

By: Senator(s) Moran, Gollott,
Dearing, Simmons (13th), Carter,
Blackwell, Seymour, Wiggins,
Chassaniol

To: Highways and
Transportation

SENATE BILL NO. 2001

1 AN ACT TO CREATE THE MISSISSIPPI LOTTERY LAW TO ESTABLISH A
2 STATE LOTTERY; TO CREATE THE MISSISSIPPI LOTTERY CORPORATION TO
3 ADMINISTER THE STATE LOTTERY; TO PROVIDE THAT THE AFFAIRS OF THE
4 CORPORATION SHALL BE ADMINISTERED AND GOVERNED BY A BOARD OF
5 DIRECTORS APPOINTED BY THE GOVERNOR WITH THE ADVICE AND CONSENT OF
6 THE SENATE; TO PROVIDE THE TERMS OF OFFICE AND POWERS AND DUTIES
7 OF THE BOARD OF DIRECTORS; TO PROVIDE THAT THE MISSISSIPPI LOTTERY
8 CORPORATION SHALL BE MANAGED BY A PRESIDENT SELECTED BY THE BOARD
9 WITH THE APPROVAL OF THE GOVERNOR; TO PROVIDE THAT THE PRESIDENT
10 SHALL SERVE AT THE PLEASURE OF THE BOARD OF DIRECTORS; TO PROVIDE
11 FOR THE POWERS AND DUTIES OF THE PRESIDENT; TO PROVIDE THAT
12 CORPORATION EMPLOYEES SHALL NOT BE CONSIDERED EMPLOYEES OF THE
13 STATE OF MISSISSIPPI; TO PROVIDE THAT MEETINGS OF THE BOARD OF
14 DIRECTORS SHALL BE NOTICED AND OPEN TO THE PUBLIC; TO PROVIDE THE
15 MATTERS FOR WHICH THE BOARD OF DIRECTORS MAY ENTER INTO EXECUTIVE
16 SESSION; TO PROVIDE THE MANNER IN WHICH THE BOARD OF DIRECTORS MAY
17 ENTER INTO EXECUTIVE SESSION; TO PROVIDE THAT RECORDS OF THE
18 CORPORATION SHALL BE EXEMPT FROM THE MISSISSIPPI PUBLIC RECORDS
19 ACT OF 1983; TO AUTHORIZE THE BOARD TO EMPLOY LEGAL COUNSEL; TO
20 REQUIRE BACKGROUND INVESTIGATION OF APPLICANTS FOR EMPLOYMENT WITH
21 THE CORPORATION; TO REQUIRE THE CORPORATION TO SUBMIT QUARTERLY
22 AND ANNUAL REPORTS TO THE GOVERNOR, THE LIEUTENANT GOVERNOR, THE
23 SPEAKER OF THE HOUSE OF REPRESENTATIVES, THE STATE TREASURER, THE
24 STATE AUDITOR, THE JOINT LEGISLATIVE COMMITTEE ON PERFORMANCE
25 EVALUATION AND EXPENDITURE REVIEW, AND THE COMMISSIONER OF REVENUE
26 CONTAINING FINANCIAL INFORMATION AND PROJECTIONS WHICH INCLUDE,
27 BUT ARE NOT LIMITED TO, DISCLOSURE OF GROSS REVENUES, EXPENSES AND
28 NET PROCEEDS FOR THE PERIOD; TO REQUIRE THE PUBLICATION OF
29 QUARTERLY FINANCIAL STATEMENTS; TO PROVIDE FOR THE DISPOSITION OF
30 PROCEEDS RECEIVED FROM THE SALE OF LOTTERY TICKETS; TO PROVIDE FOR
31 APPEALS BY RETAILERS, VENDORS OR APPLICANTS AGGRIEVED BY DECISIONS
32 OF THE PRESIDENT OR THE BOARD OF DIRECTORS; TO PROHIBIT THE SALE
33 OF LOTTERY TICKETS TO ANYONE UNDER THE AGE OF 21; TO PROVIDE THE
34 MANNER IN WHICH PRIZES MAY BE PAID AND TO AUTHORIZE THE VOLUNTARY



35 ASSIGNMENT OF PRIZES; TO AUTHORIZE THE CORPORATION TO ADOPT
36 SPECIAL RULES AND REGULATIONS PROVIDING FOR SPECIAL PROCEDURES
37 WHEREBY THE CORPORATION MAY MAKE PROCUREMENTS; TO PROVIDE FOR THE
38 SELECTION OF LOTTERY TICKET RETAILERS AND THE REQUIREMENTS THAT
39 MUST BE MET TO BECOME A RETAILER; TO PROVIDE THAT THE PROCEEDS
40 FROM THE SALE OF LOTTERY TICKETS AND RECEIVED BY A LOTTERY
41 RETAILER SHALL CONSTITUTE A TRUST; TO PLACE CERTAIN REQUIREMENTS
42 ON VENDORS OF GOODS OR SERVICES NECESSARY FOR THE IMPLEMENTATION
43 OF THE STATE LOTTERY; TO PROVIDE FOR CRIMINAL BACKGROUND
44 INVESTIGATIONS BY THE MISSISSIPPI DEPARTMENT OF PUBLIC SAFETY ON
45 POTENTIAL VENDORS, POTENTIAL RETAILERS AND CERTAIN EMPLOYEES OF
46 THE CORPORATION; TO MAKE UNLAWFUL CERTAIN ACTS WITH REGARD TO THE
47 STATE LOTTERY; TO PROVIDE FOR THE DISPOSITION OF PROCEEDS RECEIVED
48 FROM THE SALE OF LOTTERY TICKETS; TO PROVIDE THAT THE NET PROCEEDS
49 COLLECTED FROM THE SALE OF LOTTERY TICKETS SHALL BE DEPOSITED INTO
50 A LOTTERY PROCEEDS FUND CREATED IN THE STATE TREASURY AND
51 TRANSFERRED INTO THE STATE HIGHWAY FUND; TO REQUIRE THE
52 CORPORATION TO CONTRACT WITH AN INDEPENDENT AUDITOR WHO IS A
53 CERTIFIED PUBLIC ACCOUNTANT OR FIRM TO CONDUCT AN ANNUAL FINANCIAL
54 AUDIT OF THE BOOKS AND RECORDS OF THE CORPORATION; TO AMEND
55 SECTION 7-7-211, MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE
56 DEPARTMENT OF AUDIT TO REVIEW AND APPROVE ANY INDEPENDENT AUDITOR
57 SELECTED BY THE MISSISSIPPI LOTTERY CORPORATION TO CONDUCT AN
58 ANNUAL AUDIT OF THE CORPORATION AND TO CONDUCT AUDITS OR
59 INVESTIGATIONS OF THE MISSISSIPPI LOTTERY CORPORATION IF IN THE
60 OPINION OF THE STATE AUDITOR CONDITIONS JUSTIFY SUCH AUDITS OR
61 INVESTIGATIONS; TO AMEND SECTIONS 25-9-107, 25-11-103, 25-41-3,
62 31-7-13, 67-1-71, 97-33-9, 97-33-11, 97-33-13, 97-33-21, 97-33-23,
63 97-33-31, 97-33-33, 97-33-35, 97-33-37, 97-33-39, 97-33-41,
64 97-33-43, 97-33-45, 97-33-47 AND 97-33-49, MISSISSIPPI CODE OF
65 1972, IN CONFORMITY TO THE PROVISIONS OF THIS ACT; AND FOR RELATED
66 PURPOSES.

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

68 **SECTION 1.** This act shall be referred to as the "Mississippi
69 Lottery Law."

70 **SECTION 2.** The Legislature recognizes that the operations of
71 a state lottery are unique activities for state government and
72 that a corporate structure will best enable the lottery to be
73 managed in an entrepreneurial and business-like manner. It is the
74 intent of the Legislature that the Mississippi Lottery Corporation
75 shall be accountable to the Governor, the Legislature, and the



76 people of the state through a system of audits, reports, and
77 disclosures as required by this act.

78 **SECTION 3.** As used in this act, the following words and
79 phrases shall have the following meanings unless the context
80 clearly requires otherwise:

81 (a) "Corporation" means the Mississippi Lottery
82 Corporation.

83 (b) "Lottery" means any game of chance approved by the
84 corporation and operated pursuant to this act.

85 (c) "Major procurement" means any item, product or
86 service in the amount of One Million Dollars (\$1,000,000.00) or
87 more, including, but not limited to, major advertising contracts,
88 annuity contracts, prizes, products, and services unique to the
89 Mississippi lottery, but not including materials, supplies,
90 equipment, and services common to the ordinary operations of a
91 corporation.

92 (d) "Net proceeds" means gross lottery revenues minus
93 amounts paid or estimated to be paid as prizes and expenses of
94 operation of the lottery.

95 (e) "Person" means any individual, corporation,
96 partnership, unincorporated association or other legal entity.

97 (f) "President" means the President of the Mississippi
98 Lottery Corporation, who shall also serve as chief executive
99 officer of the corporation.



100 (g) "Retailer" means any person with whom the
101 corporation has contracted to sell lottery tickets to the public.

102 (h) "Security" means the protection of information that
103 would provide an unfair advantage to any individual involved in
104 the operation of the lottery, protection and preservation of the
105 integrity of lottery games and operations, as well as measures
106 taken to prevent crimes against the corporation and its retailers.

107 (i) "Vendor" means any person who has entered into a
108 contract with the corporation.

109 (j) "Fiscal year" means the fiscal year used by state
110 government.

111 (k) "Board" means the Mississippi Lottery Corporation
112 Board of Directors.

113 (l) "Instant ticket" means a lottery game in which a
114 player scratches a coating from one or more play areas on a ticket
115 to determine if he or she has won, as indicated by the symbols and
116 words that are revealed.

117 (m) "Online game" means computerized numbers games
118 (such as Powerball, Mega Millions) that are part of a network of
119 lottery computer terminals that are all linked to a central
120 computer that keeps track of the lottery activity. Online game
121 does not mean a video lottery terminal or games offered via the
122 Internet on an individual's personally owned device.

123 (n) "Video lottery terminal" means any electronic
124 interactive computerized game machine or device, located outside



125 of a corporate gaming facility that holds a valid license from the
126 Mississippi Gaming Commission, equipped with a video screen and
127 buttons, keys, a keyboard, touchscreen or other input device
128 allowing input by an individual player and into which the player
129 inserts coins, tokens, currency or other representation of value
130 (including, but not limited to, an electronic card, ticket or
131 other thing on which value is recorded electronically) as
132 consideration in order for play of a game to be available, and
133 through which, as a result of the play of a game, the player may
134 receive free games, credits redeemable for cash or a noncash
135 prize, or some other thing of value, whether or not received
136 directly from the device, or nothing, determined wholly or
137 predominantly by chance.

138 **SECTION 4.** (1) There is hereby created a state lottery,
139 which shall be administered by a corporation which shall be known
140 as the "Mississippi Lottery Corporation." The corporation shall
141 be managed in such a manner that enables the people of the state
142 to benefit from its profits and to ensure the integrity of the
143 lottery.

144 (2) The existence of the corporation shall begin upon the
145 appointment of all five (5) members of the board as provided in
146 Section 5 of this act.

147 (3) The exclusive venue for any action or matter against the
148 corporation arising out of or in connection with the issuance,
149 nonissuance, delivery or failure to deliver a lottery ticket or



150 payment or nonpayment of a lottery prize is the county in which
151 its corporate headquarters is located, and the circuit court for
152 that county has exclusive jurisdiction thereof. For purposes of
153 court costs, the corporation shall be a private corporation.

154 **SECTION 5.** (1) The affairs of the corporation shall be
155 administered by the Mississippi Lottery Corporation Board of
156 Directors. The board shall be composed of five (5) members
157 appointed by the Governor, with the advice and consent of the
158 Senate. The Commissioner of Revenue and the State Treasurer shall
159 serve as ex officio, nonvoting members. Members appointed when
160 the Senate is not in session shall serve only until the end of the
161 next regular session, unless confirmed by the Senate.

162 (2) (a) Members of the board shall be residents of the
163 State of Mississippi.

164 (b) Of the initial appointees, the members' terms shall
165 be staggered as follows: one (1) term to expire on December 31,
166 2019; December 31, 2020; December 31, 2021; December 31, 2022; and
167 December 31, 2023. After the expiration of the initial terms,
168 members of the board shall serve terms of five (5) years.

169 (c) Members may serve beyond the end of their
170 respective terms until their successors have been appointed and
171 qualified. No member shall serve more than two (2) consecutive
172 five-year terms. Members may be removed by the Governor for
173 neglect of duty, misfeasance or nonfeasance in office. The board
174 shall annually elect a chairman from among its voting members.



175 (3) Appointed members of the board shall be entitled to per
176 diem compensation pursuant to Section 25-3-69 and shall be
177 reimbursed by the corporation for necessary travel and other
178 reasonable expenses incurred in the performance of their official
179 duties. No appointed member of the board of the corporation shall
180 be considered as a public officer.

181 (4) The board, upon the initial call of the Governor and the
182 chairman thereafter, shall meet at least monthly for the first
183 eighteen (18) months and at such other times as the chairman or
184 the president may determine. Three (3) voting members of the
185 board shall constitute a quorum. The board shall also meet upon
186 call of three (3) or more of the voting members of the board. The
187 board shall keep accurate and complete records of all its
188 meetings.

189 (5) All meetings of the board shall be noticed and open to
190 the public. The board shall adopt rules and regulations for
191 noticing and conducting board meetings. In any case where a
192 member of the board believes that a matter or matters on the
193 meeting agenda will involve the disclosure of trade secrets,
194 confidential commercial and financial information, information
195 that is confidential under law or by contractual agreement,
196 matters involving investigations of vendors, employees, or
197 retailers, personnel matters affecting the administration of the
198 board and staff, or matters related to violations of law by any
199 person, such member may offer a motion that such matter or matters



200 be discussed and disposed of in executive session. Upon a
201 majority vote, the board may enter into executive session to
202 discuss and vote on only such matters. Prior to going into
203 executive session, the public must be given notice of the reasons
204 for discussing and voting upon certain items in executive session.
205 No matters other than those set out in the motion may be dealt
206 with in executive session. Upon completion of an executive
207 session, the board shall announce any actions taken in executive
208 session, including any votes taken on matters considered in
209 executive session, and all votes taken while in executive session.

210 **SECTION 6.** (1) The president of the corporation shall be
211 appointed by the board subject to the approval of the Governor.
212 The Governor shall, within thirty (30) days after receiving the
213 nomination of the president in writing, either approve or reject
214 the nomination. If the Governor refuses to approve the nomination
215 of the president, then the board shall submit another name. The
216 president of the corporation shall manage the daily affairs of the
217 corporation and shall have such powers and duties as specified by
218 this act, by the board, and any rules or regulations adopted by
219 the board of directors. The president shall not be a member of
220 the board. The president of the corporation shall serve at the
221 pleasure of the board of directors.

222 (2) The president shall employ such personnel as he or she
223 deems necessary. All personnel shall serve at the pleasure of the
224 president, unless otherwise specified by the president.



225 (3) The board shall set the salary of the president.

226 (4) No employee shall be a member of the board.

227 **SECTION 7.** (1) The board of directors shall provide the
228 president with private sector perspectives on the operation of a
229 business, large marketing enterprise, and the like. The board
230 shall:

231 (a) Approve, disapprove, amend or modify the budget
232 recommended by the president for the operation of the corporation.

233 (b) Approve, disapprove, amend or modify the terms of
234 major procurements recommended by the president.

235 (c) Serve as a board of appeals for any denial,
236 revocation or cancellation by the president of a contract with a
237 lottery retailer.

238 (d) Adopt such administrative rules and regulations as
239 may be necessary to carry out and implement its powers and duties,
240 the operations of the corporation, the conduct of lottery games in
241 general and any other matters necessary or desirable for the
242 efficient and effective operation of the lottery or convenience of
243 the public.

244 (2) Any policies adopted by authority of this section or any
245 other section of this act must be published and posted on the
246 corporation's website thirty (30) days prior to becoming
247 effective.



248 **SECTION 8.** (1) The board may adopt rules and regulations
249 for the conduct of specific lottery games and operations,
250 including, but not limited to, rules specifying:

251 (a) The types of games to be conducted including, but
252 not limited to, instant tickets, online games, and other games
253 traditional to the lottery.

254 (b) The sale price of tickets.

255 (c) The number and amount of prizes.

256 (d) The method and location of selecting or validating
257 winning lottery tickets.

258 (e) The frequency and the means of conducting drawings
259 which shall be open to the public.

260 (f) The manner of payment of prizes.

261 (g) The frequency of games and drawings.

262 (h) The manner and amount of compensation to lottery
263 retailers, except all compensation shall be uniform.

264 (i) Any other matters necessary to carry out this act
265 and necessary for the efficient and effective operation of the
266 lottery or for the convenience of the public.

267 (2) In all other matters, the board shall advise and make
268 recommendations. In addition, the board shall:

269 (a) Conduct hearings upon complaints charging
270 violations of this act or of administrative regulations adopted by
271 the corporation and shall conduct such other hearings as may be
272 provided by administrative regulation.



273 (b) Periodically, review the performance of the
274 corporation and:

275 (i) Advise the president and make recommendations
276 to him or her regarding operations of the corporation; and

277 (ii) Identify potential improvements in this act,
278 the administrative regulations of the corporation, and management
279 of the corporation.

280 (c) Request from the corporation any information the
281 board determines to be relevant to its duties.

282 **SECTION 9.** (1) The corporation shall conduct and administer
283 lottery games which will result in maximization of revenues to the
284 State of Mississippi. The corporation, its employees, and the
285 members of the board shall provide for the effective operation of
286 lottery games which ensure the integrity of the lottery and
287 maintain the dignity of the state and the general welfare of its
288 citizens.

289 (2) The corporation, in pursuance of the attainment of the
290 objectives and the purposes of this act, may:

291 (a) Sue and be sued in its corporate name.

292 (b) Adopt a corporate seal and a symbol.

293 (c) Hold patents, copyrights, trademarks, and service
294 marks and enforce its rights with respect thereto.

295 (d) Register to do business in Mississippi and appoint
296 agents upon which process may be served.



297 (e) Enter into written agreements with one or more
298 other states or sovereigns for the operation, marketing and
299 promotion of a joint lottery or joint-lottery games.

300 (f) Acquire real property and make improvements
301 thereon.

302 (g) Make, solicit and request proposals and offers, and
303 execute and effectuate any and all agreements or contracts,
304 including, but not limited to:

305 (i) Contracts for the purchase of such goods and
306 services as are necessary for the operation and promotion of the
307 lottery.

308 (ii) Contracts that provide for the placement of
309 commercial advertising on tickets.

310 (iii) Contracts for the purchase and/or lease of
311 real property as are necessary for the operation and promotion of
312 the lottery.

313 (iv) Any contract and/or agreement necessary for
314 the implementation, operation, and promotion of the lottery and
315 this act.

316 (h) Adopt and amend such bylaws, rules and regulations,
317 with the approval of the board as it deems necessary to administer
318 this act.

319 (3) The corporation shall:



320 (a) Supervise and administer the lottery in accordance
321 with the provisions of this act and the administrative rules and
322 regulations adopted by the board.

323 (b) Submit quarterly and annual reports to the
324 Governor, the Lieutenant Governor, the Speaker of the House of
325 Representatives, the State Treasurer, the State Auditor, the Joint
326 Legislative Committee on Performance Evaluation and Expenditure
327 Review, and the Commissioner of Revenue containing financial
328 information and projections which include, but are not limited to,
329 disclosure of gross revenues, expenses and net proceeds for the
330 period.

331 (c) Adopt by administrative regulation a system of
332 continuous internal audits.

333 (d) Maintain weekly or more frequent records of lottery
334 transactions, including distribution of tickets to lottery
335 retailers, revenues received, claims for prizes, prizes paid and
336 all other financial transactions of the corporation.

337 (e) Adopt by administrative regulation a code of ethics
338 for officers and employees of the corporation to carry out the
339 standards of conduct established by this act.

340 (f) Adopt by administrative regulation guidelines for
341 the disposal of lottery property if the corporation is dissolved.

342 (4) The corporation and the board shall be exempt from the
343 Mississippi Public Records Act of 1983.



344 (5) There shall be no liability on the part of, and no cause
345 of action shall arise against, the corporation, its governing
346 board, staff, agents, vendors, or employees, arising out of or in
347 connection with the issuance, failure to issue, or delivery of a
348 lottery ticket.

349 (5) The corporation shall not adopt any rules or regulations
350 that authorize or permit the use of a video lottery terminal.

351 **SECTION 10.** (1) The president, as chief executive officer
352 of the corporation, shall direct and supervise all administrative
353 and technical activities in accordance with the provisions of this
354 act and within the administrative regulations adopted by the
355 board. The president shall:

356 (a) Supervise and administer the operation of the
357 corporation, the lottery and its games.

358 (b) Employ and direct such personnel as may be
359 necessary to carry out the purposes of this act and utilize such
360 services, personnel or facilities of the corporation as he or she
361 may deem necessary.

362 (c) Contract in accordance with the administrative
363 regulations adopted by the corporation with persons to sell
364 lottery tickets at retail.

365 (d) Make available for inspection by the board or any
366 member of the board, upon request, all books, records, files, and
367 other information and documents of his or her office and to advise
368 the board and recommend such administrative regulations and other



369 matters he or she deems necessary and advisable to improve the
370 operation and administration of the lottery.

371 (e) Enter into any contract pursuant to this act with
372 any person, firm or corporation for the promotion and operation of
373 the lottery or for the performance of any of the functions as
374 provided in this act or administrative regulations adopted by the
375 board.

376 (f) Attend meetings of the board or appoint a designee
377 to attend on his or her behalf.

378 (g) Not later than thirty (30) days before the
379 beginning of the corporation's fiscal year, submit the proposed
380 annual budget of the corporation and projected net proceeds to the
381 board for review and approval. In addition, the proposed annual
382 budget of the corporation shall include a personnel table
383 reporting information for each full-time and part-time permanent
384 position, as follows:

385 (i) The position title and the salary for each
386 position in the existing operating budget for the current fiscal
387 year, indicating whether each position is filled or vacant as of
388 the reporting date.

389 (ii) The position title and the salary recommended
390 for each position for the next fiscal year.

391 (2) The president, with the approval of the board, may amend
392 or modify the budget at any time in any manner deemed necessary
393 for the proper operation of the corporation.



394 (3) Following his or her approval by the Governor and during
395 his or her entire employment by the board, the president shall
396 reside in Mississippi.

397 (4) The president and the board shall conduct an ongoing
398 examination of the operation and administration of lotteries in
399 other states and/or countries, including reviewing available
400 literature on the subject, of federal laws and regulations which
401 may affect the operation of the lottery, and of the reaction of
402 citizens of this state to existing or proposed features of lottery
403 games with a view toward implementing improvements that will tend
404 to serve the purposes of this act. The president may also
405 establish one or more market or equipment research centers for
406 lottery products and may establish lottery player information
407 centers.

408 (5) The president shall require bond from corporate
409 employees with access to corporate funds or lottery funds in such
410 an amount as provided in the administrative regulations of the
411 board.

412 (6) The president may:

413 (a) Require bond from other employees as he or she
414 deems necessary.

415 (b) For good cause, suspend, revoke or refuse to renew
416 any contract entered into in accordance with this act or the
417 administrative regulations of the board.



418 (c) Upon specific or general approval of the board,
419 conduct hearings and administer oaths to persons for the purpose
420 of assuring the security or integrity of lottery operations, or to
421 determine the qualifications or compliance by vendors and
422 retailers.

423 (d) Enter into personal service contracts pursuant to
424 rules and regulations adopted by the board and compensate such
425 consultants and technical assistants as may be required to carry
426 out the provisions of this act.

427 (e) By agreement, secure information and services as he
428 or she may deem necessary from any department, agency or unit of
429 the federal, state or local government, and to the extent allowed
430 by federal or state law, may compensate such department, agency or
431 unit of government for its services.

432 (7) Agencies, departments or units of state government shall
433 cooperate with the corporation and provide such information and
434 services as may be required by the corporation to assure the
435 integrity of the lottery and the effective operation of the
436 lottery games.

437 **SECTION 11.** (1) The corporation may enter into intelligence
438 sharing, reciprocal use, or restricted use agreements with the
439 federal government, law enforcement agencies, lottery regulation
440 agencies, and gaming enforcement agencies of other jurisdictions
441 which provide for and regulate the use of information provided and
442 received pursuant to the agreement.



443 (2) Records, documents and information in the possession of
444 the corporation received pursuant to an intelligence sharing,
445 reciprocal use or restricted use agreement entered into by the
446 corporation with a federal department or agency, any law
447 enforcement agency, or the lottery regulation or gaming
448 enforcement agency of any jurisdiction shall not be released by
449 the corporation without the permission of the person or agency
450 providing the record or information.

451 **SECTION 12.** The board may employ an attorney and/or may
452 contract with outside counsel when the board determines the need
453 for such counsel.

454 **SECTION 13.** (1) The corporation may enter into contracts
455 with any persons that provide for the placement of commercial
456 advertising on tickets. For purposes of this section, "commercial
457 advertising" means advertising intended for the sole benefit of
458 the advertiser.

459 (2) The nature of the advertising authorized in this section
460 and the procedures for its acceptance as well as the
461 implementation of this section shall be provided by rules adopted
462 by the board. The board shall retain, in its discretion, the
463 authority to accept or reject any bid. Advertisements for tobacco
464 and alcohol products shall not be accepted.

465 (3) Implementation of this section shall be in the manner
466 provided in the procurement rules and regulations adopted by the
467 board.



468 **SECTION 14.** (1) The corporation shall establish and
469 maintain a personnel program, including rules and regulations for
470 its employees. The corporation may procure benefit programs or
471 group insurance plans and shall provide or arrange for a
472 retirement plan. Unless otherwise specified by the president,
473 employees of the corporation shall serve at the pleasure of the
474 president who shall determine their compensation and benefits.
475 The employees shall be subject to suspension, dismissal, reduction
476 in pay, demotion, transfer, or other personnel action at the
477 discretion of the president and shall not be subject to civil
478 service provisions. The compensation of officers at the division
479 head level and above shall be determined by the board.
480 Corporation employees shall not be considered employees of the
481 State of Mississippi.

482 (2) No officer or employee of the corporation or any spouse,
483 sibling, ascendant or descendant of an officer or employee shall
484 have a financial interest in any vendor doing business or
485 proposing to do business with the corporation.

486 (3) No officer or employee of the corporation with
487 decision-making authority shall participate in any decision
488 involving a retailer with whom the officer or employee has a
489 financial interest.

490 (4) No officer or employee of the corporation who leaves the
491 employ of the corporation or board member may represent any vendor
492 or lottery retailer before the corporation for a period of one (1)



493 year following termination of employment with the corporation or
494 membership on the board.

495 **SECTION 15.** (1) A background investigation shall be
496 conducted by the chief security officer of the corporation or his
497 or her agent or designee on every applicant who has reached the
498 final selection process prior to employment by the corporation.
499 The background investigation shall include testing the applicants
500 for the presence of illegal controlled substances. Applicants
501 shall be fingerprinted as a condition of employment. In addition,
502 all division chiefs and deputy chiefs, directors of the
503 corporation, and employees of the corporation performing duties
504 primarily related to security matters, and, other employee
505 positions, prior to employment as determined by the board, shall
506 be subject to a background investigation report conducted by the
507 Department of Public Safety.

508 (2) The Department of Public Safety shall be reimbursed by
509 the corporation for the cost of investigations conducted pursuant
510 to this section.

511 (3) No person who has been convicted of a felony, bookmaking
512 or other forms of illegal gambling, or a crime involving moral
513 turpitude shall be employed by the corporation. The board may by
514 regulation provide for a definition of moral turpitude.

515 **SECTION 16.** (1) Any retailer, vendor or applicant for a
516 retailer or vendor contract aggrieved by an action of the



517 president of the corporation may appeal that decision to the board
518 in accordance with the regulations of the board.

519 (2) Any person aggrieved by a decision of the board may
520 appeal the decision to the chancery court of the county in which
521 its corporate headquarters is located within ten (10) days of the
522 date of the decision of the board.

523 (3) The chancery court shall hear appeals from the board.

524 (4) The chancery court may remand an appeal to the board to
525 conduct further hearings necessary to adjudicate the appeal.

526 (5) Any person who appeals the award of a lottery
527 procurement for the supply of a lottery ticket or an online
528 lottery system shall be liable for all costs of appeal and defense
529 in the event the appeal is denied or the contract award upheld.
530 Costs of appeal and defense may include, but should not be limited
531 to, court costs, bond, legal fees and loss of income to the
532 corporation resulting from institution of the appeal if, upon the
533 motion of the corporation, the court finds the appeal to have been
534 frivolous.

535 **SECTION 17.** Whenever a bond is required for the protection
536 of the corporation, letters of credit or other surety approved by
537 the corporation may be utilized in lieu of a bond. All bonds or
538 letters of credit shall be reviewed at least annually as to their
539 solvency and sufficiency.

540 **SECTION 18.** The board shall promulgate administrative rules
541 and regulations that define and prohibit the bulk sale of online



542 lottery tickets by a retailer and the bulk purchase of such
543 tickets by an investment syndicate, investment group, or
544 individual for investment purposes.

545 **SECTION 19.** The corporation shall require as a part of any
546 contract for the production or printing of lottery tickets that
547 each ticket include the toll-free telephone number of any state or
548 national organization that provides information and referral
549 services regarding compulsive or problem gambling.

550 **SECTION 20.** The corporation shall publish quarterly
551 financial statements, which shall be made available to the public
552 within thirty (30) days following the close of each quarter. The
553 quarterly financial statements shall include disposition of all
554 funds expended by the corporation for any purpose including
555 disclosure of any major procurements.

556 **SECTION 21.** (1) Proceeds of any lottery prize of Six
557 Hundred Dollars (\$600.00) or more shall be subject to state and
558 federal income tax laws, as applicable. Any attachments,
559 garnishments or executions authorized and issued pursuant to law
560 shall also be withheld if timely served upon the process agent of
561 the corporation. This section shall not apply to a retailer
562 except for the payment of state or local tax.

563 (2) The board shall adopt rules to establish a system of
564 verifying the validity of tickets claimed to win prizes and to
565 effect payment of such prizes, except that:



566 (a) No prize, nor any portion of a prize, nor any right
567 of any person to a prize awarded shall be assignable, except as
568 provided for in Section 23 of this act. Any prize, or portion
569 thereof, remaining unpaid at the death of a prizewinner shall be
570 paid to the estate of the deceased prizewinner or to the trustee
571 of a trust established by the deceased prizewinner if a copy of
572 the trust document or instrument has been filed with the
573 corporation, along with a notarized letter of direction from the
574 deceased prizewinner, and no written notice of revocation has been
575 received by the corporation prior to the deceased prizewinner's
576 death. Following a deceased prizewinner's death and prior to any
577 payment to such a trustee, the corporation shall obtain from the
578 trustee and each trust beneficiary a written agreement to
579 indemnify and hold the corporation harmless with respect to any
580 claims that may be asserted against the corporation arising from
581 payment to or through the trust. Notwithstanding any other
582 provisions of this act, any person, pursuant to an appropriate
583 judicial order, shall be paid the prize to which a winner is
584 entitled.

585 (b) No ticket shall knowingly be sold to any person
586 under the age of twenty-one (21).

587 (c) No prize shall be paid arising from claimed tickets
588 that are stolen, counterfeit, altered, fraudulent, unissued,
589 produced or issued in error, unreadable, not received, unclaimed
590 or not recorded by the corporation within applicable deadlines,



591 lacking in captions that conform and agree with the play symbols
592 as appropriate to the lottery game involved, or not in compliance
593 with such additional specific rules and public or confidential
594 validation and security tests of the corporation appropriate to
595 the particular lottery game involved.

596 (d) No particular prize in any lottery game shall be
597 paid more than once, and in the event of a binding determination
598 that more than one (1) claimant is entitled to a particular prize,
599 the sole remedy of such claimants is the award to each of them an
600 equal share in the prize.

601 (e) A holder of a winning lottery ticket from a
602 Mississippi lottery game or from a multistate or multisoovereign
603 lottery game shall claim a prize within the timeframe provided for
604 in rules and regulations adopted by the board. If a valid claim
605 is not made for a prize within the applicable period, the prize
606 shall constitute an unclaimed prize for purposes of paragraph (c)
607 of this subsection.

608 (f) A person holding a winning lottery ticket in the
609 amount of Six Hundred Dollars (\$600.00) or more from a lottery
610 game must provide his or her name and city or area of residence to
611 the corporation to claim a prize. The corporation shall not
612 disclose the identity of the person holding a winning lottery
613 ticket without that person's written permission.



614 (3) No prize shall be paid upon a ticket purchased or sold
615 in violation of this act. Any such prize shall constitute an
616 unclaimed prize for purposes of subsection (2)(c) of this section.

617 (4) Any unclaimed prize money shall be added to the pool
618 from which future prizes are to be awarded or used for special
619 prize promotions.

620 (5) The corporation is discharged of all liability upon
621 payment of a prize.

622 (6) No ticket shall be purchased by and no prize shall be
623 paid to any of the following persons:

624 (a) Any member of the board;

625 (b) Any officer or employee of the corporation; or

626 (c) Any spouse, child, brother, sister or parent
627 residing as a member of the same household in the principal place
628 of abode of any person listed in paragraph (a) or (b) of this
629 subsection.

630 **SECTION 22.** (1) The board shall coordinate with the
631 Department of Human Services to promulgate rules and regulations
632 providing for the withholding of lottery prizes of persons who
633 have outstanding child support arrearages as reported to the
634 corporation, beginning at prize levels to be determined by the
635 board. The corporation may require any agency reporting current
636 child support arrearages to the corporation to provide information
637 relating to such arrearages in a manner, format or record approved
638 by the corporation. The corporation shall not be liable for



639 withholding a lottery prize based upon child support arrearage
640 information provided to it. Additionally, the corporation shall
641 employ the same methods, procedures and parameters to withhold
642 lottery prizes for persons who have delinquent debt as submitted
643 by a claimant agency to the Department of Revenue for recovery
644 under Section 27-7-501 et seq. The corporation shall not be
645 liable for withholding a lottery prize based upon delinquent debt
646 information provided to it by the Department of Revenue.

647 (2) To the extent feasible, the board shall coordinate with
648 state agencies to promulgate rules and regulations providing for
649 the withholding of lottery prizes of persons who have outstanding
650 debts owed to the state.

651 **SECTION 23.** (1) Under an appropriate judicial order, any
652 prize, or any portion of a prize, or any right of any person to a
653 prize awarded, payable by the corporation in deferred annuity
654 payments, may be paid to any person other than the winner.

655 (2) The right of a person to a prize payable by the
656 corporation in deferred annuity payments may be voluntarily
657 assigned as a whole or in part, if the assignment is made to a
658 person designated in accordance with an order of the chancery
659 court in the county where the corporation's headquarters is
660 located. Any such order shall be deemed an appropriate judicial
661 order.

662 (3) On the filing by the assignor or the assignee in
663 chancery court of a petition seeking approval of a voluntary



664 assignment, the court shall issue an order approving a voluntary
665 assignment and directing the corporation to make prize payments as
666 a whole or in part to the assignee if the court finds all of the
667 following:

668 (a) The assignment is in writing, is executed by the
669 assignor, and is by its terms subject to the laws of this state.

670 (b) The assignor provides a sworn affidavit attesting
671 that the assignor is of sound mind, is in full command of the
672 assignor's faculties, and is not acting under duress.

673 (c) The assignor has been advised about the assignment
674 by an independent attorney who is not related to and not
675 compensated by the assignee or an affiliate of the assignee.

676 (d) The assignor understands that the assignor will not
677 receive the prize payments or parts of payments during the years
678 assigned.

679 (e) The assignor understands and agrees, with regard to
680 the assigned payments, that the corporation, board of directors,
681 and officials and employees of the corporation shall have no
682 further liability or responsibility for making the assigned
683 payments.

684 (f) The assignee provides the assignor with a one-page
685 disclosure statement that sets forth in bold type not less than
686 fourteen (14) points in size the payments being assigned by amount
687 and payment date, the purchase price, the rate of discount to
688 present value, assuming daily compounding and funding on the



689 contract date, and any origination or closing fee that will be
690 charged to the assignor.

691 (g) The contract of assignment expressly states that
692 the assignor has three (3) business days after signing the
693 contract to cancel the assignment.

694 (h) The assignor and assignee do not seek assignment
695 for purposes of evading creditors, judgments or obligations of
696 child support.

697 (i) The assignor and assignee have certified that
698 neither of them has a child support obligation or, if either does
699 have a child support obligation, that no arrearage is due, and
700 that neither the assignor nor the assignee is obligated to repay
701 any public assistance benefits or overpayment of child support.

702 (j) The petition required by this subsection shall be
703 accompanied by a certification from a representative of the
704 Mississippi Department of Human Services stating any of the
705 following:

706 (i) That the assignor or assignee does not
707 currently have a child support arrearage, or the assignor or
708 assignee does not owe an obligation to repay any public assistance
709 benefits or an overpayment of child support benefits to the
710 Mississippi Department of Human Services.

711 (ii) That the assignor or assignee does currently
712 have a child support obligation and that no arrearage is due to
713 the Mississippi Department of Human Services.



714 (iii) That the assignor or assignee does currently
715 have a child support arrearage, or the assignor or assignee does
716 owe an obligation to repay any public assistance benefits or an
717 overpayment of child support benefits to the Mississippi
718 Department of Human Services.

719 The certification from the Mississippi Department of Human
720 Services, shall be provided to the assignor and the assignee
721 promptly upon the request of the assignor or the assignee, and in
722 no event more than ten (10) business days after the request is
723 received by the Mississippi Department of Human Services.

724 (4) Written notice of the petition and proposed assignment
725 and any court hearing concerning the petition and proposed
726 assignment shall be served on the corporation, which shall be made
727 a party thereto.

728 (5) (a) The corporation, not later than ten (10) days after
729 receiving a certified copy of a court order approving a voluntary
730 assignment, shall send the assignor and the assignee written
731 confirmation of both of the following:

732 (i) The court-approved assignment.

733 (ii) The intent of the corporation to rely on the
734 assignment in making payments to the assignee named in the order
735 free from any attachments, garnishments or executions.

736 (b) The corporation shall thereafter make payments in
737 accordance with the assignment.



738 (6) (a) Neither the state nor the corporation, its board of
739 directors, nor any of its officials or employees shall be liable
740 in any manner for any assigned payments made by the corporation
741 pursuant to this section.

742 (b) The assignor and assignee shall hold harmless and
743 indemnify the state, the corporation, its board of directors, and
744 its employees and agents from all claims, suits, actions,
745 complaints or liabilities related to the assignment.

746 (7) The assignee shall pay any costs incurred by the
747 corporation related to the assignments.

748 (8) The assignee shall notify the corporation of its
749 business location and mailing address for payment purposes and of
750 any change in location or address during the entire course of the
751 assignment.

752 (9) A court order or a combination of court orders issued
753 pursuant to this section may not require the corporation to divide
754 a single prize payment among more than three (3) different
755 persons.

756 (10) If the Internal Revenue Service or a court of competent
757 jurisdiction issues a determination letter, revenue ruling, or
758 other public document declaring that the voluntary assignment of
759 prizes will affect the federal income taxation treatment of
760 lottery prizewinners who do not assign their prizes, the following
761 shall occur:



762 (a) Within fifteen (15) days after the corporation
763 receives the letter, ruling or other document, the president of
764 the corporation shall file a copy of it with the Attorney General;
765 and

766 (b) A court shall not issue an order authorizing a
767 voluntary assignment under this section.

768 (11) This section shall prevail over any inconsistent
769 provision in Mississippi law.

770 **SECTION 24.** (1) The corporation shall enter into its
771 contracts for major procurements after negotiation or bidding.
772 The corporation may adopt special rules and regulations pursuant
773 to the provisions of this act providing for special procedures
774 whereby the Mississippi Lottery Corporation may make any class of
775 procurement.

776 (2) In its bidding and negotiation processes, the
777 corporation may do its own bidding and procurement or may utilize
778 the services of the Department of Finance and Administration, the
779 Department of Information Technology Services, or other state
780 agencies as appropriate and necessary. The president of the
781 corporation may, with approval of the board, declare an emergency
782 for purchasing purposes.

783 **SECTION 25.** (1) (a) All monies received by the corporation
784 from the sale of lottery tickets and all other sources shall be
785 deposited into a corporate operating account. Such account shall
786 be established in a fiscal agent or state depository and



787 collateralized. The corporation may use all monies in the
788 corporate operating account for the purposes of paying prizes and
789 the necessary expenses of the corporation and dividends to the
790 state. The corporation shall estimate and allocate the amount to
791 be paid by the corporation to prizewinners.

792 (b) (i) The investment of monies in the corporate
793 operating account, other than the amount specifically required for
794 the purchase of securities for payment of deferred prizes, shall
795 be invested in a manner prescribed by the board, consistent with
796 law. Such securities purchased as investments by the corporation
797 shall be issued in the name of the corporation and shall be safe
798 kept at a custodian financial institution or Federal Reserve Bank
799 domiciled in the State of Mississippi.

800 (ii) The investment of monies in the corporate
801 operating account, other than the amount specifically required for
802 the purchase of securities for deferred prize payments to winners
803 shall be invested only in securities in a manner prescribed by the
804 board, consistent with law. Such securities purchased as
805 investments by the corporation shall be issued in the name of the
806 corporation and shall be safe kept at a custodian financial
807 institution domiciled in the State of Mississippi or a Federal
808 Reserve Bank.

809 (iii) These instruments may be in varying
810 maturities and may be in book-entry form.



811 (iv) For the purpose of payment of deferred prizes
812 to winners, the corporation may only purchase those securities
813 prescribed by the board, consistent with law.

814 (v) For the purpose of deferred prize payments to
815 winners, the corporation shall purchase or invest in only those
816 securities prescribed by the board, consistent with law.

817 (c) Within twenty (20) days following the close of each
818 calendar month, the corporation shall transfer to the Lottery
819 Proceeds Fund in the State Treasury the amount of net revenues
820 which the corporation determines are surplus to its needs. Net
821 revenues or proceeds shall be determined by deducting from gross
822 revenues the payment costs incurred or estimated to be incurred in
823 the operation and administration of the lottery. This shall
824 include the expenses of the corporation and the costs resulting
825 from any contract or contracts entered into for promotional,
826 advertising or operational services or for the purchase or lease
827 of lottery equipment and materials, fixed capital outlays, and the
828 payment of prizes to the holders of winning lottery tickets.

829 (d) The apportionment of the total revenues accruing
830 from the sale of lottery tickets or shares and from all other
831 sources shall be as follows:

832 (i) The payment of prizes to the holders of
833 winning lottery tickets or shares which in any case shall be no
834 less than fifty percent (50%) of the total revenues accruing from
835 the sale of lottery tickets;



836 (ii) The payment of costs incurred in the
837 operation and administration of the lottery, including the
838 expenses of the corporation and the costs resulting from any
839 contract or contracts entered into for promotional, advertising or
840 operational services or for the purchase or lease of lottery
841 equipment and materials, which in no case shall exceed fifteen
842 percent (15%) of the total revenues accruing from the sale of
843 lottery tickets; however, this restriction shall not apply until
844 after the first twelve (12) months of revenue generation by the
845 lottery.

846 (2) A Lottery Proceeds Fund is hereby established in the
847 State Treasury. Net lottery proceeds shall be deposited into
848 this fund as provided in subsection (1) of this section. Monies
849 deposited into the Lottery Proceeds Fund shall be invested by the
850 state in accordance with state investment practices, and all
851 earnings from such investments shall accrue to this account. No
852 monies shall be allotted or expended from this account unless
853 pursuant to a warrant issued by the State Fiscal Officer upon
854 requisition of the Transportation Commission for funds to be
855 transferred to the State Highway Fund in accordance with Section
856 43 of this act.

857 **SECTION 26.** (1) The corporation may accept and expend such
858 monies as may be appropriated by the Legislature or such monies as
859 may be received from any source, including income from the
860 corporation's operations, for effectuating its corporate purposes,



861 including the payment of the initial expenses of administration
862 and operation of the corporation and the lottery.

863 (2) The corporation is intended to be self-sustaining and
864 self-funded. Monies in the State General Fund shall not be used
865 or obligated to pay the prizes of the lottery, and no claim for
866 the payment of an expense of the lottery or prizes of the lottery
867 may be made against any monies other than monies credited to the
868 corporate operating account.

869 **SECTION 27.** (1) The Legislature hereby recognizes that to
870 conduct a successful lottery, the corporation must develop and
871 maintain a statewide network of lottery retailers that will serve
872 the public convenience and promote the sale of tickets, while
873 insuring the integrity of the lottery operations, games and
874 activities.

875 (2) To govern the selection of lottery retailers, the board
876 shall, by administrative regulation, develop a list of objective
877 criteria upon which the selection of lottery retailers shall be
878 based. Separate criteria shall be developed to govern the
879 selection of retailers of instant tickets and online retailers.
880 In developing these criteria, the board shall consider such
881 factors as the applicant's financial responsibility, location and
882 security of the applicant's place of business or activity,
883 integrity, and reputation; however, the board shall not consider
884 political affiliation, activities or monetary contributions to



885 political organizations or candidates for any public office. The
886 criteria shall include, but not be limited to, the following:

887 (a) The applicant shall be current in payment of all
888 taxes, interest and penalties owed to any taxing political
889 subdivision where the lottery retailer will sell lottery tickets.

890 (b) The applicant shall be current in filing all
891 applicable tax returns and in payment of all taxes, interest and
892 penalties owed to the State of Mississippi, excluding items under
893 formal appeal pursuant to applicable statutes, before a license is
894 issued and before each renewal.

895 (c) No person, partnership, unincorporated association,
896 corporation or other business entity shall be selected as a
897 lottery retailer for the sale of instant tickets or online games
898 who:

899 (i) Has been convicted of a criminal offense
900 related to the security or integrity of the lottery in this or any
901 other jurisdiction.

902 (ii) Has been convicted of any illegal gambling
903 activity, false statements, false swearing or perjury in this or
904 any other jurisdiction, or convicted of any crime punishable by
905 more than one (1) year imprisonment or a fine of more than One
906 Thousand Dollars (\$1,000.00), or both.

907 (iii) Has been found to have violated the
908 provisions of this act or any administrative regulation adopted
909 hereunder, unless either ten (10) years have passed since the



910 violation, or the president and the board find the violation both
911 minor and unintentional in nature.

912 (iv) Is a vendor or an employee or agent of any
913 vendor doing business with the corporation.

914 (v) Resides in the same household as an officer of
915 the corporation.

916 (vi) Has made a statement of material fact to the
917 corporation, knowing such statement to be false.

918 **SECTION 28.** (1) In addition to the provisions of Section 27
919 of this act, no person, partnership, unincorporated association,
920 corporation or other business entity shall be selected as an
921 online lottery retailer who:

922 (a) Has been denied a license to sell instant tickets
923 on the basis of objective criteria established by the board, or
924 any provision of this act.

925 (b) Has failed to sell sufficient instant tickets to
926 indicate that the location of an online game at his or her outlet
927 would be of economic benefit to him or her or the lottery
928 corporation.

929 (2) The applicant shall not be engaged exclusively in the
930 sale of lottery tickets. However, this subsection does not
931 preclude the corporation from contracting for the sale of lottery
932 tickets with nonprofit, charitable organizations or units of local
933 government in accordance with the provisions of this act.



934 (3) Any lottery retailer contract executed pursuant to this
935 section may, for good cause, be suspended, revoked, or terminated
936 by the president if the retailer is found to have violated any
937 provision of this act or objective criteria established by the
938 board. Review of such activities shall be in accordance with the
939 procedures outlined in this act. All lottery retailer contracts
940 shall be renewable annually after issuance unless sooner cancelled
941 or terminated.

942 **SECTION 29.** (1) After one (1) year of operation, any
943 retailer who purchased or leased online equipment pursuant to this
944 act and whose sales are equal to or greater than the statewide
945 average of sales of online retailers may be reimbursed the cost of
946 the purchase or lease by the corporation as authorized by rule and
947 regulation of the board. The board may purchase the terminals of
948 other retailers who purchased their equipment if the board
949 determines that such purchase is in the best interest of the
950 lottery.

951 (2) No lottery retailer contract awarded pursuant to this
952 act shall be transferable or assignable. No lottery retailer
953 shall contract with any person for lottery goods or services
954 except with the approval of the board.

955 (3) Each lottery retailer shall be issued a lottery retailer
956 certificate which shall be conspicuously displayed at the place
957 where the lottery retailer is authorized to sell lottery tickets.



958 Lottery tickets shall only be sold by the retailer at the location
959 stated on the lottery retailer certificate.

960 (4) For the convenience of the public, all retailers may pay
961 winners up to Six Hundred Dollars (\$600.00) after performing
962 validation procedures appropriate to the lottery game involved.

963 **SECTION 30.** The corporation shall require each retailer to
964 post a letter of credit or a bond with the corporation using a
965 surety acceptable to the corporation in an amount not to exceed
966 twice the average lottery ticket sales of the retailer for the
967 period within which the retailer is required to remit lottery
968 funds to the corporation. For the first ninety (90) days of sales
969 of a new retailer, the amount of the bond shall not exceed twice
970 the average estimated lottery ticket sales for the period within
971 which the retailer is required to remit lottery funds to the
972 corporation. This section does not apply to lottery tickets which
973 are prepaid by the retailers. The corporation may facilitate the
974 purchase of letters of credit by establishing retailer pools for
975 the purchase of bonds and letters of credit for retailers.

976 **SECTION 31.** (1) Any contract executed by the corporation
977 with a retailer pursuant to this section shall specify the reasons
978 for which any contract may be cancelled, suspended, revoked or
979 terminated by the corporation, which reasons shall include, but
980 not be limited to:

981 (a) Commission of a violation of this act or
982 administrative regulations adopted pursuant thereto.



983 (b) Failure to accurately account for lottery tickets,
984 revenues or prizes as required by the corporation.

985 (c) Commission of any fraud, deceit or
986 misrepresentation.

987 (d) Insufficient sale of tickets.

988 (e) Conduct prejudicial to public confidence in the
989 lottery.

990 (f) The retailer filing for or being placed in
991 bankruptcy or receivership.

992 (g) Any material change in any matter considered by the
993 corporation in executing the contract with the retailer.

994 (h) Failure to meet any of the objective criteria
995 established by the board pursuant to this act.

996 (2) If, in the discretion of the president, cancellation,
997 denial, revocation, suspension or rejection of renewal of a
998 lottery retailer contract is in the best interest of the lottery,
999 the public welfare, or the State of Mississippi, the president may
1000 cancel, suspend, revoke or terminate, after notice and a hearing,
1001 any contract issued pursuant to this act. Such contract may,
1002 however, be temporarily suspended by the president without prior
1003 notice, pending any prosecution, hearing or investigation, whether
1004 by a third party or by the president. A contract may be
1005 suspended, revoked or terminated by the president for any one or
1006 more of the reasons enumerated in this section.



1007 **SECTION 32.** (1) (a) All proceeds from the sale of lottery
1008 tickets received by a lottery retailer shall constitute a trust
1009 fund until paid to the corporation either directly or through the
1010 corporation's authorized collection representative. A lottery
1011 retailer shall have a fiduciary duty to preserve and account for
1012 lottery proceeds, and lottery retailers shall be personally liable
1013 for all proceeds. Proceeds shall include unsold instant tickets
1014 received by a lottery retailer and cash proceeds of sale of any
1015 lottery products, net of allowable sales commissions and credit
1016 for lottery prizes to winners by lottery retailers. Sales
1017 proceeds and unused instant tickets shall be delivered to the
1018 corporation or its authorized collection representative upon
1019 demand.

1020 (b) The corporation shall, by rules and regulations,
1021 require retailers to place all lottery proceeds due the
1022 corporation in accounts in institutions insured by the Federal
1023 Deposit Insurance Corporation not later than the close of the next
1024 banking day after the date of their collection by the retailer
1025 until the date they are paid over to the corporation. The
1026 corporation may require a retailer to establish a single, separate
1027 electronic funds transfer account, where available, for the
1028 purpose of receiving monies from ticket sales, making payments to
1029 the corporation, and receiving payments from the corporation.
1030 Unless otherwise authorized in writing by the corporation, each
1031 lottery retailer shall establish a separate bank account for



1032 lottery proceeds which shall be kept separate and apart from all
1033 other funds and assets and shall not be commingled with any other
1034 funds or assets.

1035 (c) This section shall apply to all lottery tickets
1036 generated by computer terminal or other electronic devices and any
1037 other tickets delivered to lottery retailers.

1038 (2) Whenever any person who receives proceeds from the sale
1039 of lottery tickets in the capacity of a lottery retailer becomes
1040 insolvent, or dies insolvent, the proceeds due the corporation
1041 from such person or his or her estate shall have preference over
1042 all debts or demands.

1043 **SECTION 33.** (1) No person shall sell a ticket at a price
1044 other than established by the corporation, unless authorized in
1045 writing by the president. No person other than a duly certified
1046 lottery retailer shall sell lottery tickets, but this shall not be
1047 construed to prevent a person who may lawfully purchase tickets
1048 from making a gift of lottery tickets to another. Nothing in this
1049 act shall be construed to prohibit the corporation from
1050 designating certain of its agents and employees to sell lottery
1051 tickets directly to the public.

1052 (2) Lottery tickets may be given by merchants as a means of
1053 promoting goods or services to customers or prospective customers
1054 subject to approval by the corporation.

1055 (3) No lottery retailer shall sell a ticket except from the
1056 locations listed in the contract.



1057 (4) No lottery tickets shall be sold at State of Mississippi
1058 safety rest areas.

1059 **SECTION 34.** The corporation shall require the posting of one
1060 or more signs on licensed premises at each point of entry into
1061 areas where lottery tickets are sold to inform patrons of a
1062 toll-free telephone number of any state or national organization
1063 that provides information and referral services regarding
1064 compulsive or problem gambling. Failure by the owner of the
1065 licensed premises to post and maintain such a sign or signs shall
1066 be cause for the imposition of a fine to be determined by the
1067 board.

1068 **SECTION 35.** (1) The corporation may purchase, lease or
1069 lease-purchase such goods or services as are necessary for
1070 effectuating the purposes of this act. The corporation shall not
1071 contract with any person or entity for the total operation and
1072 administration of the lottery, but it may make procurements which
1073 integrate such functions as lottery game design, lottery ticket
1074 distribution to retailers, supply of goods and services and
1075 advertising. In all procurement decisions, the corporation shall
1076 take into account the particularly sensitive nature of the lottery
1077 and shall act to promote and ensure security, honesty, fairness
1078 and integrity in the operation and administration of the lottery
1079 and the objectives of raising net proceeds for the benefit of the
1080 public.



1081 (2) The corporation shall investigate the financial
1082 responsibility, security and integrity of any lottery system
1083 vendor who submits a bid, proposal or offer. At the time of
1084 submitting such bid, proposal or offer to the corporation, the
1085 corporation may require the following items:

1086 (a) A disclosure of the vendor's name and address and,
1087 as applicable, the name and address of the following:

1088 (i) If the vendor is a corporation, the officers,
1089 directors and each stockholder in such corporation; however, in
1090 the case of owners of equity securities of a publicly traded
1091 corporation, only the names and addresses of those known to the
1092 corporation to own beneficially five percent (5%) or more of such
1093 securities need be disclosed.

1094 (ii) If the vendor is a trust, the trustee and all
1095 persons entitled to receive income or benefits from the trust.

1096 (iii) If the vendor is an association, the
1097 members, officers and directors.

1098 (iv) If the vendor is a partnership or joint
1099 venture, all of the general partners, limited partners, or joint
1100 venturers.

1101 (b) A disclosure of all the states and jurisdictions in
1102 which the vendor does business, and the nature of the business for
1103 each such state or jurisdiction.

1104 (c) A disclosure of all the states and jurisdictions in
1105 which the vendor has contracts to supply gaming goods or services,



1106 including, but not limited to, lottery goods and services, and the
1107 nature of the goods or services involved for each such state or
1108 jurisdiction.

1109 (d) A disclosure of all the states and jurisdictions in
1110 which the vendor has applied for, has sought renewal of, has
1111 received, has been denied, has pending, or has had revoked a
1112 gaming license of any kind, or had fines or penalties assessed on
1113 their license, contract, or operation, and the disposition of such
1114 in each such state or jurisdiction. If any lottery or gaming
1115 license or contract has been revoked or has not been renewed or
1116 any lottery or gaming license or application has been either
1117 denied or is pending and has remained pending for more than six
1118 (6) months, all of the facts and circumstances underlying the
1119 failure to receive such a license shall be disclosed.

1120 (e) A disclosure of the details of any finding of a
1121 plea, conviction or adjudication for guilt, in a state or federal
1122 court, of the vendor for any felony or any other criminal offense
1123 other than a traffic violation.

1124 (f) A disclosure of the details of any bankruptcy,
1125 insolvency, reorganization, corporate or individual purchase or
1126 takeover of another corporation, including bonded indebtedness, or
1127 any pending litigation of the vendor.

1128 (g) Such additional disclosures and information as the
1129 corporation may determine to be appropriate for the procurement
1130 involved. If the vendor subcontracts any substantial portion of



1131 the work to be performed under the contract to a subcontractor,
1132 the vendor shall disclose all of the information required by this
1133 subsection for the subcontractor as if the subcontractor were
1134 itself a vendor.

1135 (3) The corporation shall not enter into a contract for a
1136 procurement with any lottery system vendor who has not complied
1137 with the disclosures described in subsection (2) of this section
1138 if required by the corporation, and any contract with such a
1139 vendor is unenforceable. Any contract with a vendor who does not
1140 comply with such requirements for periodically updating such
1141 disclosures during the tenure of contract as may be specified in
1142 such contract shall be terminated by the corporation. The
1143 provisions of this section shall be construed broadly and
1144 liberally to achieve the ends of full disclosure of all
1145 information necessary to allow for a full and complete evaluation
1146 by the corporation of the competence, integrity, background and
1147 character of vendors.

1148 (4) (a) A contract shall not be entered into with any
1149 vendor who has been found guilty of a felony related to the
1150 security or integrity of the lottery in this or any other
1151 jurisdiction.

1152 (b) A contract shall not be entered into with any
1153 vendor who has not first obtained a signed tax clearance from the
1154 Commissioner of Revenue indicating that the vendor is current in
1155 filing all applicable tax returns and in payment of all taxes,



1156 interest and penalties owed to the State of Mississippi, excluding
1157 items under formal appeal pursuant to applicable statutes.

1158 (5) The corporation may require that each vendor, at the
1159 execution of the contract with the corporation, post a performance
1160 bond or letter of credit from a bank acceptable to the
1161 corporation, in an amount established by the corporation. In lieu
1162 of the bond, a vendor may, to assure the faithful performance of
1163 its obligations, deposit and maintain with the corporation
1164 securities that are interest-bearing or accruing and that are
1165 rated in one (1) of the three (3) highest classifications by an
1166 established nationally recognized investment rating service.

1167 Securities eligible under this subsection are limited to:

1168 (a) Certificates of deposit issued by solvent banks or
1169 savings associations approved by the corporation and which are
1170 organized and existing under the laws of this state or under the
1171 laws of the United States.

1172 (b) United States bonds, notes, and bills for which the
1173 full faith and credit of the government of the United States is
1174 pledged for the payment of principal and interest.

1175 (c) Corporate bonds approved by the corporation. The
1176 corporation which issued the bonds shall not be an affiliate or
1177 subsidiary of the depositor. Such securities shall be held in
1178 trust.

1179 (6) Every contract entered into by the corporation pursuant
1180 to this section shall contain a provision for payment of



1181 liquidated damages to the corporation for any breach of contract
1182 by the vendor.

1183 (7) Each vendor shall be qualified to do business in this
1184 state and shall file appropriate tax returns as provided by the
1185 laws of this state. All contracts under this section shall be
1186 governed by the laws of this state.

1187 **SECTION 36.** (1) The Mississippi Department of Public Safety
1188 shall perform full criminal background investigations on all
1189 potential vendors, potential retailers, and potential employees of
1190 the corporation at the level of division director and above, and
1191 at any level within a division handling security, and, as
1192 determined by the board, on any other employee of the corporation.
1193 The corporation shall reimburse the Department of Public Safety
1194 for the actual costs of such investigations.

1195 (2) The corporation or its division handling security shall:

1196 (a) Conduct criminal background investigations and
1197 credit investigations on all potential retailers and investigate
1198 all potential employees of the corporation not referred to in
1199 subsection (1) of this section or not investigated by the
1200 Department of Public Safety.

1201 (b) Supervise ticket validation and lottery drawings.

1202 (c) Inspect at times determined solely by the division
1203 the facilities of any vendor in order to determine the integrity
1204 of the vendor's product and in order to determine whether the
1205 vendor is in compliance with its contract.



1206 (d) Report any suspected violations of this act to the
1207 appropriate district attorney, or the Attorney General, and law
1208 enforcement agencies.

1209 (e) Upon request, provide assistance to any district
1210 attorney, the Attorney General, or law enforcement agency
1211 investigating a violation of this act.

1212 **SECTION 37.** (1) (a) No lottery retailer and no agent,
1213 associate, employee, representative or servant of any such person
1214 shall sell a lottery ticket to any person unless the person
1215 submits any one (1) of the following forms of identification which
1216 establish the age of the person as twenty-one (21) years or older:

1217 (i) A valid and current Mississippi driver's
1218 license which contains a photograph of the person presenting the
1219 driver's license.

1220 (ii) A valid and current driver's license of
1221 another state which contains a photograph of the person and birth
1222 date of the person submitting the driver's license.

1223 (iii) A valid and current special identification
1224 card issued by the State of Mississippi containing a photograph of
1225 the person submitting the identification card.

1226 (iv) A valid and current passport or visa issued
1227 by the federal government or another country or nation that
1228 contains a permanently attached photograph of the person and the
1229 date of birth of the person submitting the passport or visa.



1230 (v) A valid and current military or federal
1231 identification card issued by the federal government containing a
1232 photograph of the person and date of birth of the person
1233 submitting the identification card.

1234 (b) Each form of identification listed in paragraph (a)
1235 of this subsection must on its face establish the age of the
1236 person as twenty-one (21) years of age or older, and there must be
1237 no reason to doubt the authenticity or correctness of the
1238 identification. No form of identification mentioned in paragraph
1239 (a) of this subsection shall be accepted as proof of age if it is
1240 expired, defaced, mutilated or altered. If the driver's license,
1241 state identification card or lawful identification submitted is a
1242 duplicate, the person shall submit additional identification which
1243 contains the name, date of birth and photograph of the person.

1244 (c) An educational institution identification card,
1245 check-cashing identification card, or employee identification card
1246 shall not be considered as lawful identification for the purposes
1247 of this subsection.

1248 (2) Any person who knowingly sells a lottery ticket to a
1249 person under twenty-one (21) years of age shall be fined not less
1250 than One Hundred Dollars (\$100.00) nor more than Five Hundred
1251 Dollars (\$500.00) for the first offense and, for each subsequent
1252 offense, not less than Two Hundred Dollars (\$200.00) or more than
1253 One Thousand Dollars (\$1,000.00).



1254 (3) (a) It is unlawful for any person under twenty-one (21)
1255 years of age to purchase a lottery ticket.

1256 (b) Whoever violates the provisions of this subsection
1257 shall be fined not more than One Hundred Dollars (\$100.00).

1258 (c) Any person apprehended while violating the
1259 provisions of this subsection shall be issued a citation by the
1260 apprehending law enforcement officer, which shall be paid in the
1261 same manner as provided for the offenders of local traffic
1262 violations.

1263 **SECTION 38.** (1) Any person, with intent to defraud, who
1264 falsely makes, alters, forges, utters, passes or counterfeits a
1265 state lottery ticket shall be punished as provided in subsection
1266 (2) of this section.

1267 (2) Any person who influences or attempts to influence the
1268 winning of a prize through the use of coercion, fraud, deception
1269 or tampering with lottery equipment or materials shall be punished
1270 by imprisonment for not less than one (1) year and not more than
1271 twenty (20) years, by a fine of not more than Fifty Thousand
1272 Dollars (\$50,000.00), or by both fine and imprisonment.

1273 **SECTION 39.** (1) No former member of the board or officer of
1274 the corporation, or a corporation or other entity owned in whole
1275 or in part by a former board member or corporation officer, shall
1276 solicit or accept employment or enter into a contract for
1277 compensation of any kind with a vendor of the corporation within
1278 one (1) year after termination of service with the corporation.



1279 (2) The name of any individual who is a board member or an
1280 officer or an employee of the corporation shall not appear upon
1281 any lottery ticket, lottery game, lottery form or paper used in
1282 playing any lottery game.

1283 (3) Violation of any provision of this section by a member
1284 of the board or an officer of the corporation shall constitute
1285 cause for removal from office or dismissal from employment.

1286 (4) The provisions of subsections (1) and (3) of this
1287 section shall not apply to ex officio members of the board of
1288 directors.

1289 (5) The State Ethics Commission shall administer and enforce
1290 the provisions of this section. The procedures and penalties
1291 provided for in Section 25-4-101 et seq. shall apply to the
1292 administration and enforcement of the provisions of this section.

1293 **SECTION 40.** (1) Skimming of lottery proceeds is the
1294 intentional excluding, or the taking of any action in an attempt
1295 to exclude, anything or its value from the deposit, counting,
1296 collection or computation of gross revenues or net proceeds from
1297 lottery activities.

1298 (2) Whoever commits the crime of skimming of lottery
1299 proceeds when the amount skimmed or to be skimmed is less than One
1300 Thousand Dollars (\$1,000.00) may be imprisoned for not more than
1301 five (5) years, or may be fined not more than Five Thousand
1302 Dollars (\$5,000.00), or both.



1303 (3) Whoever commits the crime of skimming of lottery
1304 proceeds when the amount skimmed, or to be skimmed, is One
1305 Thousand Dollars (\$1,000.00) or more but less than Ten Thousand
1306 Dollars (\$10,000.00), shall be imprisoned for not less than three
1307 (3) years nor more than ten (10) years without benefit of
1308 probation, parole, or suspension of sentence, and may be fined not
1309 more than Twenty-five Thousand Dollars (\$25,000.00).

1310 (4) Whoever commits the crime of skimming lottery proceeds
1311 when the amount skimmed, or to be skimmed, is Ten Thousand Dollars
1312 (\$10,000.00) or more shall be imprisoned for not less than ten
1313 (10) years and not more than twenty-five (25) years without
1314 benefit of probation, parole, or suspension of sentence, and may
1315 be fined not more than Fifty Thousand Dollars (\$50,000.00), or
1316 both imprisonment and fine.

1317 **SECTION 41.** No person shall knowingly or intentionally use
1318 or possess a form of illegal lottery device or make a material
1319 false statement in any application for a license or proposal to
1320 conduct lottery activities or make a material false entry in any
1321 book or record which is compiled or maintained or submitted to the
1322 corporation pursuant to the provisions of this act. Any person
1323 who violates the provisions of this section may be imprisoned for
1324 not less than five (5) and not more than ten (10) years without
1325 benefit of probation, parole or suspension of imposition of
1326 sentence and may be fined an amount not to exceed Twenty-five



1327 Thousand Dollars (\$25,000.00) or the dollar amount of the false
1328 entry or statement, whichever is greater.

1329 **SECTION 42.** (1) Illegal lottery devices as described in
1330 this section are considered gambling devices and contraband.

1331 (2) As used in this section, the term "illegal lottery
1332 device" means:

1333 (a) Forged, counterfeit, or stolen, or improperly
1334 issued or illegally possessed lottery tickets.

1335 (b) Any device, located outside of a corporate gaming
1336 facility that holds a valid license from the Mississippi Gaming
1337 Commission, which utilizes a cathode ray tube or video screen upon
1338 which symbols, numbers, cards, figures, facsimiles, or data appear
1339 for observation by the player and which is equipped with either:

1340 (i) A cash automatic payout device, or

1341 (ii) A capability, design, device or programming
1342 capable of releasing free games, credits or replays and a
1343 capability, design, device, or programming to record the free
1344 games, credits or free plays so released.

1345 (c) Any video device, located outside of a corporate
1346 gaming facility that holds a valid license from the Mississippi
1347 Gaming Commission, which accepts coins or credits for the purpose
1348 of advancing the odds or benefits to the player for successful
1349 completion of the object of play, or which may award a cumulative
1350 total in excess of fifteen (15) free games or replays.

1351 (d) Video lottery terminals.



1352 (3) All law enforcement officers of municipal police forces,
1353 sheriff's departments, and the state may confiscate and
1354 immediately destroy all illegal lottery devices or other video
1355 machines used for illegal gambling that come to their attention.

1356 (4) Any video lottery device or equipment in possession of a
1357 licensed manufacturer, seller, distributor, transporter or
1358 repairman in this state shall not be subject to confiscation and
1359 destruction unless such device or equipment is being used for
1360 unlawful gambling activities.

1361 (5) Any law enforcement agency which seizes any illegal
1362 lottery device in accordance with this section may, in lieu of the
1363 immediate destruction of the device, file a petition in the
1364 circuit court where the device was seized seeking a judicial
1365 determination that the seized device is an illegal lottery device.
1366 The petition shall require the persons and entities from whom the
1367 device was seized and such other persons as the agency believes
1368 may have an interest in the device to appear and show cause why
1369 the seized device should not be destroyed as an illegal lottery
1370 device.

1371 (6) The provisions of this section shall not apply to
1372 electronic bingo machines the possession and use of which has been
1373 authorized and licensed pursuant to law, video or electronic
1374 gaming machines the possession and use of which has been
1375 authorized and licensed pursuant to law and the Mississippi Gaming



1376 Commission or to any lottery game or equipment authorized pursuant
1377 to this act.

1378 (7) Neither the state nor any political subdivision, agency,
1379 agent, or enforcement officer thereof shall be liable civilly or
1380 criminally for the destruction of any illegal lottery device.

1381 **SECTION 43.** Until June 30, 2028, revenues generated by the
1382 Mississippi Lottery Law, created pursuant to Sections 1 through 46
1383 of this act and deposited into the Lottery Proceeds Fund under
1384 Section 25(2) of this act shall be paid into the State Highway
1385 Fund by warrant issued by the State Fiscal Officer upon
1386 requisition of the State Transportation Commission as needed to
1387 provide funds to repair, renovate and maintain highways and
1388 bridges of the state; however, funds paid into the State Highway
1389 Fund under this section shall be first used for matching federal
1390 funds authorized to the state pursuant to any federal highway
1391 infrastructure program implemented after September 1, 2018. From
1392 and after July 1, 2028, the revenue shall be deposited into the
1393 Lottery Proceeds Fund shall be transferred to the State General
1394 Fund or diverted to other purposes for which the Legislature may
1395 determine.

1396 **SECTION 44.** All directors, officers and employees of the
1397 corporation shall be considered public servants as defined in
1398 Section 25-4-101 et seq., Mississippi Code of 1972. All directors
1399 and officers of the corporation are subject to Section 25-4-25,
1400 Mississippi Code of 1972, and shall be required to file a



1401 Statement of Economic Interest with the Mississippi Ethics
1402 Commission.

1403 **SECTION 45.** To ensure the financial integrity of the
1404 lottery, the corporation through its board of directors shall:

1405 (a) Compile and submit quarterly and annual reports and
1406 financial statements, in compliance with Section 9(3)(b) and
1407 Section 20 of this act;

1408 (b) Contract with an independent auditor who is a
1409 certified public accountant or firm to conduct an annual financial
1410 audit of the books and records of the corporation. The cost of
1411 this annual financial audit shall be an operating expense of the
1412 corporation:

1413 (i) Such independent auditor shall have no
1414 financial interest in any vendor with whom the corporation is
1415 under contract;

1416 (ii) All contracts for independent auditors shall
1417 be reviewed by and subject to the approval of the State Auditor to
1418 ensure that the independent auditor is qualified to perform the
1419 audit;

1420 (iii) The audit shall be completed within ninety
1421 (90) days after the close of the corporation's fiscal year; and

1422 (iv) Contracts may be entered into for audit
1423 services for a period not to exceed five (5) years and the same
1424 firm shall not receive two (2) consecutive audit contracts.



1425 **SECTION 46.** For informational purposes only, the corporation
1426 shall submit to the Joint Legislative Budget Committee a copy of
1427 the corporation's annual operating budget for the upcoming fiscal
1428 year. The budget shall include an estimate of net proceeds to be
1429 deposited into the State Highway Fund during the succeeding fiscal
1430 year.

1431 **SECTION 47.** Section 7-7-211, Mississippi Code of 1972, is
1432 amended as follows:

1433 7-7-211. The department shall have the power and it shall be
1434 its duty:

1435 (a) To identify and define for all public offices of
1436 the state and its subdivisions generally accepted accounting
1437 principles or other accounting principles as promulgated by
1438 nationally recognized professional organizations and to consult
1439 with the State Fiscal Officer in the prescription and
1440 implementation of accounting rules and regulations;

1441 (b) To provide best practices, for all public offices
1442 of regional and local subdivisions of the state, systems of
1443 accounting, budgeting and reporting financial facts relating to
1444 said offices in conformity with legal requirements and with
1445 generally accepted accounting principles or other accounting
1446 principles as promulgated by nationally recognized professional
1447 organizations; to assist such subdivisions in need of assistance
1448 in the installation of such systems; to revise such systems when
1449 deemed necessary, and to report to the Legislature at periodic



1450 times the extent to which each office is maintaining such systems,
1451 along with such recommendations to the Legislature for improvement
1452 as seem desirable;

1453 (c) To study and analyze existing managerial policies,
1454 methods, procedures, duties and services of the various state
1455 departments and institutions upon written request of the Governor,
1456 the Legislature or any committee or other body empowered by the
1457 Legislature to make such request to determine whether and where
1458 operations can be eliminated, combined, simplified and improved;

1459 (d) To postaudit each year and, when deemed necessary,
1460 preaudit and investigate the financial affairs of the departments,
1461 institutions, boards, commissions, or other agencies of state
1462 government, as part of the publication of a comprehensive annual
1463 financial report for the State of Mississippi, or as deemed
1464 necessary by the State Auditor. In complying with the
1465 requirements of this paragraph, the department shall have the
1466 authority to conduct all necessary audit procedures on an interim
1467 and year-end basis;

1468 (e) To postaudit and, when deemed necessary, preaudit
1469 and investigate separately the financial affairs of (i) the
1470 offices, boards and commissions of county governments and any
1471 departments and institutions thereof and therein; (ii) public
1472 school districts, departments of education and junior college
1473 districts; and (iii) any other local offices or agencies which
1474 share revenues derived from taxes or fees imposed by the State



1475 Legislature or receive grants from revenues collected by
1476 governmental divisions of the state; the cost of such audits,
1477 investigations or other services to be paid as follows: Such part
1478 shall be paid by the state from appropriations made by the
1479 Legislature for the operation of the State Department of Audit as
1480 may exceed the sum of Thirty-five Dollars (\$35.00) per man-hour
1481 for the services of each staff person engaged in performing the
1482 audit or other service plus the actual cost of any independent
1483 specialist firm contracted by the State Auditor to assist in the
1484 performance of the audit, which sum shall be paid by the county,
1485 district, department, institution or other agency audited out of
1486 its general fund or any other available funds from which such
1487 payment is not prohibited by law. Costs paid for independent
1488 specialists or firms contracted by the State Auditor shall be paid
1489 by the audited entity through the State Auditor to the specialist
1490 or firm conducting the postaudit.

1491 Each school district in the state shall have its financial
1492 records audited annually, at the end of each fiscal year, either
1493 by the State Auditor or by a certified public accountant approved
1494 by the State Auditor. Beginning with the audits of fiscal year
1495 2010 activity, no certified public accountant shall be selected to
1496 perform the annual audit of a school district who has audited that
1497 district for three (3) or more consecutive years previously.
1498 Certified public accountants shall be selected in a manner
1499 determined by the State Auditor. The school district shall have



1500 the responsibility to pay for the audit, including the review by
1501 the State Auditor of audits performed by certified public
1502 accountants;

1503 (f) To postaudit and, when deemed necessary, preaudit
1504 and investigate the financial affairs of the levee boards;
1505 agencies created by the Legislature or by executive order of the
1506 Governor; profit or nonprofit business entities administering
1507 programs financed by funds flowing through the State Treasury or
1508 through any of the agencies of the state, or its subdivisions; and
1509 all other public bodies supported by funds derived in part or
1510 wholly from public funds, except municipalities which annually
1511 submit an audit prepared by a qualified certified public
1512 accountant using methods and procedures prescribed by the
1513 department;

1514 (g) To make written demand, when necessary, for the
1515 recovery of any amounts representing public funds improperly
1516 withheld, misappropriated and/or otherwise illegally expended by
1517 an officer, employee or administrative body of any state, county
1518 or other public office, and/or for the recovery of the value of
1519 any public property disposed of in an unlawful manner by a public
1520 officer, employee or administrative body, such demands to be made

1521 (i) upon the person or persons liable for such amounts and upon
1522 the surety on official bond thereof, and/or (ii) upon any
1523 individual, partnership, corporation or association to whom the
1524 illegal expenditure was made or with whom the unlawful disposition



1525 of public property was made, if such individual, partnership,
1526 corporation or association knew or had reason to know through the
1527 exercising of reasonable diligence that the expenditure was
1528 illegal or the disposition unlawful. Such demand shall be
1529 premised on competent evidence, which shall include at least one
1530 (1) of the following: (i) sworn statements, (ii) written
1531 documentation, (iii) physical evidence, or (iv) reports and
1532 findings of government or other law enforcement agencies. Other
1533 provisions notwithstanding, a demand letter issued pursuant to
1534 this paragraph shall remain confidential by the State Auditor
1535 until the individual against whom the demand letter is being filed
1536 has been served with a copy of such demand letter. If, however,
1537 such individual cannot be notified within fifteen (15) days using
1538 reasonable means and due diligence, such notification shall be
1539 made to the individual's bonding company, if he or she is bonded.
1540 Each such demand shall be paid into the proper treasury of the
1541 state, county or other public body through the office of the
1542 department in the amount demanded within thirty (30) days from the
1543 date thereof, together with interest thereon in the sum of one
1544 percent (1%) per month from the date such amount or amounts were
1545 improperly withheld, misappropriated and/or otherwise illegally
1546 expended. In the event, however, such person or persons or such
1547 surety shall refuse, neglect or otherwise fail to pay the amount
1548 demanded and the interest due thereon within the allotted thirty
1549 (30) days, the State Auditor shall have the authority and it shall



1550 be his duty to institute suit, and the Attorney General shall
1551 prosecute the same in any court of the state to the end that there
1552 shall be recovered the total of such amounts from the person or
1553 persons and surety on official bond named therein; and the amounts
1554 so recovered shall be paid into the proper treasury of the state,
1555 county or other public body through the State Auditor. In any
1556 case where written demand is issued to a surety on the official
1557 bond of such person or persons and the surety refuses, neglects or
1558 otherwise fails within one hundred twenty (120) days to either pay
1559 the amount demanded and the interest due thereon or to give the
1560 State Auditor a written response with specific reasons for
1561 nonpayment, then the surety shall be subject to a civil penalty in
1562 an amount of twelve percent (12%) of the bond, not to exceed Ten
1563 Thousand Dollars (\$10,000.00), to be deposited into the State
1564 General Fund;

1565 (h) To investigate any alleged or suspected violation
1566 of the laws of the state by any officer or employee of the state,
1567 county or other public office in the purchase, sale or the use of
1568 any supplies, services, equipment or other property belonging
1569 thereto; and in such investigation to do any and all things
1570 necessary to procure evidence sufficient either to prove or
1571 disprove the existence of such alleged or suspected violations.
1572 The Department of Investigation of the State Department of Audit
1573 may investigate, for the purpose of prosecution, any suspected
1574 criminal violation of the provisions of this chapter. For the



1575 purpose of administration and enforcement of this chapter, the
1576 enforcement employees of the Department of Investigation of the
1577 State Department of Audit have the powers of a law enforcement
1578 officer of this state, and shall be empowered to make arrests and
1579 to serve and execute search warrants and other valid legal process
1580 anywhere within the State of Mississippi. All enforcement
1581 employees of the Department of Investigation of the State
1582 Department of Audit hired on or after July 1, 1993, shall be
1583 required to complete the Law Enforcement Officers Training Program
1584 and shall meet the standards of the program;

1585 (i) To issue subpoenas, with the approval of, and
1586 returnable to, a judge of a chancery or circuit court, in termtime
1587 or in vacation, to examine the records, documents or other
1588 evidence of persons, firms, corporations or any other entities
1589 insofar as such records, documents or other evidence relate to
1590 dealings with any state, county or other public entity. The
1591 circuit or chancery judge must serve the county in which the
1592 records, documents or other evidence is located; or where all or
1593 part of the transaction or transactions occurred which are the
1594 subject of the subpoena;

1595 (j) In any instances in which the State Auditor is or
1596 shall be authorized or required to examine or audit, whether
1597 preaudit or postaudit, any books, ledgers, accounts or other
1598 records of the affairs of any public hospital owned or owned and
1599 operated by one or more political subdivisions or parts thereof or



1600 any combination thereof, or any school district, including
1601 activity funds thereof, it shall be sufficient compliance
1602 therewith, in the discretion of the State Auditor, that such
1603 examination or audit be made from the report of any audit or other
1604 examination certified by a certified public accountant and
1605 prepared by or under the supervision of such certified public
1606 accountant. Such audits shall be made in accordance with
1607 generally accepted standards of auditing, with the use of an audit
1608 program prepared by the State Auditor, and final reports of such
1609 audits shall conform to the format prescribed by the State
1610 Auditor. All files, working papers, notes, correspondence and all
1611 other data compiled during the course of the audit shall be
1612 available, without cost, to the State Auditor for examination and
1613 abstracting during the normal business hours of any business day.
1614 The expense of such certified reports shall be borne by the
1615 respective hospital, or any available school district funds other
1616 than minimum program funds, subject to examination or audit. The
1617 State Auditor shall not be bound by such certified reports and
1618 may, in his or their discretion, conduct such examination or audit
1619 from the books, ledgers, accounts or other records involved as may
1620 be appropriate and authorized by law;

1621 (k) The State Auditor shall have the authority to
1622 contract with qualified public accounting firms to perform
1623 selected audits required in paragraphs (d), (e), (f) and (j) of
1624 this section, if funds are made available for such contracts by



1625 the Legislature, or if funds are available from the governmental
1626 entity covered by paragraphs (d), (e), (f) and (j). Such audits
1627 shall be made in accordance with generally accepted standards of
1628 auditing. All files, working papers, notes, correspondence and
1629 all other data compiled during the course of the audit shall be
1630 available, without cost, to the State Auditor for examination and
1631 abstracting during the normal business hours of any business day;

1632 (l) The State Auditor shall have the authority to
1633 establish training courses and programs for the personnel of the
1634 various state and local governmental entities under the
1635 jurisdiction of the Office of the State Auditor. The training
1636 courses and programs shall include, but not be limited to, topics
1637 on internal control of funds, property and equipment control and
1638 inventory, governmental accounting and financial reporting, and
1639 internal auditing. The State Auditor is authorized to charge a
1640 fee from the participants of these courses and programs, which fee
1641 shall be deposited into the Department of Audit Special Fund.
1642 State and local governmental entities are authorized to pay such
1643 fee and any travel expenses out of their general funds or any
1644 other available funds from which such payment is not prohibited by
1645 law;

1646 (m) Upon written request by the Governor or any member
1647 of the State Legislature, the State Auditor may audit any state
1648 funds and/or state and federal funds received by any nonprofit
1649 corporation incorporated under the laws of this state;



1650 (n) To conduct performance audits of personal or
1651 professional service contracts by state agencies on a random
1652 sampling basis, or upon request of the State Personal Service
1653 Contract Review Board under Section 25-9-120(3); * * *

1654 (o) At the discretion of the State Auditor, the Auditor
1655 may conduct risk assessments, as well as performance and
1656 compliance audits based on Generally Accepted Government Auditing
1657 Standards (GAGAS) of any state-funded economic development program
1658 authorized under Title 57, Mississippi Code of 1972. After risk
1659 assessments or program audits, the State Auditor may conduct
1660 audits of those projects deemed high-risk, specifically as they
1661 identify any potential wrongdoing or noncompliance based on
1662 objectives of the economic development program. The Auditor is
1663 granted authority to gather, audit and review data and information
1664 from the Mississippi Development Authority or any of its agents,
1665 the Department of Revenue, and when necessary under this
1666 paragraph, the recipient business or businesses or any other
1667 private, public or nonprofit entity with information relevant to
1668 the audit project. The maximum amount the State Auditor may bill
1669 the oversight agency under this paragraph in any fiscal year is
1670 One Hundred Thousand Dollars (\$100,000.00), based on reasonable
1671 and necessary expenses * * *;

1672 (p) To review and approve any independent auditor
1673 selected by the Mississippi Lottery Corporation in accordance with



1674 Section 45 of this act, to conduct an annual audit of the
1675 corporation; and

1676 (q) To conduct audits or investigations of the
1677 Mississippi Lottery Corporation if in the opinion of the State
1678 Auditor conditions justify such audits or investigations.

1679 **SECTION 48.** Section 25-9-107, Mississippi Code of 1972, is
1680 amended as follows:

1681 25-9-107. The following terms, when used in this chapter,
1682 unless a different meaning is plainly required by the context,
1683 shall have the following meanings:

1684 (a) "Board" means the State Personnel Board created
1685 under the provisions of this chapter.

1686 (b) "State service" means all employees of state
1687 departments, agencies and institutions as defined herein, except
1688 those officers and employees excluded by this chapter.

1689 (c) "Nonstate service" means the following officers and
1690 employees excluded from the state service by this chapter. The
1691 following are excluded from the state service:

1692 (i) Members of the State Legislature, their staff
1693 and other employees of the legislative branch;

1694 (ii) The Governor and staff members of the
1695 immediate Office of the Governor;

1696 (iii) Justices and judges of the judicial branch
1697 or members of appeals boards on a per diem basis;



1698 (iv) The Lieutenant Governor, staff members of the
1699 immediate Office of the Lieutenant Governor and officers and
1700 employees directly appointed by the Lieutenant Governor;

1701 (v) Officers and officials elected by popular vote
1702 and persons appointed to fill vacancies in elective offices;

1703 (vi) Members of boards and commissioners appointed
1704 by the Governor, Lieutenant Governor or the State Legislature;

1705 (vii) All academic officials, members of the
1706 teaching staffs and employees of the state institutions of higher
1707 learning, the Mississippi Community College Board, and community
1708 and junior colleges;

1709 (viii) Officers and enlisted members of the
1710 National Guard of the state;

1711 (ix) Prisoners, inmates, student or patient help
1712 working in or about institutions;

1713 (x) Contract personnel; provided, that any agency
1714 which employs state service employees may enter into contracts for
1715 personal and professional services only if such contracts are
1716 approved in compliance with the rules and regulations promulgated
1717 by the State Personal Service Contract Review Board under Section
1718 25-9-120(3). Before paying any warrant for such contractual
1719 services in excess of One Hundred Thousand Dollars (\$100,000.00),
1720 the Auditor of Public Accounts, or the successor to those duties,
1721 shall determine whether the contract involved was for personal or



1722 professional services, and, if so, was approved by the State
1723 Personal Service Contract Review Board;

1724 (xi) Part-time employees; provided, however,
1725 part-time employees shall only be hired into authorized employment
1726 positions classified by the board, shall meet minimum
1727 qualifications as set by the board, and shall be paid in
1728 accordance with the Variable Compensation Plan as certified by the
1729 board;

1730 (xii) Persons appointed on an emergency basis for
1731 the duration of the emergency; the effective date of the emergency
1732 appointments shall not be earlier than the date approved by the
1733 State Personnel Director, and shall be limited to thirty (30)
1734 working days. Emergency appointments may be extended to sixty
1735 (60) working days by the State Personnel Board;

1736 (xiii) Physicians, dentists, veterinarians, nurse
1737 practitioners and attorneys, while serving in their professional
1738 capacities in authorized employment positions who are required by
1739 statute to be licensed, registered or otherwise certified as such,
1740 provided that the State Personnel Director shall verify that the
1741 statutory qualifications are met prior to issuance of a payroll
1742 warrant by the Auditor;

1743 (xiv) Personnel who are employed and paid from
1744 funds received from a federal grant program which has been
1745 approved by the Legislature or the Department of Finance and
1746 Administration whose length of employment has been determined to



1747 be time-limited in nature. This subparagraph shall apply to
1748 personnel employed under the provisions of the Comprehensive
1749 Employment and Training Act of 1973, as amended, and other special
1750 federal grant programs which are not a part of regular federally
1751 funded programs wherein appropriations and employment positions
1752 are appropriated by the Legislature. Such employees shall be paid
1753 in accordance with the Variable Compensation Plan and shall meet
1754 all qualifications required by federal statutes or by the
1755 Mississippi Classification Plan;

1756 (xv) The administrative head who is in charge of
1757 any state department, agency, institution, board or commission,
1758 wherein the statute specifically authorizes the Governor, board,
1759 commission or other authority to appoint said administrative head;
1760 provided, however, that the salary of such administrative head
1761 shall be determined by the State Personnel Board in accordance
1762 with the Variable Compensation Plan unless otherwise fixed by
1763 statute;

1764 (xvi) The State Personnel Board shall exclude
1765 top-level positions if the incumbents determine and publicly
1766 advocate substantive program policy and report directly to the
1767 agency head, or the incumbents are required to maintain a direct
1768 confidential working relationship with a key excluded official.
1769 Provided further, a written job classification shall be approved
1770 by the board for each such position, and positions so excluded
1771 shall be paid in conformity with the Variable Compensation Plan;



1772 (xvii) Employees whose employment is solely in
1773 connection with an agency's contract to produce, store or
1774 transport goods, and whose compensation is derived therefrom;

1775 (xviii) Repealed;

1776 (xix) The associate director, deputy directors and
1777 bureau directors within the Department of Agriculture and
1778 Commerce;

1779 (xx) Personnel employed by the Mississippi
1780 Industries for the Blind; provided, that any agency may enter into
1781 contracts for the personal services of MIB employees without the
1782 prior approval of the State Personnel Board or the State Personal
1783 Service Contract Review Board; however, any agency contracting for
1784 the personal services of an MIB employee shall provide the MIB
1785 employee with not less than the entry-level compensation and
1786 benefits that the agency would provide to a full-time employee of
1787 the agency who performs the same services;

1788 (xxi) Personnel employed by the Mississippi
1789 Department of Wildlife, Fisheries and Parks and the Mississippi
1790 Department of Marine Resources as law enforcement trainees
1791 (cadets); such personnel shall be paid in accordance with the
1792 Colonel Guy Groff State Variable Compensation Plan * * *;

1793 (xxii) The President of the Mississippi Lottery
1794 Corporation and personnel employed by the Mississippi Lottery
1795 Corporation.



1796 (d) "Agency" means any state board, commission,
1797 committee, council, department or unit thereof created by the
1798 Constitution or statutes if such board, commission, committee,
1799 council, department, unit or the head thereof, is authorized to
1800 appoint subordinate staff by the Constitution or statute, except a
1801 legislative or judicial board, commission, committee, council,
1802 department or unit thereof.

1803 **SECTION 49.** Section 25-11-103, Mississippi Code of 1972, is
1804 amended as follows:

1805 25-11-103. (1) The following words and phrases as used in
1806 Articles 1 and 3, unless a different meaning is plainly required
1807 by the context, have the following meanings:

1808 (a) "Accumulated contributions" means the sum of all
1809 the amounts deducted from the compensation of a member and
1810 credited to his or her individual account in the annuity savings
1811 account, together with regular interest as provided in Section
1812 25-11-123.

1813 (b) "Actuarial cost" means the amount of funds
1814 presently required to provide future benefits as determined by the
1815 board based on applicable tables and formulas provided by the
1816 actuary.

1817 (c) "Actuarial equivalent" means a benefit of equal
1818 value to the accumulated contributions, annuity or benefit, as the
1819 case may be, when computed upon the basis of such mortality tables
1820 as adopted by the board of trustees, and regular interest.



1821 (d) "Actuarial tables" means such tables of mortality
1822 and rates of interest as adopted by the board in accordance with
1823 the recommendation of the actuary.

1824 (e) "Agency" means any governmental body employing
1825 persons in the state service.

1826 (f) "Average compensation" means the average of the
1827 four (4) highest years of earned compensation reported for an
1828 employee in a fiscal or calendar year period, or combination
1829 thereof that do not overlap, or the last forty-eight (48)
1830 consecutive months of earned compensation reported for an
1831 employee. The four (4) years need not be successive or joined
1832 years of service. In computing the average compensation for
1833 retirement, disability or survivor benefits, any amount lawfully
1834 paid in a lump sum for personal leave or major medical leave shall
1835 be included in the calculation to the extent that the amount does
1836 not exceed an amount that is equal to thirty (30) days of earned
1837 compensation and to the extent that it does not cause the
1838 employee's earned compensation to exceed the maximum reportable
1839 amount specified in paragraph (k) of this section; however, this
1840 thirty-day limitation shall not prevent the inclusion in the
1841 calculation of leave earned under federal regulations before July
1842 1, 1976, and frozen as of that date as referred to in Section
1843 25-3-99. In computing the average compensation, no amounts shall
1844 be used that are in excess of the amount on which contributions
1845 were required and paid, and no nontaxable amounts paid by the



1846 employer for health or life insurance premiums for the employee
1847 shall be used. If any member who is or has been granted any
1848 increase in annual salary or compensation of more than eight
1849 percent (8%) retires within twenty-four (24) months from the date
1850 that the increase becomes effective, then the board shall exclude
1851 that part of the increase in salary or compensation that exceeds
1852 eight percent (8%) in calculating that member's average
1853 compensation for retirement purposes. The board may enforce this
1854 provision by rule or regulation. However, increases in
1855 compensation in excess of eight percent (8%) per year granted
1856 within twenty-four (24) months of the date of retirement may be
1857 included in the calculation of average compensation if
1858 satisfactory proof is presented to the board showing that the
1859 increase in compensation was the result of an actual change in the
1860 position held or services rendered, or that the compensation
1861 increase was authorized by the State Personnel Board or was
1862 increased as a result of statutory enactment, and the employer
1863 furnishes an affidavit stating that the increase granted within
1864 the last twenty-four (24) months was not contingent on a promise
1865 or agreement of the employee to retire. Nothing in Section
1866 25-3-31 shall affect the calculation of the average compensation
1867 of any member for the purposes of this article. The average
1868 compensation of any member who retires before July 1, 1992, shall
1869 not exceed the annual salary of the Governor.



1870 (g) "Beneficiary" means any person entitled to receive
1871 a retirement allowance, an annuity or other benefit as provided by
1872 Articles 1 and 3. The term "beneficiary" may also include an
1873 organization, estate, trust or entity; however, a beneficiary
1874 designated or entitled to receive monthly payments under an
1875 optional settlement based on life contingency or under a statutory
1876 monthly benefit may only be a natural person. In the event of the
1877 death before retirement of any member who became a member of the
1878 system before July 1, 2007, and whose spouse and/or children are
1879 not entitled to a retirement allowance on the basis that the
1880 member has less than four (4) years of membership service credit,
1881 or who became a member of the system on or after July 1, 2007, and
1882 whose spouse and/or children are not entitled to a retirement
1883 allowance on the basis that the member has less than eight (8)
1884 years of membership service credit, and/or has not been married
1885 for a minimum of one (1) year or the spouse has waived his or her
1886 entitlement to a retirement allowance under Section 25-11-114, the
1887 lawful spouse of a member at the time of the death of the member
1888 shall be the beneficiary of the member unless the member has
1889 designated another beneficiary after the date of marriage in
1890 writing, and filed that writing in the office of the executive
1891 director of the board of trustees. No designation or change of
1892 beneficiary shall be made in any other manner.



1893 (h) "Board" means the board of trustees provided in
1894 Section 25-11-15 to administer the retirement system created under
1895 this article.

1896 (i) "Creditable service" means "prior service,"
1897 "retroactive service" and all lawfully credited unused leave not
1898 exceeding the accrual rates and limitations provided in Section
1899 25-3-91 et seq., as of the date of withdrawal from service plus
1900 "membership service" and other service for which credit is
1901 allowable as provided in Section 25-11-109. Except to limit
1902 creditable service reported to the system for the purpose of
1903 computing an employee's retirement allowance or annuity or
1904 benefits provided in this article, nothing in this paragraph shall
1905 limit or otherwise restrict the power of the governing authority
1906 of a municipality or other political subdivision of the state to
1907 adopt such vacation and sick leave policies as it deems necessary.

1908 (j) "Child" means either a natural child of the member,
1909 a child that has been made a child of the member by applicable
1910 court action before the death of the member, or a child under the
1911 permanent care of the member at the time of the latter's death,
1912 which permanent care status shall be determined by evidence
1913 satisfactory to the board. For purposes of this paragraph, a
1914 natural child of the member is a child of the member that is
1915 conceived before the death of the member.

1916 (k) "Earned compensation" means the full amount earned
1917 during a fiscal year by an employee not to exceed the employee



1918 compensation limit set pursuant to Section 401(a) (17) of the
1919 Internal Revenue Code for the calendar year in which the fiscal
1920 year begins and proportionately for less than one (1) year of
1921 service. Except as otherwise provided in this paragraph, the
1922 value of maintenance furnished to an employee shall not be
1923 included in earned compensation. Earned compensation shall not
1924 include any amounts paid by the employer for health or life
1925 insurance premiums for an employee. Earned compensation shall be
1926 limited to the regular periodic compensation paid, exclusive of
1927 litigation fees, bond fees, performance-based incentive payments,
1928 and other similar extraordinary nonrecurring payments. In
1929 addition, any member in a covered position, as defined by Public
1930 Employees' Retirement System laws and regulations, who is also
1931 employed by another covered agency or political subdivision shall
1932 have the earnings of that additional employment reported to the
1933 Public Employees' Retirement System regardless of whether the
1934 additional employment is sufficient in itself to be a covered
1935 position. In addition, computation of earned compensation shall
1936 be governed by the following:

1937 (i) In the case of constables, the net earnings
1938 from their office after deduction of expenses shall apply, except
1939 that in no case shall earned compensation be less than the total
1940 direct payments made by the state or governmental subdivisions to
1941 the official.



1942 (ii) In the case of chancery or circuit clerks,
1943 the net earnings from their office after deduction of expenses
1944 shall apply as expressed in Section 25-11-123(f) (4).

1945 (iii) In the case of members of the State
1946 Legislature, all remuneration or amounts paid, except mileage
1947 allowance, shall apply.

1948 (iv) The amount by which an eligible employee's
1949 salary is reduced under a salary reduction agreement authorized
1950 under Section 25-17-5 shall be included as earned compensation
1951 under this paragraph, provided this inclusion does not conflict
1952 with federal law, including federal regulations and federal
1953 administrative interpretations under the federal law, pertaining
1954 to the Federal Insurance Contributions Act or to Internal Revenue
1955 Code Section 125 cafeteria plans.

1956 (v) Compensation in addition to an employee's base
1957 salary that is paid to the employee under the vacation and sick
1958 leave policies of a municipality or other political subdivision of
1959 the state that employs him or her that exceeds the maximums
1960 authorized by Section 25-3-91 et seq. shall be excluded from the
1961 calculation of earned compensation under this article.

1962 (vi) The maximum salary applicable for retirement
1963 purposes before July 1, 1992, shall be the salary of the Governor.

1964 (vii) Nothing in Section 25-3-31 shall affect the
1965 determination of the earned compensation of any member for the
1966 purposes of this article.



1967 (viii) The value of maintenance furnished to an
1968 employee before July 1, 2013, for which the proper amount of
1969 employer and employee contributions have been paid, shall be
1970 included in earned compensation. From and after July 1, 2013, the
1971 value of maintenance furnished to an employee shall be reported as
1972 earned compensation only if the proper amount of employer and
1973 employee contributions have been paid on the maintenance and the
1974 employee was receiving maintenance and having maintenance reported
1975 to the system as of June 30, 2013. The value of maintenance when
1976 not paid in money shall be fixed by the employing state agency,
1977 and, in case of doubt, by the board of trustees as defined in
1978 Section 25-11-15.

1979 (ix) Except as otherwise provided in this
1980 paragraph, the value of any in-kind benefits provided by the
1981 employer shall not be included in earned compensation. As used in
1982 this subparagraph, "in-kind benefits" shall include, but not be
1983 limited to, group life insurance premiums, health or dental
1984 insurance premiums, nonpaid major medical and personal leave,
1985 employer contributions for social security and retirement, tuition
1986 reimbursement or educational funding, day care or transportation
1987 benefits.

1988 (1) "Employee" means any person legally occupying a
1989 position in the state service, and shall include the employees of
1990 the retirement system created under this article.



1991 (m) "Employer" means the State of Mississippi or any of
1992 its departments, agencies or subdivisions from which any employee
1993 receives his or her compensation.

1994 (n) "Executive director" means the secretary to the
1995 board of trustees, as provided in Section 25-11-15(9), and the
1996 administrator of the Public Employees' Retirement System and all
1997 systems under the management of the board of trustees. Wherever
1998 the term "Executive Secretary of the Public Employees' Retirement
1999 System" or "executive secretary" appears in this article or in any
2000 other provision of law, it shall be construed to mean the
2001 Executive Director of the Public Employees' Retirement System.

2002 (o) "Fiscal year" means the period beginning on July 1
2003 of any year and ending on June 30 of the next succeeding year.

2004 (p) "Medical board" means the board of physicians or
2005 any governmental or nongovernmental disability determination
2006 service designated by the board of trustees that is qualified to
2007 make disability determinations as provided for in Section
2008 25-11-119.

2009 (q) "Member" means any person included in the
2010 membership of the system as provided in Section 25-11-105. For
2011 purposes of Sections 25-11-103, 25-11-105, 25-11-109, 25-11-111,
2012 25-11-113, 25-11-114, 25-11-115 and 25-11-117, if a member of the
2013 system withdrew from state service and received a refund of the
2014 amount of the accumulated contributions to the credit of the
2015 member in the annuity savings account before July 1, 2007, and the



2016 person reenters state service and becomes a member of the system
2017 again on or after July 1, 2007, and repays all or part of the
2018 amount received as a refund and interest in order to receive
2019 creditable service for service rendered before July 1, 2007, the
2020 member shall be considered to have become a member of the system
2021 on or after July 1, 2007, subject to the eight-year membership
2022 service requirement, as applicable in those sections. For
2023 purposes of Sections 25-11-103, 25-11-111, 25-11-114 and
2024 25-11-115, if a member of the system withdrew from state service
2025 and received a refund of the amount of the accumulated
2026 contributions to the credit of the member in the annuity savings
2027 account before July 1, 2011, and the person reenters state service
2028 and becomes a member of the system again on or after July 1, 2011,
2029 and repays all or part of the amount received as a refund and
2030 interest in order to receive creditable service for service
2031 rendered before July 1, 2011, the member shall be considered to
2032 have become a member of the system on or after July 1, 2011.

2033 (r) "Membership service" means service as an employee
2034 in a covered position rendered while a contributing member of the
2035 retirement system.

2036 (s) "Position" means any office or any employment in
2037 the state service, or two (2) or more of them, the duties of which
2038 call for services to be rendered by one (1) person, including
2039 positions jointly employed by federal and state agencies
2040 administering federal and state funds. The employer shall



2041 determine upon initial employment and during the course of
2042 employment of an employee who does not meet the criteria for
2043 coverage in the Public Employees' Retirement System based on the
2044 position held, whether the employee is or becomes eligible for
2045 coverage in the Public Employees' Retirement System based upon any
2046 other employment in a covered agency or political subdivision. If
2047 or when the employee meets the eligibility criteria for coverage
2048 in the other position, then the employer must withhold
2049 contributions and report wages from the noncovered position in
2050 accordance with the provisions for reporting of earned
2051 compensation. Failure to deduct and report those contributions
2052 shall not relieve the employee or employer of liability thereof.
2053 The board shall adopt such rules and regulations as necessary to
2054 implement and enforce this provision.

2055 (t) "Prior service" means:

2056 (i) For persons who became members of the system
2057 before July 1, 2007, service rendered before February 1, 1953, for
2058 which credit is allowable under Sections 25-11-105 and 25-11-109,
2059 and which shall allow prior service for any person who is now or
2060 becomes a member of the Public Employees' Retirement System and
2061 who does contribute to the system for a minimum period of four (4)
2062 years.

2063 (ii) For persons who became members of the system
2064 on or after July 1, 2007, service rendered before February 1,
2065 1953, for which credit is allowable under Sections 25-11-105 and



2066 25-11-109, and which shall allow prior service for any person who
2067 is now or becomes a member of the Public Employees' Retirement
2068 System and who does contribute to the system for a minimum period
2069 of eight (8) years.

2070 (u) "Regular interest" means interest compounded
2071 annually at such a rate as determined by the board in accordance
2072 with Section 25-11-121.

2073 (v) "Retirement allowance" means an annuity for life as
2074 provided in this article, payable each year in twelve (12) equal
2075 monthly installments beginning as of the date fixed by the board.
2076 The retirement allowance shall be calculated in accordance with
2077 Section 25-11-111. However, any spouse who received a spouse
2078 retirement benefit in accordance with Section 25-11-111(d) before
2079 March 31, 1971, and those benefits were terminated because of
2080 eligibility for a social security benefit, may again receive his
2081 or her spouse retirement benefit from and after making application
2082 with the board of trustees to reinstate the spouse retirement
2083 benefit.

2084 (w) "Retroactive service" means service rendered after
2085 February 1, 1953, for which credit is allowable under Section
2086 25-11-105(b) and Section 25-11-105(k).

2087 (x) "System" means the Public Employees' Retirement
2088 System of Mississippi established and described in Section
2089 25-11-101.



2090 (y) "State" means the State of Mississippi or any
2091 political subdivision thereof or instrumentality of the state.

2092 (z) "State service" means all offices and positions of
2093 trust or employment in the employ of the state, or any political
2094 subdivision or instrumentality of the state, that elect to
2095 participate as provided by Section 25-11-105(f), including the
2096 position of elected or fee officials of the counties and their
2097 deputies and employees performing public services or any
2098 department, independent agency, board or commission thereof, and
2099 also includes all offices and positions of trust or employment in
2100 the employ of joint state and federal agencies administering state
2101 and federal funds and service rendered by employees of the public
2102 schools. Effective July 1, 1973, all nonprofessional public
2103 school employees, such as bus drivers, janitors, maids,
2104 maintenance workers and cafeteria employees, shall have the option
2105 to become members in accordance with Section 25-11-105(b), and
2106 shall be eligible to receive credit for services before July 1,
2107 1973, provided that the contributions and interest are paid by the
2108 employee in accordance with that section; in addition, the county
2109 or municipal separate school district may pay the employer
2110 contribution and pro rata share of interest of the retroactive
2111 service from available funds. "State service" shall not include
2112 the President of the Mississippi Lottery Corporation and personnel
2113 employed by the Mississippi Lottery Corporation. From and after



2114 July 1, 1998, retroactive service credit shall be purchased at the
2115 actuarial cost in accordance with Section 25-11-105(b).

2116 (aa) "Withdrawal from service" or "termination from
2117 service" means complete severance of employment in the state
2118 service of any member by resignation, dismissal or discharge.

2119 (bb) The masculine pronoun, wherever used, includes the
2120 feminine pronoun.

2121 (2) For purposes of this article, the term "political
2122 subdivision" shall have the meaning ascribed to such term in
2123 Section 25-11-5 and shall also include public charter schools.

2124 **SECTION 50.** Section 25-41-3, Mississippi Code of 1972, is
2125 amended as follows:

2126 25-41-3. For purposes of this chapter, the following words
2127 shall have the meaning ascribed herein, to wit:

2128 (a) "Public body" means any executive or administrative
2129 board, commission, authority, council, department, agency, bureau
2130 or any other policymaking entity, or committee thereof, of the
2131 State of Mississippi, or any political subdivision or municipal
2132 corporation of the state, whether the entity be created by statute
2133 or executive order, which is supported wholly or in part by public
2134 funds or expends public funds, and any standing, interim or
2135 special committee of the Mississippi Legislature. The term
2136 "public body" includes the governing board of a charter school
2137 authorized by the Mississippi Charter School Authorizer Board and
2138 the board of trustees of a community hospital as defined in



2139 Section 41-13-10. There shall be exempted from the provisions of
2140 this chapter:

2141 (i) The judiciary, including all jury
2142 deliberations;

2143 (ii) Law enforcement officials;

2144 (iii) The military;

2145 (iv) The State Probation and Parole Board;

2146 (v) The Workers' Compensation Commission;

2147 (vi) Legislative subcommittees and legislative
2148 conference committees;

2149 (vii) The arbitration council established in
2150 Section 69-3-19;

2151 (viii) License revocation, suspension and
2152 disciplinary proceedings held by the Mississippi State Board of
2153 Dental Examiners; * * *

2154 (ix) Hearings and meetings of the Board of Tax
2155 Appeals and of the hearing officers and the board of review of the
2156 Department of Revenue as provided in Section 27-77-15 * * *; and

2157 (x) The Mississippi Lottery Corporation.

2158 (b) "Meeting" means an assemblage of members of a
2159 public body at which official acts may be taken upon a matter over
2160 which the public body has supervision, control, jurisdiction or
2161 advisory power, including an assemblage through the use of video
2162 or teleconference devices that conforms to Section 25-41-5.



2163 **SECTION 51.** Section 31-7-13, Mississippi Code of 1972, is
2164 amended as follows:

2165 31-7-13. All agencies and governing authorities shall
2166 purchase their commodities and printing; contract for garbage
2167 collection or disposal; contract for solid waste collection or
2168 disposal; contract for sewage collection or disposal; contract for
2169 public construction; and contract for rentals as herein provided.

2170 (a) **Bidding procedure for purchases not over \$5,000.00.**

2171 Purchases which do not involve an expenditure of more than Five
2172 Thousand Dollars (\$5,000.00), exclusive of freight or shipping
2173 charges, may be made without advertising or otherwise requesting
2174 competitive bids. However, nothing contained in this paragraph
2175 (a) shall be construed to prohibit any agency or governing
2176 authority from establishing procedures which require competitive
2177 bids on purchases of Five Thousand Dollars (\$5,000.00) or less.

2178 (b) **Bidding procedure for purchases over \$5,000.00 but**

2179 **not over \$50,000.00.** Purchases which involve an expenditure of
2180 more than Five Thousand Dollars (\$5,000.00) but not more than
2181 Fifty Thousand Dollars (\$50,000.00), exclusive of freight and
2182 shipping charges, may be made from the lowest and best bidder
2183 without publishing or posting advertisement for bids, provided at
2184 least two (2) competitive written bids have been obtained. Any
2185 state agency or community/junior college purchasing commodities or
2186 procuring construction pursuant to this paragraph (b) may
2187 authorize its purchasing agent, or his designee, to accept the



2188 lowest competitive written bid under Fifty Thousand Dollars
2189 (\$50,000.00). Any governing authority purchasing commodities
2190 pursuant to this paragraph (b) may authorize its purchasing agent,
2191 or his designee, with regard to governing authorities other than
2192 counties, or its purchase clerk, or his designee, with regard to
2193 counties, to accept the lowest and best competitive written bid.
2194 Such authorization shall be made in writing by the governing
2195 authority and shall be maintained on file in the primary office of
2196 the agency and recorded in the official minutes of the governing
2197 authority, as appropriate. The purchasing agent or the purchase
2198 clerk, or their designee, as the case may be, and not the
2199 governing authority, shall be liable for any penalties and/or
2200 damages as may be imposed by law for any act or omission of the
2201 purchasing agent or purchase clerk, or their designee,
2202 constituting a violation of law in accepting any bid without
2203 approval by the governing authority. The term "competitive
2204 written bid" shall mean a bid submitted on a bid form furnished by
2205 the buying agency or governing authority and signed by authorized
2206 personnel representing the vendor, or a bid submitted on a
2207 vendor's letterhead or identifiable bid form and signed by
2208 authorized personnel representing the vendor. "Competitive" shall
2209 mean that the bids are developed based upon comparable
2210 identification of the needs and are developed independently and
2211 without knowledge of other bids or prospective bids. Any bid item
2212 for construction in excess of Five Thousand Dollars (\$5,000.00)



2213 shall be broken down by components to provide detail of component
2214 description and pricing. These details shall be submitted with
2215 the written bids and become part of the bid evaluation criteria.
2216 Bids may be submitted by facsimile, electronic mail or other
2217 generally accepted method of information distribution. Bids
2218 submitted by electronic transmission shall not require the
2219 signature of the vendor's representative unless required by
2220 agencies or governing authorities.

2221 (c) **Bidding procedure for purchases over \$50,000.00.**

2222 (i) **Publication requirement.**

2223 1. Purchases which involve an expenditure of
2224 more than Fifty Thousand Dollars (\$50,000.00), exclusive of
2225 freight and shipping charges, may be made from the lowest and best
2226 bidder after advertising for competitive bids once each week for
2227 two (2) consecutive weeks in a regular newspaper published in the
2228 county or municipality in which such agency or governing authority
2229 is located. However, all American Recovery and Reinvestment Act
2230 projects in excess of Twenty-five Thousand Dollars (\$25,000.00)
2231 shall be bid. All references to American Recovery and
2232 Reinvestment Act projects in this section shall not apply to
2233 programs identified in Division B of the American Recovery and
2234 Reinvestment Act.

2235 2. Reverse auctions shall be the primary
2236 method for receiving bids during the bidding process. If a
2237 purchasing entity determines that a reverse auction is not in the



2238 best interest of the state, then that determination must be
2239 approved by the Public Procurement Review Board. The purchasing
2240 entity shall submit a detailed explanation of why a reverse
2241 auction would not be in the best interest of the state and present
2242 an alternative process to be approved by the Public Procurement
2243 Review Board. If the Public Procurement Review Board authorizes
2244 the purchasing entity to solicit bids with a method other than
2245 reverse auction, then the purchasing entity may designate the
2246 other methods by which the bids will be received, including, but
2247 not limited to, bids sealed in an envelope, bids received
2248 electronically in a secure system, or bids received by any other
2249 method that promotes open competition and has been approved by the
2250 Office of Purchasing and Travel. However, reverse auction shall
2251 not be used for any public contract for design or construction of
2252 public facilities, including buildings, roads and bridges. The
2253 Public Procurement Review Board must approve any contract entered
2254 into by alternative process. The provisions of this item 2 shall
2255 not apply to the individual state institutions of higher learning.

2256 3. The date as published for the bid opening
2257 shall not be less than seven (7) working days after the last
2258 published notice; however, if the purchase involves a construction
2259 project in which the estimated cost is in excess of Fifty Thousand
2260 Dollars (\$50,000.00), such bids shall not be opened in less than
2261 fifteen (15) working days after the last notice is published and
2262 the notice for the purchase of such construction shall be



2263 published once each week for two (2) consecutive weeks. However,
2264 all American Recovery and Reinvestment Act projects in excess of
2265 Twenty-five Thousand Dollars (\$25,000.00) shall be bid. For any
2266 projects in excess of Twenty-five Thousand Dollars (\$25,000.00)
2267 under the American Recovery and Reinvestment Act, publication
2268 shall be made one (1) time and the bid opening for construction
2269 projects shall not be less than ten (10) working days after the
2270 date of the published notice. The notice of intention to let
2271 contracts or purchase equipment shall state the time and place at
2272 which bids shall be received, list the contracts to be made or
2273 types of equipment or supplies to be purchased, and, if all plans
2274 and/or specifications are not published, refer to the plans and/or
2275 specifications on file. If there is no newspaper published in the
2276 county or municipality, then such notice shall be given by posting
2277 same at the courthouse, or for municipalities at the city hall,
2278 and at two (2) other public places in the county or municipality,
2279 and also by publication once each week for two (2) consecutive
2280 weeks in some newspaper having a general circulation in the county
2281 or municipality in the above-provided manner. On the same date
2282 that the notice is submitted to the newspaper for publication, the
2283 agency or governing authority involved shall mail written notice
2284 to, or provide electronic notification to the main office of the
2285 Mississippi Procurement Technical Assistance Program under the
2286 Mississippi Development Authority that contains the same
2287 information as that in the published notice. Submissions received



2288 by the Mississippi Procurement Technical Assistance Program for
2289 projects funded by the American Recovery and Reinvestment Act
2290 shall be displayed on a separate and unique Internet web page
2291 accessible to the public and maintained by the Mississippi
2292 Development Authority for the Mississippi Procurement Technical
2293 Assistance Program. Those American Recovery and Reinvestment Act
2294 related submissions shall be publicly posted within twenty-four
2295 (24) hours of receipt by the Mississippi Development Authority and
2296 the bid opening shall not occur until the submission has been
2297 posted for ten (10) consecutive days. The Department of Finance
2298 and Administration shall maintain information regarding contracts
2299 and other expenditures from the American Recovery and Reinvestment
2300 Act, on a unique Internet web page accessible to the public. The
2301 Department of Finance and Administration shall promulgate rules
2302 regarding format, content and deadlines, unless otherwise
2303 specified by law, of the posting of award notices, contract
2304 execution and subsequent amendments, links to the contract
2305 documents, expenditures against the awarded contracts and general
2306 expenditures of funds from the American Recovery and Reinvestment
2307 Act. Within one (1) working day of the contract award, the agency
2308 or governing authority shall post to the designated web page
2309 maintained by the Department of Finance and Administration, notice
2310 of the award, including the award recipient, the contract amount,
2311 and a brief summary of the contract in accordance with rules
2312 promulgated by the department. Within one (1) working day of the



2313 contract execution, the agency or governing authority shall post
2314 to the designated web page maintained by the Department of Finance
2315 and Administration a summary of the executed contract and make a
2316 copy of the appropriately redacted contract documents available
2317 for linking to the designated web page in accordance with the
2318 rules promulgated by the department. The information provided by
2319 the agency or governing authority shall be posted to the web page
2320 for the duration of the American Recovery and Reinvestment Act
2321 funding or until the project is completed, whichever is longer.

2322 (ii) **Bidding process amendment procedure.** If all
2323 plans and/or specifications are published in the notification,
2324 then the plans and/or specifications may not be amended. If all
2325 plans and/or specifications are not published in the notification,
2326 then amendments to the plans/specifications, bid opening date, bid
2327 opening time and place may be made, provided that the agency or
2328 governing authority maintains a list of all prospective bidders
2329 who are known to have received a copy of the bid documents and all
2330 such prospective bidders are sent copies of all amendments. This
2331 notification of amendments may be made via mail, facsimile,
2332 electronic mail or other generally accepted method of information
2333 distribution. No addendum to bid specifications may be issued
2334 within two (2) working days of the time established for the
2335 receipt of bids unless such addendum also amends the bid opening
2336 to a date not less than five (5) working days after the date of
2337 the addendum.



2338 (iii) **Filing requirement.** In all cases involving
2339 governing authorities, before the notice shall be published or
2340 posted, the plans or specifications for the construction or
2341 equipment being sought shall be filed with the clerk of the board
2342 of the governing authority. In addition to these requirements, a
2343 bid file shall be established which shall indicate those vendors
2344 to whom such solicitations and specifications were issued, and
2345 such file shall also contain such information as is pertinent to
2346 the bid.

2347 (iv) **Specification restrictions.**

2348 1. Specifications pertinent to such bidding
2349 shall be written so as not to exclude comparable equipment of
2350 domestic manufacture. However, if valid justification is
2351 presented, the Department of Finance and Administration or the
2352 board of a governing authority may approve a request for specific
2353 equipment necessary to perform a specific job. Further, such
2354 justification, when placed on the minutes of the board of a
2355 governing authority, may serve as authority for that governing
2356 authority to write specifications to require a specific item of
2357 equipment needed to perform a specific job. In addition to these
2358 requirements, from and after July 1, 1990, vendors of relocatable
2359 classrooms and the specifications for the purchase of such
2360 relocatable classrooms published by local school boards shall meet
2361 all pertinent regulations of the State Board of Education,



2362 including prior approval of such bid by the State Department of
2363 Education.

2364 2. Specifications for construction projects
2365 may include an allowance for commodities, equipment, furniture,
2366 construction materials or systems in which prospective bidders are
2367 instructed to include in their bids specified amounts for such
2368 items so long as the allowance items are acquired by the vendor in
2369 a commercially reasonable manner and approved by the
2370 agency/governing authority. Such acquisitions shall not be made
2371 to circumvent the public purchasing laws.

2372 (v) **Electronic bids.** Agencies and governing
2373 authorities shall provide a secure electronic interactive system
2374 for the submittal of bids requiring competitive bidding that shall
2375 be an additional bidding option for those bidders who choose to
2376 submit their bids electronically. The Department of Finance and
2377 Administration shall provide, by regulation, the standards that
2378 agencies must follow when receiving electronic bids. Agencies and
2379 governing authorities shall make the appropriate provisions
2380 necessary to accept electronic bids from those bidders who choose
2381 to submit their bids electronically for all purchases requiring
2382 competitive bidding under this section. Any special condition or
2383 requirement for the electronic bid submission shall be specified
2384 in the advertisement for bids required by this section. Agencies
2385 or governing authorities that are currently without available high
2386 speed Internet access shall be exempt from the requirement of this



2387 subparagraph (v) until such time that high-speed Internet access
2388 becomes available. Any county having a population of less than
2389 twenty thousand (20,000) shall be exempt from the provisions of
2390 this subparagraph (v). Any municipality having a population of
2391 less than ten thousand (10,000) shall be exempt from the
2392 provisions of this subparagraph (v). The provisions of this
2393 subparagraph (v) shall not require any bidder to submit bids
2394 electronically. When construction bids are submitted
2395 electronically, the requirement for including a certificate of
2396 responsibility, or a statement that the bid enclosed does not
2397 exceed Fifty Thousand Dollars (\$50,000.00), on the exterior of the
2398 bid envelope as indicated in Section 31-3-21(1) and (2) shall be
2399 deemed in compliance with by including same as an attachment with
2400 the electronic bid submittal.

2401 (d) **Lowest and best bid decision procedure.**

2402 (i) **Decision procedure.** Purchases may be made
2403 from the lowest and best bidder. In determining the lowest and
2404 best bid, freight and shipping charges shall be included.
2405 Life-cycle costing, total cost bids, warranties, guaranteed
2406 buy-back provisions and other relevant provisions may be included
2407 in the best bid calculation. All best bid procedures for state
2408 agencies must be in compliance with regulations established by the
2409 Department of Finance and Administration. If any governing
2410 authority accepts a bid other than the lowest bid actually
2411 submitted, it shall place on its minutes detailed calculations and



2412 narrative summary showing that the accepted bid was determined to
2413 be the lowest and best bid, including the dollar amount of the
2414 accepted bid and the dollar amount of the lowest bid. No agency
2415 or governing authority shall accept a bid based on items not
2416 included in the specifications.

2417 (ii) **Decision procedure for Certified Purchasing**
2418 **Offices.** In addition to the decision procedure set forth in
2419 subparagraph (i) of this paragraph (d), Certified Purchasing
2420 Offices may also use the following procedure: Purchases may be
2421 made from the bidder offering the best value. In determining the
2422 best value bid, freight and shipping charges shall be included.
2423 Life-cycle costing, total cost bids, warranties, guaranteed
2424 buy-back provisions, documented previous experience, training
2425 costs and other relevant provisions, including, but not limited
2426 to, a bidder having a local office and inventory located within
2427 the jurisdiction of the governing authority, may be included in
2428 the best value calculation. This provision shall authorize
2429 Certified Purchasing Offices to utilize a Request For Proposals
2430 (RFP) process when purchasing commodities. All best value
2431 procedures for state agencies must be in compliance with
2432 regulations established by the Department of Finance and
2433 Administration. No agency or governing authority shall accept a
2434 bid based on items or criteria not included in the specifications.

2435 (iii) **Decision procedure for Mississippi**
2436 **Landmarks.** In addition to the decision procedure set forth in



2437 subparagraph (i) of this paragraph (d), where purchase involves
2438 renovation, restoration, or both, of the State Capitol Building or
2439 any other historical building designated for at least five (5)
2440 years as a Mississippi Landmark by the Board of Trustees of the
2441 Department of Archives and History under the authority of Sections
2442 39-7-7 and 39-7-11, the agency or governing authority may use the
2443 following procedure: Purchases may be made from the lowest and
2444 best prequalified bidder. Prequalification of bidders shall be
2445 determined not less than fifteen (15) working days before the
2446 first published notice of bid opening. Prequalification criteria
2447 shall be limited to bidder's knowledge and experience in
2448 historical restoration, preservation and renovation. In
2449 determining the lowest and best bid, freight and shipping charges
2450 shall be included. Life-cycle costing, total cost bids,
2451 warranties, guaranteed buy-back provisions and other relevant
2452 provisions may be included in the best bid calculation. All best
2453 bid and prequalification procedures for state agencies must be in
2454 compliance with regulations established by the Department of
2455 Finance and Administration. If any governing authority accepts a
2456 bid other than the lowest bid actually submitted, it shall place
2457 on its minutes detailed calculations and narrative summary showing
2458 that the accepted bid was determined to be the lowest and best
2459 bid, including the dollar amount of the accepted bid and the
2460 dollar amount of the lowest bid. No agency or governing authority



2461 shall accept a bid based on items not included in the
2462 specifications.

2463 (iv) **Construction project negotiations authority.**

2464 If the lowest and best bid is not more than ten percent (10%)
2465 above the amount of funds allocated for a public construction or
2466 renovation project, then the agency or governing authority shall
2467 be permitted to negotiate with the lowest bidder in order to enter
2468 into a contract for an amount not to exceed the funds allocated.

2469 (e) **Lease-purchase authorization.** For the purposes of
2470 this section, the term "equipment" shall mean equipment, furniture
2471 and, if applicable, associated software and other applicable
2472 direct costs associated with the acquisition. Any lease-purchase
2473 of equipment which an agency is not required to lease-purchase
2474 under the master lease-purchase program pursuant to Section
2475 31-7-10 and any lease-purchase of equipment which a governing
2476 authority elects to lease-purchase may be acquired by a
2477 lease-purchase agreement under this paragraph (e). Lease-purchase
2478 financing may also be obtained from the vendor or from a
2479 third-party source after having solicited and obtained at least
2480 two (2) written competitive bids, as defined in paragraph (b) of
2481 this section, for such financing without advertising for such
2482 bids. Solicitation for the bids for financing may occur before or
2483 after acceptance of bids for the purchase of such equipment or,
2484 where no such bids for purchase are required, at any time before
2485 the purchase thereof. No such lease-purchase agreement shall be



2486 for an annual rate of interest which is greater than the overall
2487 maximum interest rate to maturity on general obligation
2488 indebtedness permitted under Section 75-17-101, and the term of
2489 such lease-purchase agreement shall not exceed the useful life of
2490 equipment covered thereby as determined according to the upper
2491 limit of the asset depreciation range (ADR) guidelines for the
2492 Class Life Asset Depreciation Range System established by the
2493 Internal Revenue Service pursuant to the United States Internal
2494 Revenue Code and regulations thereunder as in effect on December
2495 31, 1980, or comparable depreciation guidelines with respect to
2496 any equipment not covered by ADR guidelines. Any lease-purchase
2497 agreement entered into pursuant to this paragraph (e) may contain
2498 any of the terms and conditions which a master lease-purchase
2499 agreement may contain under the provisions of Section 31-7-10(5),
2500 and shall contain an annual allocation dependency clause
2501 substantially similar to that set forth in Section 31-7-10(8).
2502 Each agency or governing authority entering into a lease-purchase
2503 transaction pursuant to this paragraph (e) shall maintain with
2504 respect to each such lease-purchase transaction the same
2505 information as required to be maintained by the Department of
2506 Finance and Administration pursuant to Section 31-7-10(13).
2507 However, nothing contained in this section shall be construed to
2508 permit agencies to acquire items of equipment with a total
2509 acquisition cost in the aggregate of less than Ten Thousand
2510 Dollars (\$10,000.00) by a single lease-purchase transaction. All



2511 equipment, and the purchase thereof by any lessor, acquired by
2512 lease-purchase under this paragraph and all lease-purchase
2513 payments with respect thereto shall be exempt from all Mississippi
2514 sales, use and ad valorem taxes. Interest paid on any
2515 lease-purchase agreement under this section shall be exempt from
2516 State of Mississippi income taxation.

2517 (f) **Alternate bid authorization.** When necessary to
2518 ensure ready availability of commodities for public works and the
2519 timely completion of public projects, no more than two (2)
2520 alternate bids may be accepted by a governing authority for
2521 commodities. No purchases may be made through use of such
2522 alternate bids procedure unless the lowest and best bidder cannot
2523 deliver the commodities contained in his bid. In that event,
2524 purchases of such commodities may be made from one (1) of the
2525 bidders whose bid was accepted as an alternate.

2526 (g) **Construction contract change authorization.** In the
2527 event a determination is made by an agency or governing authority
2528 after a construction contract is let that changes or modifications
2529 to the original contract are necessary or would better serve the
2530 purpose of the agency or the governing authority, such agency or
2531 governing authority may, in its discretion, order such changes
2532 pertaining to the construction that are necessary under the
2533 circumstances without the necessity of further public bids;
2534 provided that such change shall be made in a commercially
2535 reasonable manner and shall not be made to circumvent the public



2536 purchasing statutes. In addition to any other authorized person,
2537 the architect or engineer hired by an agency or governing
2538 authority with respect to any public construction contract shall
2539 have the authority, when granted by an agency or governing
2540 authority, to authorize changes or modifications to the original
2541 contract without the necessity of prior approval of the agency or
2542 governing authority when any such change or modification is less
2543 than one percent (1%) of the total contract amount. The agency or
2544 governing authority may limit the number, manner or frequency of
2545 such emergency changes or modifications.

2546 (h) **Petroleum purchase alternative.** In addition to
2547 other methods of purchasing authorized in this chapter, when any
2548 agency or governing authority shall have a need for gas, diesel
2549 fuel, oils and/or other petroleum products in excess of the amount
2550 set forth in paragraph (a) of this section, such agency or
2551 governing authority may purchase the commodity after having
2552 solicited and obtained at least two (2) competitive written bids,
2553 as defined in paragraph (b) of this section. If two (2)
2554 competitive written bids are not obtained, the entity shall comply
2555 with the procedures set forth in paragraph (c) of this section.
2556 In the event any agency or governing authority shall have
2557 advertised for bids for the purchase of gas, diesel fuel, oils and
2558 other petroleum products and coal and no acceptable bids can be
2559 obtained, such agency or governing authority is authorized and
2560 directed to enter into any negotiations necessary to secure the



2561 lowest and best contract available for the purchase of such
2562 commodities.

2563 (i) **Road construction petroleum products price**
2564 **adjustment clause authorization.** Any agency or governing
2565 authority authorized to enter into contracts for the construction,
2566 maintenance, surfacing or repair of highways, roads or streets,
2567 may include in its bid proposal and contract documents a price
2568 adjustment clause with relation to the cost to the contractor,
2569 including taxes, based upon an industry-wide cost index, of
2570 petroleum products including asphalt used in the performance or
2571 execution of the contract or in the production or manufacture of
2572 materials for use in such performance. Such industry-wide index
2573 shall be established and published monthly by the Mississippi
2574 Department of Transportation with a copy thereof to be mailed,
2575 upon request, to the clerks of the governing authority of each
2576 municipality and the clerks of each board of supervisors
2577 throughout the state. The price adjustment clause shall be based
2578 on the cost of such petroleum products only and shall not include
2579 any additional profit or overhead as part of the adjustment. The
2580 bid proposals or document contract shall contain the basis and
2581 methods of adjusting unit prices for the change in the cost of
2582 such petroleum products.

2583 (j) **State agency emergency purchase procedure.** If the
2584 governing board or the executive head, or his designees, of any
2585 agency of the state shall determine that an emergency exists in



2586 regard to the purchase of any commodities or repair contracts, so
2587 that the delay incident to giving opportunity for competitive
2588 bidding would be detrimental to the interests of the state, then
2589 the head of such agency, or his designees, shall file with the
2590 Department of Finance and Administration (i) a statement
2591 explaining the conditions and circumstances of the emergency,
2592 which shall include a detailed description of the events leading
2593 up to the situation and the negative impact to the entity if the
2594 purchase is made following the statutory requirements set forth in
2595 paragraph (a), (b) or (c) of this section, and (ii) a certified
2596 copy of the appropriate minutes of the board of such agency
2597 requesting the emergency purchase, if applicable. Upon receipt of
2598 the statement and applicable board certification, the State Fiscal
2599 Officer, or his designees, may, in writing, authorize the purchase
2600 or repair without having to comply with competitive bidding
2601 requirements.

2602 If the governing board or the executive head, or his
2603 designees, of any agency determines that an emergency exists in
2604 regard to the purchase of any commodities or repair contracts, so
2605 that the delay incident to giving opportunity for competitive
2606 bidding would threaten the health or safety of any person, or the
2607 preservation or protection of property, then the provisions in
2608 this section for competitive bidding shall not apply, and any
2609 officer or agent of the agency having general or specific
2610 authority for making the purchase or repair contract shall approve



2611 the bill presented for payment, and he or she shall certify in
2612 writing from whom the purchase was made, or with whom the repair
2613 contract was made.

2614 Total purchases made under this paragraph (j) shall only be
2615 for the purpose of meeting needs created by the emergency
2616 situation. Following the emergency purchase, documentation of the
2617 purchase, including a description of the commodity purchased, the
2618 purchase price thereof and the nature of the emergency shall be
2619 filed with the Department of Finance and Administration. Any
2620 contract awarded pursuant to this paragraph (j) shall not exceed a
2621 term of one (1) year.

2622 (k) **Governing authority emergency purchase procedure.**

2623 If the governing authority, or the governing authority acting
2624 through its designee, shall determine that an emergency exists in
2625 regard to the purchase of any commodities or repair contracts, so
2626 that the delay incident to giving opportunity for competitive
2627 bidding would be detrimental to the interest of the governing
2628 authority, then the provisions herein for competitive bidding
2629 shall not apply and any officer or agent of such governing
2630 authority having general or special authority therefor in making
2631 such purchase or repair shall approve the bill presented therefor,
2632 and he or she shall certify in writing thereon from whom such
2633 purchase was made, or with whom such a repair contract was made.
2634 At the board meeting next following the emergency purchase or
2635 repair contract, documentation of the purchase or repair contract,



2636 including a description of the commodity purchased, the price
2637 thereof and the nature of the emergency shall be presented to the
2638 board and shall be placed on the minutes of the board of such
2639 governing authority.

2640 (1) **Hospital purchase, lease-purchase and lease**
2641 **authorization.**

2642 (i) The commissioners or board of trustees of any
2643 public hospital may contract with such lowest and best bidder for
2644 the purchase or lease-purchase of any commodity under a contract
2645 of purchase or lease-purchase agreement whose obligatory payment
2646 terms do not exceed five (5) years.

2647 (ii) In addition to the authority granted in
2648 subparagraph (i) of this paragraph (1), the commissioners or board
2649 of trustees is authorized to enter into contracts for the lease of
2650 equipment or services, or both, which it considers necessary for
2651 the proper care of patients if, in its opinion, it is not
2652 financially feasible to purchase the necessary equipment or
2653 services. Any such contract for the lease of equipment or
2654 services executed by the commissioners or board shall not exceed a
2655 maximum of five (5) years' duration and shall include a
2656 cancellation clause based on unavailability of funds. If such
2657 cancellation clause is exercised, there shall be no further
2658 liability on the part of the lessee. Any such contract for the
2659 lease of equipment or services executed on behalf of the
2660 commissioners or board that complies with the provisions of this



2661 subparagraph (ii) shall be excepted from the bid requirements set
2662 forth in this section.

2663 (m) **Exceptions from bidding requirements.** Excepted
2664 from bid requirements are:

2665 (i) **Purchasing agreements approved by department.**
2666 Purchasing agreements, contracts and maximum price regulations
2667 executed or approved by the Department of Finance and
2668 Administration.

2669 (ii) **Outside equipment repairs.** Repairs to
2670 equipment, when such repairs are made by repair facilities in the
2671 private sector; however, engines, transmissions, rear axles and/or
2672 other such components shall not be included in this exemption when
2673 replaced as a complete unit instead of being repaired and the need
2674 for such total component replacement is known before disassembly
2675 of the component; however, invoices identifying the equipment,
2676 specific repairs made, parts identified by number and name,
2677 supplies used in such repairs, and the number of hours of labor
2678 and costs therefor shall be required for the payment for such
2679 repairs.

2680 (iii) **In-house equipment repairs.** Purchases of
2681 parts for repairs to equipment, when such repairs are made by
2682 personnel of the agency or governing authority; however, entire
2683 assemblies, such as engines or transmissions, shall not be
2684 included in this exemption when the entire assembly is being
2685 replaced instead of being repaired.



2686 (iv) **Raw gravel or dirt.** Raw unprocessed deposits
2687 of gravel or fill dirt which are to be removed and transported by
2688 the purchaser.

2689 (v) **Governmental equipment auctions.** Motor
2690 vehicles or other equipment purchased from a federal agency or
2691 authority, another governing authority or state agency of the
2692 State of Mississippi, or any governing authority or state agency
2693 of another state at a public auction held for the purpose of
2694 disposing of such vehicles or other equipment. Any purchase by a
2695 governing authority under the exemption authorized by this
2696 subparagraph (v) shall require advance authorization spread upon
2697 the minutes of the governing authority to include the listing of
2698 the item or items authorized to be purchased and the maximum bid
2699 authorized to be paid for each item or items.

2700 (vi) **Intergovernmental sales and transfers.**
2701 Purchases, sales, transfers or trades by governing authorities or
2702 state agencies when such purchases, sales, transfers or trades are
2703 made by a private treaty agreement or through means of
2704 negotiation, from any federal agency or authority, another
2705 governing authority or state agency of the State of Mississippi,
2706 or any state agency or governing authority of another state.
2707 Nothing in this section shall permit such purchases through public
2708 auction except as provided for in subparagraph (v) of this
2709 paragraph (m). It is the intent of this section to allow
2710 governmental entities to dispose of and/or purchase commodities



2711 from other governmental entities at a price that is agreed to by
2712 both parties. This shall allow for purchases and/or sales at
2713 prices which may be determined to be below the market value if the
2714 selling entity determines that the sale at below market value is
2715 in the best interest of the taxpayers of the state. Governing
2716 authorities shall place the terms of the agreement and any
2717 justification on the minutes, and state agencies shall obtain
2718 approval from the Department of Finance and Administration, prior
2719 to releasing or taking possession of the commodities.

2720 (vii) **Perishable supplies or food.** Perishable
2721 supplies or food purchased for use in connection with hospitals,
2722 the school lunch programs, homemaking programs and for the feeding
2723 of county or municipal prisoners.

2724 (viii) **Single-source items.** Noncompetitive items
2725 available from one (1) source only. In connection with the
2726 purchase of noncompetitive items only available from one (1)
2727 source, a certification of the conditions and circumstances
2728 requiring the purchase shall be filed by the agency with the
2729 Department of Finance and Administration and by the governing
2730 authority with the board of the governing authority. Upon receipt
2731 of that certification the Department of Finance and Administration
2732 or the board of the governing authority, as the case may be, may,
2733 in writing, authorize the purchase, which authority shall be noted
2734 on the minutes of the body at the next regular meeting thereafter.
2735 In those situations, a governing authority is not required to



2736 obtain the approval of the Department of Finance and
2737 Administration. Following the purchase, the executive head of the
2738 state agency, or his designees, shall file with the Department of
2739 Finance and Administration, documentation of the purchase,
2740 including a description of the commodity purchased, the purchase
2741 price thereof and the source from whom it was purchased.

2742 (ix) **Waste disposal facility construction**
2743 **contracts.** Construction of incinerators and other facilities for
2744 disposal of solid wastes in which products either generated
2745 therein, such as steam, or recovered therefrom, such as materials
2746 for recycling, are to be sold or otherwise disposed of; however,
2747 in constructing such facilities, a governing authority or agency
2748 shall publicly issue requests for proposals, advertised for in the
2749 same manner as provided herein for seeking bids for public
2750 construction projects, concerning the design, construction,
2751 ownership, operation and/or maintenance of such facilities,
2752 wherein such requests for proposals when issued shall contain
2753 terms and conditions relating to price, financial responsibility,
2754 technology, environmental compatibility, legal responsibilities
2755 and such other matters as are determined by the governing
2756 authority or agency to be appropriate for inclusion; and after
2757 responses to the request for proposals have been duly received,
2758 the governing authority or agency may select the most qualified
2759 proposal or proposals on the basis of price, technology and other
2760 relevant factors and from such proposals, but not limited to the



2761 terms thereof, negotiate and enter contracts with one or more of
2762 the persons or firms submitting proposals.

2763 (x) **Hospital group purchase contracts.** Supplies,
2764 commodities and equipment purchased by hospitals through group
2765 purchase programs pursuant to Section 31-7-38.

2766 (xi) **Information technology products.** Purchases
2767 of information technology products made by governing authorities
2768 under the provisions of purchase schedules, or contracts executed
2769 or approved by the Mississippi Department of Information
2770 Technology Services and designated for use by governing
2771 authorities.

2772 (xii) **Energy efficiency services and equipment.**
2773 Energy efficiency services and equipment acquired by school
2774 districts, community and junior colleges, institutions of higher
2775 learning and state agencies or other applicable governmental
2776 entities on a shared-savings, lease or lease-purchase basis
2777 pursuant to Section 31-7-14.

2778 (xiii) **Municipal electrical utility system fuel.**
2779 Purchases of coal and/or natural gas by municipally owned electric
2780 power generating systems that have the capacity to use both coal
2781 and natural gas for the generation of electric power.

2782 (xiv) **Library books and other reference materials.**
2783 Purchases by libraries or for libraries of books and periodicals;
2784 processed film, videocassette tapes, filmstrips and slides;
2785 recorded audiotapes, cassettes and diskettes; and any such items



2786 as would be used for teaching, research or other information
2787 distribution; however, equipment such as projectors, recorders,
2788 audio or video equipment, and monitor televisions are not exempt
2789 under this subparagraph.

2790 (xv) **Unmarked vehicles.** Purchases of unmarked
2791 vehicles when such purchases are made in accordance with
2792 purchasing regulations adopted by the Department of Finance and
2793 Administration pursuant to Section 31-7-9(2).

2794 (xvi) **Election ballots.** Purchases of ballots
2795 printed pursuant to Section 23-15-351.

2796 (xvii) **Multichannel interactive video systems.**
2797 From and after July 1, 1990, contracts by Mississippi Authority
2798 for Educational Television with any private educational
2799 institution or private nonprofit organization whose purposes are
2800 educational in regard to the construction, purchase, lease or
2801 lease-purchase of facilities and equipment and the employment of
2802 personnel for providing multichannel interactive video systems
2803 (ITSF) in the school districts of this state.

2804 (xviii) **Purchases of prison industry products by**
2805 **the Department of Corrections, regional correctional facilities or**
2806 **privately owned prisons.** Purchases made by the Mississippi
2807 Department of Corrections, regional correctional facilities or
2808 privately owned prisons involving any item that is manufactured,
2809 processed, grown or produced from the state's prison industries.



2810 (xix) **Undercover operations equipment.** Purchases
2811 of surveillance equipment or any other high-tech equipment to be
2812 used by law enforcement agents in undercover operations, provided
2813 that any such purchase shall be in compliance with regulations
2814 established by the Department of Finance and Administration.

2815 (xx) **Junior college books for rent.** Purchases by
2816 community or junior colleges of textbooks which are obtained for
2817 the purpose of renting such books to students as part of a book
2818 service system.

2819 (xxi) **Certain school district purchases.**
2820 Purchases of commodities made by school districts from vendors
2821 with which any levying authority of the school district, as
2822 defined in Section 37-57-1, has contracted through competitive
2823 bidding procedures for purchases of the same commodities.

2824 (xxii) **Garbage, solid waste and sewage contracts.**
2825 Contracts for garbage collection or disposal, contracts for solid
2826 waste collection or disposal and contracts for sewage collection
2827 or disposal.

2828 (xxiii) **Municipal water tank maintenance**
2829 **contracts.** Professional maintenance program contracts for the
2830 repair or maintenance of municipal water tanks, which provide
2831 professional services needed to maintain municipal water storage
2832 tanks for a fixed annual fee for a duration of two (2) or more
2833 years.



2834 (xxiv) **Purchases of Mississippi Industries for the**
2835 **Blind products.** Purchases made by state agencies or governing
2836 authorities involving any item that is manufactured, processed or
2837 produced by the Mississippi Industries for the Blind.

2838 (xxv) **Purchases of state-adopted textbooks.**
2839 Purchases of state-adopted textbooks by public school districts.

2840 (xxvi) **Certain purchases under the Mississippi**
2841 **Major Economic Impact Act.** Contracts entered into pursuant to the
2842 provisions of Section 57-75-9(2), (3) and (4).

2843 (xxvii) **Used heavy or specialized machinery or**
2844 **equipment for installation of soil and water conservation**
2845 **practices purchased at auction.** Used heavy or specialized
2846 machinery or equipment used for the installation and
2847 implementation of soil and water conservation practices or
2848 measures purchased subject to the restrictions provided in
2849 Sections 69-27-331 through 69-27-341. Any purchase by the State
2850 Soil and Water Conservation Commission under the exemption
2851 authorized by this subparagraph shall require advance
2852 authorization spread upon the minutes of the commission to include
2853 the listing of the item or items authorized to be purchased and
2854 the maximum bid authorized to be paid for each item or items.

2855 (xxviii) **Hospital lease of equipment or services.**
2856 Leases by hospitals of equipment or services if the leases are in
2857 compliance with paragraph (1)(ii).



2858 (xxix) **Purchases made pursuant to qualified**
2859 **cooperative purchasing agreements.** Purchases made by certified
2860 purchasing offices of state agencies or governing authorities
2861 under cooperative purchasing agreements previously approved by the
2862 Office of Purchasing and Travel and established by or for any
2863 municipality, county, parish or state government or the federal
2864 government, provided that the notification to potential
2865 contractors includes a clause that sets forth the availability of
2866 the cooperative purchasing agreement to other governmental
2867 entities. Such purchases shall only be made if the use of the
2868 cooperative purchasing agreements is determined to be in the best
2869 interest of the governmental entity.

2870 (xxx) **School yearbooks.** Purchases of school
2871 yearbooks by state agencies or governing authorities; provided,
2872 however, that state agencies and governing authorities shall use
2873 for these purchases the RFP process as set forth in the
2874 Mississippi Procurement Manual adopted by the Office of Purchasing
2875 and Travel.

2876 (xxxi) **Design-build method and dual-phase**
2877 **design-build method of contracting.** Contracts entered into under
2878 the provisions of Section 31-7-13.1, 37-101-44 or 65-1-85.

2879 (xxxii) **Toll roads and bridge construction**
2880 **projects.** Contracts entered into under the provisions of Section
2881 65-43-1 or 65-43-3.



2882 (xxxiii) **Certain purchases under Section 57-1-221.**
2883 Contracts entered into pursuant to the provisions of Section
2884 57-1-221.

2885 (xxxiv) **Certain transfers made pursuant to the**
2886 **provisions of Section 57-105-1(7).** Transfers of public property
2887 or facilities under Section 57-105-1(7) and construction related
2888 to such public property or facilities.

2889 (xxxv) **Certain purchases or transfers entered into**
2890 **with local electrical power associations.** Contracts or agreements
2891 entered into under the provisions of Section 55-3-33.

2892 (xxxvi) **Certain purchases by an academic medical**
2893 **center or health sciences school.** Purchases by an academic
2894 medical center or health sciences school, as defined in Section
2895 37-115-50, of commodities that are used for clinical purposes and
2896 1. intended for use in the diagnosis of disease or other
2897 conditions or in the cure, mitigation, treatment or prevention of
2898 disease, and 2. medical devices, biological, drugs and
2899 radiation-emitting devices as defined by the United States Food
2900 and Drug Administration.

2901 (xxxvii) **Certain purchases made by the Mississippi**
2902 **Lottery Corporation.** Contracts made by the Mississippi Lottery
2903 Corporation pursuant to the Mississippi Lottery Law.

2904 (n) **Term contract authorization.** All contracts for the
2905 purchase of:



2906 (i) All contracts for the purchase of commodities,
2907 equipment and public construction (including, but not limited to,
2908 repair and maintenance), may be let for periods of not more than
2909 sixty (60) months in advance, subject to applicable statutory
2910 provisions prohibiting the letting of contracts during specified
2911 periods near the end of terms of office. Term contracts for a
2912 period exceeding twenty-four (24) months shall also be subject to
2913 ratification or cancellation by governing authority boards taking
2914 office subsequent to the governing authority board entering the
2915 contract.

2916 (ii) Bid proposals and contracts may include price
2917 adjustment clauses with relation to the cost to the contractor
2918 based upon a nationally published industry-wide or nationally
2919 published and recognized cost index. The cost index used in a
2920 price adjustment clause shall be determined by the Department of
2921 Finance and Administration for the state agencies and by the
2922 governing board for governing authorities. The bid proposal and
2923 contract documents utilizing a price adjustment clause shall
2924 contain the basis and method of adjusting unit prices for the
2925 change in the cost of such commodities, equipment and public
2926 construction.

2927 (o) **Purchase law violation prohibition and vendor**
2928 **penalty.** No contract or purchase as herein authorized shall be
2929 made for the purpose of circumventing the provisions of this
2930 section requiring competitive bids, nor shall it be lawful for any



2931 person or concern to submit individual invoices for amounts within
2932 those authorized for a contract or purchase where the actual value
2933 of the contract or commodity purchased exceeds the authorized
2934 amount and the invoices therefor are split so as to appear to be
2935 authorized as purchases for which competitive bids are not
2936 required. Submission of such invoices shall constitute a
2937 misdemeanor punishable by a fine of not less than Five Hundred
2938 Dollars (\$500.00) nor more than One Thousand Dollars (\$1,000.00),
2939 or by imprisonment for thirty (30) days in the county jail, or
2940 both such fine and imprisonment. In addition, the claim or claims
2941 submitted shall be forfeited.

2942 (p) **Electrical utility petroleum-based equipment**
2943 **purchase procedure.** When in response to a proper advertisement
2944 therefor, no bid firm as to price is submitted to an electric
2945 utility for power transformers, distribution transformers, power
2946 breakers, reclosers or other articles containing a petroleum
2947 product, the electric utility may accept the lowest and best bid
2948 therefor although the price is not firm.

2949 (q) **Fuel management system bidding procedure.** Any
2950 governing authority or agency of the state shall, before
2951 contracting for the services and products of a fuel management or
2952 fuel access system, enter into negotiations with not fewer than
2953 two (2) sellers of fuel management or fuel access systems for
2954 competitive written bids to provide the services and products for
2955 the systems. In the event that the governing authority or agency



2956 cannot locate two (2) sellers of such systems or cannot obtain
2957 bids from two (2) sellers of such systems, it shall show proof
2958 that it made a diligent, good-faith effort to locate and negotiate
2959 with two (2) sellers of such systems. Such proof shall include,
2960 but not be limited to, publications of a request for proposals and
2961 letters soliciting negotiations and bids. For purposes of this
2962 paragraph (q), a fuel management or fuel access system is an
2963 automated system of acquiring fuel for vehicles as well as
2964 management reports detailing fuel use by vehicles and drivers, and
2965 the term "competitive written bid" shall have the meaning as
2966 defined in paragraph (b) of this section. Governing authorities
2967 and agencies shall be exempt from this process when contracting
2968 for the services and products of fuel management or fuel access
2969 systems under the terms of a state contract established by the
2970 Office of Purchasing and Travel.

2971 (r) **Solid waste contract proposal procedure.** Before
2972 entering into any contract for garbage collection or disposal,
2973 contract for solid waste collection or disposal or contract for
2974 sewage collection or disposal, which involves an expenditure of
2975 more than Fifty Thousand Dollars (\$50,000.00), a governing
2976 authority or agency shall issue publicly a request for proposals
2977 concerning the specifications for such services which shall be
2978 advertised for in the same manner as provided in this section for
2979 seeking bids for purchases which involve an expenditure of more
2980 than the amount provided in paragraph (c) of this section. Any



2981 request for proposals when issued shall contain terms and
2982 conditions relating to price, financial responsibility,
2983 technology, legal responsibilities and other relevant factors as
2984 are determined by the governing authority or agency to be
2985 appropriate for inclusion; all factors determined relevant by the
2986 governing authority or agency or required by this paragraph (r)
2987 shall be duly included in the advertisement to elicit proposals.
2988 After responses to the request for proposals have been duly
2989 received, the governing authority or agency shall select the most
2990 qualified proposal or proposals on the basis of price, technology
2991 and other relevant factors and from such proposals, but not
2992 limited to the terms thereof, negotiate and enter into contracts
2993 with one or more of the persons or firms submitting proposals. If
2994 the governing authority or agency deems none of the proposals to
2995 be qualified or otherwise acceptable, the request for proposals
2996 process may be reinitiated. Notwithstanding any other provisions
2997 of this paragraph, where a county with at least thirty-five
2998 thousand (35,000) nor more than forty thousand (40,000)
2999 population, according to the 1990 federal decennial census, owns
3000 or operates a solid waste landfill, the governing authorities of
3001 any other county or municipality may contract with the governing
3002 authorities of the county owning or operating the landfill,
3003 pursuant to a resolution duly adopted and spread upon the minutes
3004 of each governing authority involved, for garbage or solid waste
3005 collection or disposal services through contract negotiations.



3006 (s) **Minority set-aside authorization.** Notwithstanding
3007 any provision of this section to the contrary, any agency or
3008 governing authority, by order placed on its minutes, may, in its
3009 discretion, set aside not more than twenty percent (20%) of its
3010 anticipated annual expenditures for the purchase of commodities
3011 from minority businesses; however, all such set-aside purchases
3012 shall comply with all purchasing regulations promulgated by the
3013 Department of Finance and Administration and shall be subject to
3014 bid requirements under this section. Set-aside purchases for
3015 which competitive bids are required shall be made from the lowest
3016 and best minority business bidder. For the purposes of this
3017 paragraph, the term "minority business" means a business which is
3018 owned by a majority of persons who are United States citizens or
3019 permanent resident aliens (as defined by the Immigration and
3020 Naturalization Service) of the United States, and who are Asian,
3021 Black, Hispanic or Native American, according to the following
3022 definitions:

3023 (i) "Asian" means persons having origins in any of
3024 the original people of the Far East, Southeast Asia, the Indian
3025 subcontinent, or the Pacific Islands.

3026 (ii) "Black" means persons having origins in any
3027 black racial group of Africa.

3028 (iii) "Hispanic" means persons of Spanish or
3029 Portuguese culture with origins in Mexico, South or Central
3030 America, or the Caribbean Islands, regardless of race.



3031 (iv) "Native American" means persons having
3032 origins in any of the original people of North America, including
3033 American Indians, Eskimos and Aleuts.

3034 (t) **Construction punch list restriction.** The
3035 architect, engineer or other representative designated by the
3036 agency or governing authority that is contracting for public
3037 construction or renovation may prepare and submit to the
3038 contractor only one (1) preliminary punch list of items that do
3039 not meet the contract requirements at the time of substantial
3040 completion and one (1) final list immediately before final
3041 completion and final payment.

3042 (u) **Procurement of construction services by state**
3043 **institutions of higher learning.** Contracts for privately financed
3044 construction of auxiliary facilities on the campus of a state
3045 institution of higher learning may be awarded by the Board of
3046 Trustees of State Institutions of Higher Learning to the lowest
3047 and best bidder, where sealed bids are solicited, or to the
3048 offeror whose proposal is determined to represent the best value
3049 to the citizens of the State of Mississippi, where requests for
3050 proposals are solicited.

3051 (v) **Insurability of bidders for public construction or**
3052 **other public contracts.** In any solicitation for bids to perform
3053 public construction or other public contracts to which this
3054 section applies including, but not limited to, contracts for
3055 repair and maintenance, for which the contract will require



3056 insurance coverage in an amount of not less than One Million
3057 Dollars (\$1,000,000.00), bidders shall be permitted to either
3058 submit proof of current insurance coverage in the specified amount
3059 or demonstrate ability to obtain the required coverage amount of
3060 insurance if the contract is awarded to the bidder. Proof of
3061 insurance coverage shall be submitted within five (5) business
3062 days from bid acceptance.

3063 (w) **Purchase authorization clarification.** Nothing in
3064 this section shall be construed as authorizing any purchase not
3065 authorized by law.

3066 **SECTION 52.** Section 67-1-71, Mississippi Code of 1972, is
3067 amended as follows:

3068 67-1-71. The department may revoke or suspend any permit
3069 issued by it for a violation by the permittee of any of the
3070 provisions of this chapter or of the regulations promulgated under
3071 it by the department.

3072 Permits must be revoked or suspended for the following
3073 causes:

3074 (a) Conviction of the permittee for the violation of
3075 any of the provisions of this chapter;

3076 (b) Willful failure or refusal by any permittee to
3077 comply with any of the provisions of this chapter or of any rule
3078 or regulation adopted pursuant thereto;

3079 (c) The making of any materially false statement in any
3080 application for a permit;



3081 (d) Conviction of one or more of the clerks, agents or
3082 employees of the permittee, of any violation of this chapter upon
3083 the premises covered by such permit within a period of time as
3084 designated by the rules or regulations of the department;

3085 (e) The possession on the premises of any retail
3086 permittee of any alcoholic beverages upon which the tax has not
3087 been paid;

3088 (f) The willful failure of any permittee to keep the
3089 records or make the reports required by this chapter, or to allow
3090 an inspection of such records by any duly authorized person;

3091 (g) The suspension or revocation of a permit issued to
3092 the permittee by the federal government, or conviction of
3093 violating any federal law relating to alcoholic beverages;

3094 (h) The failure to furnish any bond required by Section
3095 27-71-21 within fifteen (15) days after notice from the
3096 department; and

3097 (i) The conducting of any form of illegal gambling on
3098 the premises of any permittee or on any premises connected
3099 therewith or the presence on any such premises of any gambling
3100 device with the knowledge of the permittee.

3101 The provisions of paragraph (i) of this section shall not
3102 apply to gambling or the presence of any gambling devices, with
3103 knowledge of the permittee, on board a cruise vessel in the waters
3104 within the State of Mississippi, which lie adjacent to the State
3105 of Mississippi south of the three (3) most southern counties in



3106 the State of Mississippi, or on any vessel as defined in Section
3107 27-109-1 whenever such vessel is on the Mississippi River or
3108 navigable waters within any county bordering on the Mississippi
3109 River. The department may, in its discretion, issue on-premises
3110 retailer's permits to a common carrier of the nature described in
3111 this paragraph.

3112 The provisions of paragraph (i) of this section shall not
3113 apply to the operation of any game or lottery authorized by
3114 Sections 1 through 46 of this act.

3115 No permit shall be suspended or revoked until after the
3116 permittee has been provided reasonable notice of the charges
3117 against him for which suspension or revocation is sought and the
3118 opportunity to a hearing before the Board of Tax Appeals to
3119 contest such charges and the suspension or revocation proposed.
3120 Opportunity to a hearing is provided without an actual hearing if
3121 the permittee, after receiving reasonable notice, including notice
3122 of his right to a hearing, fails to timely request a hearing. The
3123 permittee may also at any time waive his rights to reasonable
3124 notice and/or to the opportunity to a hearing by agreeing to a
3125 suspension or revocation offered by the department.

3126 Notwithstanding the requirement above that a permit may not be
3127 suspended without notice and opportunity to a hearing, sales of
3128 alcoholic beverages by a permittee under a permit for which the
3129 bond under Section 27-71-21 has been cancelled shall be suspended
3130 from and after issuance of the notice provided in * * * paragraph



3131 (h) above and shall continue to be suspended until the bond is
3132 reinstated, a new bond is posted or sufficient cash or securities
3133 as provided under Section 27-71-21 are deposited with the State
3134 Treasurer for this permit.

3135 In addition to the causes specified in this section and other
3136 provisions of this chapter, the department shall be authorized to
3137 suspend the permit of any permit holder for being out of
3138 compliance with an order for support, as defined in Section
3139 93-11-153. The procedure for suspension of a permit for being out
3140 of compliance with an order for support, and the procedure for the
3141 reissuance or reinstatement of a permit suspended for that
3142 purpose, and the payment of any fees for the reissuance or
3143 reinstatement of a permit suspended for that purpose, shall be
3144 governed by Section 93-11-157 or 93-11-163, as the case may be.
3145 If there is any conflict between any provision of Section
3146 93-11-157 or 93-11-163 and any provision of this chapter, the
3147 provisions of Section 93-11-157 or 93-11-163, as the case may be,
3148 shall control.

3149 **SECTION 53.** Section 97-33-9, Mississippi Code of 1972, is
3150 amended as follows:

3151 97-33-9. Except as otherwise provided in Section 97-33-8, if
3152 any person shall be guilty of keeping or exhibiting any game or
3153 gaming table commonly called A.B.C. or E.O. roulette or
3154 rowley-powley, or rouge et noir, roredo, keno, monte, or any
3155 faro-bank, or other game, gaming table, or bank of the same or



3156 like kind or any other kind or description under any other name
3157 whatever, or shall be in any manner either directly or indirectly
3158 interested or concerned in any gaming tables, banks, or games,
3159 either by furnishing money or articles for the purpose of carrying
3160 on the same, being interested in the loss or gain of said table,
3161 bank or games, or employed in any manner in conducting, carrying
3162 on, or exhibiting said gaming tables, games, or banks, every
3163 person so offending and being thereof convicted, shall be fined
3164 not less than Twenty-five Dollars (\$25.00) nor more than Two
3165 Thousand Dollars (\$2,000.00), or be imprisoned in the county jail
3166 not longer than two (2) months, or by both such fine and
3167 imprisonment, in the discretion of the court. Nothing in this
3168 section shall apply to any person who owns, possesses, controls,
3169 installs, procures, repairs or transports any gambling device,
3170 machine or equipment in accordance with subsection (4) of Section
3171 97-33-7 or Section 75-76-34.

3172 This section shall not apply to the operation of any game or
3173 lottery authorized by Sections 1 through 46 of this act.

3174 **SECTION 54.** Section 97-33-11, Mississippi Code of 1972, is
3175 amended as follows:

3176 97-33-11. It shall not be lawful for any association of
3177 persons of the character commonly known as a "club," whether such
3178 association be incorporated or not, in any manner, either directly
3179 or indirectly, to have any interest or concern in any gambling
3180 tables, banks, or games, by means of what is sometimes called a



3181 "rake-off" or "take-out," or by means of an assessment upon
3182 certain combinations, or hands at cards, or by means of a
3183 percentage extracted from players, or an assessment made upon, or
3184 a contribution from them, or by any other means, device or
3185 contrivance whatsoever. It shall not be lawful for such an
3186 association to lend or advance money or any other valuable thing
3187 to any person engaged or about to engage in playing any game of
3188 chance prohibited by law, or to become responsible directly or
3189 indirectly for any money or other valuable thing lost, or which
3190 may be lost, by any player in any such game. If any such
3191 association shall violate any of the provisions of this section
3192 each and every member thereof shall be guilty of a misdemeanor
3193 and, upon conviction thereof, shall be fined in a sum not more
3194 than Five Hundred Dollars (\$500.00); and unless such fine and
3195 costs be immediately paid, shall be imprisoned in the county jail
3196 for not less than five (5) nor more than twenty (20) days. Each
3197 grand jury shall cause such of the members of such an association
3198 as it may choose to appear before them and submit to examination
3199 touching the observance or nonobservance by such association of
3200 the provisions hereof.

3201 This section shall not apply to the operation of any game or
3202 lottery authorized by Sections 1 through 46 of this act.

3203 **SECTION 55.** Section 97-33-13, Mississippi Code of 1972, is
3204 amended as follows:



3205 97-33-13. Any owner, lessee, or occupant of any outhouse or
3206 other building, who shall knowingly permit or suffer any of the
3207 beforementioned tables, banks, or games, or any other game
3208 prohibited by law, to be carried on, kept, or exhibited in his or
3209 her said house or other building, or on his or her lot or
3210 premises, being thereof convicted, shall be fined not less than
3211 One Hundred Dollars (\$100.00) nor more than Two Thousand Dollars
3212 (\$2,000.00).

3213 This section shall not apply to the operation of any game or
3214 lottery authorized by Sections 1 through 46 of this act.

3215 **SECTION 56.** Section 97-33-21, Mississippi Code of 1972, is
3216 amended as follows:

3217 97-33-21. Any person of full age who shall bet any money or
3218 thing of any value with a minor, or allow a minor to bet at any
3219 game or gaming table exhibited by him or her, or in which he or
3220 she is interested or in any manner concerned, on conviction
3221 thereof, shall be fined not less than Three Hundred Dollars
3222 (\$300.00) and imprisoned not less than three (3) months.

3223 This section shall apply to minors under the age of
3224 twenty-one (21) as it might apply to the operation of any game or
3225 lottery authorized by Sections 1 through 46 of this act.

3226 **SECTION 57.** Section 97-33-23, Mississippi Code of 1972, is
3227 amended as follows:

3228 97-33-23. Any person of full age who shall bet any money or
3229 thing of value with a minor, knowing such minor to be under the



3230 age of twenty-one (21) years, or allowing any such minor to bet at
3231 any game or games, or at any gaming table exhibited by him or her,
3232 or in which he or she is interested or in any manner concerned, on
3233 conviction thereof, shall be punished by imprisonment in the
3234 Penitentiary not exceeding two (2) years.

3235 This section shall apply to minors under the age of
3236 twenty-one (21) with regard to the operation of any game or
3237 lottery authorized by Sections 1 through 46 of this act.

3238 **SECTION 58.** Section 97-33-31, Mississippi Code of 1972, is
3239 amended as follows:

3240 97-33-31. If any person, in order to raise money for himself
3241 or another, or for any purpose whatever, shall publicly or
3242 privately put up a lottery to be drawn or adventured for, he or
3243 she shall, on conviction, be imprisoned in the Penitentiary not
3244 exceeding five (5) years.

3245 This section shall not apply to the operation of any game or
3246 lottery authorized by Sections 1 through 46 of this act.

3247 **SECTION 59.** Section 97-33-33, Mississippi Code of 1972, is
3248 amended as follows:

3249 97-33-33. If any person shall in any way advertise any
3250 lottery whatever, no matter where located, or shall knowingly have
3251 in his possession any posters or other lottery advertisements of
3252 any kind * * *, save a regularly issued newspaper containing such
3253 an advertisement without intent to circulate the same as an
3254 advertisement * * *, he or she shall, on conviction, be fined not



3255 less than Twenty-five Dollars (\$25.00) nor more than One Hundred
3256 Dollars (\$100.00), or be imprisoned in the county jail not
3257 exceeding three (3) months, or both.

3258 This section shall not apply to the operation of any game or
3259 lottery authorized by Sections 1 through 46 of this act.

3260 **SECTION 60.** Section 97-33-35, Mississippi Code of 1972, is
3261 amended as follows:

3262 97-33-35. If any newspaper published or circulated in this
3263 state shall contain an advertisement of any lottery whatever, or
3264 any matter intended to advertise a lottery, no matter where
3265 located, the editor or editors, publisher or publishers, and the
3266 owner or owners thereof permitting the same, shall be guilty of a
3267 misdemeanor * * * and, on conviction, shall be fined not less than
3268 One Hundred Dollars (\$100.00) nor more than One Thousand Dollars
3269 (\$1,000.00), and be imprisoned in the county jail not less than
3270 ten (10) days nor more than three (3) months, for each offense.
3271 The issuance of each separate daily or weekly edition of the
3272 newspaper that shall contain such an advertisement shall be
3273 considered a separate offense.

3274 This section shall not apply to the operation of any game or
3275 lottery authorized by Sections 1 through 46 of this act.

3276 **SECTION 61.** Section 97-33-37, Mississippi Code of 1972, is
3277 amended as follows:

3278 97-33-37. If any newsdealer or other person shall, directly
3279 or indirectly, sell or offer for sale any newspaper or other



3280 publication containing a lottery advertisement, he or she shall be
3281 guilty of a misdemeanor * * * and, upon conviction, shall be fined
3282 not less than Ten Dollars (\$10.00) or imprisoned not less than ten
3283 (10) days, or both.

3284 This section shall not apply to the operation of any game or
3285 lottery authorized by Sections 1 through 46 of this act.

3286 **SECTION 62.** Section 97-33-39, Mississippi Code of 1972, is
3287 amended as follows:

3288 97-33-39. If any person shall sell, or offer or expose for
3289 sale, any lottery ticket, whether the lottery be in or out of this
3290 state, or for or in any other state, territory, district, or
3291 country, he or she shall, on conviction, be fined not less than
3292 Twenty-five Dollars (\$25.00) nor more than One Hundred Dollars
3293 (\$100.00), or imprisoned in the county jail not less than ten (10)
3294 days nor more than sixty (60) days, or both.

3295 This section shall not apply to the operation of any game or
3296 lottery authorized by Sections 1 through 46 of this act.

3297 **SECTION 63.** Section 97-33-41, Mississippi Code of 1972, is
3298 amended as follows:

3299 97-33-41. If any person shall buy in this state any lottery
3300 ticket, whether the lottery be in or out of this state, or of or
3301 in any other state, territory, district, or country, he or she
3302 shall, on conviction, be fined not less than Five Dollars (\$5.00)
3303 nor more than Twenty-five Dollars (\$25.00), or be imprisoned in
3304 the county jail not exceeding ten (10) days, or both.



3305 This section shall not apply to the operation of any game or
3306 lottery authorized by Sections 1 through 46 of this act.

3307 **SECTION 64.** Section 97-33-43, Mississippi Code of 1972, is
3308 amended as follows:

3309 97-33-43. If any railroad company shall suffer or permit the
3310 sale of a lottery ticket of any kind on its cars, or at its depots
3311 or depot grounds, or by its employees, no matter where the lottery
3312 is located, it shall be guilty of a misdemeanor * * * and, on
3313 conviction, shall be fined not less than Twenty Dollars (\$20.00)
3314 nor more than One Hundred Dollars (\$100.00) for every such ticket
3315 so sold.

3316 This section shall not apply to the operation of any game or
3317 lottery authorized by Sections 1 through 46 of this act.

3318 **SECTION 65.** Section 97-33-45, Mississippi Code of 1972, is
3319 amended as follows:

3320 97-33-45. If the owner or owners of any steamboat shall
3321 suffer or permit the sale of a lottery ticket of any kind on his
3322 or their boat, or by his or their employees, no matter where the
3323 lottery is located, he or she or they shall be guilty of a
3324 misdemeanor and shall, on conviction, be punished as prescribed in
3325 Section 97-33-43.

3326 This section shall not apply to the operation of any game or
3327 lottery authorized by Sections 1 through 46 of this act.

3328 **SECTION 66.** Section 97-33-47, Mississippi Code of 1972, is
3329 amended as follows:



3330 97-33-47. If any person shall act as agent for any lottery
3331 or lottery company, no matter where domiciled or located, or if he
3332 shall assume to so act as agent, or if he or she receive any money
3333 or other thing for any such lottery or lottery company, or deliver
3334 to any person any ticket or tickets, prize or prizes, or other
3335 thing from such lottery or lottery company, he or she shall, on
3336 conviction, be fined not less than One Hundred Dollars (\$100.00),
3337 nor more than Five Hundred Dollars (\$500.00), and be imprisoned in
3338 the county jail not less than three (3) months nor more than six
3339 (6) months.

3340 This section shall not apply to the operation of any game or
3341 lottery authorized by Sections 1 through 46 of this act.

3342 **SECTION 67.** Section 97-33-49, Mississippi Code of 1972, is
3343 amended as follows:

3344 97-33-49. Except as otherwise provided in Section 97-33-51,
3345 if any person, in order to raise money for himself or another,
3346 shall publicly or privately put up or in any way offer any prize
3347 or thing to be raffled or played for, he or she shall, on
3348 conviction, be fined not more than Twenty Dollars (\$20.00), or be
3349 imprisoned not more than one (1) month in the county jail.

3350 This section shall not apply to the operation of any game or
3351 lottery authorized by Sections 1 through 46 of this act.

3352 **SECTION 68.** This act shall take effect and be in force from
3353 and after September 1, 2018.

