051 brought forward as follows:

4052 31-7-311. The State Fiscal Management Board shall submit to
4053 the Appropriations Committee of each house of the Legislature by
4054 January 15 of each year a report summarizing the payment record
4055 for the preceding fiscal year. The report shall include the
4056 number and dollar amount of late payments by each public body
4057 along with the amounts of interest paid and the specific steps
4058 being taken to reduce the incidence of late payments.

4059 **SECTION 76.** Section 31-7-313, Mississippi Code of 1972, is
4060 brought forward as follows:

4061 31-7-313. The State Fiscal Management Board is authorized
4062 and directed to adopt and promulgate rules and regulations
4063 necessary to implement this section.

4064 **SECTION 77.** Section 31-7-315, Mississippi Code of 1972, is
4065 brought forward as follows:

4066 31-7-315. Sections 31-7-301 through 31-7-317 shall not
4067 affect payment under public works contracts as provided in
4068 Sections 31-5-25 and 31-5-27, Mississippi Code of 1972.



4069 **SECTION 78.** Section 31-7-317, Mississippi Code of 1972, is
4070 brought forward as follows:

4071 31-7-317. (1) The Governor's Office of General Services
4072 shall study the feasibility of:

4073 (a) Requiring the Bureau of Purchasing to act as
4074 purchasing agent for state agencies;

4075 (b) Requiring the Bureau of Purchasing to purchase
4076 frequently used products and supplies and warehouse them for state
4077 agencies, especially in the Jackson metropolitan area; and

4078 (c) A small business/minority set-aside program.

4079 (2) On or before January 15, 1987, the Governor's Office of
4080 General Services shall transmit its written report of the
4081 feasibility studies to the Legislature, along with its
4082 recommendations and an estimate of the fiscal impact of the
4083 recommendations. If the Governor's Office of General Services
4084 recommends that the bureau should be required to act as purchasing
4085 agent for smaller state agencies, the report shall include a list
4086 of state agencies to be included.

4087 **SECTION 79.** Section 31-7-401, Mississippi Code of 1972, is
4088 brought forward as follows:

4089 31-7-401. Except as otherwise provided by law, the
4090 provisions of Sections 31-7-401 through 31-7-423 shall apply to
4091 every procurement of commodities, supplies, equipment,
4092 construction, technology, personal and professional services other
4093 than those in Section 27-104-7(2)(f) and (8), state agency



4094 employee benefits, supplemental insurance and cafeteria plans,
4095 that are solicited by any state agency by a request for proposals
4096 or request for qualifications, except any personal or professional
4097 services contract entered into by an agency for the design,
4098 operation or maintenance of museum exhibits, purchases made by an
4099 agency related to the fabrication, construction, installation or
4100 refurbishing of museum exhibits. The following provisions are
4101 intended to ensure that the best practices for soliciting requests
4102 for proposals or requests for qualifications are implemented. Any
4103 agency that is required to receive approval by the Public
4104 Procurement Review Board before entering into a personal or
4105 professional services contract as provided in subsection (2)(g) of
4106 Section 27-104-7 shall implement the best practices specified in
4107 Sections 31-7-401 through 31-7-423. The Public Procurement Review
4108 Board shall promulgate any necessary rules and regulations to
4109 administer the provisions of Sections 31-7-401 through 31-7-423.

4110 **SECTION 80.** Section 31-7-403, Mississippi Code of 1972, is
4111 brought forward as follows:

4112 31-7-403. **Conditions for use.** (1) Competitive sealed
4113 bidding is the preferred method of procurement; however, if it is
4114 not practicable and advantageous, a request for proposals or
4115 request for qualifications may be used. The terms "practicable"
4116 and "advantageous" are to be given ordinary dictionary meanings.
4117 The term "practicable" denotes what may be accomplished or put



4118 into practical application. "Advantageous" denotes a judgmental
4119 assessment of what is in the state's best interest.

4120 (2) The following factors shall be considered when
4121 determining advantageousness:

4122 (a) The need for flexibility;

4123 (b) The type of evaluations that will be needed after
4124 offers are received;

4125 (c) Whether the evaluation factors involve the relative
4126 abilities of offerers to perform, including degrees of technical
4127 or professional experience or expertise;

4128 (d) Whether the type of need to be satisfied involves
4129 weighing artistic and aesthetic values to the extent that price is
4130 a secondary consideration;

4131 (e) Whether the types of supplies, services or
4132 construction may require the use of comparative judgmental
4133 evaluations to evaluate them adequately; and

4134 (f) Whether prior procurements indicate that a request
4135 for proposals may result in more beneficial contracts for the
4136 state.

4137 (3) The following factors shall be considered when
4138 determining practicability:

4139 (a) Whether the contract needs to be a contract other
4140 than a fixed-price type contract;



4141 (b) Whether oral or written discussions may need to be
4142 conducted with offerers concerning technical and price aspects of
4143 their proposals;

4144 (c) Whether offerers may need to be afforded the
4145 opportunity to revise their proposals, including price;

4146 (d) Whether the award may need to be based upon a
4147 comparative evaluation of differing price and contractual factors
4148 as well as quality factors that include technical and performance
4149 capability and the content of the technical proposal; and

4150 (e) Whether the primary consideration in determining
4151 award may not be price.

4152 (4) On or before January 1 of each year, and every time a
4153 chief procurement officer is hired, each state agency shall
4154 provide to the state purchasing agent the name of the state
4155 agency's chief procurement officer and information identifying the
4156 state agency's central purchasing office, if applicable. If the
4157 chief procurement officer of an agency or his or her designee
4158 determines, in writing, that the use of competitive sealed bidding
4159 is either not practicable or not advantageous to the state, he or
4160 she shall submit a detailed explanation of the reasons for that
4161 determination to the Public Procurement Review Board. If the
4162 Public Procurement Review Board determines that competitive sealed
4163 bidding is either not practicable or not advantageous to the
4164 state, then a contract may be entered into for the procurement of
4165 commodities, supplies, equipment, construction, technology,



4166 personal and professional services, state agency purchased
4167 employee benefits or state agency supplemental insurance and
4168 cafeteria plans, by a request for proposals or request for
4169 qualifications. However, these procurements contracted for
4170 through a request for proposals or request for qualifications may
4171 not be combined or included in a contract with other procurements
4172 that are required to be procured through competitive sealed
4173 bidding so as to avoid the statutory obligation for procurement
4174 through competitive sealed bidding. The board may modify or
4175 revoke its determination at any time, and the determination should
4176 be reviewed for current applicability from time to time.

4177 In addition to determining whether a request for proposals or
4178 request for qualifications would be practicable and advantageous
4179 to the state, when making the decision to use a request for
4180 proposals or request for qualifications, the chief procurement
4181 officer shall consider the following factors:

4182 (a) Whether quality, availability or capability is
4183 overriding in relation to price in procurements for research and
4184 development, technical supplies or services;

4185 (b) Whether the initial installation needs to be
4186 evaluated together with later maintenance and service capabilities
4187 and what priority should be given to these requirements in the
4188 best interests of the state; and



4189 (c) Whether the marketplace will respond better to a
4190 solicitation permitting not only a range of alternative proposals
4191 but evaluation and discussion of them before making the award.

4192 **SECTION 81.** Section 31-7-405, Mississippi Code of 1972, is
4193 brought forward as follows:

4194 31-7-405. **Content of the request for proposals or request**
4195 **for qualifications.** (1) The request for proposals or request for
4196 qualifications shall include the following:

4197 (a) Instructions and information to offerers concerning
4198 the request for proposals or request for qualifications submission
4199 requirements, including the time and date set for receipt of
4200 proposals or qualifications, the address of the office to which
4201 proposals or qualifications are to be delivered, the maximum time
4202 for proposal or qualification acceptance by the state, the manner
4203 in which proposals or qualifications are to be submitted,
4204 including any forms for that purpose and any other special
4205 information;

4206 (b) The purchase description, evaluation factors,
4207 delivery or performance schedule and any inspection and acceptance
4208 requirements that are not included in the purchase description;

4209 (c) The contract terms and conditions, including
4210 warranty and bonding or other security requirements, as
4211 applicable;

4212 (d) A statement that discussions may be conducted with
4213 offerers who submit proposals or qualifications determined to be



4214 reasonably susceptible of being selected for the award, but that
4215 proposals or qualifications may be accepted without such
4216 discussions; and

4217 (e) A statement of when and how price should be
4218 submitted.

4219 (2) The request for proposals or request for qualifications
4220 may incorporate documents by reference provided that the request
4221 for proposals or request for qualifications specifies where those
4222 documents can be obtained.

4223 (3) Proposal or qualification preparation time shall be set
4224 to provide offerers a reasonable time to prepare their proposals
4225 or qualifications. A minimum of thirty (30) days shall be
4226 provided unless a shorter time is deemed necessary for a
4227 particular procurement as determined in writing by the chief
4228 procurement officer of the requesting agency.

4229 **SECTION 82.** Section 31-7-407, Mississippi Code of 1972, is
4230 brought forward as follows:

4231 31-7-407. **Public notice.** (1) In addition to any method of
4232 public notice regarding the solicitation of requests for proposals
4233 or requests for qualifications currently being used by state
4234 agencies, the chief procurement officer shall also have posted on
4235 the Mississippi procurement portal and on the soliciting agency's
4236 website, public notification of a pending procurement through
4237 request for proposals or request for qualifications. The notice
4238 shall include the following:



4239 (a) The due date for responses;

4240 (b) The name and phone number of the officer conducting

4241 the procurement; and

4242 (c) The means of obtaining the solicitation.

4243 (2) The notice shall be posted at least thirty (30) days

4244 before the date that proposals or qualifications are to be

4245 submitted to the chief procurement officer, unless a shorter time

4246 is deemed necessary for a particular procurement as determined in

4247 writing by the chief procurement officer of the requesting agency.

4248 (3) Each chief procurement officer may determine that other

4249 methods of public notification are best for that particular agency

4250 or that particular request for proposals or request for

4251 qualifications. If such a determination is made, the chief

4252 procurement officer may provide notice in an alternative manner

4253 about the request for proposals or request for qualifications in

4254 addition to the methods provided for in Sections 31-7-401 through

4255 31-7-423.

4256 (4) The Department of Finance and Administration (DFA) shall

4257 monitor agency websites and the Mississippi procurement portal to

4258 ensure that the agencies are posting the required notice. DFA

4259 shall audit agencies and report its findings to the Chairs of the

4260 House of Representatives and Senate Accountability, Efficiency and

4261 Transparency Committees and House of Representatives and Senate

4262 Appropriations Committees by December 31 of each year.



4263 **SECTION 83.** Section 31-7-409, Mississippi Code of 1972, is
4264 brought forward as follows:

4265 31-7-409. **Pre-proposal conferences.** (1) Pre-proposal
4266 conferences may be conducted to explain the procurement
4267 requirements. If a chief procurement officer plans to hold such a
4268 conference, he or she shall prominently place the notification in
4269 the request for proposals or request for qualifications
4270 solicitation. The notification shall include the date, time and
4271 location of the conference. If the chief procurement officer
4272 decides to hold a pre-proposal conference after the request for
4273 proposals or request for qualifications has been sent out, then he
4274 or she shall notify all prospective offerers known to have
4275 received a request for proposals or request for qualifications.

4276 (2) If a pre-proposal conference is held, it shall be at
4277 least fourteen (14) days after the request for proposals or
4278 request for qualifications has been issued. In setting the time
4279 for the conference, the chief procurement officer shall consider
4280 the complexity of the procurement and the potential modifications
4281 that may need to be made after the conference and any amendments
4282 to the solicitation that the chief procurement officer may need to
4283 make after the conference.

4284 (3) The chief procurement officer issuing the request for
4285 proposals or request for qualifications shall serve as chair of
4286 the conference. Offerers attending the conference shall be
4287 required to sign an attendance sheet provided by the soliciting



4288 agency. The chair shall announce at the beginning of the
4289 conference how the conference is to be handled. The conference
4290 shall be recorded. A chief procurement officer may mandate
4291 attendance at a conference if he or she feels it is critical to
4292 understanding the solicitation. Once the conference is over, the
4293 chief procurement officer shall put the recordings from the
4294 conference and the questions and answers from the conference in
4295 writing and send them to the offerers who received the request for
4296 proposals or request for qualifications and post them on the
4297 Mississippi procurement portal and the soliciting agency's
4298 website.

4299 **SECTION 84.** Section 31-7-411, Mississippi Code of 1972, is
4300 brought forward as follows:

4301 31-7-411. **Drafting the request for proposals or request for**
4302 **qualifications.** (1) In addition to the items listed in Sections
4303 31-7-401 through 31-7-423, the contents of a request for proposals
4304 or request for qualifications shall also include the following:

4305 (a) A statement that discussions may be conducted with
4306 offerers who submit proposals or qualifications determined to be
4307 reasonably susceptible of being selected for the award, but that
4308 proposals or qualifications may also be accepted without those
4309 discussions; and

4310 (b) A statement of when and how price should be
4311 submitted.



4312 (2) The request for proposals or request for qualifications
4313 shall indicate, either by the order listed, weights or some other
4314 manner, the order of importance of the evaluation criteria.

4315 (3) The request for proposals or request for qualifications,
4316 its amendments, the offerer's proposals or qualifications and the
4317 best and final offer shall constitute the contract.

4318 **SECTION 85.** Section 31-7-413, Mississippi Code of 1972, is
4319 brought forward as follows:

4320 31-7-413. **Evaluation factors in the request for proposals or**
4321 **request for qualifications.** (1) When the chief procurement
4322 officer submits the determination that the use of competitive
4323 sealed bidding is either not practicable or not advantageous to
4324 the state to the Public Procurement Review Board for its approval,
4325 he or she shall include in that submission the evaluation factors
4326 that will be used in reviewing the submitted proposals or
4327 qualifications. The evaluation factors shall be approved by the
4328 Public Procurement Review Board in the same way that the decision
4329 to solicit procurements through a request for proposals or request
4330 for qualifications must be approved.

4331 (2) (a) The request for proposals or request for
4332 qualifications shall state all of the approved evaluation factors,
4333 including price, and their relative importance. When the chief
4334 procurement officer is determining the weights and importance of
4335 each evaluation factor, price as an evaluation factor shall be
4336 given the highest criteria weighting and at least thirty-five



4337 percent (35%) out of the one hundred percent (100%) total weight
4338 of all the other evaluation factors. The evaluation shall be
4339 based on the evaluation factors set forth in the request for
4340 proposals or request for qualifications. The evaluation factors
4341 used and the weights given to each shall be decided and agreed to
4342 by the evaluation committee before the opening of any proposal or
4343 qualification. Numerical rating systems shall be used when
4344 determining the weight and importance of each evaluation factor.
4345 Factors not specified in the request for proposals or request for
4346 qualifications shall not be considered. Upon completion of the
4347 evaluation, the evaluation score sheets used to review the
4348 submitted proposals or qualifications shall be made part of the
4349 report required under Section 31-7-423(1).

4350 (b) The following, as appropriate to individual
4351 circumstances, shall be used as criteria for evaluating requests
4352 for proposals or requests for qualifications under the request for
4353 proposals or request for qualifications process described in
4354 Sections 31-7-401 through 31-7-423. These factors are not
4355 intended to be limiting or all-inclusive, and they may be adapted
4356 or supplemented in order to meet a soliciting agency's individual
4357 needs as the competitive procurement process requires.

4358 (i) Technical factors (Proposed methodology):

4359 a. Does the offerer's proposal or
4360 qualification demonstrate a clear understanding of the scope of
4361 work and related objectives?



4362 b. Is the offerer's proposal or
4363 qualification complete and responsive to the specific request for
4364 proposals or request for qualifications requirements?

4365 c. Has the past performance of the
4366 offerer's proposed methodology been documented?

4367 d. Does the offerer's proposal or
4368 qualification use innovative technology and techniques?

4369 (ii) Management factors (Factors that will require
4370 the identity of the offerer to be revealed must be submitted
4371 separately from other factors):

4372 1. Project management:

4373 a. How well does the proposed scheduling
4374 timeline meet the needs of the soliciting agency?

4375 b. Is there a project management plan?

4376 2. History and experience in performing the
4377 work:

4378 a. Does the offerer document a record of
4379 reliability of timely delivery and on-time and on-budget
4380 implementation?

4381 b. Does the offerer demonstrate a track
4382 record of service as evidenced by on-time, on-budget, and contract
4383 compliance performance?

4384 c. Does the offerer document industry or
4385 program experience?



4386 d. Does the offerer have a record of
4387 poor business ethics?

4388 3. Availability of personnel, facilities,
4389 equipment and other resources:

4390 a. To what extent does the offerer rely
4391 on in-house resources vs. contracted resources?

4392 b. Are the availability of in-house and
4393 contract resources documented?

4394 4. Qualification and experience of personnel:

4395 a. Documentation of experience in
4396 performing similar work by employees and when appropriate,
4397 sub-contractors?

4398 b. Does the offerer demonstrate cultural
4399 sensitivity in hiring and training staff?

4400 (iii) Cost factors (Factors must be submitted
4401 separately from other factors unless specifically approved by the
4402 Public Procurement Review Board):

4403 1. Cost of goods to be provided or services
4404 to be performed:

4405 a. Relative cost: How does the cost
4406 compare to other similarly scored proposals or qualifications?

4407 b. Full explanation: Is the price and
4408 its component charges, fees, etc. adequately explained or
4409 documented?

4410 2. Assurances of performance:



4411 a. If required, are suitable bonds,
4412 warranties or guarantees provided?

4413 b. Does the proposal or qualification
4414 include quality control and assurance programs?

4415 3. Offerer's financial stability and
4416 strength: Does the offerer have sufficient financial resources to
4417 meet its obligations?

4418 **SECTION 86.** Section 31-7-415, Mississippi Code of 1972, is
4419 brought forward as follows:

4420 31-7-415. **Evaluation committee.** (1) Evaluation committees
4421 shall be used to evaluate request for proposals or request for
4422 qualifications and award contracts. Persons appointed to an
4423 evaluation committee shall have the relevant experience necessary
4424 to evaluate the proposal or qualification. The members of the
4425 evaluation committee shall have no personal, financial or familial
4426 interest in any of the contract offerers, or principals thereof,
4427 to be evaluated.

4428 (2) The names of the members of the evaluation committee
4429 shall not be publicly disclosed until their evaluation report as
4430 required under Section 31-7-423(1). The members' names and job
4431 titles shall be made available to the public. Where evaluation
4432 committee members are not public employees, those members' names,
4433 educational and professional qualifications, and practical
4434 experience, that were the basis for the appointment, shall be made
4435 available to the public.



4436 (3) Before evaluating proposals or qualifications, each
4437 individual participating in the evaluation of a proposal or
4438 qualification shall execute a statement in accordance with
4439 subsection (1) of this section certifying that he or she does not
4440 have a conflict of interest. The statement shall be filed with
4441 the chief procurement officer of the soliciting agency, before
4442 beginning the evaluation process. The certification shall be as
4443 follows:

4444 "I hereby certify that I have reviewed the conflict of
4445 interest standards prescribed herein, and that I do not have a
4446 conflict of interest with respect to the evaluation of this
4447 proposal or qualification. I further certify that I am not
4448 engaged in any negotiations or arrangements for prospective
4449 employment or association with any of the offerers submitting
4450 proposals or qualifications or their parent or subsidiary
4451 organization."

4452 (4) Committee members may conduct their work separately or
4453 together.

4454 (5) The committee may use advisors, as it deems necessary to
4455 give opinions on evaluating proposals or qualifications, except
4456 that such advisors shall be subject to the provisions of
4457 subsection (3) of this section. The names of the advisors shall
4458 be made public at the same time as members of the evaluation
4459 committee as provided in subsection (2) of this section. For the
4460 purposes of this section, the term "advisors" shall mean those



4461 individuals who provide such significant input to a member or
4462 members of the evaluation committee that the advisor's opinions
4463 are fundamental in shaping the committee member's evaluation of
4464 the submitted proposals or qualifications.

4465 (6) The process of establishing weighting criteria and
4466 evaluating proposals or qualifications shall result in a finding
4467 that a specific proposal or qualification is the most practical
4468 and advantageous, price and other factors considered, or that all
4469 proposals or qualifications should be rejected.

4470 **SECTION 87.** Section 31-7-417, Mississippi Code of 1972, is
4471 brought forward as follows:

4472 31-7-417. Submitted proposals or qualifications shall be
4473 opened at the time designated for opening in the request for
4474 proposals or request for qualifications. Proposals or
4475 qualifications and modifications shall be date-stamped or time and
4476 date-stamped upon receipt and held in a secure place until the
4477 established due date. Electronic proposals or qualifications
4478 received will be stored in an electronic lockbox until the time
4479 designated for the opening of the proposal or qualification.

4480 **SECTION 88.** Section 31-7-419, Mississippi Code of 1972, is
4481 brought forward as follows:

4482 31-7-419. **Evaluating submitted proposals or qualifications.**

4483 (1) The evaluation committee shall evaluate proposals or
4484 qualifications only in accordance with the methodology and
4485 weighting criteria described in the request for proposals or



4486 request for qualifications. Proposals or qualifications shall be
4487 initially classified as: (a) acceptable; (b) potentially
4488 acceptable, which means reasonably susceptible of being made
4489 acceptable; or (c) unacceptable. Offerers whose proposals or
4490 qualifications are unacceptable shall be so notified promptly.

4491 (2) Discussions may be held with offerers to:

4492 (a) Promote understanding of the state's requirements
4493 and the offerer's proposals or qualifications; and

4494 (b) Facilitate arriving at a contract that will be the
4495 most practicable and advantageous to the state taking into
4496 consideration price and the other evaluation factors set forth in
4497 the request for proposals or request for qualifications.

4498 (3) Offerers shall be accorded fair and equal treatment with
4499 respect to any opportunity for discussions and revisions of
4500 proposals or qualifications. Any discussions that take place
4501 under the provisions of this section shall be recorded and the
4502 recordings shall be made public upon award of the contract. The
4503 chief procurement officer shall establish procedures and schedules
4504 for conducting discussions. If, during discussions, there is a
4505 need for any substantial clarification of or change in the request
4506 for proposals or request for qualifications, the request shall be
4507 amended to incorporate the clarification or change. Auction
4508 techniques, revealing one offerer's price to another, and
4509 disclosure of any information derived from competing proposals is



4510 prohibited. Any substantial oral clarification of a proposal or
4511 qualification shall be reduced to writing by the offerer.

4512 **SECTION 89.** Section 31-7-421, Mississippi Code of 1972, is
4513 brought forward as follows:

4514 31-7-421. **Best and final offers.** The chief procurement
4515 officer shall establish a common date and time for the submission
4516 of best and final offers. Best and final offers shall be
4517 submitted only once; however, the chief procurement officer may
4518 make a written determination that it is in the state's best
4519 interest to conduct additional discussions or change the state's
4520 requirements and require another submission of best and final
4521 offers. Otherwise, no discussion of or changes in the best and
4522 final offers shall be allowed before the award. Offerers shall
4523 also be informed that if they do not submit a notice of withdrawal
4524 or another best and final offer, their immediate previous offer
4525 will be construed as their best and final offer.

4526 **SECTION 90.** Section 31-7-423, Mississippi Code of 1972, is
4527 brought forward as follows:

4528 31-7-423. **Awarding the contract.** (1) After proposals or
4529 qualifications have been evaluated, the evaluation committee shall
4530 prepare a report evaluating and recommending the award of a
4531 contract or contracts. The report shall list the names of all
4532 potential offerers who submitted a proposal or qualification and
4533 shall summarize the proposals or qualifications of each offerer.
4534 The report shall rank offerers in order of evaluation, shall



4535 recommend the selection of an offerer or offerers, as appropriate,
4536 for a contract, shall be clear in the reasons why the offerer or
4537 offerers have been selected among others considered, and shall
4538 detail the terms, conditions, scope of services, fees and other
4539 matters to be incorporated into the contract. The report shall be
4540 available to the public at least forty-eight (48) hours before the
4541 awarding of the contract.

4542 (2) The chief procurement officer shall publish a notice on
4543 the agency's website and the Mississippi procurement portal
4544 summarizing the award of the contract, which shall include, but
4545 not be limited to, the nature, duration and amount of the
4546 contract, the name of the offerer and a statement that the
4547 contract is on file and available for public inspection in the
4548 office of the chief procurement officer.

4549 **SECTION 91.** Section 31-8-1, Mississippi Code of 1972, is
4550 brought forward as follows:

4551 31-8-1. The purpose of this chapter is to provide a method
4552 to enable counties and municipalities to acquire public buildings,
4553 facilities and equipment through the use of rental contracts.
4554 This chapter shall be construed in conformity with such intention
4555 and shall be an alternative to those methods which may be
4556 otherwise provided by law.

4557 **SECTION 92.** Section 31-8-3, Mississippi Code of 1972, is
4558 brought forward as follows:



4559 31-8-3. The counties and municipalities of this state,
4560 acting by and through the governing authorities thereof, are
4561 hereby authorized and empowered to enter into lease agreements
4562 with any corporation, partnership, limited partnership, joint
4563 venture or individual under which the county or municipality may
4564 agree to lease a facility for use by the lessor for any of the
4565 following purposes for a primary term not to exceed twenty (20)
4566 years:

- 4567 (a) Public buildings;
- 4568 (b) Courthouses;
- 4569 (c) Office buildings;
- 4570 (d) Jails;
- 4571 (e) Auditoriums;
- 4572 (f) Community centers;
- 4573 (g) Civic art centers;
- 4574 (h) Public libraries;
- 4575 (i) Gymnasiums;
- 4576 (j) Fire stations; and
- 4577 (k) Machinery and equipment for use in connection with
4578 any of the above, but shall not include office furniture and/or
4579 office machines, provided that the primary term of a lease with
4580 respect to machinery and equipment shall not exceed the estimated
4581 useful economic life of such machinery and equipment, as such
4582 useful economic life is mutually agreed upon by the lessor and
4583 lessee.



4584 Nothing in this section shall be construed to authorize the
4585 acquisition of public school buildings through the use of rental
4586 contracts.

4587 **SECTION 93.** Section 31-8-5, Mississippi Code of 1972, is
4588 brought forward as follows:

4589 31-8-5. All such leases shall contain an option granting to
4590 the county or municipality the right to purchase the leased
4591 property upon the expiration of the primary term, or upon such
4592 earlier date as may be agreed upon, at a price not to exceed the
4593 unpaid principal balance at such time.

4594 **SECTION 94.** Section 31-8-7, Mississippi Code of 1972, is
4595 brought forward as follows:

4596 31-8-7. (1) The counties and municipalities of the state
4597 are authorized to lease publicly owned real property to any
4598 corporation, partnership, limited partnership, joint venture or
4599 individual for the purpose of enabling such person to construct or
4600 renovate thereon any of the buildings or facilities described in
4601 Section 31-8-1 and to lease such buildings and facilities to the
4602 county or municipality. No such ground lease shall be for a
4603 primary term in excess of the primary term of the lease with
4604 respect to the buildings and facilities to be constructed thereon.

4605 (2) The counties and municipalities of the state are
4606 authorized to sublease buildings and facilities leased pursuant to
4607 subsection (1) of this section to the United States Postal Service
4608 or to any state or federal governmental agency. Any sublease



4609 entered into pursuant to this subsection may contain an option
4610 granting the sublessee the right to purchase the leased property
4611 upon the expiration of the primary term of the sublease, or upon
4612 such earlier date as may be agreed upon, at a price not to exceed
4613 the unpaid principal balance at such time.

4614 Before entering into any lease agreement pursuant to this
4615 subsection, the board of supervisors or the governing authorities
4616 of the municipality shall follow and be subject to the same
4617 procedures regarding publishing notice, filing protest and holding
4618 an election specified for lease agreements under Section 31-8-11,
4619 except that the notice shall not state that the rental is a
4620 continuing obligation and a charge against the general credit and
4621 leasing power of the county or municipality.

4622 **SECTION 95.** Section 31-8-9, Mississippi Code of 1972, is
4623 brought forward as follows:

4624 31-8-9. Subject to the provisions of this chapter, any such
4625 lease agreement may extend over any period, notwithstanding any
4626 provision or rule of law to the contrary, and any such lease
4627 agreement shall be binding upon the county or municipality and any
4628 other party thereto in accordance with its terms. Any such lease
4629 agreement may include, at the discretion of the governing
4630 authorities entering into the same, a pledge of the full faith and
4631 credit of such county or municipality for the payment of its
4632 monetary obligations thereunder; or may contain a provision that
4633 so long as no default of any monetary obligation of the lessee has



4634 occurred, the lessee's obligation to pay any amounts due or
4635 perform any covenants requiring or resulting in the expenditure of
4636 money shall be contingent and expressly limited to the extent of
4637 any specific appropriation made by the governing authorities to
4638 fund such lease agreement, and that nothing contained in the lease
4639 agreement shall be construed as creating any monetary obligation
4640 on the part of the lessee beyond such current and specific
4641 appropriation. Obligations incurred by a county or municipality
4642 under the provisions of this chapter secured by a pledge of its
4643 full faith and credit shall be included within the limitation on
4644 bonded indebtedness established by law for counties and
4645 municipalities.

4646 **SECTION 96.** Section 31-8-11, Mississippi Code of 1972, is
4647 brought forward as follows:

4648 31-8-11. Before entering into any lease agreement pursuant
4649 to this chapter secured by a pledge of its full faith and credit,
4650 the governing authorities of any county or municipality shall
4651 publish notice of their intention to receive suitable proposals
4652 for the leasing of such buildings, facilities or equipment. Such
4653 notice shall specify the nature of the proposed building, facility
4654 or equipment, the general geographic area in which the same is to
4655 be located, the term of the proposed lease agreement, that the
4656 obligation to pay rentals during the primary term is to be a
4657 continuing obligation of and a charge against the general credit
4658 and leasing power of the county or municipality, and the date and



4659 hour on or before which such proposals may be received. Such
4660 notice shall be published by municipalities and counties in the
4661 same manner as required for publishing notice of intention to
4662 issue general obligation bonds of the county or municipality, as
4663 appropriate. If at least twenty percent (20%), or fifteen hundred
4664 (1500), of the qualified electors of a county, whichever is less,
4665 or at least ten percent (10%), or fifteen hundred (1500), of the
4666 qualified electors of a municipality, whichever is less, file a
4667 written protest with the appropriate governing authorities, then
4668 an election shall be called by the county in the same manner as
4669 provided for the issuance of county general obligation bonds in
4670 Sections 19-9-11 through 19-9-17, Mississippi Code of 1972, or by
4671 a municipality in the same manner as provided for the issuance of
4672 municipal general obligation bonds in Sections 21-33-307 through
4673 21-33-311, Mississippi Code of 1972, to determine whether or not
4674 the proposed lease agreement may be executed by the county or
4675 municipality. The lease agreement shall be advertised for
4676 competitive sealed proposals once each week for two (2)
4677 consecutive weeks in a regular newspaper published or having a
4678 general circulation in the county or municipality of the governing
4679 authority. The date as published for the proposal opening shall
4680 be not less than five (5) working days after the last published
4681 notice. The lease shall be awarded to the person submitting the
4682 lowest and best proposal; however, all proposals may be rejected.



4683 **SECTION 97.** Section 31-8-13, Mississippi Code of 1972, is
4684 brought forward as follows:

4685 31-8-13. This chapter, without reference to any other
4686 statute, shall be deemed to be full and complete authority for the
4687 authorization, execution and delivery of lease agreements
4688 authorized hereunder, and shall be construed as an additional and
4689 alternative method therefor, and none of the present restrictions,
4690 requirements, conditions and limitations of law applicable to the
4691 acquisition, construction and drawing of buildings or facilities
4692 in this state shall apply to lease agreements under this chapter,
4693 and no proceedings shall be required for the authorization,
4694 execution and delivery of such leases other than those required
4695 herein, and all powers necessary to be exercised in order to carry
4696 out the provisions of this chapter are hereby conferred.

4697 **SECTION 98.** Section 31-9-1, Mississippi Code of 1972, is
4698 brought forward as follows:

4699 31-9-1. (1) For purposes of this chapter, the term "Office
4700 of General Services" shall mean the Governor's Office of General
4701 Services acting through the Bureau of Surplus Property.

4702 (2) Wherever the term "Surplus Property Procurement
4703 Commission" appears in the laws of the State of Mississippi, it
4704 shall be construed to mean the Governor's Office of General
4705 Services.

4706 **SECTION 99.** Section 31-9-5, Mississippi Code of 1972, is
4707 brought forward as follows:



4708 31-9-5. (1) The Office of General Services with the
4709 approval of the Public Procurement Review Board shall negotiate
4710 and contract with any appropriate agency or commission of the
4711 United States government or of the State of Mississippi for the
4712 purpose of purchasing or otherwise securing surplus material or
4713 property in bulk lots or quantities, and for the purpose of
4714 assisting all agencies, departments, institutions and
4715 instrumentalities of the State of Mississippi, the boards of
4716 supervisors of the various counties, and the governing authorities
4717 of the various municipalities, drainage districts and other taxing
4718 units in purchasing, leasing or otherwise securing surplus
4719 material or property. After ascertaining the needs of the various
4720 state departments and institutions, counties, municipalities,
4721 drainage districts and other taxing units, the Office of General
4722 Services may enter into contracts with the governing authorities
4723 of such governmental entities as will enable them to carry out the
4724 provisions of this section.

4725 (2) The Office of General Services also may acquire state or
4726 federal government surplus property for nonprofit and tax exempt
4727 health and educational institutions, Boy Scouts, Girl Scouts, Camp
4728 Fire Girls, military academies, volunteer fire departments,
4729 nonprofit cooperative water associations, Boys Clubs of America
4730 and Girls Clubs of America; however, deliveries to these
4731 institutions shall be made only after they have established their
4732 eligibility by meeting the requirements of the federal government,



4733 have requested the Office of General Services to act for them in
4734 acquiring government surplus property, and have agreed to comply
4735 with both the state and federal laws pertaining to acquisition and
4736 utilization of the property.

4737 (3) Any state agency, with the approval of the Office of
4738 General Services, is authorized and empowered, in the discretion
4739 of the governing board or authority of the state agency, to donate
4740 goods or services for the support of any local chapter of the
4741 American Red Cross. This subsection (3) shall stand repealed from
4742 and after July 1, 2005.

4743 (4) The Office of General Services may do all other things
4744 which may be necessary to effectuate the purposes of this section.

4745 **SECTION 100.** Section 31-9-9, Mississippi Code of 1972, is
4746 brought forward as follows:

4747 31-9-9. All laws or parts of laws requiring the various
4748 state institutions, departments, and agencies, the boards of
4749 supervisors of the various counties, and the governing authorities
4750 of the various municipalities, drainage districts, and other
4751 taxing units to advertise or request and receive bids for the
4752 purchase of furniture, equipment, supplies, and other commodities
4753 are hereby waived for the purposes of this chapter and shall not
4754 be applicable to purchases made hereunder.

4755 **SECTION 101.** Section 31-9-13, Mississippi Code of 1972, is
4756 brought forward as follows:



4757 31-9-13. In lieu of regular appropriations, the Department
4758 of Finance and Administration may assess against each institution,
4759 agency or individual acquiring surplus property from and through
4760 the Department of Finance and Administration a fee or commission
4761 on each item in sufficient amount to establish and maintain a
4762 revolving fund, to be used to operate and support the Department
4763 of Finance and Administration, Office of Surplus Property's
4764 Federal Donation program. The Department of Finance and
4765 Administration shall follow the procedure outlined by the United
4766 States General Services Administration in establishing the fund,
4767 and the fund shall never exceed more than One Million Dollars
4768 (\$1,000,000.00) above and beyond four (4) months of operating
4769 expenses of the Department of Finance and Administration.

4770 With this revolving fund so acquired, the Department of
4771 Finance and Administration shall meet all items of expense
4772 incurred in acquiring, transporting, warehousing and distributing
4773 property to eligible applicants and also all items of expense
4774 incident to the operation of the offices of the Department of
4775 Finance and Administration, including salaries, office supplies
4776 and necessary general expenses, and all other items as are covered
4777 by legislative appropriation for those purposes.

4778 The Department of Finance and Administration may escalate,
4779 budget and expend funds from the revolving fund in an amount not
4780 to exceed Two Hundred Fifty Thousand Dollars (\$250,000.00) in any
4781 one fiscal year to carry out the provisions of this section.



4782 **SECTION 102.** Section 31-9-15, Mississippi Code of 1972, is
4783 brought forward as follows:

4784 31-9-15. The Office of General Services shall furnish to the
4785 State Auditor of Public Accounts copies of transfers of property
4786 to state boards, commissions and agencies on all property
4787 transferred to such agencies, federal reviews, in addition to an
4788 inventory on all furniture, equipment, machinery and vehicles used
4789 by the Office of General Services in carrying out the purposes of
4790 this chapter. The Office of General Services shall likewise keep
4791 a perpetual current inventory on all property in books and
4792 records.

4793 **SECTION 103.** Section 31-11-1, Mississippi Code of 1972, is
4794 brought forward as follows:

4795 31-11-1. (1) For purposes of this chapter, the term "State
4796 Building Commission" shall mean the Governor's Office of General
4797 Services acting through the Bureau of Building, Grounds and Real
4798 Property Management.

4799 (2) Wherever the term "State Building Commission" or
4800 "building commission" appears in the laws of the State of
4801 Mississippi, it shall be construed to mean the Governor's Office
4802 of General Services.

4803 **SECTION 104.** Section 31-11-3, Mississippi Code of 1972, is
4804 brought forward as follows:

4805 31-11-3. (1) The Department of Finance and Administration,
4806 for the purposes of carrying out the provisions of this chapter,



4807 in addition to all other rights and powers granted by law, shall
4808 have full power and authority to employ and compensate architects
4809 or other employees necessary for the purpose of making
4810 inspections, preparing plans and specifications, supervising the
4811 erection of any buildings, and making any repairs or additions as
4812 may be determined by the Department of Finance and Administration
4813 to be necessary, pursuant to the rules and regulations of the
4814 State Personnel Board. The department shall have entire control
4815 and supervision of, and determine what, if any, buildings,
4816 additions, repairs, demolitions or improvements are to be made
4817 under the provisions of this chapter, subject to the regulations
4818 adopted by the Public Procurement Review Board.

4819 (2) The department shall have full power to erect buildings,
4820 make repairs, additions or improvements, demolitions, to grant or
4821 acquire easements or rights-of-way, and to buy materials, supplies
4822 and equipment for any of the institutions or departments of the
4823 state subject to the regulations adopted by the Public Procurement
4824 Review Board. In addition to other powers conferred, the
4825 department shall have full power and authority, as directed by the
4826 Legislature, or when funds have been appropriated for its use for
4827 these purposes, to:

4828 (a) Build a state office building;

4829 (b) Build suitable plants or buildings for the use and
4830 housing of any state schools or institutions, including the



4831 building of plants or buildings for new state schools or
4832 institutions, as provided for by the Legislature;

4833 (c) Provide state aid for the construction of school
4834 buildings;

4835 (d) Promote and develop the training of returned
4836 veterans of the United States in all sorts of educational and
4837 vocational learning to be supplied by the proper educational
4838 institution of the State of Mississippi, and in so doing allocate
4839 monies appropriated to it for these purposes to the Governor for
4840 use by him in setting up, maintaining and operating an office and
4841 employing a state director of on-the-job training for veterans and
4842 the personnel necessary in carrying out Public Law No. 346 of the
4843 United States;

4844 (e) Build and equip a hospital and administration
4845 building at the Mississippi State Penitentiary;

4846 (f) Build and equip additional buildings and wards at
4847 the Boswell Retardation Center;

4848 (g) Construct a sewage disposal and treatment plant at
4849 the Mississippi State Hospital, and in so doing acquire additional
4850 land as may be necessary, and to exercise the right of eminent
4851 domain in the acquisition of this land;

4852 (h) Build and equip the Mississippi central market and
4853 purchase or acquire by eminent domain, if necessary, any lands
4854 needed for this purpose;



4855 (i) Build and equip suitable facilities for a training
4856 and employing center for the blind;

4857 (j) Build and equip a gymnasium at Columbia Training
4858 School;

4859 (k) Approve or disapprove the expenditure of any money
4860 appropriated by the Legislature when authorized by the bill making
4861 the appropriation;

4862 (l) Expend monies appropriated to it in paying the
4863 state's part of the cost of any street paving;

4864 (m) Sell and convey state lands when authorized by the
4865 Legislature, cause said lands to be properly surveyed and platted,
4866 execute all deeds or other legal instruments, and do any and all
4867 other things required to effectively carry out the purpose and
4868 intent of the Legislature. Any transaction which involves state
4869 lands under the provisions of this paragraph shall be done in a
4870 manner consistent with the provisions of Section 29-1-1;

4871 (n) Collect and receive from educational institutions
4872 of the State of Mississippi monies required to be paid by these
4873 institutions to the state in carrying out any veterans'
4874 educational programs;

4875 (o) Purchase lands for building sites, or as additions
4876 to building sites, for the erection of buildings and other
4877 facilities which the department is authorized to erect, and
4878 demolish and dispose of old buildings, when necessary for the
4879 proper construction of new buildings. Any transaction which



4880 involves state lands under the provisions of this paragraph shall
4881 be done in a manner consistent with the provisions of Section
4882 29-1-1;

4883 (p) Obtain business property insurance with a
4884 deductible of not less than One Hundred Thousand Dollars
4885 (\$100,000.00) on state-owned buildings under the management and
4886 control of the department; and

4887 (q) In consultation with and approval by the Chairmen
4888 of the Public Property Committees of the Senate and the House of
4889 Representatives, enter into contracts for the purpose of providing
4890 parking spaces for state employees who work in the Woolfolk
4891 Building, the Carroll Gartin Justice Building or the Walter
4892 Sillers Office Building.

4893 (r) The department is hereby authorized to transfer up
4894 to One Million Dollars (\$1,000,000.00) of available bond funds to
4895 each community college requesting to be exempt from department
4896 control and supervision relating to the repair, renovation and
4897 improvement of existing facilities owned by the community
4898 colleges, including utility infrastructure projects; heating and
4899 air conditioning systems; and the replacement of furniture and
4900 equipment. The community colleges shall abide by all applicable
4901 statutes related to the purchase of the repair, renovation and
4902 improvement of such existing facilities.

4903 (3) The department shall survey state-owned and
4904 state-utilized buildings to establish an estimate of the costs of



4905 architectural alterations, pursuant to the Americans With
4906 Disabilities Act of 1990, 42 USCS, Section 12111 et seq. The
4907 department shall establish priorities for making the identified
4908 architectural alterations and shall make known to the Legislative
4909 Budget Office and to the Legislature the required cost to
4910 effectuate such alterations. To meet the requirements of this
4911 section, the department shall use standards of accessibility that
4912 are at least as stringent as any applicable federal requirements
4913 and may consider:

4914 (a) Federal minimum guidelines and requirements issued
4915 by the United States Architectural and Transportation Barriers
4916 Compliance Board and standards issued by other federal agencies;

4917 (b) The criteria contained in the American Standard
4918 Specifications for Making Buildings Accessible and Usable by the
4919 Physically Handicapped and any amendments thereto as approved by
4920 the American Standards Association, Incorporated (ANSI Standards);

4921 (c) Design manuals;

4922 (d) Applicable federal guidelines;

4923 (e) Current literature in the field;

4924 (f) Applicable safety standards; and

4925 (g) Any applicable environmental impact statements.

4926 (4) The department shall observe the provisions of Section
4927 31-5-23 in letting contracts and shall use Mississippi products,
4928 including paint, varnish and lacquer which contain as vehicles
4929 tung oil and either ester gum or modified resin (with rosin as the



4930 principal base of constituents), and turpentine shall be used as a
4931 solvent or thinner, where these products are available at a cost
4932 not to exceed the cost of products grown, produced, prepared, made
4933 or manufactured outside of the State of Mississippi.

4934 (5) The department shall have authority to accept grants,
4935 loans or donations from the United States government or from any
4936 other sources for the purpose of matching funds in carrying out
4937 the provisions of this chapter.

4938 (6) The department shall build a wheelchair ramp at the War
4939 Memorial Building which complies with all applicable federal laws,
4940 regulations and specifications regarding wheelchair ramps.

4941 (7) The department shall review and preapprove all
4942 architectural or engineering service contracts entered into by any
4943 state agency, institution, commission, board or authority,
4944 regardless of the source of funding used to defray the costs of
4945 the construction or renovation project, for which services are to
4946 be obtained to ensure compliance with purchasing regulations and
4947 to confirm that the contracts are procured by a competitive
4948 qualification-based selection process except where such
4949 appointment is for an emergency project or for a continuation of a
4950 previous appointment for a directly related project. The
4951 provisions of this subsection (7) shall not apply to:

4952 (a) Any architectural or engineering contract fully
4953 paid for by self-generated funds of any of the state institutions
4954 of higher learning;



4955 (b) Any architectural or engineering contract that is
4956 self-administered at a state institution of higher learning as
4957 provided under Section 27-104-7(2) (b) or 37-101-15(m);

4958 (c) Community college projects that are fully funded
4959 from local funds or other nonstate sources which are outside the
4960 Department of Finance and Administration's appropriations or as
4961 directed by the Legislature;

4962 (d) Any construction or design projects of the State
4963 Military Department that are fully or partially funded from
4964 federal funds or other nonstate sources; and

4965 (e) Any project of the State Department of
4966 Transportation.

4967 (8) (a) The department shall have the authority to obtain
4968 annually from the state institutions of higher learning, the state
4969 community colleges and junior colleges, the Department of Mental
4970 Health, the Department of Corrections and the Department of
4971 Wildlife, Fisheries and Parks information on all renovation and
4972 repair expenditures for buildings under their operation and
4973 control, including duties, responsibilities and costs of any
4974 architect or engineer hired by any such institutions, and shall
4975 annually report the same to the Legislative Budget Office, the
4976 Chairman of the House Public Property Committee and the Chairman
4977 of the Senate Public Property Committee before September 1.



4978 (b) All state agencies, departments and institutions
4979 are required to cooperate with the Department of Finance and
4980 Administration in carrying out the provisions of this subsection.

4981 (c) Expenditures shall not include those amounts
4982 expended for janitorial, landscaping or administrative support,
4983 but shall include expenditures from both state and nonstate
4984 sources.

4985 (d) Expenditures shall not include amounts expended by
4986 the department on behalf of state agencies, departments and
4987 institutions through the Department of Finance and Administration
4988 administered contracts, but shall include amounts transferred to
4989 the Department of Finance and Administration for support of such
4990 contracts.

4991 (9) As an alternative to other methods of awarding contracts
4992 as prescribed by law, the department may elect to use the method
4993 of contracting for construction projects set out in Sections
4994 31-7-13.1 and 31-7-13.2; however, the design-build method of
4995 construction contracting authorized under Section 31-7-13.1 may be
4996 used only when the Legislature has specifically required or
4997 authorized the use of this method in the legislation authorizing a
4998 project.

4999 (10) The department shall have the authority, for the
5000 purposes of carrying out the provisions of this chapter, and in
5001 addition to all other rights and powers granted by law, to create
5002 and maintain a list of suspended and debarred contractors and



5003 subcontractors. Consistent with this authority, the department
5004 may adopt regulations governing the suspension or debarment of
5005 contractors and subcontractors, which regulations shall be subject
5006 to the approval of the Public Procurement Review Board. A
5007 suspended or debarred contractor or subcontractor shall be
5008 disqualified from consideration for contracts with the department
5009 during the suspension or debarment period in accordance with the
5010 department's regulations.

5011 (11) This section shall not apply to the Mississippi State
5012 Port Authority.

5013 **SECTION 105.** Section 31-11-4, Mississippi Code of 1972, is
5014 brought forward as follows:

5015 31-11-4. (1) There is hereby created the Facilities
5016 Management Advisory Committee, hereinafter referred to as the
5017 "committee," for the purpose of advising the Bureau of Building,
5018 Grounds and Real Property Management, Department of Finance and
5019 Administration, with its duties of preplanning, construction,
5020 repair and renovation for buildings of all state agencies,
5021 institutions and departments.

5022 (2) The committee shall be composed of the following eight
5023 (8) members:

5024 (a) The Chairman and Vice Chairman of the Senate Public
5025 Property Committee;

5026 (b) The Chairman and Vice Chairman of the House Public
5027 Building, Grounds and Lands Committee;



5028 (c) Two (2) Senators appointed by the Lieutenant
5029 Governor; and

5030 (d) Two (2) Representatives appointed by the Speaker of
5031 the House of Representatives.

5032 (3) The committee shall advise the Bureau of Building,
5033 Grounds and Real Property Management with its duties of
5034 preplanning, construction, repair and renovation for buildings of
5035 all state agencies, institutions and departments, including but
5036 not limited to the following:

5037 (a) Traveling with the Bureau of Building, Grounds and
5038 Real Property Management to inspect and consider requests for
5039 improvement and repair of buildings of state agencies,
5040 institutions and departments;

5041 (b) Acquiring a working knowledge of state building
5042 matters in order to become leaders in facility related
5043 legislation; and

5044 (c) Advising and making recommendations to the
5045 Legislature on matters relating to preplanning, construction,
5046 repair and renovation for all state buildings.

5047 (4) The members of the committee shall have no jurisdiction
5048 or vote on any matter within the jurisdiction of the Bureau of
5049 Building, Grounds and Real Property Management.

5050 (5) No committee member may receive per diem, travel or
5051 other expenses unless authorized by the Management Committees of
5052 the Senate and the House of Representatives. Members of the



5053 committee shall be paid from the contingent expense funds of the
5054 Senate and the House of Representatives in the same amounts as
5055 provided for committee meetings when the Legislature is not in
5056 session; however, no per diem or expense for attending meetings
5057 of the committee will be paid while the Legislature is in session.

5058 **SECTION 106.** Section 31-11-7, Mississippi Code of 1972, is
5059 brought forward as follows:

5060 31-11-7. The Office of General Services shall submit a full
5061 report of its work and all transactions carried on by it and a
5062 complete statement of all expenditures made by it, to each regular
5063 session of the Legislature or to a special session before that
5064 time if its work has been completed.

5065 **SECTION 107.** Section 31-11-25, Mississippi Code of 1972, is
5066 brought forward as follows:

5067 31-11-25. The Office of General Services with the approval
5068 of the Public Procurement Review Board shall have the power and
5069 authority to acquire in its own name, or in the name of such other
5070 agency or instrumentality in the State of Mississippi as it may
5071 deem proper, by purchase, contribution or otherwise, all land and
5072 real property which shall be necessary and desirable in connection
5073 with the development or expansion of any state institution or
5074 public agency of this state upon any real property adjacent to or
5075 contiguous to such institution or agency or in connection with any
5076 project under the supervision of said Office of General Services
5077 for the construction, repair, remodeling, renovating, or making



5078 additions to any building structure or other facility which the
5079 Office of General Services is required or authorized by law to
5080 construct, repair, remodel, or make an addition to. If the Office
5081 of General Services shall be unable to agree with the owner or
5082 owners of any such land or real property which is necessary or
5083 desirable for the public use in connection with any such project,
5084 the Office of General Services shall have the power and authority
5085 to acquire any such land or real property by condemnation
5086 proceedings in the manner otherwise provided by law and, for such
5087 purpose, the right of eminent domain is hereby conferred upon and
5088 vested in said Office of General Services.

5089 **SECTION 108.** Section 31-11-27, Mississippi Code of 1972, is
5090 brought forward as follows:

5091 31-11-27. (1) (a) The Department of Finance and
5092 Administration shall conduct a detailed study of the building and
5093 other capital needs at each state institution and at each
5094 community college and junior college immediately prior to
5095 September first in each year. This study shall include, but shall
5096 not be limited to, the following matters:

5097 (i) An inventory of every state building and other
5098 capital facility which is the property of the State of
5099 Mississippi;

5100 (ii) The location, date of construction or
5101 acquisition, the purpose for which used, outstanding indebtedness



5102 against such facility, if any, and cost of repairs for the
5103 preceding fiscal year;

5104 (iii) An examination of the condition of the
5105 building or other facility, including current conditions and
5106 ratings of all roofs at each state agency, state institution of
5107 higher learning, community college and junior college;

5108 (iv) An estimate of the cost of repairs required
5109 to place the facility in good condition;

5110 (v) An estimate of the cost of major renovations,
5111 if contemplated; and

5112 (vi) A determination of the new building and other
5113 facility needs of each institution with such needs classified
5114 under immediate or long range requirements.

5115 (b) All state agencies, departments and institutions
5116 are hereby required and directed to cooperate with the Department
5117 of Finance and Administration in carrying out the provisions of
5118 this section. For purposes of validating subsection (1)(a)(iii)
5119 above, each roof of a building not planned for demolition must be
5120 visually inspected by institution or agency facilities' staff, by
5121 a licensed architect or engineer or by thermal imaging inspection
5122 at least every three (3) years.

5123 (c) The Department of Finance and Administration shall
5124 submit a detailed report to the Legislative Budget Office, the
5125 House Public Property Committee and the Senate Public Property
5126 Committee on or before September first of each year. Such report



5127 shall be in such detail and in such form as may be prescribed by
5128 the Legislative Budget Office.

5129 (d) The architect or building inspector of the
5130 Department of Finance and Administration shall make a biennial
5131 inspection of the New Capitol, Old Capitol, Woolfolk State Office
5132 Building, War Memorial Building, the Governor's Mansion, and all
5133 other buildings under jurisdiction of the Department of Finance
5134 and Administration for structural or other physical needs or
5135 defects of such buildings, and he shall further inquire of the
5136 department or its representatives regarding the condition of the
5137 buildings. He shall make a written report of his finding to the
5138 Department of Finance and Administration, Governor, Lieutenant
5139 Governor and Speaker of the House of Representatives. The report
5140 shall also make recommendations for repairs and list, by number,
5141 the priority which should be given to making necessary repairs.

5142 (2) (a) In addition to any report required in subsection
5143 (1) of this section, the Department of Finance and Administration
5144 shall prepare and submit an annual report to the Legislative
5145 Budget Office, the House Public Property Committee and the Senate
5146 Public Property Committee describing the proposed capital
5147 improvements projects for state agencies, departments and
5148 institutions for the upcoming five-year period. The Department of
5149 Finance and Administration shall not be required to include in the
5150 report any project costing less than One Million Dollars
5151 (\$1,000,000.00). The department shall submit the report before



5152 September 1 of each year. The report shall include at least the
5153 following information:

5154 (i) A prioritized list of the projects proposed
5155 for the five-year period, with each project ranked on the basis of
5156 need, consistent with the primary goal of preserving existing
5157 capital assets where possible and replacing existing capital
5158 assets where necessary;

5159 (ii) A prioritized list of the projects proposed
5160 for the next regular legislative session, with each project ranked
5161 on the basis of need, consistent with the primary goal of
5162 preserving existing capital assets where possible and replacing
5163 existing capital assets where necessary;

5164 (iii) A prioritized list of the projects requested
5165 by each state agency, department or institution;

5166 (iv) A detailed explanation of criteria used by
5167 the Department of Finance and Administration to rank projects for
5168 purposes of any list it prepares under this paragraph (a);

5169 (v) A detailed statement of justification for each
5170 project;

5171 (vi) The approximate cost for each project,
5172 including, but not limited to, itemized estimates of costs for
5173 preplanning, constructing, furnishing and equipping a project, and
5174 costs for property acquisition;

5175 (vii) The estimated beginning date and completion
5176 date for each project;



5177 (viii) Whether a project, as proposed, is a
5178 complete project or a phase or part of a project;

5179 (ix) How a project will affect the operating
5180 budget of the applicable agency, department or institution for the
5181 upcoming five-year period, regarding such items as additional
5182 personnel requirements, utility costs, maintenance costs, security
5183 costs, etc. Any request for new construction other than
5184 replacement, or for purposes other than incidental expansion of
5185 existing facilities, shall also identify the total amount of
5186 nonstate funds to support such project;

5187 (x) The proposed method of financing each project
5188 and the effect such financing will have on the state budget,
5189 including an estimate of any required debt service for the
5190 project, and an estimate of any federal funds or other funds that
5191 the agency, department or institution may have access to because
5192 of the project; and

5193 (xi) A list of the projects requested by each
5194 agency, department or institution for the five-year period, with
5195 each project ranked by the appropriate agency, department or
5196 institution on the basis of need.

5197 (b) To enable the Department of Finance and
5198 Administration to prepare the report required in this subsection
5199 (2), it may require all state agencies, departments and
5200 institutions to file a capital improvements projects request with
5201 such information and in such form and in such detail as the



5202 department may deem necessary and advisable. Such request shall
5203 be filed with the Department of Finance and Administration no
5204 later than August 1 of each year.

5205 **SECTION 109.** Section 31-11-29, Mississippi Code of 1972, is
5206 brought forward as follows:

5207 31-11-29. The Legislative Budget Office shall prepare and
5208 submit to each regular session of the Legislature a "capital
5209 expense and development" budget based on information furnished as
5210 herein provided by the Office of General Services, plus such other
5211 information as may be obtained. The said budget shall contain an
5212 estimate of the immediate and the long term capital needs of each
5213 state department, agency, institution, and each junior college.
5214 Such budget shall include a description of the buildings and other
5215 facilities which are recommended as needed at each institution,
5216 along with an estimate of the cost. The budget shall also include
5217 a suggested method of financing the immediate needs. "Immediate
5218 needs" shall be construed to mean: buildings, major improvements,
5219 and other facilities required for the proper functioning of the
5220 institution for the next year. "Long range" needs shall be
5221 construed to mean: buildings, major improvements, and other
5222 facilities of a similar nature which may be required at some
5223 indefinite date in the future.

5224 **SECTION 110.** Section 31-11-30, Mississippi Code of 1972, is
5225 brought forward as follows:



5226 31-11-30. (1) Every capital improvements project for new
5227 facilities, costing Two Million Dollars (\$2,000,000.00) or more,
5228 which is developed to repair, renovate, construct, remodel, add to
5229 or improve a state-owned public building shall be funded by the
5230 Legislature in two (2) phases. The two-phase funding requirement
5231 shall not apply to capital improvements projects for a state-owned
5232 port or where the Legislature finds that an emergency or critical
5233 need must be met or a court order complied with. The two (2)
5234 phases shall not be funded in the same regular session of the
5235 Legislature. Each phase shall be funded in a separate session of
5236 the Legislature. Phase 1 shall be a preplanned capital
5237 improvements project budget projection for the project and shall
5238 be funded first. Phase 2 shall be the actual repair, renovation,
5239 construction, remodeling, addition to or improvement of the
5240 state-owned public building and the acquisition of furniture and
5241 equipment for the capital improvements project and shall be funded
5242 second.

5243 (2) For the purposes of this section:

5244 (a) "Preplanned" or "preplanning" means the preliminary
5245 planning that establishes the program, scope, design and budget
5246 for a capital improvements project.

5247 (b) "Emergency" has the meaning as defined in Section
5248 31-7-1.



5249 (c) "Critical need" means necessary to meet
5250 accreditation standards or necessary to respond to failures in
5251 planning.

5252 (3) Every state agency that plans to repair, renovate,
5253 construct, remodel, add to or improve a state-owned public
5254 building shall submit a preplanned capital improvements project
5255 budget projection to the Bureau of Building, Grounds and Real
5256 Property Management for evaluation. The bureau shall assess the
5257 need for all preplanned projects submitted and shall compile a
5258 report on its findings. Any capital improvements project for new
5259 facilities costing less than Two Million Dollars (\$2,000,000.00)
5260 shall not be required to be preplanned.

5261 (4) Upon the completion of any preplanning for a capital
5262 improvements project, if such preplanning is funded with
5263 self-generated funds by a state agency, the plan shall be
5264 submitted to the bureau for evaluation.

5265 (5) This section shall not apply to capital improvements
5266 projects authorized by the Legislature before the 2001 Regular
5267 Session of the Legislature.

5268 (6) This section shall not apply to any community or junior
5269 college project funded in whole or in part by either state bonds
5270 or funds appropriated for that construction by the Legislature.

5271 **SECTION 111.** Section 31-11-31, Mississippi Code of 1972, is
5272 brought forward as follows:



5273 31-11-31. The Office of General Services of the State of
5274 Mississippi is hereby authorized and empowered to act as the
5275 commission designated to perform all functions on behalf of the
5276 State of Mississippi as provided for and required in Public Law
5277 No. 88-204 of the 88th Congress of the United States of America
5278 and being entitled "Higher Education Facilities Act of 1963" as
5279 thereafter amended, and the said Office of General Services is
5280 hereby granted such power and authority necessary for the purpose
5281 of performing for and on behalf of the State of Mississippi all
5282 things required to be done and performed by the Office of General
5283 Services as specified in said Public Law No. 88-204 of the 88th
5284 Congress of the United States government, as thereafter amended.

5285 **SECTION 112.** Section 31-11-33, Mississippi Code of 1972, is
5286 brought forward as follows:

5287 31-11-33. (1) For purposes of this section, the following
5288 terms shall have the meanings hereinafter ascribed:

5289 (a) "Department" means the Department of Finance and
5290 Administration, Bureau of Building, Grounds and Real Property
5291 Management.

5292 (b) "Public facility" means any building or other
5293 facility owned by the State of Mississippi, or by any agency,
5294 department of the State of Mississippi, that is occupied, used or
5295 under the control of the State of Mississippi, or any agency or
5296 department of the State of Mississippi, or any junior college
5297 district of the State of Mississippi, or the Board of Trustees of



5298 State Institutions of Higher Learning of the State of Mississippi,
5299 or any institution under the jurisdiction of the Board of Trustees
5300 of State Institutions of Higher Learning of the State of
5301 Mississippi.

5302 (2) Any public facility newly constructed from and after
5303 July 1, 2006, shall comply with and be built according to
5304 specifications not less stringent than those required by the
5305 International Code Council and such other standards as adopted by
5306 the department that provide guidelines for plumbing, electrical,
5307 gas, sanitary and other physical components of new building
5308 construction.

5309 (3) Upon the awarding of a design contract for a new public
5310 facility, the architect/engineer shall prepare drawings and
5311 specifications in conformity with the code requirements in effect
5312 at the time of agreement or, if the code requirements at the time
5313 of the agreement are amended, then the drawings and specifications
5314 shall be prepared according to the more stringent standards.

5315 (4) The department may regulate the height, number of
5316 stories and size of public facilities, the percentage of the lot
5317 that may be occupied, courts and other open spaces, and the
5318 location and use of public facilities.

5319 **SECTION 113.** Section 31-11-35, Mississippi Code of 1972, is
5320 brought forward as follows:

5321 31-11-35. (1) The Department of Finance and Administration
5322 shall adopt rules and regulations which:



5323 (a) Optimize the energy performance of state-funded
5324 buildings throughout the state;

5325 (b) Increase the demand for building and construction
5326 materials, finishes, furnishings and other products made in or
5327 incorporating materials produced in Mississippi;

5328 (c) Improve environmental quality in this state by
5329 decreasing the discharge of pollutants from state-funded
5330 buildings;

5331 (d) Conserve energy and utilize local and renewable
5332 energy sources;

5333 (e) Protect and restore this state's natural resources
5334 by avoiding development of inappropriate state-funded building
5335 sites;

5336 (f) Reduce the burden on public water supply and
5337 treatment by reducing potable water consumption; and

5338 (g) Encourage obtaining ENERGY STAR designation from
5339 the United States Environmental Protection Agency to further
5340 demonstrate a building project's energy independence.

5341 (2) Except as otherwise provided in Section 39-25-1, each
5342 major facility project shall be designed and constructed to meet
5343 or exceed the requirements of ASHRAE 90.1-2010 or any more
5344 stringent code adopted by the Bureau of Building, Grounds and Real
5345 Property Management and the Department of Finance and
5346 Administration.



5347 (3) In order to achieve sustainable building standards,
5348 construction projects may utilize a nationally recognized high
5349 performance environmental building rating system; provided,
5350 however, that any such rating system that uses a material or
5351 product-based credit system which is disadvantageous to materials
5352 or products manufactured or produced in Mississippi shall not be
5353 utilized. Additionally, such rating systems shall not exclude
5354 certificate credits for forest products certified by the
5355 Sustainable Forestry Initiative, Forest Stewardship Council or the
5356 American Tree Farm System. The Department of Finance and
5357 Administration shall designate rating systems which meet these
5358 criteria and may establish its own rating system.

5359 (4) A nationally certified commissioning authority
5360 professional shall certify that the major facility project's
5361 systems for heating, ventilation, air-conditioning, energy
5362 conservation and water conservation are installed and working
5363 properly to ensure that each major facility project performs
5364 according to the major facility project's overall environmental
5365 design intent and operational objectives.

5366 (5) For purposes of this section, a major facility project
5367 shall mean either:

5368 (a) A state-funded new construction building project
5369 which is:



5370 (i) From July 1 through December 31, 2009, the
5371 project shall be larger than twenty thousand (20,000) gross square
5372 feet;

5373 (ii) From January 1, 2010, through December 31,
5374 2010, the project shall be larger than fifteen thousand (15,000)
5375 gross square feet;

5376 (iii) From January 1, 2011, through December 31,
5377 2011, the project shall be larger than ten thousand (10,000) gross
5378 square feet; and

5379 (iv) From January 1, 2012, and thereafter, the
5380 project shall be larger than five thousand (5,000) gross square
5381 feet.

5382 (b) A state-funded renovation project which involves
5383 more than fifty percent (50%) of the replacement value of the
5384 facility where compliance is cost-effective and practical.

5385 (6) A major facility project shall not mean a building,
5386 regardless of size, which does not have conditioned space as
5387 defined by Standard 90.1 of the American Society of Heating,
5388 Refrigerating, and Air-Conditioning Engineers.

5389 (7) For purposes of this section, a "major facility project"
5390 shall include, but not be limited to, the construction or
5391 renovation of buildings that are financed, in whole or in part,
5392 through the use of a Community Development Block Grant.

5393 **SECTION 114.** Section 25-53-101, Mississippi Code of 1972, is
5394 brought forward as follows:



5395 25-53-101. The Legislature hereby declares it essential to
5396 the creation and maintenance of an efficient, modern, economically
5397 feasible, telecommunications system that there should be full
5398 cooperation and cohesive planning and effort by and between the
5399 several state agencies and that it is the responsibility of the
5400 said Legislature to provide statutory authority therefor. The
5401 Legislature, therefore, declares and determines that the
5402 responsibility for these and other related purposes shall be
5403 vested in the Mississippi Department of Information Technology
5404 Services.

5405 **SECTION 115.** Section 25-53-105, Mississippi Code of 1972, is
5406 brought forward as follows:

5407 25-53-105. The Mississippi Department of Information
5408 Technology Services shall administer the provisions of Sections
5409 25-53-109 through 25-53-125. The purposes and aims of the
5410 Mississippi Department of Information Technology Services in
5411 carrying out said provisions shall be to coordinate and promote
5412 efficiency in the acquisition, operation and maintenance of all
5413 telecommunications systems and networks being used by agencies of
5414 the state and further to coordinate the compatibility of systems
5415 and networks to the state with those of governing authorities so
5416 as to promote a uniform, compatible telecommunications system for
5417 agencies and governing authorities.

5418 **SECTION 116.** Section 25-53-107, Mississippi Code of 1972, is
5419 brought forward as follows:



5420 25-53-107. (1) The Mississippi Department of Information
5421 Technology Services shall promulgate rules and regulations
5422 governing the manner in which the authority and duties prescribed
5423 by Sections 25-53-101 through 25-53-125 shall be carried out. It
5424 shall employ competent personnel necessary to carry out its
5425 purposes, under rules promulgated by the State Personnel Board.

5426 (2) The bureau, during a fiscal year, may utilize
5427 time-limited escalated positions in order to implement
5428 telecommunications enterprise decisions that yield cost avoidance,
5429 cost reductions or revenue increases and so long as the
5430 Mississippi Department of Information Technology Services can
5431 provide the necessary funds without such action causing a
5432 telephone service rate increase to agency customers. Such
5433 employees of the bureau shall be considered nonstate service
5434 employees, shall be highly qualified telecommunications
5435 professionals and may be compensated at a rate comparable to the
5436 prevailing rate of telecommunications personnel in the private
5437 sector. Such compensation rates shall be determined by the State
5438 Personnel Director. The number of such positions shall be set by
5439 annual appropriation legislation. The compensation and
5440 classification of such positions and qualifications of employees
5441 shall be set by the State Personnel Board upon recommendation by
5442 the Executive Director of the Mississippi Department of
5443 Information Technology Services. Nonstate service positions can
5444 be recommended for conversion to permanent state service on a case



5445 by case basis if the supported function appears long-term in
5446 duration, if accomplished in accordance with State Personnel Board
5447 procedures, and if properly identified in the state budgetary
5448 process.

5449 **SECTION 117.** Section 25-53-109, Mississippi Code of 1972, is
5450 brought forward as follows:

5451 25-53-109. The bureau is hereby authorized and empowered to
5452 exercise such duties and powers necessary to effectuate the
5453 purposes of Sections 25-53-101 through 25-53-125 including the
5454 following:

5455 (a) Form an advisory council made up of persons with
5456 expertise, and experience in the field of telecommunications for
5457 the purpose of setting goals, establishing long-range plans and
5458 policies and to oversee and assist in the procurement activities
5459 regarding telecommunications equipment and services;

5460 (b) Provide more effective management of state
5461 telecommunications resources and implement long-range plans and
5462 procurement;

5463 (c) Manage, plan and coordinate all telecommunications
5464 systems under the jurisdiction of the state. This centralized
5465 management function would be provided throughout the following
5466 activities:

5467 (i) Administration of existing systems including
5468 coordination of activities, vendors, service orders and
5469 billing/record-keeping functions;



5470 (ii) Planning of new systems or services;
5471 (iii) Design of replacement systems;
5472 (iv) Project management during specification
5473 writing, bid letting, proposal evaluation and contract
5474 negotiations;
5475 (v) Implementation supervision of new systems and
5476 ongoing support;
5477 (vi) Implementation of long-term state plans; and
5478 (vii) Management of intra-LATA and inter-LATA
5479 networks.

5480 **SECTION 118.** Section 25-53-111, Mississippi Code of 1972, is
5481 brought forward as follows:

5482 25-53-111. The bureau shall have the following additional
5483 duties:

5484 (a) To establish and coordinate through either state
5485 ownership or commercial leasing, all telecommunications systems
5486 and services affecting the management and operations of the state.

5487 (b) To act as the sole centralized customer for the
5488 acquisition, billing and record keeping of all telecommunications
5489 systems or services provided to state agencies whether obtained
5490 through lease or purchase.

5491 (c) To charge respective user agencies for their
5492 proportionate cost of the installation, maintenance and operation
5493 of the telecommunications systems and services, including the
5494 operation of the bureau.



5495 (d) To offer or provide transmission, switch and
5496 network services on a reimbursable basis to agencies financed
5497 entirely by federal funds, to governing authorities and to other
5498 governmental agencies.

5499 (e) To approve or provide state telephone services on a
5500 reimbursable basis to full-time students at state institutions of
5501 higher learning and junior colleges, including where such services
5502 are provided by the state or the institution.

5503 (f) To develop coordinated telecommunications systems
5504 or services within and among all state agencies and require, where
5505 appropriate, cooperative utilization of telecommunications
5506 equipment and services by aggregating users. Where such
5507 cooperative utilization of telecommunications system or service
5508 would affect an agency authorized to receive information from the
5509 National Crime Information Center of the Federal Bureau of
5510 Investigation, such plans for cooperative utilization shall first
5511 be approved by the National Crime Information Center before
5512 implementation of such telecommunications systems or service can
5513 proceed.

5514 (g) To review, coordinate, approve or disapprove all
5515 requests by state agencies for the procurement, through purchase
5516 or contract for lease of telecommunications systems or services
5517 including telecommunication proposals, studies and consultation
5518 contracts and intra-LATA and inter-LATA transmission channels.



5519 (h) To establish and define telecommunications systems
5520 and services specifications and designs so as to assure
5521 compatibility of telecommunications systems and services within
5522 state government and governing authorities.

5523 (i) To provide a continuous, comprehensive analysis and
5524 inventory of telecommunications costs, facilities and systems
5525 within state government.

5526 (j) To promote, coordinate or assist in the design and
5527 engineering of emergency telecommunications systems, including but
5528 not limited to "911" service, emergency medical services and other
5529 emergency telecommunications services.

5530 (k) To advise and provide consultation to agencies and
5531 governing authorities with respect to telecommunications
5532 management planning and related matters and to provide training to
5533 users within state government in telecommunications technology and
5534 system use.

5535 (l) To develop policies, procedures and long-range
5536 plans, consistent with the protection of citizens' rights to
5537 privacy and access to information, for the acquisition and use of
5538 telecommunications systems, and to base such policies on current
5539 information about state telecommunications activities in relation
5540 to the full range of emerging technologies.

5541 Any state agency requesting an increase in expenditure of
5542 funds for new telecommunications equipment systems or services
5543 shall submit to the Legislative Budget Office with its budget



5544 request preceding the fiscal year for which funding is requested
5545 detailed justification for such request. The justification shall
5546 be provided on forms developed by the bureau in accordance with
5547 the Administrative Procedure Act. In addition, all state agencies
5548 shall submit to the bureau, when requested, a long-range plan for
5549 use of telecommunications equipment, systems and services.

5550 **SECTION 119.** Section 25-53-113, Mississippi Code of 1972, is
5551 brought forward as follows:

5552 25-53-113. Each and every agency of the state shall give
5553 full cooperation to the bureau in furnishing all information of
5554 any kind as it pertains to telecommunications.

5555 **SECTION 120.** Section 25-53-115, Mississippi Code of 1972, is
5556 brought forward as follows:

5557 25-53-115. No agency shall rent, lease, lease/purchase,
5558 purchase or in any way own or pay for the operation of any
5559 telecommunications system out of any funds available for the use
5560 by that agency without the written approval of the bureau.

5561 **SECTION 121.** Section 25-53-117, Mississippi Code of 1972, is
5562 brought forward as follows:

5563 25-53-117. No agency shall be permitted to obligate the
5564 state to any vendor source for a telecommunications system of any
5565 kind. All transactions dealing with a telecommunications system
5566 shall be conducted through the bureau, and any vendor found in
5567 violation of this policy may be prohibited from bidding on such
5568 systems for a period of time commensurate with the severity of the



5569 violation. Provided, however, that this period shall not exceed
5570 twenty-four (24) months.

5571 **SECTION 122.** Section 25-53-119, Mississippi Code of 1972, is
5572 brought forward as follows:

5573 25-53-119. The bureau shall, subject to the provisions of
5574 Sections 25-53-101 through 25-53-125, have sole authority and
5575 responsibility for defining the specific telecommunications
5576 equipment, systems and related services to which the provisions of
5577 Sections 25-53-101 through 25-53-125 shall be applicable.
5578 However, the provisions of Sections 25-53-101 through 25-53-125
5579 shall not be applicable with respect to computer and
5580 telecommunications equipment, systems and related services that
5581 are only available from a sole source.

5582 **SECTION 123.** Section 25-53-121, Mississippi Code of 1972, is
5583 brought forward as follows:

5584 25-53-121. (1) The types of contracts permitted in the
5585 procurement of telecommunications equipment, systems and related
5586 services are defined herein, and the provisions in Sections
5587 25-53-101 through 25-53-125 supplement the provisions of Chapter
5588 7, Title 31, Mississippi Code of 1972.

5589 (2) The Mississippi Department of Information
5590 Technology Services may, on behalf of any state agency, enter into
5591 an equipment support contract with a vendor of telecommunications
5592 equipment or services for the purchase or lease of such equipment
5593 or services in accordance with the following provisions:



5594 (a) Specifications for equipment support contracts
5595 shall be developed in advance and shall conform to the following
5596 requirements:

5597 (i) Specifications for equipment support contracts
5598 shall cover a specific class or classes of equipment and service
5599 and may include all features associated with that class or
5600 classes.

5601 (ii) Specifications in the request for proposals
5602 for equipment support contracts shall be developed by the
5603 Mississippi Department of Information Technology Services.

5604 (iii) Specifications shall be based on the
5605 projected needs of user agencies.

5606 (iv) Specifications for equipment support
5607 contracts for purchase or lease of telecommunications equipment
5608 may include specifications for the maintenance of the equipment
5609 desired.

5610 (b) The initial procurement of an equipment support
5611 contract, and procurement of equipment and services to be utilized
5612 by agencies under an equipment support contract, shall be as
5613 follows:

5614 (i) Equipment support contracts shall be awarded
5615 by competitive sealed bidding.

5616 (ii) A using agency may procure required
5617 telecommunications equipment and service available under an
5618 equipment support contract through release of a purchase order for



5619 the required equipment and service to the vendor holding an
5620 equipment support contract. However, such procurement by purchase
5621 order shall be accomplished in accordance with the procedures and
5622 regulations prescribed by the Mississippi Department of
5623 Information Technology Services, and shall be subject to all other
5624 statutory requirements including approval by the bureau.

5625 (c) The final authority for entering into equipment
5626 support contracts shall rest with the bureau, and such contracts
5627 shall be executed by the Mississippi Department of Information
5628 Technology Services in accordance with the procedures and
5629 regulations defined by said authority.

5630 (d) Equipment support contracts shall include the
5631 following terms and conditions:

5632 (i) Equipment support contracts shall be valid for
5633 not more than one (1) fiscal year with the Mississippi Department
5634 of Information Technology Services having an option to renew for
5635 two (2) additional fiscal years. The vendor may vary lease or
5636 purchase prices for the optional renewal period(s) by an amount
5637 equal to the lesser of the lease or purchase price permitted by
5638 that vendor's contract with the General Services Administration of
5639 the United States government for such equipment and services, or
5640 any variance in that vendor's published list prices for such
5641 equipment and services during that fiscal year, provided that any
5642 increase may not exceed five percent (5%) and the variance must



5643 have been authorized by the initial equipment and service order
5644 contract.

5645 (ii) The prices stated in such contract shall not
5646 change for the period of the contract.

5647 (iii) Individual items of telecommunications
5648 equipment and service which may be included under an equipment
5649 support contract may not have a purchase price greater than Fifty
5650 Thousand Dollars (\$50,000.00) or a monthly lease price greater
5651 than Three Thousand Dollars (\$3,000.00). Such price shall not
5652 include costs of maintenance, taxes or transportation.

5653 (iv) Equipment support contracts shall include the
5654 following annual appropriation dependency clause:

5655 "The continuation of this contract is contingent upon the
5656 appropriation of funds to fulfill the requirements of the contract
5657 by the Legislature. If the Legislature fails to appropriate
5658 sufficient monies to provide for the continuance of the contract,
5659 the contract shall terminate on the date of the beginning of the
5660 first fiscal year for which funds are not appropriated."

5661 (3) The Mississippi Department of Information Technology
5662 Services may on behalf of any state agency enter into contracts
5663 for the lease or purchase of telecommunications equipment systems
5664 or services in accordance with the following provisions:

5665 (a) The bureau may directly contract for or approve
5666 contracts for regulated or tariffed telecommunications services



5667 upon determination by the bureau that the application of such
5668 service is in the best interests of the State of Mississippi.

5669 (b) All other contracts of this type shall be entered
5670 into through request for proposals as defined in Sections
5671 25-53-101 through 25-53-125.

5672 (c) The justification of such contracts must be
5673 presented to the bureau prior to issuance of a request for
5674 proposals. Such justification shall identify and consider all
5675 cost factors relevant to that contract.

5676 (d) The term of a lease contract shall not exceed sixty
5677 (60) months for a system lease valued less than One Million
5678 Dollars (\$1,000,000.00) and shall not exceed one hundred twenty
5679 (120) months for a system lease valued One Million Dollars
5680 (\$1,000,000.00) or more.

5681 (e) All lease contracts must contain the following
5682 annual appropriation dependency clause:

5683 "The continuation of this contract is contingent upon the
5684 appropriation of funds to fulfill the requirements of the contract
5685 by the Legislature. If the Legislature fails to appropriate
5686 sufficient monies to provide for the continuation of a contract,
5687 the contract shall terminate on the date of the beginning of the
5688 first fiscal year for which funds are not appropriated."

5689 (f) The Mississippi Department of Information
5690 Technology Services shall maintain a list of all such contracts.
5691 This list shall show as a minimum the name of the vendor, the



5692 annual cost of each contract and the term of the contract or the
5693 purchase cost.

5694 (g) Upon the advance written approval of the bureau,
5695 state agencies may extend contracts for the lease of
5696 telecommunications equipment, systems and related services on a
5697 month-to-month basis for a period not to extend more than one (1)
5698 calendar year for the stated lease prices.

5699 **SECTION 124.** Section 25-53-123, Mississippi Code of 1972, is
5700 brought forward as follows:

5701 25-53-123. (1) The only method of procurement permitted for
5702 the acquisition of nonregulated telecommunications systems,
5703 including equipment and related services, shall be in conformity
5704 with the following requirements: All acquisitions of
5705 telecommunications equipment, systems and related services
5706 involving the expenditures of funds in excess of the dollar amount
5707 established in Section 31-7-13(c), or rentals or leases in excess
5708 of the dollar amount established in Section 31-7-13(c), for the
5709 term of the contract, shall be based upon competitive and open
5710 specifications, and contracts therefor shall be entered into only
5711 after advertisements for bids are published in one or more daily
5712 newspapers having a general circulation in the state not less than
5713 fourteen (14) days prior to receiving sealed bids therefor. The
5714 authority may reserve the right to reject any or all bids, and if
5715 all bids are rejected, the authority may negotiate a contract
5716 within the limitations of the specifications so long as the terms



5717 of any such negotiated contract are equal to or better than the
5718 comparable terms submitted by the lowest and best bidder, and so
5719 long as the total cost to the State of Mississippi does not exceed
5720 the lowest bid. If the authority accepts one (1) of such bids, it
5721 shall be that which is the lowest and best.

5722 (2) When applicable, the bureau may procure equipment,
5723 systems and related services in accordance with the law or
5724 regulations, or both, which govern the Bureau of Purchasing of the
5725 Governor's Office of General Services or which govern the
5726 Mississippi Department of Information Technology Services
5727 procurement of computer equipment, software and services.

5728 **SECTION 125.** Section 25-53-125, Mississippi Code of 1972, is
5729 brought forward as follows:

5730 25-53-125. The following general provisions shall apply to
5731 all procurements under Sections 25-53-101 through 25-53-125:

5732 (a) No contracts entered into hereunder shall have an
5733 initial effective date earlier than the date on which such
5734 contract receives approval as required herein.

5735 (b) All changes, modifications and amendments to any
5736 contract hereunder shall be approved in advance by the bureau, in
5737 addition to any other approvals required by law.

5738 (c) The bureau shall promulgate rules and regulations
5739 in accordance with the Administrative Procedures Law, Section
5740 25-43-1.101 et seq., Mississippi Code of 1972, for the
5741 establishment of contract format.



5742 (d) Where written proposals or bids are submitted by
5743 vendors, the proposal or bid of the successful vendor shall be
5744 incorporated into the final contract consummated with that vendor.

5745 (e) The provisions of Sections 25-53-101 through
5746 25-53-125 shall, with respect to the procurement of
5747 telecommunications equipment, systems or related services,
5748 supersede specifications of any contradictory or conflicting
5749 provisions of Chapter 7, Title 31, Mississippi Code of 1972, and
5750 other laws with respect to awarding public contracts.

5751 **SECTION 126.** Section 27-104-152, Mississippi Code of 1972,
5752 is brought forward as follows:

5753 27-104-152. The Legislature finds that the public should be
5754 able to easily access the details on how the state is spending tax
5755 dollars and other state funds and what performance results are
5756 achieved for the expenditures. It is the intent of the
5757 Legislature that the state, acting through the Department of
5758 Finance and Administration, create and maintain a searchable
5759 website providing access, to the extent possible, to where, for
5760 what purpose and what results are achieved for all taxpayer
5761 investments in state government.

5762 **SECTION 127.** Section 27-104-153, Mississippi Code of 1972,
5763 is brought forward as follows:

5764 27-104-153. As used in Sections 27-104-151 through
5765 27-104-159:

5766 (a) "Searchable website" means an Internet site that:



5767 (i) Allows the public to access information
5768 identified in Sections 27-104-151 through 27-104-159 without any
5769 fee or charge to the public for that access;

5770 (ii) Provides keyword or other efficient search
5771 capability to support the public's ability to find, aggregate and
5772 display that information with reasonable ease by accessing a
5773 single website; and

5774 (iii) Allows the public to programmatically search
5775 and access all data in a serialized machine readable format, such
5776 as XML, via a Web-services application programming interface.

5777 (b) "Agency" means a state agency, department,
5778 institution, board, commission, council, office, bureau, division,
5779 committee or subcommittee of the state. The term "agency"
5780 includes individual agencies and programs as well as multiple
5781 agencies whenever programs and activities involve more than one
5782 (1) agency. The term "agency" includes all elective offices in
5783 the executive, legislative and judicial branches of state
5784 government. The term "agency" does not include counties or
5785 municipalities.

5786 (c) "Entity" or "recipient" means a corporation,
5787 association, union, limited liability company, limited liability
5788 partnership, grantee, contractor, county, municipality or other
5789 local government entity, or any other legal business entity,
5790 including a nonprofit entity. The term "entity" or "recipient"



5791 does not include an individual recipient of state public
5792 assistance.

5793 (d) "Expenditure of state funds" means the disbursement
5794 or transfer of any funds, from any source or funds, whether
5795 appropriated or nonappropriated, from any agency. The term
5796 "expenditure of state funds" includes the expenditures from bond
5797 proceeds.

5798 (e) "Funding action" means the transfer of funds from a
5799 state agency to another entity for a specific purpose. These
5800 would include subgranting of funds for specific purposes or the
5801 funding through bonds or other authority specific projects and
5802 actions.

5803 (f) "Funding source" means the state account against
5804 which an expenditure is recorded.

5805 (g) "State audit or report" means any audit or report
5806 issued by the State Auditor, Joint Legislative Committee on
5807 Performance Evaluation and Expenditure Review (PEER) or an
5808 executive body relating to the entity or recipient of funds or to
5809 the budget program or activity or agency.

5810 **SECTION 128.** Section 27-104-155, Mississippi Code of 1972,
5811 is brought forward as follows:

5812 27-104-155. (1) The Department of Finance and
5813 Administration shall develop and operate a searchable website that
5814 includes information on expenditures of state funds from all
5815 funding sources. The website shall have a unique and simplified



5816 website address, and the department shall require each agency that
5817 maintains a generally accessible Internet site or for which a
5818 generally accessible Internet site is maintained to include a link
5819 on the front page of the agency's Internet site to the searchable
5820 website required under this section.

5821 (a) With regard to disbursement of funds, the website
5822 shall include, but not be limited to:

5823 (i) The name and principal location of the entity
5824 or recipients of the funds, excluding release of information
5825 relating to an individual's place of residence, the identity of
5826 recipients of state or federal assistance payments, and any other
5827 information deemed confidential by state or federal law relating
5828 to privacy rights;

5829 (ii) The amount of state funds expended;

5830 (iii) A descriptive purpose of the funding action
5831 or expenditure;

5832 (iv) The funding source of the expenditure;

5833 (v) The budget program or activity of the
5834 expenditure;

5835 (vi) The specific source of authority and
5836 descriptive purpose of the expenditure, to include a link to the
5837 funding authorization document(s) in a searchable PDF form;

5838 (vii) The specific source of authority for the
5839 expenditure including, but not limited to, a grant, subgrant,
5840 contract, or the general discretion of the agency director,



5841 provided that if the authority is a grant, subgrant or contract,
5842 the website entry shall include a grant, subgrant or contract
5843 number or similar information that clearly identifies the specific
5844 source of authority. The information required under this
5845 paragraph includes data relative to tax exemptions and credits;

5846 (viii) The expending agency;

5847 (ix) The type of transaction;

5848 (x) The expected performance outcomes achieved for
5849 the funding action or expenditure;

5850 (xi) Links to any state audit or report relating
5851 to the entity or recipient of funds or the budget program or
5852 activity or agency; and

5853 (xii) Any other information deemed relevant by the
5854 Department of Finance and Administration.

5855 (b) When the expenditure of state funds involves the
5856 expenditure of bond proceeds, the searchable website must include
5857 a clear, detailed description of the purpose of the bonds, a
5858 current status report on the project or projects being financed by
5859 the bonds, and a current status report on the payment of the
5860 principal and interest on the bonds.

5861 (c) The searchable website must include access to an
5862 electronic summary of each grant, including amendments; subgrant,
5863 including amendments; contract, including amendments; and payment
5864 voucher that includes, wherever possible, a hyperlink to the
5865 actual document in a searchable PDF format, subject to the



5866 restrictions in paragraph (d) of this section. The Department of
5867 Finance and Administration may cooperate with other agencies to
5868 accomplish the requirements of this paragraph.

5869 (d) Nothing in Sections 27-104-151 through 27-104-159
5870 shall permit or require the disclosure of trade secrets or other
5871 proprietary information, including confidential vendor
5872 information, or any other information that is required to be
5873 confidential by state or federal law.

5874 (e) The information available from the searchable
5875 website must be updated no later than fourteen (14) days after the
5876 receipt of data from an agency, and the Department of Finance and
5877 Administration shall require each agency to provide to the
5878 department access to all data that is required to be accessible
5879 from the searchable website within fourteen (14) days of each
5880 expenditure, grant award, including amendments; subgrant,
5881 including amendments; or contract, including amendments; executed
5882 by the agency.

5883 (f) The searchable website must include all information
5884 required by this section for all transactions that are initiated
5885 in fiscal year 2015 or later. In addition, all information that
5886 is included on the searchable website from the date of the
5887 inception of the website until July 1, 2014, must be maintained on
5888 the website according to the requirements of this section before
5889 July 1, 2014, and remain accessible for ten (10) years from the
5890 date it was originally made available. All data on the searchable



5891 website must remain accessible to the public for a minimum of ten
5892 (10) years.

5893 (g) For the purposes of this subsection (1), the term
5894 "contract" includes, but is not limited to, personal and
5895 professional services contracts.

5896 (2) The Board of Trustees of State Institutions of Higher
5897 Learning shall create the IHL Accountability and Transparency
5898 website to include its executive office and the institutions of
5899 higher learning no later than July 1, 2012. This website shall:

5900 (a) Provide access to existing financial reports,
5901 financial audits, budgets and other financial documents that are
5902 used to allocate, appropriate, spend and account for appropriated
5903 funds;

5904 (b) Have a unique and simplified website address;

5905 (c) Be directly accessible via a link from the main
5906 page of the Department of Finance and Administration website, as
5907 well as the IHL website and the main page of the website of each
5908 institution of higher learning;

5909 (d) Include other links, features or functionality that
5910 will assist the public in obtaining and reviewing public financial
5911 information;

5912 (e) Report expenditure information currently available
5913 within these enterprise resource planning (ERP) computer systems;
5914 and



5915 (f) Design the reporting format using the existing
5916 capabilities of these ERP computer systems.

5917 (3) The Mississippi Community College Board shall create the
5918 Community and Junior Colleges Accountability and Transparency
5919 website to include its executive office and the community and
5920 junior colleges no later than July 1, 2012. This website shall:

5921 (a) Provide access to existing financial reports,
5922 financial audits, budgets and other financial documents that are
5923 used to allocate, appropriate, spend and account for appropriated
5924 funds;

5925 (b) Have a unique and simplified website address;

5926 (c) Be directly accessible via a link from the main
5927 page of the Department of Finance and Administration website, as
5928 well as the Mississippi Community College Board website and the
5929 main page of the website of each community and junior college;

5930 (d) Include other links, features or functionality that
5931 will assist the public in obtaining and reviewing public financial
5932 information;

5933 (e) Report expenditure information currently available
5934 within the computer system of each community and junior college;
5935 and

5936 (f) Design the reporting format using the existing
5937 capabilities of the computer system of each community and junior
5938 college.



5939 (4) Not later than January 1, 2016, the owner or owners of a
5940 community hospital, as defined in Section 41-13-10, shall create
5941 and maintain an accountability and transparency website for the
5942 community hospital or set up a separate section for the community
5943 hospital on the current website of the owner or owners. This
5944 website of the community hospital or section of the website of the
5945 owner or owners shall:

5946 (a) Provide access to existing financial reports,
5947 financial audits, budgets and other financial documents of the
5948 community hospital that are used to allocate, appropriate, spend
5949 and account for public funds;

5950 (b) Have a unique and simplified website address if it
5951 is a new website for the community hospital, or be an easily
5952 accessible section of the website of the owner or owners;

5953 (c) Include links, features or functionality that will
5954 assist the public in obtaining and reviewing public financial
5955 information of the community hospital;

5956 (d) Report expenditure information of the community
5957 hospital in functional expenditure categories that is currently
5958 available within the computer system of the community hospital;
5959 and

5960 (e) Design the reporting format using the existing
5961 capabilities of the computer system or systems of the owner or
5962 owners of the community hospital.



5963 **SECTION 129.** Section 27-104-157, Mississippi Code of 1972,
5964 is brought forward as follows:

5965 27-104-157. The Department of Finance and Administration
5966 shall have the authority to establish the form, processes and
5967 procedures, and timelines for agencies to report the information
5968 required by Sections 27-104-151 through 27-104-159. At the
5969 latest, each agency shall provide access to all required data
5970 within fourteen (14) days after the data becomes available to the
5971 agency. All agencies shall fully cooperate with the Department of
5972 Finance and Administration in compiling and providing all
5973 information necessary to comply with the requirements of Sections
5974 27-104-151 through 27-104-159.

5975 **SECTION 130.** Section 27-104-158, Mississippi Code of 1972,
5976 is brought forward as follows:

5977 27-104-158. The Office of the State Auditor shall examine
5978 agencies' compliance with the requirements of Sections 27-104-151
5979 through 27-104-159 in the course of the powers and duties of the
5980 office as prescribed in Section 7-7-211.

5981 **SECTION 131.** Section 27-104-159, Mississippi Code of 1972,
5982 is brought forward as follows:

5983 27-104-159. Nothing in Sections 27-104-151 through
5984 27-104-159 shall be construed to supersede the Mississippi Public
5985 Records Act of 1983, as amended, except that Sections 27-104-151
5986 through 27-104-158 shall apply to expenditures of the legislative
5987 branch.



5988 **SECTION 132.** Section 27-104-161, Mississippi Code of 1972,
5989 is brought forward as follows:

5990 27-104-161. No provision of Sections 27-104-151 through
5991 27-104-159 shall be construed as conferring upon the Department of
5992 Finance and Administration any authority to review, approve or
5993 deny any expenditures or contracts entered into by the Legislature
5994 or any of its committees, or to impose any requirement on the
5995 Legislature or any of its committees to take any action other than
5996 to disclose expenditures and contracts entered into on or after
5997 July 1, 2011. For the purposes of this section, the term
5998 "contract" includes, but is not limited to, personal and
5999 professional services contracts.

6000 **SECTION 133.** Section 27-104-163, Mississippi Code of 1972,
6001 is brought forward as follows:

6002 27-104-163. The Department of Finance and Administration
6003 shall publish on its searchable website notice of any regular
6004 meeting held by a state agency, other than a legislative
6005 committee, in accordance with Section 25-41-13. For purposes of
6006 this section, the term "state agency" means an agency, department,
6007 institution, board, commission, council, office, bureau, division,
6008 committee or subcommittee of the state. However, the term "state
6009 agency" does not include institutions of higher learning,
6010 community and junior colleges, counties or municipalities.

6011 **SECTION 134.** Section 27-104-165, Mississippi Code of 1972,
6012 is brought forward as follows:



6013 27-104-165. The Department of Finance and Administration,
6014 with assistance from the Mississippi Department of Information
6015 Technology Services and the State Personnel Board, may develop a
6016 phased-in plan that ensures that the procurement portal required
6017 under Section 25-53-151 be fully functional by July 1, 2015.

6018 **SECTION 135.** Section 27-104-167, Mississippi Code of 1972,
6019 is brought forward as follows:

6020 27-104-167. The Department of Finance and Administration
6021 shall publish on its searchable website the annual report of each
6022 agency, board, commission, department and institution required to
6023 be prepared by Section 27-101-1. The Department of Finance and
6024 Administration shall have the authority to establish the forms,
6025 processes, procedures and timelines to furnish the annual report.
6026 All such agencies, boards, commissions, departments and
6027 institutions shall fully cooperate with the Department of Finance
6028 and Administration in providing the information necessary to
6029 comply with the requirements of this section.

6030 **SECTION 136.** Section 57-75-3, Mississippi Code of 1972, is
6031 brought forward as follows:

6032 57-75-3. The Legislature hereby finds and declares that:

6033 (a) There exists in the State of Mississippi a
6034 continuing need for gainful employment for the citizens of this
6035 state.

6036 (b) To help provide employment opportunities, a
6037 division within the Mississippi Development Authority should be



6038 created with power to secure the location and expansion within
6039 this state of major economic impact projects by providing
6040 assistance and incentives in connection with such projects.

6041 (c) In accomplishing this purpose, such division will
6042 be acting in all respects for the benefit of the people of the
6043 state in the performance of essential public functions and is
6044 serving a valid public purpose in improving and otherwise
6045 promoting their health, welfare and prosperity, and the enactment
6046 of the provisions hereinafter set forth is for a valid public
6047 purpose.

6048 (d) Public agencies of the state, as herein defined,
6049 must be authorized and empowered to contract with and cooperate
6050 with the authority for the purposes herein set out.

6051 (e) The borrowing of money and the issuance of bonds
6052 for the purposes hereinafter set out serves valid public purposes
6053 in that the project will significantly contribute to the
6054 employment base and scientific and educational growth of the
6055 state.

6056 (f) The Mississippi Major Economic Impact Authority
6057 created pursuant to this chapter shall implement the provisions of
6058 this chapter and exercise all power as authorized in this chapter;
6059 however, the application of this chapter or the offering of any
6060 assistance and incentives as to any particular project or person
6061 shall be in the sole discretion of the Mississippi Major Economic
6062 Impact Authority, and nothing in this chapter shall be deemed to



6063 vest in any person any right to any assistance or incentive
6064 contained herein unless the assistance or incentive is approved by
6065 the Mississippi Major Economic Impact Authority pursuant to this
6066 chapter. The exercise of powers conferred by this chapter shall
6067 be deemed and held to be the performance of essential public
6068 purposes.

6069 **SECTION 137.** Section 57-75-5, Mississippi Code of 1972, is
6070 brought forward as follows:

6071 57-75-5. Words and phrases used in this chapter shall have
6072 meanings as follows, unless the context clearly indicates a
6073 different meaning:

6074 (a) "Act" means the Mississippi Major Economic Impact
6075 Act as originally enacted or as hereafter amended.

6076 (b) "Authority" means the Mississippi Major Economic
6077 Impact Authority created pursuant to the act.

6078 (c) "Bonds" means general obligation bonds, interim
6079 notes and other evidences of debt of the State of Mississippi
6080 issued pursuant to this chapter.

6081 (d) "Facility related to the project" means and
6082 includes any of the following, as the same may pertain to the
6083 project within the project area: (i) facilities to provide
6084 potable and industrial water supply systems, sewage and waste
6085 disposal systems and water, natural gas and electric transmission
6086 systems to the site of the project; (ii) airports, airfields and
6087 air terminals; (iii) rail lines; (iv) port facilities; (v)



6088 highways, streets and other roadways; (vi) public school
6089 buildings, classrooms and instructional facilities, training
6090 facilities and equipment, including any functionally related
6091 facilities; (vii) parks, outdoor recreation facilities and
6092 athletic facilities; (viii) auditoriums, pavilions, campgrounds,
6093 art centers, cultural centers, folklore centers and other public
6094 facilities; (ix) health care facilities, public or private; and
6095 (x) fire protection facilities, equipment and elevated water
6096 tanks.

6097 (e) "Person" means any natural person, corporation,
6098 association, partnership, limited liability company, receiver,
6099 trustee, guardian, executor, administrator, fiduciary,
6100 governmental unit, public agency, political subdivision, or any
6101 other group acting as a unit, and the plural as well as the
6102 singular.

6103 (f) "Project" means:

6104 (i) Any industrial, commercial, research and
6105 development, warehousing, distribution, transportation,
6106 processing, mining, United States government or tourism enterprise
6107 together with all real property required for construction,
6108 maintenance and operation of the enterprise with an initial
6109 capital investment of not less than Three Hundred Million Dollars
6110 (\$300,000,000.00) from private or United States government sources
6111 together with all buildings, and other supporting land and
6112 facilities, structures or improvements of whatever kind required



6113 or useful for construction, maintenance and operation of the
6114 enterprise; or with an initial capital investment of not less than
6115 One Hundred Fifty Million Dollars (\$150,000,000.00) from private
6116 or United States government sources together with all buildings
6117 and other supporting land and facilities, structures or
6118 improvements of whatever kind required or useful for construction,
6119 maintenance and operation of the enterprise and which creates at
6120 least one thousand (1,000) net new full-time jobs; or which
6121 creates at least one thousand (1,000) net new full-time jobs which
6122 provides an average salary, excluding benefits which are not
6123 subject to Mississippi income taxation, of at least one hundred
6124 twenty-five percent (125%) of the most recently published average
6125 annual wage of the state as determined by the Mississippi
6126 Department of Employment Security. "Project" shall include any
6127 addition to or expansion of an existing enterprise if such
6128 addition or expansion has an initial capital investment of not
6129 less than Three Hundred Million Dollars (\$300,000,000.00) from
6130 private or United States government sources, or has an initial
6131 capital investment of not less than One Hundred Fifty Million
6132 Dollars (\$150,000,000.00) from private or United States government
6133 sources together with all buildings and other supporting land and
6134 facilities, structures or improvements of whatever kind required
6135 or useful for construction, maintenance and operation of the
6136 enterprise and which creates at least one thousand (1,000) net new
6137 full-time jobs; or which creates at least one thousand (1,000) net



6138 new full-time jobs which provides an average salary, excluding
6139 benefits which are not subject to Mississippi income taxation, of
6140 at least one hundred twenty-five percent (125%) of the most
6141 recently published average annual wage of the state as determined
6142 by the Mississippi Department of Employment Security. "Project"
6143 shall also include any ancillary development or business resulting
6144 from the enterprise, of which the authority is notified, within
6145 three (3) years from the date that the enterprise entered into
6146 commercial production, that the project area has been selected as
6147 the site for the ancillary development or business.

6148 (ii) 1. Any major capital project designed to
6149 improve, expand or otherwise enhance any active duty or reserve
6150 United States armed services bases and facilities or any major
6151 Mississippi National Guard training installations, their support
6152 areas or their military operations, upon designation by the
6153 authority that any such base was or is at risk to be recommended
6154 for closure or realignment pursuant to the Defense Base Closure
6155 and Realignment Act of 1990, as amended, or other applicable
6156 federal law; or any major development project determined by the
6157 authority to be necessary to acquire or improve base properties
6158 and to provide employment opportunities through construction of
6159 projects as defined in Section 57-3-5, which shall be located on
6160 or provide direct support service or access to such military
6161 installation property in the event of closure or reduction of
6162 military operations at the installation.



6163 2. Any major study or investigation related
6164 to such a facility, installation or base, upon a determination by
6165 the authority that the study or investigation is critical to the
6166 expansion, retention or reuse of the facility, installation or
6167 base.

6168 3. Any project as defined in Section 57-3-5,
6169 any business or enterprise determined to be in the furtherance of
6170 the public purposes of this act as determined by the authority or
6171 any facility related to such project each of which shall be,
6172 directly or indirectly, related to any military base or other
6173 military-related facility no longer operated by the United States
6174 armed services or the Mississippi National Guard.

6175 (iii) Any enterprise to be maintained, improved or
6176 constructed in Tishomingo County by or for a National Aeronautics
6177 and Space Administration facility in such county.

6178 (iv) 1. Any major capital project with an initial
6179 capital investment from private sources of not less than Seven
6180 Hundred Fifty Million Dollars (\$750,000,000.00) which will create
6181 at least three thousand (3,000) jobs meeting criteria established
6182 by the Mississippi Development Authority.

6183 2. "Project" shall also include any ancillary
6184 development or business resulting from an enterprise operating a
6185 project as defined in item 1 of this paragraph (f) (iv), of which
6186 the authority is notified, within three (3) years from the date
6187 that the enterprise entered into commercial production, that the



6188 state has been selected as the site for the ancillary development
6189 or business.

6190 (v) Any manufacturing, processing or industrial
6191 project determined by the authority, in its sole discretion, to
6192 contribute uniquely and significantly to the economic growth and
6193 development of the state, and which meets the following criteria:

6194 1. The project shall create at least two
6195 thousand (2,000) net new full-time jobs meeting criteria
6196 established by the authority, which criteria shall include, but
6197 not be limited to, the requirement that such jobs must be held by
6198 persons eligible for employment in the United States under
6199 applicable state and federal law.

6200 2. The project and any facility related to
6201 the project shall include a total investment from private sources
6202 of not less than Sixty Million Dollars (\$60,000,000.00), or from
6203 any combination of sources of not less than Eighty Million Dollars
6204 (\$80,000,000.00).

6205 (vi) Any real property owned or controlled by the
6206 National Aeronautics and Space Administration, the United States
6207 government, or any agency thereof, which is legally conveyed to
6208 the State of Mississippi or to the State of Mississippi for the
6209 benefit of the Mississippi Major Economic Impact Authority, its
6210 successors and assigns pursuant to Section 212 of Public Law
6211 104-99, enacted January 26, 1996 (110 Stat. 26 at 38).



6212 (vii) Any major capital project related to the
6213 establishment, improvement, expansion and/or other enhancement of
6214 any active duty military installation and having a minimum capital
6215 investment from any source or combination of sources other than
6216 the State of Mississippi of at least Forty Million Dollars
6217 (\$40,000,000.00), and which will create at least four hundred
6218 (400) military installation related full-time jobs, which jobs may
6219 be military jobs, civilian jobs or a combination of military and
6220 civilian jobs. The authority shall require that binding
6221 commitments be entered into requiring that the minimum
6222 requirements for the project provided for in this subparagraph
6223 shall be met not later than July 1, 2008.

6224 (viii) Any major capital project with an initial
6225 capital investment from any source or combination of sources of
6226 not less than Ten Million Dollars (\$10,000,000.00) which will
6227 create at least eighty (80) full-time jobs which provide an
6228 average annual salary, excluding benefits which are not subject to
6229 Mississippi income taxes, of at least one hundred thirty-five
6230 percent (135%) of the most recently published average annual wage
6231 of the state or the most recently published average annual wage of
6232 the county in which the project is located as determined by the
6233 Mississippi Department of Employment Security, whichever is the
6234 lesser. The authority shall require that binding commitments be
6235 entered into requiring that:



6236 1. The minimum requirements for the project
6237 provided for in this subparagraph shall be met; and

6238 2. That if such commitments are not met, all
6239 or a portion of the funds provided by the state for the project as
6240 determined by the authority shall be repaid.

6241 (ix) Any regional retail shopping mall with an
6242 initial capital investment from private sources in excess of One
6243 Hundred Fifty Million Dollars (\$150,000,000.00), with a square
6244 footage in excess of eight hundred thousand (800,000) square feet,
6245 which will create at least seven hundred (700) full-time jobs with
6246 an average hourly wage of Eleven Dollars (\$11.00) per hour. The
6247 authority shall require that binding commitments be entered into
6248 requiring that:

6249 1. The minimum requirements for the project
6250 provided for in this subparagraph shall be met; and

6251 2. That if such commitments are not met, all
6252 or a portion of the funds provided by the state for the project as
6253 determined by the authority shall be repaid.

6254 (x) Any major capital project with an initial
6255 capital investment from any source or combination of sources of
6256 not less than Seventy-five Million Dollars (\$75,000,000.00) which
6257 will create at least one hundred twenty-five (125) full-time jobs
6258 which provide an average annual salary, excluding benefits which
6259 are not subject to Mississippi income taxes, of at least one
6260 hundred thirty-five percent (135%) of the most recently published



6261 average annual wage of the state or the most recently published
6262 average annual wage of the county in which the project is located
6263 as determined by the Mississippi Department of Employment
6264 Security, whichever is the greater. The authority shall require
6265 that binding commitments be entered into requiring that:

6266 1. The minimum requirements for the project
6267 provided for in this subparagraph shall be met; and

6268 2. That if such commitments are not met, all
6269 or a portion of the funds provided by the state for the project as
6270 determined by the authority shall be repaid.

6271 (xi) Any potential major capital project that the
6272 authority has determined is feasible to recruit.

6273 (xii) Any project built according to the
6274 specifications and federal provisions set forth by the National
6275 Aeronautics and Space Administration Center Operations Directorate
6276 at Stennis Space Center for the purpose of consolidating common
6277 services from National Aeronautics and Space Administration
6278 centers in human resources, procurement, financial management and
6279 information technology located on land owned or controlled by the
6280 National Aeronautics and Space Administration, which will create
6281 at least four hundred seventy (470) full-time jobs.

6282 (xiii) Any major capital project with an initial
6283 capital investment from any source or combination of sources of
6284 not less than Ten Million Dollars (\$10,000,000.00) which will
6285 create at least two hundred fifty (250) full-time jobs. The



6286 authority shall require that binding commitments be entered into
6287 requiring that:

6288 1. The minimum requirements for the project
6289 provided for in this subparagraph shall be met; and

6290 2. That if such commitments are not met, all
6291 or a portion of the funds provided by the state for the project as
6292 determined by the authority shall be repaid.

6293 (xiv) Any major pharmaceutical facility with a
6294 capital investment of not less than Fifty Million Dollars
6295 (\$50,000,000.00) made after July 1, 2002, through four (4) years
6296 after the initial date of any loan or grant made by the authority
6297 for such project, which will maintain at least seven hundred fifty
6298 (750) full-time employees. The authority shall require that
6299 binding commitments be entered into requiring that:

6300 1. The minimum requirements for the project
6301 provided for in this subparagraph shall be met; and

6302 2. That if such commitments are not met, all
6303 or a portion of the funds provided by the state for the project as
6304 determined by the authority shall be repaid.

6305 (xv) Any pharmaceutical manufacturing, packaging
6306 and distribution facility with an initial capital investment from
6307 any local or federal sources of not less than Five Hundred
6308 Thousand Dollars (\$500,000.00) which will create at least ninety
6309 (90) full-time jobs. The authority shall require that binding
6310 commitments be entered into requiring that:



6311 1. The minimum requirements for the project
6312 provided for in this subparagraph shall be met; and

6313 2. That if such commitments are not met, all
6314 or a portion of the funds provided by the state for the project as
6315 determined by the authority shall be repaid.

6316 (xvi) Any major industrial wood processing
6317 facility with an initial capital investment of not less than One
6318 Hundred Million Dollars (\$100,000,000.00) which will create at
6319 least one hundred twenty-five (125) full-time jobs which provide
6320 an average annual salary, excluding benefits which are not subject
6321 to Mississippi income taxes, of at least Thirty Thousand Dollars
6322 (\$30,000.00). The authority shall require that binding
6323 commitments be entered into requiring that:

6324 1. The minimum requirements for the project
6325 provided for in this subparagraph shall be met; and

6326 2. That if such commitments are not met, all
6327 or a portion of the funds provided by the state for the project as
6328 determined by the authority shall be repaid.

6329 (xvii) Any technical, engineering,
6330 manufacturing-logistic service provider with an initial capital
6331 investment of not less than One Million Dollars (\$1,000,000.00)
6332 which will create at least ninety (90) full-time jobs. The
6333 authority shall require that binding commitments be entered into
6334 requiring that:



6335 1. The minimum requirements for the project
6336 provided for in this subparagraph shall be met; and

6337 2. That if such commitments are not met, all
6338 or a portion of the funds provided by the state for the project as
6339 determined by the authority shall be repaid.

6340 (xviii) Any major capital project with an initial
6341 capital investment from any source or combination of sources other
6342 than the State of Mississippi of not less than Six Hundred Million
6343 Dollars (\$600,000,000.00) which will create at least four hundred
6344 fifty (450) full-time jobs with an average annual salary,
6345 excluding benefits which are not subject to Mississippi income
6346 taxes, of at least Seventy Thousand Dollars (\$70,000.00). The
6347 authority shall require that binding commitments be entered into
6348 requiring that:

6349 1. The minimum requirements for the project
6350 provided for in this subparagraph shall be met; and

6351 2. That if such commitments are not met, all
6352 or a portion of the funds provided by the state for the project as
6353 determined by the authority shall be repaid.

6354 (xix) Any major coal and/or petroleum coke
6355 gasification project with an initial capital investment from any
6356 source or combination of sources other than the State of
6357 Mississippi of not less than Eight Hundred Million Dollars
6358 (\$800,000,000.00), which will create at least two hundred (200)
6359 full-time jobs with an average annual salary, excluding benefits



6360 which are not subject to Mississippi income taxes, of at least
6361 Forty-five Thousand Dollars (\$45,000.00). The authority shall
6362 require that binding commitments be entered into requiring that:

6363 1. The minimum requirements for the project
6364 provided for in this subparagraph shall be met; and

6365 2. That if such commitments are not met, all
6366 or a portion of the funds provided by the state for the project as
6367 determined by the authority shall be repaid.

6368 (xx) Any planned mixed use development located on
6369 not less than four thousand (4,000) acres of land that will
6370 consist of commercial, recreational, resort, tourism and
6371 residential development with a capital investment from private
6372 sources of not less than Four Hundred Seventy-five Million Dollars
6373 (\$475,000,000.00) in the aggregate in any one (1) or any
6374 combination of tourism projects that will create at least three
6375 thousand five hundred (3,500) jobs in the aggregate. For the
6376 purposes of this paragraph (f) (xx), the term "tourism project"
6377 means and has the same definition as that term has in Section
6378 57-28-1. In order to meet the minimum capital investment required
6379 under this paragraph (f) (xx), at least Two Hundred Thirty-seven
6380 Million Five Hundred Thousand Dollars (\$237,500,000.00) of such
6381 investment must be made not later than June 1, 2015, and the
6382 remainder of the minimum capital investment must be made not later
6383 than June 1, 2017. In order to meet the minimum number of jobs
6384 required to be created under this paragraph (f) (xx), at least one



6385 thousand seven hundred fifty (1,750) of such jobs must be created
6386 not later than June 1, 2015, and the remainder of the jobs must be
6387 created not later than June 1, 2017. The authority shall require
6388 that binding commitments be entered into requiring that:

6389 1. The minimum requirements for the project
6390 provided for in this subparagraph shall be met; and

6391 2. That if such commitments are not met, all
6392 or a portion of the funds provided by the state for the project as
6393 determined by the authority shall be repaid.

6394 (xxi) Any enterprise owning or operating an
6395 automotive manufacturing and assembly plant and its affiliates for
6396 which construction begins after March 2, 2007, and not later than
6397 December 1, 2007, with an initial capital investment from private
6398 sources of not less than Five Hundred Million Dollars
6399 (\$500,000,000.00) which will create at least one thousand five
6400 hundred (1,500) jobs meeting criteria established by the
6401 authority, which criteria shall include, but not be limited to,
6402 the requirement that such jobs must be held by persons eligible
6403 for employment in the United States under applicable state and
6404 federal law. The authority shall require that binding commitments
6405 be entered into requiring that:

6406 1. The minimum requirements for the project
6407 provided for in this subparagraph shall be met; and



6408 2. That if such commitments are not met, all
6409 or a portion of the funds provided by the state for the project as
6410 determined by the authority shall be repaid.

6411 (xxii) Any enterprise owning or operating a major
6412 powertrain component manufacturing and assembly plant for which
6413 construction begins after May 11, 2007, and not later than
6414 December 1, 2007, with an initial capital investment from private
6415 sources of not less than Three Hundred Million Dollars
6416 (\$300,000,000.00) which will create at least five hundred (500)
6417 new full-time jobs meeting criteria established by the authority,
6418 which criteria shall include, but not be limited to, the
6419 requirement that such jobs must be held by persons eligible for
6420 employment in the United States under applicable state and federal
6421 law, and the requirement that the average annual wages and taxable
6422 benefits of such jobs shall be at least one hundred twenty-five
6423 percent (125%) of the most recently published average annual wage
6424 of the state or the most recently published average annual wage of
6425 the county in which the project is located as determined by the
6426 Mississippi Department of Employment Security, whichever is the
6427 lesser. The authority shall require that binding commitments be
6428 entered into requiring that:

6429 1. The minimum requirements for the project
6430 provided for in this subparagraph shall be met; and



6431 2. That if such commitments are not met, all
6432 or a portion of the funds provided by the state for the project as
6433 determined by the authority shall be repaid.

6434 (xxiii) Any biological and agricultural defense
6435 project operated by an agency of the government of the United
6436 States with an initial capital investment of not less than Four
6437 Hundred Fifty Million Dollars (\$450,000,000.00) from any source
6438 other than the State of Mississippi and its subdivisions, which
6439 will create at least two hundred fifty (250) new full-time jobs.
6440 All jobs created by the project must be held by persons eligible
6441 for employment in the United States under applicable state and
6442 federal law.

6443 (xxiv) Any enterprise owning or operating an
6444 existing tire manufacturing plant which adds to such plant capital
6445 assets of not less than Twenty-five Million Dollars
6446 (\$25,000,000.00) after January 1, 2009, and that maintains at
6447 least one thousand two hundred (1,200) full-time jobs in this
6448 state at one (1) location with an average annual salary, excluding
6449 benefits which are not subject to Mississippi income taxes, of at
6450 least Forty-five Thousand Dollars (\$45,000.00). The authority
6451 shall require that binding commitments be entered into requiring
6452 that:

6453 1. The minimum requirements for the project
6454 provided for in this subparagraph shall be met; and



6455 2. That if such commitments are not met, all
6456 or a portion of the funds provided by the state for the project as
6457 determined by the authority shall be repaid.

6458 (xxv) Any enterprise owning or operating a
6459 facility for the manufacture of composite components for the
6460 aerospace industry which will have an investment from private
6461 sources of not less than One Hundred Seventy-five Million Dollars
6462 (\$175,000,000.00) by not later than December 31, 2015, and which
6463 will result in the full-time employment at the project site of not
6464 less than two hundred seventy-five (275) persons by December 31,
6465 2011, and not less than four hundred twenty-five (425) persons by
6466 December 31, 2013, and not less than eight hundred (800) persons
6467 by December 31, 2017, all with an average annual compensation,
6468 excluding benefits which are not subject to Mississippi income
6469 taxes, of at least Fifty-three Thousand Dollars (\$53,000.00). The
6470 authority shall require that binding commitments be entered into
6471 requiring that:

6472 1. The minimum requirements for the project
6473 provided for in this subparagraph shall be met; and

6474 2. That if such commitments are not met, all
6475 or a portion of the funds provided by the state for the project as
6476 determined by the authority shall be repaid.

6477 (xxvi) Any enterprise owning or operating a
6478 facility for the manufacture of pipe which will have an investment
6479 from any source other than the State of Mississippi and its



6480 subdivisions of not less than Three Hundred Million Dollars
6481 (\$300,000,000.00) by not later than December 31, 2015, and which
6482 will create at least five hundred (500) new full-time jobs within
6483 five (5) years after the start of commercial production and
6484 maintain such jobs for at least ten (10) years, all with an
6485 average annual compensation, excluding benefits which are not
6486 subject to Mississippi income taxes, of at least Thirty-two
6487 Thousand Dollars (\$32,000.00). The authority shall require that
6488 binding commitments be entered into requiring that:

6489 1. The minimum requirements for the project
6490 provided for in this subparagraph shall be met; and

6491 2. That if such commitments are not met, all
6492 or a portion of the funds provided by the state for the project as
6493 determined by the authority shall be repaid.

6494 (xxvii) Any enterprise owning or operating a
6495 facility for the manufacture of solar panels which will have an
6496 investment from any source other than the State of Mississippi and
6497 its subdivisions of not less than One Hundred Thirty-two Million
6498 Dollars (\$132,000,000.00) by not later than December 31, 2015, and
6499 which will create at least five hundred (500) new full-time jobs
6500 within five (5) years after the start of commercial production and
6501 maintain such jobs for at least ten (10) years, all with an
6502 average annual compensation, excluding benefits which are not
6503 subject to Mississippi income taxes, of at least Thirty-four



6504 Thousand Dollars (\$34,000.00). The authority shall require that
6505 binding commitments be entered into requiring that:

6506 1. The minimum requirements for the project
6507 provided for in this subparagraph shall be met; and

6508 2. That if such commitments are not met, all
6509 or a portion of the funds provided by the state for the project as
6510 determined by the authority shall be repaid.

6511 (xxviii) 1. Any enterprise owning or operating an
6512 automotive parts manufacturing plant and its affiliates for which
6513 construction begins after June 1, 2013, and not later than June
6514 30, 2014, with an initial capital investment of not less than
6515 Three Hundred Million Dollars (\$300,000,000.00) which will create
6516 at least five hundred (500) new full-time jobs meeting criteria
6517 established by the authority, which criteria shall include, but
6518 not be limited to, the requirement that such jobs must be held by
6519 persons eligible for employment in the United States under
6520 applicable state and federal law, and the requirement that the
6521 average annual wages and taxable benefits of such jobs shall be at
6522 least one hundred ten percent (110%) of the most recently
6523 published average annual wage of the state or the most recently
6524 published average annual wage of the county in which the project
6525 is located as determined by the Mississippi Department of
6526 Employment Security, whichever is the lesser. The authority shall
6527 require that binding commitments be entered into requiring that:



6528 a. The minimum requirements for the
6529 project provided for in this subparagraph shall be met; and
6530 b. That if such commitments are not met,
6531 all or a portion of the funds provided by the state for the
6532 project as determined by the authority shall be repaid.

6533 2. It is anticipated that the project defined
6534 in this subparagraph (xxviii) will expand in three (3) additional
6535 phases, will create an additional five hundred (500) full-time
6536 jobs meeting the above criteria in each phase, and will invest an
6537 additional Three Hundred Million Dollars (\$300,000,000.00) per
6538 phase.

6539 (xxix) Any enterprise engaged in the manufacture
6540 of tires or other related rubber or automotive products for which
6541 construction of a plant begins after January 1, 2016, and is
6542 substantially completed no later than December 31, 2022, and for
6543 which such enterprise commits to an aggregate capital investment
6544 by such enterprise and its affiliates of not less than One Billion
6545 Four Hundred Fifty Million Dollars (\$1,450,000,000.00) and the
6546 creation thereby of at least two thousand five hundred (2,500) new
6547 full-time jobs meeting criteria established by the authority,
6548 which criteria shall include, but not be limited to, the
6549 requirement that such jobs must be held by persons eligible for
6550 employment in the United States under applicable state and federal
6551 law, and the requirement that the average annual salary or wage,
6552 excluding the value of any benefits which are not subject to



6553 Mississippi income tax, of such jobs shall be at least Forty
6554 Thousand Dollars (\$40,000.00). The authority shall require that
6555 binding commitments be entered into requiring that:

6556 1. Minimum requirements for investment and
6557 jobs for the project shall be met; and

6558 2. If such requirements are not met, all or a
6559 portion of the funds provided by the state for the project may, as
6560 determined by the authority, be subject to repayment by such
6561 enterprise and/or its affiliates, together with any penalties or
6562 damages required by the authority in connection therewith.

6563 (xxx) Any enterprise owning or operating a
6564 maritime fabrication and assembly facility for which construction
6565 begins after February 1, 2016, and concludes not later than
6566 December 31, 2018, with an initial capital investment in land,
6567 buildings and equipment not less than Sixty-eight Million Dollars
6568 (\$68,000,000.00) and will create not less than one thousand
6569 (1,000) new full-time jobs meeting criteria established by the
6570 authority, which criteria shall include, but not be limited to,
6571 the requirement that such jobs must be held by persons eligible
6572 for employment in the United States under applicable state and
6573 federal law, and the requirement that the average annual
6574 compensation, excluding benefits which are not subject to
6575 Mississippi income taxes, of at least Forty Thousand Dollars
6576 (\$40,000.00). The authority shall require that binding
6577 commitments be entered into requiring that:



6578 1. The minimum requirements for the project
6579 provided for in this subparagraph shall be met; and

6580 2. If such commitments are not met, all or a
6581 portion of the funds provided by the state for the project may, as
6582 determined by the authority, be subject to repayment by such
6583 enterprise, together with any penalties or damages required by the
6584 authority in connection therewith.

6585 (xxxi) Each of the projects defined in this
6586 paragraph (f)(xxxi)1 and 2 that are undertaken by affiliated
6587 enterprises, together with any or all of the projects defined in
6588 this paragraph (f)(xxxi)3 and/or 4 if they are undertaken by the
6589 same or other enterprises affiliated with those enterprises that
6590 undertake projects defined in this paragraph (f)(xxxi)1 and 2:

6591 1. An enterprise engaged in the manufacturing
6592 and production of recycled flat-rolled aluminum or related
6593 products for which construction of recycled aluminum flat-rolled
6594 mill begins after January 1, 2023, and is substantially completed
6595 no later than December 31, 2026; and

6596 2. An enterprise engaged in the manufacturing
6597 and production of biocarbon from biomass for which construction of
6598 the biocarbon manufacturing facility begins after December 1,
6599 2022, and is substantially completed no later than December 31,
6600 2026; provided that such series of projects may additionally, but
6601 shall not be required to, include:



6602 3. Any other affiliated enterprise that
6603 undertakes the development and operation of a new industrial or
6604 commercial facility in the state, excluding any area or areas
6605 designated by the authority in a written agreement between such
6606 enterprise or any affiliate thereof, for which the construction of
6607 any such facility begins after January 1, 2023, and is
6608 substantially completed no later than December 31, 2029; and/or

6609 4. An enterprise engaged in the development
6610 and operation of port activities (e.g., the loading and unloading
6611 of barges, rail cars and trucks, the storage and handling of
6612 materials, and other port-related operations) in support of all or
6613 any of the enterprises enumerated in this paragraph (f) (xxxi)1, 2
6614 and 3, or otherwise in support of an existing electric arc furnace
6615 steel mill producing flat-rolled steel and related products; and
6616 for which the parent enterprise of such affiliated enterprises
6617 enumerated in this paragraph (f) (xxxi)1, 2, 3 and/or 4 commits to
6618 an aggregate, collective capital investment by one or more or any
6619 combination of such enterprises and their affiliates, as well as
6620 by any co-located customers, of not less than Two Billion Five
6621 Hundred Million Dollars (\$2,500,000,000.00) and the creation
6622 thereby of at least one thousand (1,000) new full-time jobs
6623 meeting criteria established by the authority, which criteria
6624 shall include, but not be limited to, the requirement that such
6625 jobs must be held by persons eligible for employment in the United
6626 States under applicable state and federal law, and the requirement



6627 that the average annual salary or wage, excluding the value of any
6628 benefits which are not subject to Mississippi income tax, of such
6629 jobs shall be at least Ninety-three Thousand Dollars (\$93,000.00).
6630 The authority shall require that binding commitments be entered
6631 into requiring that:

6632 a. Minimum requirements for investment
6633 and jobs for such affiliated projects shall be met; and

6634 b. If such requirements are not
6635 collectively met, all or a portion of the funds provided by the
6636 state for such affiliated projects may, as determined by the
6637 authority, be subject to repayment by such enterprises and/or
6638 their affiliates, together with any penalties or damages required
6639 by the authority in connection therewith.

6640 For purposes of this paragraph (f) (xxxi), A. a co-located
6641 customer shall mean a person who locates and operates any new
6642 manufacturing, processing, warehousing and/or distribution
6643 facility within the project area for the project defined in this
6644 paragraph (f) (xxxi)1 and utilizes, directly or indirectly, in its
6645 operations any aluminum or related products produced by such
6646 project, and B. an affiliated enterprise or an affiliate means a
6647 related business entity which shares a common direct or indirect
6648 ownership with the enterprise owning or operating a project as
6649 defined in this paragraph (f) (xxxi)1, 2, 3 or 4. References in
6650 the act to a project, as defined by this paragraph (f) (xxxi) shall



6651 mean any one of, any combination or all of the projects as defined
6652 in this paragraph (f) (xxxi) 1, 2, 3 or 4.

6653 (xxxii) Any enterprise engaged in the manufacture
6654 and assembly of battery cells for electric commercial vehicles and
6655 industrial applications, for which construction of a manufacturing
6656 and assembly plant begins after January 1, 2024, and the
6657 manufacturing and assembly of battery cells thereby commences on
6658 or prior to December 31, 2029, and for which such enterprise
6659 commits to an aggregate, collective capital investment by such
6660 enterprise, one or more affiliates of such enterprise or any
6661 combination of such enterprise and its affiliates, of not less
6662 than One Billion Nine Hundred Million Dollars (\$1,900,000,000.00)
6663 and the creation by such enterprise, one or more affiliates of
6664 such enterprise or any combination of such enterprise and its
6665 affiliates, as well as by any other co-located project
6666 participant, of at least two thousand (2,000) new full-time jobs
6667 meeting criteria established by the authority, which criteria
6668 shall include, but not be limited to, the requirement that such
6669 jobs must be held by persons eligible for employment in the United
6670 States under applicable state and federal law, and the requirement
6671 that the average annual salary or wage, excluding the value of any
6672 benefits which are not subject to Mississippi income tax prior to
6673 January 1, 2024, of such jobs shall be at least Sixty-five
6674 Thousand Five Hundred Sixty-four Dollars (\$65,564.00). The



6675 authority shall require that binding commitments be entered into
6676 requiring that:

6677 1. Minimum requirements for investment and
6678 jobs for such affiliated projects shall be met; and

6679 2. If such requirements are not collectively
6680 met, all or a portion of the funds provided by the state for such
6681 project may, as determined by the authority, be subject to
6682 repayment by such enterprise and/or its affiliates, together with
6683 any penalties or damages required by the authority in connection
6684 therewith.

6685 For purposes of this paragraph (f) (xxxii), a co-located
6686 project participant shall mean a person or business entity that,
6687 pursuant to one or more contracts with an enterprise owning or
6688 operating a project as defined in this paragraph (f) (xxxii) or an
6689 affiliate thereof, performs within the project area one or more of
6690 the following: a. storage, handling and processing services for
6691 raw materials, work in process and/or finished goods inventories;
6692 b. maintenance, operation and/or other servicing of equipment and
6693 machinery used in the project; c. management of real and tangible
6694 personal property used in the project; d. any manufacturing,
6695 processing or assembly work, in each instance with respect to the
6696 manufacturing and/or assembly of battery cells for electric
6697 commercial vehicles or industrial applications manufactured or
6698 otherwise assembled within the project area by such enterprise or
6699 an affiliate thereof; or e. the supply to such enterprise or any



6700 affiliate thereof of any components, parts or materials of any
6701 battery cells for electric commercial vehicles or industrial
6702 applications manufactured or otherwise assembled within the
6703 project area by such enterprise or any affiliate thereof.

6704 (xxxiii) Any enterprise engaged in data
6705 processing, for which construction of a data processing facility
6706 or facilities begins after January 1, 2024, the processing of data
6707 by at least one (1) data processing facility commences on or prior
6708 to December 31, 2027, and for which such enterprise commits to an
6709 aggregate, collective capital investment by such enterprise, one
6710 or more affiliates of such enterprise or any combination of such
6711 enterprise and its affiliates, of not less than Ten Billion
6712 Dollars (\$10,000,000,000.00) and the creation by such enterprise,
6713 one or more affiliates or contractors of such enterprise or any
6714 combination of such enterprises and its affiliates, as well as by
6715 any other co-located project participant, of at least one thousand
6716 (1,000) new full-time jobs meeting criteria established by the
6717 authority, which criteria shall include, but not be limited to,
6718 the requirement that such jobs must be held by persons eligible
6719 for employment in the United States under applicable state and
6720 federal law, and the requirement that the average annual salary or
6721 wage, excluding the value of any benefits which are not subject to
6722 Mississippi income tax prior to January 1, 2024, of such jobs
6723 shall be at least one hundred twenty-five percent (125%) of the
6724 published average annual wage of the state as determined by the



6725 Mississippi Department of Employment Security. The authority
6726 shall require that binding commitments be entered into requiring
6727 that:

6728 1. Minimum requirements for investment and
6729 jobs for such affiliated projects shall be met; and

6730 2. If such requirements are not collectively
6731 met, all or a portion of the funds provided by the state for such
6732 project may, as determined by the authority, be subject to
6733 repayment by such enterprise and/or its affiliates, together with
6734 any penalties or damages required by the authority in connection
6735 therewith.

6736 For purposes of this paragraph (f) (xxxiii), a co-located
6737 project participant shall mean a person or business entity that,
6738 pursuant to one or more contracts with an enterprise owning or
6739 operating a project as defined in this paragraph (f) (xxxiii) or an
6740 affiliate thereof, performs within the project area one or more of
6741 the following: a. maintenance, operation and/or other servicing
6742 of equipment and machinery used in the project; b. management of
6743 real and tangible personal property used in the project; or c. the
6744 supply to such enterprise or any affiliate thereof of any
6745 components, parts or services within the project area by such
6746 enterprise or any affiliate thereof.

6747 For purposes of this paragraph (f) (xxxiii), "project" shall
6748 include the construction of additional data processing facilities
6749 or the expansion of existing data processing facilities within the



6750 state by the enterprise, one or more affiliates of such
6751 enterprise, or any combination of such enterprise and its
6752 affiliates, if such construction or expansion has a minimum
6753 capital investment of Five Hundred Million Dollars
6754 (\$500,000,000.00) and creates at least fifty (50) net new
6755 full-time jobs and written notice thereof is provided to the
6756 authority.

6757 (g) (i) "Project area" means the project site,
6758 together with any area or territory within the state lying within
6759 sixty-five (65) miles of any portion of the project site whether
6760 or not such area or territory be contiguous; however, for the
6761 project defined in paragraph (f) (iv) and (xxxiii) of this section
6762 the term "project area" means any area or territory within the
6763 state. The project area shall also include all territory within a
6764 county if any portion of such county lies within sixty-five (65)
6765 miles of any portion of the project site. "Project site" means
6766 the real property on which the principal facilities of the
6767 enterprise will operate; however, for the project defined in
6768 paragraph (f) (xxxiii) of this section, the term "project site"
6769 means any area or territory within the state upon which an
6770 enterprise constructs one or more data processing facilities. The
6771 provisions of this subparagraph (i) shall not apply to a project
6772 as defined in paragraph (f) (xxi) of this section.

6773 (ii) For the purposes of a project as defined in
6774 paragraph (f) (xxi) of this section, the term "project area" means



6775 the acreage authorized in the certificate of convenience and
6776 necessity issued by the Mississippi Development Authority to a
6777 regional economic development alliance under Section 57-64-1 et
6778 seq.

6779 (iii) For the purposes of a project as defined in
6780 either paragraph (f)(xxxi)1 or paragraph (f)(xxxii) of this
6781 section, the term "project area" means the acreage specified by
6782 the authority in written agreement with the enterprise undertaking
6783 such project and/or an affiliate thereof.

6784 (h) "Public agency" means:

6785 (i) Any department, board, commission, institution
6786 or other agency or instrumentality of the state;

6787 (ii) Any city, town, county, political
6788 subdivision, school district or other district created or existing
6789 under the laws of the state or any public agency of any such city,
6790 town, county, political subdivision or district or any other
6791 public entity created or existing under local and private
6792 legislation;

6793 (iii) Any department, commission, agency or
6794 instrumentality of the United States of America; and

6795 (iv) Any other state of the United States of
6796 America which may be cooperating with respect to location of the
6797 project within the state, or any agency thereof.

6798 (i) "State" means State of Mississippi.



6799 (j) "Fee-in-lieu" means a negotiated fee to be paid by
6800 the project in lieu of any franchise taxes imposed on the project
6801 by Chapter 13, Title 27, Mississippi Code of 1972. The
6802 fee-in-lieu shall not be less than Twenty-five Thousand Dollars
6803 (\$25,000.00) annually. A fee-in-lieu may be negotiated with an
6804 enterprise operating an existing project defined in paragraph
6805 (f)(iv)¹ of this section; however, a fee-in-lieu shall not be
6806 negotiated for other existing enterprises that fall within the
6807 definition of the term "project."

6808 (k) (i) "Affiliate" means a subsidiary or related
6809 business entity which shares a common direct or indirect ownership
6810 with the enterprise owning or operating a project as defined in
6811 paragraph (f)(xxi), paragraph (f)(xxviii) or paragraph (f)(xxix)
6812 of this section. The subsidiary or related business must provide
6813 services directly related to the core activities of the project.

6814 (ii) For the purposes of a project as defined in
6815 paragraph (f)(xxxii) of this section, an "affiliated enterprise" or
6816 an "affiliate" means a related business entity which shares a
6817 common direct or indirect ownership with the enterprise owning or
6818 operating a project as defined in paragraph (f)(xxxii)^{1, 2, 3 or 4}
6819 of this section.

6820 (iii) For the purposes of a project as defined in
6821 paragraph (f)(xxxii) of this section, an "affiliated enterprise"
6822 or an "affiliate" means a related business entity which shares a
6823 common direct or indirect ownership with the enterprise owning or



6824 operating a project as defined in paragraph (f) (xxxii) of this
6825 section.

6826 (iv) For the purposes of a project as defined in
6827 paragraph (f) (xxxiii) of this section, an "affiliated enterprise"
6828 or an "affiliate" means a related business entity which shares a
6829 common direct or indirect ownership with the enterprise owning or
6830 operating a project as defined in paragraph (f) (xxxiii) of this
6831 section; provided, any such related business entity may be
6832 excluded from this definition pursuant to the terms of a written
6833 agreement between the authority and the enterprise owning or
6834 operating a project as defined in paragraph (f) (xxxiii) of this
6835 section.

6836 (1) "Tier One supplier" means a supplier of a project
6837 as defined in paragraph (f) (xxi) of this section that is certified
6838 by the enterprise owning the project and creates a minimum of
6839 fifty (50) new full-time jobs.

6840 **SECTION 138.** Section 57-75-7, Mississippi Code of 1972, is
6841 brought forward as follows:

6842 57-75-7. (1) There is created within the Department of
6843 Economic Development a division to be known as the "Mississippi
6844 Major Economic Impact Authority" for the performance of essential
6845 public functions. The Executive Director of the Department of
6846 Economic Development or his designee shall be the director of the
6847 authority.



6848 (2) The director shall administer, manage and direct the
6849 affairs and business of the authority.

6850 **SECTION 139.** Section 57-75-9, Mississippi Code of 1972, is
6851 brought forward as follows:

6852 57-75-9. (1) The authority is hereby designated and
6853 empowered to act on behalf of the state in submitting a siting
6854 proposal for any project eligible for assistance under this act.
6855 The authority is empowered to take all steps appropriate or
6856 necessary to effect the siting, development, and operation of the
6857 project within the state, including the negotiation of a
6858 fee-in-lieu. If the state is selected as the preferred site for
6859 the project, the authority is hereby designated and empowered to
6860 act on behalf of the state and to represent the state in the
6861 planning, financing, development, construction and operation of
6862 the project or any facility related to the project, with the
6863 concurrence of the affected public agency. The authority may take
6864 affirmative steps to coordinate fully all aspects of the
6865 submission of a siting proposal for the project and, if the state
6866 is selected as the preferred site, to coordinate fully, with the
6867 concurrence of the affected public agency, the development of the
6868 project or any facility related to the project with private
6869 business, the United States government and other public agencies.
6870 All public agencies are encouraged to cooperate to the fullest
6871 extent possible to effectuate the duties of the authority;
6872 however, the development of the project or any facility related to



6873 the project by the authority may be done only with the concurrence
6874 of the affected public agency.

6875 (2) (a) Contracts, by the authority or a public agency,
6876 including, but not limited to, design and construction contracts,
6877 for the acquisition, purchase, construction or installation of a
6878 project defined in Section 57-75-5(f)(iv)1 or any facility related
6879 to the project shall be exempt from the provisions of Section
6880 31-7-13 if:

6881 (i) The authority finds and records such finding
6882 on its minutes, that because of availability or the particular
6883 nature of a project, it would not be in the public interest or
6884 would less effectively achieve the purposes of this chapter to
6885 enter into such contracts on the basis of Section 31-7-13; and

6886 (ii) The enterprise that is involved in the
6887 project concurs in such finding.

6888 (b) When the requirements of paragraph (a) of this
6889 subsection are met:

6890 (i) The requirements of Section 31-7-13 shall not
6891 apply to such contracts; and

6892 (ii) The contracts may be entered into on the
6893 basis of negotiation.

6894 (c) The enterprise involved with the project may, upon
6895 approval of the authority, negotiate such contracts in the name of
6896 the authority.



6897 (d) The provisions of this subsection (2) shall not
6898 apply to contracts by the authority for excavation, fill dirt and
6899 compaction for the preparation of the site of a project as defined
6900 in Section 57-75-5(f) (iv)1 and such contracts may be entered into
6901 pursuant to subsection (3) of this section.

6902 (3) (a) Contracts by the authority for excavation, fill
6903 dirt and compaction for the preparation of the site of a project
6904 defined in Section 57-75-5(f) (iv)1 shall be exempt from the
6905 provisions of Section 31-7-13 and the following procedure shall be
6906 followed in the award of such contracts:

6907 (i) The authority shall advertise for a period of
6908 time to be set by the authority, but in no event less than one (1)
6909 business day, the date, time and place of a meeting with the
6910 authority to receive specifications on a request for proposals on
6911 excavation, fill dirt and compaction for the preparation of the
6912 site of the project defined in Section 57-75-5(f) (iv)1.

6913 (ii) The authority shall set the minimum
6914 qualifications necessary to be considered for award of the
6915 contract and the advertisement shall set forth such minimum
6916 qualifications.

6917 (iii) Following the meeting the authority shall,
6918 in its discretion, select one or more of the qualified contractors
6919 with whom to negotiate or award the contract. The decision of the
6920 authority concerning the selection of the contractor shall be
6921 final.



6922 (b) Contracts by the authority or a public agency for
6923 site preparation, utilities, real estate improvements, wastewater
6924 or for public works for a project defined in Section
6925 57-75-5(f) (xxi) or Section 57-75-5(f) (xxii) shall be exempt from
6926 the provisions of Section 31-7-13 and the following procedure
6927 shall be followed in the award of such contracts:

6928 (i) The authority or the public agency shall
6929 advertise for a period of time to be set by the authority or the
6930 public agency, but in no event less than one (1) nor more than
6931 five (5) calendar days, the date, time and place of a meeting with
6932 the authority or the public agency to receive specifications on
6933 the preparation of the site of the project defined in Section
6934 57-75-5(f) (xxi) or Section 57-75-5(f) (xxii).

6935 (ii) The authority or the public agency shall set
6936 the minimum qualifications necessary to be considered for award of
6937 the contract and the advertisement shall set forth such minimum
6938 qualifications.

6939 (iii) Following the meeting the authority or the
6940 public agency shall, in its discretion, select one or more of the
6941 qualified contractors with whom to negotiate or award the
6942 contract. The decision of the authority or the public agency
6943 concerning the selection of the contractor shall be final.

6944 (c) Contracts by a public agency for site preparation,
6945 utilities, real estate improvements, infrastructure, roads or for
6946 public works for a project defined in Section 57-75-5(f) (xxiii),



6947 Section 57-75-5(f) (xxix), Section 57-75-5(f) (xxx), Section
6948 57-75-5(f) (xxxii), Section 57-75-5(f) (xxxii) or Section
6949 57-75-5(f) (xxxiii) may be exempt from the provisions of Section
6950 31-7-13 and the following procedure shall be followed in the award
6951 of contracts:

6952 (i) The public agency shall advertise for a period
6953 of time to be set by the public agency, but in no event less than
6954 one (1) nor more than five (5) calendar days, the date, time and
6955 place of a meeting with the public agency to receive
6956 specifications on site preparation, utilities, real estate
6957 improvements, infrastructure, roads or for public works related to
6958 the project defined in Section 57-75-5(f) (xxiii), Section
6959 57-75-5(f) (xxix), Section 57-75-5(f) (xxx), Section
6960 57-75-5(f) (xxxii), Section 57-75-5(f) (xxxii) or Section
6961 57-75-5(f) (xxxiii).

6962 (ii) The public agency shall set the minimum
6963 qualifications necessary to be considered for award of the
6964 contract and the advertisement shall set forth such minimum
6965 qualifications.

6966 (iii) Following the meeting the public agency
6967 shall, in its discretion, which discretion may include
6968 participation by an enterprise involved in the project, select one
6969 or more of the qualified contractors with whom to negotiate or
6970 award the contract. The decision of the public agency concerning
6971 selection of the contractor shall be final.



6972 (4) (a) Contracts, by the authority or a public agency,
6973 including, but not limited to, design and construction contracts,
6974 for the acquisition, purchase, construction or installation of a
6975 project defined in Section 57-75-5(f) (xxvi), Section
6976 57-75-5(f) (xxvii), Section 57-75-5(f) (xxviii), Section
6977 57-75-5(f) (xxix), Section 57-75-5(f) (xxx), Section
6978 57-75-5(f) (xxxi), Section 57-75-5(f) (xxxii) or Section
6979 57-75-5(f) (xxxiii), and any contracts by the authority or a public
6980 agency for site preparation, utilities, real estate improvements,
6981 infrastructure, roads or for other public facilities related to
6982 any such project shall be exempt from the provisions of Section
6983 31-7-13 if:

6984 (i) The authority finds and records such finding
6985 on its minutes, that because of availability or the particular
6986 nature of a project, it would not be in the public interest or
6987 would less effectively achieve the purposes of this chapter to
6988 enter into such contracts on the basis of Section 31-7-13; and

6989 (ii) The enterprise that is involved in the
6990 project concurs in such finding.

6991 (b) When the requirements of paragraph (a) of this
6992 subsection are met:

6993 (i) The requirements of Section 31-7-13 shall not
6994 apply to such contracts; and

6995 (ii) The contracts may be entered into on the
6996 basis of negotiation with the authority or such public agency, and



6997 the authority or such public agency may, as part of such
6998 negotiations, further negotiate and require the level of
6999 participation by the enterprise involved in the project in the
7000 negotiation of such contracts.

7001 (c) Contracts by the authority or a public agency for
7002 site preparation, utilities, real estate improvements,
7003 infrastructure, roads or for other public facilities related to a
7004 project defined in Section 57-75-5(f)(xxxii), shall be exempt from
7005 the provisions of Section 65-1-85, and the authority or public
7006 agency is authorized to use any method for design and/or
7007 construction procurement and contracting. With respect to any
7008 such contract that is anticipated to be federally funded, in whole
7009 or in part, the authority or public agency may nonetheless comply
7010 with the provisions of Section 65-1-85 for purposes of compliance
7011 with any applicable federal funding requirements.

7012 (d) The decision of the authority or the public agency
7013 concerning selection of the contractor shall be final.

7014 (e) The company shall make commercially reasonable
7015 efforts to place out for bid, such that Mississippi Contractors
7016 and Mississippi Disadvantaged Business Enterprises ("DBEs") shall
7017 have an equal opportunity to respond to such bid, any contract by
7018 the company which (i) is subject to tax pursuant to Mississippi
7019 Code Section 27-65-21 (i.e., contracts for constructing, building,
7020 erecting, grading, excavating, etc.), and (ii) will be paid, or
7021 payment thereunder by the company will be reimbursed, using any



7022 portion of the grant proceeds or funds provided by the authority
7023 to the company in accordance with this agreement. In carrying out
7024 such efforts, in order to increase the pool of qualified DBE
7025 bidders, the company will request that successful prime contract
7026 bidders include in their response a commitment to (a) participate
7027 in and/or host forums that highlight subcontract bidding
7028 opportunities for DBEs; and (b) work with various trade
7029 associations and the Mississippi Development Authority to promote
7030 increased participation from DBEs. With respect to awarding any
7031 contract placed out for bid, the company shall be allowed to award
7032 such contract in the company's sole discretion (e.g., based upon
7033 optimization of quality, cost and efficiency or on any other basis
7034 as the company may see fit). MDA agrees that it will offer to
7035 eligible contractor DBEs that have an opportunity to work on the
7036 project assistance through its Minority Surety Bond Guaranty
7037 Program.

7038 (5) The Department of Employment Security is authorized to
7039 provide to the authority any information received, obtained or
7040 produced, or findings or determinations made thereby, with respect
7041 to any jobs created or maintained for a project that has been
7042 certified by the authority as a project as defined in Section
7043 57-75-5(f).

7044 **SECTION 140.** Section 57-75-11, Mississippi Code of 1972, is
7045 brought forward as follows:



7046 57-75-11. The authority, in addition to any and all powers
7047 now or hereafter granted to it, is empowered and shall exercise
7048 discretion and the use of these powers depending on the
7049 circumstances of the project or projects:

7050 (a) To maintain an office at a place or places within
7051 the state.

7052 (b) To employ or contract with architects, engineers,
7053 attorneys, accountants, construction and financial experts and
7054 such other advisors, consultants and agents as may be necessary in
7055 its judgment and to fix and pay their compensation.

7056 (c) To make such applications and enter into such
7057 contracts for financial assistance as may be appropriate under
7058 applicable federal or state law.

7059 (d) To apply for, accept and utilize grants, gifts and
7060 other funds or aid from any source for any purpose contemplated by
7061 the act, and to comply, subject to the provisions of this act,
7062 with the terms and conditions thereof.

7063 (e) (i) To acquire by purchase, lease, gift, or in
7064 other manner, including quick-take eminent domain, or obtain
7065 options to acquire, and to own, maintain, use, operate and convey
7066 any and all property of any kind, real, personal, or mixed, or any
7067 interest or estate therein, within the project area, necessary for
7068 the project or any facility related to the project. The
7069 provisions of this paragraph that allow the acquisition of



7070 property by quick-take eminent domain shall be repealed by
7071 operation of law on July 1, 1994; and

7072 (ii) Notwithstanding any other provision of this
7073 paragraph (e), from and after November 6, 2000, to exercise the
7074 right of immediate possession pursuant to the provisions of
7075 Sections 11-27-81 through 11-27-89 for the purpose of acquiring
7076 land, property and/or rights-of-way in the county in which a
7077 project as defined in Section 57-75-5(f)(iv)1 is located, that are
7078 necessary for such project or any facility related to the project.

7079 (f) To acquire by purchase or lease any public lands
7080 and public property, including sixteenth section lands and lieu
7081 lands, within the project area, which are necessary for the
7082 project. Sixteenth section lands or lieu lands acquired under
7083 this act shall be deemed to be acquired for the purposes of
7084 industrial development thereon and such acquisition will serve a
7085 higher public interest in accordance with the purposes of this
7086 act.

7087 (g) If the authority identifies any land owned by the
7088 state as being necessary, for the location or use of the project,
7089 or any facility related to the project, to recommend to the
7090 Legislature the conveyance of such land or any interest therein,
7091 as the Legislature deems appropriate.

7092 (h) To make or cause to be made such examinations and
7093 surveys as may be necessary to the planning, design, construction
7094 and operation of the project.



7095 (i) From and after the date of notification to the
7096 authority by the enterprise that the state has been finally
7097 selected as the site of the project, to acquire by condemnation
7098 and to own, maintain, use, operate and convey or otherwise dispose
7099 of any and all property of any kind, real, personal or mixed, or
7100 any interest or estate therein, within the project area, necessary
7101 for the project or any facility related to the project, with the
7102 concurrence of the affected public agency, and the exercise of the
7103 powers granted by this act, according to the procedures provided
7104 by Chapter 27, Title 11, Mississippi Code of 1972, except as
7105 modified by this act.

7106 (i) Except as otherwise provided in subparagraph
7107 (iii) of this paragraph (i), in acquiring lands by condemnation,
7108 the authority shall not acquire minerals or royalties in minerals
7109 unless a competent registered professional engineer shall have
7110 certified that the acquisition of such minerals and royalties in
7111 minerals is necessary for purposes of the project; provided that
7112 limestone, clay, chalk, sand and gravel shall not be considered as
7113 minerals for the purposes of subparagraphs (i) and (ii) of this
7114 paragraph (i);

7115 (ii) Unless minerals or royalties in minerals have
7116 been acquired by condemnation or otherwise, no person or persons
7117 owning the drilling rights or the right to share in production of
7118 minerals shall be prevented from exploring, developing, or
7119 producing oil or gas with necessary rights-of-way for ingress and



7120 egress, pipelines and other means of transporting interests on any
7121 land or interest therein of the authority held or used for the
7122 purposes of this act; but any such activities shall be under such
7123 reasonable regulation by the authority as will adequately protect
7124 the project contemplated by this act as provided in paragraph (r)
7125 of this section; and

7126 (iii) In acquiring lands by condemnation,
7127 including the exercise of immediate possession, for a project, as
7128 defined in Section 57-75-5(f)(iv)1, the authority may acquire
7129 minerals or royalties in minerals.

7130 (j) To negotiate the necessary relocation or rerouting
7131 of roads and highways, railroad, telephone and telegraph lines and
7132 properties, electric power lines, pipelines and related
7133 facilities, or to require the anchoring or other protection of any
7134 of these, provided due compensation is paid to the owners thereof
7135 or agreement is had with such owners regarding the payment of the
7136 cost of such relocation, and to acquire by condemnation or
7137 otherwise easements or rights-of-way for such relocation or
7138 rerouting and to convey the same to the owners of the facilities
7139 being relocated or rerouted in connection with the purposes of
7140 this act.

7141 (k) To negotiate the necessary relocation of graves and
7142 cemeteries and to pay all reasonable costs thereof.

7143 (l) To perform or have performed any and all acts and
7144 make all payments necessary to comply with all applicable federal



7145 laws, rules or regulations including, but not limited to, the
7146 Uniform Relocation Assistance and Real Property Acquisition
7147 Policies Act of 1970 (42 USCS 4601, 4602, 4621 to 4638, and 4651
7148 to 4655) and relocation rules and regulations promulgated by any
7149 agency or department of the federal government.

7150 (m) To construct, extend, improve, maintain, and
7151 reconstruct, to cause to be constructed, extended, improved,
7152 maintained, and reconstructed, and to use and operate any and all
7153 components of the project or any facility related to the project,
7154 with the concurrence of the affected public agency, within the
7155 project area, necessary to the project and to the exercise of such
7156 powers, rights, and privileges granted the authority.

7157 (n) To incur or defray any designated portion of the
7158 cost of any component of the project or any facility related to
7159 the project acquired or constructed by any public agency.

7160 (o) (i) To lease, sell or convey any or all property
7161 acquired by the authority under the provisions of this act to the
7162 enterprise, its successors or assigns, and/or any entity for
7163 purposes in furtherance of economic development as determined by
7164 the authority, and in connection therewith to pay the costs of
7165 title search, perfection of title, title insurance and recording
7166 fees as may be required. The authority may provide in the
7167 instrument conveying such property a provision that such property
7168 shall revert to the authority if, as and when the property is
7169 declared by the transferee to be no longer needed.



7170 (ii) To lease, sell, transfer or convey on any
7171 terms agreed upon by the authority any or all real and personal
7172 property, improvements, leases, funds and contractual obligations
7173 of a project as defined in Section 57-75-5(f) (vi) and conveyed to
7174 the State of Mississippi by a Quitclaim Deed from the United
7175 States of America dated February 23, 1996, filed of record at
7176 pages 511 to 524, Deed Book Number B179, Chancery Clerk's Office,
7177 Tishomingo County, Mississippi, to any governmental authority
7178 located within the geographic boundaries of the county wherein
7179 such project exists upon agreement of such governmental authority
7180 to undertake and assume from the State of Mississippi all
7181 obligations and responsibilities in connection with ownership and
7182 operation of the project. Property leased, sold, transferred or
7183 otherwise conveyed by the authority under this paragraph (o) shall
7184 be used only for economic development purposes.

7185 (p) To enter into contracts with any person or public
7186 agency, including, but not limited to, contracts authorized by
7187 Section 57-75-17, in furtherance of any of the purposes authorized
7188 by this act upon such consideration as the authority and such
7189 person or public agency may agree. Any such contract may extend
7190 over any period of time, notwithstanding any rule of law to the
7191 contrary, may be upon such terms as the parties thereto shall
7192 agree, and may provide that it shall continue in effect until
7193 bonds specified therein, refunding bonds issued in lieu of such
7194 bonds, and all other obligations specified therein are paid or



7195 terminated. Any such contract shall be binding upon the parties
7196 thereto according to its terms. Such contracts may include an
7197 agreement to reimburse the enterprise, its successors and assigns
7198 for any assistance provided by the enterprise in the acquisition
7199 of real property for the project or any facility related to the
7200 project.

7201 (q) To establish and maintain reasonable rates and
7202 charges for the use of any facility within the project area owned
7203 or operated by the authority, and from time to time, to adjust
7204 such rates and to impose penalties for failure to pay such rates
7205 and charges when due.

7206 (r) To adopt and enforce with the concurrence of the
7207 affected public agency all necessary and reasonable rules and
7208 regulations to carry out and effectuate the implementation of the
7209 project and any land use plan or zoning classification adopted for
7210 the project area, including, but not limited to, rules,
7211 regulations, and restrictions concerning mining, construction,
7212 excavation or any other activity the occurrence of which may
7213 endanger the structure or operation of the project. Such rules
7214 may be enforced within the project area and without the project
7215 area as necessary to protect the structure and operation of the
7216 project. The authority is authorized to plan or replan, zone or
7217 rezone, and make exceptions to any regulations, whether local or
7218 state, with the concurrence of the affected public agency which



7219 are inconsistent with the design, planning, construction or
7220 operation of the project and facilities related to the project.

7221 (s) To plan, design, coordinate and implement measures
7222 and programs to mitigate impacts on the natural environment caused
7223 by the project or any facility related to the project.

7224 (t) To develop plans for technology transfer activities
7225 to ensure private sector conduits for exchange of information,
7226 technology and expertise related to the project to generate
7227 opportunities for commercial development within the state.

7228 (u) To consult with the State Department of Education
7229 and other public agencies for the purpose of improving public
7230 schools and curricula within the project area.

7231 (v) To consult with the State Board of Health and other
7232 public agencies for the purpose of improving medical centers,
7233 hospitals and public health centers in order to provide
7234 appropriate health care facilities within the project area.

7235 (w) To consult with the Office of Minority Business
7236 Enterprise Development and other public agencies for the purpose
7237 of developing plans for technical assistance and loan programs to
7238 maximize the economic impact related to the project for minority
7239 business enterprises within the State of Mississippi.

7240 (x) To deposit into the "Yellow Creek Project Area
7241 Fund" created pursuant to Section 57-75-31:



7242 (i) Any funds or aid received as authorized in
7243 this section for the project described in Section 57-75-5(f) (vi),
7244 and

7245 (ii) Any funds received from the sale or lease of
7246 property from the project described in Section 57-75-5(f) (vi)
7247 pursuant to the powers exercised under this section.

7248 (y) To manage and develop the project described in
7249 Section 57-75-5(f) (vi).

7250 (z) To promulgate rules and regulations necessary to
7251 effectuate the purposes of this act.

7252 (aa) To negotiate a fee-in-lieu with the owners of the
7253 project.

7254 (bb) To enter into contractual agreements to warrant
7255 any site work for a project defined in Section 57-75-5(f) (iv)1;
7256 provided, however, that the aggregate amount of such warranties
7257 shall not exceed Fifteen Million Dollars (\$15,000,000.00).

7258 (cc) To provide grant funds to an enterprise operating
7259 a project defined in Section 57-75-5(f) (iv)1 in an amount not to
7260 exceed Thirty-nine Million Dollars (\$39,000,000.00).

7261 (dd) (i) To own surface water transmission lines
7262 constructed with the proceeds of bonds issued pursuant to this act
7263 and in connection therewith to purchase and provide water to any
7264 project defined in Section 57-75-5(f) (iv) and to certificated
7265 water providers; and



7266 (ii) To lease such surface water transmission
7267 lines to a public agency or public utility to provide water to
7268 such project and to certificated water providers.

7269 (ee) To provide grant funds to an enterprise operating
7270 a project defined in Section 57-75-5(f) (v) or, in connection with
7271 a facility related to such a project, for job training, recruiting
7272 and infrastructure.

7273 (ff) To enter into negotiations with persons proposing
7274 projects defined in Section 57-75-5(f) (xi) and execute acquisition
7275 options and conduct planning, design and environmental impact
7276 studies with regard to such project.

7277 (gg) To establish such guidelines, rules and
7278 regulations as the authority may deem necessary and appropriate
7279 from time to time in its sole discretion, to promote the purposes
7280 of this act.

7281 (hh) In connection with projects defined in Section
7282 57-75-5(f) (ii):

7283 (i) To provide grant funds or loans to a public
7284 agency or an enterprise owning, leasing or operating a project
7285 defined in Section 57-75-5(f) (ii) in amounts not to exceed the
7286 amount authorized in Section 57-75-15(3) (b);

7287 (ii) To supervise the use of all such grant funds
7288 or loans; and



7289 (iii) To requisition money in the Mississippi
7290 Major Economic Impact Authority Revolving Loan Fund in connection
7291 with such loans.

7292 (ii) In connection with projects defined under Section
7293 57-75-5(f) (xiv):

7294 (i) To provide grant funds or loans to an
7295 enterprise owning, leasing or operating a project defined in
7296 Section 57-75-5(f) (xiv); however, the aggregate amount of any such
7297 loans under this paragraph (ii) shall not exceed Eighteen Million
7298 Dollars (\$18,000,000.00) and the aggregate amount of any such
7299 grants under this paragraph (ii) shall not exceed Six Million
7300 Dollars (\$6,000,000.00);

7301 (ii) To supervise the use of all such grant funds
7302 or loans; and

7303 (iii) Notwithstanding any provision of this act to
7304 the contrary, such loans shall be for a term not to exceed twenty
7305 (20) years as may be determined by the authority, shall bear
7306 interest at such rates as may be determined by the authority,
7307 shall, in the sole discretion of the authority, be secured in an
7308 amount and a manner as may be determined by the authority.

7309 (jj) In connection with projects defined under Section
7310 57-75-5(f) (xviii):

7311 (i) To provide grant funds of Twenty-five Million
7312 Dollars (\$25,000,000.00) to an enterprise owning or operating a
7313 project defined in Section 57-75-5(f) (xviii) to be used for real



7314 estate improvements and which may be disbursed as determined by
7315 the authority;

7316 (ii) To provide loans to an enterprise owning or
7317 operating a project defined in Section 57-75-5(f) (xviii) or make
7318 payments to a lender providing financing to the enterprise;
7319 subject to the following provisions:

7320 1. Not more than Ten Million Dollars
7321 (\$10,000,000.00) may be loaned to such an enterprise for the
7322 purpose of defraying costs incurred by the enterprise for site
7323 preparation and real property improvements during the construction
7324 of the project in excess of budgeted costs; however, the amount of
7325 any such loan shall not exceed fifty percent (50%) of such excess
7326 costs;

7327 2. Not more than Sixty Million Dollars
7328 (\$60,000,000.00) may be loaned to such an enterprise or paid to a
7329 lender providing financing to the enterprise for purposes
7330 determined appropriate by the authority, and the enterprise shall
7331 be obligated to repay the amount of the loan or payment plus any
7332 expenses incurred by the state as a result of the issuance of
7333 bonds pursuant to Section 57-75-15(3) (p); however, no such loan or
7334 payment may be made before the beginning of the fifth year after
7335 issuance by the enterprise of debt in like amount the proceeds of
7336 which are to be used in connection with the project;

7337 (iii) To supervise the use of all such loan funds;



7338 (iv) Loans under this paragraph (jj) may be for
7339 any term determined appropriate by the authority provided that the
7340 payments on any loan must be in an amount sufficient to pay the
7341 state's debt service on bonds issued for the purpose of providing
7342 funds for such a loan; and

7343 (v) The repayment obligation of the enterprise for
7344 any loan or payment authorized under this paragraph (jj) shall, in
7345 the discretion of the authority, be secured in an amount and a
7346 manner as may be determined by the authority.

7347 (kk) In connection with projects defined in Section
7348 57-75-5(f) (xxi) or a facility related to such a project:

7349 (i) To provide grant funds to reimburse public
7350 agencies, Itawamba Community College, Northeast Mississippi
7351 Community College, and/or East Mississippi Community College,
7352 public or private nonprofits or an enterprise owning or operating
7353 a project as defined in Section 57-75-5(f) (xxi) for site
7354 preparation, real estate improvements, utilities, railroads,
7355 roads, infrastructure, job training, recruiting and any other
7356 expenses approved by the authority in amounts not to exceed the
7357 amount authorized in Section 57-75-15(3) (s);

7358 (ii) To supervise the use of all such grant funds
7359 so reimbursed; and

7360 (iii) To enter into contractual agreements to
7361 warrant site preparation and availability for a project defined in
7362 Section 57-75-5(f) (xxi).



7363 (11) In connection with a project related to a Tier One
7364 supplier:

7365 (i) To provide grant funds to reimburse public
7366 agencies, public or private nonprofits and Tier One suppliers for
7367 site preparation, real estate improvements, utilities, railroads,
7368 roads, infrastructure, job training, recruiting and any other
7369 expenses approved by the authority in amounts not to exceed the
7370 amount authorized in Section 57-75-15(3) (t);

7371 (ii) To supervise the use of all such grant funds
7372 so reimbursed.

7373 (mm) In connection with projects defined in Section
7374 57-75-5(f) (xxii) or a facility related to such a project:

7375 (i) To provide grant funds to reimburse public
7376 agencies or an enterprise owning or operating a project as defined
7377 in Section 57-75-5(f) (xxii) for site preparation, real estate
7378 improvements, utilities, fire protection, wastewater, railroads,
7379 roads, infrastructure, job training, recruiting and any other
7380 expenses approved by the authority in amounts not to exceed the
7381 amount authorized in Section 57-75-15(3) (u); and

7382 (ii) To supervise the use of all such grant funds
7383 so reimbursed.

7384 (nn) It is the policy of the authority and the
7385 authority is authorized to accommodate and support any enterprise
7386 owning or operating a project defined in Section
7387 57-75-5(f) (xviii), 57-75-5(f) (xxi), 57-75-5(f) (xxii),



7388 57-75-5(f) (xxvi), 57-75-5(f) (xxvii), 57-75-5(f) (xxviii),
7389 57-75-5(f) (xxix), 57-75-5(f) (xxx), 57-75-5(f) (xxxi),
7390 57-75-5(f) (xxxii) or 57-75-5(f) (xxxiii), or an enterprise
7391 developing or owning a project defined in Section 57-75-5(f) (xx),
7392 that wishes to have a program of diversity in contracting, and/or
7393 that wishes to do business with or cause its prime contractor to
7394 do business with Mississippi companies, including those companies
7395 that are small business concerns owned and controlled by socially
7396 and economically disadvantaged individuals. The term "socially
7397 and economically disadvantaged individuals" shall have the meaning
7398 ascribed to such term under Section 8(d) of the Small Business Act
7399 (15 USCS 637(d)) and relevant subcontracting regulations
7400 promulgated pursuant thereto; except that women shall be presumed
7401 to be socially and economically disadvantaged individuals for the
7402 purposes of this paragraph.

7403 (oo) To provide grant funds to an enterprise developing
7404 or owning a project defined in Section 57-75-5(f) (xx) for
7405 reimbursement of costs incurred by such enterprise for
7406 infrastructure improvements in the initial phase of development of
7407 the project, upon dedication of such improvements to the
7408 appropriate public agency.

7409 (pp) In connection with projects defined in Section
7410 57-75-5(f) (xxiii):

7411 (i) To provide grant funds to reimburse public
7412 agencies or an enterprise operating a project as defined in



7413 Section 57-75-5(f)(xxiii) for site preparation, utilities, real
7414 estate improvements, infrastructure, roads, public works, job
7415 training and any other expenses approved by the authority in
7416 amounts not to exceed the amount authorized in Section
7417 57-75-15(3)(v); and

7418 (ii) To supervise the use of all such grant funds
7419 so reimbursed.

7420 (qq) (i) To provide grant funds for the expansion of a
7421 publicly owned building for the project defined in Section
7422 57-75-5(f)(xxiv) or loans to an enterprise owning, leasing or
7423 operating a project defined in Section 57-75-5(f)(xxiv) for the
7424 purchase and/or relocation of equipment, or for any other purpose
7425 related to the project as approved by the authority; however, the
7426 aggregate amount of any such loans under this paragraph (qq) shall
7427 not exceed Six Million Dollars (\$6,000,000.00) and the aggregate
7428 amount of any such grants under this paragraph (qq) shall not
7429 exceed Seven Million Dollars (\$7,000,000.00);

7430 (ii) To supervise the use of all such grant funds
7431 or loans; and

7432 (iii) Notwithstanding any provision of this act to
7433 the contrary, such loans shall be for a term not to exceed ten
7434 (10) years as may be determined by the authority, shall bear a
7435 rate of interest to be determined by the authority, and shall be
7436 secured in an amount and a manner as may be determined by the
7437 authority.



7438 (rr) (i) To provide grant funds to an enterprise
7439 owning or operating a project defined in Section 57-75-5(f) (xxv)
7440 for reimbursement of costs incurred by the enterprise in
7441 reconfiguring the manufacturing plant and for the purchase of
7442 equipment, or for any other purpose related to the project as
7443 approved by the authority;

7444 (ii) To supervise the use of all such grant funds.

7445 (ss) In connection with projects defined under Section
7446 57-75-5(f) (xxvi):

7447 (i) To provide grant funds and/or loans to a
7448 public agency in an amount not to exceed Fifteen Million Dollars
7449 (\$15,000,000.00) for the construction of a publicly owned building
7450 to be leased by the enterprise owning or operating the project;

7451 (ii) To provide loan guarantees in an amount not
7452 to exceed the total cost of the project for which financing is
7453 sought or Twenty Million Dollars (\$20,000,000.00), whichever is
7454 less, for the purpose of encouraging the extension of conventional
7455 financing and the issuance of letters of credit to the enterprise
7456 owning or operating the project;

7457 (iii) In connection with any loan guarantee made
7458 pursuant to this paragraph, to make payments to lenders providing
7459 financing to the enterprise owning or operating the project and
7460 the enterprise shall be obligated to repay the amount of the
7461 payment plus any expenses incurred by the state as a result of the
7462 issuance of bonds pursuant to Section 57-75-15(3) (y);



7463 (iv) To supervise the use of all such grant funds,
7464 loan funds or payments; and

7465 (v) To require the enterprise owning or operating
7466 the project to provide security for the repayment obligation for
7467 any loan guarantee authorized under this paragraph in an amount
7468 and in a manner as may be determined by the authority.

7469 (tt) In connection with projects defined under Section
7470 57-75-5(f) (xxvii):

7471 (i) To provide loans to a public agency in an
7472 amount not to exceed Fifty Million Dollars (\$50,000,000.00) for
7473 the construction of a publicly owned building and acquisition of
7474 equipment to be leased by the enterprise owning or operating the
7475 project; and

7476 (ii) To supervise the use of all such loan funds.

7477 (uu) In connection with projects defined under Section
7478 57-75-5(f) (xxviii):

7479 (i) To provide grant funds to reimburse public
7480 agencies or an enterprise operating a project for site
7481 preparation, utilities, real estate purchase and improvements,
7482 infrastructure, roads, rail improvements, public works, job
7483 training and any other expenses approved by the authority in
7484 amounts not to exceed the amount authorized in Section
7485 57-75-15(3) (aa);

7486 (ii) To supervise the use of all such grant funds
7487 so reimbursed.



7488 (vv) In connection with projects defined under Section
7489 57-75-5(f) (xxix):

7490 (i) To provide grant funds to reimburse or
7491 otherwise defray the costs incurred by public agencies or an
7492 enterprise operating a project for site preparation, utilities,
7493 real estate purchases, purchase options and improvements,
7494 infrastructure, roads, rail improvements, public works, buildings
7495 and fixtures, job recruitment and training, as well as planning,
7496 design, environmental mitigation and environmental impact studies
7497 with respect to a project, and any other purposes approved by the
7498 authority in amounts not to exceed the amount authorized in
7499 Section 57-75-15(3) (bb);

7500 (ii) To provide loans to public agencies for site
7501 preparation, utilities, real estate purchases, purchase options
7502 and improvements, infrastructure, roads, rail improvements, public
7503 works, buildings and fixtures, job recruiting and training, as
7504 well as planning, design, environmental mitigation and
7505 environmental impact studies with respect to a project, and any
7506 other purposes approved by the authority in amounts not to exceed
7507 the amount authorized in Section 57-75-15(3) (bb);

7508 (iii) To supervise the use of all such grant funds
7509 so reimbursed and/or loans so made; and

7510 (iv) To the extent that the authority enters into
7511 any construction or similar contract for site preparation work or
7512 for the construction of any improvements on a project site, to



7513 assign or otherwise transfer to an enterprise or affiliate thereof
7514 that owns or operates such a project on such project site any and
7515 all contractual, express or implied warranties of any kind arising
7516 from such contract or work performed or materials purchased in
7517 connection therewith, and cause any such contract to contain terms
7518 and provisions designating such enterprise as a third-party
7519 beneficiary under the contract.

7520 (ww) In connection with projects defined under Section
7521 57-75-5(f) (xxx):

7522 (i) To provide grant funds to reimburse or
7523 otherwise defray the costs incurred by public agencies or an
7524 enterprise operating a project for public infrastructure needs,
7525 site preparation, building improvements, purchase of launch
7526 systems, recruitment of employees to fill new full-time jobs,
7527 providing internal company training and train prospective, new and
7528 existing employees of the enterprise associated with the project,
7529 including training of company employees who will utilize such
7530 instruction to teach other prospective, new and existing employees
7531 of the company and other workforce expenses and any other expenses
7532 approved by the authority in amounts not to exceed the amount
7533 authorized in Section 57-75-15(3) (cc); and

7534 (ii) To supervise the use of all such grant funds
7535 so reimbursed.

7536 (xx) In connection with projects defined under Section
7537 57-75-5(f) (xxx):



7538 (i) To provide grant funds to reimburse or
7539 otherwise defray the costs incurred by public agencies or any
7540 enterprise operating one or more such projects for site
7541 preparation, utilities, real estate purchases, purchase options
7542 and improvements, infrastructure, utilities, roads, rail
7543 improvements, public works, buildings and fixtures, job
7544 recruitment and training, as well as planning, design,
7545 environmental mitigation and environmental impact studies with
7546 respect to a project, and any other purposes approved by the
7547 authority in amounts not to exceed the amount authorized in
7548 Section 57-75-15(3) (dd);

7549 (ii) To provide loans to public agencies for site
7550 preparation, utilities, real estate purchases, purchase options
7551 and improvements, infrastructure, roads, rail improvements, public
7552 works, buildings and fixtures, job recruiting and training, as
7553 well as planning, design, environmental mitigation and
7554 environmental impact studies with respect to a project, and any
7555 other purposes approved by the authority in amounts not to exceed
7556 the amount authorized in Section 57-75-15(3) (dd).

7557 (yy) (i) In connection with projects defined under
7558 Section 57-75-5(f) (xxxi), the authority is further authorized to
7559 provide to the enterprises operating one or more of the projects,
7560 an annual grant in an amount not to exceed three and one-half
7561 percent (3.5%) of the additional payroll for a period of ten (10)
7562 consecutive years. Each such aggregate annual grant amount shall



7563 be remitted to one or more of the enterprises and/or one or more
7564 of their affiliates, in such sub-amounts as the enterprises shall
7565 collectively direct, or that their common direct or indirect
7566 parent company shall direct, in writing, to the authority each
7567 year during such ten-year period. The ten-year period for the
7568 series of ten (10) annual grants authorized by this paragraph (yy)
7569 shall commence no later than January 1, 2029.

7570 (ii) In the event that the annual number of
7571 full-time jobs maintained or caused to be maintained by the
7572 enterprises operating one or more projects and/or one or more
7573 affiliates thereof falls below the minimum annual number of
7574 full-time jobs required by the authority pursuant to a written
7575 agreement between the authority and the enterprises and/or any
7576 affiliate thereof for one or more years, the annual grant
7577 authorized by this paragraph (yy) may be reduced or suspended by
7578 the authority until the first calendar year during which the
7579 annual number of full-time jobs maintained or caused to be
7580 maintained by the enterprises and/or their affiliates reaches the
7581 minimum annual number of full-time jobs required by the authority
7582 pursuant to the written agreement.

7583 (iii) The annual grants authorized by this
7584 paragraph (yy) may be funded from the proceeds of bonds issued
7585 pursuant to Section 57-75-15(3) (dd); provided that the aggregate
7586 amount of the annual grants over the entire ten-year period shall
7587 not exceed Forty-five Million Dollars (\$45,000,000.00).



7588 (iv) For purposes of this paragraph (yy):
7589 1. "Additional payroll" shall mean the sum of
7590 the annual payroll amount (i.e., all annual employee income that
7591 is subject to State of Mississippi and/or federal income taxation)
7592 for any calendar year beginning January 1, 2023, which is
7593 associated with full-time jobs created and maintained by all
7594 enterprises that undertake any project and/or by any affiliates
7595 thereof, in excess of the amount the annualized payroll (i.e., all
7596 annual employee income that is subject to State of Mississippi
7597 and/or federal income taxation), which is associated with
7598 employees employed in the State of Mississippi by such enterprises
7599 or their affiliates as of September 30, 2022; and

7600 2. "Base payroll level" shall mean the
7601 annualized payroll amount (i.e., all annual employee income that
7602 is subject to State of Mississippi and/or federal income taxation)
7603 paid to employees employed in the State of Mississippi by all
7604 enterprises that undertake any project and/or by any affiliates
7605 thereof during the twelve-month period ending on September 30,
7606 2022.

7607 (v) The Mississippi Development Authority may
7608 promulgate rules and regulations necessary to administer the
7609 provisions of this paragraph (yy) and may otherwise administer and
7610 prescribe rules and restrictions with respect to the annual grant
7611 authorized by this paragraph (yy) pursuant to a written agreement



7612 between the authority and any enterprises operating one or more
7613 projects and/or any affiliate thereof.

7614 (zz) In connection with a project defined under Section
7615 57-75-5(f) (xxxii):

7616 (i) To provide grant funds to reimburse or
7617 otherwise defray the costs incurred by public agencies or any
7618 enterprise operating one or more such projects for site
7619 preparation, utilities, real estate purchases, purchase options
7620 and improvements, infrastructure, utilities, roads, rail
7621 improvements, public works, buildings and fixtures, job
7622 recruitment and training, as well as planning, design,
7623 environmental mitigation and environmental impact studies with
7624 respect to a project, and any other purposes approved by the
7625 authority in amounts not to exceed the amount authorized in
7626 Section 57-75-15(3) (ee);

7627 (ii) To provide loans, grants and other funds to
7628 public agencies for site preparation, utilities, real estate
7629 purchases, purchase options and improvements, infrastructure,
7630 roads, rail improvements, public works, buildings and fixtures,
7631 job recruiting and training, as well as planning, design,
7632 environmental mitigation and environmental impact studies with
7633 respect to a project, and any other purposes approved by the
7634 authority in amounts not to exceed the amount authorized in
7635 Section 57-75-15(3) (ee).



7636 (aaa) In connection with a project defined under
7637 Section 57-75-5(f) (xxxiii):

7638 (i) To provide grant funds to reimburse or
7639 otherwise defray the costs incurred by public agencies or any
7640 enterprise operating one or more such projects for site
7641 preparation, utilities, real estate purchases, purchase options
7642 and improvements, infrastructure, utilities, roads, rail
7643 improvements, public works, buildings and fixtures, job
7644 recruitment and training, as well as planning, design,
7645 environmental mitigation and environmental impact studies with
7646 respect to a project, and any other purposes approved by the
7647 authority in amounts not to exceed the amount authorized in
7648 Section 57-75-15(3) (ff); and

7649 (ii) To provide loans to public agencies for site
7650 preparation, utilities, real estate purchases, purchase options
7651 and improvements, infrastructure, roads, rail improvements, public
7652 works, buildings and fixtures, job recruiting and training, as
7653 well as planning, design, environmental mitigation and
7654 environmental impact studies with respect to a project, and any
7655 other purposes approved by the authority in amounts not to exceed
7656 the amount authorized in Section 57-75-15(3) (ff).

7657 (aab) (i) In addition to any other requirements or
7658 conditions under this chapter, the authority shall require that
7659 any application required by the authority for assistance regarding
7660 a project under this chapter include, at a minimum:



7661 1. A two-year business plan (which shall
7662 include pro forma balance sheets, income statements and monthly
7663 cash flow statements);

7664 2. Financial statements or tax returns for
7665 the three (3) years immediately prior to the application (if the
7666 project is a new company or enterprise, personal financial
7667 statements or tax returns will be required);

7668 3. Credit reports on all persons or entities
7669 with a twenty percent (20%) or greater interest in the project;

7670 4. Data supporting the expertise of the
7671 project's principals;

7672 5. A cost-benefit analysis of the project
7673 performed by a state institution of higher learning or other
7674 entity selected by the authority; and

7675 6. Any other information required by the
7676 authority.

7677 (ii) The authority shall require that binding
7678 commitments be entered into requiring that:

7679 1. The applicable minimum requirements of
7680 this chapter and such other requirements as the authority
7681 considers proper shall be met; and

7682 2. If the agreed upon commitments are not
7683 met, all or a portion of the funds provided under this chapter as
7684 determined by the authority shall be repaid.



7685 (iii) Where appropriate, in the discretion of the
7686 authority, the authority shall acquire a security interest in or
7687 other lien upon any applicable collateral.

7688 (iv) The provisions of this paragraph (xx) shall
7689 not apply to a project defined in Section 57-75-5(f) (xxiii).

7690 **SECTION 141.** Section 57-75-13, Mississippi Code of 1972, is
7691 brought forward as follows:

7692 57-75-13. The Board of Trustees of State Institutions of
7693 Higher Learning is hereby authorized to support the project by
7694 creating institutes and developing curricula of direct benefit to
7695 the enterprise. Upon notification to the authority by the
7696 enterprise that the state has been selected as the site of the
7697 project, the Board of Trustees of State Institutions of Higher
7698 Learning may establish and create programs to enhance the
7699 project's success.

7700 **SECTION 142.** Section 57-75-15, Mississippi Code of 1972, is
7701 brought forward as follows:

7702 **[Through June 30, 2025, this section shall read as follows:]**

7703 57-75-15. (1) Upon notification to the authority by the
7704 enterprise that the state has been finally selected as the site
7705 for the project, the State Bond Commission shall have the power
7706 and is hereby authorized and directed, upon receipt of a
7707 declaration from the authority as hereinafter provided, to borrow
7708 money and issue general obligation bonds of the state in one or
7709 more series for the purposes herein set out. Upon such



7710 notification, the authority may thereafter, from time to time,
7711 declare the necessity for the issuance of general obligation bonds
7712 as authorized by this section and forward such declaration to the
7713 State Bond Commission, provided that before such notification, the
7714 authority may enter into agreements with the United States
7715 government, private companies and others that will commit the
7716 authority to direct the State Bond Commission to issue bonds for
7717 eligible undertakings set out in subsection (4) of this section,
7718 conditioned on the siting of the project in the state.

7719 (2) Upon receipt of any such declaration from the authority,
7720 the State Bond Commission shall verify that the state has been
7721 selected as the site of the project and shall act as the issuing
7722 agent for the series of bonds directed to be issued in such
7723 declaration pursuant to authority granted in this section.

7724 (3) (a) Bonds issued under the authority of this section
7725 for projects as defined in Section 57-75-5(f)(i) shall not exceed
7726 an aggregate principal amount in the sum of Sixty-seven Million
7727 Three Hundred Fifty Thousand Dollars (\$67,350,000.00).

7728 (b) Bonds issued under the authority of this section
7729 for projects as defined in Section 57-75-5(f)(ii) shall not exceed
7730 Eighty-two Million Dollars (\$82,000,000.00). The authority, with
7731 the express direction of the State Bond Commission, is authorized
7732 to expend any remaining proceeds of bonds issued under the
7733 authority of this act prior to January 1, 1998, for the purpose of
7734 financing projects as then defined in Section 57-75-5(f)(ii) or



7735 for any other projects as defined in Section 57-75-5(f)(ii), as it
7736 may be amended from time to time. No bonds shall be issued under
7737 this paragraph (b) until the State Bond Commission by resolution
7738 adopts a finding that the issuance of such bonds will improve,
7739 expand or otherwise enhance the military installation, its support
7740 areas or military operations, or will provide employment
7741 opportunities to replace those lost by closure or reductions in
7742 operations at the military installation or will support critical
7743 studies or investigations authorized by Section 57-75-5(f)(ii).

7744 (c) Bonds issued under the authority of this section
7745 for projects as defined in Section 57-75-5(f)(iii) shall not
7746 exceed Ten Million Dollars (\$10,000,000.00). No bonds shall be
7747 issued under this paragraph after December 31, 1996.

7748 (d) Bonds issued under the authority of this section
7749 for projects defined in Section 57-75-5(f)(iv) shall not exceed
7750 Three Hundred Fifty-one Million Dollars (\$351,000,000.00). An
7751 additional amount of bonds in an amount not to exceed Twelve
7752 Million Five Hundred Thousand Dollars (\$12,500,000.00) may be
7753 issued under the authority of this section for the purpose of
7754 defraying costs associated with the construction of surface water
7755 transmission lines for a project defined in Section 57-75-5(f)(iv)
7756 or for any facility related to the project. No bonds shall be
7757 issued under this paragraph after June 30, 2005.

7758 (e) Bonds issued under the authority of this section
7759 for projects defined in Section 57-75-5(f)(v) and for facilities



7760 related to such projects shall not exceed Thirty-eight Million
7761 Five Hundred Thousand Dollars (\$38,500,000.00). No bonds shall be
7762 issued under this paragraph after April 1, 2005.

7763 (f) Bonds issued under the authority of this section
7764 for projects defined in Section 57-75-5(f)(vii) shall not exceed
7765 Five Million Dollars (\$5,000,000.00). No bonds shall be issued
7766 under this paragraph after June 30, 2006.

7767 (g) Bonds issued under the authority of this section
7768 for projects defined in Section 57-75-5(f)(viii) shall not exceed
7769 Four Million Five Hundred Thousand Dollars (\$4,500,000.00). No
7770 bonds shall be issued under this paragraph after June 30, 2008.

7771 (h) Bonds issued under the authority of this section
7772 for projects defined in Section 57-75-5(f)(ix) shall not exceed
7773 Five Million Dollars (\$5,000,000.00). No bonds shall be issued
7774 under this paragraph after June 30, 2007.

7775 (i) Bonds issued under the authority of this section
7776 for projects defined in Section 57-75-5(f)(x) shall not exceed
7777 Five Million Dollars (\$5,000,000.00). No bonds shall be issued
7778 under this paragraph after April 1, 2005.

7779 (j) Bonds issued under the authority of this section
7780 for projects defined in Section 57-75-5(f)(xii) shall not exceed
7781 Thirty-three Million Dollars (\$33,000,000.00). The amount of
7782 bonds that may be issued under this paragraph for projects defined
7783 in Section 57-75-5(f)(xii) may be reduced by the amount of any
7784 federal or local funds made available for such projects. No bonds



7785 shall be issued under this paragraph until local governments in or
7786 near the county in which the project is located have irrevocably
7787 committed funds to the project in an amount of not less than Two
7788 Million Five Hundred Thousand Dollars (\$2,500,000.00) in the
7789 aggregate; however, this irrevocable commitment requirement may be
7790 waived by the authority upon a finding that due to the unforeseen
7791 circumstances created by Hurricane Katrina, the local governments
7792 are unable to comply with such commitment. No bonds shall be
7793 issued under this paragraph after June 30, 2008.

7794 (k) Bonds issued under the authority of this section
7795 for projects defined in Section 57-75-5(f)(xiii) shall not exceed
7796 Three Million Dollars (\$3,000,000.00). No bonds shall be issued
7797 under this paragraph after June 30, 2009.

7798 (l) Bonds issued under the authority of this section
7799 for projects defined in Section 57-75-5(f)(xiv) shall not exceed
7800 Twenty-four Million Dollars (\$24,000,000.00). No bonds shall be
7801 issued under this paragraph until local governments in the county
7802 in which the project is located have irrevocably committed funds
7803 to the project in an amount of not less than Two Million Dollars
7804 (\$2,000,000.00). No bonds shall be issued under this paragraph
7805 after June 30, 2009.

7806 (m) Bonds issued under the authority of this section
7807 for projects defined in Section 57-75-5(f)(xv) shall not exceed
7808 Five Hundred Thousand Dollars (\$500,000.00). No bonds shall be
7809 issued under this paragraph after June 30, 2009.



7810 (n) Bonds issued under the authority of this section
7811 for projects defined in Section 57-75-5(f) (xvi) shall not exceed
7812 Ten Million Dollars (\$10,000,000.00). No bonds shall be issued
7813 under this paragraph after June 30, 2011.

7814 (o) Bonds issued under the authority of this section
7815 for projects defined in Section 57-75-5(f) (xvii) shall not exceed
7816 Three Million Five Hundred Thousand Dollars (\$3,500,000.00). No
7817 bonds shall be issued under this paragraph after June 30, 2010.

7818 (p) Bonds issued under the authority of this section
7819 for projects defined in Section 57-75-5(f) (xviii) shall not exceed
7820 Ninety-six Million Dollars (\$96,000,000.00). No bonds shall be
7821 issued under this paragraph after June 30, 2011.

7822 (q) Bonds issued under the authority of this section
7823 for projects defined in Section 57-75-5(f) (xix) shall not exceed
7824 Fifteen Million Dollars (\$15,000,000.00). No bonds shall be
7825 issued under this paragraph after June 30, 2012.

7826 (r) Bonds issued under the authority of this section
7827 for projects defined in Section 57-75-5(f) (xx) shall not exceed
7828 Twenty-three Million Dollars (\$23,000,000.00). No bonds shall be
7829 issued under this paragraph after April 25, 2013.

7830 (s) Bonds issued under the authority of this section
7831 for projects defined in Section 57-75-5(f) (xxi) shall not exceed
7832 Two Hundred Ninety-three Million Nine Hundred Thousand Dollars
7833 (\$293,900,000.00). No bonds shall be issued under this paragraph
7834 after July 1, 2020.



7835 (t) Bonds issued under the authority of this section
7836 for Tier One suppliers shall not exceed Thirty Million Dollars
7837 (\$30,000,000.00). No bonds shall be issued under this paragraph
7838 after July 1, 2020.

7839 (u) Bonds issued under the authority of this section
7840 for projects defined in Section 57-75-5(f) (xxii) shall not exceed
7841 Forty-eight Million Four Hundred Thousand Dollars
7842 (\$48,400,000.00). No bonds shall be issued under this paragraph
7843 after July 1, 2020.

7844 (v) Bonds issued under the authority of this section
7845 for projects defined in Section 57-75-5(f) (xxiii) shall not exceed
7846 Eighty-eight Million Two Hundred Fifty Thousand Dollars
7847 (\$88,250,000.00). No bonds shall be issued under this paragraph
7848 after July 1, 2009.

7849 (w) Bonds issued under the authority of this section
7850 for projects defined in Section 57-75-5(f) (xxiv) shall not exceed
7851 Thirteen Million Dollars (\$13,000,000.00). No bonds shall be
7852 issued under this paragraph after July 1, 2020.

7853 (x) Bonds issued under the authority of this section
7854 for projects defined in Section 57-75-5(f) (xxv) shall not exceed
7855 Twenty-five Million Dollars (\$25,000,000.00). No bonds shall be
7856 issued under this paragraph after July 1, 2017.

7857 (y) [Deleted]

7858 (z) Bonds issued under the authority of this section
7859 for projects defined in Section 57-75-5(f) (xxvii) shall not exceed



7860 Fifty Million Dollars (\$50,000,000.00). No bonds shall be issued
7861 under this paragraph after April 25, 2013.

7862 (aa) Bonds issued under the authority of this section
7863 for projects defined in Section 57-75-5(f)(xxviii) shall not
7864 exceed Seventy Million Dollars (\$70,000,000.00). No bonds shall
7865 be issued under this paragraph after July 1, 2026.

7866 (bb) Bonds issued under the authority of this section
7867 for projects defined in Section 57-75-5(f)(xxix) shall not exceed
7868 Two Hundred Sixty-three Million Dollars (\$263,000,000.00). No
7869 bonds shall be issued under this paragraph after July 1, 2034.

7870 (cc) Bonds issued under the authority of this section
7871 for projects defined in Section 57-75-5(f)(xxx) shall not exceed
7872 Six Million Dollars (\$6,000,000.00). No bonds shall be issued
7873 under this paragraph after July 1, 2025.

7874 (dd) Bonds issued under the authority of this section
7875 for projects defined in Section 57-75-5(f)(xxxii) shall not exceed
7876 Two Hundred Forty-six Million Seven Hundred Ninety-eight Thousand
7877 Five Hundred Fifty Dollars (\$246,798,550.00); however, the total
7878 amount of bonds that may be issued under the authority of this
7879 section for projects defined in Section 57-75-5(f)(xxxii) shall be
7880 reduced by the amount of any other funds authorized by the
7881 Legislature during the 2022 First Extraordinary Session
7882 specifically for such projects. No bonds shall be issued under
7883 this paragraph after July 1, 2040.



7884 (ee) Bonds issued under the authority of this section
7885 for a project defined in Section 57-75-5(f) (xxxii) shall not
7886 exceed Four Hundred Eighty-two Million Dollars (\$482,000,000.00);
7887 however, the total amount of bonds that may be issued under the
7888 authority of this section for a project defined in Section
7889 57-75-5(f) (xxxii) shall be reduced by the amount of any other
7890 funds authorized by the Legislature specifically for such project.
7891 No bonds shall be issued under this paragraph after July 1, 2040.

7892 (ff) Bonds issued under the authority of this section
7893 for a project defined in Section 57-75-5(f) (xxxiii) shall not
7894 exceed Two Hundred Sixty Million Dollars (\$260,000,000.00);
7895 however, the total amount of bonds that may be issued under the
7896 authority of this section for a project defined in Section
7897 57-75-5(f) (xxxiii) shall be reduced by the amount of any other
7898 funds authorized by the Legislature specifically for such project.
7899 No bonds shall be issued under this paragraph after July 1, 2040.

7900 (4) (a) The proceeds from the sale of the bonds issued
7901 under this section may be applied for the following purposes:

7902 (i) Defraying all or any designated portion of the
7903 costs incurred with respect to acquisition, planning, design,
7904 construction, installation, rehabilitation, improvement,
7905 relocation and with respect to state-owned property, operation and
7906 maintenance of the project and any facility related to the project
7907 located within the project area, including costs of design and
7908 engineering, all costs incurred to provide land, easements and



7909 rights-of-way, relocation costs with respect to the project and
7910 with respect to any facility related to the project located within
7911 the project area, and costs associated with mitigation of
7912 environmental impacts and environmental impact studies;

7913 (ii) Defraying the cost of providing for the
7914 recruitment, screening, selection, training or retraining of
7915 employees, candidates for employment or replacement employees of
7916 the project and any related activity;

7917 (iii) Reimbursing the Mississippi Development
7918 Authority for expenses it incurred in regard to projects defined
7919 in Section 57-75-5(f)(iv) prior to November 6, 2000. The
7920 Mississippi Development Authority shall submit an itemized list of
7921 expenses it incurred in regard to such projects to the Chairmen of
7922 the Finance and Appropriations Committees of the Senate and the
7923 Chairmen of the Ways and Means and Appropriations Committees of
7924 the House of Representatives;

7925 (iv) Providing grants to enterprises operating
7926 projects defined in Section 57-75-5(f)(iv)1;

7927 (v) Paying any warranty made by the authority
7928 regarding site work for a project defined in Section
7929 57-75-5(f)(iv)1;

7930 (vi) Defraying the cost of marketing and promotion
7931 of a project as defined in Section 57-75-5(f)(iv)1, Section
7932 57-75-5(f)(xxi) or Section 57-75-5(f)(xxii). The authority shall
7933 submit an itemized list of costs incurred for marketing and



7934 promotion of such project to the Chairmen of the Finance and
7935 Appropriations Committees of the Senate and the Chairmen of the
7936 Ways and Means and Appropriations Committees of the House of
7937 Representatives;

7938 (vii) Providing for the payment of interest on the
7939 bonds;

7940 (viii) Providing debt service reserves;

7941 (ix) Paying underwriters' discount, original issue
7942 discount, accountants' fees, engineers' fees, attorneys' fees,
7943 rating agency fees and other fees and expenses in connection with
7944 the issuance of the bonds;

7945 (x) For purposes authorized in paragraphs (b) and
7946 (c) of this subsection (4);

7947 (xi) Providing grants to enterprises operating
7948 projects defined in Section 57-75-5(f)(v), or, in connection with
7949 a facility related to such a project, for any purposes deemed by
7950 the authority in its sole discretion to be necessary and
7951 appropriate;

7952 (xii) Providing grant funds or loans to a public
7953 agency or an enterprise owning, leasing or operating a project
7954 defined in Section 57-75-5(f)(ii);

7955 (xiii) Providing grant funds or loans to an
7956 enterprise owning, leasing or operating a project defined in
7957 Section 57-75-5(f)(xiv);



7958 (xiv) Providing grants, loans and payments to or
7959 for the benefit of an enterprise owning or operating a project
7960 defined in Section 57-75-5(f)(xviii);

7961 (xv) Purchasing equipment for a project defined in
7962 Section 57-75-5(f)(viii) subject to such terms and conditions as
7963 the authority considers necessary and appropriate;

7964 (xvi) Providing grant funds to an enterprise
7965 developing or owning a project defined in Section 57-75-5(f)(xx);

7966 (xvii) Providing grants and loans for projects as
7967 authorized in Section 57-75-11(kk), (ll), (mm), (uu), (vv) or, in
7968 connection with a facility related to such a project, for any
7969 purposes deemed by the authority in its sole discretion to be
7970 necessary and appropriate;

7971 (xviii) Providing grants for projects as
7972 authorized in Section 57-75-11(pp) for any purposes deemed by the
7973 authority in its sole discretion to be necessary and appropriate;

7974 (xix) Providing grants and loans for projects as
7975 authorized in Section 57-75-11(qq);

7976 (xx) Providing grants for projects as authorized
7977 in Section 57-75-11(rr);

7978 (xxi) Providing grants, loans and payments as
7979 authorized in Section 57-75-11(ss);

7980 (xxii) Providing grants and loans as authorized in
7981 Section 57-75-11(tt);



7982 (xxiii) Providing grants as authorized in Section
7983 57-75-11(wv) for any purposes deemed by the authority in its sole
7984 discretion to be necessary and appropriate; and

7985 (xxiv) Providing loans, grants and other funds as
7986 authorized in Section 57-75-11(xx), (yy), (zz) and (aaa) for any
7987 purposes deemed by the authority in its sole discretion to be
7988 necessary and appropriate.

7989 Such bonds shall be issued, from time to time, and in such
7990 principal amounts as shall be designated by the authority, not to
7991 exceed in aggregate principal amounts the amount authorized in
7992 subsection (3) of this section. Proceeds from the sale of the
7993 bonds issued under this section may be invested, subject to
7994 federal limitations, pending their use, in such securities as may
7995 be specified in the resolution authorizing the issuance of the
7996 bonds or the trust indenture securing them, and the earning on
7997 such investment applied as provided in such resolution or trust
7998 indenture.

7999 (b) (i) The proceeds of bonds issued after June 21,
8000 2002, under this section for projects described in Section
8001 57-75-5(f) (iv) may be used to reimburse reasonable actual and
8002 necessary costs incurred by the Mississippi Development Authority
8003 in providing assistance related to a project for which funding is
8004 provided from the use of proceeds of such bonds. The Mississippi
8005 Development Authority shall maintain an accounting of actual costs
8006 incurred for each project for which reimbursements are sought.



8007 Reimbursements under this paragraph (b) (i) shall not exceed Three
8008 Hundred Thousand Dollars (\$300,000.00) in the aggregate.

8009 Reimbursements under this paragraph (b) (i) shall satisfy any
8010 applicable federal tax law requirements.

8011 (ii) The proceeds of bonds issued after June 21,
8012 2002, under this section for projects described in Section
8013 57-75-5(f) (iv) may be used to reimburse reasonable actual and
8014 necessary costs incurred by the Department of Audit in providing
8015 services related to a project for which funding is provided from
8016 the use of proceeds of such bonds. The Department of Audit shall
8017 maintain an accounting of actual costs incurred for each project
8018 for which reimbursements are sought. The Department of Audit may
8019 escalate its budget and expend such funds in accordance with rules
8020 and regulations of the Department of Finance and Administration in
8021 a manner consistent with the escalation of federal funds.

8022 Reimbursements under this paragraph (b) (ii) shall not exceed One
8023 Hundred Thousand Dollars (\$100,000.00) in the aggregate.

8024 Reimbursements under this paragraph (b) (ii) shall satisfy any
8025 applicable federal tax law requirements.

8026 (c) (i) Except as otherwise provided in this
8027 subsection, the proceeds of bonds issued under this section for a
8028 project described in Section 57-75-5(f) may be used to reimburse
8029 reasonable actual and necessary costs incurred by the Mississippi
8030 Development Authority in providing assistance related to the
8031 project for which funding is provided for the use of proceeds of



8032 such bonds. The Mississippi Development Authority shall maintain
8033 an accounting of actual costs incurred for each project for which
8034 reimbursements are sought. Reimbursements under this paragraph
8035 shall not exceed Twenty-five Thousand Dollars (\$25,000.00) for
8036 each project.

8037 (ii) Except as otherwise provided in this
8038 subsection, the proceeds of bonds issued under this section for a
8039 project described in Section 57-75-5(f) may be used to reimburse
8040 reasonable actual and necessary costs incurred by the Department
8041 of Audit in providing services related to the project for which
8042 funding is provided from the use of proceeds of such bonds. The
8043 Department of Audit shall maintain an accounting of actual costs
8044 incurred for each project for which reimbursements are sought.
8045 The Department of Audit may escalate its budget and expend such
8046 funds in accordance with rules and regulations of the Department
8047 of Finance and Administration in a manner consistent with the
8048 escalation of federal funds. Reimbursements under this paragraph
8049 shall not exceed Twenty-five Thousand Dollars (\$25,000.00) for
8050 each project. Reimbursements under this paragraph shall satisfy
8051 any applicable federal tax law requirements.

8052 (5) The principal of and the interest on the bonds shall be
8053 payable in the manner hereinafter set forth. The bonds shall bear
8054 date or dates; be in such denomination or denominations; bear
8055 interest at such rate or rates; be payable at such place or places
8056 within or without the state; mature absolutely at such time or



8057 times; be redeemable before maturity at such time or times and
8058 upon such terms, with or without premium; bear such registration
8059 privileges; and be substantially in such form; all as shall be
8060 determined by resolution of the State Bond Commission except that
8061 such bonds shall mature or otherwise be retired in annual
8062 installments beginning not more than five (5) years from the date
8063 thereof and extending not more than twenty-five (25) years from
8064 the date thereof. The bonds shall be signed by the Chairman of
8065 the State Bond Commission, or by his facsimile signature, and the
8066 official seal of the State Bond Commission shall be imprinted on
8067 or affixed thereto, attested by the manual or facsimile signature
8068 of the Secretary of the State Bond Commission. Whenever any such
8069 bonds have been signed by the officials herein designated to sign
8070 the bonds, who were in office at the time of such signing but who
8071 may have ceased to be such officers before the sale and delivery
8072 of such bonds, or who may not have been in office on the date such
8073 bonds may bear, the signatures of such officers upon such bonds
8074 shall nevertheless be valid and sufficient for all purposes and
8075 have the same effect as if the person so officially signing such
8076 bonds had remained in office until the delivery of the same to the
8077 purchaser, or had been in office on the date such bonds may bear.

8078 (6) All bonds issued under the provisions of this section
8079 shall be and are hereby declared to have all the qualities and
8080 incidents of negotiable instruments under the provisions of the
8081 Uniform Commercial Code and in exercising the powers granted by



8082 this chapter, the State Bond Commission shall not be required to
8083 and need not comply with the provisions of the Uniform Commercial
8084 Code.

8085 (7) The State Bond Commission shall act as issuing agent for
8086 the bonds, prescribe the form of the bonds, determine the
8087 appropriate method for sale of the bonds, advertise for and accept
8088 bids or negotiate the sale of the bonds, issue and sell the bonds,
8089 pay all fees and costs incurred in such issuance and sale, and do
8090 any and all other things necessary and advisable in connection
8091 with the issuance and sale of the bonds. The State Bond
8092 Commission may sell such bonds on sealed bids at public sale or
8093 may negotiate the sale of the bonds for such price as it may
8094 determine to be for the best interest of the State of Mississippi.
8095 The bonds shall bear interest at such rate or rates not exceeding
8096 the limits set forth in Section 75-17-101 as shall be fixed by the
8097 State Bond Commission. All interest accruing on such bonds so
8098 issued shall be payable semiannually or annually.

8099 If the bonds are to be sold on sealed bids at public sale,
8100 notice of the sale of any bonds shall be published at least one
8101 time, the first of which shall be made not less than ten (10) days
8102 prior to the date of sale, and shall be so published in one or
8103 more newspapers having a general circulation in the City of
8104 Jackson, Mississippi, selected by the State Bond Commission.

8105 The State Bond Commission, when issuing any bonds under the
8106 authority of this section, may provide that the bonds, at the



8107 option of the state, may be called in for payment and redemption
8108 at the call price named therein and accrued interest on such date
8109 or dates named therein.

8110 (8) State bonds issued under the provisions of this section
8111 shall be the general obligations of the state and backed by the
8112 full faith and credit of the state. The Legislature shall
8113 appropriate annually an amount sufficient to pay the principal of
8114 and the interest on such bonds as they become due. All bonds
8115 shall contain recitals on their faces substantially covering the
8116 foregoing provisions of this section.

8117 (9) The State Treasurer is authorized to certify to the
8118 Department of Finance and Administration the necessity for
8119 warrants, and the Department of Finance and Administration is
8120 authorized and directed to issue such warrants payable out of any
8121 funds appropriated by the Legislature under this section for such
8122 purpose, in such amounts as may be necessary to pay when due the
8123 principal of and interest on all bonds issued under the provisions
8124 of this section. The State Treasurer shall forward the necessary
8125 amount to the designated place or places of payment of such bonds
8126 in ample time to discharge such bonds, or the interest thereon, on
8127 the due dates thereof.

8128 (10) The bonds may be issued without any other proceedings
8129 or the happening of any other conditions or things other than
8130 those proceedings, conditions and things which are specified or
8131 required by this chapter. Any resolution providing for the



8132 issuance of general obligation bonds under the provisions of this
8133 section shall become effective immediately upon its adoption by
8134 the State Bond Commission, and any such resolution may be adopted
8135 at any regular or special meeting of the State Bond Commission by
8136 a majority of its members.

8137 (11) In anticipation of the issuance of bonds hereunder, the
8138 State Bond Commission is authorized to negotiate and enter into
8139 any purchase, loan, credit or other agreement with any bank, trust
8140 company or other lending institution or to issue and sell interim
8141 notes for the purpose of making any payments authorized under this
8142 section. All borrowings made under this provision shall be
8143 evidenced by notes of the state which shall be issued from time to
8144 time, for such amounts not exceeding the amount of bonds
8145 authorized herein, in such form and in such denomination and
8146 subject to such terms and conditions of sale and issuance,
8147 prepayment or redemption and maturity, rate or rates of interest
8148 not to exceed the maximum rate authorized herein for bonds, and
8149 time of payment of interest as the State Bond Commission shall
8150 agree to in such agreement. Such notes shall constitute general
8151 obligations of the state and shall be backed by the full faith and
8152 credit of the state. Such notes may also be issued for the
8153 purpose of refunding previously issued notes. No note shall
8154 mature more than three (3) years following the date of its
8155 issuance. The State Bond Commission is authorized to provide for
8156 the compensation of any purchaser of the notes by payment of a



8157 fixed fee or commission and for all other costs and expenses of
8158 issuance and service, including paying agent costs. Such costs
8159 and expenses may be paid from the proceeds of the notes.

8160 (12) The bonds and interim notes authorized under the
8161 authority of this section may be validated in the Chancery Court
8162 of the First Judicial District of Hinds County, Mississippi, in
8163 the manner and with the force and effect provided now or hereafter
8164 by Chapter 13, Title 31, Mississippi Code of 1972, for the
8165 validation of county, municipal, school district and other bonds.
8166 The necessary papers for such validation proceedings shall be
8167 transmitted to the State Bond Attorney, and the required notice
8168 shall be published in a newspaper published in the City of
8169 Jackson, Mississippi.

8170 (13) Any bonds or interim notes issued under the provisions
8171 of this chapter, a transaction relating to the sale or securing of
8172 such bonds or interim notes, their transfer and the income
8173 therefrom shall at all times be free from taxation by the state or
8174 any local unit or political subdivision or other instrumentality
8175 of the state, excepting inheritance and gift taxes.

8176 (14) All bonds issued under this chapter shall be legal
8177 investments for trustees, other fiduciaries, savings banks, trust
8178 companies and insurance companies organized under the laws of the
8179 State of Mississippi; and such bonds shall be legal securities
8180 which may be deposited with and shall be received by all public
8181 officers and bodies of the state and all municipalities and other



8182 political subdivisions thereof for the purpose of securing the
8183 deposit of public funds.

8184 (15) The Attorney General of the State of Mississippi shall
8185 represent the State Bond Commission in issuing, selling and
8186 validating bonds herein provided for, and the Bond Commission is
8187 hereby authorized and empowered to expend from the proceeds
8188 derived from the sale of the bonds authorized hereunder all
8189 necessary administrative, legal and other expenses incidental and
8190 related to the issuance of bonds authorized under this chapter.

8191 (16) There is hereby created a special fund in the State
8192 Treasury to be known as the Mississippi Major Economic Impact
8193 Authority Fund wherein shall be deposited the proceeds of the
8194 bonds issued under this chapter and all monies received by the
8195 authority to carry out the purposes of this chapter. Expenditures
8196 authorized herein shall be paid by the State Treasurer upon
8197 warrants drawn from the fund, and the Department of Finance and
8198 Administration shall issue warrants upon requisitions signed by
8199 the director of the authority.

8200 (17) (a) There is hereby created the Mississippi Economic
8201 Impact Authority Sinking Fund from which the principal of and
8202 interest on such bonds shall be paid by appropriation. All monies
8203 paid into the sinking fund not appropriated to pay accruing bonds
8204 and interest shall be invested by the State Treasurer in such
8205 securities as are provided by law for the investment of the
8206 sinking funds of the state.



8207 (b) In the event that all or any part of the bonds and
8208 notes are purchased, they shall be cancelled and returned to the
8209 loan and transfer agent as cancelled and paid bonds and notes and
8210 thereafter all payments of interest thereon shall cease and the
8211 cancelled bonds, notes and coupons, together with any other
8212 cancelled bonds, notes and coupons, shall be destroyed as promptly
8213 as possible after cancellation but not later than two (2) years
8214 after cancellation. A certificate evidencing the destruction of
8215 the cancelled bonds, notes and coupons shall be provided by the
8216 loan and transfer agent to the seller.

8217 (c) The State Treasurer shall determine and report to
8218 the Department of Finance and Administration and Legislative
8219 Budget Office by September 1 of each year the amount of money
8220 necessary for the payment of the principal of and interest on
8221 outstanding obligations for the following fiscal year and the
8222 times and amounts of the payments. It shall be the duty of the
8223 Governor to include in every executive budget submitted to the
8224 Legislature full information relating to the issuance of bonds and
8225 notes under the provisions of this chapter and the status of the
8226 sinking fund for the payment of the principal of and interest on
8227 the bonds and notes.

8228 (d) Any monies repaid to the state from loans
8229 authorized in Section 57-75-11(hh) shall be deposited into the
8230 Mississippi Major Economic Impact Authority Sinking Fund unless
8231 the State Bond Commission, at the request of the authority, shall



8232 determine that such loan repayments are needed to provide
8233 additional loans as authorized under Section 57-75-11(hh). For
8234 purposes of providing additional loans, there is hereby created
8235 the Mississippi Major Economic Impact Authority Revolving Loan
8236 Fund and loan repayments shall be deposited into the fund. The
8237 fund shall be maintained for such period as determined by the
8238 State Bond Commission for the sole purpose of making additional
8239 loans as authorized by Section 57-75-11(hh). Unexpended amounts
8240 remaining in the fund at the end of a fiscal year shall not lapse
8241 into the State General Fund and any interest earned on amounts in
8242 such fund shall be deposited to the credit of the fund.

8243 (e) Any monies repaid to the state from loans
8244 authorized in Section 57-75-11(ii) shall be deposited into the
8245 Mississippi Major Economic Impact Authority Sinking Fund.

8246 (f) Any monies repaid to the state from loans, grants
8247 and other funds authorized in Section 57-75-11(jj), (vv), (xx),
8248 (zz) and (aaa) shall be deposited into the Mississippi Major
8249 Economic Impact Authority Sinking Fund. However:

8250 (i) Monies paid to the state from a county in
8251 which a project as defined in Section 57-75-5(f)(xxxii) is located
8252 and which is paid pursuant to any agreement under Section
8253 57-75-37(6)(c)(iii) shall, after being received from the county
8254 and properly accounted for, be deposited into the State General
8255 Fund; and



8256 (ii) Monies paid to the state from a county and/or
8257 municipality in which a project as defined in Section
8258 57-75-5(f) (xxxiii) is located and which is paid pursuant to any
8259 agreement under Section 57-75-37(7) (c) (iii) shall, after being
8260 received from the county and/or municipality and properly
8261 accounted for, be deposited into the State General Fund.

8262 (18) (a) Upon receipt of a declaration by the authority
8263 that it has determined that the state is a potential site for a
8264 project, the State Bond Commission is authorized and directed to
8265 authorize the State Treasurer to borrow money from any special
8266 fund in the State Treasury not otherwise appropriated to be
8267 utilized by the authority for the purposes provided for in this
8268 subsection.

8269 (b) The proceeds of the money borrowed under this
8270 subsection may be utilized by the authority for the purpose of
8271 defraying all or a portion of the costs incurred by the authority
8272 with respect to acquisition options and planning, design and
8273 environmental impact studies with respect to a project defined in
8274 Section 57-75-5(f) (xi) or Section 57-75-5(f) (xxix). The authority
8275 may escalate its budget and expend the proceeds of the money
8276 borrowed under this subsection in accordance with rules and
8277 regulations of the Department of Finance and Administration in a
8278 manner consistent with the escalation of federal funds.

8279 (c) The authority shall request an appropriation or
8280 additional authority to issue general obligation bonds to repay



8281 the borrowed funds and establish a date for the repayment of the
8282 funds so borrowed.

8283 (d) Borrowings made under the provisions of this
8284 subsection shall not exceed Five Hundred Thousand Dollars
8285 (\$500,000.00) at any one time.

8286 **[From and after July 1, 2025, this section shall read as**
8287 **follows:]**

8288 57-75-15. (1) Upon notification to the authority by the
8289 enterprise that the state has been finally selected as the site
8290 for the project, the State Bond Commission shall have the power
8291 and is hereby authorized and directed, upon receipt of a
8292 declaration from the authority as hereinafter provided, to borrow
8293 money and issue general obligation bonds of the state in one or
8294 more series for the purposes herein set out. Upon such
8295 notification, the authority may thereafter, from time to time,
8296 declare the necessity for the issuance of general obligation bonds
8297 as authorized by this section and forward such declaration to the
8298 State Bond Commission, provided that before such notification, the
8299 authority may enter into agreements with the United States
8300 government, private companies and others that will commit the
8301 authority to direct the State Bond Commission to issue bonds for
8302 eligible undertakings set out in subsection (4) of this section,
8303 conditioned on the siting of the project in the state.

8304 (2) Upon receipt of any such declaration from the authority,
8305 the State Bond Commission shall verify that the state has been



8306 selected as the site of the project and shall act as the issuing
8307 agent for the series of bonds directed to be issued in such
8308 declaration pursuant to authority granted in this section.

8309 (3) (a) Bonds issued under the authority of this section
8310 for projects as defined in Section 57-75-5(f)(i) shall not exceed
8311 an aggregate principal amount in the sum of Sixty-seven Million
8312 Three Hundred Fifty Thousand Dollars (\$67,350,000.00).

8313 (b) Bonds issued under the authority of this section
8314 for projects as defined in Section 57-75-5(f)(ii) shall not exceed
8315 Eighty-two Million Dollars (\$82,000,000.00). The authority, with
8316 the express direction of the State Bond Commission, is authorized
8317 to expend any remaining proceeds of bonds issued under the
8318 authority of this act prior to January 1, 1998, for the purpose of
8319 financing projects as then defined in Section 57-75-5(f)(ii) or
8320 for any other projects as defined in Section 57-75-5(f)(ii), as it
8321 may be amended from time to time. No bonds shall be issued under
8322 this paragraph (b) until the State Bond Commission by resolution
8323 adopts a finding that the issuance of such bonds will improve,
8324 expand or otherwise enhance the military installation, its support
8325 areas or military operations, or will provide employment
8326 opportunities to replace those lost by closure or reductions in
8327 operations at the military installation or will support critical
8328 studies or investigations authorized by Section 57-75-5(f)(ii).

8329 (c) Bonds issued under the authority of this section
8330 for projects as defined in Section 57-75-5(f)(iii) shall not



8331 exceed Ten Million Dollars (\$10,000,000.00). No bonds shall be
8332 issued under this paragraph after December 31, 1996.

8333 (d) Bonds issued under the authority of this section
8334 for projects defined in Section 57-75-5(f)(iv) shall not exceed
8335 Three Hundred Fifty-one Million Dollars (\$351,000,000.00). An
8336 additional amount of bonds in an amount not to exceed Twelve
8337 Million Five Hundred Thousand Dollars (\$12,500,000.00) may be
8338 issued under the authority of this section for the purpose of
8339 defraying costs associated with the construction of surface water
8340 transmission lines for a project defined in Section 57-75-5(f)(iv)
8341 or for any facility related to the project. No bonds shall be
8342 issued under this paragraph after June 30, 2005.

8343 (e) Bonds issued under the authority of this section
8344 for projects defined in Section 57-75-5(f)(v) and for facilities
8345 related to such projects shall not exceed Thirty-eight Million
8346 Five Hundred Thousand Dollars (\$38,500,000.00). No bonds shall be
8347 issued under this paragraph after April 1, 2005.

8348 (f) Bonds issued under the authority of this section
8349 for projects defined in Section 57-75-5(f)(vii) shall not exceed
8350 Five Million Dollars (\$5,000,000.00). No bonds shall be issued
8351 under this paragraph after June 30, 2006.

8352 (g) Bonds issued under the authority of this section
8353 for projects defined in Section 57-75-5(f)(viii) shall not exceed
8354 Four Million Five Hundred Thousand Dollars (\$4,500,000.00). No
8355 bonds shall be issued under this paragraph after June 30, 2008.



8356 (h) Bonds issued under the authority of this section
8357 for projects defined in Section 57-75-5(f)(ix) shall not exceed
8358 Five Million Dollars (\$5,000,000.00). No bonds shall be issued
8359 under this paragraph after June 30, 2007.

8360 (i) Bonds issued under the authority of this section
8361 for projects defined in Section 57-75-5(f)(x) shall not exceed
8362 Five Million Dollars (\$5,000,000.00). No bonds shall be issued
8363 under this paragraph after April 1, 2005.

8364 (j) Bonds issued under the authority of this section
8365 for projects defined in Section 57-75-5(f)(xii) shall not exceed
8366 Thirty-three Million Dollars (\$33,000,000.00). The amount of
8367 bonds that may be issued under this paragraph for projects defined
8368 in Section 57-75-5(f)(xii) may be reduced by the amount of any
8369 federal or local funds made available for such projects. No bonds
8370 shall be issued under this paragraph until local governments in or
8371 near the county in which the project is located have irrevocably
8372 committed funds to the project in an amount of not less than Two
8373 Million Five Hundred Thousand Dollars (\$2,500,000.00) in the
8374 aggregate; however, this irrevocable commitment requirement may be
8375 waived by the authority upon a finding that due to the unforeseen
8376 circumstances created by Hurricane Katrina, the local governments
8377 are unable to comply with such commitment. No bonds shall be
8378 issued under this paragraph after June 30, 2008.

8379 (k) Bonds issued under the authority of this section
8380 for projects defined in Section 57-75-5(f)(xiii) shall not exceed



8381 Three Million Dollars (\$3,000,000.00). No bonds shall be issued
8382 under this paragraph after June 30, 2009.

8383 (l) Bonds issued under the authority of this section
8384 for projects defined in Section 57-75-5(f) (xiv) shall not exceed
8385 Twenty-four Million Dollars (\$24,000,000.00). No bonds shall be
8386 issued under this paragraph until local governments in the county
8387 in which the project is located have irrevocably committed funds
8388 to the project in an amount of not less than Two Million Dollars
8389 (\$2,000,000.00). No bonds shall be issued under this paragraph
8390 after June 30, 2009.

8391 (m) Bonds issued under the authority of this section
8392 for projects defined in Section 57-75-5(f) (xv) shall not exceed
8393 Five Hundred Thousand Dollars (\$500,000.00). No bonds shall be
8394 issued under this paragraph after June 30, 2009.

8395 (n) Bonds issued under the authority of this section
8396 for projects defined in Section 57-75-5(f) (xvi) shall not exceed
8397 Ten Million Dollars (\$10,000,000.00). No bonds shall be issued
8398 under this paragraph after June 30, 2011.

8399 (o) Bonds issued under the authority of this section
8400 for projects defined in Section 57-75-5(f) (xvii) shall not exceed
8401 Three Million Five Hundred Thousand Dollars (\$3,500,000.00). No
8402 bonds shall be issued under this paragraph after June 30, 2010.

8403 (p) Bonds issued under the authority of this section
8404 for projects defined in Section 57-75-5(f) (xviii) shall not exceed



8405 Ninety-six Million Dollars (\$96,000,000.00). No bonds shall be
8406 issued under this paragraph after June 30, 2016.

8407 (q) Bonds issued under the authority of this section
8408 for projects defined in Section 57-75-5(f) (xix) shall not exceed
8409 Fifteen Million Dollars (\$15,000,000.00). No bonds shall be
8410 issued under this paragraph after June 30, 2012.

8411 (r) Bonds issued under the authority of this section
8412 for projects defined in Section 57-75-5(f) (xx) shall not exceed
8413 Twenty-three Million Dollars (\$23,000,000.00). No bonds shall be
8414 issued under this paragraph after April 25, 2013.

8415 (s) Bonds issued under the authority of this section
8416 for projects defined in Section 57-75-5(f) (xxi) shall not exceed
8417 Two Hundred Ninety-three Million Nine Hundred Thousand Dollars
8418 (\$293,900,000.00). No bonds shall be issued under this paragraph
8419 after July 1, 2020.

8420 (t) Bonds issued under the authority of this section
8421 for Tier One suppliers shall not exceed Thirty Million Dollars
8422 (\$30,000,000.00). No bonds shall be issued under this paragraph
8423 after July 1, 2020.

8424 (u) Bonds issued under the authority of this section
8425 for projects defined in Section 57-75-5(f) (xxii) shall not exceed
8426 Forty-eight Million Four Hundred Thousand Dollars
8427 (\$48,400,000.00). No bonds shall be issued under this paragraph
8428 after July 1, 2020.



8429 (v) Bonds issued under the authority of this section
8430 for projects defined in Section 57-75-5(f) (xxiii) shall not exceed
8431 Eighty-eight Million Two Hundred Fifty Thousand Dollars
8432 (\$88,250,000.00). No bonds shall be issued under this paragraph
8433 after July 1, 2009.

8434 (w) Bonds issued under the authority of this section
8435 for projects defined in Section 57-75-5(f) (xxiv) shall not exceed
8436 Thirteen Million Dollars (\$13,000,000.00). No bonds shall be
8437 issued under this paragraph after July 1, 2020.

8438 (x) Bonds issued under the authority of this section
8439 for projects defined in Section 57-75-5(f) (xxv) shall not exceed
8440 Twenty-five Million Dollars (\$25,000,000.00). No bonds shall be
8441 issued under this paragraph after July 1, 2017.

8442 (y) [Deleted]

8443 (z) Bonds issued under the authority of this section
8444 for projects defined in Section 57-75-5(f) (xxvii) shall not exceed
8445 Fifty Million Dollars (\$50,000,000.00). No bonds shall be issued
8446 under this paragraph after April 25, 2013.

8447 (aa) Bonds issued under the authority of this section
8448 for projects defined in Section 57-75-5(f) (xxviii) shall not
8449 exceed Seventy Million Dollars (\$70,000,000.00). No bonds shall
8450 be issued under this paragraph after July 1, 2026.

8451 (bb) Bonds issued under the authority of this section
8452 for projects defined in Section 57-75-5(f) (xxix) shall not exceed



8453 Two Hundred Sixty-three Million Dollars (\$263,000,000.00). No
8454 bonds shall be issued under this paragraph after July 1, 2034.

8455 (cc) Bonds issued under the authority of this section
8456 for projects defined in Section 57-75-5(f)(xxx) shall not exceed
8457 Six Million Dollars (\$6,000,000.00). No bonds shall be issued
8458 under this paragraph after July 1, 2025.

8459 (dd) Bonds issued under the authority of this section
8460 for projects defined in Section 57-75-5(f)(xxxii) shall not exceed
8461 Two Hundred Forty-six Million Seven Hundred Ninety-eight Thousand
8462 Five Hundred Fifty Dollars (\$246,798,550.00); however, the total
8463 amount of bonds that may be issued under the authority of this
8464 section for projects defined in Section 57-75-5(f)(xxxii) shall be
8465 reduced by the amount of any other funds authorized by the
8466 Legislature during the 2022 First Extraordinary Session
8467 specifically for such projects. No bonds shall be issued under
8468 this paragraph after July 1, 2040.

8469 (ee) Bonds issued under the authority of this section
8470 for a project defined in Section 57-75-5(f)(xxxiii) shall not
8471 exceed Four Hundred Eighty-two Million Dollars (\$482,000,000.00);
8472 however, the total amount of bonds that may be issued under the
8473 authority of this section for a project defined in Section
8474 57-75-5(f)(xxxiii) shall be reduced by the amount of any other
8475 funds authorized by the Legislature specifically for such project.
8476 No bonds shall be issued under this paragraph after July 1, 2040.



8477 (ff) Bonds issued under the authority of this section
8478 for a project defined in Section 57-75-5(f) (xxxiii) shall not
8479 exceed Two Hundred Sixty Million Dollars (\$260,000,000.00);
8480 however, the total amount of bonds that may be issued under the
8481 authority of this section for a project defined in Section
8482 57-75-5(f) (xxxiii) shall be reduced by the amount of any other
8483 funds authorized by the Legislature specifically for such project.
8484 No bonds shall be issued under this paragraph after July 1, 2040.

8485 (4) (a) The proceeds from the sale of the bonds issued
8486 under this section may be applied for the following purposes:

8487 (i) Defraying all or any designated portion of the
8488 costs incurred with respect to acquisition, planning, design,
8489 construction, installation, rehabilitation, improvement,
8490 relocation and with respect to state-owned property, operation and
8491 maintenance of the project and any facility related to the project
8492 located within the project area, including costs of design and
8493 engineering, all costs incurred to provide land, easements and
8494 rights-of-way, relocation costs with respect to the project and
8495 with respect to any facility related to the project located within
8496 the project area, and costs associated with mitigation of
8497 environmental impacts and environmental impact studies;

8498 (ii) Defraying the cost of providing for the
8499 recruitment, screening, selection, training or retraining of
8500 employees, candidates for employment or replacement employees of
8501 the project and any related activity;



8502 (iii) Reimbursing the Mississippi Development
8503 Authority for expenses it incurred in regard to projects defined
8504 in Section 57-75-5(f) (iv) prior to November 6, 2000. The
8505 Mississippi Development Authority shall submit an itemized list of
8506 expenses it incurred in regard to such projects to the Chairmen of
8507 the Finance and Appropriations Committees of the Senate and the
8508 Chairmen of the Ways and Means and Appropriations Committees of
8509 the House of Representatives;

8510 (iv) Providing grants to enterprises operating
8511 projects defined in Section 57-75-5(f) (iv)1;

8512 (v) Paying any warranty made by the authority
8513 regarding site work for a project defined in Section
8514 57-75-5(f) (iv)1;

8515 (vi) Defraying the cost of marketing and promotion
8516 of a project as defined in Section 57-75-5(f) (iv)1, Section
8517 57-75-5(f) (xxi) or Section 57-75-5(f) (xxii). The authority shall
8518 submit an itemized list of costs incurred for marketing and
8519 promotion of such project to the Chairmen of the Finance and
8520 Appropriations Committees of the Senate and the Chairmen of the
8521 Ways and Means and Appropriations Committees of the House of
8522 Representatives;

8523 (vii) Providing for the payment of interest on the
8524 bonds;

8525 (viii) Providing debt service reserves;



8526 (ix) Paying underwriters' discount, original issue
8527 discount, accountants' fees, engineers' fees, attorneys' fees,
8528 rating agency fees and other fees and expenses in connection with
8529 the issuance of the bonds;

8530 (x) For purposes authorized in paragraphs (b) and
8531 (c) of this subsection (4);

8532 (xi) Providing grants to enterprises operating
8533 projects defined in Section 57-75-5(f)(v), or, in connection with
8534 a facility related to such a project, for any purposes deemed by
8535 the authority in its sole discretion to be necessary and
8536 appropriate;

8537 (xii) Providing grant funds or loans to a public
8538 agency or an enterprise owning, leasing or operating a project
8539 defined in Section 57-75-5(f)(ii);

8540 (xiii) Providing grant funds or loans to an
8541 enterprise owning, leasing or operating a project defined in
8542 Section 57-75-5(f)(xiv);

8543 (xiv) Providing grants, loans and payments to or
8544 for the benefit of an enterprise owning or operating a project
8545 defined in Section 57-75-5(f)(xviii);

8546 (xv) Purchasing equipment for a project defined in
8547 Section 57-75-5(f)(viii) subject to such terms and conditions as
8548 the authority considers necessary and appropriate;

8549 (xvi) Providing grant funds to an enterprise
8550 developing or owning a project defined in Section 57-75-5(f)(xx);



8551 (xvii) Providing grants and loans for projects as
8552 authorized in Section 57-75-11(kk), (ll), (mm), (uu), (vv) or, in
8553 connection with a facility related to such a project, for any
8554 purposes deemed by the authority in its sole discretion to be
8555 necessary and appropriate;

8556 (xviii) Providing grants for projects as
8557 authorized in Section 57-75-11(pp) for any purposes deemed by the
8558 authority in its sole discretion to be necessary and appropriate;

8559 (xix) Providing grants and loans for projects as
8560 authorized in Section 57-75-11(qq);

8561 (xx) Providing grants for projects as authorized
8562 in Section 57-75-11(rr);

8563 (xxi) Providing grants, loans and payments as
8564 authorized in Section 57-75-11(ss);

8565 (xxii) Providing loans as authorized in Section
8566 57-75-11(tt);

8567 (xxiii) Providing grants as authorized in Section
8568 57-75-11(wv) for any purposes deemed by the authority in its sole
8569 discretion to be necessary and appropriate; and

8570 (xxiv) Providing loans, grants and other funds as
8571 authorized in Section 57-75-11(xx), (yy), (zz) and (aaa) for any
8572 purposes deemed by the authority in its sole discretion to be
8573 necessary and appropriate.

8574 Such bonds shall be issued, from time to time, and in such
8575 principal amounts as shall be designated by the authority, not to



8576 exceed in aggregate principal amounts the amount authorized in
8577 subsection (3) of this section. Proceeds from the sale of the
8578 bonds issued under this section may be invested, subject to
8579 federal limitations, pending their use, in such securities as may
8580 be specified in the resolution authorizing the issuance of the
8581 bonds or the trust indenture securing them, and the earning on
8582 such investment applied as provided in such resolution or trust
8583 indenture.

8584 (b) (i) The proceeds of bonds issued after June 21,
8585 2002, under this section for projects described in Section
8586 57-75-5(f) (iv) may be used to reimburse reasonable actual and
8587 necessary costs incurred by the Mississippi Development Authority
8588 in providing assistance related to a project for which funding is
8589 provided from the use of proceeds of such bonds. The Mississippi
8590 Development Authority shall maintain an accounting of actual costs
8591 incurred for each project for which reimbursements are sought.
8592 Reimbursements under this paragraph (b) (i) shall not exceed Three
8593 Hundred Thousand Dollars (\$300,000.00) in the aggregate.
8594 Reimbursements under this paragraph (b) (i) shall satisfy any
8595 applicable federal tax law requirements.

8596 (ii) The proceeds of bonds issued after June 21,
8597 2002, under this section for projects described in Section
8598 57-75-5(f) (iv) may be used to reimburse reasonable actual and
8599 necessary costs incurred by the Department of Audit in providing
8600 services related to a project for which funding is provided from



8601 the use of proceeds of such bonds. The Department of Audit shall
8602 maintain an accounting of actual costs incurred for each project
8603 for which reimbursements are sought. The Department of Audit may
8604 escalate its budget and expend such funds in accordance with rules
8605 and regulations of the Department of Finance and Administration in
8606 a manner consistent with the escalation of federal funds.
8607 Reimbursements under this paragraph (b) (ii) shall not exceed One
8608 Hundred Thousand Dollars (\$100,000.00) in the aggregate.
8609 Reimbursements under this paragraph (b) (ii) shall satisfy any
8610 applicable federal tax law requirements.

8611 (c) (i) Except as otherwise provided in this
8612 subsection, the proceeds of bonds issued under this section for a
8613 project described in Section 57-75-5(f) may be used to reimburse
8614 reasonable actual and necessary costs incurred by the Mississippi
8615 Development Authority in providing assistance related to the
8616 project for which funding is provided for the use of proceeds of
8617 such bonds. The Mississippi Development Authority shall maintain
8618 an accounting of actual costs incurred for each project for which
8619 reimbursements are sought. Reimbursements under this paragraph
8620 shall not exceed Twenty-five Thousand Dollars (\$25,000.00) for
8621 each project.

8622 (ii) Except as otherwise provided in this
8623 subsection, the proceeds of bonds issued under this section for a
8624 project described in Section 57-75-5(f) may be used to reimburse
8625 reasonable actual and necessary costs incurred by the Department



8626 of Audit in providing services related to the project for which
8627 funding is provided from the use of proceeds of such bonds. The
8628 Department of Audit shall maintain an accounting of actual costs
8629 incurred for each project for which reimbursements are sought.
8630 The Department of Audit may escalate its budget and expend such
8631 funds in accordance with rules and regulations of the Department
8632 of Finance and Administration in a manner consistent with the
8633 escalation of federal funds. Reimbursements under this paragraph
8634 shall not exceed Twenty-five Thousand Dollars (\$25,000.00) for
8635 each project. Reimbursements under this paragraph shall satisfy
8636 any applicable federal tax law requirements.

8637 (5) The principal of and the interest on the bonds shall be
8638 payable in the manner hereinafter set forth. The bonds shall bear
8639 date or dates; be in such denomination or denominations; bear
8640 interest at such rate or rates; be payable at such place or places
8641 within or without the state; mature absolutely at such time or
8642 times; be redeemable before maturity at such time or times and
8643 upon such terms, with or without premium; bear such registration
8644 privileges; and be substantially in such form; all as shall be
8645 determined by resolution of the State Bond Commission except that
8646 such bonds shall mature or otherwise be retired in annual
8647 installments beginning not more than five (5) years from the date
8648 thereof and extending not more than twenty-five (25) years from
8649 the date thereof. The bonds shall be signed by the Chairman of
8650 the State Bond Commission, or by his facsimile signature, and the



8651 official seal of the State Bond Commission shall be imprinted on
8652 or affixed thereto, attested by the manual or facsimile signature
8653 of the Secretary of the State Bond Commission. Whenever any such
8654 bonds have been signed by the officials herein designated to sign
8655 the bonds, who were in office at the time of such signing but who
8656 may have ceased to be such officers before the sale and delivery
8657 of such bonds, or who may not have been in office on the date such
8658 bonds may bear, the signatures of such officers upon such bonds
8659 shall nevertheless be valid and sufficient for all purposes and
8660 have the same effect as if the person so officially signing such
8661 bonds had remained in office until the delivery of the same to the
8662 purchaser, or had been in office on the date such bonds may bear.

8663 (6) All bonds issued under the provisions of this section
8664 shall be and are hereby declared to have all the qualities and
8665 incidents of negotiable instruments under the provisions of the
8666 Uniform Commercial Code and in exercising the powers granted by
8667 this chapter, the State Bond Commission shall not be required to
8668 and need not comply with the provisions of the Uniform Commercial
8669 Code.

8670 (7) The State Bond Commission shall act as issuing agent for
8671 the bonds, prescribe the form of the bonds, advertise for and
8672 accept bids, issue and sell the bonds on sealed bids at public
8673 sale, pay all fees and costs incurred in such issuance and sale,
8674 and do any and all other things necessary and advisable in
8675 connection with the issuance and sale of the bonds. The State



8676 Bond Commission may sell such bonds on sealed bids at public sale
8677 for such price as it may determine to be for the best interest of
8678 the State of Mississippi, but no such sale shall be made at a
8679 price less than par plus accrued interest to date of delivery of
8680 the bonds to the purchaser. The bonds shall bear interest at such
8681 rate or rates not exceeding the limits set forth in Section
8682 75-17-101 as shall be fixed by the State Bond Commission. All
8683 interest accruing on such bonds so issued shall be payable
8684 semiannually or annually; provided that the first interest payment
8685 may be for any period of not more than one (1) year.

8686 Notice of the sale of any bonds shall be published at least
8687 one time, the first of which shall be made not less than ten (10)
8688 days prior to the date of sale, and shall be so published in one
8689 or more newspapers having a general circulation in the City of
8690 Jackson, Mississippi, selected by the State Bond Commission.

8691 The State Bond Commission, when issuing any bonds under the
8692 authority of this section, may provide that the bonds, at the
8693 option of the state, may be called in for payment and redemption
8694 at the call price named therein and accrued interest on such date
8695 or dates named therein.

8696 (8) State bonds issued under the provisions of this section
8697 shall be the general obligations of the state and backed by the
8698 full faith and credit of the state. The Legislature shall
8699 appropriate annually an amount sufficient to pay the principal of
8700 and the interest on such bonds as they become due. All bonds



8701 shall contain recitals on their faces substantially covering the
8702 foregoing provisions of this section.

8703 (9) The State Treasurer is authorized to certify to the
8704 Department of Finance and Administration the necessity for
8705 warrants, and the Department of Finance and Administration is
8706 authorized and directed to issue such warrants payable out of any
8707 funds appropriated by the Legislature under this section for such
8708 purpose, in such amounts as may be necessary to pay when due the
8709 principal of and interest on all bonds issued under the provisions
8710 of this section. The State Treasurer shall forward the necessary
8711 amount to the designated place or places of payment of such bonds
8712 in ample time to discharge such bonds, or the interest thereon, on
8713 the due dates thereof.

8714 (10) The bonds may be issued without any other proceedings
8715 or the happening of any other conditions or things other than
8716 those proceedings, conditions and things which are specified or
8717 required by this chapter. Any resolution providing for the
8718 issuance of general obligation bonds under the provisions of this
8719 section shall become effective immediately upon its adoption by
8720 the State Bond Commission, and any such resolution may be adopted
8721 at any regular or special meeting of the State Bond Commission by
8722 a majority of its members.

8723 (11) In anticipation of the issuance of bonds hereunder, the
8724 State Bond Commission is authorized to negotiate and enter into
8725 any purchase, loan, credit or other agreement with any bank, trust



8726 company or other lending institution or to issue and sell interim
8727 notes for the purpose of making any payments authorized under this
8728 section. All borrowings made under this provision shall be
8729 evidenced by notes of the state which shall be issued from time to
8730 time, for such amounts not exceeding the amount of bonds
8731 authorized herein, in such form and in such denomination and
8732 subject to such terms and conditions of sale and issuance,
8733 prepayment or redemption and maturity, rate or rates of interest
8734 not to exceed the maximum rate authorized herein for bonds, and
8735 time of payment of interest as the State Bond Commission shall
8736 agree to in such agreement. Such notes shall constitute general
8737 obligations of the state and shall be backed by the full faith and
8738 credit of the state. Such notes may also be issued for the
8739 purpose of refunding previously issued notes. No note shall
8740 mature more than three (3) years following the date of its
8741 issuance. The State Bond Commission is authorized to provide for
8742 the compensation of any purchaser of the notes by payment of a
8743 fixed fee or commission and for all other costs and expenses of
8744 issuance and service, including paying agent costs. Such costs
8745 and expenses may be paid from the proceeds of the notes.

8746 (12) The bonds and interim notes authorized under the
8747 authority of this section may be validated in the Chancery Court
8748 of the First Judicial District of Hinds County, Mississippi, in
8749 the manner and with the force and effect provided now or hereafter
8750 by Chapter 13, Title 31, Mississippi Code of 1972, for the



8751 validation of county, municipal, school district and other bonds.
8752 The necessary papers for such validation proceedings shall be
8753 transmitted to the State Bond Attorney, and the required notice
8754 shall be published in a newspaper published in the City of
8755 Jackson, Mississippi.

8756 (13) Any bonds or interim notes issued under the provisions
8757 of this chapter, a transaction relating to the sale or securing of
8758 such bonds or interim notes, their transfer and the income
8759 therefrom shall at all times be free from taxation by the state or
8760 any local unit or political subdivision or other instrumentality
8761 of the state, excepting inheritance and gift taxes.

8762 (14) All bonds issued under this chapter shall be legal
8763 investments for trustees, other fiduciaries, savings banks, trust
8764 companies and insurance companies organized under the laws of the
8765 State of Mississippi; and such bonds shall be legal securities
8766 which may be deposited with and shall be received by all public
8767 officers and bodies of the state and all municipalities and other
8768 political subdivisions thereof for the purpose of securing the
8769 deposit of public funds.

8770 (15) The Attorney General of the State of Mississippi shall
8771 represent the State Bond Commission in issuing, selling and
8772 validating bonds herein provided for, and the Bond Commission is
8773 hereby authorized and empowered to expend from the proceeds
8774 derived from the sale of the bonds authorized hereunder all



8775 necessary administrative, legal and other expenses incidental and
8776 related to the issuance of bonds authorized under this chapter.

8777 (16) There is hereby created a special fund in the State
8778 Treasury to be known as the Mississippi Major Economic Impact
8779 Authority Fund wherein shall be deposited the proceeds of the
8780 bonds issued under this chapter and all monies received by the
8781 authority to carry out the purposes of this chapter. Expenditures
8782 authorized herein shall be paid by the State Treasurer upon
8783 warrants drawn from the fund, and the Department of Finance and
8784 Administration shall issue warrants upon requisitions signed by
8785 the director of the authority.

8786 (17) (a) There is hereby created the Mississippi Economic
8787 Impact Authority Sinking Fund from which the principal of and
8788 interest on such bonds shall be paid by appropriation. All monies
8789 paid into the sinking fund not appropriated to pay accruing bonds
8790 and interest shall be invested by the State Treasurer in such
8791 securities as are provided by law for the investment of the
8792 sinking funds of the state.

8793 (b) In the event that all or any part of the bonds and
8794 notes are purchased, they shall be cancelled and returned to the
8795 loan and transfer agent as cancelled and paid bonds and notes and
8796 thereafter all payments of interest thereon shall cease and the
8797 cancelled bonds, notes and coupons, together with any other
8798 cancelled bonds, notes and coupons, shall be destroyed as promptly
8799 as possible after cancellation but not later than two (2) years



8800 after cancellation. A certificate evidencing the destruction of
8801 the cancelled bonds, notes and coupons shall be provided by the
8802 loan and transfer agent to the seller.

8803 (c) The State Treasurer shall determine and report to
8804 the Department of Finance and Administration and Legislative
8805 Budget Office by September 1 of each year the amount of money
8806 necessary for the payment of the principal of and interest on
8807 outstanding obligations for the following fiscal year and the
8808 times and amounts of the payments. It shall be the duty of the
8809 Governor to include in every executive budget submitted to the
8810 Legislature full information relating to the issuance of bonds and
8811 notes under the provisions of this chapter and the status of the
8812 sinking fund for the payment of the principal of and interest on
8813 the bonds and notes.

8814 (d) Any monies repaid to the state from loans
8815 authorized in Section 57-75-11(hh) shall be deposited into the
8816 Mississippi Major Economic Impact Authority Sinking Fund unless
8817 the State Bond Commission, at the request of the authority, shall
8818 determine that such loan repayments are needed to provide
8819 additional loans as authorized under Section 57-75-11(hh). For
8820 purposes of providing additional loans, there is hereby created
8821 the Mississippi Major Economic Impact Authority Revolving Loan
8822 Fund and loan repayments shall be deposited into the fund. The
8823 fund shall be maintained for such period as determined by the
8824 State Bond Commission for the sole purpose of making additional



8825 loans as authorized by Section 57-75-11(hh). Unexpended amounts
8826 remaining in the fund at the end of a fiscal year shall not lapse
8827 into the State General Fund and any interest earned on amounts in
8828 such fund shall be deposited to the credit of the fund.

8829 (e) Any monies repaid to the state from loans
8830 authorized in Section 57-75-11(ii) shall be deposited into the
8831 Mississippi Major Economic Impact Authority Sinking Fund.

8832 (f) Any monies repaid to the state from loans, grants
8833 and other funds authorized in Section 57-75-11(jj), (vv), (xx),
8834 (zz) and (aaa) shall be deposited into the Mississippi Major
8835 Economic Impact Authority Sinking Fund. However:

8836 (i) Monies paid to the state from a county in
8837 which a project as defined in Section 57-75-5(f)(xxxii) is located
8838 and which is paid pursuant to any agreement under Section
8839 57-75-37(6)(c)(iii) shall, after being received from the county
8840 and properly accounted for, be deposited into the State General
8841 Fund; and

8842 (ii) Monies paid to the state from a county and/or
8843 municipality in which a project as defined in Section
8844 57-75-5(f)(xxxiii) is located and which is paid pursuant to any
8845 agreement under Section 57-75-37(7)(c)(iii) shall, after being
8846 received from the county and/or municipality and properly
8847 accounted for, be deposited into the State General Fund.

8848 (18) (a) Upon receipt of a declaration by the authority
8849 that it has determined that the state is a potential site for a



8850 project, the State Bond Commission is authorized and directed to
8851 authorize the State Treasurer to borrow money from any special
8852 fund in the State Treasury not otherwise appropriated to be
8853 utilized by the authority for the purposes provided for in this
8854 subsection.

8855 (b) The proceeds of the money borrowed under this
8856 subsection may be utilized by the authority for the purpose of
8857 defraying all or a portion of the costs incurred by the authority
8858 with respect to acquisition options and planning, design and
8859 environmental impact studies with respect to a project defined in
8860 Section 57-75-5(f)(xi) or Section 57-75-5(f)(xxix). The authority
8861 may escalate its budget and expend the proceeds of the money
8862 borrowed under this subsection in accordance with rules and
8863 regulations of the Department of Finance and Administration in a
8864 manner consistent with the escalation of federal funds.

8865 (c) The authority shall request an appropriation or
8866 additional authority to issue general obligation bonds to repay
8867 the borrowed funds and establish a date for the repayment of the
8868 funds so borrowed.

8869 (d) Borrowings made under the provisions of this
8870 subsection shall not exceed Five Hundred Thousand Dollars
8871 (\$500,000.00) at any one time.

8872 **SECTION 143.** Section 57-75-17, Mississippi Code of 1972, is
8873 brought forward as follows:



8874 57-75-17. (1) For the purpose of aiding in the planning,
8875 design, undertaking and carrying out of the project or any
8876 facility related to the project, any public agency is authorized
8877 and empowered upon such terms, with or without consideration, as
8878 it may determine:

8879 (a) To enter into agreements, which may extend over any
8880 period, with the authority respecting action to be taken by such
8881 public agency with respect to the acquisition, planning,
8882 construction, improvement, operation, maintenance or funding of
8883 the project or any such facility, and which agreements may
8884 include:

8885 (i) The appropriation or payment of funds to the
8886 authority or to a trustee in amounts which shall be sufficient to
8887 enable the authority to defray any designated portion or
8888 percentage of the expenses of administering, planning, designing,
8889 constructing, acquiring, improving, operating, and maintaining the
8890 project or any facility related to the project,

8891 (ii) The appropriation or payment of funds to the
8892 authority or to a trustee to pay interest and principal (whether
8893 at maturity or upon sinking fund redemption) on bonds of the
8894 authority issued pursuant to this act and to fund reserves for
8895 debt service, for operation and maintenance and for renewals and
8896 replacements, and to fulfill requirements of any covenant with
8897 respect to debt service contained in any resolution, trust



8898 indenture or other security agreement relating to the bonds of the
8899 authority issued pursuant to this act,

8900 (iii) The furnishing of other assistance in
8901 connection with the project or facility related to the project,
8902 and

8903 (iv) The borrowing of money from the authority in
8904 connection with a project defined in Section 57-75-5(f)(ii);

8905 (b) To dedicate, sell, donate, convey or lease any
8906 property or interest in property to the authority or grant
8907 easements, licenses or other rights or privileges therein to the
8908 authority;

8909 (c) To incur the expense of any public improvements
8910 made or to be made by such public agency in exercising the powers
8911 granted in this section;

8912 (d) To lend, grant or contribute funds to the
8913 authority;

8914 (e) To cause public buildings and public facilities,
8915 including parks, playgrounds, recreational areas, community
8916 meeting facilities, water, sewer or drainage facilities, or any
8917 other works which it is otherwise empowered to undertake, to be
8918 furnished to or with respect to the project or any such facility;

8919 (f) To furnish, dedicate, close, vacate, pave, install,
8920 upgrade or improve highways, streets, roads, sidewalks, airports,
8921 railroads, or ports;



8922 (g) To plan or replan, zone or rezone any parcel of
8923 land within the public agency or make exceptions from land use,
8924 building and zoning regulations;

8925 (h) To cause administrative and other services to be
8926 furnished to the authority, including services pertaining to the
8927 acquisition of real property and the furnishing of relocation
8928 assistance; and

8929 (i) To loan to the owner, lessee or operator of any
8930 project defined in Section 57-75-5(f)(ii) the proceeds of any loan
8931 from the authority to the public entity under the provisions of
8932 this act.

8933 (2) Any contract between a public agency entered into with
8934 the authority pursuant to any of the powers granted by this act
8935 shall be binding upon said public agency according to its terms,
8936 and such public agency shall have the power to enter into such
8937 contracts as in the discretion of the governing authorities
8938 thereof would be to the best interest of the people of such public
8939 agency. Such contracts may include within the discretion of such
8940 governing authorities of public agencies defined under Section
8941 57-75-5(h)(ii) a pledge of the full faith and credit of such
8942 public agency or any other lawfully available funds for the
8943 performance thereof. If at any time title to or possession of the
8944 project or any such facility is held by any public body or
8945 governmental agency other than the authority, including any agency
8946 or instrumentality of the United States of America, the agreements



8947 referred to in this section shall inure to the benefit of and may
8948 be enforced by such public body or governmental agency.

8949 (3) Notwithstanding any provisions of this act to the
8950 contrary, any contract entered into between the authority and any
8951 public agency for the appropriation or payment of funds to the
8952 authority under item (a)(ii) or (a)(iv) of this section shall
8953 contain a provision therein requiring periodic payments by the
8954 public agency as required by the authority to pay its indebtedness
8955 and, if the public agency is not a county or municipality, such
8956 contract shall include as an additional party to the contract the
8957 county or municipality (referred to in this paragraph as "levying
8958 authority") that levies and collects taxes for the contracting
8959 public agency. If the public agency fails to pay its indebtedness
8960 for any month, the authority shall certify to the Department of
8961 Revenue, or other appropriate agency, the amount of the
8962 delinquency, and the Department of Revenue shall deduct such
8963 amount from the public agency's or levying authority's, as the
8964 case may be, next allocation of sales taxes, petroleum taxes,
8965 highway privilege taxes, severance taxes, Tennessee Valley
8966 Authority payments in lieu of taxes and homestead exemption
8967 reimbursements in that order of priority. The Department of
8968 Revenue, or other appropriate agency, shall pay the sums so
8969 deducted to the authority to be applied to the discharge of the
8970 contractual obligation.



8971 (4) Notwithstanding any provision of this act to the
8972 contrary, all loans made pursuant to Section 57-75-11(hh) and this
8973 section shall be for a term not to exceed twenty (20) years as may
8974 be determined by the authority, shall bear interest at such rates
8975 as may be determined by the authority, shall, in the sole
8976 discretion of the authority, be secured in an amount and a manner
8977 as may be determined by the authority.

8978 (5) (a) Before authorizing any loan to a public agency
8979 defined in Section 57-75-5(h) (ii), a local governmental unit, the
8980 governing authority of such local governmental unit in connection
8981 with a project defined in Section 57-75-5(f) (ii), shall adopt a
8982 resolution declaring its intention so to do, stating the amount of
8983 the loan proposed to be authorized and the purpose for which the
8984 loan is to be authorized, and the date upon which the loan will be
8985 authorized. Such resolution shall be published once a week for at
8986 least three (3) consecutive weeks in at least one (1) newspaper
8987 published in such local governmental unit. The first publication
8988 of such resolution shall be made not less than twenty-one (21)
8989 days before the date fixed in such resolution for the
8990 authorization of the loan and the last publication shall be made
8991 not more than seven (7) days before such date. If no newspaper is
8992 published in such local governmental unit, then such notice shall
8993 be given by publishing the resolution for the required time in
8994 some newspaper having a general circulation in such local
8995 governmental unit and, in addition, by posting a copy of such



8996 resolution for at least twenty-one (21) days next preceding the
8997 date fixed therein at three (3) public places in such local
8998 governmental unit. If fifteen percent (15%) of the qualified
8999 electors of the local governmental unit or fifteen hundred (1500),
9000 whichever is the lesser, file a written protest against the
9001 authorization of such loan on or before the date specified in such
9002 resolution, then an election on the question of the authorization
9003 of such loan shall be called and held as otherwise provided for in
9004 connection with the issuance of general obligation indebtedness of
9005 such local governmental unit. Notice of such election shall be
9006 given as otherwise required in connection with the issuance of
9007 general obligation indebtedness of such local governmental unit.
9008 If three-fifths (3/5) of the qualified electors voting in the
9009 election vote in favor of authorizing the loan, then the governing
9010 authority of the local governmental unit shall proceed with the
9011 loan; however, if less than three-fifths (3/5) of the qualified
9012 electors voting in the election vote in favor of authorizing the
9013 loan, then the loan shall not be incurred. If no protest be
9014 filed, then such loan may be entered into by the local
9015 governmental unit without an election on the question of the
9016 authorization of such loan, at any time within a period of two (2)
9017 years after the date specified in the resolution. However, the
9018 governing authority of any local governmental unit, in its
9019 discretion, may nevertheless call an election on such question, in
9020 which event it shall not be necessary to publish the resolution



9021 declaring its intention to authorize such loan as provided in this
9022 subsection.

9023 (b) Local governmental units may, in connection with
9024 any such loan, enter into any covenants and agreements with
9025 respect to such local governmental unit's operations, revenues,
9026 assets, monies, funds or property, or such loan, as may be
9027 prescribed by the authority.

9028 (c) Upon the making of any such loan by the authority
9029 to any local governmental unit, such local governmental unit shall
9030 be held and be deemed to have agreed that if such governmental
9031 unit fails to pay the principal of, premium, if any, and interest
9032 on any such loan as when due and payable, such governmental unit
9033 shall have waived any and all defenses to such nonpayment, and the
9034 authority, upon such nonpayment, shall thereupon avail itself of
9035 all remedies, rights and provisions of law applicable in such
9036 circumstance, including without limitation any remedies or rights
9037 theretofore agreed to by the local governmental unit, and that
9038 such loan shall for all of the purposes of this section, be held
9039 and be deemed to have become due and payable and to be unpaid.
9040 The authority may carry out the provisions of this section and
9041 exercise all of the rights and other applicable laws of this
9042 state.

9043 (d) This section shall be deemed to provide an
9044 additional, alternative and complete method for the doing of the
9045 things authorized by this section and shall be deemed and



9046 construed to be supplemental to any power conferred by other laws
9047 on public agencies and not in derogation of any such powers. Any
9048 obligation incurred pursuant to the provisions of this section
9049 shall not constitute an indebtedness of the public agency within
9050 the meaning of any constitutional or statutory limitation or
9051 restriction. For purposes of this act, a public agency shall not
9052 be required to comply with the provisions of any other law except
9053 as provided in this section.

9054 (6) Any public agency providing any utility service or
9055 services, to any project defined in Section 57-75-5(f)(iv)1 may
9056 enter into leases or subleases for any period of time not to
9057 exceed thirty (30) years, in the capacity as lessor or lessee or
9058 sublessor or sublessee of lands alone, or lands and facilities
9059 located thereon, whether the facilities are owned by the owner of
9060 the land, a lessee, sublessee or a third party, and whether the
9061 public agency is a lessor, lessee or owner of the land. Any such
9062 public agency may also enter into operating agreements and/or
9063 lease-purchase agreements with respect to land or utility
9064 facilities as owner, operator, lessor or lessee for any period of
9065 time not to exceed thirty (30) years. Any such public agency may
9066 also enter into contracts for the provision of utilities for any
9067 period of time not to exceed thirty (30) years and may set a
9068 special rate structure for such utilities.

9069 (7) (a) No well shall be permitted by any public agency
9070 responsible for the conservation of oil and gas in the State of



9071 Mississippi to be drilled on or under a tract of land which is a
9072 part of a project owned or operated by an enterprise as defined in
9073 Section 57-75-5(f)(xxix), Section 57-75-5(f)(xxxii), Section
9074 57-75-5(f)(xxxiii) or Section 57-75-5(f)(xxxiiii) and which
9075 enterprise is a nonconsenting owner as defined in Section
9076 53-3-7(1), which owns both the surface estate of said tract of
9077 land and also owns one hundred percent (100%) of the drilling
9078 rights in said tract of land.

9079 (b) No mining activities on or under land which is part
9080 of a project as defined in Section 57-75-5(f)(xxix), Section
9081 57-75-5(f)(xxxii), Section 57-75-5(f)(xxxiii) or Section
9082 57-75-5(f)(xxxiiii) shall be permitted by any public agency
9083 responsible for mining in the state without the consent of the
9084 enterprise owning or operating such project.

9085 **SECTION 144.** Section 57-75-19, Mississippi Code of 1972, is
9086 brought forward as follows:

9087 57-75-19. The authority shall not undertake to develop any
9088 project or facility related to the project within a county,
9089 municipality and/or school district without the concurrence of the
9090 affected county, municipality and/or school district.

9091 **SECTION 145.** Section 57-75-21, Mississippi Code of 1972, is
9092 brought forward as follows:

9093 57-75-21. (1) (a) The authority shall set a goal to expend
9094 not less than ten percent (10%) of the total amounts expended by
9095 the authority on planning, construction, training, research,



9096 development, testing, evaluation, personal services, procurement,
9097 and for the operation and maintenance of any facilities or
9098 activities controlled by such authority, with minority small
9099 business concerns owned and controlled by socially and
9100 economically disadvantaged individuals. For the purpose of
9101 determining the total amounts expended with such minority small
9102 business concerns, credit shall be given for that portion of any
9103 prime contract entered into with the authority which inures to the
9104 benefit of such minority small business concern as a subcontractor
9105 thereunder.

9106 (b) For the purposes of this section, the term
9107 "socially and economically disadvantaged individuals" shall have
9108 the meaning ascribed to such term under Section 8(d) of the Small
9109 Business Act (15 USCS, Section 637(d)) and relevant subcontracting
9110 regulations promulgated pursuant thereto.

9111 (c) For the purposes of this section, the term
9112 "minority small business concern" means any small business
9113 concern:

9114 (i) Which is at least fifty-one percent (51%)
9115 owned by one or more socially and economically disadvantaged
9116 individuals; or, in the case of any publicly owned businesses, at
9117 least fifty-one percent (51%) of the stock of which is owned by
9118 one or more socially and economically disadvantaged individuals;
9119 and



9120 (ii) Whose management and daily business
9121 operations are controlled by one or more of such individuals.

9122 (d) For the purpose of this section, the term "small
9123 business concern" shall mean "small business" as the latter term
9124 is defined in Section 57-10-155, Mississippi Code of 1972.

9125 (2) In order to comply in a timely manner with its minority
9126 small business participation mandate, the authority shall set an
9127 annual goal to expend not less than ten percent (10%) of its
9128 aggregate yearly expenditures with minority small business
9129 concerns.

9130 (3) The authority shall:

9131 (a) Monitor the minority small business concerns
9132 assistance programs prescribed in this section.

9133 (b) Review and determine the business capabilities of
9134 minority small business concerns.

9135 (c) Establish standards for a certification procedure
9136 for minority small business concerns seeking to do business with
9137 the authority.

9138 (d) Provide technical assistance services to minority
9139 small business concerns. Such technical assistance shall include
9140 but not be limited to:

9141 (i) Research;

9142 (ii) Assistance in obtaining bonds;

9143 (iii) Bid preparation;

9144 (iv) Certification of business concerns;



9145 (v) Marketing assistance; and
9146 (vi) Joint venture and capital development.
9147 (e) Develop alternative bidding and contracting
9148 procedures for minority small business concerns in conjunction
9149 with the State Fiscal Management Board and the Governor's Office
9150 of General Services.

9151 (f) Utilize such alternative bidding and contracting
9152 procedures in lieu of those prescribed in Title 31, Chapters 5 and
9153 7, Mississippi Code of 1972, when contracting with minority small
9154 business concerns that have qualified to bid for contracts and
9155 have satisfied any other disclosure provisions required by the
9156 authority.

9157 (g) Be authorized to accept in lieu of any bond
9158 otherwise required from minority small business concerns or small
9159 business concerns contracting with the authority, in an amount
9160 equal to one hundred percent (100%) of the total cost of the
9161 contracted project, any combination of the following:

9162 (i) Cash;

9163 (ii) Certificates of deposit from any bank or
9164 banking corporation insured by the Federal Deposit Insurance
9165 Corporation or the Federal Savings and Loan Insurance Corporation;

9166 (iii) Federal treasury bills;

9167 (iv) Letters of credit issued by a bank as that
9168 term is defined in Section 81-3-1, Mississippi Code of 1972; or



9169 (v) Surety bonds issued by an insurance company
9170 licensed and qualified to do business in the State of Mississippi.

9171 (h) Be authorized, in its discretion, to waive any bond
9172 required on any project which does not exceed a total dollar value
9173 of One Hundred Thousand Dollars (\$100,000.00). A retainage shall
9174 be held by the authority in an amount not to exceed fifteen
9175 percent (15%) from each draw according to American Institute of
9176 Architects (AIA) standards. Upon satisfactory completion of such
9177 project, ten percent (10%) of the total cost of the contract shall
9178 be held in an interest-bearing escrow account for one (1) year.
9179 Funds deposited in such escrow account shall stand as a surety for
9180 any defects in workmanship or materials detected within twelve
9181 (12) months of completion. The balance of all monies so escrowed
9182 including accrued interest shall be paid to the contractor at the
9183 end of such twelve-month period.

9184 (i) Be empowered to provide an incentive of bimonthly
9185 payments to any prime contractors utilizing minority small
9186 business concerns as subcontractors on twenty-five percent (25%)
9187 or more of the total dollar value of any single project or
9188 contract.

9189 (j) Submit an annual report on its progress concerning
9190 minority small business contracts to the Legislature by January 30
9191 of each year.

9192 (k) Take all steps necessary to implement the
9193 provisions of this section.



9194 **SECTION 146.** Section 57-75-22, Mississippi Code of 1972, is
9195 brought forward as follows:

9196 57-75-22. Any highways or highway segments constructed or
9197 improved by the Mississippi Department of Transportation under the
9198 provisions of this chapter for a project as defined in Section
9199 57-75-5(f) (iv) shall become a state highway and shall be placed
9200 under the jurisdiction of the Mississippi Transportation
9201 Commission for construction and maintenance.

9202 **SECTION 147.** Section 57-75-23, Mississippi Code of 1972, is
9203 brought forward as follows:

9204 57-75-23. The provisions of this act are cumulative of other
9205 statutes now or hereafter enacted relating to the authority, and
9206 the authority may exercise all presently held powers in the
9207 furtherance of this act. If any section, paragraph, sentence,
9208 clause, phrase or any part of the provisions of this act is
9209 declared to be unconstitutional or void, or for any reason is
9210 declared to be invalid or of no effect, the remaining sections,
9211 paragraphs, sentences, clauses and phrases shall in no manner be
9212 affected thereby but shall remain in full force and effect.

9213 **SECTION 148.** Section 57-75-25, Mississippi Code of 1972, is
9214 brought forward as follows:

9215 57-75-25. No member of the Legislature, elected official or
9216 appointed official, or any partner or associate of any member of
9217 the Legislature, elected official or appointed official, shall
9218 derive any income from the issuance of any bonds under this act



9219 contrary to the provisions of Section 109, Mississippi
9220 Constitution of 1890, or Article 3, Chapter 4, Title 25,
9221 Mississippi Code of 1972.

9222 **SECTION 149.** Section 57-75-27, Mississippi Code of 1972, is
9223 brought forward as follows:

9224 57-75-27. Notwithstanding any provision of Chapter 61, Title
9225 57, Mississippi Code of 1972, to the contrary, the Mississippi
9226 Major Economic Impact Authority shall certify to the Department of
9227 Economic and Community Development the amount of money necessary
9228 for the Major Economic Impact Authority to purchase land in fee
9229 simple to provide a buffer zone for the National Aeronautics and
9230 Space Administration facility to be constructed in Tishomingo
9231 County, which amount shall not be more than Seven Million Dollars
9232 (\$7,000,000.00); and the department shall, if funds have not
9233 otherwise been made available, provide a grant to the authority
9234 for such amount out of the proceeds of bonds issued under the
9235 Mississippi Business Investment Act. Any funds remaining
9236 unexpended after the purchase of land hereunder shall be deposited
9237 in the Mississippi Business Investment Sinking Fund. No funds in
9238 excess of the amount authorized in this section shall be expended
9239 pursuant to the Mississippi Business Investment Act for or in
9240 connection with the National Aeronautics and Space Administration
9241 facility to be constructed in Tishomingo County.

9242 **SECTION 150.** Section 57-75-33, Mississippi Code of 1972, is
9243 brought forward as follows:



9244 57-75-33. The board of supervisors of a county or the
9245 governing authorities of a municipality may each enter into an
9246 agreement with an enterprise operating a project as defined in
9247 Section 57-75-5(f)(iv)¹, Section 57-75-5(f)(xxi), Section
9248 57-75-5(f)(xxii), Section 57-75-5(f)(xxviii), Section
9249 57-75-5(f)(xxix), Section 57-75-5(f)(xxx), Section
9250 57-75-5(f)(xxxii) or Section 57-75-5(f)(xxxiii), providing that
9251 the county or municipality will not levy any taxes, fees or
9252 assessments upon the enterprise other than taxes, fees or
9253 assessments that are generally levied upon all taxpayers, or all
9254 other taxpayers in the taxing districts in which such project is
9255 located, and the board of supervisors or the governing authorities
9256 also may each enter into a fee-in-lieu agreement as provided in
9257 Section 27-31-104 and/or Section 27-31-105(2). Such agreements
9258 may be for a period not to exceed thirty (30) years, except that
9259 any fee-in-lieu agreement entered into under this section and
9260 Section 27-31-104 and/or Section 27-31-105(2) shall become
9261 effective upon its execution by the enterprise and the county
9262 board of supervisors and/or municipal governing authorities, as
9263 the case may be, in accordance with Section 27-31-104, and
9264 continue in effect until all fee-in-lieu periods granted
9265 thereunder have expired; however, the period during which any
9266 fee-in-lieu may be granted under this section shall not exceed
9267 thirty (30) years, and no particular parcel of land, real property



9268 improvement or item of personal property shall be subject to a
9269 fee-in-lieu for a duration of more than ten (10) years.

9270 **SECTION 151.** Section 57-75-35, Mississippi Code of 1972, is
9271 brought forward as follows:

9272 57-75-35. The board of supervisors of a county or the
9273 governing authorities of a municipality may enter into an
9274 agreement with an enterprise operating a project as defined in
9275 Section 57-75-5(f)(iv)1, Section 57-75-5(f)(xxi) or 57-75-5
9276 (f)(xxii), providing that the board of supervisors or governing
9277 authorities will agree in advance to approve any request for
9278 exemption from ad valorem taxes submitted by a supplier of such
9279 enterprise in the manner provided by law and that any such
9280 exemption shall be for a period of ten (10) years. Such an
9281 agreement on the part of the board of supervisors or governing
9282 authorities may be for a period not to exceed twenty (20) years.

9283 **SECTION 152.** Section 57-75-37, Mississippi Code of 1972, is
9284 brought forward as follows:

9285 57-75-37. (1) (a) (i) Any county in which there is to be
9286 constructed a project as defined in Section 57-75-5(f)(xviii) is
9287 authorized to assist in defraying the costs incurred or to be
9288 incurred by the enterprise establishing such project by:

9289 1. Contributing a sum of up to Five Million
9290 Dollars (\$5,000,000.00) to such enterprise for use in connection
9291 with the construction of the project; and/or



9292 2. Lending a sum of up to Five Million
9293 Dollars (\$5,000,000.00) upon such terms as the board of
9294 supervisors of such county and such enterprise may agree, the
9295 proceeds of which loan shall be used by such enterprise in
9296 connection with the construction or financing of the project.

9297 (ii) In order to provide the amounts set forth in
9298 paragraph (a)(i) of this subsection (1), any such county may
9299 appropriate monies from the county's general funds or provide such
9300 amounts from the proceeds of general obligation bonds, or any
9301 combination of the foregoing. Any such county may issue the bonds
9302 for such purpose pursuant to the procedures for the issuance of
9303 bonds under Chapter 9, Title 19, Mississippi Code of 1972, or
9304 Section 19-5-99.

9305 (b) The board of supervisors of any county may donate
9306 real property for use in the location, construction and/or
9307 operation of a project as defined under Section 57-75-5(f)(xviii)
9308 to one or more economic development authorities, economic
9309 development districts, industrial development authorities or
9310 similar public agencies created pursuant to state law that engage
9311 in economic or industrial development in the county, and any such
9312 public agencies may accept such donation of real property from the
9313 county. Such public agencies also may transfer and convey among
9314 themselves, with or without consideration being paid or received,
9315 real property to be used in the location, construction and/or



9316 operation of such a project, and may accept such transfers or
9317 donations.

9318 (2) Any county or municipality in which there is to be
9319 constructed a project as defined in Section 57-75-5(f) (xxvi) or
9320 57-75-5(f) (xxvii) is authorized to:

9321 (a) Acquire the site for such project and contribute
9322 the site to the enterprise owning or operating the project;

9323 (b) Apply for grants and loans and utilize the proceeds
9324 of such grants and loans for infrastructure related to the
9325 project; and

9326 (c) Enter into a lease agreement with the enterprise
9327 owning or operating the project for a term not to exceed
9328 ninety-nine (99) years.

9329 (3) (a) As used in this subsection:

9330 (i) "Project" shall have the meaning ascribed to
9331 such term in Section 57-75-5(f) (xxviii).

9332 (ii) "Public agency" means the county in which the
9333 project is located, any municipality located in the county, and/or
9334 any economic development authority, economic development district,
9335 industrial development authority or similar public agency created
9336 pursuant to state law that engages in economic or industrial
9337 development in the county or a municipality in the county.

9338 (b) Any county in which there is to be located a
9339 project is authorized to assist as provided in this paragraph in
9340 defraying the costs incurred or to be incurred by the enterprise



9341 establishing the project and any public agency in connection with
9342 the location, construction and/or operation of the project or any
9343 facilities or public infrastructure related to the project. The
9344 county may provide such assistance by contributing or lending any
9345 sum approved for such purpose by the board of supervisors of the
9346 county, upon such terms as the board of supervisors may agree, to
9347 the entity that directly or indirectly incurs or will incur such
9348 costs or as otherwise provided in paragraph (c) of this
9349 subsection. The proceeds of the contribution or loan shall be
9350 used by the recipient in connection with the location,
9351 construction and/or operation of the project or any facilities or
9352 public infrastructure related to the project.

9353 (c) In order to provide the amounts set forth in
9354 paragraph (b) of this subsection, any such county may appropriate
9355 monies from the county's general funds or provide such amounts
9356 from the proceeds of general obligation bonds, or any combination
9357 of the foregoing. Any such county may issue the bonds for such
9358 purpose pursuant to the procedures for the issuance of bonds under
9359 Chapter 9, Title 19, Mississippi Code of 1972, or Section 19-5-99.

9360 (d) In any county in which there is to be located a
9361 project, the governing authorities of any public agency may:

9362 (i) Transfer and convey to the authority or the
9363 Mississippi Development Authority, with or without consideration
9364 being paid or received, any real and/or personal property for use
9365 in connection with the location, construction and/or operation of



9366 the project or any facilities or public infrastructure related to
9367 the project, and the authority and the Mississippi Development
9368 Authority may accept such transfers or donations;

9369 (ii) Transfer and convey among themselves, with or
9370 without consideration being paid or received, any real and/or
9371 personal property for use in connection with the location,
9372 construction and/or operation of a project or any facilities or
9373 public infrastructure related to the project, and may accept such
9374 transfers or donations; and

9375 (iii) Make grants or other contributions of funds
9376 to one another for use in connection with the location,
9377 construction and/or operation of such a project or any facilities
9378 or public infrastructure related to the project, and may accept
9379 such grants or contributions of funds.

9380 (e) In any county in which there is to be located a
9381 project, the person, entity or other agency seeking to acquire any
9382 real property to be used in connection with the location,
9383 construction and/or operation of the project, shall be exempt with
9384 respect to such property from the requirements of Section
9385 43-37-3(1)(b) and (c) if the purchase price for such property
9386 equals the lowest price negotiated between the owner of the
9387 property and the person, agency or other entity seeking to acquire
9388 the property, and at which the owner of the property is willing to
9389 sell the property.

9390 (4) (a) As used in this subsection:



9391 (i) "Project" shall have the meaning ascribed to
9392 such term in Section 57-75-5(f) (xxix).

9393 (ii) "Public agency" means the county in which the
9394 project is located, any municipality located in the county, and/or
9395 any economic development authority, economic development district,
9396 industrial development authority or similar public agency created
9397 pursuant to state law that engages in economic or industrial
9398 development in the county or a municipality in the county.

9399 (iii) "Board of education" shall have the meaning
9400 ascribed to such term in Section 29-3-1.1.

9401 (iv) "Superintendent of education" shall have the
9402 meaning ascribed to such term in Section 29-3-1.1.

9403 (b) In any county in which there is to be located a
9404 project, any public agency is authorized to assist as provided in
9405 this paragraph in defraying the costs incurred or to be incurred
9406 by the enterprise establishing the project and/or any public
9407 agency in connection with the location, construction and/or
9408 operation of the project or any facilities or public
9409 infrastructure related to the project. Any such public agency may
9410 provide such assistance by contributing or lending any sum
9411 approved for such purpose by the governing authority of such
9412 public agency, upon such terms as the governing authority of such
9413 public agency may agree, to the entity or public agency that
9414 directly or indirectly incurs or will incur such costs or as
9415 otherwise provided in paragraph (c) of this subsection. The



9416 proceeds of the contribution or loan shall be used by the
9417 recipient in connection with the location, construction and/or
9418 operation of the project or any facilities or public
9419 infrastructure related to the project, including, without
9420 limitation, to defray the costs of site preparation, utilities,
9421 real estate purchases, purchase options and improvements,
9422 infrastructure, roads, rail improvements, public works, job
9423 training, as well as planning, design and environmental impact
9424 studies with respect to a project, and any other expenses approved
9425 by any such public agency.

9426 (c) In order to provide the amounts set forth in
9427 paragraph (b) of this subsection:

9428 (i) Any such county may appropriate monies from
9429 the county's general funds or provide such amounts from the
9430 proceeds of general obligation bonds. Any such county may issue
9431 the bonds for such purpose pursuant to the procedures for the
9432 issuance of bonds under Chapter 9, Title 19, Mississippi Code of
9433 1972, Section 19-5-99 or in any other manner permitted by any
9434 local and private law or other general laws; and

9435 (ii) Any public agency may borrow or accept grants
9436 of such amounts from the authority or the Mississippi Development
9437 Authority for such duration and upon such terms and conditions
9438 approved by the governing authority of such public agency and the
9439 authority or Mississippi Development Authority, as applicable.



9440 (d) In any county in which there is to be located a
9441 project, the governing authority of any public agency may:

9442 (i) Transfer and convey to the authority or the
9443 Mississippi Development Authority, with or without consideration
9444 being paid or received, any real and/or personal property for use
9445 in connection with the location, construction and/or operation of
9446 the project or any facilities or public infrastructure related to
9447 the project, and the authority and the Mississippi Development
9448 Authority may accept such transfers or donations;

9449 (ii) Transfer and convey among themselves, with or
9450 without consideration being paid or received, any real and/or
9451 personal property for use in connection with the location,
9452 construction and/or operation of a project or any facilities or
9453 public infrastructure related to the project, and may accept such
9454 transfers or donations;

9455 (iii) Make grants or other contributions of funds
9456 to:

9457 1. One another for use in connection with the
9458 location, construction and/or operation of such a project or any
9459 facilities or public infrastructure related to the project, and
9460 may accept such grants or contributions of funds; and/or

9461 2. A local water association incorporated as
9462 a nonprofit corporation and located within such county for the
9463 purpose of defraying the costs incurred or to be incurred thereby
9464 in connection with water or wastewater-related infrastructure



9465 improvements, including an elevated water tank, located within the
9466 project area; and

9467 (iv) Make one or more periodic grants or other
9468 contributions of funds to an enterprise or affiliate thereof
9469 owning and/or operating a project in such amount or amounts
9470 approved by such governing authority, and enter into an agreement
9471 with such enterprise to make such periodic grants or other
9472 contributions of funds; however, the duration of any such
9473 obligation of the public agency to make such grants or other
9474 contributions shall not exceed thirty (30) years.

9475 (e) In any county in which there is to be located a
9476 project, the public agency seeking to acquire any real property to
9477 be used in connection with the location, construction and/or
9478 operation of the project, shall be exempt with respect to such
9479 property from the requirements of Section 43-37-3(1)(b) and (c) if
9480 the purchase price for such property equals the lowest price
9481 negotiated between the owner of the property and the public agency
9482 seeking to acquire the property, and at which the owner of the
9483 property is willing to sell the property, and any such public
9484 agency is further authorized to procure an option to purchase any
9485 such real property for such purchase price authorized by this
9486 subsection for the lowest option payment at which the owner of the
9487 property is willing to grant such option.

9488 (f) In any county in which there is to be located a
9489 project, upon the sale of any sixteenth section lands for



9490 industrial purposes as provided by law for such project, the board
9491 of education controlling such lands, the superintendent of
9492 education and the Mississippi Development Authority, on behalf of
9493 the state, may sell and convey all minerals in, on and under any
9494 such lands for such consideration determined to be adequate by,
9495 and upon such terms and conditions prescribed by, such board of
9496 education, superintendent of education and the Mississippi
9497 Development Authority.

9498 (g) In any county in which there is to be located a
9499 project, the governing authority of the applicable public agency
9500 may enter into an agreement binding on future governing
9501 authorities, for any period not to exceed thirty (30) years to:

9502 (i) Waive any and all fees and expenses associated
9503 with building permits and privilege licenses required for the
9504 project;

9505 (ii) Establish and/or maintain a rate structure
9506 for water supplied to the project and wastewater received from the
9507 project, which shall be no higher than the lowest tariff prices
9508 for such water and wastewater charged to any customer of equal or
9509 lesser volume located within the boundaries of the public agency;

9510 (iii) Provide firefighting, hazardous materials
9511 emergency response, technical rescue and medical response
9512 assistance to the enterprise owning or operating the project; and

9513 (iv) Require any contractor hired by the public
9514 agency for purposes of entering onto the project site for such



9515 project to perform work-related to the provision of water supply
9516 or wastewater services, to procure customary liability insurance
9517 designating the enterprise owning or operating the project as an
9518 additional insured and to contractually indemnify such enterprise
9519 for any losses incurred by the enterprise as a result of such
9520 contractor's negligence and/or willful acts or omissions arising
9521 from the contractor's entry upon such project site.

9522 (5) (a) As used in this subsection:

9523 (i) "Project" shall have the meaning ascribed to
9524 such term in Section 57-75-5(f) (xxxi).

9525 (ii) "Public agency" means the county in which the
9526 project is located, any municipality located in the county, and/or
9527 any economic development authority, economic development district,
9528 industrial development authority, port authority or airport
9529 authority or similar public agency created pursuant to state law.

9530 (iii) "Board of education" shall have the meaning
9531 ascribed to such term in Section 29-3-1.1.

9532 (iv) "Superintendent of education" shall have the
9533 meaning ascribed to such term in Section 29-3-1.1.

9534 (b) In any county in which there is to be located a
9535 project, any public agency is authorized to assist as provided in
9536 this paragraph in defraying the costs incurred or to be incurred
9537 by the enterprise establishing the project and/or any public
9538 agency in connection with the location, construction and/or
9539 operation of the project or any facilities or public



9540 infrastructure related to the project. Any such public agency may
9541 provide such assistance by contributing or lending any sum
9542 approved for such purpose by the governing authority of such
9543 public agency, upon such terms as the governing authority of such
9544 public agency may agree, to the entity or public agency that
9545 directly or indirectly incurs or will incur such costs or as
9546 otherwise provided in paragraph (c) of this subsection. The
9547 proceeds of the contribution or loan shall be used by the
9548 recipient in connection with the location, construction and/or
9549 operation of the project or any facilities or public
9550 infrastructure related to the project, including, without
9551 limitation, to defray the costs of site preparation, utilities,
9552 real estate purchases, purchase options and improvements,
9553 infrastructure, roads, rail improvements, public works, job
9554 training, as well as planning, design and environmental impact
9555 studies with respect to a project, and any other expenses approved
9556 by any such public agency.

9557 (c) In order to provide the amounts set forth in
9558 paragraph (b) of this subsection:

9559 (i) Any such county may appropriate monies from
9560 the county's general funds or provide such amounts from the
9561 proceeds of general obligation bonds. Any such county may issue
9562 the bonds for such purpose pursuant to the procedures for the
9563 issuance of bonds under Chapter 9, Title 19, Mississippi Code of



9564 1972, Section 19-5-99 or in any other manner permitted by any
9565 local and private law or other general laws; and

9566 (ii) Any public agency may borrow or accept grants
9567 of such amounts from the authority or the Mississippi Development
9568 Authority for such duration and upon such terms and conditions
9569 approved by the governing authority of such public agency and the
9570 authority or Mississippi Development Authority, as applicable.

9571 (d) In any county in which there is to be located a
9572 project, the governing authorities of public agencies may:

9573 (i) Transfer and convey among themselves, with or
9574 without consideration being paid or received, any real and/or
9575 personal property for use in connection with the location,
9576 construction and/or operation of a project or any facilities or
9577 public infrastructure related to the project, and may accept such
9578 transfers or donations;

9579 (ii) Make grants or other contributions of funds
9580 to one another for use in connection with the location,
9581 construction and/or operation of such a project or any facilities
9582 or public infrastructure related to the project, and may accept
9583 such grants or contributions of funds; and

9584 (iii) Make one or more grants or other
9585 contributions of funds to an enterprise or affiliate thereof
9586 owning and/or operating a project in such amount or amounts
9587 approved by such governing authority, and enter into an agreement
9588 with such enterprise to make such grants or other contributions of



9589 funds; however, the duration of any such obligation of the public
9590 agency to make such grants or other contributions shall not exceed
9591 thirty (30) years.

9592 (e) In any county in which there is to be located a
9593 project, the public agency seeking to acquire any real property to
9594 be used in connection with the location, construction and/or
9595 operation of the project, shall be exempt with respect to such
9596 property from the requirements of Section 43-37-3(1)(b) and (c) if
9597 the purchase price for such property equals the lowest price
9598 negotiated between the owner of the property and the public agency
9599 seeking to acquire the property, and at which the owner of the
9600 property is willing to sell the property, and any such public
9601 agency is further authorized to procure an option to purchase any
9602 such real property for such purchase price authorized by this
9603 subsection for the lowest option payment at which the owner of the
9604 property is willing to grant such option.

9605 (f) In any county in which there is to be located a
9606 project, upon the sale of land owned by an industrial development
9607 authority, port authority or airport authority for industrial
9608 purposes as provided by law for such project, the governing
9609 authorities controlling such lands may sell and convey all
9610 minerals in, on and under any such lands for such consideration
9611 determined to be adequate by, and upon such terms and conditions
9612 prescribed by, such governing authority or may otherwise enter
9613 into a written agreement with the enterprise owning and/or



9614 operating such project pursuant to which such governing authority
9615 of the industrial development authority, port authority or airport
9616 authority, as the case may be, may agree to perpetually refrain
9617 from using the surface of such land upon which the project is
9618 located to access any minerals located thereunder in which such
9619 public agency has a retained ownership interest. Any such written
9620 agreement shall be binding upon future governing authorities.

9621 (g) In any county in which there is to be located a
9622 project, the governing authority of the applicable public agency
9623 may enter into an agreement binding on future governing
9624 authorities, for any period not to exceed thirty (30) years to:

9625 (i) Waive any and all fees and expenses associated
9626 with building permits and privilege licenses required for the
9627 project;

9628 (ii) Establish and/or maintain a rate structure
9629 for water supplied to the project and wastewater received from the
9630 project, which shall be no higher than the lowest tariff prices
9631 for such water and wastewater charged to any customer of equal or
9632 lesser volume located within the boundaries of the public agency;
9633 and

9634 (iii) Require any contractor hired by the public
9635 agency for purposes of entering onto the project site for such
9636 project to perform work related to the provision of water supply
9637 or wastewater services, to procure customary liability insurance
9638 designating the enterprise owning or operating the project as an



9639 additional insured and to contractually indemnify such enterprise
9640 for any losses incurred by the enterprise as a result of such
9641 contractor's negligence and/or willful acts or omissions arising
9642 from the contractor's entry upon such project site.

9643 (6) (a) As used in this subsection:

9644 (i) "Project" shall have the meaning ascribed to
9645 such term in Section 57-75-5(f) (xxxii).

9646 (ii) "Public agency" means the county in which the
9647 project is located, any municipality located in the county, and/or
9648 any economic development authority, economic development district,
9649 industrial development authority, port authority, airport
9650 authority, public utility or similar public agency created
9651 pursuant to state law.

9652 (b) In any county in which there is to be located a
9653 project, any public agency is authorized to assist as provided in
9654 this paragraph in defraying the costs incurred or to be incurred
9655 by the enterprise establishing the project and/or any public
9656 agency in connection with the location, construction and/or
9657 operation of the project or any facilities or public
9658 infrastructure related to the project. Any such public agency may
9659 provide such assistance by contributing or lending any sum
9660 approved for such purpose by the governing authority of such
9661 public agency, upon such terms as the governing authority of such
9662 public agency may agree, to the entity or public agency that
9663 directly or indirectly incurs or will incur such costs or as



9664 otherwise provided in paragraph (c) of this subsection. The
9665 proceeds of the contribution or loan shall be used by the
9666 recipient in connection with the location, construction and/or
9667 operation of the project or any facilities or public
9668 infrastructure related to the project, including, without
9669 limitation, to defray the costs of site preparation, utilities,
9670 real estate purchases, purchase options and improvements,
9671 infrastructure, roads, rail improvements, public works, job
9672 training, as well as planning, design and environmental impact
9673 studies with respect to a project, and any other expenses approved
9674 by any such public agency. Any such public agency may
9675 alternatively provide such assistance by undertaking the
9676 acquisition of real and/or personal property, or interests
9677 therein, with respect to, and the design, engineering,
9678 construction and installation of, any facilities or public
9679 infrastructure related to the project regardless of whether it is
9680 authorized by applicable statutes to operate such facilities or
9681 public infrastructure and/or provide any utility services
9682 therefrom following the completion thereof; provided that, if the
9683 public agency is authorized by applicable statutes to operate such
9684 facilities or public infrastructure following the completion
9685 thereof, such public agency may transfer, and if the public agency
9686 is not authorized by applicable statutes to operate such
9687 facilities or public infrastructure and/or provide any utility
9688 services therefrom following the completion thereof, the public



9689 agency shall transfer, such facilities or public infrastructure to
9690 another public agency that is authorized by applicable statutes to
9691 operate such facilities or public infrastructure and/or provide
9692 any utility services therefrom.

9693 (c) In order to provide the amounts or otherwise
9694 perform any permitted actions set forth in paragraph (b) of this
9695 subsection:

9696 (i) Any such county may appropriate monies from
9697 the county's general funds or provide such amounts from the
9698 proceeds of general obligation bonds or other indebtedness
9699 permitted by any local and private law or other general laws. Any
9700 such county may issue the bonds for such purpose pursuant to the
9701 procedures for the issuance of bonds under Chapter 9, Title 19,
9702 Mississippi Code of 1972, Section 19-5-99 or in any other manner
9703 permitted by any local and private law or other general laws; and

9704 (ii) Any public agency may borrow or accept grants
9705 or other funds of such amounts from the authority or the
9706 Mississippi Development Authority for such duration and upon such
9707 terms and conditions approved by the governing authority of such
9708 public agency and the authority or Mississippi Development
9709 Authority, as applicable.

9710 (iii) Any such county may enter into one or more
9711 agreements with the authority or Mississippi Development Authority
9712 approved by the board of supervisors of the county and, as
9713 applicable, to remit to the authority or Mississippi Development



9714 Authority, as applicable, on an annual or other periodic basis for
9715 a duration up to thirty (30) years, a portion of any fee-in-lieu
9716 of ad valorem taxes, together with a portion of any county ad
9717 valorem taxes, derived from the project. Any such written
9718 agreement shall be binding upon future boards of supervisors of
9719 the county.

9720 (d) In any county in which there is to be located a
9721 project, the governing authorities of public agencies may:

9722 (i) Transfer and convey among themselves, or to
9723 the authority, the Mississippi Development Authority, the
9724 Mississippi Department of Transportation or any other state
9725 agency, with or without consideration being paid or received, any
9726 real and/or personal property for use in connection with the
9727 location, construction and/or operation of a project or any
9728 facilities or public infrastructure related to the project, and
9729 may accept such transfers or donations;

9730 (ii) Make grants or other contributions of funds
9731 to any public agency and/or any local water association
9732 incorporated as a nonprofit corporation and located within such
9733 county for the purpose of defraying the costs incurred or to be
9734 incurred thereby in connection with water or wastewater-related
9735 infrastructure improvements, including one or more water tanks,
9736 related to the project, and/or undertake the acquisition of real
9737 and/or personal property, or interests therein, with respect to,
9738 and the design, engineering, construction and installation of, any



9739 water or wastewater-related infrastructure, including one or more
9740 water tanks, related to the project, and thereafter transfer and
9741 convey to any other public agency and/or any local water
9742 association any real and/or personal property for use in
9743 connection with water or wastewater-related infrastructure
9744 improvements, including one or more water tanks, related to the
9745 project, in consideration solely of the acceptance by the public
9746 agency and/or the local water association, as applicable, of such
9747 improvements and its agreement to operate the improvements to
9748 provide water or wastewater-related services to the project;

9749 (iii) Make grants or other contributions of funds
9750 to a municipality located within such county for the purpose of
9751 defraying the costs incurred or to be incurred thereby in
9752 connection with natural gas-related infrastructure improvements
9753 related to the project, and/or undertake the acquisition of real
9754 and/or personal property, or interests therein, with respect to,
9755 and the design, engineering, construction and installation of, any
9756 natural gas-related infrastructure improvements related to the
9757 project, and thereafter transfer and convey to any such
9758 municipality any real and/or personal property for use in
9759 connection with natural gas-related infrastructure improvements
9760 related to the project, in consideration solely of the acceptance
9761 by the municipality of such improvements and its agreement to
9762 operate the improvements to provide natural gas-related services
9763 to the project;



9764 (iv) Make grants or other contributions of funds
9765 to one another, or to the authority, the Mississippi Development
9766 Authority, the Mississippi Department of Transportation or any
9767 other state agency, for use in connection with the location,
9768 construction and/or operation of such a project or any facilities
9769 or public infrastructure related to the project, and may accept
9770 such grants or contributions of funds;

9771 (v) Make one or more grants or other contributions
9772 of funds to an enterprise or affiliate thereof owning and/or
9773 operating a project in such amount or amounts approved by such
9774 governing authority, and enter into an agreement with such
9775 enterprise that is binding on future governing authorities to make
9776 such grants or other contributions of funds; however, the duration
9777 of any such obligation of the public agency to make such grants or
9778 other contributions shall not exceed thirty (30) years; and

9779 (vi) Provide firefighting, hazardous materials
9780 emergency response, technical rescue and medical response
9781 assistance to the enterprise owning or operating the project, and
9782 enter into an agreement binding on future governing authorities
9783 with such enterprise to provide such firefighting, hazardous
9784 materials emergency response, technical rescue and medical
9785 response assistance for a term not to exceed thirty (30) years, to
9786 be determined by the governing authority of the public agency
9787 entering into such agreement.



9788 (e) In any county in which there is to be located a
9789 project, the public agency seeking to acquire any real property to
9790 be used in connection with the location, construction and/or
9791 operation of the project or any facilities or public
9792 infrastructure related to the project, shall be exempt with
9793 respect to such property from the requirements of Section
9794 43-37-3(1)(b) and (c) if the purchase price for such property
9795 equals the lowest price negotiated between the owner of the
9796 property and the public agency seeking to acquire the property,
9797 and at which the owner of the property is willing to sell the
9798 property, and any such public agency is further authorized to
9799 procure an option to purchase any such real property for such
9800 purchase price authorized by this subsection for the lowest option
9801 payment at which the owner of the property is willing to grant
9802 such option.

9803 (f) In any county in which there is to be located a
9804 project, upon the conveyance or other disposition of land owned by
9805 a public agency for industrial purposes as provided by law for
9806 such project, the governing authority of the public agency
9807 controlling such lands may enter into a written agreement with the
9808 enterprise owning and/or operating such project pursuant to which
9809 such governing authority may agree to perpetually refrain from
9810 using the surface of such land upon which the project is located
9811 to access any minerals located thereunder in which such public



9812 agency has a retained ownership interest. Any such written
9813 agreement shall be binding upon future governing authorities.

9814 (g) In any county in which there is to be located a
9815 project, the governing authority of the applicable public agency
9816 may enter into an agreement binding on future governing
9817 authorities, for any period not to exceed thirty (30) years to:

9818 (i) Waive any and all fees and expenses associated
9819 with building permits and privilege licenses required for the
9820 project;

9821 (ii) Establish and/or maintain a rate structure
9822 for water and natural gas supplied to the project and wastewater
9823 received from the project, which shall be no higher than the
9824 lowest tariff prices for such water, natural gas and wastewater
9825 charged to any customer of equal or lesser volume located within
9826 the boundaries of the public agency; and

9827 (iii) Require any contractor hired by the public
9828 agency for purposes of entering onto the project site for such
9829 project to perform work related to the provision of water or
9830 natural gas supply or wastewater services, to procure customary
9831 liability insurance designating the enterprise owning or operating
9832 the project as an additional insured and to contractually
9833 indemnify such enterprise for any losses incurred by the
9834 enterprise as a result of such contractor's negligence and/or
9835 willful acts or omissions arising from the contractor's entry upon
9836 such project site.



9837 (7) (a) As used in this subsection:

9838 (i) "Project" shall have the meaning ascribed to
9839 such term in Section 57-75-5(f) (xxxiii).

9840 (ii) "Public agency" means the county in which the
9841 project is located, any municipality located in the county, and/or
9842 any economic development authority, economic development district,
9843 industrial development authority, port authority, airport
9844 authority, public utility or similar public agency created
9845 pursuant to state law.

9846 (b) In any county in which there is to be located a
9847 project, any public agency is authorized to assist as provided in
9848 this paragraph in defraying the costs incurred or to be incurred
9849 by the enterprise establishing the project and/or any public
9850 agency in connection with the location, construction and/or
9851 operation of the project or any facilities or public
9852 infrastructure related to the project. Any such public agency may
9853 provide such assistance by contributing or lending any sum
9854 approved for such purpose by the governing authority of such
9855 public agency, upon such terms as the governing authority of such
9856 public agency may agree, to the entity or public agency that
9857 directly or indirectly incurs or will incur such costs or as
9858 otherwise provided in paragraph (c) of this subsection. The
9859 proceeds of the contribution or loan shall be used by the
9860 recipient in connection with the location, construction and/or
9861 operation of the project or any facilities or public



9862 infrastructure related to the project, including, without
9863 limitation, to defray the costs of site preparation, utilities,
9864 real estate purchases, purchase options and improvements,
9865 infrastructure, roads, rail improvements, public works, job
9866 training, as well as planning, design and environmental impact
9867 studies with respect to a project, and any other expenses approved
9868 by any such public agency. Any such public agency may
9869 alternatively provide such assistance by undertaking the
9870 acquisition of real and/or personal property, or interests
9871 therein, with respect to, and the design, engineering,
9872 construction and installation of, any facilities or public
9873 infrastructure related to the project regardless of whether it is
9874 the public agency authorized by applicable statutes to operate
9875 such facilities or public infrastructure and/or provide any
9876 utility services therefrom following the completion thereof;
9877 provided that, if the public agency is authorized by applicable
9878 statutes to operate such facilities or public infrastructure
9879 following the completion thereof, such public agency may transfer,
9880 and if the public agency is not authorized by applicable statutes
9881 to operate such facilities or public infrastructure and/or provide
9882 any utility services therefrom following the completion thereof,
9883 the public agency shall transfer such facilities or public
9884 infrastructure to another public agency that is authorized by
9885 applicable statutes to operate such facilities or public
9886 infrastructure and/or provide any utility services therefrom.



9887 (c) In order to provide the amounts or otherwise
9888 perform any permitted actions set forth in paragraph (b) of this
9889 subsection:

9890 (i) Any such county may appropriate monies from
9891 the county's general fund or provide such amounts from the
9892 proceeds of general obligation bonds or other indebtedness
9893 permitted by any local and private law or other general laws. Any
9894 such county may issue the bonds for such purpose pursuant to the
9895 procedures for the issuance of bonds under Title 19, Chapter 9,
9896 Mississippi Code of 1972, Section 19-5-99 or in any other manner
9897 permitted by any local and private law or other general laws;

9898 (ii) Any public agency may borrow or accept grants
9899 or other funds of such amounts from the authority or the
9900 Mississippi Development Authority for such duration and upon such
9901 terms and conditions approved by the governing authority of such
9902 public agency and the authority or Mississippi Development
9903 Authority, as applicable; and

9904 (iii) Any such county and/or municipality may
9905 enter into one or more agreements with the authority or
9906 Mississippi Development Authority approved by the board of
9907 supervisors of such county and/or the governing authority of such
9908 municipality, as applicable, to remit to the authority or
9909 Mississippi Development Authority, as applicable, on an annual or
9910 other periodic basis for a duration up to thirty (30) years, a
9911 portion of any fee-in-lieu of ad valorem taxes, together with a



9912 portion of any ad valorem taxes that the county and/or
9913 municipality derives from the project. Any such written agreement
9914 shall be binding upon future governing authorities of the county
9915 and/or municipality, as applicable.

9916 (d) In any county in which there is to be located a
9917 project, the governing authorities of public agencies may:

9918 (i) Transfer and convey among themselves, or to
9919 the authority, the Mississippi Development Authority, the
9920 Mississippi Department of Transportation or any other state
9921 agency, with or without consideration being paid or received, any
9922 real and/or personal property for use in connection with the
9923 location, construction and/or operation of a project or any
9924 facilities or public infrastructure related to the project, and
9925 may accept such transfers or donations;

9926 (ii) Make grants or other contributions of funds
9927 to any public agency and/or any local water association
9928 incorporated as a nonprofit corporation and located within such
9929 county for the purpose of defraying the costs incurred or to be
9930 incurred thereby in connection with water or wastewater-related
9931 infrastructure improvements, including one or more water tanks,
9932 related to the project, and/or undertake the acquisition of real
9933 and/or personal property, or interests therein, with respect to,
9934 and the design, engineering, construction and installation of, any
9935 water or wastewater-related infrastructure, including one or more
9936 water tanks, related to the project, and thereafter transfer and



9937 convey to any other public agency and/or any local water
9938 association any real and/or personal property for use in
9939 connection with water or wastewater-related infrastructure
9940 improvements, including one or more water tanks, related to the
9941 project, in consideration solely of the acceptance by the public
9942 agency and/or the local water association, as applicable, of such
9943 improvements and its agreement to operate the improvements to
9944 provide water or wastewater-related services to the project;

9945 (iii) Make grants or other contributions of funds
9946 to one another, or to the authority, the Mississippi Development
9947 Authority, the Mississippi Department of Transportation or any
9948 other state agency, for use in connection with the location,
9949 construction and/or operation of such a project or any facilities
9950 or public infrastructure related to the project, and may accept
9951 such grants or contributions of funds;

9952 (iv) Make one or more grants or other
9953 contributions of funds to an enterprise or affiliate thereof
9954 owning and/or operating a project in such amount or amounts
9955 approved by such governing authority, and enter into an agreement
9956 with such enterprise that is binding on future governing
9957 authorities to make such grants or other contributions of funds;
9958 however, the duration of any such obligation of the public agency
9959 to make such grants or other contributions shall not exceed thirty
9960 (30) years; and



9961 (v) Provide firefighting, hazardous materials
9962 emergency response, technical rescue and medical response
9963 assistance to the enterprise owning or operating the project, and
9964 enter into an agreement binding on future governing authorities
9965 with such enterprise to provide such firefighting, hazardous
9966 materials emergency response, technical rescue and medical
9967 response assistance for a term not to exceed thirty (30) years, to
9968 be determined by the governing authority of the public agency
9969 entering into such agreement.

9970 (e) In any county in which there is to be located a
9971 project, the public agency seeking to acquire any real property to
9972 be used in connection with the location, construction and/or
9973 operation of the project or any facilities or public
9974 infrastructure related to the project, shall be exempt with
9975 respect to such property from the requirements of Section
9976 43-37-3(1)(b) and (c) if the purchase price for such property
9977 equals the lowest price negotiated between the owner of the
9978 property and the public agency seeking to acquire the property,
9979 and at which the owner of the property is willing to sell the
9980 property, and any such public agency is further authorized to
9981 procure an option to purchase any such real property for such
9982 purchase price authorized by this subsection for the lowest option
9983 payment at which the owner of the property is willing to grant
9984 such option.



9985 (f) In any county in which there is to be located a
9986 project, upon the conveyance or other disposition of land owned by
9987 a public agency for industrial purposes as provided by law for
9988 such project, the governing authority of the public agency
9989 controlling such lands may enter into a written agreement with the
9990 enterprise owning and/or operating such project pursuant to which
9991 such governing authority may agree to perpetually refrain from
9992 using the surface of such land upon which the project is located
9993 to access any minerals located thereunder in which such public
9994 agency has a retained ownership interest. Any such written
9995 agreement shall be binding upon future governing authorities.

9996 (g) In any county in which there is to be located a
9997 project, the governing authority of the applicable public agency
9998 may enter into an agreement binding on future governing
9999 authorities, for any period not to exceed thirty (30) years, to:

10000 (i) Waive or reduce any fees and expenses
10001 associated with building permits and privilege licenses required
10002 for the project;

10003 (ii) Establish and/or maintain a rate structure
10004 for potable water to the project, nonpotable and treated,
10005 reclaimed wastewater supplied to the project for nonpotable
10006 purposes, and wastewater received from the project, which rates
10007 shall be established and/or maintained, as applicable, in the
10008 manner prescribed by state law and the local tariffs of the public
10009 agency providing such water and accepting such wastewater; and



10010 (iii) Require any contractor hired by the public
10011 agency for purposes of entering onto the project site for such
10012 project to perform work related to the provision of water or
10013 wastewater services, to procure customary liability insurance
10014 designating the enterprise owning or operating the project as an
10015 additional insured and to contractually indemnify such enterprise
10016 for any losses incurred by the enterprise as a result of such
10017 contractor's negligence and/or willful acts or omissions arising
10018 from the contractor's entry upon such project site.

10019 (h) In any county in which there is to be located a
10020 project, the governing authority of any public agency accepting
10021 and treating wastewater from the project may provide and sell to
10022 any public agency providing water to the project treated,
10023 reclaimed wastewater supplied for nonpotable purposes for resale
10024 by such public agency providing water to the project to any
10025 enterprise or affiliate thereof owning and/or operating the
10026 project or any portion thereof for use in the operation of the
10027 project for cooling or other exclusively nonpotable purposes.
10028 Such public agencies may enter into an agreement binding on future
10029 governing authorities thereof, for any period designated thereby,
10030 to memorialize the terms and conditions of the provision, sale and
10031 use of treated, reclaimed wastewater supplied for nonpotable
10032 purposes to the project, including, but not limited to, the rates
10033 applicable for such reclaimed wastewater supplied for nonpotable
10034 purposes.



10035 (8) The powers and authority granted in this section are an
10036 additional, alternative and supplemental method for doing the
10037 things authorized by this section and are additional and
10038 supplemental to, and not in derogation of, any other powers
10039 conferred by law.

10040 **SECTION 153.** Section 63-11-47, Mississippi Code of 1972, is
10041 brought forward as follows:

10042 63-11-47. The Commissioner of Public Safety, acting in
10043 concert with the Mississippi Forensics Laboratory created pursuant
10044 to Section 45-1-17, is hereby expressly authorized and directed to
10045 determine the equipment and supplies which are adequate and
10046 necessary from both a medical and law enforcement standpoint for
10047 administration of this chapter. The Commissioner of Public
10048 Safety, upon receiving such recommendation from the Mississippi
10049 Forensics Laboratory, shall recommend an equipment standard for
10050 such equipment to the Department of Finance and Administration.
10051 The Department of Finance and Administration, using such a uniform
10052 standard for said equipment, shall advertise its intention of
10053 purchasing said equipment by one (1) publication in at least one
10054 (1) newspaper having general circulation in the State of
10055 Mississippi at least ten (10) days before the purchase of such
10056 equipment and supplies, and the advertisement shall clearly and
10057 distinctly describe the articles to be purchased, and shall
10058 receive sealed bids thereon which shall be opened in public at a
10059 time and place to be specified in the advertisement.



10060 The Department of Finance and Administration shall accept the
10061 lowest and best bid for said equipment and supplies; in its
10062 discretion, it may reject any and all bids submitted. The lowest
10063 and best bid for said equipment and supplies accepted by the
10064 Department of Finance and Administration shall be the
10065 state-approved price of said equipment for purchase by the state,
10066 county and city governments.

10067 Title to all such testing equipment in the state purchased
10068 hereunder shall remain in the Commissioner of Public Safety
10069 regardless of what entity pays the purchase price.

10070 The state, counties and municipalities may purchase in the
10071 name of the Commissioner of Public Safety such equipment and
10072 supplies from other vendors of said equipment and supplies
10073 necessary to implement this chapter, provided they purchase of the
10074 same quality and standard as certified to the Department of
10075 Finance and Administration and approved by the department.
10076 However, such equipment and supplies shall not be purchased by the
10077 state, counties and municipalities unless it is at a price
10078 equivalent to or lower than that approved by the Department of
10079 Finance and Administration, pursuant to the bid procedure as
10080 outlined herein.

10081 **SECTION 154.** Section 65-25-53, Mississippi Code of 1972, is
10082 brought forward as follows:

10083 65-25-53. The commissioners appointed by such governing body
10084 or municipality, or the commissioners whose terms are continued in



10085 force as above authorized, shall, subject to the approval of such
10086 governing body, have the following authority, powers, and rights:
10087 Said commission shall manage and control the affairs of the bridge
10088 as a separate proprietary venture, apart from other public roads
10089 and bridges within the county, and shall provide for the regular
10090 inspection, repair, maintenance, and upkeep of said bridge and its
10091 approaches, which expenses and all liabilities which may exist or
10092 later come into being or be claimed to exist shall be wholly borne
10093 from the bridge properties themselves and the revenues received
10094 from the lease of such properties to private or public utilities.
10095 In connection with operating the affairs of the said bridge and
10096 maintaining the same, said commission is vested with the following
10097 powers and authority, subject to the veto power or approval of the
10098 governing body owning the said bridge, viz: (1) Contracts and
10099 purchases shall be made on the same basis and under the same
10100 requirements of advertisement for bids as those made by the board
10101 of supervisors; (2) the commissioners may employ a superintendent
10102 or manager of the bridge properties and fix the amount of his
10103 salary, and either employ or delegate to said manager the
10104 employment of subordinate personnel and provide for the wages and
10105 compensation of such employees, and, should the commission so
10106 determine, may require the manager or other employees to post bond
10107 in such sum as the commission may designate for the faithful
10108 discharge of their duties as such employees; however, the number
10109 of persons employed in an election year shall not exceed the



10110 average number employed during the preceding three (3) years,
10111 except that additional employees may be hired on a temporary basis
10112 in cases of emergency when the specific reasons therefor shall be
10113 entered on the minutes of the commission; (3) provide for an
10114 adequate bookkeeping system pertinent to the affairs of said
10115 bridge and for regular audits, with the revenues derived following
10116 the freeing of said bridge to vehicular traffic, if any there be
10117 over and above cost of operating and maintaining the said bridge,
10118 to be kept by the clerk of the said board or treasurer of the said
10119 municipality in a separate account and to so remain, properly
10120 invested in the same manner as sinking funds of the county or
10121 municipality may be invested, said assets to be subject to bear
10122 and discharge the liabilities of the said bridge and not to be
10123 utilized for any other or different purpose until a period of at
10124 least five (5) years following the freeing of the said bridge from
10125 tolls (unless sooner there be another free bridge constructed and
10126 opened to public travel crossing said Mississippi River located
10127 not more than one (1) mile from said bridge, in which event that
10128 factor, rather than the five-year time limit, shall be
10129 determinative), and then not until a determination is made by the
10130 board or governing authority that such funds, to the extent
10131 amassed, will not be further needed for operational maintenance
10132 purposes; and that said audits thus caused to be made shall be
10133 done by a certified public accountant or accountants duly
10134 qualified under the laws of this state; (4) that, without in



10135 anywise sacrificing or waiving the entire exempt status of the
10136 said bridge properties from ad valorem taxation, to pay a sum or
10137 sums in lieu of ad valorem taxes which, by agreement with the
10138 taxing authorities of this or any neighboring state, will in no
10139 event exceed in any year a sum equaling more than one-half ($\frac{1}{2}$) of
10140 the average amount paid per year by way of such taxes or in lieu
10141 thereof over the five-year period preceding June 15, 1966; (5)
10142 employ nationally recognized engineers and such other professional
10143 assistance as may be deemed necessary, and to pay reasonable
10144 compensation for such services; (6) to have and exercise any other
10145 authority and right conferred by existing laws, state or federal,
10146 applicable to the operation of such bridge; and (7) fulfill the
10147 requirements of any outstanding lease contracts to the extent that
10148 the bridge properties will permit and the revenues to be derived
10149 from such leases will allow, but without incurring any pecuniary
10150 liability on the part of the governing authorities or taxpayers
10151 generally.

10152 **SECTION 155.** Section 65-27-7, Mississippi Code of 1972, is
10153 brought forward as follows:

10154 65-27-7. The bond given by the keeper of a toll ferry,
10155 bridge, turnpike, causeway, or plank road may be put in suit by
10156 the county, or by any person damaged, for a breach thereof; and
10157 the bond may be sued on from time to time until the whole penalty
10158 be recovered. The board of supervisors may require such bonds to
10159 be renewed when proper.



10160 **SECTION 156.** Section 47-5-357, Mississippi Code of 1972, is
10161 brought forward as follows:

10162 47-5-357. (1) (a) Due to the unique and time sensitive
10163 requirements of growing and harvesting products produced by the
10164 prison agricultural enterprises, the Department of Finance and
10165 Administration and the department shall establish a prudent
10166 purchasing policy which may exempt from bid requirements those
10167 commodities, items or services which are needed for the efficient
10168 and effective management of the prison agricultural enterprises.

10169 (b) Due to the unique and time sensitive requirements
10170 of growing and harvesting products produced by the prison
10171 agricultural enterprises, the Department of Finance and
10172 Administration and the department shall establish a prudent
10173 leasing policy which may exempt from bid requirements agricultural
10174 equipment which is needed for the efficient and effective
10175 management of the prison agricultural enterprises.

10176 (2) The Department of Finance and Administration shall, by
10177 order entered on its minutes, list those commodities, items and
10178 services exempted from bid requirements as provided in Section
10179 31-7-12.

10180 **SECTION 157.** Section 19-31-37, Mississippi Code of 1972, is
10181 brought forward as follows:

10182 19-31-37. The district shall comply with the provisions of
10183 Section 31-7-1 et seq., regarding the construction of public works
10184 or the purchase of materials or supplies.



10185 **SECTION 158.** Section 17-25-5, Mississippi Code of 1972, is
10186 brought forward as follows:

10187 17-25-5. (1) Every municipality and county of the State of
10188 Mississippi shall grant competency examination reciprocity to any
10189 contractor, including, but not limited to, any electrical,
10190 plumbing, heating and air conditioning, water and sewer, roofing
10191 or mechanical contractor, who is licensed by another municipality
10192 or county of this state without imposing any further competency
10193 examination requirements provided:

10194 (a) That the contractor furnishes evidence that he has
10195 a license issued on the basis of a competency examination
10196 administered in one (1) municipality or county of the State of
10197 Mississippi which has an examining board that regularly gives a
10198 written examination which has been approved by the State Board of
10199 Public Contractors or the Building Officials Association of
10200 Mississippi;

10201 (b) That he furnishes evidence that he actually took
10202 and passed the written examination which qualified him for such
10203 license; however, in lieu thereof, he may furnish evidence that
10204 he was issued a license prior to May 1, 1972, and prior to the
10205 existence of a written examination by a county or municipality
10206 which has an examining board that requires written examination to
10207 qualify for a license;

10208 (c) That he has been actively engaged in the business
10209 for which he is licensed for two (2) years or more;



10210 (d) That he has held a license for his business for one
10211 (1) year or more; and

10212 (e) That he pays the license fee to the municipality or
10213 county to which application is made for a license unless he holds
10214 a current certificate of responsibility issued by the State Board
10215 of Public Contractors, in which case no license fee shall be
10216 collected.

10217 (2) (a) Any contractor who operates more than one (1)
10218 separate place of business within the state must obtain the
10219 appropriate privilege license and pay the privilege license fee
10220 for each location if required by the local jurisdiction.

10221 (b) Every jurisdiction in which a contractor does
10222 business may impose its own separate bonding requirements on the
10223 contractor desiring to do business there.

10224 **SECTION 159.** Section 45-1-39, Mississippi Code of 1972, is
10225 brought forward as follows:

10226 45-1-39. (1) For the purposes of this section, the
10227 following words and phrases shall have the following meanings
10228 unless the context clearly indicates otherwise:

10229 (a) "Project" means the project for construction of
10230 interior elements at the new Department of Public Safety building
10231 in Pearl, Mississippi.

10232 (b) "Bureau" means the Bureau of Building, Ground, and
10233 Real Property Management.



10234 (c) "Contract" means the contract for the project which
10235 shall be awarded under the construction-manager-at-risk
10236 methodology as otherwise provided for herein.

10237 (d) "Standards" means the American Institute of
10238 Architects (AIA) A133-2019 Owner/Construction Manager as
10239 Constructor Agreement-Cost of the Work Plus Fee with GMP, the AIA
10240 A133-2019 Exhibit A: GMP Amendment, and the AIA A133-2019 Exhibit
10241 B: Insurance and Bonds, with such revisions, qualifications, and
10242 assumptions as the bureau and the construction manager deem
10243 appropriate due to market conditions and the overall nature of the
10244 project.

10245 (2) The Legislature finds that the size and nature of the
10246 project require the use of the construction-manager-at-risk
10247 methodology and that the resulting opportunities for savings in
10248 construction time and cost justify the direct negotiation of the
10249 contract between the bureau and a construction manager. The bureau
10250 shall negotiate and execute the contract based on the standards.

10251 (3) The project and the contract are hereby exempt from the
10252 public purchasing requirements of Sections 31-7-13 and 31-7-13.2.

10253 **SECTION 160.** Section 47-5-64, Mississippi Code of 1972, is
10254 brought forward as follows:

10255 47-5-64. (1) The commissioner is hereby directed to
10256 determine the number of acres and location of land under the
10257 department's jurisdiction that are needed for security purposes,
10258 for Prison Agricultural Enterprises and for nonagricultural



10259 purposes. The commissioner shall designate and reserve such
10260 additional land for agricultural or nonagricultural enterprise
10261 projects of the department, as he deems necessary. The
10262 commissioner shall then recommend to the Department of Finance and
10263 Administration the number of acres of department land that should
10264 be leased to private entities and the term of the leases.

10265 (2) The Department of Finance and Administration is
10266 authorized to lease for agricultural purposes that Penitentiary
10267 land so recommended for not less than three (3) nor more than
10268 eight (8) years, with the approval of the Public Procurement
10269 Review Board.

10270 (3) The Department of Finance and Administration, with the
10271 approval of the Governor, the Secretary of State and the
10272 Commissioner of the Department of Corrections, is authorized to
10273 lease Penitentiary land for power generation projects or other
10274 commercial or industrial projects at the same time that it leases
10275 the land as prescribed in subsection (2) of this section. The
10276 Department of Finance and Administration is authorized to
10277 negotiate all aspects of leases or related agreements executed
10278 under this subsection consistent with the following:

10279 (a) The period of the lease term combined with the term
10280 of renewal shall not exceed forty (40) years.

10281 (b) Any lease or renewal lease shall:

10282 (i) Provide for periodic rent adjustments
10283 throughout the term of the lease; and



10284 (ii) Require the lessee to provide a
10285 decommissioning and restoration bond or other security securing
10286 the lessee's obligation to remove all aboveground and underground
10287 facilities to a depth of at least three (3) feet underground and
10288 to restore the surface to a condition similar to its condition
10289 before the commencement of the lease.

10290 (c) Any lease or renewal lease may provide for any
10291 combination of the following: base rent, bonuses, percentage of
10292 income payments, royalty payments or other terms and conditions
10293 that the Department of Finance and Administration deems necessary
10294 to maintain a fair and equitable return to the state and to
10295 protect the leased land throughout the term of the lease or
10296 renewal lease.

10297 (d) Oil, gas and mineral rights in the leased land
10298 shall be reserved to the State of Mississippi.

10299 (e) This subsection does not authorize the sale or
10300 transfer of title to any state lands.

10301 (f) The Department of Finance and Administration may
10302 charge fees and expenses, not to exceed costs, incurred in
10303 administering this subsection.

10304 (g) Any monies derived from leasing lands under this
10305 subsection shall be deposited to the Prison Agricultural
10306 Enterprise Fund as provided in Section 47-5-66.

10307 **SECTION 161.** Section 47-5-66, Mississippi Code of 1972, is
10308 brought forward as follows:



10309 47-5-66. (1) Except as provided in Section 47-5-64(3), it
10310 shall be the duty of the Department of Finance and Administration,
10311 with the approval of the Public Procurement Review Board, to lease
10312 lands at public contract upon the submission of two (2) or more
10313 sealed bids to the Department of Finance and Administration after
10314 having advertised the land for rent in newspapers of general
10315 circulation published in Jackson, Mississippi; Memphis, Tennessee;
10316 the county in which the land is located; and contiguous counties
10317 for a period of not less than two (2) successive weeks. The first
10318 publication shall be made not less than ten (10) days before the
10319 date of the public contract, and the last publication shall be
10320 made not more than seven (7) days before that date. The
10321 Department of Finance and Administration may reject any and all
10322 bids. If all bids on a tract or parcel of land are rejected, the
10323 Department of Finance and Administration may then advertise for
10324 new bids on that tract or parcel of land. Successful bidders
10325 shall take possession of their leaseholds at the time authorized
10326 by the Department of Finance and Administration. However, rent
10327 shall be due no later than the day upon which the lessee shall
10328 assume possession of the leasehold, and shall be due on the
10329 anniversary date for each following year of the lease. The
10330 Department of Finance and Administration may provide in any lease
10331 that rent shall be paid in full in advance or paid in
10332 installments, as may be necessary or appropriate. In addition,
10333 the Department of Finance and Administration may accept, and the



10334 lease may provide for, assignments of federal, state or other
10335 agricultural support payments, growing crops or the proceeds from
10336 the sale thereof, promissory notes, or any other good and valuable
10337 consideration offered by any lessee to meet the rent requirements
10338 of the lease. If a promissory note is offered by a lessee, it
10339 shall be secured by a first lien on the crop of the lessee, or the
10340 proceeds from the sale thereof. The lien shall be filed pursuant
10341 to Article 9 of the Uniform Commercial Code and Section 1324 of
10342 the Food Security Act of 1985, as enacted or amended. If the note
10343 is not paid at maturity, it shall bear interest at the rate
10344 provided for judgments and decrees in Section 75-17-7 from its
10345 maturity date until the note is paid. The note shall provide for
10346 the payment of all costs of collection and reasonable attorney's
10347 fees if default is made in the payment of the note. The payment
10348 of rent by promissory note or any means other than cash in advance
10349 shall be subject to the approval of the Public Procurement Review
10350 Board, which shall place the approval of record in the minutes of
10351 the board.

10352 (2) There is created a special fund to be designated as the
10353 "Prison Agricultural Enterprises Fund" and to be used for the
10354 purpose of conducting, operating and managing the agricultural and
10355 nonagricultural enterprises of the department. Any monies derived
10356 from the leasing of Penitentiary lands, from the sales of timber
10357 as provided in Section 47-5-56, from the prison's agricultural
10358 enterprises or earmarked for the Prison Industries Fund shall be



10359 deposited to the special fund. However, fifteen percent (15%) of
10360 the monies derived from the leasing of Penitentiary lands under
10361 Section 47-5-64(3) shall be deposited to a special fund to be
10362 distributed annually on a student pro rata basis to the public
10363 schools located in Sunflower County by the Department of Finance
10364 and Administration.

10365 (3) All profits derived from prison industries shall be
10366 placed in a special fund in the State Treasury to be known as the
10367 "Prison Industries Fund," to be appropriated each year by the
10368 Legislature to the nonprofit corporation, which is required to be
10369 organized under the provisions of Section 47-5-535, for the
10370 purpose of operating and managing the prison industries.

10371 (4) The state shall have the rights and remedies for the
10372 security and collection of the rents given by law to landlords.

10373 (5) Lands leased for agricultural purposes under Section
10374 47-5-64(2) shall be subject to a fee-in-lieu of ad valorem taxes,
10375 including taxes levied for school purposes. The fee-in-lieu shall
10376 be Nine Dollars (\$9.00) per acre. Upon the execution of the
10377 agricultural leases to private entities as authorized by Section
10378 47-5-64(2), the Department of Finance and Administration shall
10379 collect the in lieu fee and shall forward the fees to the tax
10380 collector in which the land is located. The tax collector shall
10381 disburse the fees to the appropriate county or municipal governing
10382 authority on a pro rata basis. The sum apportioned to a school
10383 district shall not be less than the school district's pro rata



10384 share based upon the proportion that the millage imposed for the
10385 school district by the appropriate levying authority bears to the
10386 millage imposed by the levying authority for all other county or
10387 municipal purposes. Any funds obtained by the corporation as a
10388 result of sale of goods and services manufactured and provided by
10389 it shall be accounted for separate and apart from any funds
10390 received by the corporation through appropriation from the State
10391 Legislature. All nonappropriated funds generated by the
10392 corporation shall not be subject to appropriation by the State
10393 Legislature.

10394 (6) Any land leased, as provided under Section 47-5-64(2),
10395 shall not be leased for an amount less than would be received if
10396 such land were to be leased under any federal loan program. In
10397 addition, all leases shall be subject to the final approval of the
10398 Public Procurement Review Board before such leases are to become
10399 effective.

10400 **SECTION 162.** Section 47-5-105, Mississippi Code of 1972, is
10401 brought forward as follows:

10402 47-5-105. The award of all contracts within the purview of
10403 the Department of Finance and Administration under Section
10404 27-104-7 in excess of Five Hundred Thousand Dollars (\$500,000.00)
10405 entered into by the commissioner shall be approved by the Public
10406 Procurement Review Board and shall be entered on the minutes of
10407 such board before any funds shall be expended therefor. Provided
10408 further, that the entrance of the award of contracts on the



10409 minutes of the Public Procurement Review Board shall contain a
10410 detailed accounting of all bids entered showing clearly the lowest
10411 bid and best bid that was awarded in each and every case and, if
10412 the bid accepted is not the lowest, then the reasons and
10413 justification for not accepting the lowest bid shall be spread on
10414 the minutes. A true copy of the minutes of each meeting of the
10415 Public Procurement Review Board shall be sent monthly to the
10416 Governor, members of the Legislative Budget Office and Chairmen of
10417 the Corrections Committees of the Senate and the House of
10418 Representatives.

10419 **SECTION 163.** Section 47-5-20, Mississippi Code of 1972, is
10420 brought forward as follows:

10421 47-5-20. The commissioner shall have the following powers
10422 and duties:

10423 (a) To establish the general policy of the department;

10424 (b) To approve proposals for the location of new
10425 facilities, for major renovation activities, and for the creation
10426 of new programs and divisions within the department as well as for
10427 the abolition of the same; provided, however, that the
10428 commissioner shall approve the location of no new facility unless
10429 the board of supervisors of the county or the governing
10430 authorities of the municipality in which the new facility is to be
10431 located shall have had the opportunity with at least sixty (60)
10432 days' prior notice to disapprove the location of the proposed
10433 facility. If either the board of supervisors or the governing



10434 authorities shall disapprove the facility, it shall not be located
10435 in that county or municipality. Said notice shall be made by
10436 certified mail, return receipt requested, to the members of the
10437 board or governing authorities and to the clerk thereof;

10438 (c) Except as otherwise provided or required by law, to
10439 open bids and approve the sale of any products or manufactured
10440 goods by the department according to applicable provisions of law
10441 regarding bidding and sale of state property, and according to
10442 rules and regulations established by the State Fiscal Management
10443 Board;

10444 (d) To adopt administrative rules and regulations
10445 including, but not limited to, offender transfer procedures, award
10446 of administrative earned time, personnel procedures, employment
10447 practices.

10448 **SECTION 164.** Section 47-5-47, Mississippi Code of 1972, is
10449 brought forward as follows:

10450 47-5-47. It shall be unlawful for any person related by
10451 affinity or consanguinity within the third degree computed
10452 according to the rules of the civil law to the Governor,
10453 Lieutenant Governor or commissioner to accept any employment in
10454 the state correctional system, neither shall the commissioner or
10455 other officer or employee of the state correctional system be
10456 directly or indirectly interested in any contract, purchase or
10457 sale for or in behalf of or on account of the state correctional
10458 system.



10459 **SECTION 165.** Section 47-5-79, Mississippi Code of 1972, is
10460 brought forward as follows:

10461 47-5-79. All contracts for the purchase of materials,
10462 supplies, equipment and sustenance for the offenders of the
10463 correctional system shall be made under the provisions of the
10464 State Purchasing Law, same being Sections 31-7-1 through 31-7-55.

10465 **SECTION 166.** Section 59-9-25, Mississippi Code of 1972, is
10466 brought forward as follows:

10467 59-9-25. The board of supervisors of such county, acting
10468 through its county port authority, and the governing authorities
10469 of the municipality in which the port of entry is located, acting
10470 through its port commission, may, in their discretion and acting
10471 jointly, enter into a contract or contracts for the development,
10472 construction, repair, maintenance or operation of any seaports,
10473 wharves, piers, docks, ways, elevators, compresses, warehouses,
10474 tourism facilities, service facilities, roadways, floating dry
10475 docks, graving docks, marine railways, tugboats, and water, air
10476 and rail terminals and other structures, facilities and lands
10477 needful for the convenient use of the same in the aid of commerce,
10478 or any other property at the port of entry under the joint
10479 jurisdiction of said county port authority and such port
10480 commission under such terms and conditions as both bodies may deem
10481 best economically to the city and county wherein the port of entry
10482 is located. In the letting of contracts, and in advertisement for
10483 bids thereon, for the development, construction, repair,



10484 maintenance or operation of any structures, facilities and lands
10485 acquired pursuant to any of the provisions of this chapter, the
10486 said board of supervisors, the governing authorities of the said
10487 municipality, the county port authority and the municipal port
10488 commission shall comply with all the requirements of the general
10489 laws of the State of Mississippi governing the advertisement for
10490 bids and letting of contracts by county boards of supervisors.
10491 However, where the rentals provided in a lease will be sufficient
10492 to fully retire the cost of the particular facility, contracts for
10493 the construction, repair, maintenance and operation of the
10494 facility may be negotiated and consummated with the lessee of the
10495 facility without the necessity of advertising and obtaining
10496 competitive bids therefor. The county port authority is given
10497 full power and authority to employ engineers, attorneys and other
10498 professional and technical assistance in and about the operations,
10499 development and advancement of harbors and ports of such county,
10500 and to pay reasonable compensation therefor, such employment and
10501 compensation therefor to be approved by the board of supervisors
10502 of such county. The county port authority, and the port
10503 commission of the port of entry are jointly vested with the power
10504 and authority herein conferred, subject to the approval of the
10505 board of supervisors and the governing authorities of the
10506 municipality of all joint undertakings of such county port
10507 authority and port commission.



10508 **SECTION 167.** Section 71-5-116, Mississippi Code of 1972, is
10509 brought forward as follows:

10510 71-5-116. The Mississippi Department of Employment Security
10511 will develop an annual report which tracks data received from
10512 contractors. Contractors will cooperate with the Mississippi
10513 Department of Employment Security to accumulate relevant data.
10514 Collected data and reports are intended solely to allow the
10515 Mississippi Department of Employment Security to improve workforce
10516 training programs, tailoring trainings to employer needs and
10517 hiring trends for in-demand jobs in Mississippi.

10518 **SECTION 168.** Section 65-17-105, Mississippi Code of 1972, is
10519 brought forward as follows:

10520 65-17-105. The road accountant shall be the purchasing agent
10521 of the county and, by and with the consent of the board of
10522 supervisors, shall purchase all materials, implements, and
10523 supplies used in such road and bridge work.

10524 **SECTION 169.** Section 65-19-61, Mississippi Code of 1972, is
10525 brought forward as follows:

10526 65-19-61. The board of supervisors of the county in which a
10527 road district organized under this chapter is situated shall have
10528 plenary power of supervision and control over all of the official
10529 acts of the road commissioners and the road superintendent, and
10530 shall refuse to ratify or confirm any contract or report of any
10531 action of such commissioners or superintendent, when the same is
10532 reported to them, which is not for the best interest of such



10533 district. They shall require the letting of contracts and the
10534 purchase of teams, materials, lumber, supplies, and all other
10535 property for the use of the district to be made after
10536 advertisement and competitive bidding when such method is deemed
10537 likely to best subserve the interest of the district and be most
10538 economical.

10539 **SECTION 170.** Section 65-19-77, Mississippi Code of 1972, is
10540 brought forward as follows:

10541 65-19-77. The road superintendent shall have the power to
10542 purchase nails, lumber, tools, and other things necessary, where
10543 the need for the same is immediate and the value of said purchase
10544 does not exceed Fifty Dollars (\$50.00). In cases of emergency he
10545 shall have power to contract for the immediate repair of a bridge,
10546 causeway, culvert, or a bad place in the road, provided such
10547 contract is not for a sum greater than Fifty Dollars (\$50.00) and
10548 the need of the repair immediate and urgent. Such purchases and
10549 contracts shall be subject to ratification by the road
10550 commissioners and the board of supervisors.

10551 **SECTION 171.** Section 61-13-1, Mississippi Code of 1972, is
10552 brought forward as follows:

10553 61-13-1. The Department of Finance and Administration of the
10554 State of Mississippi is authorized and empowered to purchase or
10555 lease, operate and maintain nonmilitary aircraft for use by the
10556 Governor's Office, state departments, agencies, boards and
10557 commissions, the Legislature, its officers and employees, all



10558 under the general direction of the Department of Finance and
10559 Administration.

10560 **SECTION 172.** Section 61-13-5, Mississippi Code of 1972, is
10561 brought forward as follows:

10562 61-13-5. The purchase of aircraft to be used for the purpose
10563 in this chapter shall be in compliance with Sections 31-7-1
10564 through 31-7-21. The Department of Finance and Administration is
10565 hereby exempt from the requirements of Section 27-104-7(2)(f) when
10566 procuring aircraft maintenance, parts, equipment and/or services.
10567 It shall be the responsibility of the Executive Director of the
10568 Department of Finance and Administration to ensure commercially
10569 reasonable practices, including competitive pricing and superb
10570 industry maintenance standards. The selection process of
10571 maintenance facility shall consider: their capability and
10572 experience, the scope of work, the cost, and the length of time
10573 the aircraft will be out of service. The process undertaken by
10574 the Department of Finance and Administration for procurement of
10575 the maintenance facility shall be reported to the Public
10576 Procurement Review Board.

10577 **SECTION 173.** Section 7-7-51, Mississippi Code of 1972, is
10578 brought forward as follows:

10579 7-7-51. The State Fiscal Officer is hereby given the
10580 authority, and it shall be his duty, to procure on competitive
10581 bids and install or have installed all machines, equipment,
10582 records and other things necessary for the performance of the



10583 duties imposed upon the State Fiscal Officer by Sections 7-7-1
10584 through 7-7-65. Such machines and equipment as are to be
10585 purchased shall be purchased in full compliance with the laws of
10586 the state pertaining thereto and, if in the discretion of the
10587 State Fiscal Officer, it is to the best interests of the state, he
10588 may rent certain machines and equipment.

10589 **SECTION 174.** Section 7-7-23, Mississippi Code of 1972, is
10590 brought forward as follows:

10591 7-7-23. (1) Purchases of equipment, supplies, materials or
10592 services of whatever kind or nature for any department, officer,
10593 institution or other agency of the state, the cost of which is to
10594 be paid from funds in the State Treasury on State Fiscal Officer
10595 disbursement warrants, may be made only by written purchase orders
10596 duly signed by the official authorized so to do, on forms
10597 prescribed by the State Fiscal Officer. Purchases of such
10598 equipment, supplies, materials, or services, as specified herein,
10599 made without the issuance of such purchase orders shall not be
10600 deemed to be obligations of the state unless the State Fiscal
10601 Officer, by general rule or special order, permits certain
10602 purchases to be made without same. As many copies of each
10603 purchase order shall be prepared as may be prescribed by the State
10604 Fiscal Officer, but at least one (1) copy shall be furnished the
10605 vendor, one (1) copy shall be furnished the State Fiscal Officer,
10606 and one (1) copy shall be retained by the department or agency for
10607 whose benefit the purchase is made. The State Fiscal Officer, by



10608 general rule or special order, may allow for the submission of
10609 purchase orders in a format not requiring a signature. It shall
10610 be the duty of the proper official in each department or agency to
10611 forward the copy of each purchase order to the State Fiscal
10612 Officer on the same day the said order is issued. All purchase
10613 orders covering purchases to be paid for out of funds appropriated
10614 for any fiscal year shall be executed by June 30 of the fiscal
10615 year and shall be filed with and received for recording by the
10616 State Fiscal Officer within five (5) working days thereafter, and
10617 for electronically submitted purchase orders, the State Fiscal
10618 Officer shall issue regulations as to the last filing date
10619 required for purchase orders; otherwise, the same shall not be
10620 deemed to constitute valid obligations against the state within
10621 the meaning of Section 64 of the Constitution. The provisions of
10622 this subsection shall not apply to contracts for services of
10623 investigators employed by any agency of the state government
10624 authorized by law to employ such investigators.

10625 (2) The State Fiscal Officer may approve electronically
10626 submitted purchase orders, thereby releasing such purchase orders
10627 and recording the encumbrances. For purposes of electronically
10628 submitted purchase orders, the State Fiscal Officer may exempt
10629 agencies from furnishing a copy of the purchase order to the State
10630 Fiscal Officer as required in subsection (1) above.

10631 **SECTION 175.** Section 7-7-25, Mississippi Code of 1972, is
10632 brought forward as follows:



10633 7-7-25. Upon receipt of each purchase order filed with the
10634 State Fiscal Officer under the provisions of Section 7-7-23, the
10635 State Fiscal Officer shall, upon approval of such purchase order,
10636 make due entry of the same on the record of encumbrances, which
10637 shall be established in the General Accounting Office, showing
10638 separately thereon an account for each department, institution or
10639 other agency and the law authorizing the appropriation from which
10640 the same is to be paid, if from appropriated funds. Encumbrances
10641 so made and entered shall, until paid, be shown in the General
10642 Accounting Office's books of account so as to be used as a
10643 liability against the then cash balance of the particular fund
10644 which is applicable, whether general or special, and against the
10645 appropriation balance, if the encumbrance is to be paid from
10646 appropriated funds.

10647 **SECTION 176.** Section 59-17-31, Mississippi Code of 1972, is
10648 brought forward as follows:

10649 59-17-31. The board or the State Inland Port Authority, in
10650 the performance of its duties, may employ such personnel and make
10651 all contracts and purchases incidental to or necessary for the
10652 advancement, promotion, development, establishment, insurance,
10653 maintenance, repair, improvement and operation of any ports,
10654 harbors, rivers, channels and waterways, including, if required
10655 for its protection, retirement benefits, workers' compensation
10656 insurance and other employee benefits for the benefit of any
10657 employees of the board or State Inland Port Authority. The board



10658 or State Inland Port Authority shall make such contracts or
10659 purchases in accordance with state purchasing laws. Contracts let
10660 for any port, harbor, river, channel or waterway improvements
10661 shall be advertised as required by law for the letting of public
10662 contracts, and such contracts shall be awarded to the lowest and
10663 best bidder, who shall make such bond as shall be required by the
10664 board or State Inland Port Authority, conditioned for the faithful
10665 prosecution and completion of the work according to such contract,
10666 such bond to be furnished by a corporate surety company qualified
10667 to do business in this state. However, the board may negotiate
10668 and enter into contracts with responsible lessees for the
10669 construction of facilities by lessees, such as those referred to
10670 in Section 59-17-13, Mississippi Code of 1972, and the acquisition
10671 thereof by the board upon such terms and conditions and for such
10672 amounts as may be approved by the board. Where the rentals
10673 provided in the lease will be sufficient to fully repay the cost
10674 of the particular facility or where the monetary consideration for
10675 a deed is sufficient to fully repay the cost of land acquired for
10676 industrial operations described in the deed, contracts for
10677 construction, repairs, maintenance and operation of the facility
10678 or for the sale of the land may be negotiated and consummated
10679 without the necessity of advertising and obtaining competitive
10680 bids therefor.

10681 The authority is granted the power to sue and be sued in its
10682 own name.



10683 **SECTION 177.** Section 59-5-37, Mississippi Code of 1972, is
10684 brought forward as follows:

10685 59-5-37. (1) The board or State Port Authority, in the
10686 performance of its duties, may employ such personnel and make all
10687 contracts and purchases incidental to or necessary for the
10688 advancement, promotion, development, establishment, insurance,
10689 maintenance, repair, improvement and operation of any ports,
10690 harbors, rivers, channels and waterways including, if required for
10691 its protection, retirement benefits, workers' compensation
10692 insurance and other employee benefits for the benefit of any
10693 employees of the board or State Port Authority. The board or
10694 State Port Authority may establish a trade development and
10695 promotion account to pay all direct and necessary expenses for the
10696 promotion and development of the state port. The authority is
10697 granted the power to sue and be sued in its own name.

10698 (2) (a) The board or State Port Authority may, in its
10699 discretion, make such contracts or purchases according to the
10700 state purchasing laws. Contracts let for any port, harbor, river,
10701 channel or waterway improvements shall be advertised as required
10702 by law for the letting of public contracts, and such contracts
10703 shall be awarded to the lowest and best bidder who shall make bond
10704 as shall be required by the board or State Port Authority
10705 conditioned for the faithful prosecution and completion of work
10706 according to such contracts, such bond to be furnished by a
10707 corporate surety company qualified to do business in this state.



10708 However, the board may negotiate and enter into contracts with
10709 responsible lessees for the construction of facilities by lessees,
10710 such as those referred to in Section 59-5-11, and the acquisition
10711 thereof by the board upon such terms and conditions and for such
10712 amount as may be approved by the board.

10713 (b) The State Port Authority shall be considered to be
10714 a "governing authority" under the state public purchasing laws as
10715 that term is defined in Section 31-7-1 and used in Sections 31-7-1
10716 through 31-7-73, and shall not be subject to the jurisdiction of
10717 the Department of Finance and Administration, the Public
10718 Procurement Review Board or the Bureau of Building, Grounds and
10719 Real Property Management under the provisions of Sections
10720 27-104-7, 29-5-2 and 31-11-3.

10721 (3) (a) The board or State Port Authority, in its
10722 discretion, may use the design-build method of contracting for the
10723 renovation, repair and/or making of other improvements to not more
10724 than one (1) freezer and related equipment and/or facilities at
10725 the State Port at Gulfport, Mississippi. Notwithstanding any
10726 other provision of law to the contrary, any port or port
10727 commission may use the design-build method of contracting for the
10728 renovation, repair and/or making of other improvements to
10729 equipment and/or facilities at the port. For the purposes of this
10730 subsection (3), the term "design-build method of contracting"
10731 means a contract that combines the design and construction phases
10732 of a project into a single contract and the contractor is required



10733 to satisfactorily perform, at a minimum, both the design and
10734 construction of the project.

10735 (b) This subsection (3) shall stand repealed from and
10736 after July 1, 2027.

10737 **SECTION 178.** Section 27-115-49, Mississippi Code of 1972, is
10738 brought forward as follows:

10739 27-115-49. (1) The corporation shall enter into its
10740 contracts for major procurements after bidding. The corporation
10741 may adopt administrative rules and regulations pursuant to the
10742 provisions of this chapter providing for special procedures
10743 whereby the Mississippi Lottery Corporation may make any class of
10744 procurement.

10745 (2) In its bidding processes, the corporation may do its own
10746 bidding and procurement or may utilize the services of the
10747 Department of Finance and Administration, the Department of
10748 Information Technology Services, or other state agencies as
10749 appropriate and necessary. The president of the corporation may,
10750 with approval of the board, declare an emergency for purchasing
10751 purposes which shall be governed by the administrative rules and
10752 regulations adopted by the board.

10753 **SECTION 179.** Section 27-104-7, Mississippi Code of 1972, is
10754 brought forward as follows:

10755 27-104-7. (1) (a) There is created the Public Procurement
10756 Review Board, which shall be reconstituted on January 1, 2018, and
10757 shall be composed of the following members:



10758 (i) Three (3) individuals appointed by the
10759 Governor with the advice and consent of the Senate;
10760 (ii) Two (2) individuals appointed by the
10761 Lieutenant Governor with the advice and consent of the Senate; and
10762 (iii) The Executive Director of the Department of
10763 Finance and Administration, serving as an ex officio and nonvoting
10764 member.

10765 (b) The initial terms of each appointee shall be as
10766 follows:

- 10767 (i) One (1) member appointed by the Governor to
10768 serve for a term ending on June 30, 2019;
- 10769 (ii) One (1) member appointed by the Governor to
10770 serve for a term ending on June 30, 2020;
- 10771 (iii) One (1) member appointed by the Governor to
10772 serve for a term ending on June 30, 2021;
- 10773 (iv) One (1) member appointed by the Lieutenant
10774 Governor to serve for a term ending on June 30, 2019; and
- 10775 (v) One (1) member appointed by the Lieutenant
10776 Governor to serve for a term ending on June 30, 2020.

10777 After the expiration of the initial terms, all appointed
10778 members' terms shall be for a period of four (4) years from the
10779 expiration date of the previous term, and until such time as the
10780 member's successor is duly appointed and qualified.

10781 (c) When appointing members to the Public Procurement
10782 Review Board, the Governor and Lieutenant Governor shall take into



10783 consideration persons who possess at least five (5) years of
10784 management experience in general business, health care or finance
10785 for an organization, corporation or other public or private
10786 entity. Any person, or any employee or owner of a company, who
10787 receives any grants, procurements or contracts that are subject to
10788 approval under this section shall not be appointed to the Public
10789 Procurement Review Board. Any person, or any employee or owner of
10790 a company, who is a principal of the source providing a personal
10791 or professional service shall not be appointed to the Public
10792 Procurement Review Board if the principal owns or controls a
10793 greater than five percent (5%) interest or has an ownership value
10794 of One Million Dollars (\$1,000,000.00) in the source's business,
10795 whichever is smaller. No member shall be an officer or employee
10796 of the State of Mississippi while serving as a voting member on
10797 the Public Procurement Review Board.

10798 (d) Members of the Public Procurement Review Board
10799 shall be entitled to per diem as authorized by Section 25-3-69 and
10800 travel reimbursement as authorized by Section 25-3-41.

10801 (e) The members of the Public Procurement Review Board
10802 shall elect a chair from among the membership, and he or she shall
10803 preside over the meetings of the board. The board shall annually
10804 elect a vice chair, who shall serve in the absence of the chair.
10805 No business shall be transacted, including adoption of rules of
10806 procedure, without the presence of a quorum of the board. Three
10807 (3) members shall be a quorum. No action shall be valid unless



10808 approved by a majority of the members present and voting, entered
10809 upon the minutes of the board and signed by the chair. Necessary
10810 clerical and administrative support for the board shall be
10811 provided by the Department of Finance and Administration. Minutes
10812 shall be kept of the proceedings of each meeting, copies of which
10813 shall be filed on a monthly basis with the chairs of the
10814 Accountability, Efficiency and Transparency Committees of the
10815 Senate and House of Representatives and the chairs of the
10816 Appropriations Committees of the Senate and House of
10817 Representatives.

10818 (2) The Public Procurement Review Board shall have the
10819 following powers and responsibilities:

10820 (a) Approve all purchasing regulations governing the
10821 purchase or lease by any agency, as defined in Section 31-7-1, of
10822 commodities and equipment, except computer equipment acquired
10823 pursuant to Sections 25-53-1 through 25-53-29;

10824 (b) Adopt regulations governing the approval of
10825 contracts let for the construction and maintenance of state
10826 buildings and other state facilities as well as related contracts
10827 for architectural and engineering services.

10828 The provisions of this paragraph (b) shall not apply to such
10829 contracts involving buildings and other facilities of state
10830 institutions of higher learning which are self-administered as
10831 provided under this paragraph (b) or Section 37-101-15(m);



10832 (c) Adopt regulations governing any lease or rental
10833 agreement by any state agency or department, including any state
10834 agency financed entirely by federal funds, for space outside the
10835 buildings under the jurisdiction of the Department of Finance and
10836 Administration. These regulations shall require each agency
10837 requesting to lease such space to provide the following
10838 information that shall be published by the Department of Finance
10839 and Administration on its website: the agency to lease the space;
10840 the terms of the lease; the approximate square feet to be leased;
10841 the use for the space; a description of a suitable space; the
10842 general location desired for the leased space; the contact
10843 information for a person from the agency; the deadline date for
10844 the agency to have received a lease proposal; any other specific
10845 terms or conditions of the agency; and any other information
10846 deemed appropriate by the Division of Real Property Management of
10847 the Department of Finance and Administration or the Public
10848 Procurement Review Board. The information shall be provided
10849 sufficiently in advance of the time the space is needed to allow
10850 the Division of Real Property Management of the Department of
10851 Finance and Administration to review and preapprove the lease
10852 before the time for advertisement begins;

10853 (d) Adopt, in its discretion, regulations to set aside
10854 at least five percent (5%) of anticipated annual expenditures for
10855 the purchase of commodities from minority businesses; however, all
10856 such set-aside purchases shall comply with all purchasing



10857 regulations promulgated by the department and shall be subject to
10858 all bid requirements. Set-aside purchases for which competitive
10859 bids are required shall be made from the lowest and best minority
10860 business bidder; however, if no minority bid is available or if
10861 the minority bid is more than two percent (2%) higher than the
10862 lowest bid, then bids shall be accepted and awarded to the lowest
10863 and best bidder. However, the provisions in this paragraph shall
10864 not be construed to prohibit the rejection of a bid when only one
10865 (1) bid is received. Such rejection shall be placed in the
10866 minutes. For the purposes of this paragraph, the term "minority
10867 business" means a business which is owned by a person who is a
10868 citizen or lawful permanent resident of the United States and who
10869 is:

10870 (i) Black: having origins in any of the black
10871 racial groups of Africa;

10872 (ii) Hispanic: of Mexican, Puerto Rican, Cuban,
10873 Central or South American, or other Spanish or Portuguese culture
10874 or origin regardless of race;

10875 (iii) Asian-American: having origins in any of
10876 the original people of the Far East, Southeast Asia, the Indian
10877 subcontinent, or the Pacific Islands;

10878 (iv) American Indian or Alaskan Native: having
10879 origins in any of the original people of North America; or

10880 (v) Female;



10881 (e) In consultation with and approval by the Chairs of
10882 the Senate and House Public Property Committees, approve leases,
10883 for a term not to exceed eighteen (18) months, entered into by
10884 state agencies for the purpose of providing parking arrangements
10885 for state employees who work in the Woolfolk Building, the Carroll
10886 Gartin Justice Building or the Walter Sillers Office Building;

10887 (f) (i) Except as otherwise provided in subparagraph
10888 (ii) of this paragraph, promulgate rules and regulations governing
10889 the solicitation and selection of contractual services personnel,
10890 including personal and professional services contracts for any
10891 form of consulting, policy analysis, public relations, marketing,
10892 public affairs, legislative advocacy services or any other
10893 contract that the board deems appropriate for oversight, with the
10894 exception of:

10895 1. Any personal service contracts entered
10896 into by any agency that employs only nonstate service employees as
10897 defined in Section 25-9-107(c);

10898 2. Any personal service contracts entered
10899 into for computer or information technology-related services
10900 governed by the Mississippi Department of Information Technology
10901 Services;

10902 3. Any personal service contracts entered
10903 into by the individual state institutions of higher learning;

10904 4. Any personal service contracts entered
10905 into by the Mississippi Department of Transportation;



10906 5. Any personal service contracts entered
10907 into by the Department of Human Services through June 30, 2019,
10908 which the Executive Director of the Department of Human Services
10909 determines would be useful in establishing and operating the
10910 Department of Child Protection Services;

10911 6. Any personal service contracts entered
10912 into by the Department of Child Protection Services through June
10913 30, 2019;

10914 7. Any contracts for entertainers and/or
10915 performers at the Mississippi State Fairgrounds entered into by
10916 the Mississippi Fair Commission;

10917 8. Any contracts entered into by the
10918 Department of Finance and Administration when procuring aircraft
10919 maintenance, parts, equipment and/or services;

10920 9. Any contract entered into by the
10921 Department of Public Safety for service on specialized equipment
10922 and/or software required for the operation of such specialized
10923 equipment for use by the Office of Forensics Laboratories;

10924 10. Any personal or professional service
10925 contract entered into by the Mississippi Department of Health or
10926 the Department of Revenue solely in connection with their
10927 respective responsibilities under the Mississippi Medical Cannabis
10928 Act from February 2, 2022, through June 30, 2026;



10929 11. Any contract for attorney, accountant,
10930 actuary auditor, architect, engineer, anatomical pathologist, or
10931 utility rate expert services;

10932 12. Any personal service contracts approved
10933 by the Executive Director of the Department of Finance and
10934 Administration and entered into by the Coordinator of Mental
10935 Health Accessibility through June 30, 2022;

10936 13. Any personal or professional services
10937 contract entered into by the State Department of Health in
10938 carrying out its responsibilities under the ARPA Rural Water
10939 Associations Infrastructure Grant Program through June 30, 2026;

10940 14. And any personal or professional services
10941 contract entered into by the Mississippi Department of
10942 Environmental Quality in carrying out its responsibilities under
10943 the Mississippi Municipality and County Water Infrastructure Grant
10944 Program Act of 2022, through June 30, 2026;

10945 15. Any personal or professional services
10946 contract entered into by an agency for the design, operation or
10947 maintenance of museum exhibits. An agency making a purchase under
10948 this exemption shall publicly advertise a Request for
10949 Qualifications but shall be otherwise exempt. Any contracts
10950 arising from the use of this exemption must be approved by the
10951 Public Procurement Review Board prior to execution by the agency;
10952 and



10953 16. Any personal or professional services
10954 contract entered into by the Mississippi Department of
10955 Environmental Quality in carrying out its responsibilities under
10956 Section 49-2-13(1). This item 15 shall stand repealed on July 1,
10957 2028.

10958 Any such rules and regulations shall provide for maintaining
10959 continuous internal audit covering the activities of such agency
10960 affecting its revenue and expenditures as required under Section
10961 7-7-3(6) (d). Any rules and regulation changes related to personal
10962 and professional services contracts that the Public Procurement
10963 Review Board may propose shall be submitted to the Chairs of the
10964 Accountability, Efficiency and Transparency Committees of the
10965 Senate and House of Representatives and the Chairs of the
10966 Appropriation Committees of the Senate and House of
10967 Representatives at least fifteen (15) days before the board votes
10968 on the proposed changes, and those rules and regulation changes,
10969 if adopted, shall be promulgated in accordance with the
10970 Mississippi Administrative Procedures Act.

10971 (ii) From and after July 1, 2024, the Public
10972 Procurement Review Board shall promulgate rules and regulations
10973 that require the Department of Finance and Administration to
10974 conduct personal and professional services solicitations as
10975 provided in subparagraph (i) of this paragraph for those services
10976 in excess of Seventy-five Thousand Dollars (\$75,000.00) for the
10977 Department of Marine Resources, the Department of Wildlife,



10978 Fisheries and Parks, the Mississippi Emergency Management Agency
10979 and the Mississippi Development Authority, with assistance to be
10980 provided from these entities. Any powers that have been conferred
10981 upon agencies in order to comply with the provisions of this
10982 section for personal and professional services solicitations shall
10983 be conferred upon the Department of Finance and Administration to
10984 conduct personal and professional services solicitations for the
10985 Department of Marine Resources, the Department of Wildlife,
10986 Fisheries and Parks, the Mississippi Emergency Management Agency
10987 and the Mississippi Development Authority for those services in
10988 excess of Seventy-five Thousand Dollars (\$75,000.00). The
10989 Department of Finance and Administration shall make any
10990 submissions that are required to be made by other agencies to the
10991 Public Procurement Review Board for the Department of Marine
10992 Resources, the Department of Wildlife, Fisheries and Parks, the
10993 Mississippi Emergency Management Agency and the Mississippi
10994 Development Authority.

10995 The provisions of this subparagraph (ii) shall stand repealed
10996 on June 30, 2027;

10997 (g) Approve all personal and professional services
10998 contracts involving the expenditures of funds in excess of
10999 Seventy-five Thousand Dollars (\$75,000.00), except as provided in
11000 paragraph (f) of this subsection (2) and in subsection (8);

11001 (h) Develop mandatory standards with respect to
11002 contractual services personnel that require invitations for public



11003 bid, requests for proposals, record keeping and financial
11004 responsibility of contractors. The Public Procurement Review
11005 Board shall, unless exempted under this paragraph (h) or under
11006 paragraph (i) or (o) of this subsection (2), require the agency
11007 involved to submit the procurement to a competitive procurement
11008 process, and may reserve the right to reject any or all resulting
11009 procurements;

11010 (i) Prescribe certain circumstances by which agency
11011 heads may enter into contracts for personal and professional
11012 services without receiving prior approval from the Public
11013 Procurement Review Board. The Public Procurement Review Board may
11014 establish a preapproved list of providers of various personal and
11015 professional services for set prices with which state agencies may
11016 contract without bidding or prior approval from the board;

11017 (i) Agency requirements may be fulfilled by
11018 procuring services performed incident to the state's own programs.
11019 The agency head shall determine in writing whether the price
11020 represents a fair market value for the services. When the
11021 procurements are made from other governmental entities, the
11022 private sector need not be solicited; however, these contracts
11023 shall still be submitted for approval to the Public Procurement
11024 Review Board.

11025 (ii) Contracts between two (2) state agencies,
11026 both under Public Procurement Review Board purview, shall not
11027 require Public Procurement Review Board approval. However, the



11028 contracts shall still be entered into the enterprise resource
11029 planning system;

11030 (j) Provide standards for the issuance of requests for
11031 proposals, the evaluation of proposals received, consideration of
11032 costs and quality of services proposed, contract negotiations, the
11033 administrative monitoring of contract performance by the agency
11034 and successful steps in terminating a contract;

11035 (k) Present recommendations for governmental
11036 privatization and to evaluate privatization proposals submitted by
11037 any state agency;

11038 (l) Authorize personal and professional service
11039 contracts to be effective for more than one (1) year provided a
11040 funding condition is included in any such multiple year contract,
11041 except the State Board of Education, which shall have the
11042 authority to enter into contractual agreements for student
11043 assessment for a period up to ten (10) years. The State Board of
11044 Education shall procure these services in accordance with the
11045 Public Procurement Review Board procurement regulations;

11046 (m) Request the State Auditor to conduct a performance
11047 audit on any personal or professional service contract;

11048 (n) Prepare an annual report to the Legislature
11049 concerning the issuance of personal and professional services
11050 contracts during the previous year, collecting any necessary
11051 information from state agencies in making such report;



11052 (o) Develop and implement the following standards and
11053 procedures for the approval of any sole source contract for
11054 personal and professional services regardless of the value of the
11055 procurement:

11056 (i) For the purposes of this paragraph (o), the
11057 term "sole source" means only one (1) source is available that can
11058 provide the required personal or professional service.

11059 (ii) An agency that has been issued a binding,
11060 valid court order mandating that a particular source or provider
11061 must be used for the required service must include a copy of the
11062 applicable court order in all future sole source contract reviews
11063 for the particular personal or professional service referenced in
11064 the court order.

11065 (iii) Any agency alleging to have a sole source
11066 for any personal or professional service, other than those
11067 exempted under paragraph (f) of this subsection (2) and subsection
11068 (8), shall publish on the procurement portal website established
11069 by Sections 25-53-151 and 27-104-165, for at least fourteen (14)
11070 days, the terms of the proposed contract for those services. In
11071 addition, the publication shall include, but is not limited to,
11072 the following information:

11073 1. The personal or professional service
11074 offered in the contract;



11075 2. An explanation of why the personal or
11076 professional service is the only one that can meet the needs of
11077 the agency;

11078 3. An explanation of why the source is the
11079 only person or entity that can provide the required personal or
11080 professional service;

11081 4. An explanation of why the amount to be
11082 expended for the personal or professional service is reasonable;
11083 and

11084 5. The efforts that the agency went through
11085 to obtain the best possible price for the personal or professional
11086 service.

11087 (iv) If any person or entity objects and proposes
11088 that the personal or professional service published under
11089 subparagraph (iii) of this paragraph (o) is not a sole source
11090 service and can be provided by another person or entity, then the
11091 objecting person or entity shall notify the Public Procurement
11092 Review Board and the agency that published the proposed sole
11093 source contract with a detailed explanation of why the personal or
11094 professional service is not a sole source service.

11095 (v) 1. If the agency determines after review that
11096 the personal or professional service in the proposed sole source
11097 contract can be provided by another person or entity, then the
11098 agency must withdraw the sole source contract publication from the
11099 procurement portal website and submit the procurement of the



11100 personal or professional service to an advertised competitive bid
11101 or selection process.

11102 2. If the agency determines after review that
11103 there is only one (1) source for the required personal or
11104 professional service, then the agency may appeal to the Public
11105 Procurement Review Board. The agency has the burden of proving
11106 that the personal or professional service is only provided by one
11107 (1) source.

11108 3. If the Public Procurement Review Board has
11109 any reasonable doubt as to whether the personal or professional
11110 service can only be provided by one (1) source, then the agency
11111 must submit the procurement of the personal or professional
11112 service to an advertised competitive bid or selection process. No
11113 action taken by the Public Procurement Review Board in this appeal
11114 process shall be valid unless approved by a majority of the
11115 members of the Public Procurement Review Board present and voting.

11116 (vi) The Public Procurement Review Board shall
11117 prepare and submit a quarterly report to the House of
11118 Representatives and Senate Accountability, Efficiency and
11119 Transparency Committees that details the sole source contracts
11120 presented to the Public Procurement Review Board and the reasons
11121 that the Public Procurement Review Board approved or rejected each
11122 contract. These quarterly reports shall also include the
11123 documentation and memoranda required in subsection (4) of this
11124 section. An agency that submitted a sole source contract shall be



11125 prepared to explain the sole source contract to each committee by
11126 December 15 of each year upon request by the committee;

11127 (p) Assess any fines and administrative penalties
11128 provided for in Sections 31-7-401 through 31-7-423.

11129 (3) All submissions shall be made sufficiently in advance of
11130 each monthly meeting of the Public Procurement Review Board as
11131 prescribed by the Public Procurement Review Board. If the Public
11132 Procurement Review Board rejects any contract submitted for review
11133 or approval, the Public Procurement Review Board shall clearly set
11134 out the reasons for its action, including, but not limited to, the
11135 policy that the agency has violated in its submitted contract and
11136 any corrective actions that the agency may take to amend the
11137 contract to comply with the rules and regulations of the Public
11138 Procurement Review Board.

11139 (4) All sole source contracts for personal and professional
11140 services awarded by state agencies, other than those exempted
11141 under Section 27-104-7(2) (f) and (8), whether approved by an
11142 agency head or the Public Procurement Review Board, shall contain
11143 in the procurement file a written determination for the approval,
11144 using a request form furnished by the Public Procurement Review
11145 Board. The written determination shall document the basis for the
11146 determination, including any market analysis conducted in order to
11147 ensure that the service required was practicably available from
11148 only one (1) source. A memorandum shall accompany the request
11149 form and address the following four (4) points:



11150 (a) Explanation of why this service is the only service
11151 that can meet the needs of the purchasing agency;

11152 (b) Explanation of why this vendor is the only
11153 practicably available source from which to obtain this service;

11154 (c) Explanation of why the price is considered
11155 reasonable; and

11156 (d) Description of the efforts that were made to
11157 conduct a noncompetitive negotiation to get the best possible
11158 price for the taxpayers.

11159 (5) In conjunction with the State Personnel Board, the
11160 Public Procurement Review Board shall develop and promulgate rules
11161 and regulations to define the allowable legal relationship between
11162 contract employees and the contracting departments, agencies and
11163 institutions of state government under the jurisdiction of the
11164 State Personnel Board, in compliance with the applicable rules and
11165 regulations of the federal Internal Revenue Service (IRS) for
11166 federal employment tax purposes. Under these regulations, the
11167 usual common law rules are applicable to determine and require
11168 that such worker is an independent contractor and not an employee,
11169 requiring evidence of lawful behavioral control, lawful financial
11170 control and lawful relationship of the parties. Any state
11171 department, agency or institution shall only be authorized to
11172 contract for personnel services in compliance with those
11173 regulations.



11174 (6) No member of the Public Procurement Review Board shall
11175 use his or her official authority or influence to coerce, by
11176 threat of discharge from employment, or otherwise, the purchase of
11177 commodities, the contracting for personal or professional
11178 services, or the contracting for public construction under this
11179 chapter.

11180 (7) Notwithstanding any other laws or rules to the contrary,
11181 the provisions of subsection (2) of this section shall not be
11182 applicable to the Mississippi State Port Authority at Gulfport.

11183 (8) Nothing in this section shall impair or limit the
11184 authority of the Board of Trustees of the Public Employees'
11185 Retirement System to enter into any personal or professional
11186 services contracts directly related to their constitutional
11187 obligation to manage the trust funds, including, but not limited
11188 to, actuarial, custodial banks, cash management, investment
11189 consultant and investment management contracts. Nothing in this
11190 section shall impair or limit the authority of the State Treasurer
11191 to enter into any personal or professional services contracts
11192 involving the management of trust funds, including, but not
11193 limited to, actuarial, custodial banks, cash management,
11194 investment consultant and investment management contracts.

11195 (9) Through December 31, 2026, the provisions of this
11196 section related to rental agreements or leasing of real property
11197 for the purpose of conducting agency business shall not apply to
11198 the Office of Workforce Development created in Section 37-153-7.



11199 **SECTION 180.** Section 25-53-191, Mississippi Code of 1972, is
11200 brought forward as follows:

11201 25-53-191. (1) For the purposes of this section, the
11202 following terms shall have the meanings ascribed to them in this
11203 section unless the context otherwise clearly requires:

11204 (a) "Department" means the Mississippi Department of
11205 Information Technology.

11206 (b) "State agency" means any agency, department,
11207 commission, board, bureau, institution or other instrumentality of
11208 the state.

11209 (c) "Wireless communication device" means a cellular
11210 telephone, pager or a personal digital assistant device having
11211 wireless communication capability.

11212 (2) Before a wireless communication device may be assigned,
11213 issued or made available to an agency officer or employee, the
11214 agency head, or his designee, shall sign a statement certifying
11215 the need or reason for issuing the device. No officer or employee
11216 of any state agency, except for an officer or employee of the
11217 Mississippi Emergency Management Agency, shall be assigned or
11218 issued more than one (1) such wireless communication device. No
11219 officer or employee of any state agency to whom has been assigned,
11220 issued or made available the use of a wireless communication
11221 device, the cost of which is paid through the use of public funds,
11222 shall use such device for personal use.



11223 (3) A state agency shall not reimburse any officer or
11224 employee for use of his or her personal wireless communication
11225 device.

11226 (4) Every state agency that, at the expense of the state
11227 agency, assigns, issues or makes available to any of its officers
11228 or employees a wireless communication device shall obtain and
11229 maintain detailed billing for every wireless communication device
11230 account. A list of approved vendors for the procurement of
11231 wireless communication devices and the delivery of wireless
11232 communication device services shall be developed for all state
11233 agencies by the Mississippi Department of Information Technology
11234 Services. The department shall exercise the option of selecting
11235 one (1) vendor from which to procure wireless communication
11236 devices and to provide wireless communication device services, or
11237 if it deems such to be most advantageous to the state agencies, it
11238 may select multiple vendors. The department shall select a vendor
11239 or vendors on the basis of lowest and best bid proposals. A state
11240 agency may not procure a wireless communication device from any
11241 vendor or contract for wireless communication device services with
11242 any vendor unless the vendor appears on the list approved by the
11243 department. A contract entered into in violation of this section
11244 shall be void and unenforceable.

11245 (5) The department shall promulgate a model acceptable use
11246 policy defining the appropriate use of all wireless communication
11247 devices. The department shall include in its definition of



11248 appropriate use a prohibition on the downloading, accessing, or
11249 using of a prohibited technology pursuant to the National Security
11250 on State Devices and Networks Act. The acceptable use policy
11251 should specify that these resources, including both devices and
11252 services, are provided at the state agency's expense as tools for
11253 accomplishing the business missions of the state agency; that all
11254 those resources are for business use; and that more than
11255 incidental personal use of those resources is prohibited. The
11256 acceptable use policy should require that each official and
11257 employee issued one (1) of the above devices or authorized to
11258 access one (1) of the above services sign the policy and that the
11259 signed copy be placed in the personnel file of the official or
11260 employee. The acceptable use policy should also require that the
11261 use of these resources be tracked, verified and signed by the
11262 official or employee and the supervisor of the official or
11263 employee at each billing cycle or other appropriate interval. All
11264 state agencies shall adopt the model policy or adopt a policy that
11265 is, at minimum, as stringent as the model policy and shall provide
11266 a copy of the policy to the department.

11267 (6) All state agencies shall purchase or acquire only the
11268 lowest cost cellular telephone, pager or personal digital
11269 assistance device which will carry out its intended use.

11270 (7) The University of Mississippi Medical Center and its
11271 employees, the Mississippi State University Extension Service and
11272 its agents and faculty members, the Mississippi State University



11273 Agricultural and Forestry Experiment Station and its faculty
11274 members, the Mississippi State University Forestry and Wildlife
11275 Research Center and its faculty members, and the Mississippi State
11276 University College of Veterinary Medicine and its faculty members
11277 shall be exempt from the application of this section.

11278 (8) Employees of State Institutions of Higher Learning shall
11279 be exempt from the provisions of this section when incurring
11280 international usage charges for the business-related use of their
11281 personal wireless communication devices during business-related
11282 international travel. Such exemption shall only apply after a
11283 determination by the employer-institution that reimbursement to
11284 the employee for the use of his or her personal wireless
11285 communication device is the lowest-cost option to prevent business
11286 interruption during such travel.

11287 (9) The State Auditor shall conduct necessary audits to
11288 ensure compliance with the provisions of this section.

11289 **SECTION 181.** Section 65-1-87, Mississippi Code of 1972, is
11290 brought forward as follows:

11291 65-1-87. The Mississippi State Highway Commission is hereby
11292 authorized and empowered to purchase war surplus equipment,
11293 supplies, and materials from the General Services Administration
11294 of the United States of America without the necessity of
11295 advertising for bids for such materials and equipment and
11296 supplies, even though the cost of such materials, equipment, and
11297 supplies exceed the sum of One Thousand Dollars (\$1,000.00),



11298 provided that such equipment, materials, and supplies shall be
11299 purchased for less than the then prevailing market price.

11300 **SECTION 182.** Section 73-13-45, Mississippi Code of 1972, is
11301 brought forward as follows:

11302 73-13-45. (1) (a) Neither the state, nor any of its
11303 political subdivisions, such as a county, city or town, shall
11304 award construction contracts of any public work involving the
11305 practice of engineering or architecture unless the plans,
11306 specifications and estimates have been prepared and such work
11307 supervised by a registered professional engineer or architect;
11308 however, nothing in this subsection shall be held to apply to such
11309 public work in which the expenditure does not exceed One Hundred
11310 Thousand Dollars (\$100,000.00).

11311 (b) The state and any of its political subdivisions,
11312 such as a county, city or town, may engage in construction of
11313 public buildings involving the practice of engineering or
11314 architecture and using political subdivision workforces without
11315 the supervision of a licensed professional engineer or architect,
11316 provided that the total cost of the public building does not
11317 exceed One Hundred Fifty Thousand Dollars (\$150,000.00). This
11318 paragraph (1)(b) shall not supersede any rules and regulations
11319 promulgated by the State Department of Health and the Department
11320 of Environmental Quality.

11321 (2) (a) In the awarding of public contracts for
11322 professional engineering services, preference shall be given to



11323 resident professional engineers over those nonresident
11324 professional engineers domiciled in a state having laws which
11325 grant a preference to the professional engineers who are residents
11326 of that state. Nonresident professional engineers shall be
11327 awarded Mississippi public contracts only on the same basis as the
11328 nonresident professional's state awards contracts to Mississippi
11329 professional engineers under similar circumstances. When a
11330 nonresident professional engineer submits a proposal for a public
11331 project, he shall attach thereto a copy of his resident state's
11332 current statute, resolution, policy, procedure or executive order
11333 pertaining to such state's treatment of nonresident professional
11334 engineers. Resident professional engineers actually domiciled in
11335 Mississippi, be they corporate, individuals or partnerships, shall
11336 be granted preference over nonresidents in the awarding of
11337 contracts in the same manner and to the same extent as provided by
11338 the laws of the state of domicile of the nonresident. As used in
11339 this section, the term "resident professional engineer" includes a
11340 nonresident person, firm or corporation that has been qualified to
11341 do business in this state and has maintained a permanent full-time
11342 office in the State of Mississippi for not less than two (2) years
11343 prior to submitting a proposal for a public project, and the
11344 subsidiaries and affiliates of such a person, firm or corporation.
11345 (b) The provisions of this subsection shall not apply
11346 to any contract for any project upon which federal funds would be



11347 withheld because of the preference requirements of this
11348 subsection.

11349 (c) Any contract, agreement or arrangement for
11350 professional engineering services negotiated, made or entered
11351 into, directly or indirectly, by the state, counties,
11352 municipalities or any political subdivision thereof, or by any
11353 special districts, which is in any way in violation of the
11354 provisions of this subsection is hereby declared to be void as
11355 contrary to the public policy of this state and shall not be given
11356 effect or enforced by any court of this state or by any of its
11357 officers or employees.

11358 (d) Nothing in this subsection shall affect the
11359 validity of any contract in existence prior to July 1, 1989.

11360 (e) For purposes of this section, the term
11361 "professional engineering services" means those within the scope
11362 of the practice of professional engineering as defined by Sections
11363 73-13-1 through 73-13-45, or those performed by any registered
11364 professional engineer in connection with professional employment
11365 or practice.

11366 **SECTION 183.** Section 73-63-55, Mississippi Code of 1972, is
11367 brought forward as follows:

11368 73-63-55. (1) In awarding public contracts for professional
11369 geological services, preference shall be given to resident
11370 registered professional geologists over those nonresident
11371 professional geologists domiciled in a state having laws which



11372 grant a preference to the professional geologists who are
11373 residents of that state. Nonresident registered professional
11374 geologists shall be awarded Mississippi public contracts only on
11375 the same basis as the nonresident professional's state awards
11376 contracts to Mississippi registered professional geologists under
11377 similar circumstances. When a nonresident professional geologist
11378 submits a proposal for a public project, that person shall attach
11379 a copy of the resident state's current statute, resolution,
11380 policy, procedure or executive order pertaining to that state's
11381 treatment of nonresident professional geologists. Resident
11382 registered professional geologists actually domiciled in
11383 Mississippi, be they corporate, individuals or partnerships, shall
11384 be granted preference over nonresidents in the awarding of
11385 contracts in the same manner and to the same extent as provided by
11386 the laws of the state of domicile of the nonresident. As used in
11387 this section, the term "resident registered professional
11388 geologist" includes a nonresident person that has been qualified
11389 to do business in this state and has maintained a permanent
11390 full-time office in the State of Mississippi for not less than two
11391 (2) years prior to submitting a proposal for a public project, and
11392 the subsidiaries and affiliates of that person.

11393 (2) This section shall not apply to any contract for any
11394 project upon which federal funds would be withheld because of the
11395 preference requirements of this subsection.



11396 (3) Any contract, agreement or arrangement for professional
11397 geological services negotiated, made or entered into, directly or
11398 indirectly, by the state, counties, municipalities or any
11399 political subdivision thereof, or by any special districts, which
11400 is in any way in violation of this section, is declared to be void
11401 as contrary to the public policy of this state and shall not be
11402 given effect or enforced by any court of this state or by any of
11403 its officers or employees.

11404 (4) Nothing in this section shall affect the validity of any
11405 contract in existence before July 1, 1997.

11406 (5) For purposes of this section, "professional geological
11407 services" means the practice of geology or those services
11408 performed by any registered professional geologist in connection
11409 with professional employment or practice.

11410 **SECTION 184.** Section 17-17-121, Mississippi Code of 1972, is
11411 brought forward as follows:

11412 17-17-121. Contracts for acquisition, purchase, construction
11413 and/or installation of a project contemplated by Sections
11414 17-17-101 through 17-17-135 shall be effected in the manner
11415 prescribed by law for public contracts; provided, however, that
11416 where (a) the municipality finds and records such finding on its
11417 minutes, that because of availability or particular nature of a
11418 project, it would not be in the public interest or would less
11419 effectively achieve the purposes of Sections 17-17-101 through
11420 17-17-135 to enter into such contracts upon the basis of public



11421 bidding pursuant to advertising, (b) the industry concurs in such
11422 finding, and (c) such finding is approved by the board, public
11423 bidding pursuant to advertisement may be dispensed with and such
11424 contracts may be entered into based upon negotiation; and provided
11425 further, that the industry, at its option, may negotiate such
11426 contracts in the name of the municipality.

11427 **SECTION 185.** Section 25-53-25, Mississippi Code of 1972, is
11428 brought forward as follows:

11429 25-53-25. (1) Nothing in this chapter shall be construed to
11430 imply exemption from the public purchases law, being Section
11431 31-7-1 et seq.

11432 (2) The authority may establish policies and procedures for
11433 the purpose of delegating the bidding and contracting
11434 responsibilities related to the procurement of computer equipment
11435 or services to the purchasing agency. Such policies and
11436 procedures must address the following issues:

11437 (a) Establish categories of equipment or services
11438 affected;

11439 (b) Establish maximum unit and/or ceiling prices of
11440 such procurements;

11441 (c) Establish reporting, monitoring and control of such
11442 procurements; and

11443 (d) Establish other such rules and regulations as
11444 necessary to fully implement the purposes of this section.



11445 Nothing in this subsection shall be construed to imply exemption
11446 from the public purchases law, being Section 31-7-1 et seq.

11447 (3) Acquisitions of computer equipment and services by
11448 institutions of higher learning or junior colleges wholly with
11449 federal funds and not with state general funds shall be exempt
11450 from the provisions of this chapter; however, nothing in this
11451 subsection shall be construed to imply an exemption of such
11452 acquisitions from the public purchases law, being Section 31-7-1
11453 et seq.

11454 (4) [Repealed]

11455 **SECTION 186.** Section 5-3-72, Mississippi Code of 1972, is
11456 brought forward as follows:

11457 5-3-72. The Joint Committee on Performance Evaluation and
11458 Expenditure Review (PEER) shall evaluate on a biennial basis the
11459 procurement process utilized by all state agencies, including, but
11460 not limited to, the contract review, reporting and recordkeeping
11461 requirements in Section 25-9-120, and the bid requirements in
11462 Section 31-7-13. Upon completion of its evaluation, the PEER
11463 Committee shall submit a report to the Legislature with
11464 recommendations for improving the procurement process. The
11465 Department of Finance and Administration and the Personal Service
11466 Contract Review Board shall cooperate with the PEER Committee to
11467 carry out the provisions of this section.

11468 **SECTION 187.** Section 25-53-151, Mississippi Code of 1972, is
11469 brought forward as follows:



11470 25-53-151. (1) There is established in the State Treasury
11471 the "Electronic Government Services Fund," into which shall be
11472 deposited specific funds appropriated by the Legislature for
11473 developing and providing electronic government services within the
11474 State of Mississippi. Any funds in the Electronic Government
11475 Services Fund at the end of a fiscal year shall not lapse into the
11476 State General Fund, but shall be available for expenditure in the
11477 subsequent fiscal year. The funds in the Electronic Government
11478 Fund shall be available for expenditure pursuant to specific
11479 appropriation by the Legislature beginning in fiscal year 2002, to
11480 the Mississippi Department of Information Technology Services.

11481 (2) There is hereby established an Electronic Government
11482 Oversight Committee to oversee the implementation of E-Government
11483 and related technology initiatives. Duties of this committee
11484 would include: (a) prioritize and make recommendations for all
11485 electronic government services, in order to cut across state and
11486 local governmental organizational structures; (b) address policy
11487 issues such as privacy, security, transaction fees and
11488 accessibility; (c) review ongoing fiscal and operational
11489 management and support of portal; (d) provide a mechanism for
11490 gathering input from citizens, businesses and government entities;
11491 (e) encourage self-service models for citizens through state
11492 websites and other electronic services; and (f) promote economic
11493 development and efficient delivery of government services by
11494 encouraging governmental and private sector entities to conduct



11495 their business and transactions using electronic media. The
11496 Electronic Government Oversight Committee shall be composed of the
11497 following: (a) the Executive Director of the Mississippi
11498 Department of Information Technology Services, or his designee;
11499 (b) the State Auditor, or his designee; (c) the State Treasurer,
11500 or his designee; (d) the Secretary of State, or his designee; (e)
11501 the Executive Director of the Department of Finance and
11502 Administration, or his designee; (f) the Commissioner of Public
11503 Safety, or his designee; (g) the Commissioner of Revenue, or his
11504 designee. The committee shall annually elect one (1) member to
11505 serve as chairman and one (1) member to serve as vice chairman,
11506 who shall act as chairman in the absence of the chairman. The
11507 committee shall meet monthly or upon the call of the chairman, and
11508 shall make necessary reports and recommendations to the
11509 Legislature and the appropriate agencies of state government. All
11510 agencies of state government shall cooperate with the committee in
11511 providing requested information, shall work closely with and
11512 provide information to the committee and shall report to the
11513 committee at its request. The Mississippi Department of
11514 Information Technology Services shall provide administrative
11515 support for the committee. Nonlegislative members of the
11516 committee shall serve without compensation.

11517 (3) The Electronic Government Oversight Committee shall
11518 advise and provide direction to the Department of Finance and
11519 Administration to develop a procurement portal that will enable



11520 potential vendors of goods and services to access relevant and
11521 necessary information related to the sale of the following types
11522 of goods and services to the State of Mississippi and its
11523 agencies:

11524 (a) Commodities, as defined by Section 31-7-1;

11525 (b) Contract personnel, as defined by Sections 25-9-107
11526 and 25-9-120; and

11527 (c) Computer equipment and services, as defined by
11528 Section 25-53-3.

11529 (4) The procurement portal provided for in subsection (3)
11530 must provide potential vendors with the following:

11531 (a) A searchable database of business procurement
11532 opportunities with the state which includes a breakdown by product
11533 or service and by the organization seeking the product or service;

11534 (b) Listings of the published date and closing date for
11535 each business procurement opportunity;

11536 (c) A "Frequently Asked Questions" section regarding
11537 doing business with the respective agencies;

11538 (d) A breakdown of "Frequently Asked Questions"
11539 regarding the selection process with the respective agencies;

11540 (e) An open-air forum for questions and answers
11541 relating to the procurement process, in general, as well as
11542 specifically relating to a single contract; and



11543 (f) Links to individual agency websites and contacts to
11544 enable potential vendors to obtain more specific information, if
11545 necessary.

11546 (5) The procurement portal must be linked to the
11547 Transparency Mississippi website established in accordance with
11548 Sections 27-104-151 through 27-104-163. The Mississippi
11549 Department of Information Technology Services shall develop and
11550 maintain a link to the procurement portal from the state website.

11551 From and after July 1, 2018, the expenses of this agency
11552 shall be defrayed by appropriation from the State General Fund.
11553 In addition, in order to receive the maximum use and benefit from
11554 information technology and services, expenses for the provision of
11555 statewide shared services that facilitate cost-effective
11556 information processing and telecommunication solutions shall be
11557 defrayed by pass-through funding and shall be deposited into the
11558 Mississippi Department of Information Technology Services
11559 Revolving Fund unless otherwise specified by the Legislature.
11560 These funds shall only be utilized to pay the actual costs
11561 incurred by the Mississippi Department of Information Technology
11562 Services for providing these shared services to state agencies.
11563 Furthermore, state agencies shall work in full cooperation with
11564 the Board of the Mississippi Department of Information Technology
11565 Services (MDITS) to identify computer equipment or services to
11566 minimize duplication, reduce costs, and improve the efficiency of
11567 providing common technology services across agency boundaries.



11568 **SECTION 188.** Section 25-53-3, Mississippi Code of 1972, is
11569 brought forward as follows:

11570 25-53-3. (1) Whenever the term "Central Data Processing
11571 Authority" or the term "authority," when referring to the Central
11572 Data Processing Authority, is used in any law, rule, regulation,
11573 document or elsewhere, it shall be construed to mean the
11574 Mississippi Department of Information Technology Services.

11575 (2) For the purposes of this chapter the following terms
11576 shall have the meanings ascribed in this section unless the
11577 context otherwise requires:

11578 (a) "Central Data Processing Authority" and "CDPA" mean
11579 "Mississippi Department of Information Technology Services
11580 (MDITS)" and the term "authority" means "board of the MDITS."

11581 (b) "Bureau of Systems Policy and Planning," "Bureau of
11582 Telecommunications," "Bureau of Central Data Processing" and
11583 "bureau" mean "Mississippi Department of Information Technology
11584 Services."

11585 (c) "Computer equipment or services" means any
11586 information technology, computer or computer related
11587 telecommunications equipment, electronic word processing and
11588 office systems, or services utilized in connection therewith,
11589 including, but not limited to, all phases of computer software and
11590 consulting services, and insurance on all state-owned computer
11591 equipment.



11592 (d) "Acquisition" of computer or telecommunications
11593 equipment or services means the purchase, lease, rental, or
11594 acquisition in any other manner of any such computer or
11595 telecommunications equipment or services.

11596 (e) "Agency" means and includes all the various state
11597 agencies, officers, departments, boards, commissions, offices and
11598 institutions of the state.

11599 (f) "Governing authority" means boards of supervisors,
11600 governing boards of all school districts, all boards of directors
11601 of public water supply districts, boards of directors of master
11602 public water supply districts, municipal public utility
11603 commissions, governing authorities of all municipalities, port
11604 authorities, commissioners and boards of trustees of any public
11605 hospitals and any political subdivision of the state supported
11606 wholly or in part by public funds of the state or political
11607 subdivisions thereof.

11608 (g) "Bid" means any of the valid source selection
11609 techniques and competitive procurement methods appropriate to
11610 information technology procurement in the public sector,
11611 including, but not limited to, competitive sealed bidding,
11612 competitive sealed proposals, simplified small purchase
11613 procedures, sole source procurements, and emergency procurements.

11614 (h) "Telecommunications transmission facility" means
11615 any transmission medium, switch, instrument, inside wiring system



11616 or other facility which is used, in whole or part, to provide any
11617 transmission.

11618 (i) "Equipment support contract" means a contract which
11619 covers a single, specific class or classes of telecommunications
11620 equipment or service and all features associated with that class,
11621 through which state agencies may purchase or lease the item of
11622 equipment or service specified by issuing a purchase order under
11623 the terms of the contract without the necessity of further
11624 competitive bidding.

11625 (j) "Inside wiring system" means any wiring which:

11626 (i) Directly or indirectly, interconnects any
11627 terminal equipment with any other terminal equipment or with any
11628 regulated facility or common carrier services; and

11629 (ii) Is located at the premises of the customer
11630 and is not inside any terminal equipment.

11631 (k) "Procurement" means the selling, buying,
11632 purchasing, renting, leasing or otherwise obtaining
11633 telecommunications equipment, system or related services, as well
11634 as activities engaged in, resulting in or expected to result in
11635 selling, buying, purchasing, renting, leasing or otherwise
11636 obtaining telecommunications equipment.

11637 (l) "Telecommunications equipment, systems, related
11638 services" are limited to the equipment and means to provide:

11639 (i) Telecommunications transmission facilities.



11640 (ii) Telephone systems, including voice processing
11641 systems.

11642 (iii) Facsimile systems.

11643 (iv) Radio paging services.

11644 (v) Mobile telephone services, including cellular
11645 mobile telephone service.

11646 (vi) Intercom and paging systems.

11647 (vii) Video teleconferencing systems.

11648 (viii) Personal communications networks and
11649 services.

11650 (ix) Any and all systems based on emerging and
11651 future telecommunications technologies relative to (i) through
11652 (viii) above.

11653 (m) "Telecommunications system lease contract" means a
11654 contract between a supplier of telecommunications systems,
11655 including equipment and related services, and the Mississippi
11656 Department of Information Technology Services through which
11657 telecommunications systems, including equipment and related
11658 services, may be leased for a term which shall not exceed sixty
11659 (60) months for a system lease valued less than One Million
11660 Dollars (\$1,000,000.00) and shall not exceed one hundred twenty
11661 (120) months for a system lease valued One Million Dollars
11662 (\$1,000,000.00) or more.

11663 (n) "Tariffed or regulated service" means
11664 telecommunications service offered by common carriers and subject



11665 to control by the Mississippi Public Service Commission or the
11666 Federal Communications Commission.

11667 (o) "State Data Center" means one or more facilities
11668 operated by the Mississippi Department of Information Technology
11669 Services to provide information technology resources requiring
11670 enterprise computing resources or any other centrally managed
11671 information resources.

11672 **SECTION 189.** Section 27-115-69, Mississippi Code of 1972, is
11673 brought forward as follows:

11674 27-115-69. (1) The corporation may purchase, lease or
11675 lease-purchase such goods or services as are necessary for
11676 effectuating the purposes of this chapter. The corporation shall
11677 not contract with any person or entity for the total operation and
11678 administration of the lottery, but it may make procurements which
11679 integrate such functions as lottery game design, lottery ticket
11680 distribution to retailers, supply of goods and services and
11681 advertising. In all procurement decisions, the corporation shall
11682 take into account the particularly sensitive nature of the lottery
11683 and shall act to promote and ensure security, honesty, fairness
11684 and integrity in the operation and administration of the lottery
11685 and the objectives of raising net proceeds for the benefit of the
11686 public.

11687 (2) The corporation shall investigate the financial
11688 responsibility, security and integrity of any lottery system
11689 vendor who submits a bid, proposal or offer. At the time of



11690 submitting such bid, proposal or offer to the corporation, the
11691 corporation shall require the following items:

11692 (a) A disclosure of the vendor's name and address and,
11693 as applicable, the name and address of the following:

11694 (i) If the vendor is a corporation, the officers,
11695 directors and each stockholder in such corporation; however, in
11696 the case of owners of equity securities of a publicly traded
11697 corporation, only the names and addresses of those known to the
11698 corporation to own five percent (5%) or more of such securities
11699 need be disclosed.

11700 (ii) If the vendor is a trust, the trustee and all
11701 persons entitled to receive income or benefits from the trust.

11702 (iii) If the vendor is an association, the
11703 members, officers and directors.

11704 (iv) If the vendor is a partnership or joint
11705 venture, all of the general partners, limited partners, or joint
11706 venturers.

11707 (b) A disclosure of all the states and jurisdictions in
11708 which the vendor does business, and the nature of the business for
11709 each such state or jurisdiction.

11710 (c) A disclosure of all the states and jurisdictions in
11711 which the vendor has contracts to supply gaming goods or services,
11712 including, but not limited to, lottery goods and services, and the
11713 nature of the goods or services involved for each such state or
11714 jurisdiction.



11715 (d) A disclosure of all the states and jurisdictions in
11716 which the vendor has applied for, has sought renewal of, has
11717 received, has been denied, has pending, or has had revoked a
11718 gaming license of any kind, or had fines or penalties assessed on
11719 their license, contract, or operation, and the disposition of such
11720 in each such state or jurisdiction. If any lottery license or
11721 contract has been revoked or has not been renewed or any lottery
11722 license or application has remained pending for more than six (6)
11723 months, then it shall be disclosed.

11724 (e) A disclosure of the details of any finding of a
11725 plea, conviction or adjudication for guilt, in a state or federal
11726 court, of the vendor for any felony or any other criminal offense
11727 other than a traffic violation.

11728 (f) A disclosure of the details of any bankruptcy,
11729 insolvency, reorganization, corporate or individual purchase or
11730 takeover of another corporation, including bonded indebtedness, or
11731 any pending litigation of the vendor.

11732 (g) Such additional disclosures and information as the
11733 corporation may determine to be appropriate for the procurement
11734 involved. If the vendor subcontracts any substantial portion of
11735 the work to be performed under the contract to a subcontractor,
11736 the vendor shall disclose all of the information required by this
11737 subsection for the subcontractor as if the subcontractor were
11738 itself a vendor.



11739 (3) In no case shall the corporation enter into a contract
11740 for a procurement of any video lottery or video lottery terminal
11741 or any other illegal lottery device, and shall only enter into a
11742 contract for a procurement for any lottery system with a vendor
11743 who has complied with the disclosures required by the corporation
11744 and described in subsection (2) of this section, and any contract
11745 with such a vendor is void and unenforceable. Any contract with a
11746 vendor who does not comply with such requirements for periodically
11747 updating such disclosures during the tenure of a contract as may
11748 be specified in such contract is voidable and may be terminated by
11749 the corporation. The provisions of this section shall be
11750 construed broadly and liberally to achieve the ends of full
11751 disclosure of all information necessary to allow for a full and
11752 complete evaluation by the corporation of the competence,
11753 integrity, background and character of vendors.

11754 (4) (a) A contract shall not be entered into with any
11755 vendor who has been found guilty of a felony related to the
11756 security or integrity of the lottery in this or any other
11757 jurisdiction or with any vendor who is found to be in possession
11758 of any illegal lottery device.

11759 (b) A contract shall not be entered into with any
11760 vendor who has not first obtained a signed tax clearance from the
11761 Commissioner of Revenue indicating that the vendor is current in
11762 filing all applicable tax returns and in payment of all taxes,



11763 interest and penalties owed to the State of Mississippi, excluding
11764 items under formal appeal pursuant to applicable statutes.

11765 (5) The corporation may require that each vendor shall, at
11766 the execution of the contract with the corporation, post a
11767 performance bond or letter of credit from a bank acceptable to the
11768 corporation, in an amount established by the corporation subject
11769 to the provisions of Section 27-115-61. In lieu of the bond, a
11770 vendor may, to assure the faithful performance of its obligations,
11771 deposit and maintain with the corporation securities that are
11772 interest-bearing or accruing and that are rated in one (1) of the
11773 three (3) highest classifications by an established nationally
11774 recognized investment rating service. Securities eligible under
11775 this subsection are limited to:

11776 (a) Certificates of deposit issued by solvent banks or
11777 savings associations approved by the corporation and which are
11778 organized and existing under the laws of this state or under the
11779 laws of the United States.

11780 (b) United States bonds, notes, and bills for which the
11781 full faith and credit of the government of the United States is
11782 pledged for the payment of principal and interest.

11783 (c) Corporate bonds approved by the corporation. The
11784 corporation which issued the bonds shall not be an affiliate or
11785 subsidiary of the depositor. Such securities shall be held in
11786 trust.



11787 (6) Every contract entered into by the corporation pursuant
11788 to this section shall contain a provision for payment of
11789 liquidated damages to the corporation for any breach of contract
11790 by the vendor.

11791 (7) Each vendor shall be qualified to do business in this
11792 state and shall file appropriate tax returns as provided by the
11793 laws of this state. All contracts under this section shall be
11794 governed by the laws of this state.

11795 **SECTION 190.** Section 29-5-2, Mississippi Code of 1972, is
11796 brought forward as follows:

11797 29-5-2. The duties of the Department of Finance and
11798 Administration shall be as follows:

11799 (a) (i) To exercise general supervision and care over
11800 and keep in good condition the following state property located in
11801 the City of Jackson: the New State Capitol Building, the Woolfolk
11802 State Office Building and Parking Garage, the Carroll Gartin
11803 Justice Building, the Walter Sillers Office Building and Parking
11804 Garage, the War Veterans' Memorial Building, the Charlotte Capers
11805 Building, the William F. Winter Archives and History Building, the
11806 Mississippi Museum Complex, the Gulf, Mobile and Ohio Train Depot
11807 (GM&O Depot), the Old State Capitol Building, the Governor's
11808 Mansion, the Heber Ladner Building, the Robert E. Lee Office
11809 Building, the Robert E. Lee Parking Garage, the former Naval
11810 Reserve Center, 515 East Amite Street, 620 North Street, 660 North
11811 Street, 700 North State Street, 350 High Street, 401 North Lamar



11812 Street, 455 North Lamar Street, the State Records Center, the
11813 Robert G. Clark, Jr. Building, the Mississippi State Fairgrounds
11814 Complex, the former Central High Building, the Mississippi
11815 Workers' Compensation Commission Office Building, as well as all
11816 state-owned or leased buildings situated on seat of government
11817 property.

11818 (ii) To exercise general supervision and care over
11819 and keep in good condition the Dr. Eldon Langston Bolton Building
11820 located in Biloxi, Mississippi.

11821 (iii) To exercise general supervision and care
11822 over and keep in good condition the State Service Center, located
11823 at the intersection of U.S. Highway 49 and John Merl Tatum
11824 Industrial Drive in Hattiesburg, Mississippi.

11825 (iv) To exercise general supervision and care over
11826 and keep in good condition any property purchased, constructed or
11827 otherwise acquired by the State of Mississippi for conducting
11828 state business and not specifically under the supervision and care
11829 by any other state entity, but which is reasonably assumed the
11830 department would be responsible for such, as approved by the
11831 Public Procurement Review Board, including, but not limited to:

- 11832 1. The National Aeronautics and Space
11833 Administration (NASA) Shared Services Center and Lockheed Martin
11834 Building at Stennis Space Center;
- 11835 2. The Mississippi Sports Hall of Fame;
- 11836 3. The Mississippi Crafts Center;



- 11837 4. The Mississippi Children's Museum; and
11838 5. The Mississippi Arts and Entertainment
11839 Center.

11840 (b) To assign suitable office space for the various
11841 state departments, officers and employees who are provided with an
11842 office in any of the buildings under the jurisdiction or control
11843 of the Department of Finance and Administration. However, the
11844 assignment of space in the New Capitol Building shall be
11845 designated by duly passed resolution of the combined Senate Rules
11846 Committee and the House Management Committee, meeting as a joint
11847 committee, approved by the Lieutenant Governor and Speaker of the
11848 House of Representatives. A majority vote of the members of the
11849 Senate Rules Committee and a majority vote of the members of the
11850 House Management Committee shall be required on all actions taken,
11851 resolutions or reports adopted, and all other matters considered
11852 by the full combined committee on occasions when the Senate Rules
11853 Committee and the House Management Committee shall meet as a full
11854 combined committee.

11855 (c) To approve or disapprove with the concurrence of
11856 the Public Procurement Review Board, any lease or rental
11857 agreements by any state agency or department, including any state
11858 agency financed entirely by federal and special funds, for space
11859 outside the buildings under the jurisdiction of the Department of
11860 Finance and Administration, including space necessary for parking
11861 to be used by state employees who work in the Woolfolk Building,



11862 the Carroll Gartin Justice Building or the Walter Sillers Office
11863 Building. In no event shall any employee, officer, department,
11864 federally funded agency or bureau of the state be authorized to
11865 enter into a lease or rental agreement without prior approval of
11866 the Department of Finance and Administration and the Public
11867 Procurement Review Board.

11868 The Department of Finance and Administration is authorized to
11869 use architects, engineers, building inspectors and other personnel
11870 for the purpose of making inspections as may be deemed necessary
11871 in carrying out its duties and maintaining the facilities.

11872 This section is not intended to apply to locations for which
11873 the Department of Finance and Administration has decided to
11874 solicit proposals in accordance with subsection (e) of this
11875 section.

11876 (d) To acquire by lease, lease-purchase agreement, or
11877 otherwise, as provided in Section 27-104-107, and to assign
11878 through the Office of General Services, by lease or sublease
11879 agreement from the office, and with the concurrence of the Public
11880 Procurement Review Board, to any state agency or department,
11881 including any state agency financed entirely by federal and
11882 special funds, appropriate office space in the buildings acquired.

11883 (e) To solicit and approve or disapprove,
11884 notwithstanding any rule of law to the contrary, and with the
11885 concurrence of the Public Procurement Review Board, any lease, use
11886 or rental agreement for a charge or other consideration for space



11887 not exceeding three thousand (3,000) square feet in any individual
11888 building listed in subsection (a) of this section, with a private
11889 entry who will provide food and/or catering services for state
11890 employees, visitors and the general public.

11891 The department shall select the entity using a competitive
11892 process which shall be publicly advertised. In addition to
11893 satisfying any other requirements for the Public Procurement
11894 Review Board's approval, the department must demonstrate that any
11895 agreement entered into under this section will neither result in a
11896 net cost to the state, nor impair or impede the function of state
11897 agencies at such location.

11898 **SECTION 191.** Section 25-53-21, Mississippi Code of 1972, is
11899 brought forward as follows:

11900 25-53-21. The executive director shall have the following
11901 duties, responsibilities and authority:

11902 (a) He shall conduct continuing studies of all
11903 information technology activities carried out by all agencies of
11904 the state and shall develop a long-range plan for the efficient
11905 and economical performance of such activities in state government.
11906 Such plan shall be submitted to the authority for its approval
11907 and, having been approved by the authority, shall be implemented
11908 by the executive director and all state agencies. Such plan shall
11909 be continuously reviewed and modifications thereof shall be
11910 proposed to the authority by the executive director as
11911 developments in information technology techniques and changes in



11912 the structure, activities, and functions of state government may
11913 require.

11914 (b) He shall review the purchasing practices of all
11915 state agencies in the area of the purchasing of supplies for
11916 information technology and make recommendations to the authority
11917 and to the Public Procurement Review Board for the institution of
11918 purchasing procedures which will ensure the most economical
11919 procurement of such supplies commensurate with the efficient
11920 operation of all departments and agencies of state government.

11921 (c) He shall see that all reports required of all
11922 agencies are promptly and accurately made in accordance with the
11923 rules and regulations adopted by the authority. Either in person
11924 or through his authorized agents, he shall make such inspections
11925 of information technology operations being conducted by any of the
11926 agencies of the state as may be necessary for the performance of
11927 his duties.

11928 (d) He shall suggest and cause to be brought about
11929 cooperation between the several state agencies in order to provide
11930 efficiency in information technology operation. He shall,
11931 together with the heads of the agencies involved, reduce to
11932 writing and execute cooperative plans for the acquisition and
11933 operation of information technology equipment, and any such plan
11934 so adopted shall be carried out in accordance with the provisions
11935 of such plan unless the same shall be amended by the joint action
11936 of the executive director and the heads of agencies involved. The



11937 executive director shall report to the authority the details of
11938 any plan so adopted and all amendments or modifications thereof,
11939 and shall otherwise report to the authority and to the Public
11940 Procurement Review Board any failure on the part of any agency to
11941 carry out the provisions of such plan. In the event the head of
11942 any agency involved or the executive director shall propose
11943 amendments to a plan so adopted and such amendment is disapproved
11944 by the head of another agency involved or the executive director,
11945 an appeal may be taken to the authority which may, after full
11946 consideration thereof, order the adoption of the proposed
11947 amendment or any modification thereof. The executive director
11948 shall make decisions on all questions of the division of the cost
11949 of information technology operations among the several agencies,
11950 but his findings shall be subject to the approval or modification
11951 by the authority on appeal to it.

11952 (e) He shall review all contracts for acquisition of
11953 computer and/or telecommunications equipment or services now or
11954 hereafter in force and may require the renegotiation, termination,
11955 amendment or execution of any such contracts in proper form and in
11956 accordance with the policies and rules and regulations and subject
11957 to the direction of the authority. In the negotiation and
11958 execution of such contracts, the executive director may negotiate
11959 a limitation on the liability to the state of prospective
11960 contractors provided such limitation affords the state reasonable



11961 protection and the limitation is approved by the state entity for
11962 whom the acquisition is being made.

11963 (f) He shall act as the purchasing and contracting
11964 agent for the State of Mississippi in the negotiation and
11965 execution of all contracts for the acquisition of computer
11966 equipment or services. He shall receive, review, and promptly
11967 approve or disapprove all requests of agencies of the state for
11968 the acquisition of computer equipment or services, which are
11969 submitted in accordance with rules and regulations of the
11970 authority. In the event that any such request is disapproved, he
11971 shall immediately notify the requesting agency and the members of
11972 the authority in writing of such disapproval, stating his reasons
11973 therefor. The disapproval of any request by the executive
11974 director of the authority may be appealed to the authority or to
11975 the Public Procurement Review Board, respectively, in such manner
11976 as may be authorized by such reasonable rules and regulations
11977 hereby authorized to be adopted by the authority and by the Public
11978 Procurement Review Board to govern the same. The executive
11979 director shall report the approval of all such requests to the
11980 authority in such manner as may be directed by the authority, and
11981 shall execute any such contracts only after complying with rules
11982 and regulations which may be adopted by the authority in relation
11983 thereto. Any contracts for personal or professional services
11984 entered into by the executive director shall be exempted from the



11985 requirements of Section 25-9-120(3) relating to submission of such
11986 contract to the State Personal Service Contract Review Board.

11987 (g) He shall suggest and cause to be brought about
11988 cooperation between the several state agencies, departments and
11989 institutions in order that work may be done by one agency for
11990 another agency, and equipment in one agency may be made available
11991 to another agency, and suggest and cause to be brought about such
11992 improvements as may be necessary in joint or cooperative
11993 information technology operations.

11994 (h) He shall be designated as the "Chief Information
11995 Confidentiality Officer" after being duly sworn to the oath of
11996 this office by the chairman of the authority and shall be
11997 responsible for administering the oath to other qualified officers
11998 he may designate.

11999 (i) He shall appoint employees of the Mississippi
12000 Department of Information Technology Services, or at his
12001 discretion, employees of other state agencies and institutions
12002 that are responsible for handling or processing data for any
12003 agency or institution other than that for which they are employed,
12004 to a position of information custodial care that shall be known as
12005 "Information Confidentiality Officer." The selection and swearing
12006 of all officers shall be reported to the authority at the next
12007 regular meeting and names, affirmation dates and employment dates
12008 shall be recorded in the permanent minutes of the authority.



12009 **SECTION 192.** Section 57-69-3, Mississippi Code of 1972, is
12010 brought forward as follows:

12011 57-69-3. Unless the context requires otherwise, the
12012 following words shall have the following meanings for the purposes
12013 of this chapter:

12014 (a) "Class of contract basis" means an entire group of
12015 contracts having a common characteristic.

12016 (b) "Commercially useful function" means being
12017 responsible for execution of a contract or a distinct element of
12018 the work under a contract by actually performing, managing, and
12019 supervising the work involved.

12020 (c) "Contract" means all types of state agreements,
12021 regardless of what they may be called, for the purchase of
12022 supplies or services or for construction or major repairs.

12023 "Contract" includes the following:

12024 (i) Awards and notices of award.

12025 (ii) Contracts of a fixed price, cost,
12026 cost-plus-a-fixed-fee, or incentive types.

12027 (iii) Contracts providing for the issuance of job
12028 or task orders.

12029 (iv) Leases.

12030 (v) Letter contracts.

12031 (vi) Purchase orders.

12032 (vii) Any supplemental agreements with respect to
12033 (i) through (vi) of this paragraph.



12034 (d) "Contracting base" means the dollar amount of
12035 contracts for public works and procurement of goods and services
12036 awarded by a state agency or a state educational institution
12037 during a fiscal year.

12038 (e) "Contract by contract basis" means a single
12039 contract within a specific class of contracts.

12040 (f) "Contractor" means a party who enters into a
12041 contract to provide a state or educational institution with goods
12042 or services, including construction, or a subcontractor or
12043 sublessee of such a party.

12044 (g) "Director" means the Executive Director of the
12045 Office of Minority Business Enterprises of the Mississippi
12046 Development Authority.

12047 (h) "Educational institutions" means the state
12048 universities, vocational institutions, and any other
12049 state-supported educational institutions.

12050 (i) "Joint venture" means an association of two (2) or
12051 more persons or businesses to carry out a single business
12052 enterprise for profit for which purpose they combine their
12053 property, capital, efforts, skills, and knowledge, and in which
12054 they exercise control and share in profits and losses in
12055 proportion to their contribution to the enterprise.

12056 (j) "Minority" means a person who is a citizen or
12057 lawful permanent resident of the United States and who is:



12058 (i) Black: having origins in any of the black
12059 racial groups of Africa.

12060 (ii) Hispanic: of Mexican, Puerto Rican, Cuban,
12061 Central or South American, or other Spanish or Portuguese culture
12062 or origin regardless of race.

12063 (iii) Asian American: having origins in any of
12064 the original peoples of the Far East, Southeast Asia, the Indian
12065 subcontinent, or the Pacific Islands.

12066 (iv) American Indian or Alaskan Native: having
12067 origins in any of the original peoples of North America.

12068 (v) Female.

12069 (k) "Minority business enterprise" or "minority owned
12070 business" means a socially and economically disadvantaged small
12071 business concern organized for profit performing a commercially
12072 useful function which is owned and controlled by one or more
12073 individuals or minority business enterprises certified by the
12074 office, at least seventy-five percent (75%) of whom are resident
12075 citizens of the State of Mississippi. For purposes of this
12076 paragraph, the term "socially and economically disadvantaged small
12077 business concern" shall have the meaning ascribed to such term
12078 under the Small Business Act (15 USCS, Section 637(a)). Owned and
12079 controlled means a business in which one or more minorities or
12080 minority business enterprises certified by the office own at least
12081 fifty-one percent (51%) or in the case of a corporation at least
12082 fifty-one percent (51%) of the voting stock and control at least



12083 fifty-one percent (51%) of the management and daily business
12084 operations of the business. The term "minority business
12085 enterprise" does not include any medical cannabis establishment as
12086 defined in the Mississippi Medical Cannabis Act.

12087 (l) "Minority business enterprise supplier" means a
12088 socially and economically disadvantaged small business concern
12089 which is owned and controlled by one or more individuals, at least
12090 seventy-five percent (75%) of whom are resident citizens of the
12091 State of Mississippi. For purposes of this paragraph, the term
12092 "socially and economically disadvantaged small business concern"
12093 shall have the meaning ascribed to such term under the Small
12094 Business Act (15 USCS, Section 637(a)) except that the net worth
12095 of the business may not be greater than Seven Hundred Fifty
12096 Thousand Dollars (\$750,000.00). Owned and controlled means a
12097 business in which one or more minorities own at least fifty-one
12098 percent (51%) or in the case of a corporation at least fifty-one
12099 percent (51%) of the voting stock and control at least fifty-one
12100 percent (51%) of the management and daily business operations of
12101 the business. The term "minority business enterprise supplier"
12102 does not include any medical cannabis establishment as defined in
12103 the Mississippi Medical Cannabis Act.

12104 (m) "Office" means the Office of Minority Business
12105 Enterprises of the Mississippi Development Authority.

12106 (n) "Procurement" means the purchase, lease, or rental
12107 of any goods or services.



12108 (o) "Commodities" means the various items described in
12109 Section 31-7-1(e).

12110 (p) "Professional services" means all personal service
12111 contracts utilized by state agencies and institutions.

12112 (q) "Small business" means a small business as defined
12113 by the Small Business Administration of the United States
12114 government which for purposes of size eligibility or other factors
12115 meets the applicable criteria set forth in Part 121 of Title 13 of
12116 the Code of Federal Regulations as amended, and which has its
12117 principal place of business in Mississippi.

12118 (r) "State agency" includes the State of Mississippi
12119 and all agencies, departments, offices, divisions, boards,
12120 commissions, and correctional and other types of institutions.
12121 "State agency" does not include the Mississippi Department of
12122 Transportation nor the judicial or legislative branches of
12123 government except to the extent that procurement or public works
12124 for these branches is performed by a state agency.

12125 **SECTION 193.** Section 27-104-103, Mississippi Code of 1972,
12126 is brought forward as follows:

12127 27-104-103. (1) The Department of Finance and
12128 Administration shall have the following duties and powers:

12129 (a) To provide administrative guidance to the various
12130 departments and agencies of state government;

12131 (b) To facilitate the expedient delivery of services
12132 and programs for the benefit of the citizens of the state;



12133 (c) To analyze and develop efficient management
12134 practices and assist departments and agencies in implementing
12135 effective and efficient work management systems;

12136 (d) To conduct management review of state agencies and
12137 departments and recommend a management plan to state departments
12138 and agencies when corrective action is required;

12139 (e) To, at least annually, report to the Governor and
12140 the Legislature on programs and actions taken to improve the
12141 conduct of state operations and to prepare and recommend
12142 management programs for effective and efficient management of the
12143 operations of state government;

12144 (f) To allocate the federal-state programs funds to the
12145 departments responsible for the delivery of the programs and
12146 services for which the appropriation was made;

12147 (g) To coordinate the planning functions of all
12148 agencies in the executive branch of government and review any and
12149 all plans which are developed by those agencies and departments;

12150 (h) To collect and maintain the necessary data on which
12151 to base budget and policy development issues;

12152 (i) To develop and analyze policy recommendations to
12153 the Governor;

12154 (j) To develop and manage the executive budget process;

12155 (k) To prepare the executive branch budget
12156 recommendations;



12157 (l) To review and monitor the expenditures of the
12158 executive agencies and departments of government;

12159 (m) To manage the state's fiscal affairs;

12160 (n) To administer programs relating to general
12161 services, public procurement, insurance and the Bond Advisory
12162 Division;

12163 (o) To administer the state's aircraft operation.

12164 (2) The department shall have the following additional
12165 powers and duties under Chapter 18 of Title 17:

12166 (a) It shall acquire the site submitted by the
12167 Mississippi Hazardous Waste Facility Siting Authority and, if
12168 determined necessary, design, finance, construct and operate a
12169 state commercial hazardous waste management facility;

12170 (b) It may acquire by deed, purchase, lease, contract,
12171 gift, devise or otherwise any real or personal property,
12172 structures, rights-of-way, franchises, easements and other
12173 interest in land which is necessary and convenient for the
12174 construction or operation of the state commercial hazardous waste
12175 management facility, upon such terms and conditions as it deems
12176 advisable, hold, mortgage, pledge or otherwise encumber the same,
12177 and lease, sell, convey or otherwise dispose of the same in such a
12178 manner as may be necessary or advisable to carry out the purposes
12179 of Chapter 18 of Title 17;

12180 (c) It shall develop and implement, in consultation
12181 with the Department of Environmental Quality, schedules of user



12182 fees, franchise fees and other charges, including nonregulatory
12183 penalties and surcharges applicable to the state commercial
12184 hazardous waste management facility;

12185 (d) It may employ consultants and contractors to
12186 provide services including site acquisition, design, construction,
12187 operation, closure, post-closure and perpetual care of the state
12188 commercial hazardous waste management facility;

12189 (e) It may apply for and accept loans, grants and gifts
12190 from any federal or state agency or any political subdivision or
12191 any private or public organization;

12192 (f) It shall make plans, surveys, studies and
12193 investigations as may be necessary or desirable with respect to
12194 the acquisition, development and use of real property and the
12195 design, construction, operation, closure and long-term care of the
12196 state commercial hazardous waste management facility;

12197 (g) It shall have the authority to preempt any local
12198 ordinance or restriction which prohibits or has the effect of
12199 prohibiting the establishment or operation of the state commercial
12200 hazardous waste management facility;

12201 (h) It may negotiate any agreement for site
12202 acquisition, design, construction, operation, closure,
12203 post-closure and perpetual care of the state commercial hazardous
12204 waste management facility and may negotiate any agreement with any
12205 local governmental unit pursuant to Chapter 18 of Title 17;



12206 (i) It may promulgate rules and regulations necessary
12207 to effectuate the purposes of Chapter 18 of Title 17 not
12208 inconsistent therewith;

12209 (j) If funds are not appropriated or if the
12210 appropriated funds are insufficient to carry out the provisions of
12211 Chapter 18 of Title 17, the department shall expend any funds
12212 available to it from any source to defray its costs to implement
12213 Chapter 18 of Title 17 through February 1, 1991;

12214 (k) To carry out such duties and responsibilities
12215 assigned to it by the Public Procurement Review Board as provided
12216 in Section 27-104-7(2)(f);

12217 (l) To establish, with the approval of the Public
12218 Procurement Review Board, rules and regulations that prohibit
12219 agencies from requiring that a vendor be located in the same
12220 municipality or surrounding area as the agency. Such rules and
12221 regulations shall further prohibit agencies from giving preference
12222 to any vendor based on location. Such rules and regulations shall
12223 provide that a winning bidder without a local office shall be
12224 given a reasonable opportunity to open an office in Mississippi
12225 when such local office is necessary to deliver the relevant
12226 services.

12227 The provisions of this paragraph (l) shall stand repealed on
12228 June 30, 2027.

12229 (3) From and after July 1, 2016, the expenses of the
12230 Department of Finance and Administration shall be defrayed by



12231 appropriation from the State General Fund and all user charges and
12232 fees authorized under law such as rents, MAGIC fees, and other
12233 fees for services shall be deposited into the State General Fund
12234 as authorized by law.

12235 (4) From and after July 1, 2016, the Department of Finance
12236 and Administration shall not charge another state agency a fee,
12237 assessment, rent or other charge for services or resources
12238 received by that state agency from the department.

12239 **SECTION 194.** Section 77-3-42, Mississippi Code of 1972, is
12240 brought forward as follows:

12241 77-3-42. (1) (a) No public utility, the rates of which are
12242 subject to regulation under the provisions of this chapter, shall
12243 increase its rate or rate schedule in addition to its base rate as
12244 a result of what is commonly referred to as "fuel adjustment
12245 clauses" increase or "fuel adjustment riders" if the application
12246 of such clause or rider shall result in ultimate cost recovery
12247 exceeding the actual cost of fuel burned or consumed in its
12248 generating facilities and the cost of purchased energy.

12249 (b) For the purpose of such fuel adjustment clause or
12250 rider, the cost of fuel as used herein shall include only the
12251 actual cost of the fuel and its transportation and may include
12252 such other cost items which are as of the effective date of this
12253 section allowed by the federal energy regulatory commission for
12254 inclusion in wholesale fuel adjustment clauses under its
12255 jurisdiction. In addition thereto fuel cost may include direct



12256 costs associated with burning the fuel at the generating plant,
12257 such as fuel-handling expenses and the cost of fuel sampling and
12258 analysis.

12259 (2) (a) The commission is hereby directed to cause a
12260 continuous monitoring by the public utilities staff and a complete
12261 audit, as necessary but not less than annually, of all fuel
12262 purchases for which fuel adjustment clauses or riders have been
12263 placed in effect prior to and after the effective date of this
12264 section, which shall totally verify fuel costs as might be
12265 consumed in generating plants and all purchased energy of such
12266 electric utilities in Mississippi with said audit being based upon
12267 generally accepted auditing standards which would accurately
12268 provide detailed information as to the actual monthly utility fuel
12269 costs. Such audit shall be completely independent of any audit
12270 performed on behalf of such utility.

12271 (b) The commission is hereby directed to promulgate
12272 rules and regulations, not inconsistent with the laws, (i) to
12273 define allowable costs for inclusion in fuel adjustments, (ii) to
12274 establish guidelines for defining what elements constitute a just
12275 and reasonable fuel adjustment clause or rider, (iii) to establish
12276 guidelines for defining what elements constitute efficient and
12277 economical procurement and use of energy and fuel, and (iv) to
12278 establish general guidelines for making the required review of
12279 fuel adjustment clauses or riders as required by this section.



12280 Such rules and regulations shall be spread upon the minutes of the
12281 commission.

12282 (c) Such audits shall include (i) a determination if
12283 fuel and associated costs are properly identified and recorded in
12284 the appropriate uniform system of accounts, (ii) a determination
12285 if purchased energy and associated costs are properly identified,
12286 (iii) an assessment of a utility's practices for economical
12287 purchase and use of fuel and electric energy, and (iv) an
12288 assessment of the relevant contract terms and conditions and any
12289 variations from contract terms.

12290 (3) The audits required by this section shall extend to the
12291 fuel acquisition activities of any corporation which is owned in
12292 whole or in part by any such public utility under the jurisdiction
12293 of the commission or owned in whole or in part by a public utility
12294 holding company which is the parent company of any public utility
12295 under the jurisdiction of the commission. Public utilities under
12296 the jurisdiction of this commission, the rates of which are
12297 subject to regulation under the provisions of this chapter, shall
12298 not purchase fuel and/or energy from a company or corporation
12299 which is owned in whole or in part by that public utility or by
12300 the parent company of that public utility unless the selling
12301 company or corporation assents to audits as provided for under
12302 this section.

12303 (4) Upon receipt of each audit report, the certified public
12304 accountant of the public utilities staff shall review the report



12305 and furnish the commissioners with a written summary of, and his
12306 comments on, the report. The commission shall meet within one (1)
12307 week after receipt of the accountant's summary, and shall spread
12308 upon the minutes of the commission that it has reviewed said
12309 summary and further shall describe any action which it takes
12310 regarding the audit report or the fact that no action was
12311 required. Any costs included in a fuel adjustment clause or rider
12312 by a public utility under the jurisdiction of the commission found
12313 in violation of this section shall, by order of the commission, be
12314 refunded to the appropriate person or persons. In lieu of
12315 payment, the utility may credit the service account with the
12316 amount due under this subsection if the consumer entitled to the
12317 refund is, at that time, a consumer of the utility.

12318 (5) Periodically, and not less frequently than annually, the
12319 commission shall review the audit reports, the reports of the
12320 certified public accountant of the public utilities staff, any
12321 reports of the public utilities staff relating to its monitoring
12322 of fuel purchases, and all other relevant information relating to
12323 fuel purchases, fuel adjustment clauses or riders, and purchased
12324 energy for the purpose of determining (a) whether or not the
12325 utility is properly and correctly employing the use of the fuel
12326 adjustment clause or rider applicable to its operations and
12327 billing procedures, (b) whether or not the utility has engaged in
12328 practices in the acquisition of fuel or purchased energy which are
12329 efficient and economical, and (c) whether or not there is reason



12330 to question the practices, contracts, operations or procedures of
12331 the utility in the purchase or acquisition of fuel or purchased
12332 energy relative to efficiency, economy and the public interest.

12333 If the commission, after following the procedures described
12334 above, has reasonable cause to believe that inefficient or
12335 uneconomical procurement or use of fuel or purchased energy has
12336 resulted in unreasonable or unjust charges or costs to the
12337 consumers, then the commission shall initiate a procedure for
12338 hearing as provided for in Section 77-3-47 for the purpose of
12339 determining whether or not any of the costs or charges included in
12340 the fuel adjustment charges to the consumers were unreasonable or
12341 unjust. If the commission upon hearing shall find that any
12342 charges for the purchase or procurement of fuel or purchased
12343 energy were unreasonable or unjust, then the commission shall
12344 order that such costs or charges be refunded to the appropriate
12345 person or persons together with interest at the same rate
12346 prescribed in Section 77-3-39, Section 77-3-69 and Section
12347 77-3-71. In lieu of payment, the utility may credit the service
12348 account with the amount due under this subsection if the consumer
12349 entitled to the refund is, at that time, a consumer of the
12350 utility.

12351 (6) (a) The commission shall maintain at all times complete
12352 and current data relating to sales and purchases of electric
12353 capacity of all utilities, including copies of contracts and
12354 agreements for the purchase of electric capacity, amendments to



12355 such contracts, records of purchases and sales of electric
12356 capacity, and all other relevant information and data deemed
12357 appropriate by the commission for carrying out the provisions of
12358 this section.

12359 (b) The commission is hereby directed to review, not
12360 less frequently than annually, the information and data described
12361 above. If, from said review the commission has reasonable cause
12362 to believe that inefficient or uneconomical sales or purchases of
12363 electric capacity by a utility, the rates of which are subject to
12364 regulation by the commission, have resulted in unreasonable or
12365 unjust charges or costs to the consumers, then the commission
12366 shall initiate a procedure for hearing as provided for in Section
12367 77-3-47 for the purpose of determining whether or not any of the
12368 costs or charges for sales or purchases of electric capacity
12369 included in the charges to consumers were unreasonable or unjust.
12370 If the commission, upon hearing, shall find that any such charges
12371 for the sale or purchase of electric capacity were unreasonable or
12372 unjust, then the commission shall order that such costs or charges
12373 be refunded to the appropriate person or persons, together with
12374 interest thereon at the same rate prescribed in Section 77-3-39,
12375 Section 77-3-69 and Section 77-3-71. In lieu of payment, the
12376 utility may credit the service account with the amount due under
12377 this subsection if the consumer entitled to the refund is, at that
12378 time, a consumer of the utility.



12379 (7) The commission shall provide a full and complete report
12380 of said audits to the Legislature on or before March 15 of each
12381 year. The report shall include certification by the commission
12382 that the information is true and correct as well as other
12383 clarifications of the audit information and any recommendations
12384 for correcting imperfections in statutes relative to existing fuel
12385 or purchased gas adjustments.

12386 (8) Nothing in this section shall prohibit the commission
12387 from entering an order in a declared emergency allowing public
12388 utilities under such emergency circumstances to adjust their rates
12389 for a period not to exceed sixty (60) days upon declaration of
12390 said emergency. There shall be a full hearing and a complete and
12391 total accounting as to total costs of said commission order to
12392 public utilities customers, with detailed accounting of such
12393 emergency fuel adjustment clause order being made available to the
12394 public.

12395 (9) This section shall not apply to a municipality,
12396 including a joint agency organized pursuant to Section 77-5-701 et
12397 seq., as amended.

12398 **SECTION 195.** Section 25-53-29, Mississippi Code of 1972, is
12399 brought forward as follows:

12400 25-53-29. (1) For the purposes of this section the term
12401 "bureau" shall mean the "Mississippi Department of Information
12402 Technology Services." The authority shall have the following



12403 powers and responsibilities to carry out the establishment of
12404 policy and provide for long-range planning and consulting:

12405 (a) Provide a high level of technical expertise for
12406 agencies, institutions, political subdivisions and other
12407 governmental entities as follows: planning; consulting; project
12408 management; systems and performance review; system definition;
12409 design; application programming; training; development and
12410 documentation; implementation; maintenance; and other tasks as may
12411 be required, within the resources available to the bureau.

12412 (b) Publish written planning guides, policies and
12413 procedures for use by agencies and institutions in planning future
12414 electronic information service systems. The bureau may require
12415 agencies and institutions to submit data, including periodic
12416 electronic equipment inventory listings, information on agency
12417 staffing, systems under study, planned applications for the
12418 future, and other information needed for the purposes of preparing
12419 the state master plan. The bureau may require agencies and
12420 institutions to submit any additional data required for purposes
12421 of preparing the state master plan.

12422 (c) Inspect agency facilities and equipment, interview
12423 agency employees and review records at any time deemed necessary
12424 by the bureau for the purpose of identifying cost-effective
12425 applications of electronic information technology. Upon
12426 conclusion of any inspection, the bureau shall issue a management
12427 letter containing cost estimates and recommendations to the agency



12428 head and governing board concerning applications identified that
12429 would result in staff reductions, other monetary savings and
12430 improved delivery of public services.

12431 (d) Conduct classroom and on-site training for end
12432 users for applications and systems developed by the bureau.

12433 (e) Provide consulting services to agencies and
12434 institutions or Mississippi governmental subdivisions requesting
12435 technical assistance in electronic information services technology
12436 applications and systems. The bureau may submit proposals and
12437 enter into contracts to provide services to agencies and
12438 institutions or governmental subdivisions for such purposes.

12439 (2) The bureau shall annually issue a three-year master plan
12440 in writing to the Governor, available on request to any member of
12441 the Legislature, including recommended statewide strategies and
12442 goals for the effective and efficient use of information
12443 technology and services in state government. The report shall
12444 also include recommended information policy actions and other
12445 recommendations for consideration by the Governor and members of
12446 the Legislature.

12447 (3) The bureau shall make an annual report in writing to the
12448 Governor, available on request to any member of the Legislature,
12449 to include a full and detailed account of the work of the
12450 authority for the preceding year. The report shall contain
12451 recommendations to agencies and institutions resulting from
12452 inspections or consulting contracts. The report shall also



12453 contain a summary of the master plan, progress made, and
12454 legislative and policy recommendations for consideration by the
12455 Governor and members of the Legislature.

12456 (4) The bureau may charge fees to agencies and institutions
12457 for services rendered to them. The bureau may charge fees to
12458 vendors to recover the cost of providing procurement services and
12459 the delivery of procurement awards to public bodies. The amounts
12460 of such fees shall be set by the authority upon recommendation of
12461 the Executive Director of the MDITS, and all such fees collected
12462 shall be paid into the fund established for carrying out the
12463 purposes of this section.

12464 (5) It is the intention of the Legislature that the
12465 employees of the bureau performing services defined by this
12466 section be staffed by highly qualified persons possessing
12467 technical, consulting and programming expertise. Such employees
12468 shall be considered nonstate service employees as defined in
12469 Section 25-9-107(c) (x) and may be compensated at a rate comparable
12470 to the prevailing rate of individuals in qualified professional
12471 consulting firms in the private sector. Such compensation rates
12472 shall be determined by the State Personnel Director. The number
12473 of such positions shall be set by annual appropriation of the
12474 Legislature. Qualifications and compensation of the bureau
12475 employees shall be set by the State Personnel Board upon
12476 recommendation of the Executive Director of the MDITS. The total
12477 number of positions and classification of positions may be



12478 increased or decreased during a fiscal year depending upon work
12479 load and availability of funds.

12480 (6) The bureau may, from time to time, at the discretion of
12481 the Executive Director of the MDITS, contract with firms or
12482 qualified individuals to be used to augment the bureau's
12483 professional staff in order to assure timely completion and
12484 implementation of assigned tasks, provided that funds are
12485 available in the fund established for carrying out the purposes of
12486 this section. Such individuals may be employees of any agency,
12487 bureau or institution provided that these individuals or firms
12488 meet the requirements of other individuals or firms doing business
12489 with the state through the Mississippi Department of Information
12490 Technology Services. Individuals who are employees of an agency
12491 or institution may contract with the Mississippi Department of
12492 Information Technology Services only with the concurrence of the
12493 agency or institution for whom they are employed.

12494 From and after July 1, 2018, the expenses of this agency
12495 shall be defrayed by appropriation from the State General Fund.
12496 In addition, in order to receive the maximum use and benefit from
12497 information technology and services, expenses for the provision of
12498 statewide shared services that facilitate cost-effective
12499 information processing and telecommunication solutions shall be
12500 defrayed by pass-through funding and shall be deposited into the
12501 Mississippi Department of Information Technology Services
12502 Revolving Fund unless otherwise specified by the Legislature.



12503 These funds shall only be utilized to pay the actual costs
12504 incurred by the Mississippi Department of Information Technology
12505 Services for providing these shared services to state agencies.
12506 Furthermore, state agencies shall work in full cooperation with
12507 the Board of the Mississippi Department of Information Technology
12508 Services (MDITS) to identify computer equipment or services to
12509 minimize duplication, reduce costs, and improve the efficiency of
12510 providing common technology services across agency boundaries.

12511 **SECTION 196.** Section 25-61-9, Mississippi Code of 1972, is
12512 brought forward as follows:

12513 25-61-9. (1) (a) Records furnished to public bodies by
12514 third parties which contain trade secrets or confidential
12515 commercial or financial information shall not be subject to
12516 inspection, examination, copying or reproduction under this
12517 chapter until notice to third parties has been given, but the
12518 records shall be released no later than twenty-one (21) days from
12519 the date the third parties are given notice by the public body
12520 unless the third parties have filed in chancery court a petition
12521 seeking a protective order on or before the expiration of the
12522 twenty-one-day time period. Any party seeking the protective
12523 order shall give notice to the party requesting the information in
12524 accordance with the Mississippi Rules of Civil Procedure.

12525 (b) If a court determines that a person or entity has
12526 made duplicative requests for public records that are the subject
12527 of a protective order under paragraph (a) of this subsection, the



12528 court shall order the requesting person or entity to reimburse the
12529 third party's costs and attorney's fees for seeking additional
12530 protective orders for the same or substantially similar requests
12531 for public records.

12532 (2) If any public record which is held to be exempt from
12533 disclosure pursuant to this chapter contains material which is not
12534 exempt pursuant to this chapter, the public body shall separate
12535 the exempt material and make the nonexempt material available for
12536 examination or copying, or both, as provided for in this chapter.

12537 (3) Trade secrets and confidential commercial and financial
12538 information of a proprietary nature developed by a college,
12539 university or public hospital under contract with a firm,
12540 business, partnership, association, corporation, individual or
12541 other like entity shall not be subject to inspection, examination,
12542 copying or reproduction under this chapter.

12543 (4) Misappropriation of a trade secret shall be governed by
12544 the provisions of the Mississippi Uniform Trade Secrets Act,
12545 Sections 75-26-1 through 75-26-19.

12546 (5) A waste minimization plan and any updates developed by
12547 generators and facility operators under the Mississippi
12548 Comprehensive Multimedia Waste Minimization Act of 1990 shall be
12549 retained at the facility and shall not be subject to inspection,
12550 examination, copying or reproduction under this chapter.

12551 (6) Data processing software obtained by an agency under a
12552 licensing agreement that prohibits its disclosure and which



12553 software is a trade secret, as defined in Section 75-26-3, and
12554 data processing software produced by a public body which is
12555 sensitive must not be subject to inspection, copying or
12556 reproduction under this chapter.

12557 As used in this subsection, "sensitive" means only those
12558 portions of data processing software, including the specifications
12559 and documentation, used to:

12560 (a) Collect, process, store, and retrieve information
12561 which is exempt under this chapter.

12562 (b) Control and direct access authorizations and
12563 security measures for automated systems.

12564 (c) Collect, process, store, and retrieve information,
12565 disclosure of which would require a significant intrusion into the
12566 business of the public body.

12567 (7) For all procurement contracts awarded by state agencies,
12568 the provisions of the contract which contain the commodities
12569 purchased or the personal or professional services provided, the
12570 unit prices contained within the procurement contracts, the
12571 overall price to be paid, and the term of the contract shall not
12572 be deemed to be a trade secret or confidential commercial or
12573 financial information under this section, and shall be available
12574 for examination, copying or reproduction as provided for in this
12575 chapter. Any party seeking a protective order for a procurement
12576 contract awarded by state agencies shall give notice to and
12577 provide the reasons for the protective order to the party



12578 requesting the information in accordance with the Mississippi
12579 Rules of Civil Procedure. The notice and reasons for the
12580 protective order must be posted on the Mississippi procurement
12581 portal for a minimum of seven (7) days before filing the petition
12582 seeking the protective order in chancery court. Any party seeking
12583 a protective order in violation of this subsection may be barred
12584 by a state agency from submitting bids, proposals or
12585 qualifications for procurement for a period not to exceed five (5)
12586 years.

12587 **SECTION 197.** Section 47-5-66, Mississippi Code of 1972, is
12588 brought forward as follows:

12589 47-5-66. (1) Except as provided in Section 47-5-64(3), it
12590 shall be the duty of the Department of Finance and Administration,
12591 with the approval of the Public Procurement Review Board, to lease
12592 lands at public contract upon the submission of two (2) or more
12593 sealed bids to the Department of Finance and Administration after
12594 having advertised the land for rent in newspapers of general
12595 circulation published in Jackson, Mississippi; Memphis, Tennessee;
12596 the county in which the land is located; and contiguous counties
12597 for a period of not less than two (2) successive weeks. The first
12598 publication shall be made not less than ten (10) days before the
12599 date of the public contract, and the last publication shall be
12600 made not more than seven (7) days before that date. The
12601 Department of Finance and Administration may reject any and all
12602 bids. If all bids on a tract or parcel of land are rejected, the



12603 Department of Finance and Administration may then advertise for
12604 new bids on that tract or parcel of land. Successful bidders
12605 shall take possession of their leaseholds at the time authorized
12606 by the Department of Finance and Administration. However, rent
12607 shall be due no later than the day upon which the lessee shall
12608 assume possession of the leasehold, and shall be due on the
12609 anniversary date for each following year of the lease. The
12610 Department of Finance and Administration may provide in any lease
12611 that rent shall be paid in full in advance or paid in
12612 installments, as may be necessary or appropriate. In addition,
12613 the Department of Finance and Administration may accept, and the
12614 lease may provide for, assignments of federal, state or other
12615 agricultural support payments, growing crops or the proceeds from
12616 the sale thereof, promissory notes, or any other good and valuable
12617 consideration offered by any lessee to meet the rent requirements
12618 of the lease. If a promissory note is offered by a lessee, it
12619 shall be secured by a first lien on the crop of the lessee, or the
12620 proceeds from the sale thereof. The lien shall be filed pursuant
12621 to Article 9 of the Uniform Commercial Code and Section 1324 of
12622 the Food Security Act of 1985, as enacted or amended. If the note
12623 is not paid at maturity, it shall bear interest at the rate
12624 provided for judgments and decrees in Section 75-17-7 from its
12625 maturity date until the note is paid. The note shall provide for
12626 the payment of all costs of collection and reasonable attorney's
12627 fees if default is made in the payment of the note. The payment



12628 of rent by promissory note or any means other than cash in advance
12629 shall be subject to the approval of the Public Procurement Review
12630 Board, which shall place the approval of record in the minutes of
12631 the board.

12632 (2) There is created a special fund to be designated as the
12633 "Prison Agricultural Enterprises Fund" and to be used for the
12634 purpose of conducting, operating and managing the agricultural and
12635 nonagricultural enterprises of the department. Any monies derived
12636 from the leasing of Penitentiary lands, from the sales of timber
12637 as provided in Section 47-5-56, from the prison's agricultural
12638 enterprises or earmarked for the Prison Industries Fund shall be
12639 deposited to the special fund. However, fifteen percent (15%) of
12640 the monies derived from the leasing of Penitentiary lands under
12641 Section 47-5-64(3) shall be deposited to a special fund to be
12642 distributed annually on a student pro rata basis to the public
12643 schools located in Sunflower County by the Department of Finance
12644 and Administration.

12645 (3) All profits derived from prison industries shall be
12646 placed in a special fund in the State Treasury to be known as the
12647 "Prison Industries Fund," to be appropriated each year by the
12648 Legislature to the nonprofit corporation, which is required to be
12649 organized under the provisions of Section 47-5-535, for the
12650 purpose of operating and managing the prison industries.

12651 (4) The state shall have the rights and remedies for the
12652 security and collection of the rents given by law to landlords.



12653 (5) Lands leased for agricultural purposes under Section
12654 47-5-64(2) shall be subject to a fee-in-lieu of ad valorem taxes,
12655 including taxes levied for school purposes. The fee-in-lieu shall
12656 be Nine Dollars (\$9.00) per acre. Upon the execution of the
12657 agricultural leases to private entities as authorized by Section
12658 47-5-64(2), the Department of Finance and Administration shall
12659 collect the in lieu fee and shall forward the fees to the tax
12660 collector in which the land is located. The tax collector shall
12661 disburse the fees to the appropriate county or municipal governing
12662 authority on a pro rata basis. The sum apportioned to a school
12663 district shall not be less than the school district's pro rata
12664 share based upon the proportion that the millage imposed for the
12665 school district by the appropriate levying authority bears to the
12666 millage imposed by the levying authority for all other county or
12667 municipal purposes. Any funds obtained by the corporation as a
12668 result of sale of goods and services manufactured and provided by
12669 it shall be accounted for separate and apart from any funds
12670 received by the corporation through appropriation from the State
12671 Legislature. All nonappropriated funds generated by the
12672 corporation shall not be subject to appropriation by the State
12673 Legislature.

12674 (6) Any land leased, as provided under Section 47-5-64(2),
12675 shall not be leased for an amount less than would be received if
12676 such land were to be leased under any federal loan program. In
12677 addition, all leases shall be subject to the final approval of the



12678 Public Procurement Review Board before such leases are to become
12679 effective.

12680 **SECTION 198.** Section 49-2-9, Mississippi Code of 1972, is
12681 brought forward as follows:

12682 49-2-9. (1) Effective July 1, 1979, the commission shall
12683 have the following powers and duties:

12684 (a) To formulate the policy of the department regarding
12685 natural resources within the jurisdiction of the department;

12686 (b) To adopt, modify, repeal, and promulgate, after due
12687 notice and hearing, and where not otherwise prohibited by federal
12688 or state law, to make exceptions to and grant exemptions and
12689 variances from, and to enforce rules and regulations implementing
12690 or effectuating the powers and duties of the commission under any
12691 and all statutes within the commission's jurisdiction, and as the
12692 commission may deem necessary to prevent, control and abate
12693 existing or potential pollution;

12694 (c) To apply for, receive and expend any federal or
12695 state funds or contributions, gifts, devises, bequests or funds
12696 from any other source;

12697 (d) To commission or conduct studies designed to
12698 determine alternative methods of managing or using the natural
12699 resources of this state, in a manner to insure efficiency and
12700 maximum productivity;

12701 (e) To enter into, and to authorize the executive
12702 director to execute with the approval of the commission,



12703 contracts, grants and cooperative agreements with any federal or
12704 state agency or subdivision thereof, or any public or private
12705 institution located inside or outside the State of Mississippi, or
12706 any person, corporation or association in connection with carrying
12707 out the provisions of this chapter; but this authority under this
12708 chapter and under any and all statutes within the commission's
12709 jurisdiction, except those statutes relating to the Bureau of
12710 Recreation and Parks, shall not include contracts, grants or
12711 cooperative agreements which do not develop data or information
12712 usable by the commission, or which provide goods, services or
12713 facilities to the commission or any of its bureaus, and shall
12714 exclude any monies for special interest groups for purposes of
12715 lobbying or otherwise promoting their special interests; and

12716 (f) To discharge such other duties, responsibilities
12717 and powers as are necessary to implement the provisions of this
12718 chapter.

12719 (2) The Mississippi Department of Environmental Quality,
12720 Office of Geology and Energy Resources shall be responsible for
12721 program management, procurement, development and maintenance of
12722 the Mississippi Digital Earth Model, which should include the
12723 following seven (7) core data layers of a digital land base
12724 computer model of the State of Mississippi:

- 12725 (a) Geodetic control;
- 12726 (b) Elevation and bathymetry;
- 12727 (c) Orthoimagery;



12728 (d) Hydrography;
12729 (e) Transportation;
12730 (f) Government boundaries; and
12731 (g) Cadastral. With respect to the cadastral layer,
12732 the authority and responsibility of the Mississippi Department of
12733 Environmental Quality, Office of Geology and Energy Resources
12734 shall be limited to compiling information submitted by counties.

12735 For all seven (7) framework layers, the Mississippi
12736 Department of Environmental Quality, Office of Geology and Energy
12737 Resources shall be the integrator of data from all sources and the
12738 guarantor of data completeness and consistency and shall
12739 administer the council's policies and standards for the
12740 procurement of remote sensing and geographic information system
12741 data by state and local governmental entities.

12742 **SECTION 199.** Section 43-27-35, Mississippi Code of 1972, is
12743 brought forward as follows:

12744 43-27-35. (1) The Department of Finance and Administration,
12745 for and on behalf of the Department of Human Services and the
12746 State of Mississippi, may enter into a purchase contract, a
12747 lease-purchase agreement or other similar contract for the
12748 acquisition of land, buildings or equipment that would be suitable
12749 for use by the Department of Human Services in providing housing
12750 and facilities for youth under its jurisdiction regardless of the
12751 ages of such youths and that would assist the Department of Human
12752 Services in the performance of its duties under Chapter 27, Title



12753 43, Mississippi Code of 1972. Before entering into any such
12754 contract or agreement, the Department of Finance and
12755 Administration must first demonstrate to the Public Procurement
12756 Review Board satisfactory evidence that the contract or agreement
12757 would be economically advantageous to the Department of Human
12758 Services.

12759 (2) Acquisition of the property described in subsection (1)
12760 of this section shall be made only as provided in subsection (3)
12761 and upon legislative approval or upon approval of the State Bond
12762 Commission in accordance with the manner and procedure prescribed
12763 in Section 27-104-107.

12764 (3) If Newton County is selected as a site to house a
12765 facility under this section, the governing authorities of any
12766 municipality in which all or part of the facility is to be located
12767 and the Board of Supervisors of Newton County shall adopt
12768 resolutions spread on their minutes requesting the location of the
12769 facility in such municipality and the county. If such resolutions
12770 are adopted, the qualified electors of the municipality, if all or
12771 part of the facility is to be located in a municipality, shall
12772 vote in an election to be set by the governing authorities to
12773 determine if a facility shall be sited. If a majority of the
12774 qualified electors voting in the election vote in favor of siting
12775 a facility, a second election set by the board of supervisors
12776 shall be held in the county. If a majority of the qualified
12777 electors of the county voting in the election vote in favor of



12778 siting a facility, a facility shall be sited. If a majority of
12779 the qualified electors of the municipality voting in the election
12780 vote against siting a facility, a second election shall not be
12781 held in the county and a facility shall not be sited.

12782 **SECTION 200.** Section 25-58-21, Mississippi Code of 1972, is
12783 brought forward as follows:

12784 25-58-21. (1) There is established the Mississippi
12785 Coordinating Council for Remote Sensing and Geographic Information
12786 Systems, hereinafter referred to as the "council." The council
12787 shall set and assure enforcement of policies and standards to make
12788 it easier for remote sensing and geographic information system
12789 users around the state to share information and to facilitate
12790 cost-sharing arrangements to reduce the costs of acquiring remote
12791 sensing and geographic information system data. The council shall
12792 not oversee or regulate the activities of higher education
12793 entities where it relates to the fields of teaching or research;
12794 however, the council shall be informed of these activities for the
12795 purpose of coordinating these higher education activities with
12796 other public remote sensing and GIS initiatives to achieve the
12797 maximum benefit for the State of Mississippi and its taxpayers.
12798 The council's responsibilities include, but are not limited to:

12799 (a) Coordination of remote sensing and geographic
12800 information system activities within Mississippi;

12801 (b) Establishing policies and standards to guide
12802 Mississippi Department of Information Technology Services (MDITS)



12803 in the review and approval of state and local government
12804 procurement of both hardware and software development relating to
12805 remote sensing and geographic information systems;

12806 (c) Oversight of MDITS' implementation of these
12807 responsibilities;

12808 (d) Preparing a plan, with proposed state funding
12809 priorities, for Mississippi's remote sensing and geographic
12810 information system activities, including development, operation
12811 and maintenance of the Mississippi Digital Earth Model;

12812 (e) Oversight of the Mississippi Department of
12813 Environmental Quality's development and maintenance of the
12814 Mississippi Digital Earth Model, including establishing policies
12815 and standards for the procurement of remote sensing and geographic
12816 information system data by state and local governmental entities
12817 and establishing the order in which the seven (7) core data layers
12818 shall be developed;

12819 (f) Designating Mississippi's official representative
12820 to the National States Geographic Information Council and to any
12821 other national or regional remote sensing or geographical
12822 information system organizations on which Mississippi has an
12823 official seat;

12824 (g) Establishing and designating the members of an
12825 advisory committee made up of policy level officials from major
12826 state, local, regional and federal agencies, including, but not
12827 limited to, the National Association of Space Administration, the



12828 Mississippi Institute for Forestry Inventory, the Mississippi
12829 Department of Wildlife, Fisheries and Parks, the Mississippi
12830 Public Utilities Staff, the Department of Marine Resources, the
12831 county E911 coordinator, the State Health Officer, the
12832 Commissioner of Agriculture and Commerce, the State Tax
12833 Commission, the Council of Consulting Engineers and the
12834 Mississippi Band of Choctaw Indians, as well as members of the
12835 private sector;

12836 (h) Creating a staff level technical users committee,
12837 in which any public or private sector entity in Mississippi
12838 interested in remote sensing and geographic information may be
12839 allowed to participate;

12840 (i) Coordinating with the State Tax Commission to
12841 assure that state and local governmental entities do not have to
12842 comply with two (2) sets of requirements imposed by different
12843 organizations.

12844 (2) The Mississippi Coordinating Council for Remote Sensing
12845 and Geographic Information Systems will be composed of the
12846 following members:

12847 (a) The Executive Director of the Mississippi
12848 Department of Environmental Quality;

12849 (b) The Executive Director of the Mississippi
12850 Department of Information Technology Services;

12851 (c) The Executive Director of the Mississippi
12852 Department of Transportation;



12853 (d) The Executive Director of the Mississippi Emergency
12854 Management Agency;
12855 (e) The Executive Director of the Mississippi
12856 Development Authority;
12857 (f) The Secretary of State;
12858 (g) The Executive Director of the Mississippi Forestry
12859 Commission;
12860 (h) The Director of the Mississippi State Board of
12861 Registered Professional Geologists;
12862 (i) A representative from the Institutions of Higher
12863 Learning, appointed by the Commissioner of the Institutions of
12864 Higher Learning;
12865 (j) One (1) mayor, serving a municipality, appointed by
12866 the Executive Director of the Mississippi Municipal League;
12867 (k) The Executive Director of the Mississippi Municipal
12868 League or his designee who will serve as the member;
12869 (l) One (1) county supervisor appointed by the
12870 Executive Director of the Mississippi Association of Supervisors;
12871 (m) The Executive Director of the Mississippi
12872 Association of Supervisors or his designee who will serve as the
12873 member;
12874 (n) A member of the Tax Assessors/Collectors
12875 Association or the executive director of the association, to be
12876 appointed by the president of that association;



12877 (o) A representative of the Planning and Development
12878 Districts, appointed by the Governor;

12879 (p) A Senator, as a nonvoting member, appointed by the
12880 Lieutenant Governor;

12881 (q) A Representative, as a nonvoting member, appointed
12882 by the Speaker of the House;

12883 (r) A county surveyor who is a member of the
12884 Mississippi Association of Professional Surveyors, appointed by
12885 the president of the association; and

12886 The members listed in paragraphs (a) through (g) may appoint
12887 a designee, but the designee must be the head of an office,
12888 bureau, division or branch within the member's agency.

12889 The members of the council shall serve for a term concurrent
12890 with their service as an elected or appointed official or
12891 concurrent with the term of the appointing official.

12892 The Executive Director of the Department of Environmental
12893 Quality shall serve as council chair and the Executive Director of
12894 Information Technology Services as vice chair for the first two
12895 (2) years. After the first two (2) years, the council shall elect
12896 from its members a chair and vice chair, for terms to be specified
12897 by the council.

12898 With regard to the designee chosen by the Executive Director
12899 of the Mississippi Municipal League or the Executive Director of
12900 the Mississippi Association of Supervisors, the designee shall



12901 become a permanent member of the council for a term concurrent
12902 with the term of the appointing executive director.

12903 (3) At the direction of the chairman of the council and
12904 contingent upon the availability of sufficient funds, each member
12905 may receive reimbursement for reasonable expenses, including
12906 travel expenses in accordance with rates established pursuant to
12907 Section 25-3-41, incurred in attending meetings of the council.
12908 Any member of the council who is also a state employee may not
12909 receive per diem compensation for attending meetings of the study
12910 committee, but may be reimbursed in accordance with Section
12911 25-3-41 for mileage and actual expenses incurred in the
12912 performance of the duties, if authorized by vote, at a meeting of
12913 the council, which action must be recorded in the official minutes
12914 of the meeting. Legislative members of the council will be paid
12915 from the contingent expense funds of their respective houses in
12916 the same amounts as provided for committee meetings when the
12917 Legislature is not in session.

12918 (4) The council may accept money from any source, public or
12919 private, to be expended in implementing the duties under this
12920 section.

12921 (5) The council may utilize staff employed by the agencies
12922 affected by this section and any other assistance made available
12923 to it.

12924 **SECTION 201.** Section 65-43-3, Mississippi Code of 1972, is
12925 brought forward as follows:



12926 65-43-3. (1) (a) In addition to and as an alternative to
12927 any other authority granted by law, including, but not limited to,
12928 Section 65-43-1, any governmental entities, as defined in Section
12929 65-43-1, in their discretion, may contract, individually or
12930 jointly with other governmental entities, with any persons,
12931 corporations, partnerships or other businesses licensed to do
12932 business in the State of Mississippi (hereinafter referred to as
12933 "companies" or "company") for the purpose of designing, financing,
12934 constructing, operating and maintaining one or more new toll roads
12935 or toll bridges in the state for motor vehicle traffic, including
12936 tollbooths and related facilities, at those locations where an
12937 alternate untolled route exists. Such contracts may provide that
12938 the governmental entities may grant certain rights (including, but
12939 not limited to, the right to exclusively operate and maintain) in
12940 land held by the governmental entities, whether in fee simple, as
12941 an easement or other interest, to a company for design,
12942 construction, operation and/or maintenance of roadways, highways
12943 or bridges for motor vehicle traffic, tollbooths and related
12944 facilities. All such highways, pavement, bridges,
12945 drainage-related structures and other infrastructure comprising
12946 the projects shall be built and maintained in accordance with not
12947 less than the minimum highway design, construction and maintenance
12948 standards established by the contracting governmental entity for
12949 such highways, infrastructure and facilities. The contracting
12950 governmental entity shall conduct periodic inspections of any such



12951 project throughout the term of the contract to ensure compliance
12952 by the company. Failure of a company to comply with minimum
12953 standards established for the project by the contracting
12954 governmental entity shall constitute a breach and shall subject
12955 the company to liability on its bond or security or to rescission
12956 of the contract in accordance with the terms and provisions of the
12957 contract.

12958 (b) A governmental entity may not enter into a contract
12959 under this section with (i) any company designated as a foreign
12960 terrorist organization pursuant to Presidential Executive Order
12961 13224 or Section 302 of the federal Antiterrorism or Effective
12962 Death Penalty Act of 1996, (ii) any company under the control of a
12963 so-designated foreign terrorist organization, or (iii) any company
12964 controlled by a foreign person if to do so would violate any order
12965 of the Committee on Foreign Investment in the United States under
12966 the Foreign Investment and National Security Act of 2007, H.R.
12967 566, 110th Cong. (2007), Public Law 110-49, 121 Stat. 246. These
12968 requirements also shall apply to any proposed transfer or
12969 assignment of any contract entered into under this section.

12970 (2) (a) Every contract entered into by a governmental
12971 entity under this section (except for contracts entered into with
12972 another governmental entity or following termination of a
12973 predecessor contract entered into under this section), at a
12974 minimum, must provide for the design and construction of a new
12975 toll road or toll bridge project and may also provide for the



12976 financing, acquisition, lease, maintenance, and/or operation of a
12977 new toll road or toll bridge project.

12978 (b) If a governmental entity enters into a contract
12979 with a company as authorized by this section, such governmental
12980 entity shall use a competitive procurement process that provides
12981 the best value for the governmental entity. The governmental
12982 entity may accept unsolicited proposals for a proposed new toll
12983 road or solicit proposals in accordance with this section.

12984 (c) A governmental entity shall publish a request for
12985 competing proposals and qualifications in a newspaper having a
12986 general circulation within such governmental entity or, if the
12987 governmental entity is the Mississippi Transportation Commission,
12988 shall publish the request in a newspaper having a general
12989 circulation at the seat of government and, if the governmental
12990 entity has a website, shall post the request on such website.
12991 Such request shall include the criteria used to evaluate the
12992 proposals, the relative weight given to the criteria and a
12993 deadline by which proposals must be received. At a minimum, a
12994 proposal submitted in response to such request must contain:

12995 (i) Information regarding the proposed project
12996 location, scope and limits;

12997 (ii) Information regarding the company's
12998 qualifications, experience, technical competence, and capability
12999 to develop the project; and



13000 (iii) A proposed financial plan for the proposed
13001 project that includes, at a minimum, the projected project costs,
13002 projected revenues and proposed sources of funds.

13003 A governmental entity may interview a company submitting a
13004 solicited or unsolicited proposal. In evaluating such proposals,
13005 a governmental entity may solicit input from other sources
13006 regarding such proposals.

13007 (d) The governmental entity shall rank each proposal
13008 based on the criteria described in the request for proposals and
13009 select the company whose proposal offers the best value to the
13010 governmental entity. The governmental entity may enter into
13011 discussions with the company whose proposal offers the best value.
13012 If at any point during the discussions it appears to the
13013 governmental entity that the highest ranking proposal will not
13014 provide the governmental entity with the overall best value, the
13015 governmental entity may enter into discussions with the company
13016 submitting the next highest ranking proposal.

13017 (e) The governmental entity may withdraw a request for
13018 competing proposals and qualifications at any time and for any
13019 reason and may reject any one (1) or all proposals. In either
13020 case, the governmental entity may then publish a new request for
13021 competing proposals and qualifications. A governmental entity
13022 shall not be required to pay any company for the costs of
13023 preparing or submitting proposals.



13024 (f) The governmental entity shall prescribe the general
13025 form of a contract authorized by this section and may include any
13026 matter the governmental entity considers advantageous to it. The
13027 governmental entity and the company shall negotiate the specific
13028 terms of the contract.

13029 (g) Except as provided under this subsection (2), no
13030 such contract entered into hereunder shall be subject to the
13031 provisions of Section 65-1-8, Section 31-7-13 or any other public
13032 bid or public procurement laws of this state.

13033 (h) The Transportation Commission shall evaluate each
13034 proposal based on the criteria established by the commission. The
13035 Transportation Commission shall approve or disapprove a proposal
13036 within ninety (90) days after receipt of the proposal. If the
13037 Transportation Commission needs additional information, it may
13038 delay approval for an additional sixty (60) days.

13039 (i) Any right or interest arising under or as a result
13040 of any contract entered into under this section by a governmental
13041 entity with a company involving a franchise, license agreement,
13042 concession agreement, operating agreement, construction agreement,
13043 design agreement and/or any other similar contractual arrangement
13044 in connection with the financing, design, construction,
13045 acquisition, maintenance and/or operation of a toll road or toll
13046 bridge project shall not constitute any right, title or interest
13047 in land or other real property or real estate or in personal
13048 property within the meaning of Article 1, Chapter 35, Title 27,



13049 Mississippi Code of 1972, in the toll road or toll bridge project,
13050 including tollbooths and related toll facilities (including, but
13051 not limited to, land, pavement, drainage-related structures, and
13052 other infrastructure and property related thereto) in which a
13053 governmental entity is the title owner of such property and/or
13054 holder of easements, rights-of-way and/or other interests for such
13055 toll road or toll bridge project.

13056 (3) Every contract entered into by a governmental entity
13057 under this section shall require a company to enter into bond and
13058 provide such security as the governmental entity determines may be
13059 necessary or advisable to ensure timely completion and proper
13060 execution and performance of the contract. The term of the
13061 contract shall not exceed fifty (50) years, with the exception of
13062 extensions, automatic renewals or other contractual terms as
13063 agreed to by the governmental entity in the original or a
13064 subsequent agreement. The governmental entities are authorized to
13065 acquire such property or interests in property as may be
13066 necessary, by gift, purchase or eminent domain, for construction
13067 and maintenance of the highways or bridges built pursuant to
13068 contracts entered into under this section. Upon expiration,
13069 termination or rescission of the contract, any and all rights
13070 and/or interests that the company may have in the land,
13071 infrastructure, facilities or other improvements to the property
13072 subject to contract shall terminate and automatically, by
13073 operation of law, be returned or conveyed to and vested in the



13074 State of Mississippi or the contracting governmental entity. Upon
13075 termination, expiration or rescission of the contract, the
13076 collection of tolls shall cease.

13077 (4) The governmental entity having jurisdiction over the
13078 toll highway or bridge may, after notice and public hearing,
13079 establish, charge and collect motor vehicle operator tolls for use
13080 of the highway or bridge and its facilities. Alternatively,
13081 during the term of any contract entered into under this section,
13082 the company may establish, charge and collect motor vehicle
13083 operators tolls for use of the highway or bridge and its
13084 facilities. The amount of such tolls, and any modification
13085 thereto, shall be subject to approval by the contracting
13086 governmental entity after notice and public hearing. All such
13087 contracts entered into with the Mississippi Transportation
13088 Commission may require a company to pay a percentage or other
13089 specified portion of all tolls collected to the Mississippi
13090 Department of Transportation. If bonds are issued pursuant to
13091 Section 65-43-13, then all such tolls paid to the department shall
13092 be deposited into the special bond sinking fund under Section
13093 65-43-11, and may be expended only as authorized by the
13094 Legislature. If bonds are not issued pursuant to Section
13095 65-43-13, then all such tolls paid to the department shall be
13096 deposited into the department's highway fund to be used by the
13097 department for the construction and maintenance of highways.



13098 (5) If a toll road is a designated evacuation route and a
13099 declaration of a state of emergency is issued by the President of
13100 the United States or by the Governor, the collection of tolls
13101 shall cease until the termination of the state of emergency.

13102 (6) All statutes of this state relating to vehicle and
13103 traffic regulation and control shall be applicable to motor
13104 vehicles operated upon highways and bridges constructed under this
13105 section and shall be enforceable by the Mississippi Department of
13106 Public Safety, the Mississippi Highway Safety Patrol or any other
13107 law enforcement agency having jurisdiction over such highways and
13108 bridges.

13109 (7) The State of Mississippi, the Mississippi Transportation
13110 Commission, the Mississippi Department of Transportation,
13111 counties, municipalities or any other agency or political
13112 subdivision, or any officer or employee thereof, shall not be
13113 liable for any tortious act or omission arising out of the
13114 construction, maintenance or operation of any highway or bridge
13115 project under the provisions of this section where the act or
13116 omission occurs during the term of any such contract entered into
13117 by the Mississippi Transportation Commission or other governmental
13118 entity and a company.

13119 **SECTION 202.** Section 37-101-413, Mississippi Code of 1972,
13120 is brought forward as follows:



13121 37-101-413. (1) As used in this section, the term "state
13122 institutions of higher learning" means those institutions
13123 identified in Section 37-101-1 and the University Research Center.

13124 (2) The Board of Trustees of State Institutions of Higher
13125 Learning may establish an equipment leasing and purchase program
13126 for the use of the state institutions of higher learning. In
13127 establishing and administering the program, the board may perform
13128 the following actions:

13129 (a) Adopt policies and procedures to implement the
13130 program;

13131 (b) Establish offices or subordinate units as may be
13132 necessary for the administration of the program;

13133 (c) Adopt rules and regulations pertaining to the
13134 program;

13135 (d) Acquire by purchase, lease or lease-purchase
13136 contract and retain or transfer ownership or possession of
13137 instructional and other equipment;

13138 (e) Contract for the leasing of such properties and for
13139 the financing of leases and purchases;

13140 (f) Enter into contracts with others to provide any
13141 services deemed necessary and advisable by the board;

13142 (g) Make purchases and enter into leases according to
13143 the requirements of the state public purchasing laws and the
13144 requirements of those laws establishing the Mississippi Department
13145 of Information Technology Services;



13146 (h) Enter into lease financing agreements in connection
13147 with purchases made under the authority of this section;

13148 (i) Require the transfer of appropriations of general
13149 funds or self-generated funds from the state institutions to those
13150 funds that the board may determine are required in connection with
13151 any lease financing agreements;

13152 (j) Develop administrative methods for determining age,
13153 useful life, replacement value, current use, condition and other
13154 characteristics of instructional and research equipment at the
13155 state institutions and research facilities;

13156 (k) Determine obsolescence of the equipment and
13157 establish priorities for replacement or provision of the equipment
13158 or its transfer to another state institution that can continue to
13159 utilize it; and

13160 (l) Develop long-range plans for the orderly and
13161 systematic acquisition and utilization of the instructional and
13162 research equipment in order to eliminate waste and duplication,
13163 provide the maximum efficiency of use for expenditures, and
13164 achieve equitable allocations of equipment funds to the state
13165 institutions consistent with the roles of the institutions and
13166 disciplines served.

13167 (3) All institutions of higher learning desiring to
13168 purchase, lease or lease-purchase equipment involving an
13169 expenditure or expenditures of more than Five Thousand Dollars
13170 (\$5,000.00) must procure that equipment under the equipment



13171 leasing and purchase program unless funds for the procurement of
13172 the equipment under the program are unavailable or the equipment
13173 can be procured elsewhere at an overall cost lower than that for
13174 which the equipment can be procured under the program.

13175 **SECTION 203.** Section 25-53-5, Mississippi Code of 1972, is
13176 brought forward as follows:

13177 25-53-5. The authority shall have the following powers,
13178 duties, and responsibilities:

13179 (a) (i) The authority shall provide for the
13180 development of plans for the efficient acquisition and utilization
13181 of computer equipment and services by all agencies of state
13182 government, and provide for their implementation. In so doing,
13183 the authority may use the MDITS' staff, at the discretion of the
13184 executive director of the authority, or the authority may contract
13185 for the services of qualified consulting firms in the field of
13186 information technology and utilize the service of such consultants
13187 as may be necessary for such purposes. Pursuant to Section
13188 25-53-1, the provisions of this section shall not apply to the
13189 Department of Human Services for a period of three (3) years
13190 beginning on July 1, 2017. Pursuant to Section 25-53-1, the
13191 provisions of this section shall not apply to the Department of
13192 Child Protection Services for a period of three (3) years
13193 beginning July 1, 2017.

13194 (ii) [Repealed]



13195 (b) The authority shall immediately institute
13196 procedures for carrying out the purposes of this chapter and
13197 supervise the efficient execution of the powers and duties of the
13198 office of executive director of the authority. In the execution
13199 of its functions under this chapter, the authority shall maintain
13200 as a paramount consideration the successful internal organization
13201 and operation of the several agencies so that efficiency existing
13202 therein shall not be adversely affected or impaired. In executing
13203 its functions in relation to the institutions of higher learning
13204 and junior colleges in the state, the authority shall take into
13205 consideration the special needs of such institutions in relation
13206 to the fields of teaching and scientific research.

13207 (c) Title of whatever nature of all computer equipment
13208 now vested in any agency of the State of Mississippi is hereby
13209 vested in the authority, and no such equipment shall be disposed
13210 of in any manner except in accordance with the direction of the
13211 authority or under the provisions of such rules and regulations as
13212 may hereafter be adopted by the authority in relation thereto.

13213 (d) The authority shall adopt rules, regulations, and
13214 procedures governing the acquisition of computer and
13215 telecommunications equipment and services which shall, to the
13216 fullest extent practicable, ensure the maximum of competition
13217 between all manufacturers of supplies or equipment or services.
13218 In the writing of specifications, in the making of contracts
13219 relating to the acquisition of such equipment and services, and in



13220 the performance of its other duties the authority shall provide
13221 for the maximum compatibility of all information systems hereafter
13222 installed or utilized by all state agencies and may require the
13223 use of common computer languages where necessary to accomplish the
13224 purposes of this chapter. The authority may establish by
13225 regulation and charge reasonable fees on a nondiscriminatory basis
13226 for the furnishing to bidders of copies of bid specifications and
13227 other documents issued by the authority.

13228 (e) The authority shall adopt rules and regulations
13229 governing the sharing with, or the sale or lease of information
13230 technology services to any nonstate agency or person. Such
13231 regulations shall provide that any such sharing, sale or lease
13232 shall be restricted in that same shall be accomplished only where
13233 such services are not readily available otherwise within the
13234 state, and then only at a charge to the user not less than the
13235 prevailing rate of charge for similar services by private
13236 enterprise within this state.

13237 (f) The authority may, in its discretion, establish a
13238 special technical advisory committee or committees to study and
13239 make recommendations on technology matters within the competence
13240 of the authority as the authority may see fit. Persons serving on
13241 the Information Resource Council, its task forces, or any such
13242 technical advisory committees shall be entitled to receive their
13243 actual and necessary expenses actually incurred in the performance
13244 of such duties, together with mileage as provided by law for state



13245 employees, provided the same has been authorized by a resolution
13246 duly adopted by the authority and entered on its minutes prior to
13247 the performance of such duties.

13248 (g) The authority may provide for the development and
13249 require the adoption of standardized computer programs and may
13250 provide for the dissemination of information to and the
13251 establishment of training programs for the personnel of the
13252 various information technology centers of state agencies and
13253 personnel of the agencies utilizing the services thereof.

13254 (h) The authority shall adopt reasonable rules and
13255 regulations requiring the reporting to the authority through the
13256 office of executive director of such information as may be
13257 required for carrying out the purposes of this chapter and may
13258 also establish such reasonable procedures to be followed in the
13259 presentation of bills for payment under the terms of all contracts
13260 for the acquisition of computer equipment and services now or
13261 hereafter in force as may be required by the authority or by the
13262 executive director in the execution of their powers and duties.

13263 (i) The authority shall require such adequate
13264 documentation of information technology procedures utilized by the
13265 various state agencies and may require the establishment of such
13266 organizational structures within state agencies relating to
13267 information technology operations as may be necessary to
13268 effectuate the purposes of this chapter.



13269 (j) The authority may adopt such further reasonable
13270 rules and regulations as may be necessary to fully implement the
13271 purposes of this chapter. All rules and regulations adopted by
13272 the authority shall be published and disseminated in readily
13273 accessible form to all affected state agencies, and to all current
13274 suppliers of computer equipment and services to the state, and to
13275 all prospective suppliers requesting the same. Such rules and
13276 regulations shall be kept current, be periodically revised, and
13277 copies thereof shall be available at all times for inspection by
13278 the public at reasonable hours in the offices of the authority.
13279 Whenever possible no rule, regulation or any proposed amendment to
13280 such rules and regulations shall be finally adopted or enforced
13281 until copies of the proposed rules and regulations have been
13282 furnished to all interested parties for their comment and
13283 suggestions.

13284 (k) The authority shall establish rules and regulations
13285 which shall provide for the submission of all contracts proposed
13286 to be executed by the executive director for computer equipment
13287 and/or telecommunications or services, including cloud computing,
13288 to the authority for approval before final execution, and the
13289 authority may provide that such contracts involving the
13290 expenditure of less than such specified amount as may be
13291 established by the authority may be finally executed by the
13292 executive director without first obtaining such approval by the
13293 authority.



13294 (1) The authority is authorized to consider new
13295 technologies, such as cloud computing, to purchase, lease, or rent
13296 computer equipment or services and to operate that equipment and
13297 use those services in providing services to one or more state
13298 agencies when in its opinion such operation will provide maximum
13299 efficiency and economy in the functions of any such agency or
13300 agencies.

13301 (m) Upon the request of the governing body of a
13302 political subdivision or instrumentality, the authority shall
13303 assist the political subdivision or instrumentality in its
13304 development of plans for the efficient acquisition and utilization
13305 of computer equipment and services. An appropriate fee shall be
13306 charged the political subdivision by the authority for such
13307 assistance.

13308 (n) The authority shall adopt rules and regulations
13309 governing the protest procedures to be followed by any actual or
13310 prospective bidder, offerer or contractor who is aggrieved in
13311 connection with the solicitation or award of a contract for the
13312 acquisition of computer equipment or services. Such rules and
13313 regulations shall prescribe the manner, time and procedure for
13314 making protests and may provide that a protest not timely filed
13315 shall be summarily denied. The authority may require the
13316 protesting party, at the time of filing the protest, to post a
13317 bond, payable to the state, in an amount that the authority
13318 determines sufficient to cover any expense or loss incurred by the



13319 state, the authority or any state agency as a result of the
13320 protest if the protest subsequently is determined by a court of
13321 competent jurisdiction to have been filed without any substantial
13322 basis or reasonable expectation to believe that the protest was
13323 meritorious; however, in no event may the amount of the bond
13324 required exceed a reasonable estimate of the total project cost.
13325 The authority, in its discretion, also may prohibit any
13326 prospective bidder, offerer or contractor who is a party to any
13327 litigation involving any such contract with the state, the
13328 authority or any agency of the state to participate in any other
13329 such bid, offer or contract, or to be awarded any such contract,
13330 during the pendency of the litigation.

13331 (o) The authority shall make a report in writing to the
13332 Legislature each year in the month of January. Such report shall
13333 contain a full and detailed account of the work of the authority
13334 for the preceding year as specified in Section 25-53-29(3).

13335 All acquisitions of computer equipment and services involving
13336 the expenditure of funds in excess of the dollar amount
13337 established in Section 31-7-13(c), or rentals or leases in excess
13338 of the dollar amount established in Section 31-7-13(c) for the
13339 term of the contract, shall be based upon competitive and open
13340 specifications, and contracts therefor shall be entered into only
13341 after advertisements for bids are published in one or more daily
13342 newspapers having a general circulation in the state not less than
13343 fourteen (14) days prior to receiving sealed bids therefor. The



13344 authority may reserve the right to reject any or all bids, and if
13345 all bids are rejected, the authority may negotiate a contract
13346 within the limitations of the specifications so long as the terms
13347 of any such negotiated contract are equal to or better than the
13348 comparable terms submitted by the lowest and best bidder, and so
13349 long as the total cost to the State of Mississippi does not exceed
13350 the lowest bid. If the authority accepts one (1) of such bids, it
13351 shall be that which is the lowest and best. Through June 30,
13352 2024, the provisions of this paragraph shall not apply to
13353 acquisitions of information technology equipment and services made
13354 by the Mississippi Department of Health and the Mississippi
13355 Department of Revenue for the purposes of implementing,
13356 administering and enforcing the provisions of the Mississippi
13357 Medical Cannabis Act.

13358 (p) When applicable, the authority may procure
13359 equipment, systems and related services in accordance with the law
13360 or regulations, or both, which govern the Bureau of Purchasing of
13361 the Office of General Services or which govern the Mississippi
13362 Department of Information Technology Services procurement of
13363 telecommunications equipment, software and services.

13364 (q) The authority is authorized to purchase, lease, or
13365 rent information technology and services for the purpose of
13366 establishing pilot projects to investigate emerging technologies.
13367 These acquisitions shall be limited to new technologies and shall
13368 be limited to an amount set by annual appropriation of the



13369 Legislature. These acquisitions shall be exempt from the
13370 advertising and bidding requirement.

13371 (r) To promote the maximum use and benefit from
13372 technology and services now in operation or which will in the
13373 future be placed in operation and to identify opportunities,
13374 minimize duplication, reduce costs and improve the efficiency of
13375 providing common technology services the authority is authorized
13376 to:

13377 (i) Enter into master agreements for computer or
13378 telecommunications equipment or services, including cloud
13379 computing, available for shared use by state agencies, institutes
13380 of higher learning and governing authorities; and

13381 (ii) Enter into contracts for the acquisition of
13382 computer or telecommunications equipment or services, including
13383 cloud computing, that have been acquired by other entities,
13384 located within or outside of the State of Mississippi, so long as
13385 it is determined by the authority to be in the best interest of
13386 the state. The acquisitions provided in this paragraph (r) shall
13387 be exempt from the advertising and bidding requirements of Section
13388 25-53-1 et seq.

13389 (s) All fees collected by the Mississippi Department of
13390 Information Technology Services shall be deposited into the
13391 Mississippi Department of Information Technology Services
13392 Revolving Fund unless otherwise specified by the Legislature.



13393 (t) The authority shall work closely with the council
13394 to bring about effective coordination of policies, standards and
13395 procedures relating to procurement of remote sensing and
13396 geographic information systems (GIS) resources. In addition, the
13397 authority is responsible for development, operation and
13398 maintenance of a delivery system infrastructure for geographic
13399 information systems data. The authority shall provide a warehouse
13400 for Mississippi's geographic information systems data.

13401 (u) The authority shall manage one or more State Data
13402 Centers to provide information technology services on a
13403 cost-sharing basis. In determining the appropriate services to be
13404 provided through the State Data Center, the authority should
13405 consider those services that:

- 13406 (i) Result in savings to the state as a whole;
- 13407 (ii) Improve and enhance the security and
13408 reliability of the state's information and business systems; and
- 13409 (iii) Optimize the efficient use of the state's
13410 information technology assets, including, but not limited to,
13411 promoting partnerships with the state institutions of higher
13412 learning and community colleges to capitalize on advanced
13413 information technology resources.

13414 (v) The authority shall increase federal participation
13415 in the cost of the State Data Center to the extent provided by law
13416 and its shared technology infrastructure through providing such
13417 shared services to agencies that receive federal funds. With



13418 regard to state institutions of higher learning and community
13419 colleges, the authority may provide shared services when mutually
13420 agreeable, following a determination by both the authority and the
13421 Board of Trustees of State Institutions of Higher Learning or the
13422 Mississippi Community College Board, as the case may be, that the
13423 sharing of services is mutually beneficial.

13424 (w) The authority, in its discretion, may require new
13425 or replacement agency business applications to be hosted at the
13426 State Data Center. With regard to state institutions of higher
13427 learning and community colleges, the authority and the Board of
13428 Trustees of State Institutions of Higher Learning or the
13429 Mississippi Community College Board, as the case may be, may agree
13430 that institutions of higher learning or community colleges may
13431 utilize business applications that are hosted at the State Data
13432 Center, following a determination by both the authority and the
13433 applicable board that the hosting of those applications is
13434 mutually beneficial. In addition, the authority may establish
13435 partnerships to capitalize on the advanced technology resources of
13436 the Board of Trustees of State Institutions of Higher Learning or
13437 the Mississippi Community College Board, following a determination
13438 by both the authority and the applicable board that such a
13439 partnership is mutually beneficial.

13440 (x) The authority shall provide a periodic update
13441 regarding reform-based information technology initiatives to the



13442 Chairmen of the House and Senate Accountability, Efficiency and
13443 Transparency Committees.

13444 From and after July 1, 2018, the expenses of this agency
13445 shall be defrayed by appropriation from the State General Fund.
13446 In addition, in order to receive the maximum use and benefit from
13447 information technology and services, expenses for the provision of
13448 statewide shared services that facilitate cost-effective
13449 information processing and telecommunication solutions shall be
13450 defrayed by pass-through funding and shall be deposited into the
13451 Mississippi Department of Information Technology Services
13452 Revolving Fund unless otherwise specified by the Legislature.
13453 These funds shall only be utilized to pay the actual costs
13454 incurred by the Mississippi Department of Information Technology
13455 Services for providing these shared services to state agencies.
13456 Furthermore, state agencies shall work in full cooperation with
13457 the Board of the Mississippi Department of Information Technology
13458 Services to identify computer equipment or services to minimize
13459 duplication, reduce costs, and improve the efficiency of providing
13460 common technology services across agency boundaries.

13461 **SECTION 204.** Section 25-53-191, Mississippi Code of 1972, is
13462 brought forward as follows:

13463 25-53-191. (1) For the purposes of this section, the
13464 following terms shall have the meanings ascribed to them in this
13465 section unless the context otherwise clearly requires:



13466 (a) "Department" means the Mississippi Department of
13467 Information Technology.

13468 (b) "State agency" means any agency, department,
13469 commission, board, bureau, institution or other instrumentality of
13470 the state.

13471 (c) "Wireless communication device" means a cellular
13472 telephone, pager or a personal digital assistant device having
13473 wireless communication capability.

13474 (2) Before a wireless communication device may be assigned,
13475 issued or made available to an agency officer or employee, the
13476 agency head, or his designee, shall sign a statement certifying
13477 the need or reason for issuing the device. No officer or employee
13478 of any state agency, except for an officer or employee of the
13479 Mississippi Emergency Management Agency, shall be assigned or
13480 issued more than one (1) such wireless communication device. No
13481 officer or employee of any state agency to whom has been assigned,
13482 issued or made available the use of a wireless communication
13483 device, the cost of which is paid through the use of public funds,
13484 shall use such device for personal use.

13485 (3) A state agency shall not reimburse any officer or
13486 employee for use of his or her personal wireless communication
13487 device.

13488 (4) Every state agency that, at the expense of the state
13489 agency, assigns, issues or makes available to any of its officers
13490 or employees a wireless communication device shall obtain and



13491 maintain detailed billing for every wireless communication device
13492 account. A list of approved vendors for the procurement of
13493 wireless communication devices and the delivery of wireless
13494 communication device services shall be developed for all state
13495 agencies by the Mississippi Department of Information Technology
13496 Services. The department shall exercise the option of selecting
13497 one (1) vendor from which to procure wireless communication
13498 devices and to provide wireless communication device services, or
13499 if it deems such to be most advantageous to the state agencies, it
13500 may select multiple vendors. The department shall select a vendor
13501 or vendors on the basis of lowest and best bid proposals. A state
13502 agency may not procure a wireless communication device from any
13503 vendor or contract for wireless communication device services with
13504 any vendor unless the vendor appears on the list approved by the
13505 department. A contract entered into in violation of this section
13506 shall be void and unenforceable.

13507 (5) The department shall promulgate a model acceptable use
13508 policy defining the appropriate use of all wireless communication
13509 devices. The department shall include in its definition of
13510 appropriate use a prohibition on the downloading, accessing, or
13511 using of a prohibited technology pursuant to the National Security
13512 on State Devices and Networks Act. The acceptable use policy
13513 should specify that these resources, including both devices and
13514 services, are provided at the state agency's expense as tools for
13515 accomplishing the business missions of the state agency; that all



13516 those resources are for business use; and that more than
13517 incidental personal use of those resources is prohibited. The
13518 acceptable use policy should require that each official and
13519 employee issued one (1) of the above devices or authorized to
13520 access one (1) of the above services sign the policy and that the
13521 signed copy be placed in the personnel file of the official or
13522 employee. The acceptable use policy should also require that the
13523 use of these resources be tracked, verified and signed by the
13524 official or employee and the supervisor of the official or
13525 employee at each billing cycle or other appropriate interval. All
13526 state agencies shall adopt the model policy or adopt a policy that
13527 is, at minimum, as stringent as the model policy and shall provide
13528 a copy of the policy to the department.

13529 (6) All state agencies shall purchase or acquire only the
13530 lowest cost cellular telephone, pager or personal digital
13531 assistance device which will carry out its intended use.

13532 (7) The University of Mississippi Medical Center and its
13533 employees, the Mississippi State University Extension Service and
13534 its agents and faculty members, the Mississippi State University
13535 Agricultural and Forestry Experiment Station and its faculty
13536 members, the Mississippi State University Forestry and Wildlife
13537 Research Center and its faculty members, and the Mississippi State
13538 University College of Veterinary Medicine and its faculty members
13539 shall be exempt from the application of this section.



13540 (8) Employees of State Institutions of Higher Learning shall
13541 be exempt from the provisions of this section when incurring
13542 international usage charges for the business-related use of their
13543 personal wireless communication devices during business-related
13544 international travel. Such exemption shall only apply after a
13545 determination by the employer-institution that reimbursement to
13546 the employee for the use of his or her personal wireless
13547 communication device is the lowest-cost option to prevent business
13548 interruption during such travel.

13549 (9) The State Auditor shall conduct necessary audits to
13550 ensure compliance with the provisions of this section.

13551 **SECTION 205.** Section 37-101-15, Mississippi Code of 1972, is
13552 brought forward as follows:

13553 37-101-15. (a) The Board of Trustees of State Institutions
13554 of Higher Learning shall succeed to and continue to exercise
13555 control of all records, books, papers, equipment, and supplies,
13556 and all lands, buildings, and other real and personal property
13557 belonging to or assigned to the use and benefit of the board of
13558 trustees formerly supervising and controlling the institutions of
13559 higher learning named in Section 37-101-1. The board shall have
13560 and exercise control of the use, distribution and disbursement of
13561 all funds, appropriations and taxes, now and hereafter in
13562 possession, levied and collected, received, or appropriated for
13563 the use, benefit, support, and maintenance or capital outlay
13564 expenditures of the institutions of higher learning, including the



13565 authorization of employees to sign vouchers for the disbursement
13566 of funds for the various institutions, except where otherwise
13567 specifically provided by law.

13568 (b) The board shall have general supervision of the affairs
13569 of all the institutions of higher learning, including the
13570 departments and the schools thereof. The board shall have the
13571 power in its discretion to determine who shall be privileged to
13572 enter, to remain in, or to graduate therefrom. The board shall
13573 have general supervision of the conduct of libraries and
13574 laboratories, the care of dormitories, buildings, and grounds; the
13575 business methods and arrangement of accounts and records; the
13576 organization of the administrative plan of each institution; and
13577 all other matters incident to the proper functioning of the
13578 institutions. The board shall have the authority to establish
13579 minimum standards of achievement as a prerequisite for entrance
13580 into any of the institutions under its jurisdiction, which
13581 standards need not be uniform between the various institutions and
13582 which may be based upon such criteria as the board may establish.

13583 (c) The board shall exercise all the powers and prerogatives
13584 conferred upon it under the laws establishing and providing for
13585 the operation of the several institutions herein specified. The
13586 board shall adopt such bylaws and regulations from time to time as
13587 it deems expedient for the proper supervision and control of the
13588 several institutions of higher learning, insofar as such bylaws
13589 and regulations are not repugnant to the Constitution and laws,



13590 and not inconsistent with the object for which these institutions
13591 were established. The board shall have power and authority to
13592 prescribe rules and regulations for policing the campuses and all
13593 buildings of the respective institutions, to authorize the arrest
13594 of all persons violating on any campus any criminal law of the
13595 state, and to have such law violators turned over to the civil
13596 authorities.

13597 (d) For all institutions specified herein, the board shall
13598 provide a uniform system of recording and of accounting approved
13599 by the State Department of Audit. The board shall annually
13600 prepare, or cause to be prepared, a budget for each institution of
13601 higher learning for the succeeding year which must be prepared and
13602 in readiness for at least thirty (30) days before the convening of
13603 the regular session of the Legislature. All relationships and
13604 negotiations between the State Legislature and its various
13605 committees and the institutions named herein shall be carried on
13606 through the board of trustees. No official, employee or agent
13607 representing any of the separate institutions shall appear before
13608 the Legislature or any committee thereof except upon the written
13609 order of the board or upon the request of the Legislature or a
13610 committee thereof.

13611 (e) For all institutions specified herein, the board shall
13612 prepare an annual report to the Legislature setting forth the
13613 disbursements of all monies appropriated to the respective
13614 institutions. Each report to the Legislature shall show how the



13615 money appropriated to the several institutions has been expended,
13616 beginning and ending with the fiscal years of the institutions,
13617 showing the name of each teacher, officer, and employee, and the
13618 salary paid each, and an itemized statement of each and every item
13619 of receipts and expenditures. Each report must be balanced, and
13620 must begin with the former balance. If any property belonging to
13621 the state or the institution is used for profit, the reports shall
13622 show the expense incurred in managing the property and the amount
13623 received therefrom. The reports shall also show a summary of the
13624 gross receipts and gross disbursements for each year and shall
13625 show the money on hand at the beginning of the fiscal period of
13626 the institution next preceding each session of the Legislature and
13627 the necessary amount of expense to be incurred from said date to
13628 January 1 following. The board shall keep the annual expenditures
13629 of each institution herein mentioned within the income derived
13630 from legislative appropriations and other sources, but in case of
13631 emergency arising from acts of providence, epidemics, fire or
13632 storm with the written approval of the Governor and by written
13633 consent of a majority of the senators and of the representatives
13634 it may exceed the income. The board shall require a surety bond
13635 in a surety company authorized to do business in this state of
13636 every employee who is the custodian of funds belonging to one or
13637 more of the institutions mentioned herein, which bond shall be in
13638 a sum to be fixed by the board in an amount that will properly



13639 safeguard the said funds, the premium for which shall be paid out
13640 of the funds appropriated for said institutions.

13641 (f) The board shall have the power and authority to elect
13642 the heads of the various institutions of higher learning and to
13643 contract with all deans, professors, and other members of the
13644 teaching staff, and all administrative employees of said
13645 institutions for a term not exceeding four (4) years. The board
13646 shall have the power and authority to terminate any such contract
13647 at any time for malfeasance, inefficiency, or contumacious
13648 conduct, but never for political reasons. It shall be the policy
13649 of the board to permit the executive head of each institution to
13650 nominate for election by the board all subordinate employees of
13651 the institution over which he presides. It shall be the policy of
13652 the board to elect all officials for a definite tenure of service
13653 and to reelect during the period of satisfactory service. The
13654 board shall have the power to make any adjustments it thinks
13655 necessary between the various departments and schools of any
13656 institution or between the different institutions.

13657 (g) The board shall keep complete minutes and records of all
13658 proceedings which shall be open for inspection by any citizen of
13659 the state.

13660 (h) The board shall have the power to enter into an energy
13661 performance contract, energy services contract, on a
13662 shared-savings, lease or lease-purchase basis, for energy



13663 efficiency services and/or equipment as prescribed in Section
13664 31-7-14.

13665 (i) The Board of Trustees of State Institutions of Higher
13666 Learning, for and on behalf of Jackson State University, is hereby
13667 authorized to convey by donation or otherwise easements across
13668 portions of certain real estate located in the City of Jackson,
13669 Hinds County, Mississippi, for right-of-way required for the Metro
13670 Parkway Project.

13671 (j) In connection with any international contract between
13672 the board or one (1) of the state's institutions of higher
13673 learning and any party outside of the United States, the board or
13674 institution that is the party to the international contract is
13675 hereby authorized and empowered to include in the contract a
13676 provision for the resolution by arbitration of any controversy
13677 between the parties to the contract relating to such contract or
13678 the failure or refusal to perform any part of the contract. Such
13679 provision shall be valid, enforceable and irrevocable without
13680 regard to the justiciable character of the controversy. Provided,
13681 however, that in the event either party to such contract initiates
13682 litigation against the other with respect to the contract, the
13683 arbitration provision shall be deemed waived unless asserted as a
13684 defense on or before the responding party is required to answer
13685 such litigation.

13686 (k) The Board of Trustees of State Institutions of Higher
13687 Learning ("board"), on behalf of any institution under its



13688 jurisdiction, shall purchase and maintain business property
13689 insurance and business personal property insurance on all
13690 university-owned buildings and/or contents as required by federal
13691 law and regulations of the Federal Emergency Management Agency
13692 (FEMA) as is necessary for receiving public assistance or
13693 reimbursement for repair, reconstruction, replacement or other
13694 damage to those buildings and/or contents caused by the Hurricane
13695 Katrina Disaster of 2005 or subsequent disasters. The board is
13696 authorized to expend funds from any available source for the
13697 purpose of obtaining and maintaining that property insurance. The
13698 board is authorized to enter into agreements with the Department
13699 of Finance and Administration, local school districts,
13700 community/junior college districts, community hospitals and/or
13701 other state agencies to pool their liabilities to participate in a
13702 group business property and/or business personal property
13703 insurance program, subject to uniform rules and regulations as may
13704 be adopted by the Department of Finance and Administration.

13705 (1) The Board of Trustees of State Institutions of Higher
13706 Learning, or its designee, may approve the payment or
13707 reimbursement of reasonable travel expenses incurred by candidates
13708 for open positions at the board's executive office or at any of
13709 the state institutions of higher learning, when the job candidate
13710 has incurred expenses in traveling to a job interview at the
13711 request of the board, the Commissioner of Higher Education or a
13712 state institution of higher learning administrator.



13713 (m) (i) The Board of Trustees of State Institutions of
13714 Higher Learning is authorized to administer and approve contracts
13715 for the construction and maintenance of buildings and other
13716 facilities of the state institutions of higher learning, including
13717 related contracts for architectural and engineering services,
13718 which are paid for with self-generated funds.

13719 (ii) Additionally, the board is authorized to oversee,
13720 administer and approve contracts for the construction and
13721 maintenance of buildings and other facilities of the state
13722 institutions of higher learning, including related contracts for
13723 architectural and engineering services, which are funded in whole
13724 or in part by general obligation bonds of the State of Mississippi
13725 at institutions designated annually by the board as being capable
13726 to procure and administer all such contracts. Prior to the
13727 disbursement of funds, an agreement for each project between the
13728 institution and the Department of Finance and Administration shall
13729 be executed. The approval and execution of the agreement shall
13730 not be withheld by either party unless the withholding party
13731 provides a written, detailed explanation of the basis for
13732 withholding to the other party. The agreement shall stipulate the
13733 responsibilities of each party, applicable procurement
13734 regulations, documentation and reporting requirements, conditions
13735 prior to, and schedule of, disbursement of general obligation bond
13736 funds to the institution and provisions concerning handling any
13737 remaining general obligation bonds at the completion of the



13738 project. Such agreement shall not include provisions that
13739 constitute additional qualifications or criteria that act to
13740 invalidate the designation of an institution as capable of
13741 procuring and administering such project. Inclusion of any such
13742 provisions may be appealed to the Public Procurement Review Board.
13743 This paragraph (ii) shall stand repealed from and after July 1,
13744 2025.

13745 (n) The Board of Trustees of State Institutions of Higher
13746 Learning ("board") shall require all on-campus faculty and staff
13747 employed by, and all students attending, any of the state
13748 institutions of higher learning identified in Section 37-101-1 to
13749 be issued an identification badge in physical or electronic
13750 format. Any identification card issued or renewed pursuant to
13751 this section, whether physical or in an electronic format, shall
13752 include the words "Crisis Lifeline - Dial or Text 988, or chat
13753 988lifeline.org" or like language for formatting purposes.

13754 **SECTION 206.** Section 25-53-23, Mississippi Code of 1972, is
13755 brought forward as follows:

13756 25-53-23. The authority shall act upon all appeals of
13757 decisions made by the executive director thereof and shall, upon
13758 such appeals, approve or disapprove such administrative actions as
13759 may be taken by him. The form of an appeal to the full authority
13760 from an action or recommendation of the executive director thereof
13761 shall be a written communication from the executive head of the
13762 agency or agencies involved to the chairman of the authority,



13763 stating the objection and a request to appear before the full
13764 authority to present the case in point, on which appeal the
13765 authority shall take such action as is indicated by the facts
13766 presented to or made available to the authority.

13767 **SECTION 207.** Section 25-53-29, Mississippi Code of 1972, is
13768 brought forward as follows:

13769 25-53-29. (1) For the purposes of this section the term
13770 "bureau" shall mean the "Mississippi Department of Information
13771 Technology Services." The authority shall have the following
13772 powers and responsibilities to carry out the establishment of
13773 policy and provide for long-range planning and consulting:

13774 (a) Provide a high level of technical expertise for
13775 agencies, institutions, political subdivisions and other
13776 governmental entities as follows: planning; consulting; project
13777 management; systems and performance review; system definition;
13778 design; application programming; training; development and
13779 documentation; implementation; maintenance; and other tasks as may
13780 be required, within the resources available to the bureau.

13781 (b) Publish written planning guides, policies and
13782 procedures for use by agencies and institutions in planning future
13783 electronic information service systems. The bureau may require
13784 agencies and institutions to submit data, including periodic
13785 electronic equipment inventory listings, information on agency
13786 staffing, systems under study, planned applications for the
13787 future, and other information needed for the purposes of preparing



13788 the state master plan. The bureau may require agencies and
13789 institutions to submit any additional data required for purposes
13790 of preparing the state master plan.

13791 (c) Inspect agency facilities and equipment, interview
13792 agency employees and review records at any time deemed necessary
13793 by the bureau for the purpose of identifying cost-effective
13794 applications of electronic information technology. Upon
13795 conclusion of any inspection, the bureau shall issue a management
13796 letter containing cost estimates and recommendations to the agency
13797 head and governing board concerning applications identified that
13798 would result in staff reductions, other monetary savings and
13799 improved delivery of public services.

13800 (d) Conduct classroom and on-site training for end
13801 users for applications and systems developed by the bureau.

13802 (e) Provide consulting services to agencies and
13803 institutions or Mississippi governmental subdivisions requesting
13804 technical assistance in electronic information services technology
13805 applications and systems. The bureau may submit proposals and
13806 enter into contracts to provide services to agencies and
13807 institutions or governmental subdivisions for such purposes.

13808 (2) The bureau shall annually issue a three-year master plan
13809 in writing to the Governor, available on request to any member of
13810 the Legislature, including recommended statewide strategies and
13811 goals for the effective and efficient use of information
13812 technology and services in state government. The report shall



13813 also include recommended information policy actions and other
13814 recommendations for consideration by the Governor and members of
13815 the Legislature.

13816 (3) The bureau shall make an annual report in writing to the
13817 Governor, available on request to any member of the Legislature,
13818 to include a full and detailed account of the work of the
13819 authority for the preceding year. The report shall contain
13820 recommendations to agencies and institutions resulting from
13821 inspections or consulting contracts. The report shall also
13822 contain a summary of the master plan, progress made, and
13823 legislative and policy recommendations for consideration by the
13824 Governor and members of the Legislature.

13825 (4) The bureau may charge fees to agencies and institutions
13826 for services rendered to them. The bureau may charge fees to
13827 vendors to recover the cost of providing procurement services and
13828 the delivery of procurement awards to public bodies. The amounts
13829 of such fees shall be set by the authority upon recommendation of
13830 the Executive Director of the MDITS, and all such fees collected
13831 shall be paid into the fund established for carrying out the
13832 purposes of this section.

13833 (5) It is the intention of the Legislature that the
13834 employees of the bureau performing services defined by this
13835 section be staffed by highly qualified persons possessing
13836 technical, consulting and programming expertise. Such employees
13837 shall be considered nonstate service employees as defined in



13838 Section 25-9-107(c) (x) and may be compensated at a rate comparable
13839 to the prevailing rate of individuals in qualified professional
13840 consulting firms in the private sector. Such compensation rates
13841 shall be determined by the State Personnel Director. The number
13842 of such positions shall be set by annual appropriation of the
13843 Legislature. Qualifications and compensation of the bureau
13844 employees shall be set by the State Personnel Board upon
13845 recommendation of the Executive Director of the MDITS. The total
13846 number of positions and classification of positions may be
13847 increased or decreased during a fiscal year depending upon work
13848 load and availability of funds.

13849 (6) The bureau may, from time to time, at the discretion of
13850 the Executive Director of the MDITS, contract with firms or
13851 qualified individuals to be used to augment the bureau's
13852 professional staff in order to assure timely completion and
13853 implementation of assigned tasks, provided that funds are
13854 available in the fund established for carrying out the purposes of
13855 this section. Such individuals may be employees of any agency,
13856 bureau or institution provided that these individuals or firms
13857 meet the requirements of other individuals or firms doing business
13858 with the state through the Mississippi Department of Information
13859 Technology Services. Individuals who are employees of an agency
13860 or institution may contract with the Mississippi Department of
13861 Information Technology Services only with the concurrence of the
13862 agency or institution for whom they are employed.



13863 From and after July 1, 2018, the expenses of this agency
13864 shall be defrayed by appropriation from the State General Fund.
13865 In addition, in order to receive the maximum use and benefit from
13866 information technology and services, expenses for the provision of
13867 statewide shared services that facilitate cost-effective
13868 information processing and telecommunication solutions shall be
13869 defrayed by pass-through funding and shall be deposited into the
13870 Mississippi Department of Information Technology Services
13871 Revolving Fund unless otherwise specified by the Legislature.
13872 These funds shall only be utilized to pay the actual costs
13873 incurred by the Mississippi Department of Information Technology
13874 Services for providing these shared services to state agencies.
13875 Furthermore, state agencies shall work in full cooperation with
13876 the Board of the Mississippi Department of Information Technology
13877 Services (MDITS) to identify computer equipment or services to
13878 minimize duplication, reduce costs, and improve the efficiency of
13879 providing common technology services across agency boundaries.

13880 **SECTION 208.** Section 25-53-171, Mississippi Code of 1972, is
13881 brought forward as follows:

13882 25-53-171. (1) There is hereby created the Wireless
13883 Communication Commission, which shall be responsible for promoting
13884 the efficient use of public resources to ensure that law
13885 enforcement personnel and essential public health and safety
13886 personnel have effective communications services available in
13887 emergency situations, and to ensure the rapid restoration of such



13888 communications services in the event of disruption caused by
13889 natural disaster, terrorist attack or other public emergency.

13890 (2) The Wireless Communication Commission, hereafter
13891 referred to as the "commission," shall consist of the following:

13892 (a) The Executive Director of the Department of
13893 Transportation or his designee;

13894 (b) The Commissioner of Public Safety or his designee;

13895 (c) The Executive Director of the Department of Public
13896 Health or his designee;

13897 (d) The Executive Director of the Department of
13898 Information Technology Services or his designee;

13899 (e) The Executive Director of the Mississippi Emergency
13900 Management Agency or his designee;

13901 (f) The Executive Director of the Mississippi Office of
13902 Homeland Security or his designee;

13903 (g) The President of the Mississippi Sheriffs'
13904 Association or his designee;

13905 (h) The President of the Mississippi Association of
13906 Supervisors or his designee;

13907 (i) The President of the Mississippi Municipal
13908 Association or his designee;

13909 (j) The President of the Mississippi Association of
13910 Fire Chiefs or his designee;

13911 (k) The President of the Mississippi Association of
13912 Police Chiefs or his designee;



13913 (l) The Chief of the Mississippi Highway Safety Patrol
13914 or his designee;

13915 (m) The Commissioner of the Department of Corrections
13916 or his designee;

13917 (n) The Adjutant General of the Mississippi National
13918 Guard or his designee;

13919 (o) The Executive Director of the Mississippi
13920 Department of Environmental Quality or his designee; and

13921 (p) The Executive Director of Wildlife, Fisheries and
13922 Parks or his designee.

13923 All members of the commission shall serve a term of not less
13924 than four (4) years.

13925 (3) Within forty-five (45) days from April 21, 2005, the
13926 Executive Director of the Department of Information Technology
13927 Services shall call a meeting of the commission in the City of
13928 Jackson, Mississippi, and organize by electing a chairman and
13929 other officers from its membership. The commission shall adopt
13930 rules which govern the time and place for meetings and governing
13931 the manner of conducting its business. The commission shall meet
13932 at least monthly and maintain minutes of such meetings. A quorum
13933 shall consist of a majority of the membership of the commission.

13934 (4) The commission, in conjunction with the Department of
13935 Information Technology Services, shall have the sole authority to
13936 promulgate rules and regulations governing the operations of the
13937 wireless communications system described in paragraph (a) and



13938 shall be vested with all legal authority necessary and proper to
13939 perform this function including, but not limited to:

13940 (a) Purchasing, leasing, acquiring and otherwise
13941 implementing a statewide wireless communications system to serve
13942 wireless users in state and local governments and those private
13943 entities that enter into a partnership with the commission. All
13944 purchases shall be made in accordance with public purchasing laws
13945 and, if required, shall be approved by the Department of
13946 Information Technology Services. This system shall enable
13947 interoperability between various wireless communications
13948 technologies.

13949 (b) Ensuring that federal/state communications
13950 requirements are followed with respect to such wireless
13951 communications systems.

13952 (c) Providing system planning with all public safety
13953 communications systems.

13954 (d) Assisting with establishment of state and local
13955 wireless communications.

13956 (e) In consultation with the Department of Information
13957 Technology Services, having the authority to permit state and
13958 local agencies use of the communications system under the terms
13959 and conditions established by the commission.

13960 (f) Providing technical support to users and bearing
13961 the overall responsibility for the design, engineering,
13962 acquisition and implementation of the statewide communications



13963 system and for ensuring the proper operation and maintenance of
13964 all equipment common to the system.

13965 (g) Seeking proposals for services through competitive
13966 processes where required by law and selecting service providers
13967 under procedures provided for by law.

13968 (h) Establishing, in conjunction with the Department of
13969 Information Technology Services, policies, procedures and
13970 standards which shall be incorporated into a comprehensive
13971 management plan for the operation of the statewide communications
13972 system.

13973 (i) Having sign-off approval on all wireless
13974 communications systems within the state which are owned or
13975 operated by any state or local governmental entity, agency or
13976 department.

13977 (j) Creating a standard user agreement.

13978 (5) The commission, in conjunction with the Department of
13979 Information Technology Services, shall exercise its powers and
13980 duties pursuant to this section to plan, manage and administer the
13981 wireless communications system. The commission may:

13982 (a) In consultation with the advisory board and the
13983 Department of Information Technology Services, establish policies,
13984 procedures and standards to incorporate into a comprehensive
13985 management plan for use and operation of the communications
13986 system.



13987 (b) Enter into mutual aid agreements among federal,
13988 state and local agencies for the use of the communications system.

13989 (c) Establish the cost of maintenance and operation of
13990 the system and charge subscribers for access and use of the
13991 system.

13992 (d) Assess charges for use of the system.

13993 (e) Obtain space through rent or lease of space on any
13994 tower under state control. The commission may also rent, lease or
13995 sublease ground space as necessary to locate equipment to support
13996 antennae on the towers. The costs for use of such space shall be
13997 established by the owner/agent for each site when it is determined
13998 to be practicable and feasible to make space available.

13999 (f) Provide space through rent or lease of space on any
14000 tower under the commission's control. The commission may also
14001 rent, lease or sublease ground space as necessary to locate
14002 equipment to support antennae on the towers. The costs for use of
14003 such space shall be established by the commission when it is
14004 determined to be practicable and feasible to make space available.

14005 (g) Refuse to lease space on any tower at any site.
14006 All monies collected by the commission for such rents, leases or
14007 subleases shall be deposited directly into a special fund hereby
14008 created and known as the "Integrated Public Safety Communications
14009 Fund." This fund shall be administered by the Department of
14010 Information Technology Services and may be used by the commission
14011 to construct, maintain and operate the system.



14012 (h) Rent, lease or sublease ground space on lands
14013 acquired by the commission for the construction of privately owned
14014 or publicly owned towers. The commission, as part of such rental,
14015 lease or sublease agreement, may require space on such towers for
14016 antennae as may be necessary for the construction and operation of
14017 the wireless communications system.

14018 (i) Enter into and perform use and occupancy agreements
14019 concerning the system.

14020 (j) Exercise any power necessary to carry out the
14021 intent of this law.

14022 (6) The Department of Transportation, the Department of
14023 Public Safety and other commission members may provide to the
14024 commission, on a full-time or part-time basis, personnel and
14025 technical support necessary and sufficient to effectively and
14026 efficiently carry out the requirements of this section.

14027 (7) (a) Expenditures from the Integrated Public Safety
14028 Communications Fund shall be administered by the Department of
14029 Information Technology Services with expenditures approved jointly
14030 by the commission and the Department of Information Technology
14031 Services.

14032 (b) The Integrated Public Safety Communications Fund
14033 may consist of the following:

14034 (i) Appropriations from the Legislature;

14035 (ii) Gifts;

14036 (iii) Federal grants;



14037 (iv) Fees and contributions from user agencies
14038 that the commission considers necessary to maintain and operate
14039 the system; and

14040 (v) Monies from any other source permitted by law.

14041 (c) Any monies remaining in the Integrated Public
14042 Safety Communications Fund at the end of the fiscal year shall not
14043 revert to the State General Fund, but shall remain in the
14044 Integrated Public Safety Communications Fund.

14045 (8) Members of the commission shall not receive any
14046 compensation or per diem, but may receive travel reimbursement
14047 provided for under Section 25-3-41.

14048 (9) There is hereby created the Wireless Communication
14049 Advisory Board for the purpose of advising the Mississippi
14050 Wireless Communication Commission in performance of its duties.
14051 The advisory board shall be composed of the following:

14052 (a) The Chairman and Vice Chairman of the Senate Public
14053 Utilities Committee or their designees;

14054 (b) The Chairman and Vice Chairman of the House of
14055 Representatives Public Utilities Committee or their designees;

14056 (c) The Chairman of the Senate Appropriations Committee
14057 or his designee;

14058 (d) The Chairman of the House of Representatives
14059 Appropriations Committee or his designee;

14060 (e) The Chairman of the Senate Finance Committee or his
14061 designee; and



14062 (f) The Chairman of the House of Representatives Ways
14063 and Means Committee or his designee.

14064 Members of the advisory board shall receive per diem and
14065 expenses which shall be paid from the contingent expense funds of
14066 their respective houses in the same amounts as provided for
14067 committee meetings when the Legislature is not in session;
14068 however, no per diem and expenses for attending meetings of the
14069 advisory board shall be paid to legislative members while the
14070 Legislature is in session.

14071 (10) It is the intent of the Legislature that all state and
14072 local government entities make available for purposes of this
14073 section all publicly owned wireless communications infrastructure,
14074 including, but not limited to, communications towers, transmission
14075 equipment, transmission frequencies and other related properties
14076 and facilities.

14077 (11) Nothing in this section shall be construed or
14078 interpreted to provide for the regulation or oversight of
14079 commercial mobile radio services.

14080 (12) Nothing in this section shall be construed to supersede
14081 the authority of the Department of Information Technology Services
14082 provided in Section 25-53-1 et seq.

14083 (13) From and after July 1, 2016, the expenses of this
14084 agency shall be defrayed by appropriation from the State General
14085 Fund and all user charges and fees authorized under this section



14086 shall be deposited into the State General Fund as authorized by
14087 law.

14088 (14) From and after July 1, 2016, no state agency shall
14089 charge another state agency a fee, assessment, rent or other
14090 charge for services or resources received by authority of this
14091 section.

14092 **SECTION 209.** Section 25-53-201, Mississippi Code of 1972, is
14093 brought forward as follows:

14094 25-53-201. (1) There is hereby established the Enterprise
14095 Security Program which shall provide for the coordinated oversight
14096 of the cybersecurity efforts across all state agencies, including
14097 cybersecurity systems, services and the development of policies,
14098 standards and guidelines.

14099 (2) The Mississippi Department of Information Technology
14100 Services (MDITS), in conjunction with all state agencies, shall
14101 provide centralized management and coordination of state policies
14102 for the security of data and information technology resources,
14103 which such information shall be compiled by MDITS and distributed
14104 to each participating state agency. MDITS shall:

14105 (a) Serve as sole authority, within the constraints of
14106 this statute, for defining the specific enterprise cybersecurity
14107 systems and services to which this statute is applicable;

14108 (b) Acquire and operate enterprise technology solutions
14109 to provide services to state agencies when it is determined that
14110 such operation will improve the cybersecurity posture in the



14111 function of any agency, institution or function of state
14112 government as a whole;

14113 (c) Provide oversight of enterprise security policies
14114 for state data and information technology (IT) resources
14115 including, the following:

14116 (i) Establishing and maintaining the security
14117 standards and policies for all state data and IT resources state
14118 agencies shall implement to the extent that they apply; and

14119 (ii) Including the defined enterprise security
14120 requirements as minimum requirements in the specifications for
14121 solicitation of state contracts for procuring data and information
14122 technology systems and services;

14123 (d) Adhere to all policies, standards and guidelines in
14124 the management of technology infrastructure supporting the state
14125 data centers, telecommunications networks and backup facilities;

14126 (e) Coordinate and promote efficiency and security with
14127 all applicable laws and regulations in the acquisition, operation
14128 and maintenance of state data, cybersecurity systems and services
14129 used by agencies of the state;

14130 (f) Manage, plan and coordinate all enterprise
14131 cybersecurity systems under the jurisdiction of the state;

14132 (g) Develop, in conjunction with agencies of the state,
14133 coordinated enterprise cybersecurity systems and services for all
14134 state agencies;



14135 (h) Provide ongoing analysis of enterprise
14136 cybersecurity systems and services costs, facilities and systems
14137 within state government;

14138 (i) Develop policies, procedures and long-range plans
14139 for the use of enterprise cybersecurity systems and services;

14140 (j) Form an advisory council of information security
14141 officers from each state agency to plan, develop and implement
14142 cybersecurity initiatives;

14143 (k) Coordinate the activities of the advisory council
14144 to provide education and awareness, identify cybersecurity-related
14145 issues, set future direction for cybersecurity plans and policy,
14146 and provide a forum for interagency communications regarding
14147 cybersecurity;

14148 (l) Charge respective user agencies on a reimbursement
14149 basis for their proportionate cost of the installation,
14150 maintenance and operation of the cybersecurity systems and
14151 services; and

14152 (m) Require cooperative utilization of cybersecurity
14153 systems and services by aggregating users.

14154 (3) Each state agency's executive director or agency head
14155 shall:

14156 (a) Be solely responsible for the security of all data
14157 and IT resources under its purview, irrespective of the location
14158 of the data or resources. Locations include data residing:

14159 (i) At agency sites;



14160 (ii) On agency real property and tangible and
14161 intangible assets;

14162 (iii) On infrastructure in the State Data Centers;

14163 (iv) At a third-party location;

14164 (v) In transit between locations;

14165 (b) Ensure that an agency-wide security program is in
14166 place;

14167 (c) Designate an information security officer to
14168 administer the agency's security program;

14169 (d) Ensure the agency adheres to the requirements
14170 established by the Enterprise Security Program, to the extent that
14171 they apply;

14172 (e) Participate in all Enterprise Security Program
14173 initiatives and services in lieu of deploying duplicate services
14174 specific to the agency;

14175 (f) Develop, implement and maintain written agency
14176 policies and procedures to ensure the security of data and IT
14177 resources. The agency policies and procedures are confidential
14178 information and exempt from public inspection, except that the
14179 information must be available to the Office of the State Auditor
14180 in performing auditing duties;

14181 (g) Implement policies and standards to ensure that all
14182 of the agency's data and IT resources are maintained in compliance
14183 with state and federal laws and regulations, to the extent that
14184 they apply;



14185 (h) Implement appropriate cost-effective safeguards to
14186 reduce, eliminate or recover from identified threats to data and
14187 IT resources;

14188 (i) Ensure that internal assessments of the security
14189 program are conducted. The results of the internal assessments
14190 are confidential and exempt from public inspection, except that
14191 the information must be available to the Office of the State
14192 Auditor in performing auditing duties;

14193 (j) Include all appropriate cybersecurity requirements
14194 in the specifications for the agency's solicitation of state
14195 contracts for procuring data and information technology systems
14196 and services;

14197 (k) Include a general description of the security
14198 program and future plans for ensuring security of data in the
14199 agency long-range information technology plan;

14200 (l) Participate in annual information security training
14201 designed specifically for the executive director or agency head to
14202 ensure that such individual has an understanding of:

14203 (i) The information and information systems that
14204 support the operations and assets of the agency;

14205 (ii) The potential impact of common types of
14206 cyber-attacks and data breaches on the agency's operations and
14207 assets;



14208 (iii) How cyber-attacks and data breaches on the
14209 agency's operations and assets could impact the operations and
14210 assets of other state agencies on the Enterprise State Network;

14211 (iv) How cyber-attacks and data breaches occur;

14212 (v) Steps to be undertaken by the executive
14213 director or agency head and agency employees to protect their
14214 information and information systems; and

14215 (vi) The annual reporting requirements required of
14216 the executive director or agency head.

14217 (4) The Mississippi Department of Information Technology
14218 Services shall evaluate the Enterprise Security Program. Such
14219 evaluation shall include the following factors:

14220 (a) Whether the Enterprise Security Program
14221 incorporates nationwide best practices;

14222 (b) Whether opportunities exist to centralize and
14223 coordinate oversight of cybersecurity efforts across all state
14224 agencies;

14225 (c) A review of the minimum enterprise security
14226 requirements that must be incorporated in solicitations for state
14227 contracts for procuring data and information technology systems
14228 and services; and

14229 (d) Whether opportunities exist to expand the
14230 Enterprise Security Program, including providing oversight of
14231 cybersecurity efforts of those governing authorities as defined in
14232 Section 25-53-3(f).



14233 In performing such evaluation, the Mississippi Department of
14234 Information Technology Services may retain experts. This
14235 evaluation shall be completed by November 1, 2023. All records in
14236 connection with this evaluation shall be exempt from the
14237 Mississippi Public Records Act of 1983, pursuant to Section
14238 25-61-11.2(f) and (k).

14239 (5) For the purpose of this subsection, the following words
14240 shall have the meanings ascribed herein, unless the context
14241 clearly indicates otherwise:

14242 (a) "Cyberattack" shall mean any attempt to gain
14243 illegal access, including any data breach, to a computer, computer
14244 system or computer network for purposes of causing damage,
14245 disruption or harm.

14246 (b) "Ransomware" shall mean a computer contaminant or
14247 lock placed or introduced without authorization into a computer,
14248 computer system or computer network that restricts access by an
14249 authorized person to the computer, computer system, computer
14250 network or any data therein under circumstances in which the
14251 person responsible for the placement or introduction of the
14252 ransomware demands payment of money or other consideration to
14253 remove the computer contaminant, restore access to the computer,
14254 computer system, computer network or data, or otherwise remediate
14255 the impact of the computer contaminant or lock.

14256 (c) From and after July 1, 2023, all state agencies
14257 shall notify the Mississippi Department of Information Technology



14258 Services of any cyberattack or demand for payment as a result of
14259 ransomware no later than the close of the next business day
14260 following the discovery of such cyberattack or demand. The
14261 Mississippi Department of Information Technology Services shall
14262 develop a reporting format to be utilized by state agencies to
14263 provide such notification. The Mississippi Department of
14264 Information Technology Services shall periodically analyze all
14265 such reports and attempt to identify any patterns or weaknesses in
14266 the state's cybersecurity efforts. Such reports shall be exempt
14267 from the Mississippi Public Records Act of 1983, pursuant to
14268 Section 25-61-11.2(j).

14269 **SECTION 206.** This act shall take effect and be in force from
14270 and after July 1, 2025.

