

**Adopted
COMMITTEE AMENDMENT NO 1 PROPOSED TO**

Senate Bill No. 2001

BY: Committee

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

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

48 **SECTION 2.** The Legislature recognizes that the operations of
49 a state lottery are unique activities for state government and
50 that a corporate structure will best enable the lottery to be
51 managed in an entrepreneurial and business-like manner. It is the
52 intent of the Legislature that the Mississippi Lottery Corporation
53 shall be accountable to the Governor, the Legislature, and the
54 people of the state through a system of audits, reports, and
55 disclosures as required by this act.



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

59 (a) "Corporation" means the Mississippi Lottery
60 Corporation.

61 (b) "Lottery" means any game of chance approved by the
62 corporation and operated pursuant to this act, which utilizes the
63 sale of paper tickets for various state, intrastate and multistate
64 or multisovereign lottery games (such as Pick-3, Pick-4, Mega
65 Millions, Powerball), and "instant tickets" as defined, but
66 specifically excluding any form of "video lottery" or use of
67 "video lottery terminal" as defined.

68 (c) "Major procurement" means any item, product or
69 service in the amount of One Million Dollars (\$1,000,000.00) or
70 more, including, but not limited to, major advertising contracts,
71 annuity contracts, prizes, products, and services unique to the
72 Mississippi lottery, but not including materials, supplies,
73 equipment, and services common to the ordinary operations of a
74 corporation.

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

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



80 (f) "President" means the president of the Mississippi
81 Lottery Corporation, who shall also serve as chief executive
82 officer of the corporation.

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

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

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

92 (j) "Fiscal year" means the fiscal year used by state
93 government.

94 (k) "Board" means the Mississippi Lottery Corporation
95 Board of Directors.

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

100 (m) "Video lottery" and "video lottery terminal" means
101 any electronic interactive computerized game machine or device
102 equipped with a video screen and buttons, keys, a keyboard,
103 touchscreen or other input device allowing input by an individual
104 player and into which the player inserts coins, tokens, currency



105 or other representation of value (including, but not limited to,
106 an electronic card, ticket or other thing on which value is
107 recorded electronically) as consideration in order for play of a
108 game to be available, and through which, as a result of the play
109 of a game, the player may receive free games, credits redeemable
110 for cash or a noncash prize, or some other thing of value, whether
111 or not received directly from the device, or nothing, determined
112 wholly or predominantly by chance.

113 **SECTION 4.** (1) There is hereby created a state lottery,
114 which shall be administered by a corporation which shall be known
115 as the "Mississippi Lottery Corporation." The corporation shall
116 be managed in such a manner that enables the people of the state
117 to benefit from its profits and to ensure the integrity of the
118 lottery.

119 (2) The existence of the corporation, which shall be
120 domiciled in the State of Mississippi, shall begin upon the
121 appointment of all five (5) members of the board as provided in
122 Section 5 of this act.

123 (3) The exclusive venue for any action or matter against the
124 corporation arising out of or in connection with the issuance,
125 nonissuance, delivery or failure to deliver a lottery ticket or
126 payment or nonpayment of a lottery prize is the county in which
127 its corporate headquarters is located, and the circuit court for
128 that county has exclusive jurisdiction thereof. For purposes of
129 court costs, the corporation shall be a private corporation.



130 **SECTION 5.** (1) The affairs of the corporation shall be
131 administered by the Mississippi Lottery Corporation Board of
132 Directors. The board shall be composed of five (5) members
133 appointed by the Governor, with the advice and consent of the
134 Senate. The Commissioner of Revenue and the State Treasurer shall
135 serve as ex officio, nonvoting members. Members appointed when
136 the Senate is not in session shall serve only until the end of the
137 next regular session, unless confirmed by the Senate.

138 (2) (a) Members of the board shall be residents of the
139 State of Mississippi.

140 (b) Of the initial appointees, the members' terms shall
141 be staggered as follows: one (1) term to expire on December 31,
142 2019; December 31, 2020; December 31, 2021; December 31, 2022; and
143 December 31, 2023. After the expiration of the initial terms,
144 members of the board shall serve terms of five (5) years.

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

151 (3) Appointed members of the board shall be entitled to per
152 diem compensation pursuant to Section 25-3-69 and shall be
153 reimbursed by the corporation for necessary travel and other
154 reasonable expenses incurred in the performance of their official



155 duties. No appointed member of the board of the corporation shall
156 be considered as a public officer.

157 (4) The board, upon the initial call of the Governor and the
158 chairman thereafter, shall meet at least monthly for the first
159 eighteen (18) months and at such other times as the chairman or
160 the president may determine. Three (3) voting members of the
161 board shall constitute a quorum. The board shall also meet upon
162 call of three (3) or more of the voting members of the board. The
163 board shall keep accurate and complete records of all its
164 meetings.

165 (5) All meetings of the board shall be subject to the Open
166 Meetings Act in Section 25-41-1 et seq.

167 **SECTION 6.** (1) The president of the corporation shall be
168 appointed by the board subject to the approval of the Governor.
169 The Governor shall, within thirty (30) days after receiving the
170 nomination of the president in writing, either approve or reject
171 the nomination. If the Governor refuses to approve the nomination
172 of the president, then the board shall submit another name. The
173 president of the corporation shall manage the daily affairs of the
174 corporation and shall have such powers and duties as specified by
175 this act, by the board, and any rules or regulations adopted by
176 the board of directors. The president shall not be a member of
177 the board. The president of the corporation shall serve at the
178 pleasure of the board of directors.



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

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

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

184 **SECTION 7.** (1) Except as provided under Section 12 of this
185 act, all records of the corporation shall be deemed public records
186 and subject to public inspection as provided by Section 25-61-1,
187 et seq. unless:

188 (a) The record relates to or was provided by a
189 confidential source or informant and relates to lottery security,
190 applicant, vendor, or retailer qualifications or conduct;

191 (b) The record involves a trade secret of the
192 corporation or of a vendor;

193 (c) The disclosure of the record would endanger the
194 security of the lottery or its retailers; or

195 (d) The record is covered by another exemption under
196 federal or state law.

197 (2) Records pertaining to the security of lottery
198 operations, whether current or proposed, the security director,
199 and the division handling security shall be deemed to be records
200 containing security procedures, investigative techniques, or
201 internal security information.

202 **SECTION 8.** (1) The board of directors shall provide the
203 president with private sector perspectives on the operation of a



204 business, large marketing enterprise, and the like. The board
205 shall:

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

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

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

213 (d) Adopt such administrative rules and regulations as
214 may be necessary to carry out and implement its powers and duties,
215 the operations of the corporation, the conduct of lottery games in
216 general and any other matters necessary or desirable for the
217 efficient and effective operation of the lottery or convenience of
218 the public.

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

223 **SECTION 9.** (1) The board shall not authorize, conduct or
224 administer lottery games involving the use of a "video lottery
225 terminal" as defined or any mobile or Internet-based or
226 monitor-based interactive game, or any simulated casino-style
227 game, including video poker, video roulette, slot machines or
228 video blackjack, or any variant of these prohibited games.



229 (2) The board may adopt rules and regulations for the
230 conduct of specific lottery games and operations, including,
231 but not limited to, rules specifying:

232 (a) The types of lottery games to be conducted which
233 involve the sale of paper tickets for various intrastate and
234 multistate or multisoovereign lottery games (such as Pick-3,
235 Pick-4, Mega Millions Max, Powerball Plus) and "instant tickets"
236 as defined.

237 (b) The sale price of tickets.

238 (c) The number and amount of prizes.

239 (d) The methods to be used in selling tickets for
240 lottery games, provided however, the corporation shall not permit
241 any lottery game to be played or ticket to be purchased, sold or
242 played by any method involving (i) a video lottery terminal or
243 (ii) by any personal computer, tablet, smartphone, mobile device
244 or other similar equipment or type of device.

245 (e) The methods and location of selecting or validating
246 winning tickets.

247 (f) The frequency and the means of conducting drawings
248 which shall be open to the public.

249 (g) The manner of payment of prizes.

250 (h) The frequency of games and drawings.

251 (i) The manner and amount of compensation to lottery
252 retailers, except all compensation shall be uniform.



253 (j) Any other matters necessary to carry this act and
254 necessary for the efficient and effective operation of the lottery
255 or for the convenience of the public.

256 (3) In all other matters, the board shall advise and make
257 recommendations. In addition, the board shall:

258 (a) Conduct hearings upon complaints charging
259 violations of this act or of administrative regulations adopted by
260 the corporation and shall conduct such other hearings as may be
261 provided by administrative regulation.

262 (b) Periodically, review the performance of the
263 corporation and:

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

266 (ii) Identify potential improvements in this act,
267 the administrative regulations of the corporation, and management
268 of the corporation.

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

271 (4) Nothing in this act shall be construed to supersede or
272 preempt the authority of the Mississippi Gaming Commission as it
273 relates to any licensed gaming facility.

274 (5) Nothing in this act shall prohibit a licensed gaming
275 facility under the Mississippi Gaming Commission from applying and
276 operating as a lottery retailer under this act.



277 **SECTION 10.** (1) The corporation shall conduct and
278 administer lottery games which will result in maximization of
279 revenues to the State of Mississippi. The corporation, its
280 employees, and the members of the board shall provide for the
281 effective operation of lottery games which ensure the integrity of
282 the lottery and maintain the dignity of the state and the general
283 welfare of its citizens.

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

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

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

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

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

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

295 (f) Acquire real property and make improvements
296 thereon.

297 (g) Make, solicit and request proposals and offers, and
298 execute and effectuate any and all agreements or contracts,
299 including, but not limited to:



300 (i) Contracts for the purchase of such goods and
301 services as are necessary for the operation and promotion of the
302 lottery.

303 (ii) Contracts that provide for the placement of
304 commercial advertising on tickets.

305 (iii) Contracts for the purchase and/or lease of
306 real property as are necessary for the operation and promotion of
307 the lottery.

308 (iv) Any contract and/or agreement necessary for
309 the implementation, operation, and promotion of the lottery and
310 this act.

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

314 (3) The corporation shall:

315 (a) Supervise and administer the lottery in accordance
316 with the provisions of this act and the administrative rules and
317 regulations adopted by the board.

318 (b) Submit quarterly and annual reports to the
319 Governor, the Lieutenant Governor, the Speaker of the House of
320 Representatives, the State Treasurer, the State Auditor, the Joint
321 Legislative Committee on Performance Evaluation and Expenditure
322 Review, and the Commissioner of Revenue containing financial
323 information and projections which include, but are not limited to,



324 disclosure of gross revenues, expenses and net proceeds for the
325 period.

326 (c) Adopt by administrative regulation a system of
327 continuous internal audits.

328 (d) Maintain weekly or more frequent records of lottery
329 transactions, including distribution of tickets to lottery
330 retailers, revenues received, claims for prizes, prizes paid and
331 all other financial transactions of the corporation.

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

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

337 (4) There shall be no liability on the part of, and no cause
338 of action shall arise against, the corporation, its governing
339 board, staff, agents, vendors, or employees, arising out of or in
340 connection with the issuance, failure to issue, or delivery of a
341 lottery ticket.

342 **SECTION 11.** (1) The president, as chief executive officer
343 of the corporation, shall direct and supervise all administrative
344 and technical activities in accordance with the provisions of this
345 act and within the administrative regulations adopted by the
346 board. The president shall:

347 (a) Supervise and administer the operation of the
348 corporation, the lottery and its games.



349 (b) Employ and direct such personnel as may be
350 necessary to carry out the purposes of this act and utilize such
351 services, personnel or facilities of the corporation as he or she
352 may deem necessary.

353 (c) Contract in accordance with the administrative
354 regulations adopted by the corporation with persons to sell
355 lottery tickets at retail.

356 (d) Make available for inspection by the board or any
357 member of the board, upon request, all books, records, files, and
358 other information and documents of his or her office and to advise
359 the board and recommend such administrative regulations and other
360 matters he or she deems necessary and advisable to improve the
361 operation and administration of the lottery.

362 (e) Enter into any contract pursuant to this act with
363 any person, firm or corporation for the promotion and operation of
364 the lottery or for the performance of any of the functions as
365 provided in this act or administrative regulations adopted by the
366 board.

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

369 (g) Not later than thirty (30) days before the
370 beginning of the corporation's fiscal year, submit the proposed
371 annual budget of the corporation and projected net proceeds to the
372 board for review and approval. In addition, the proposed annual
373 budget of the corporation shall include a personnel table



374 reporting information for each full-time and part-time permanent
375 position, as follows:

376 (i) The position title and the salary for each
377 position in the existing operating budget for the current fiscal
378 year, indicating whether each position is filled or vacant as of
379 the reporting date.

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

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

385 (3) Following his or her approval by the Governor and during
386 his or her entire employment by the board, the president shall
387 reside in Mississippi.

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



399 (5) The president shall require bond from corporate
400 employees with access to corporate funds or lottery funds in such
401 an amount as provided in the administrative regulations of the
402 board.

403 (6) The president may:

404 (a) Require bond from other employees as he or she
405 deems necessary.

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

409 (c) Upon specific or general approval of the board,
410 conduct hearings and administer oaths to persons for the purpose
411 of assuring the security or integrity of lottery operations, or to
412 determine the qualifications or compliance by vendors and
413 retailers.

414 (d) Upon specific or general approval of the board,
415 enter into personal service contracts pursuant to rules and
416 regulations adopted by the board and compensate such consultants
417 and technical assistants as may be required to carry out the
418 provisions of this act.

419 (e) By agreement, secure information and services as he
420 or she may deem necessary from any department, agency or unit of
421 the federal, state or local government, and to the extent allowed
422 by federal or state law, may compensate such department, agency or
423 unit of government for its services.



424 (7) Agencies, departments or units of state government shall
425 cooperate with the corporation and provide such information and
426 services as may be required by the corporation to assure the
427 integrity of the lottery and the effective operation of the
428 lottery games.

429 **SECTION 12.** (1) The corporation may enter into intelligence
430 sharing, reciprocal use, or restricted use agreements with the
431 federal government, law enforcement agencies, lottery regulation
432 agencies, and gaming enforcement agencies of other jurisdictions
433 which provide for and regulate the use of information provided and
434 received pursuant to the agreement.

435 (2) Records, documents and information in the possession of
436 the corporation received pursuant to an intelligence sharing,
437 reciprocal use or restricted use agreement entered into by the
438 corporation with a federal department or agency, any law
439 enforcement agency, or the lottery regulation or gaming
440 enforcement agency of any jurisdiction shall be exempt from the
441 Mississippi Public Records Act of 1983 and shall not be released
442 by the corporation without the permission of the person or agency
443 providing the record or information.

444 **SECTION 13.** The board may employ an attorney and/or may
445 contract with outside counsel when the board determines the need
446 for such counsel.

447 **SECTION 14.** (1) The corporation may enter into contracts
448 with any persons that provide for the placement of commercial



449 advertising on tickets. For purposes of this section, "commercial
450 advertising" means advertising intended for the sole benefit of
451 the advertiser.

452 (2) The nature of the advertising authorized in this section
453 and the procedures for its acceptance as well as the
454 implementation of this section shall be provided by rules adopted
455 by the board. The board shall retain, in its discretion, the
456 authority to accept or reject any bid. Advertisements for tobacco
457 and alcohol products shall not be accepted.

458 (3) Implementation of this section shall be in the manner
459 provided in the procurement rules and regulations adopted by the
460 board.

461 **SECTION 15.** (1) The corporation shall establish and
462 maintain a personnel program, including rules and regulations for
463 its employees. The corporation may procure benefit programs or
464 group insurance plans and shall provide or arrange for a
465 retirement plan. Unless otherwise specified by the president,
466 employees of the corporation shall serve at the pleasure of the
467 president who shall determine their compensation and benefits.
468 The employees shall be subject to suspension, dismissal, reduction
469 in pay, demotion, transfer, or other personnel action at the
470 discretion of the president and shall not be subject to civil
471 service provisions. The compensation of officers at the division
472 head level and above shall be determined by the board.



473 Corporation employees shall not be considered employees of the
474 State of Mississippi.

475 (2) No officer or employee of the corporation or any spouse,
476 sibling, ascendant or descendant of an officer or employee shall
477 have a financial interest in any vendor doing business or
478 proposing to do business with the corporation.

479 (3) No officer or employee of the corporation with
480 decision-making authority shall participate in any decision
481 involving a retailer with whom the officer or employee has a
482 financial interest.

483 (4) No officer or employee of the corporation who leaves the
484 employ of the corporation or board member may represent any vendor
485 or lottery retailer before the corporation for a period of one (1)
486 year following termination of employment with the corporation or
487 membership on the board.

488 **SECTION 16.** (1) A background investigation shall be
489 conducted by the chief security officer of the corporation or his
490 or her agent or designee on every applicant who has reached the
491 final selection process prior to employment by the corporation.
492 The background investigation shall include testing the applicants
493 for the presence of illegal controlled substances. Applicants
494 shall be fingerprinted as a condition of employment. In addition,
495 all division chiefs and deputy chiefs, directors of the
496 corporation, and employees of the corporation performing duties
497 primarily related to security matters, and, other employee



498 positions, prior to employment as determined by the board, shall
499 be subject to a background investigation report conducted by the
500 Department of Public Safety.

501 (2) The Department of Public Safety shall be reimbursed by
502 the corporation for the cost of investigations conducted pursuant
503 to this section.

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

508 **SECTION 17.** (1) Any retailer, vendor or applicant for a
509 retailer or vendor contract aggrieved by an action of the
510 president of the corporation may appeal that decision to the board
511 in accordance with the regulations of the board.

512 (2) Any person aggrieved by a decision of the board may
513 appeal the decision to the chancery court of the county in which
514 its corporate headquarters is located within ten (10) days of the
515 date of the decision of the board.

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

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

519 (5) Any person who appeals the award of a lottery
520 procurement for the supply of a lottery ticket shall be liable for
521 all costs of appeal and defense in the event the appeal is denied
522 or the contract award upheld. Costs of appeal and defense may



523 include, but should not be limited to, court costs, bond, legal
524 fees and loss of income to the corporation resulting from
525 institution of the appeal if, upon the motion of the corporation,
526 the court finds the appeal to have been frivolous.

527 **SECTION 18.** Whenever a bond is required for the protection
528 of the corporation, letters of credit or other surety approved by
529 the corporation may be utilized in lieu of a bond. All bonds or
530 letters of credit shall be reviewed at least annually as to their
531 solvency and sufficiency.

532 **SECTION 19.** The board shall promulgate administrative rules
533 and regulations that define and prohibit the bulk sale of lottery
534 tickets by a retailer and the bulk purchase of such tickets by an
535 investment syndicate, investment group, or individual for
536 investment purposes.

537 **SECTION 20.** The corporation shall require as a part of any
538 contract for the production or printing of lottery tickets that
539 each ticket include the toll-free telephone number of any state or
540 national organization that provides information and referral
541 services regarding compulsive or problem gambling.

542 **SECTION 21.** The corporation shall publish quarterly
543 financial statements, which shall be made available to the public
544 within thirty (30) days following the close of each quarter. The
545 quarterly financial statements shall include disposition of all
546 funds expended by the corporation for any purpose including
547 disclosure of any major procurements.



548 **SECTION 22.** (1) Proceeds of any lottery prize of Six
549 Hundred Dollars (\$600.00) or more shall be subject to state and
550 federal income tax laws, as applicable. Any attachments,
551 garnishments or executions authorized and issued pursuant to law
552 shall also be withheld if timely served upon the process agent of
553 the corporation. This section shall not apply to a retailer
554 except for the payment of state or local tax.

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

558 (a) No prize, nor any portion of a prize, nor any right
559 of any person to a prize awarded shall be assignable, except as
560 provided for in Section 24 of this act. Any prize, or portion
561 thereof, remaining unpaid at the death of a prizewinner shall be
562 paid to the estate of the deceased prizewinner or to the trustee
563 of a trust established by the deceased prizewinner if a copy of
564 the trust document or instrument has been filed with the
565 corporation, along with a notarized letter of direction from the
566 deceased prizewinner, and no written notice of revocation has been
567 received by the corporation prior to the deceased prizewinner's
568 death. Following a deceased prizewinner's death and prior to any
569 payment to such a trustee, the corporation shall obtain from the
570 trustee and each trust beneficiary a written agreement to
571 indemnify and hold the corporation harmless with respect to any
572 claims that may be asserted against the corporation arising from



573 payment to or through the trust. Notwithstanding any other
574 provisions of this act, any person, pursuant to an appropriate
575 judicial order, shall be paid the prize to which a winner is
576 entitled.

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

579 (c) No prize shall be paid arising from claimed tickets
580 that are stolen, counterfeit, altered, fraudulent, unissued,
581 produced or issued in error, unreadable, not received, unclaimed
582 or not recorded by the corporation within applicable deadlines,
583 lacking in captions that conform and agree with the play symbols
584 as appropriate to the lottery game involved, or not in compliance
585 with such additional specific rules and public or confidential
586 validation and security tests of the corporation appropriate to
587 the particular lottery game involved.

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

593 (e) A holder of a winning ticket from a Mississippi
594 lottery game or from a multistate or multisovereign lottery game
595 shall claim a prize within the timeframe provided for in rules and
596 regulations. If a valid claim is not made for a prize within the



597 applicable period, the prize shall constitute an unclaimed prize
598 for purposes of paragraph (c) of this subsection.

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

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

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

611 (5) The corporation is discharged of all liability upon
612 payment of a prize.

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

615 (a) Any member of the board;

616 (b) Any officer, or employee of the corporation; or

617 (c) Any spouse, child, brother, sister or parent
618 residing as a member of the same household in the principal place
619 of abode of any person listed in paragraph (a) or (b) of this
620 subsection.



621 **SECTION 23.** (1) The board shall coordinate with the
622 Department of Human Services to promulgate rules and regulations
623 providing for the withholding of lottery prizes of persons who
624 have outstanding child support arrearages as reported to the
625 corporation, beginning at prize levels to be determined by the
626 board. The corporation may require any agency reporting current
627 child support arrearages to the corporation to provide information
628 relating to such arrearages in a manner, format or record approved
629 by the corporation. The corporation shall not be liable for
630 withholding a lottery prize based upon child support arrearage
631 information provided to it. Additionally, the corporation shall
632 employ the same methods, procedures and parameters to withhold
633 lottery prizes for persons who have delinquent debt as submitted
634 by a claimant agency to the Department of Revenue for recovery
635 under Section 27-7-501 et seq. The corporation shall not be
636 liable for withholding a lottery prize based upon delinquent debt
637 information provided to it by the Department of Revenue.

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

642 **SECTION 24.** (1) Under an appropriate judicial order, any
643 prize, or any portion of a prize, or any right of any person to a
644 prize awarded, payable by the corporation in deferred annuity
645 payments, may be paid to any person other than the winner.



646 (2) The right of a person to a prize payable by the
647 corporation in deferred annuity payments may be voluntarily
648 assigned as a whole or in part, if the assignment is made to a
649 person designated in accordance with an order of the chancery
650 court in the county where the corporation's headquarters is
651 located. Any such order shall be deemed an appropriate judicial
652 order.

653 (3) On the filing by the assignor or the assignee in
654 chancery court of a petition seeking approval of a voluntary
655 assignment, the court shall issue an order approving a voluntary
656 assignment and directing the corporation to make prize payments as
657 a whole or in part to the assignee if the court finds all of the
658 following:

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

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

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

667 (d) The assignor understands that the assignor will not
668 receive the prize payments or parts of payments during the years
669 assigned.



670 (e) The assignor understands and agrees, with regard to
671 the assigned payments, that the corporation, board of directors,
672 and officials and employees of the corporation shall have no
673 further liability or responsibility for making the assigned
674 payments.

675 (f) The assignee provides the assignor with a one-page
676 disclosure statement that sets forth in bold type not less than
677 fourteen (14) points in size the payments being assigned by amount
678 and payment date, the purchase price, the rate of discount to
679 present value, assuming daily compounding and funding on the
680 contract date, and any origination or closing fee that will be
681 charged to the assignor.

682 (g) The contract of assignment expressly states that
683 the assignor has three (3) business days after signing the
684 contract to cancel the assignment.

685 (h) The assignor and assignee do not seek assignment
686 for purposes of evading creditors, judgments or obligations of
687 child support.

688 (i) The assignor and assignee have certified that
689 neither of them has a child support obligation or, if either does
690 have a child support obligation, that no arrearage is due, and
691 that neither the assignor nor the assignee is obligated to repay
692 any public assistance benefits or overpayment of child support.

693 (j) The petition required by this subsection shall be
694 accompanied by a certification from a representative of the



695 Mississippi Department of Human Services stating any of the
696 following:

697 (i) That the assignor or assignee does not
698 currently have a child support arrearage, or the assignor or
699 assignee does not owe an obligation to repay any public assistance
700 benefits or an overpayment of child support benefits to the
701 Mississippi Department of Human Services.

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

705 (iii) That the assignor or assignee does currently
706 have a child support arrearage, or the assignor or assignee does
707 owe an obligation to repay any public assistance benefits or an
708 overpayment of child support benefits to the Mississippi
709 Department of Human Services.

710 The certification from the Mississippi Department of Human
711 Services shall be provided to the assignor and the assignee
712 promptly upon the request of the assignor or the assignee, and in
713 no event more than ten (10) business days after the request is
714 received by the Mississippi Department of Human Services.

715 (4) Written notice of the petition and proposed assignment
716 and any court hearing concerning the petition and proposed
717 assignment shall be served on the corporation, which shall be made
718 a party thereto.



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

723 (i) The court-approved assignment.

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

727 (b) The corporation shall thereafter make payments in
728 accordance with the assignment.

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

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

737 (7) The assignee shall pay any costs incurred by the
738 corporation related to the assignment.

739 (8) The assignee shall notify the corporation of its
740 business location and mailing address for payment purposes and of
741 any change in location or address during the entire course of the
742 assignment.



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

747 (10) If the Internal Revenue Service or a court of competent
748 jurisdiction issues a determination letter, revenue ruling, or
749 other public document declaring that the voluntary assignment of
750 prizes will affect the federal income taxation treatment of
751 lottery prizewinners who do not assign their prizes, the following
752 shall occur:

753 (a) Within fifteen (15) days after the corporation
754 receives the letter, ruling or other document, the president of
755 the corporation shall file a copy of it with the Attorney General;
756 and

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

759 (11) This section shall prevail over any inconsistent
760 provision in Mississippi law.

761 **SECTION 25.** (1) The corporation shall enter into its
762 contracts for major procurements after negotiation or bidding.
763 The corporation may adopt special rules and regulations pursuant
764 to the provisions of this act providing for special procedures
765 whereby the Mississippi Lottery Corporation may make any class of
766 procurement.



767 (2) In its bidding and negotiation processes, the
768 corporation may do its own bidding and procurement or may utilize
769 the services of the Department of Finance and Administration, the
770 Department of Information Technology Services, or other state
771 agencies as appropriate and necessary. The president of the
772 corporation may, with approval of the board, declare an emergency
773 for purchasing purposes.

774 **SECTION 26.** (1) (a) All monies received by the corporation
775 from the sale of lottery tickets and all other sources shall be
776 deposited into a corporate operating account. Such account shall
777 be established in a state depository and collateralized as
778 prescribed by Section 27-105-5. The corporation may use all
779 monies in the corporate operating account for the purposes of
780 paying prizes and the necessary expenses of the corporation and
781 dividends to the state. The corporation shall estimate and
782 allocate the amount to be paid by the corporation to prizewinners.

783 (b) (i) The investment of monies in the corporate
784 operating account, other than the amount specifically required for
785 the purchase of securities for payment of deferred prizes, shall
786 be invested in a manner prescribed by the board, consistent with
787 law. Such securities purchased as investments by the corporation
788 shall be issued in the name of the corporation and shall be kept
789 at a custodian financial institution domiciled in the State of
790 Mississippi insured by the Federal Deposit Insurance Corporation.



791 (ii) The investment of monies in the corporate
792 operating account, other than the amount specifically required for
793 the purchase of securities for deferred prize payments to winners
794 shall be invested only in securities in a manner prescribed by the
795 board, consistent with law. Such securities purchased as
796 investments by the corporation shall be issued in the name of the
797 corporation and shall be safe kept at a custodian financial
798 institution domiciled in the State of Mississippi.

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

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

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

807 (c) Within twenty (20) days following the close of each
808 calendar month, the corporation shall transfer to the Lottery
809 Proceeds Fund in the State Treasury the amount of net revenues
810 which the corporation determines are surplus to its needs. Net
811 revenues or proceeds shall be determined by deducting from gross
812 revenues the payment costs incurred or estimated to be incurred in
813 the operation and administration of the lottery. This shall
814 include the expenses of the corporation and the costs resulting
815 from any contract or contracts entered into for promotional,



816 advertising or operational services or for the purchase or lease
817 of lottery equipment and materials, fixed capital outlays, and the
818 payment of prizes to the holders of winning tickets.

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

822 (i) The payment of prizes to the holders of
823 winning lottery tickets or shares which in any case shall be no
824 less than fifty percent (50%) of the total revenues accruing from
825 the sale of lottery tickets.

826 (ii) The payment of costs incurred in the
827 operation and administration of the lottery, including the
828 expenses of the corporation and the costs resulting from any
829 contract or contracts entered into for promotional, advertising or
830 operational services or for the purchase or lease of lottery
831 equipment and materials, which in no case shall exceed fifteen
832 percent (15%) of the total revenues accruing from the sale of
833 lottery tickets. However, this restriction shall not apply until
834 after the first twelve (12) months of revenue generation.

835 (2) A Lottery Proceeds Fund is hereby established in the
836 State Treasury. Net lottery proceeds shall be deposited into
837 this fund as provided in subsection (1) of this section. Monies
838 deposited into the Lottery Proceeds Fund shall be invested by the
839 state in accordance with state investment practices, and all
840 earnings from such investments shall accrue to this account. No



841 monies shall be allotted or expended from this account unless
842 pursuant to a warrant issued by the State Fiscal Officer upon
843 requisition of the Transportation Commission for funds to be
844 transferred to the State Highway Fund in accordance with Section
845 43 of this act.

846 **SECTION 27.** (1) The corporation may accept and expend such
847 monies as may be appropriated by the Legislature or such monies as
848 may be received from any source, including income from the
849 corporation's operations, for effectuating its corporate purposes,
850 including the payment of the initial expenses of administration
851 and operation of the corporation and the lottery.

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

858 **SECTION 28.** (1) The Legislature hereby recognizes that to
859 conduct a successful lottery, the corporation must develop and
860 maintain a statewide network of lottery retailers that will serve
861 the public convenience and promote the sale of tickets, while
862 insuring the integrity of the lottery operations, games and
863 activities.

864 (2) To govern the selection of lottery retailers, the board
865 shall, by administrative regulation, develop a list of objective



866 criteria upon which the selection of lottery retailers shall be
867 based. In developing these criteria, the board shall consider
868 such factors as the applicant's financial responsibility, location
869 and security of the applicant's place of business or activity,
870 integrity, and reputation; however, the board shall not consider
871 political affiliation, activities or monetary contributions to
872 political organizations or candidates for any public office. The
873 criteria shall include, but not be limited to, the following:

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

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

882 (c) No person, partnership, unincorporated association,
883 corporation or other business entity shall be selected as a
884 lottery retailer for the sale of lottery tickets who:

885 (i) Has been convicted of a criminal offense
886 related to the security or integrity of the lottery in this or any
887 other jurisdiction.

888 (ii) Has been convicted of any illegal gambling
889 activity, false statements, false swearing or perjury in this or
890 any other jurisdiction, or convicted of any crime punishable by



891 more than one (1) year imprisonment or a fine of more than One
892 Thousand Dollars (\$1,000.00), or both.

893 (iii) Has been found to have violated the
894 provisions of this act or any administrative regulation adopted
895 hereunder, unless either ten (10) years have passed since the
896 violation, or the president and the board find the violation both
897 minor and unintentional in nature.

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

900 (v) Resides in the same household as an officer of
901 the corporation.

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

904 **SECTION 29.** (1) No lottery retailer contract awarded
905 pursuant to this act shall be transferable or assignable. No
906 lottery retailer shall contract with any person for lottery goods
907 or services except with the approval of the board.

908 (2) Each lottery retailer shall be issued a lottery retailer
909 certificate which shall be conspicuously displayed at the place
910 where the lottery retailer is authorized to sell lottery tickets.
911 Lottery tickets shall only be sold by the retailer at the location
912 stated on the lottery retailer certificate.

913 (3) For the convenience of the public, all retailers may pay
914 winners up to Six Hundred Dollars (\$600.00) after performing
915 validation procedures appropriate to the lottery game involved.



916 **SECTION 30.** The corporation shall require each retailer to
917 post a letter of credit or a bond with the corporation using a
918 surety acceptable to the corporation in an amount not to exceed
919 twice the average lottery ticket sales of the retailer for the
920 period within which the retailer is required to remit lottery
921 funds to the corporation. For the first ninety (90) days of sales
922 of a new retailer, the amount of the bond shall not exceed twice
923 the average estimated lottery ticket sales for the period within
924 which the retailer is required to remit lottery funds to the
925 corporation. This section does not apply to lottery tickets which
926 are prepaid by the retailers. The corporation may facilitate the
927 purchase of letters of credit by establishing retailer pools for
928 the purchase of bonds and letters of credit for retailers.

929 **SECTION 31.** (1) Any contract executed by the corporation
930 with a retailer pursuant to this section shall specify the reasons
931 for which any contract may be cancelled, suspended, revoked or
932 terminated by the corporation, which reasons shall include, but
933 not be limited to:

934 (a) Commission of a violation of this act or
935 administrative regulations adopted pursuant thereto.

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

938 (c) Commission of any fraud, deceit or
939 misrepresentation.

940 (d) Insufficient sale of tickets.



941 (e) Conduct prejudicial to public confidence in the
942 lottery.

943 (f) The retailer filing for or being placed in
944 bankruptcy or receivership.

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

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

949 (2) If, in the discretion of the president, cancellation,
950 denial, revocation, suspension or rejection of renewal of a
951 lottery retailer contract is in the best interest of the lottery,
952 the public welfare, or the State of Mississippi, the president may
953 cancel, suspend, revoke or terminate, after notice and a hearing,
954 any contract issued pursuant to this act. Such contract may,
955 however, be temporarily suspended by the president without prior
956 notice, pending any prosecution, hearing or investigation, whether
957 by a third party or by the president. A contract may be
958 suspended, revoked or terminated by the president for any one or
959 more of the reasons enumerated in this section.

960 **SECTION 32.** (1) (a) All proceeds from the sale of lottery
961 tickets received by a lottery retailer shall constitute a trust
962 fund until paid to the corporation either directly or through the
963 corporation's authorized collection representative. A lottery
964 retailer shall have a fiduciary duty to preserve and account for
965 lottery proceeds, and lottery retailers shall be personally liable



966 for all proceeds. Proceeds shall include unsold instant tickets
967 received by a lottery retailer and cash proceeds of sale of any
968 lottery products, net of allowable sales commissions and credit
969 for lottery prizes to winners by lottery retailers. Sales
970 proceeds and unused instant tickets shall be delivered to the
971 corporation or its authorized collection representative upon
972 demand.

973 (b) The corporation shall, by rules and regulations,
974 require retailers to place all lottery proceeds due the
975 corporation in accounts in institutions insured by the Federal
976 Deposit Insurance Corporation not later than the close of the next
977 banking day after the date of their collection by the retailer
978 until the date they are paid over to the corporation. The
979 corporation may require a retailer to establish a single, separate
980 electronic funds transfer account, where available, for the
981 purpose of receiving monies from ticket sales, making payments to
982 the corporation, and receiving payments from the corporation.
983 Each lottery retailer shall establish a separate bank account for
984 lottery proceeds which shall be kept separate and apart from all
985 other funds and assets and shall not be commingled with any other
986 funds or assets.

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



990 (2) Whenever any person who receives proceeds from the sale
991 of lottery tickets in the capacity of a lottery retailer becomes
992 insolvent, or dies insolvent, the proceeds due the corporation
993 from such person or his or her estate shall have preference over
994 all debts or demands.

995 **SECTION 33.** (1) No person shall sell a ticket at a price
996 other than established by the corporation, unless authorized in
997 writing by the president. No person other than a duly certified
998 lottery retailer shall sell lottery tickets, but this shall not be
999 construed to prevent a person who may lawfully purchase tickets
1000 from making a gift of lottery tickets to another. Nothing in this
1001 act shall be construed to prohibit the corporation from
1002 designating certain of its agents and employees to sell lottery
1003 tickets directly to the public.

1004 (2) Lottery tickets may be given by merchants as a means of
1005 promoting goods or services to customers or prospective customers
1006 subject to approval by the corporation.

1007 (3) No lottery retailer shall sell a ticket except from the
1008 locations listed in the contract.

1009 (4) No lottery tickets shall be sold at State of Mississippi
1010 safety rest areas.

1011 **SECTION 34.** The corporation shall require the posting of one
1012 or more signs on licensed premises at each point of entry into
1013 areas where lottery tickets are sold to inform patrons of a
1014 toll-free telephone number of any state or national organization



1015 that provides information and referral services regarding
1016 compulsive or problem gambling. Failure by the owner of the
1017 licensed premises to post and maintain such a sign or signs shall
1018 be cause for the imposition of a fine to be determined by the
1019 board.

1020 **SECTION 35.** (1) The corporation may purchase, lease or
1021 lease-purchase such goods or services as are necessary for
1022 effectuating the purposes of this act. The corporation shall not
1023 contract with any person or entity for the total operation and
1024 administration of the lottery, but it may make procurements which
1025 integrate such functions as lottery game design, lottery ticket
1026 distribution to retailers, supply of goods and services and
1027 advertising. In all procurement decisions, the corporation shall
1028 take into account the particularly sensitive nature of the lottery
1029 and shall act to promote and ensure security, honesty, fairness
1030 and integrity in the operation and administration of the lottery
1031 and the objectives of raising net proceeds for the benefit of the
1032 public.

1033 (2) The corporation shall investigate the financial
1034 responsibility, security and integrity of any lottery system
1035 vendor who submits a bid, proposal or offer. At the time of
1036 submitting such bid, proposal or offer to the corporation, the
1037 corporation may require the following items:

1038 (a) A disclosure of the vendor's name and address and,
1039 as applicable, the name and address of the following:



1040 (i) If the vendor is a corporation, the officers,
1041 directors and each stockholder in such corporation; however, in
1042 the case of owners of equity securities of a publicly traded
1043 corporation, only the names and addresses of those known to the
1044 corporation to own beneficially five percent (5%) or more of such
1045 securities need be disclosed.

1046 (ii) If the vendor is a trust, the trustee and all
1047 persons entitled to receive income or benefits from the trust.

1048 (iii) If the vendor is an association, the
1049 members, officers and directors.

1050 (iv) If the vendor is a partnership or joint
1051 venture, all of the general partners, limited partners, or joint
1052 venturers.

1053 (b) A disclosure of all the states and jurisdictions in
1054 which the vendor does business, and the nature of the business for
1055 each such state or jurisdiction.

1056 (c) A disclosure of all the states and jurisdictions in
1057 which the vendor has contracts to supply gaming goods or services,
1058 including, but not limited to, lottery goods and services, and the
1059 nature of the goods or services involved for each such state or
1060 jurisdiction.

1061 (d) A disclosure of all the states and jurisdictions in
1062 which the vendor has applied for, has sought renewal of, has
1063 received, has been denied, has pending, or has had revoked a
1064 gaming license of any kind, or had fines or penalties assessed on



1065 their license, contract, or operation, and the disposition of such
1066 in each such state or jurisdiction. If any lottery license or
1067 contract has been revoked or has not been renewed or any lottery
1068 license or application has remained pending for more than six (6)
1069 months, then it shall be disclosed.

1070 (e) A disclosure of the details of any finding of a
1071 plea, conviction or adjudication for guilt, in a state or federal
1072 court, of the vendor for any felony or any other criminal offense
1073 other than a traffic violation.

1074 (f) A disclosure of the details of any bankruptcy,
1075 insolvency, reorganization, corporate or individual purchase or
1076 takeover of another corporation, including bonded indebtedness, or
1077 any pending litigation of the vendor.

1078 (g) Such additional disclosures and information as the
1079 corporation may determine to be appropriate for the procurement
1080 involved. If the vendor subcontracts any substantial portion of
1081 the work to be performed under the contract to a subcontractor,
1082 the vendor shall disclose all of the information required by this
1083 subsection for the subcontractor as if the subcontractor were
1084 itself a vendor.

1085 (3) In no case shall the corporation enter into a contract
1086 for a procurement with any video lottery system or any other
1087 illegal lottery device, and shall only enter into a contract for a
1088 procurement for any lottery system with a vendor who has complied
1089 with the disclosures required by the corporation and described in



1090 subsection (2) of this section, and any contract with such a
1091 vendor is unenforceable. Any contract with a vendor who does not
1092 comply with such requirements for periodically updating such
1093 disclosures during the tenure of contract as may be specified in
1094 such contract shall be terminated by the corporation. The
1095 provisions of this section shall be construed broadly and
1096 liberally to achieve the ends of full disclosure of all
1097 information necessary to allow for a full and complete evaluation
1098 by the corporation of the competence, integrity, background and
1099 character of vendors.

1100 (4) (a) A contract shall not be entered into with any
1101 vendor who has been found guilty of a felony related to the
1102 security or integrity of the lottery in this or any other
1103 jurisdiction or with any supplier or vendor who is found to be in
1104 possession of any illegal lottery device.

1105 (b) A contract shall not be entered into with any
1106 vendor who has not first obtained a signed tax clearance from the
1107 Commissioner of Revenue indicating that the vendor is current in
1108 filing all applicable tax returns and in payment of all taxes,
1109 interest and penalties owed to the State of Mississippi, excluding
1110 items under formal appeal pursuant to applicable statutes.

1111 (5) The corporation may require that each vendor shall, at
1112 the execution of the contract with the corporation, post a
1113 performance bond or letter of credit from a bank acceptable to the
1114 corporation, in an amount established by the corporation. In lieu



1115 of the bond, a vendor may, to assure the faithful performance of
1116 its obligations, deposit and maintain with the corporation
1117 securities that are interest-bearing or accruing and that are
1118 rated in one (1) of the three (3) highest classifications by an
1119 established nationally recognized investment rating service.

1120 Securities eligible under this subsection are limited to:

1121 (a) Certificates of deposit issued by solvent banks or
1122 savings associations approved by the corporation and which are
1123 organized and existing under the laws of this state or under the
1124 laws of the United States.

1125 (b) United States bonds, notes, and bills for which the
1126 full faith and credit of the government of the United States is
1127 pledged for the payment of principal and interest.

1128 (c) Corporate bonds approved by the corporation. The
1129 corporation which issued the bonds shall not be an affiliate or
1130 subsidiary of the depositor. Such securities shall be held in
1131 trust.

1132 (6) Every contract entered into by the corporation pursuant
1133 to this section shall contain a provision for payment of
1134 liquidated damages to the corporation for any breach of contract
1135 by the vendor.

1136 (7) Each vendor shall be qualified to do business in this
1137 state and shall file appropriate tax returns as provided by the
1138 laws of this state. All contracts under this section shall be
1139 governed by the laws of this state.



1140 **SECTION 36.** (1) The Mississippi Department of Public Safety
1141 shall perform full criminal background investigations on all
1142 potential vendors, potential retailers, and potential employees of
1143 the corporation at the level of division director and above, and
1144 at any level within a division handling security, and, as
1145 determined by the board, on any other employee of the corporation.
1146 The corporation shall reimburse the Department of Public Safety
1147 for the actual costs of such investigations.

1148 (2) The corporation or its division handling security shall:

1149 (a) Conduct criminal background investigations and
1150 credit investigations on all potential retailers and investigate
1151 all potential employees of the corporation not referred to in
1152 subsection (1) of this section or not investigated by the
1153 Department of Public Safety.

1154 (b) Supervise ticket validation and lottery drawings.

1155 (c) Inspect at times determined solely by the division
1156 the facilities of any vendor in order to determine the integrity
1157 of the vendor's product and in order to determine whether the
1158 vendor is in compliance with its contract.

1159 (d) Report any suspected violations of this act to the
1160 appropriate district attorney, or the Attorney General, and law
1161 enforcement agencies.

1162 (e) Upon request, provide assistance to any district
1163 attorney, the Attorney General, or law enforcement agency
1164 investigating a violation of this act.



1165 SECTION 37. (1) (a) No lottery retailer and no agent,
1166 associate, employee, representative or servant of any such person
1167 shall allow any illegal lottery device to be on its premises, nor
1168 shall any lottery retailer, agent, associate, employee,
1169 representative or servant sell a lottery ticket to any person
1170 unless the person submits any one (1) of the following forms of
1171 identification which establish the age of the person as twenty-one
1172 (21) years or older:

1173 (i) A valid and current Mississippi driver's
1174 license which contains a photograph of the person presenting the
1175 driver's license.

1176 (ii) A valid and current driver's license of
1177 another state which contains a photograph of the person and birth
1178 date of the person submitting the driver's license.

1179 (iii) A valid and current special identification
1180 card issued by the State of Mississippi containing a photograph of
1181 the person submitting the identification card.

1182 (iv) A valid and current passport or visa issued
1183 by the federal government or another country or nation that
1184 contains a permanently attached photograph of the person and the
1185 date of birth of the person submitting the passport or visa.

1186 (v) A valid and current military or federal
1187 identification card issued by the federal government containing a
1188 photograph of the person and date of birth of the person
1189 submitting the identification card.



1190 (b) Each form of identification listed in paragraph (a)
1191 of this subsection must on its face establish the age of the
1192 person as twenty-one (21) years of age or older, and there must be
1193 no reason to doubt the authenticity or correctness of the
1194 identification. No form of identification mentioned in paragraph
1195 (a) of this subsection shall be accepted as proof of age if it is
1196 expired, defaced, mutilated or altered. If the driver's license,
1197 state identification card or lawful identification submitted is a
1198 duplicate, the person shall submit additional identification which
1199 contains the name, date of birth and photograph of the person.

1200 (c) An educational institution identification card,
1201 check-cashing identification card, or employee identification card
1202 shall not be considered as lawful identification for the purposes
1203 of this subsection.

1204 (2) Any retailer who knowingly sells a lottery ticket to a
1205 person under twenty-one (21) years of age will be fined not less
1206 than One Hundred Dollars (\$100.00) nor more than Five Hundred
1207 Dollars (\$500.00) for the first offense and, for each subsequent
1208 offense, not less than Two Hundred Dollars (\$200.00) nor more than
1209 One Thousand Dollars (\$1,000.00) and may be disqualified as a
1210 lottery retailer.

1211 (3) (a) It is unlawful for any person under eighteen (18)
1212 years of age to purchase a lottery ticket.

1213 (b) Whoever violates the provisions of this subsection
1214 shall be fined not more than One Hundred Dollars (\$100.00).



1215 (c) Any person apprehended while violating the
1216 provisions of this subsection shall be issued a citation by the
1217 apprehending law enforcement officer, which shall be paid in the
1218 same manner as provided for the offenders of local traffic
1219 violations.

1220 **SECTION 38.** (1) Any person, with intent to defraud, who
1221 falsely makes, alters, forges, utters, passes or counterfeits a
1222 state lottery ticket shall be punished as provided in subsection
1223 (2) of this section.

1224 (2) Any person who influences or attempts to influence the
1225 winning of a prize through the use of coercion, fraud, deception
1226 or tampering with lottery equipment or materials shall be punished
1227 by imprisonment for not less than one (1) year and not more than
1228 twenty (20) years, by a fine of not more than Fifty Thousand
1229 Dollars (\$50,000.00), or by both fine and imprisonment.

1230 **SECTION 39.** (1) No former member of the board or officer of
1231 the corporation, or a corporation or other entity owned, in whole
1232 or in part, by a former board member or corporation officer, shall
1233 solicit or accept employment or enter into a contract for
1234 compensation of any kind with a vendor of the corporation within
1235 one (1) year after termination of service with the corporation.

1236 (2) The name of any individual who is a board member or an
1237 officer or an employee of the corporation shall not appear upon
1238 any lottery ticket, lottery game, lottery form or paper used in
1239 playing any lottery game.



1240 (3) Violation of any provision of this section by a member
1241 of the board or an officer of the corporation shall constitute
1242 cause for removal from office or dismissal from employment.

1243 (4) The provisions of subsections (1) and (3) of this
1244 section shall not apply to ex officio members of the board of
1245 directors.

1246 (5) The State Ethics Commission shall administer and enforce
1247 the provisions of this section. The procedures and penalties
1248 provided for in Section 25-4-101 et seq. shall apply to the
1249 administration and enforcement of the provisions of this section.

1250 **SECTION 40.** (1) Skimming of lottery proceeds is the
1251 intentional excluding, or the taking of any action in an attempt
1252 to exclude, anything or its value from the deposit, counting,
1253 collection or computation of gross revenues or net proceeds from
1254 lottery activities.

1255 (2) Whoever commits the crime of skimming lottery proceeds
1256 when the amount skimmed or to be skimmed is less than One Thousand
1257 Dollars (\$1,000.00) may be imprisoned for not more than five (5)
1258 years, or may be fined not more than Five Thousand Dollars
1259 (\$5,000.00), or both.

1260 (3) Whoever commits the crime of skimming lottery proceeds
1261 when the amount skimmed or to be skimmed is One Thousand Dollars
1262 (\$1,000.00) but less than Ten Thousand Dollars (\$10,000.00), shall
1263 be imprisoned for not less than three (3) years nor more than ten
1264 (10) years without benefit of probation, parole, or suspension of



1265 sentence, and may be fined not more than Twenty-five Thousand
1266 Dollars (\$25,000.00).

1267 (4) Whoever commits the crime of skimming lottery proceeds
1268 when the amount skimmed or to be skimmed is Ten Thousand Dollars
1269 (\$10,000.00) or more shall be imprisoned for not less than ten
1270 (10) years nor more than twenty-five (25) years without benefit of
1271 probation, parole, or suspension of sentence, and may be fined not
1272 more than Fifty Thousand Dollars (\$50,000.00), or both
1273 imprisonment and fine.

1274 **SECTION 41.** No person shall knowingly or intentionally use
1275 or possess a form of illegal lottery device or make a material
1276 false statement in any application for a license or proposal to
1277 conduct lottery activities or make a material false entry in any
1278 book or record which is compiled or maintained or submitted to the
1279 corporation pursuant to the provisions of this act. Any person
1280 who violates the provisions of this section may be imprisoned for
1281 not less than five (5) years nor more than ten (10) years without
1282 benefit of probation, parole or suspension of imposition of
1283 sentence and may be fined an amount not to exceed Twenty-five
1284 Thousand Dollars (\$25,000.00) or the dollar amount of the false
1285 entry or statement, whichever is greater.

1286 **SECTION 42.** (1) Illegal lottery devices as described in
1287 this section are considered gambling devices and contraband.

1288 (2) As used in this section, the term "illegal lottery
1289 device" means:



1290 (a) Forged, counterfeit, or stolen, or improperly
1291 issued or illegally possessed lottery tickets.

1292 (b) Any device or equipment that is in itself or is
1293 being used as part of any sort of a video lottery terminal.

1294 (c) Any tickets, payouts, receipts or the like which
1295 are generated by, taken from or are related to any sort of a video
1296 lottery terminal.

1297 (3) All law enforcement officers of municipal police forces,
1298 sheriff's departments, and the state will confiscate and preserve
1299 all illegal lottery devices or other video machines used for
1300 illegal gambling that come to their attention for evidence in the
1301 prosecution of those individuals in possession of same. Any such
1302 illegal lottery device will be subject to confiscation and
1303 destruction.

1304 (4) Any video lottery device or equipment in possession of a
1305 licensed manufacturer, seller, distributor, transporter or
1306 repairman in this state shall be subject to confiscation and
1307 destruction regardless of whether such device or equipment is
1308 being used for unlawful gambling activities.

1309 (5) Neither the state nor any political subdivision, agency,
1310 agent, or enforcement officer thereof shall be liable civilly or
1311 criminally for the destruction of any illegal lottery device.

1312 **SECTION 43.** Until June 30, 2028, revenues generated by the
1313 Mississippi Lottery Law, created pursuant to Sections 1 through 46
1314 of this act and deposited into the Lottery Proceeds Fund under



1315 Section 26(2)(a) of this act shall be paid into the State Highway
1316 Fund by warrant issued by the State Fiscal Officer upon
1317 requisition of the State Transportation Commission as needed to
1318 provide funds to repair, renovate and maintain highways and
1319 bridges of the state; however, funds paid into the State Highway
1320 Fund under this section shall be first used for matching federal
1321 funds authorized to the state pursuant to any federal highway
1322 infrastructure program implemented after September 1, 2018. From
1323 and after July 1, 2028, the revenue shall be deposited into the
1324 Lottery Proceeds Fund and shall be transferred to the State General
1325 Fund.

1326 **SECTION 44.** All directors, officers and employees of the
1327 corporation shall be considered public servants as defined in
1328 Section 25-4-101. All directors and officers of the corporation
1329 are subject to Section 25-4-25 and shall be required to file a
1330 Statement of Economic Interest with the Mississippi Ethics
1331 Commission.

1332 **SECTION 45.** To ensure the financial integrity of the
1333 lottery, the corporation through its board of directors shall:

1334 (a) Compile and submit quarterly and annual reports and
1335 financial statements, in compliance with Section 10(3)(b) and
1336 Section 21 of this act;

1337 (b) Contract with an independent auditor who is a
1338 certified public accountant or firm to conduct an annual financial
1339 audit of the books and records of the corporation. The cost of



1340 this annual financial audit shall be an operating expense of the
1341 corporation:

1342 (i) Such independent auditor shall have no
1343 financial interest in any vendor with whom the corporation is
1344 under contract;

1345 (ii) All contracts for independent auditors shall
1346 be reviewed by and subject to the approval of the State Auditor to
1347 ensure that the independent auditor is qualified to perform the
1348 audit;

1349 (iii) The audit shall be completed within ninety
1350 (90) days after the close of the corporation's fiscal year; and

1351 (iv) Contracts may be entered into for audit
1352 services for a period not to exceed five (5) years and the same
1353 firm shall not receive two (2) consecutive audit contracts.

1354 **SECTION 46.** For informational purposes only, the corporation
1355 shall submit to the Joint Legislative Budget Committee a copy of
1356 the corporation's annual operating budget for the upcoming fiscal
1357 year. The budget shall include an estimate of net proceeds to be
1358 deposited into the State Highway Fund during the succeeding fiscal
1359 year.

1360 **SECTION 47.** Section 7-7-211, Mississippi Code of 1972, is
1361 amended as follows:

1362 7-7-211. The department shall have the power and it shall be
1363 its duty:



1364 (a) To identify and define for all public offices of
1365 the state and its subdivisions generally accepted accounting
1366 principles or other accounting principles as promulgated by
1367 nationally recognized professional organizations and to consult
1368 with the State Fiscal Officer in the prescription and
1369 implementation of accounting rules and regulations;

1370 (b) To provide best practices, for all public offices
1371 of regional and local subdivisions of the state, systems of
1372 accounting, budgeting and reporting financial facts relating to
1373 said offices in conformity with legal requirements and with
1374 generally accepted accounting principles or other accounting
1375 principles as promulgated by nationally recognized professional
1376 organizations; to assist such subdivisions in need of assistance
1377 in the installation of such systems; to revise such systems when
1378 deemed necessary, and to report to the Legislature at periodic
1379 times the extent to which each office is maintaining such systems,
1380 along with such recommendations to the Legislature for improvement
1381 as seem desirable;

1382 (c) To study and analyze existing managerial policies,
1383 methods, procedures, duties and services of the various state
1384 departments and institutions upon written request of the Governor,
1385 the Legislature or any committee or other body empowered by the
1386 Legislature to make such request to determine whether and where
1387 operations can be eliminated, combined, simplified and improved;



1388 (d) To postaudit each year and, when deemed necessary,
1389 preaudit and investigate the financial affairs of the departments,
1390 institutions, boards, commissions, or other agencies of state
1391 government, as part of the publication of a comprehensive annual
1392 financial report for the State of Mississippi, or as deemed
1393 necessary by the State Auditor. In complying with the
1394 requirements of this paragraph, the department shall have the
1395 authority to conduct all necessary audit procedures on an interim
1396 and year-end basis;

1397 (e) To postaudit and, when deemed necessary, preaudit
1398 and investigate separately the financial affairs of (i) the
1399 offices, boards and commissions of county governments and any
1400 departments and institutions thereof and therein; (ii) public
1401 school districts, departments of education and junior college
1402 districts; and (iii) any other local offices or agencies which
1403 share revenues derived from taxes or fees imposed by the State
1404 Legislature or receive grants from revenues collected by
1405 governmental divisions of the state; the cost of such audits,
1406 investigations or other services to be paid as follows: Such part
1407 shall be paid by the state from appropriations made by the
1408 Legislature for the operation of the State Department of Audit as
1409 may exceed the sum of Thirty-five Dollars (\$35.00) per man-hour
1410 for the services of each staff person engaged in performing the
1411 audit or other service plus the actual cost of any independent
1412 specialist firm contracted by the State Auditor to assist in the



1413 performance of the audit, which sum shall be paid by the county,
1414 district, department, institution or other agency audited out of
1415 its general fund or any other available funds from which such
1416 payment is not prohibited by law. Costs paid for independent
1417 specialists or firms contracted by the State Auditor shall be paid
1418 by the audited entity through the State Auditor to the specialist
1419 or firm conducting the postaudit.

1420 Each school district in the state shall have its financial
1421 records audited annually, at the end of each fiscal year, either
1422 by the State Auditor or by a certified public accountant approved
1423 by the State Auditor. Beginning with the audits of fiscal year
1424 2010 activity, no certified public accountant shall be selected to
1425 perform the annual audit of a school district who has audited that
1426 district for three (3) or more consecutive years previously.
1427 Certified public accountants shall be selected in a manner
1428 determined by the State Auditor. The school district shall have
1429 the responsibility to pay for the audit, including the review by
1430 the State Auditor of audits performed by certified public
1431 accountants;

1432 (f) To postaudit and, when deemed necessary, preaudit
1433 and investigate the financial affairs of the levee boards;
1434 agencies created by the Legislature or by executive order of the
1435 Governor; profit or nonprofit business entities administering
1436 programs financed by funds flowing through the State Treasury or
1437 through any of the agencies of the state, or its subdivisions; and



1438 all other public bodies supported by funds derived in part or
1439 wholly from public funds, except municipalities which annually
1440 submit an audit prepared by a qualified certified public
1441 accountant using methods and procedures prescribed by the
1442 department;

1443 (g) To make written demand, when necessary, for the
1444 recovery of any amounts representing public funds improperly
1445 withheld, misappropriated and/or otherwise illegally expended by
1446 an officer, employee or administrative body of any state, county
1447 or other public office, and/or for the recovery of the value of
1448 any public property disposed of in an unlawful manner by a public
1449 officer, employee or administrative body, such demands to be made
1450 (i) upon the person or persons liable for such amounts and upon
1451 the surety on official bond thereof, and/or (ii) upon any
1452 individual, partnership, corporation or association to whom the
1453 illegal expenditure was made or with whom the unlawful disposition
1454 of public property was made, if such individual, partnership,
1455 corporation or association knew or had reason to know through the
1456 exercising of reasonable diligence that the expenditure was
1457 illegal or the disposition unlawful. Such demand shall be
1458 premised on competent evidence, which shall include at least one
1459 (1) of the following: (i) sworn statements, (ii) written
1460 documentation, (iii) physical evidence, or (iv) reports and
1461 findings of government or other law enforcement agencies. Other
1462 provisions notwithstanding, a demand letter issued pursuant to



1463 this paragraph shall remain confidential by the State Auditor
1464 until the individual against whom the demand letter is being filed
1465 has been served with a copy of such demand letter. If, however,
1466 such individual cannot be notified within fifteen (15) days using
1467 reasonable means and due diligence, such notification shall be
1468 made to the individual's bonding company, if he or she is bonded.
1469 Each such demand shall be paid into the proper treasury of the
1470 state, county or other public body through the office of the
1471 department in the amount demanded within thirty (30) days from the
1472 date thereof, together with interest thereon in the sum of one
1473 percent (1%) per month from the date such amount or amounts were
1474 improperly withheld, misappropriated and/or otherwise illegally
1475 expended. In the event, however, such person or persons or such
1476 surety shall refuse, neglect or otherwise fail to pay the amount
1477 demanded and the interest due thereon within the allotted thirty
1478 (30) days, the State Auditor shall have the authority and it shall
1479 be his duty to institute suit, and the Attorney General shall
1480 prosecute the same in any court of the state to the end that there
1481 shall be recovered the total of such amounts from the person or
1482 persons and surety on official bond named therein; and the amounts
1483 so recovered shall be paid into the proper treasury of the state,
1484 county or other public body through the State Auditor. In any
1485 case where written demand is issued to a surety on the official
1486 bond of such person or persons and the surety refuses, neglects or
1487 otherwise fails within one hundred twenty (120) days to either pay



1488 the amount demanded and the interest due thereon or to give the
1489 State Auditor a written response with specific reasons for
1490 nonpayment, then the surety shall be subject to a civil penalty in
1491 an amount of twelve percent (12%) of the bond, not to exceed Ten
1492 Thousand Dollars (\$10,000.00), to be deposited into the State
1493 General Fund;

1494 (h) To investigate any alleged or suspected violation
1495 of the laws of the state by any officer or employee of the state,
1496 county or other public office in the purchase, sale or the use of
1497 any supplies, services, equipment or other property belonging
1498 thereto; and in such investigation to do any and all things
1499 necessary to procure evidence sufficient either to prove or
1500 disprove the existence of such alleged or suspected violations.
1501 The Department of Investigation of the State Department of Audit
1502 may investigate, for the purpose of prosecution, any suspected
1503 criminal violation of the provisions of this chapter. For the
1504 purpose of administration and enforcement of this chapter, the
1505 enforcement employees of the Department of Investigation of the
1506 State Department of Audit have the powers of a law enforcement
1507 officer of this state, and shall be empowered to make arrests and
1508 to serve and execute search warrants and other valid legal process
1509 anywhere within the State of Mississippi. All enforcement
1510 employees of the Department of Investigation of the State
1511 Department of Audit hired on or after July 1, 1993, shall be



1512 required to complete the Law Enforcement Officers Training Program
1513 and shall meet the standards of the program;

1514 (i) To issue subpoenas, with the approval of, and
1515 returnable to, a judge of a chancery or circuit court, in termtime
1516 or in vacation, to examine the records, documents or other
1517 evidence of persons, firms, corporations or any other entities
1518 insofar as such records, documents or other evidence relate to
1519 dealings with any state, county or other public entity. The
1520 circuit or chancery judge must serve the county in which the
1521 records, documents or other evidence is located; or where all or
1522 part of the transaction or transactions occurred which are the
1523 subject of the subpoena;

1524 (j) In any instances in which the State Auditor is or
1525 shall be authorized or required to examine or audit, whether
1526 preaudit or postaudit, any books, ledgers, accounts or other
1527 records of the affairs of any public hospital owned or owned and
1528 operated by one or more political subdivisions or parts thereof or
1529 any combination thereof, or any school district, including
1530 activity funds thereof, it shall be sufficient compliance
1531 therewith, in the discretion of the State Auditor, that such
1532 examination or audit be made from the report of any audit or other
1533 examination certified by a certified public accountant and
1534 prepared by or under the supervision of such certified public
1535 accountant. Such audits shall be made in accordance with
1536 generally accepted standards of auditing, with the use of an audit



1537 program prepared by the State Auditor, and final reports of such
1538 audits shall conform to the format prescribed by the State
1539 Auditor. All files, working papers, notes, correspondence and all
1540 other data compiled during the course of the audit shall be
1541 available, without cost, to the State Auditor for examination and
1542 abstracting during the normal business hours of any business day.
1543 The expense of such certified reports shall be borne by the
1544 respective hospital, or any available school district funds other
1545 than minimum program funds, subject to examination or audit. The
1546 State Auditor shall not be bound by such certified reports and
1547 may, in his or their discretion, conduct such examination or audit
1548 from the books, ledgers, accounts or other records involved as may
1549 be appropriate and authorized by law;

1550 (k) The State Auditor shall have the authority to
1551 contract with qualified public accounting firms to perform
1552 selected audits required in paragraphs (d), (e), (f) and (j) of
1553 this section, if funds are made available for such contracts by
1554 the Legislature, or if funds are available from the governmental
1555 entity covered by paragraphs (d), (e), (f) and (j). Such audits
1556 shall be made in accordance with generally accepted standards of
1557 auditing. All files, working papers, notes, correspondence and
1558 all other data compiled during the course of the audit shall be
1559 available, without cost, to the State Auditor for examination and
1560 abstracting during the normal business hours of any business day;



1561 (1) The State Auditor shall have the authority to
1562 establish training courses and programs for the personnel of the
1563 various state and local governmental entities under the
1564 jurisdiction of the Office of the State Auditor. The training
1565 courses and programs shall include, but not be limited to, topics
1566 on internal control of funds, property and equipment control and
1567 inventory, governmental accounting and financial reporting, and
1568 internal auditing. The State Auditor is authorized to charge a
1569 fee from the participants of these courses and programs, which fee
1570 shall be deposited into the Department of Audit Special Fund.
1571 State and local governmental entities are authorized to pay such
1572 fee and any travel expenses out of their general funds or any
1573 other available funds from which such payment is not prohibited by
1574 law;

1575 (m) Upon written request by the Governor or any member
1576 of the State Legislature, the State Auditor may audit any state
1577 funds and/or state and federal funds received by any nonprofit
1578 corporation incorporated under the laws of this state;

1579 (n) To conduct performance audits of personal or
1580 professional service contracts by state agencies on a random
1581 sampling basis, or upon request of the State Personal Service
1582 Contract Review Board under Section 25-9-120(3); * * *

1583 (o) At the discretion of the State Auditor, the Auditor
1584 may conduct risk assessments, as well as performance and
1585 compliance audits based on Generally Accepted Government Auditing



1586 Standards (GAGAS) of any state-funded economic development program
1587 authorized under Title 57, Mississippi Code of 1972. After risk
1588 assessments or program audits, the State Auditor may conduct
1589 audits of those projects deemed high-risk, specifically as they
1590 identify any potential wrongdoing or noncompliance based on
1591 objectives of the economic development program. The Auditor is
1592 granted authority to gather, audit and review data and information
1593 from the Mississippi Development Authority or any of its agents,
1594 the Department of Revenue, and when necessary under this
1595 paragraph, the recipient business or businesses or any other
1596 private, public or nonprofit entity with information relevant to
1597 the audit project. The maximum amount the State Auditor may bill
1598 the oversight agency under this paragraph in any fiscal year is
1599 One Hundred Thousand Dollars (\$100,000.00), based on reasonable
1600 and necessary expenses * * *;

1601 (p) To review and approve any independent auditor
1602 selected by the Mississippi Lottery Corporation in accordance with
1603 Section 45 of this act, to conduct an annual audit of the
1604 corporation; and

1605 (q) To conduct audits or investigations of the
1606 Mississippi Lottery Corporation if in the opinion of the State
1607 Auditor conditions justify such audits or investigations.

1608 **SECTION 48.** Section 25-9-107, Mississippi Code of 1972, is
1609 amended as follows:



1610 25-9-107. The following terms, when used in this chapter,
1611 unless a different meaning is plainly required by the context,
1612 shall have the following meanings:

1613 (a) "Board" means the State Personnel Board created
1614 under the provisions of this chapter.

1615 (b) "State service" means all employees of state
1616 departments, agencies and institutions as defined herein, except
1617 those officers and employees excluded by this chapter.

1618 (c) "Nonstate service" means the following officers and
1619 employees excluded from the state service by this chapter. The
1620 following are excluded from the state service:

1621 (i) Members of the State Legislature, their staff
1622 and other employees of the legislative branch;

1623 (ii) The Governor and staff members of the
1624 immediate Office of the Governor;

1625 (iii) Justices and judges of the judicial branch
1626 or members of appeals boards on a per diem basis;

1627 (iv) The Lieutenant Governor, staff members of the
1628 immediate Office of the Lieutenant Governor and officers and
1629 employees directly appointed by the Lieutenant Governor;

1630 (v) Officers and officials elected by popular vote
1631 and persons appointed to fill vacancies in elective offices;

1632 (vi) Members of boards and commissioners appointed
1633 by the Governor, Lieutenant Governor or the State Legislature;



1634 (vii) All academic officials, members of the
1635 teaching staffs and employees of the state institutions of higher
1636 learning, the Mississippi Community College Board, and community
1637 and junior colleges;

1638 (viii) Officers and enlisted members of the
1639 National Guard of the state;

1640 (ix) Prisoners, inmates, student or patient help
1641 working in or about institutions;

1642 (x) Contract personnel; provided, that any agency
1643 which employs state service employees may enter into contracts for
1644 personal and professional services only if such contracts are
1645 approved in compliance with the rules and regulations promulgated
1646 by the State Personal Service Contract Review Board under Section
1647 25-9-120(3). Before paying any warrant for such contractual
1648 services in excess of One Hundred Thousand Dollars (\$100,000.00),
1649 the Auditor of Public Accounts, or the successor to those duties,
1650 shall determine whether the contract involved was for personal or
1651 professional services, and, if so, was approved by the State
1652 Personal Service Contract Review Board;

1653 (xi) Part-time employees; provided, however,
1654 part-time employees shall only be hired into authorized employment
1655 positions classified by the board, shall meet minimum
1656 qualifications as set by the board, and shall be paid in
1657 accordance with the Variable Compensation Plan as certified by the
1658 board;



1659 (xii) Persons appointed on an emergency basis for
1660 the duration of the emergency; the effective date of the emergency
1661 appointments shall not be earlier than the date approved by the
1662 State Personnel Director, and shall be limited to thirty (30)
1663 working days. Emergency appointments may be extended to sixty
1664 (60) working days by the State Personnel Board;

1665 (xiii) Physicians, dentists, veterinarians, nurse
1666 practitioners and attorneys, while serving in their professional
1667 capacities in authorized employment positions who are required by
1668 statute to be licensed, registered or otherwise certified as such,
1669 provided that the State Personnel Director shall verify that the
1670 statutory qualifications are met prior to issuance of a payroll
1671 warrant by the Auditor;

1672 (xiv) Personnel who are employed and paid from
1673 funds received from a federal grant program which has been
1674 approved by the Legislature or the Department of Finance and
1675 Administration whose length of employment has been determined to
1676 be time-limited in nature. This subparagraph shall apply to
1677 personnel employed under the provisions of the Comprehensive
1678 Employment and Training Act of 1973, as amended, and other special
1679 federal grant programs which are not a part of regular federally
1680 funded programs wherein appropriations and employment positions
1681 are appropriated by the Legislature. Such employees shall be paid
1682 in accordance with the Variable Compensation Plan and shall meet



1683 all qualifications required by federal statutes or by the
1684 Mississippi Classification Plan;

1685 (xv) The administrative head who is in charge of
1686 any state department, agency, institution, board or commission,
1687 wherein the statute specifically authorizes the Governor, board,
1688 commission or other authority to appoint said administrative head;
1689 provided, however, that the salary of such administrative head
1690 shall be determined by the State Personnel Board in accordance
1691 with the Variable Compensation Plan unless otherwise fixed by
1692 statute;

1693 (xvi) The State Personnel Board shall exclude
1694 top-level positions if the incumbents determine and publicly
1695 advocate substantive program policy and report directly to the
1696 agency head, or the incumbents are required to maintain a direct
1697 confidential working relationship with a key excluded official.
1698 Provided further, a written job classification shall be approved
1699 by the board for each such position, and positions so excluded
1700 shall be paid in conformity with the Variable Compensation Plan;

1701 (xvii) Employees whose employment is solely in
1702 connection with an agency's contract to produce, store or
1703 transport goods, and whose compensation is derived therefrom;

1704 (xviii) Repealed;

1705 (xix) The associate director, deputy directors and
1706 bureau directors within the Department of Agriculture and
1707 Commerce;



1708 (xx) Personnel employed by the Mississippi
1709 Industries for the Blind; provided, that any agency may enter into
1710 contracts for the personal services of MIB employees without the
1711 prior approval of the State Personnel Board or the State Personal
1712 Service Contract Review Board; however, any agency contracting for
1713 the personal services of an MIB employee shall provide the MIB
1714 employee with not less than the entry-level compensation and
1715 benefits that the agency would provide to a full-time employee of
1716 the agency who performs the same services;

1717 (xxi) Personnel employed by the Mississippi
1718 Department of Wildlife, Fisheries and Parks and the Mississippi
1719 Department of Marine Resources as law enforcement trainees
1720 (cadets); such personnel shall be paid in accordance with the
1721 Colonel Guy Groff State Variable Compensation Plan * * *;

1722 (xxii) The President of the Mississippi Lottery
1723 Corporation and personnel employed by the Mississippi Lottery
1724 Corporation.

1725 (d) "Agency" means any state board, commission,
1726 committee, council, department or unit thereof created by the
1727 Constitution or statutes if such board, commission, committee,
1728 council, department, unit or the head thereof, is authorized to
1729 appoint subordinate staff by the Constitution or statute, except a
1730 legislative or judicial board, commission, committee, council,
1731 department or unit thereof.



1732 **SECTION 49.** Section 25-11-103, Mississippi Code of 1972, is
1733 amended as follows:

1734 25-11-103. (1) The following words and phrases as used in
1735 Articles 1 and 3, unless a different meaning is plainly required
1736 by the context, have the following meanings:

1737 (a) "Accumulated contributions" means the sum of all
1738 the amounts deducted from the compensation of a member and
1739 credited to his or her individual account in the annuity savings
1740 account, together with regular interest as provided in Section
1741 25-11-123.

1742 (b) "Actuarial cost" means the amount of funds
1743 presently required to provide future benefits as determined by the
1744 board based on applicable tables and formulas provided by the
1745 actuary.

1746 (c) "Actuarial equivalent" means a benefit of equal
1747 value to the accumulated contributions, annuity or benefit, as the
1748 case may be, when computed upon the basis of such mortality tables
1749 as adopted by the board of trustees, and regular interest.

1750 (d) "Actuarial tables" means such tables of mortality
1751 and rates of interest as adopted by the board in accordance with
1752 the recommendation of the actuary.

1753 (e) "Agency" means any governmental body employing
1754 persons in the state service.

1755 (f) "Average compensation" means the average of the
1756 four (4) highest years of earned compensation reported for an



1757 employee in a fiscal or calendar year period, or combination
1758 thereof that do not overlap, or the last forty-eight (48)
1759 consecutive months of earned compensation reported for an
1760 employee. The four (4) years need not be successive or joined
1761 years of service. In computing the average compensation for
1762 retirement, disability or survivor benefits, any amount lawfully
1763 paid in a lump sum for personal leave or major medical leave shall
1764 be included in the calculation to the extent that the amount does
1765 not exceed an amount that is equal to thirty (30) days of earned
1766 compensation and to the extent that it does not cause the
1767 employee's earned compensation to exceed the maximum reportable
1768 amount specified in paragraph (k) of this section; however, this
1769 thirty-day limitation shall not prevent the inclusion in the
1770 calculation of leave earned under federal regulations before July
1771 1, 1976, and frozen as of that date as referred to in Section
1772 25-3-99. In computing the average compensation, no amounts shall
1773 be used that are in excess of the amount on which contributions
1774 were required and paid, and no nontaxable amounts paid by the
1775 employer for health or life insurance premiums for the employee
1776 shall be used. If any member who is or has been granted any
1777 increase in annual salary or compensation of more than eight
1778 percent (8%) retires within twenty-four (24) months from the date
1779 that the increase becomes effective, then the board shall exclude
1780 that part of the increase in salary or compensation that exceeds
1781 eight percent (8%) in calculating that member's average



1782 compensation for retirement purposes. The board may enforce this
1783 provision by rule or regulation. However, increases in
1784 compensation in excess of eight percent (8%) per year granted
1785 within twenty-four (24) months of the date of retirement may be
1786 included in the calculation of average compensation if
1787 satisfactory proof is presented to the board showing that the
1788 increase in compensation was the result of an actual change in the
1789 position held or services rendered, or that the compensation
1790 increase was authorized by the State Personnel Board or was
1791 increased as a result of statutory enactment, and the employer
1792 furnishes an affidavit stating that the increase granted within
1793 the last twenty-four (24) months was not contingent on a promise
1794 or agreement of the employee to retire. Nothing in Section
1795 25-3-31 shall affect the calculation of the average compensation
1796 of any member for the purposes of this article. The average
1797 compensation of any member who retires before July 1, 1992, shall
1798 not exceed the annual salary of the Governor.

1799 (g) "Beneficiary" means any person entitled to receive
1800 a retirement allowance, an annuity or other benefit as provided by
1801 Articles 1 and 3. The term "beneficiary" may also include an
1802 organization, estate, trust or entity; however, a beneficiary
1803 designated or entitled to receive monthly payments under an
1804 optional settlement based on life contingency or under a statutory
1805 monthly benefit may only be a natural person. In the event of the
1806 death before retirement of any member who became a member of the



1807 system before July 1, 2007, and whose spouse and/or children are
1808 not entitled to a retirement allowance on the basis that the
1809 member has less than four (4) years of membership service credit,
1810 or who became a member of the system on or after July 1, 2007, and
1811 whose spouse and/or children are not entitled to a retirement
1812 allowance on the basis that the member has less than eight (8)
1813 years of membership service credit, and/or has not been married
1814 for a minimum of one (1) year or the spouse has waived his or her
1815 entitlement to a retirement allowance under Section 25-11-114, the
1816 lawful spouse of a member at the time of the death of the member
1817 shall be the beneficiary of the member unless the member has
1818 designated another beneficiary after the date of marriage in
1819 writing, and filed that writing in the office of the executive
1820 director of the board of trustees. No designation or change of
1821 beneficiary shall be made in any other manner.

1822 (h) "Board" means the board of trustees provided in
1823 Section 25-11-15 to administer the retirement system created under
1824 this article.

1825 (i) "Creditable service" means "prior service,"
1826 "retroactive service" and all lawfully credited unused leave not
1827 exceeding the accrual rates and limitations provided in Section
1828 25-3-91 et seq., as of the date of withdrawal from service plus
1829 "membership service" and other service for which credit is
1830 allowable as provided in Section 25-11-109. Except to limit
1831 creditable service reported to the system for the purpose of



1832 computing an employee's retirement allowance or annuity or
1833 benefits provided in this article, nothing in this paragraph shall
1834 limit or otherwise restrict the power of the governing authority
1835 of a municipality or other political subdivision of the state to
1836 adopt such vacation and sick leave policies as it deems necessary.

1837 (j) "Child" means either a natural child of the member,
1838 a child that has been made a child of the member by applicable
1839 court action before the death of the member, or a child under the
1840 permanent care of the member at the time of the latter's death,
1841 which permanent care status shall be determined by evidence
1842 satisfactory to the board. For purposes of this paragraph, a
1843 natural child of the member is a child of the member that is
1844 conceived before the death of the member.

1845 (k) "Earned compensation" means the full amount earned
1846 during a fiscal year by an employee not to exceed the employee
1847 compensation limit set pursuant to Section 401(a)(17) of the
1848 Internal Revenue Code for the calendar year in which the fiscal
1849 year begins and proportionately for less than one (1) year of
1850 service. Except as otherwise provided in this paragraph, the
1851 value of maintenance furnished to an employee shall not be
1852 included in earned compensation. Earned compensation shall not
1853 include any amounts paid by the employer for health or life
1854 insurance premiums for an employee. Earned compensation shall be
1855 limited to the regular periodic compensation paid, exclusive of
1856 litigation fees, bond fees, performance-based incentive payments,



1857 and other similar extraordinary nonrecurring payments. In
1858 addition, any member in a covered position, as defined by Public
1859 Employees' Retirement System laws and regulations, who is also
1860 employed by another covered agency or political subdivision shall
1861 have the earnings of that additional employment reported to the
1862 Public Employees' Retirement System regardless of whether the
1863 additional employment is sufficient in itself to be a covered
1864 position. In addition, computation of earned compensation shall
1865 be governed by the following:

1866 (i) In the case of constables, the net earnings
1867 from their office after deduction of expenses shall apply, except
1868 that in no case shall earned compensation be less than the total
1869 direct payments made by the state or governmental subdivisions to
1870 the official.

1871 (ii) In the case of chancery or circuit clerks,
1872 the net earnings from their office after deduction of expenses
1873 shall apply as expressed in Section 25-11-123(f) (4).

1874 (iii) In the case of members of the State
1875 Legislature, all remuneration or amounts paid, except mileage
1876 allowance, shall apply.

1877 (iv) The amount by which an eligible employee's
1878 salary is reduced under a salary reduction agreement authorized
1879 under Section 25-17-5 shall be included as earned compensation
1880 under this paragraph, provided this inclusion does not conflict
1881 with federal law, including federal regulations and federal



1882 administrative interpretations under the federal law, pertaining
1883 to the Federal Insurance Contributions Act or to Internal Revenue
1884 Code Section 125 cafeteria plans.

1885 (v) Compensation in addition to an employee's base
1886 salary that is paid to the employee under the vacation and sick
1887 leave policies of a municipality or other political subdivision of
1888 the state that employs him or her that exceeds the maximums
1889 authorized by Section 25-3-91 et seq. shall be excluded from the
1890 calculation of earned compensation under this article.

1891 (vi) The maximum salary applicable for retirement
1892 purposes before July 1, 1992, shall be the salary of the Governor.

1893 (vii) Nothing in Section 25-3-31 shall affect the
1894 determination of the earned compensation of any member for the
1895 purposes of this article.

1896 (viii) The value of maintenance furnished to an
1897 employee before July 1, 2013, for which the proper amount of
1898 employer and employee contributions have been paid, shall be
1899 included in earned compensation. From and after July 1, 2013, the
1900 value of maintenance furnished to an employee shall be reported as
1901 earned compensation only if the proper amount of employer and
1902 employee contributions have been paid on the maintenance and the
1903 employee was receiving maintenance and having maintenance reported
1904 to the system as of June 30, 2013. The value of maintenance when
1905 not paid in money shall be fixed by the employing state agency,



1906 and, in case of doubt, by the board of trustees as defined in
1907 Section 25-11-15.

1908 (ix) Except as otherwise provided in this
1909 paragraph, the value of any in-kind benefits provided by the
1910 employer shall not be included in earned compensation. As used in
1911 this subparagraph, "in-kind benefits" shall include, but not be
1912 limited to, group life insurance premiums, health or dental
1913 insurance premiums, nonpaid major medical and personal leave,
1914 employer contributions for social security and retirement, tuition
1915 reimbursement or educational funding, day care or transportation
1916 benefits.

1917 (1) "Employee" means any person legally occupying a
1918 position in the state service, and shall include the employees of
1919 the retirement system created under this article.

1920 (m) "Employer" means the State of Mississippi or any of
1921 its departments, agencies or subdivisions from which any employee
1922 receives his or her compensation.

1923 (n) "Executive director" means the secretary to the
1924 board of trustees, as provided in Section 25-11-15(9), and the
1925 administrator of the Public Employees' Retirement System and all
1926 systems under the management of the board of trustees. Wherever
1927 the term "Executive Secretary of the Public Employees' Retirement
1928 System" or "executive secretary" appears in this article or in any
1929 other provision of law, it shall be construed to mean the
1930 Executive Director of the Public Employees' Retirement System.



1931 (o) "Fiscal year" means the period beginning on July 1
1932 of any year and ending on June 30 of the next succeeding year.

1933 (p) "Medical board" means the board of physicians or
1934 any governmental or nongovernmental disability determination
1935 service designated by the board of trustees that is qualified to
1936 make disability determinations as provided for in Section
1937 25-11-119.

1938 (q) "Member" means any person included in the
1939 membership of the system as provided in Section 25-11-105. For
1940 purposes of Sections 25-11-103, 25-11-105, 25-11-109, 25-11-111,
1941 25-11-113, 25-11-114, 25-11-115 and 25-11-117, if a member of the
1942 system withdrew from state service and received a refund of the
1943 amount of the accumulated contributions to the credit of the
1944 member in the annuity savings account before July 1, 2007, and the
1945 person reenters state service and becomes a member of the system
1946 again on or after July 1, 2007, and repays all or part of the
1947 amount received as a refund and interest in order to receive
1948 creditable service for service rendered before July 1, 2007, the
1949 member shall be considered to have become a member of the system
1950 on or after July 1, 2007, subject to the eight-year membership
1951 service requirement, as applicable in those sections. For
1952 purposes of Sections 25-11-103, 25-11-111, 25-11-114 and
1953 25-11-115, if a member of the system withdrew from state service
1954 and received a refund of the amount of the accumulated
1955 contributions to the credit of the member in the annuity savings



1956 account before July 1, 2011, and the person reenters state service
1957 and becomes a member of the system again on or after July 1, 2011,
1958 and repays all or part of the amount received as a refund and
1959 interest in order to receive creditable service for service
1960 rendered before July 1, 2011, the member shall be considered to
1961 have become a member of the system on or after July 1, 2011.

1962 (r) "Membership service" means service as an employee
1963 in a covered position rendered while a contributing member of the
1964 retirement system.

1965 (s) "Position" means any office or any employment in
1966 the state service, or two (2) or more of them, the duties of which
1967 call for services to be rendered by one (1) person, including
1968 positions jointly employed by federal and state agencies
1969 administering federal and state funds. The employer shall
1970 determine upon initial employment and during the course of
1971 employment of an employee who does not meet the criteria for
1972 coverage in the Public Employees' Retirement System based on the
1973 position held, whether the employee is or becomes eligible for
1974 coverage in the Public Employees' Retirement System based upon any
1975 other employment in a covered agency or political subdivision. If
1976 or when the employee meets the eligibility criteria for coverage
1977 in the other position, then the employer must withhold
1978 contributions and report wages from the noncovered position in
1979 accordance with the provisions for reporting of earned
1980 compensation. Failure to deduct and report those contributions



1981 shall not relieve the employee or employer of liability thereof.
1982 The board shall adopt such rules and regulations as necessary to
1983 implement and enforce this provision.

1984 (t) "Prior service" means:

1985 (i) For persons who became members of the system
1986 before July 1, 2007, service rendered before February 1, 1953, for
1987 which credit is allowable under Sections 25-11-105 and 25-11-109,
1988 and which shall allow prior service for any person who is now or
1989 becomes a member of the Public Employees' Retirement System and
1990 who does contribute to the system for a minimum period of four (4)
1991 years.

1992 (ii) For persons who became members of the system
1993 on or after July 1, 2007, service rendered before February 1,
1994 1953, for which credit is allowable under Sections 25-11-105 and
1995 25-11-109, and which shall allow prior service for any person who
1996 is now or becomes a member of the Public Employees' Retirement
1997 System and who does contribute to the system for a minimum period
1998 of eight (8) years.

1999 (u) "Regular interest" means interest compounded
2000 annually at such a rate as determined by the board in accordance
2001 with Section 25-11-121.

2002 (v) "Retirement allowance" means an annuity for life as
2003 provided in this article, payable each year in twelve (12) equal
2004 monthly installments beginning as of the date fixed by the board.
2005 The retirement allowance shall be calculated in accordance with



2006 Section 25-11-111. However, any spouse who received a spouse
2007 retirement benefit in accordance with Section 25-11-111(d) before
2008 March 31, 1971, and those benefits were terminated because of
2009 eligibility for a social security benefit, may again receive his
2010 or her spouse retirement benefit from and after making application
2011 with the board of trustees to reinstate the spouse retirement
2012 benefit.

2013 (w) "Retroactive service" means service rendered after
2014 February 1, 1953, for which credit is allowable under Section
2015 25-11-105(b) and Section 25-11-105(k).

2016 (x) "System" means the Public Employees' Retirement
2017 System of Mississippi established and described in Section
2018 25-11-101.

2019 (y) "State" means the State of Mississippi or any
2020 political subdivision thereof or instrumentality of the state.

2021 (z) "State service" means all offices and positions of
2022 trust or employment in the employ of the state, or any political
2023 subdivision or instrumentality of the state, that elect to
2024 participate as provided by Section 25-11-105(f), including the
2025 position of elected or fee officials of the counties and their
2026 deputies and employees performing public services or any
2027 department, independent agency, board or commission thereof, and
2028 also includes all offices and positions of trust or employment in
2029 the employ of joint state and federal agencies administering state
2030 and federal funds and service rendered by employees of the public



2031 schools. Effective July 1, 1973, all nonprofessional public
2032 school employees, such as bus drivers, janitors, maids,
2033 maintenance workers and cafeteria employees, shall have the option
2034 to become members in accordance with Section 25-11-105(b), and
2035 shall be eligible to receive credit for services before July 1,
2036 1973, provided that the contributions and interest are paid by the
2037 employee in accordance with that section; in addition, the county
2038 or municipal separate school district may pay the employer
2039 contribution and pro rata share of interest of the retroactive
2040 service from available funds. "State service" shall not include
2041 the President of the Mississippi Lottery Corporation and personnel
2042 employed by the Mississippi Lottery Corporation. From and after
2043 July 1, 1998, retroactive service credit shall be purchased at the
2044 actuarial cost in accordance with Section 25-11-105(b).

2045 (aa) "Withdrawal from service" or "termination from
2046 service" means complete severance of employment in the state
2047 service of any member by resignation, dismissal or discharge.

2048 (bb) The masculine pronoun, wherever used, includes the
2049 feminine pronoun.

2050 (2) For purposes of this article, the term "political
2051 subdivision" shall have the meaning ascribed to such term in
2052 Section 25-11-5 and shall also include public charter schools.

2053 **SECTION 50.** Section 25-41-3, Mississippi Code of 1972, is
2054 amended as follows:



2055 25-41-3. For purposes of this chapter, the following words
2056 shall have the meaning ascribed herein, to wit:

2057 (a) "Public body" means any executive or administrative
2058 board, commission, authority, council, department, agency, bureau
2059 or any other policymaking entity, or committee thereof, of the
2060 State of Mississippi, or any political subdivision or municipal
2061 corporation of the state, whether the entity be created by statute
2062 or executive order, which is supported wholly or in part by public
2063 funds or expends public funds, and any standing, interim or
2064 special committee of the Mississippi Legislature. The term
2065 "public body" includes the governing board of a charter school
2066 authorized by the Mississippi Charter School Authorizer Board and
2067 the board of trustees of a community hospital as defined in
2068 Section 41-13-10. The term "public body" includes the
2069 Mississippi Lottery Corporation. There shall be exempted from the
2070 provisions of this chapter:

- 2071 (i) The judiciary, including all jury
2072 deliberations;
- 2073 (ii) Law enforcement officials;
- 2074 (iii) The military;
- 2075 (iv) The State Probation and Parole Board;
- 2076 (v) The Workers' Compensation Commission;
- 2077 (vi) Legislative subcommittees and legislative
2078 conference committees;



2079 (vii) The arbitration council established in
2080 Section 69-3-19;

2081 (viii) License revocation, suspension and
2082 disciplinary proceedings held by the Mississippi State Board of
2083 Dental Examiners; and

2084 (ix) Hearings and meetings of the Board of Tax
2085 Appeals and of the hearing officers and the board of review of the
2086 Department of Revenue as provided in Section 27-77-15.

2087 (b) "Meeting" means an assemblage of members of a
2088 public body at which official acts may be taken upon a matter over
2089 which the public body has supervision, control, jurisdiction or
2090 advisory power, including an assemblage through the use of video
2091 or teleconference devices that conforms to Section 25-41-5.

2092 **SECTION 51.** Section 31-7-13, Mississippi Code of 1972, is
2093 amended as follows:

2094 31-7-13. All agencies and governing authorities shall
2095 purchase their commodities and printing; contract for garbage
2096 collection or disposal; contract for solid waste collection or
2097 disposal; contract for sewage collection or disposal; contract for
2098 public construction; and contract for rentals as herein provided.

2099 (a) **Bidding procedure for purchases not over \$5,000.00.**
2100 Purchases which do not involve an expenditure of more than Five
2101 Thousand Dollars (\$5,000.00), exclusive of freight or shipping
2102 charges, may be made without advertising or otherwise requesting
2103 competitive bids. However, nothing contained in this paragraph



2104 (a) shall be construed to prohibit any agency or governing
2105 authority from establishing procedures which require competitive
2106 bids on purchases of Five Thousand Dollars (\$5,000.00) or less.

2107 (b) **Bidding procedure for purchases over \$5,000.00 but**
2108 **not over \$50,000.00.** Purchases which involve an expenditure of
2109 more than Five Thousand Dollars (\$5,000.00) but not more than
2110 Fifty Thousand Dollars (\$50,000.00), exclusive of freight and
2111 shipping charges, may be made from the lowest and best bidder
2112 without publishing or posting advertisement for bids, provided at
2113 least two (2) competitive written bids have been obtained. Any
2114 state agency or community/junior college purchasing commodities or
2115 procuring construction pursuant to this paragraph (b) may
2116 authorize its purchasing agent, or his designee, to accept the
2117 lowest competitive written bid under Fifty Thousand Dollars
2118 (\$50,000.00). Any governing authority purchasing commodities
2119 pursuant to this paragraph (b) may authorize its purchasing agent,
2120 or his designee, with regard to governing authorities other than
2121 counties, or its purchase clerk, or his designee, with regard to
2122 counties, to accept the lowest and best competitive written bid.
2123 Such authorization shall be made in writing by the governing
2124 authority and shall be maintained on file in the primary office of
2125 the agency and recorded in the official minutes of the governing
2126 authority, as appropriate. The purchasing agent or the purchase
2127 clerk, or their designee, as the case may be, and not the
2128 governing authority, shall be liable for any penalties and/or



2129 damages as may be imposed by law for any act or omission of the
2130 purchasing agent or purchase clerk, or their designee,
2131 constituting a violation of law in accepting any bid without
2132 approval by the governing authority. The term "competitive
2133 written bid" shall mean a bid submitted on a bid form furnished by
2134 the buying agency or governing authority and signed by authorized
2135 personnel representing the vendor, or a bid submitted on a
2136 vendor's letterhead or identifiable bid form and signed by
2137 authorized personnel representing the vendor. "Competitive" shall
2138 mean that the bids are developed based upon comparable
2139 identification of the needs and are developed independently and
2140 without knowledge of other bids or prospective bids. Any bid item
2141 for construction in excess of Five Thousand Dollars (\$5,000.00)
2142 shall be broken down by components to provide detail of component
2143 description and pricing. These details shall be submitted with
2144 the written bids and become part of the bid evaluation criteria.
2145 Bids may be submitted by facsimile, electronic mail or other
2146 generally accepted method of information distribution. Bids
2147 submitted by electronic transmission shall not require the
2148 signature of the vendor's representative unless required by
2149 agencies or governing authorities.

2150 (c) **Bidding procedure for purchases over \$50,000.00.**

2151 (i) **Publication requirement.**

2152 1. Purchases which involve an expenditure of
2153 more than Fifty Thousand Dollars (\$50,000.00), exclusive of



2154 freight and shipping charges, may be made from the lowest and best
2155 bidder after advertising for competitive bids once each week for
2156 two (2) consecutive weeks in a regular newspaper published in the
2157 county or municipality in which such agency or governing authority
2158 is located. However, all American Recovery and Reinvestment Act
2159 projects in excess of Twenty-five Thousand Dollars (\$25,000.00)
2160 shall be bid. All references to American Recovery and
2161 Reinvestment Act projects in this section shall not apply to
2162 programs identified in Division B of the American Recovery and
2163 Reinvestment Act.

2164 2. Reverse auctions shall be the primary
2165 method for receiving bids during the bidding process. If a
2166 purchasing entity determines that a reverse auction is not in the
2167 best interest of the state, then that determination must be
2168 approved by the Public Procurement Review Board. The purchasing
2169 entity shall submit a detailed explanation of why a reverse
2170 auction would not be in the best interest of the state and present
2171 an alternative process to be approved by the Public Procurement
2172 Review Board. If the Public Procurement Review Board authorizes
2173 the purchasing entity to solicit bids with a method other than
2174 reverse auction, then the purchasing entity may designate the
2175 other methods by which the bids will be received, including, but
2176 not limited to, bids sealed in an envelope, bids received
2177 electronically in a secure system, or bids received by any other
2178 method that promotes open competition and has been approved by the



2179 Office of Purchasing and Travel. However, reverse auction shall
2180 not be used for any public contract for design or construction of
2181 public facilities, including buildings, roads and bridges. The
2182 Public Procurement Review Board must approve any contract entered
2183 into by alternative process. The provisions of this item 2 shall
2184 not apply to the individual state institutions of higher learning.

2185 3. The date as published for the bid opening
2186 shall not be less than seven (7) working days after the last
2187 published notice; however, if the purchase involves a construction
2188 project in which the estimated cost is in excess of Fifty Thousand
2189 Dollars (\$50,000.00), such bids shall not be opened in less than
2190 fifteen (15) working days after the last notice is published and
2191 the notice for the purchase of such construction shall be
2192 published once each week for two (2) consecutive weeks. However,
2193 all American Recovery and Reinvestment Act projects in excess of
2194 Twenty-five Thousand Dollars (\$25,000.00) shall be bid. For any
2195 projects in excess of Twenty-five Thousand Dollars (\$25,000.00)
2196 under the American Recovery and Reinvestment Act, publication
2197 shall be made one (1) time and the bid opening for construction
2198 projects shall not be less than ten (10) working days after the
2199 date of the published notice. The notice of intention to let
2200 contracts or purchase equipment shall state the time and place at
2201 which bids shall be received, list the contracts to be made or
2202 types of equipment or supplies to be purchased, and, if all plans
2203 and/or specifications are not published, refer to the plans and/or



2204 specifications on file. If there is no newspaper published in the
2205 county or municipality, then such notice shall be given by posting
2206 same at the courthouse, or for municipalities at the city hall,
2207 and at two (2) other public places in the county or municipality,
2208 and also by publication once each week for two (2) consecutive
2209 weeks in some newspaper having a general circulation in the county
2210 or municipality in the above-provided manner. On the same date
2211 that the notice is submitted to the newspaper for publication, the
2212 agency or governing authority involved shall mail written notice
2213 to, or provide electronic notification to the main office of the
2214 Mississippi Procurement Technical Assistance Program under the
2215 Mississippi Development Authority that contains the same
2216 information as that in the published notice. Submissions received
2217 by the Mississippi Procurement Technical Assistance Program for
2218 projects funded by the American Recovery and Reinvestment Act
2219 shall be displayed on a separate and unique Internet web page
2220 accessible to the public and maintained by the Mississippi
2221 Development Authority for the Mississippi Procurement Technical
2222 Assistance Program. Those American Recovery and Reinvestment Act
2223 related submissions shall be publicly posted within twenty-four
2224 (24) hours of receipt by the Mississippi Development Authority and
2225 the bid opening shall not occur until the submission has been
2226 posted for ten (10) consecutive days. The Department of Finance
2227 and Administration shall maintain information regarding contracts
2228 and other expenditures from the American Recovery and Reinvestment



2229 Act, on a unique Internet web page accessible to the public. The
2230 Department of Finance and Administration shall promulgate rules
2231 regarding format, content and deadlines, unless otherwise
2232 specified by law, of the posting of award notices, contract
2233 execution and subsequent amendments, links to the contract
2234 documents, expenditures against the awarded contracts and general
2235 expenditures of funds from the American Recovery and Reinvestment
2236 Act. Within one (1) working day of the contract award, the agency
2237 or governing authority shall post to the designated web page
2238 maintained by the Department of Finance and Administration, notice
2239 of the award, including the award recipient, the contract amount,
2240 and a brief summary of the contract in accordance with rules
2241 promulgated by the department. Within one (1) working day of the
2242 contract execution, the agency or governing authority shall post
2243 to the designated web page maintained by the Department of Finance
2244 and Administration a summary of the executed contract and make a
2245 copy of the appropriately redacted contract documents available
2246 for linking to the designated web page in accordance with the
2247 rules promulgated by the department. The information provided by
2248 the agency or governing authority shall be posted to the web page
2249 for the duration of the American Recovery and Reinvestment Act
2250 funding or until the project is completed, whichever is longer.

2251 (ii) **Bidding process amendment procedure.** If all
2252 plans and/or specifications are published in the notification,
2253 then the plans and/or specifications may not be amended. If all



2254 plans and/or specifications are not published in the notification,
2255 then amendments to the plans/specifications, bid opening date, bid
2256 opening time and place may be made, provided that the agency or
2257 governing authority maintains a list of all prospective bidders
2258 who are known to have received a copy of the bid documents and all
2259 such prospective bidders are sent copies of all amendments. This
2260 notification of amendments may be made via mail, facsimile,
2261 electronic mail or other generally accepted method of information
2262 distribution. No addendum to bid specifications may be issued
2263 within two (2) working days of the time established for the
2264 receipt of bids unless such addendum also amends the bid opening
2265 to a date not less than five (5) working days after the date of
2266 the addendum.

2267 (iii) **Filing requirement.** In all cases involving
2268 governing authorities, before the notice shall be published or
2269 posted, the plans or specifications for the construction or
2270 equipment being sought shall be filed with the clerk of the board
2271 of the governing authority. In addition to these requirements, a
2272 bid file shall be established which shall indicate those vendors
2273 to whom such solicitations and specifications were issued, and
2274 such file shall also contain such information as is pertinent to
2275 the bid.

2276 (iv) **Specification restrictions.**

2277 1. Specifications pertinent to such bidding
2278 shall be written so as not to exclude comparable equipment of



2279 domestic manufacture. However, if valid justification is
2280 presented, the Department of Finance and Administration or the
2281 board of a governing authority may approve a request for specific
2282 equipment necessary to perform a specific job. Further, such
2283 justification, when placed on the minutes of the board of a
2284 governing authority, may serve as authority for that governing
2285 authority to write specifications to require a specific item of
2286 equipment needed to perform a specific job. In addition to these
2287 requirements, from and after July 1, 1990, vendors of relocatable
2288 classrooms and the specifications for the purchase of such
2289 relocatable classrooms published by local school boards shall meet
2290 all pertinent regulations of the State Board of Education,
2291 including prior approval of such bid by the State Department of
2292 Education.

2293 2. Specifications for construction projects
2294 may include an allowance for commodities, equipment, furniture,
2295 construction materials or systems in which prospective bidders are
2296 instructed to include in their bids specified amounts for such
2297 items so long as the allowance items are acquired by the vendor in
2298 a commercially reasonable manner and approved by the
2299 agency/governing authority. Such acquisitions shall not be made
2300 to circumvent the public purchasing laws.

2301 (v) **Electronic bids.** Agencies and governing
2302 authorities shall provide a secure electronic interactive system
2303 for the submittal of bids requiring competitive bidding that shall



2304 be an additional bidding option for those bidders who choose to
2305 submit their bids electronically. The Department of Finance and
2306 Administration shall provide, by regulation, the standards that
2307 agencies must follow when receiving electronic bids. Agencies and
2308 governing authorities shall make the appropriate provisions
2309 necessary to accept electronic bids from those bidders who choose
2310 to submit their bids electronically for all purchases requiring
2311 competitive bidding under this section. Any special condition or
2312 requirement for the electronic bid submission shall be specified
2313 in the advertisement for bids required by this section. Agencies
2314 or governing authorities that are currently without available high
2315 speed Internet access shall be exempt from the requirement of this
2316 subparagraph (v) until such time that high speed Internet access
2317 becomes available. Any county having a population of less than
2318 twenty thousand (20,000) shall be exempt from the provisions of
2319 this subparagraph (v). Any municipality having a population of
2320 less than ten thousand (10,000) shall be exempt from the
2321 provisions of this subparagraph (v). The provisions of this
2322 subparagraph (v) shall not require any bidder to submit bids
2323 electronically. When construction bids are submitted
2324 electronically, the requirement for including a certificate of
2325 responsibility, or a statement that the bid enclosed does not
2326 exceed Fifty Thousand Dollars (\$50,000.00), on the exterior of the
2327 bid envelope as indicated in Section 31-3-21(1) and (2) shall be



2328 deemed in compliance with by including same as an attachment with
2329 the electronic bid submittal.

2330 (d) **Lowest and best bid decision procedure.**

2331 (i) **Decision procedure.** Purchases may be made
2332 from the lowest and best bidder. In determining the lowest and
2333 best bid, freight and shipping charges shall be included.
2334 Life-cycle costing, total cost bids, warranties, guaranteed
2335 buy-back provisions and other relevant provisions may be included
2336 in the best bid calculation. All best bid procedures for state
2337 agencies must be in compliance with regulations established by the
2338 Department of Finance and Administration. If any governing
2339 authority accepts a bid other than the lowest bid actually
2340 submitted, it shall place on its minutes detailed calculations and
2341 narrative summary showing that the accepted bid was determined to
2342 be the lowest and best bid, including the dollar amount of the
2343 accepted bid and the dollar amount of the lowest bid. No agency
2344 or governing authority shall accept a bid based on items not
2345 included in the specifications.

2346 (ii) **Decision procedure for Certified Purchasing**
2347 **Offices.** In addition to the decision procedure set forth in
2348 subparagraph (i) of this paragraph (d), Certified Purchasing
2349 Offices may also use the following procedure: Purchases may be
2350 made from the bidder offering the best value. In determining the
2351 best value bid, freight and shipping charges shall be included.
2352 Life-cycle costing, total cost bids, warranties, guaranteed



2353 buy-back provisions, documented previous experience, training
2354 costs and other relevant provisions, including, but not limited
2355 to, a bidder having a local office and inventory located within
2356 the jurisdiction of the governing authority, may be included in
2357 the best value calculation. This provision shall authorize
2358 Certified Purchasing Offices to utilize a Request For Proposals
2359 (RFP) process when purchasing commodities. All best value
2360 procedures for state agencies must be in compliance with
2361 regulations established by the Department of Finance and
2362 Administration. No agency or governing authority shall accept a
2363 bid based on items or criteria not included in the specifications.

2364 (iii) **Decision procedure for Mississippi**

2365 **Landmarks.** In addition to the decision procedure set forth in
2366 subparagraph (i) of this paragraph (d), where purchase involves
2367 renovation, restoration, or both, of the State Capitol Building or
2368 any other historical building designated for at least five (5)
2369 years as a Mississippi Landmark by the Board of Trustees of the
2370 Department of Archives and History under the authority of Sections
2371 39-7-7 and 39-7-11, the agency or governing authority may use the
2372 following procedure: Purchases may be made from the lowest and
2373 best prequalified bidder. Prequalification of bidders shall be
2374 determined not less than fifteen (15) working days before the
2375 first published notice of bid opening. Prequalification criteria
2376 shall be limited to bidder's knowledge and experience in
2377 historical restoration, preservation and renovation. In



2378 determining the lowest and best bid, freight and shipping charges
2379 shall be included. Life-cycle costing, total cost bids,
2380 warranties, guaranteed buy-back provisions and other relevant
2381 provisions may be included in the best bid calculation. All best
2382 bid and prequalification procedures for state agencies must be in
2383 compliance with regulations established by the Department of
2384 Finance and Administration. If any governing authority accepts a
2385 bid other than the lowest bid actually submitted, it shall place
2386 on its minutes detailed calculations and narrative summary showing
2387 that the accepted bid was determined to be the lowest and best
2388 bid, including the dollar amount of the accepted bid and the
2389 dollar amount of the lowest bid. No agency or governing authority
2390 shall accept a bid based on items not included in the
2391 specifications.

2392 (iv) **Construction project negotiations authority.**
2393 If the lowest and best bid is not more than ten percent (10%)
2394 above the amount of funds allocated for a public construction or
2395 renovation project, then the agency or governing authority shall
2396 be permitted to negotiate with the lowest bidder in order to enter
2397 into a contract for an amount not to exceed the funds allocated.

2398 (e) **Lease-purchase authorization.** For the purposes of
2399 this section, the term "equipment" shall mean equipment, furniture
2400 and, if applicable, associated software and other applicable
2401 direct costs associated with the acquisition. Any lease-purchase
2402 of equipment which an agency is not required to lease-purchase



2403 under the master lease-purchase program pursuant to Section
2404 31-7-10 and any lease-purchase of equipment which a governing
2405 authority elects to lease-purchase may be acquired by a
2406 lease-purchase agreement under this paragraph (e). Lease-purchase
2407 financing may also be obtained from the vendor or from a
2408 third-party source after having solicited and obtained at least
2409 two (2) written competitive bids, as defined in paragraph (b) of
2410 this section, for such financing without advertising for such
2411 bids. Solicitation for the bids for financing may occur before or
2412 after acceptance of bids for the purchase of such equipment or,
2413 where no such bids for purchase are required, at any time before
2414 the purchase thereof. No such lease-purchase agreement shall be
2415 for an annual rate of interest which is greater than the overall
2416 maximum interest rate to maturity on general obligation
2417 indebtedness permitted under Section 75-17-101, and the term of
2418 such lease-purchase agreement shall not exceed the useful life of
2419 equipment covered thereby as determined according to the upper
2420 limit of the asset depreciation range (ADR) guidelines for the
2421 Class Life Asset Depreciation Range System established by the
2422 Internal Revenue Service pursuant to the United States Internal
2423 Revenue Code and regulations thereunder as in effect on December
2424 31, 1980, or comparable depreciation guidelines with respect to
2425 any equipment not covered by ADR guidelines. Any lease-purchase
2426 agreement entered into pursuant to this paragraph (e) may contain
2427 any of the terms and conditions which a master lease-purchase



2428 agreement may contain under the provisions of Section 31-7-10(5),
2429 and shall contain an annual allocation dependency clause
2430 substantially similar to that set forth in Section 31-7-10(8).
2431 Each agency or governing authority entering into a lease-purchase
2432 transaction pursuant to this paragraph (e) shall maintain with
2433 respect to each such lease-purchase transaction the same
2434 information as required to be maintained by the Department of
2435 Finance and Administration pursuant to Section 31-7-10(13).
2436 However, nothing contained in this section shall be construed to
2437 permit agencies to acquire items of equipment with a total
2438 acquisition cost in the aggregate of less than Ten Thousand
2439 Dollars (\$10,000.00) by a single lease-purchase transaction. All
2440 equipment, and the purchase thereof by any lessor, acquired by
2441 lease-purchase under this paragraph and all lease-purchase
2442 payments with respect thereto shall be exempt from all Mississippi
2443 sales, use and ad valorem taxes. Interest paid on any
2444 lease-purchase agreement under this section shall be exempt from
2445 State of Mississippi income taxation.

2446 (f) **Alternate bid authorization.** When necessary to
2447 ensure ready availability of commodities for public works and the
2448 timely completion of public projects, no more than two (2)
2449 alternate bids may be accepted by a governing authority for
2450 commodities. No purchases may be made through use of such
2451 alternate bids procedure unless the lowest and best bidder cannot
2452 deliver the commodities contained in his bid. In that event,



2453 purchases of such commodities may be made from one (1) of the
2454 bidders whose bid was accepted as an alternate.

2455 (g) **Construction contract change authorization.** In the
2456 event a determination is made by an agency or governing authority
2457 after a construction contract is let that changes or modifications
2458 to the original contract are necessary or would better serve the
2459 purpose of the agency or the governing authority, such agency or
2460 governing authority may, in its discretion, order such changes
2461 pertaining to the construction that are necessary under the
2462 circumstances without the necessity of further public bids;
2463 provided that such change shall be made in a commercially
2464 reasonable manner and shall not be made to circumvent the public
2465 purchasing statutes. In addition to any other authorized person,
2466 the architect or engineer hired by an agency or governing
2467 authority with respect to any public construction contract shall
2468 have the authority, when granted by an agency or governing
2469 authority, to authorize changes or modifications to the original
2470 contract without the necessity of prior approval of the agency or
2471 governing authority when any such change or modification is less
2472 than one percent (1%) of the total contract amount. The agency or
2473 governing authority may limit the number, manner or frequency of
2474 such emergency changes or modifications.

2475 (h) **Petroleum purchase alternative.** In addition to
2476 other methods of purchasing authorized in this chapter, when any
2477 agency or governing authority shall have a need for gas, diesel



2478 fuel, oils and/or other petroleum products in excess of the amount
2479 set forth in paragraph (a) of this section, such agency or
2480 governing authority may purchase the commodity after having
2481 solicited and obtained at least two (2) competitive written bids,
2482 as defined in paragraph (b) of this section. If two (2)
2483 competitive written bids are not obtained, the entity shall comply
2484 with the procedures set forth in paragraph (c) of this section.
2485 In the event any agency or governing authority shall have
2486 advertised for bids for the purchase of gas, diesel fuel, oils and
2487 other petroleum products and coal and no acceptable bids can be
2488 obtained, such agency or governing authority is authorized and
2489 directed to enter into any negotiations necessary to secure the
2490 lowest and best contract available for the purchase of such
2491 commodities.

2492 (i) **Road construction petroleum products price**
2493 **adjustment clause authorization.** Any agency or governing
2494 authority authorized to enter into contracts for the construction,
2495 maintenance, surfacing or repair of highways, roads or streets,
2496 may include in its bid proposal and contract documents a price
2497 adjustment clause with relation to the cost to the contractor,
2498 including taxes, based upon an industry-wide cost index, of
2499 petroleum products including asphalt used in the performance or
2500 execution of the contract or in the production or manufacture of
2501 materials for use in such performance. Such industry-wide index
2502 shall be established and published monthly by the Mississippi



2503 Department of Transportation with a copy thereof to be mailed,
2504 upon request, to the clerks of the governing authority of each
2505 municipality and the clerks of each board of supervisors
2506 throughout the state. The price adjustment clause shall be based
2507 on the cost of such petroleum products only and shall not include
2508 any additional profit or overhead as part of the adjustment. The
2509 bid proposals or document contract shall contain the basis and
2510 methods of adjusting unit prices for the change in the cost of
2511 such petroleum products.

2512 (j) **State agency emergency purchase procedure.** If the
2513 governing board or the executive head, or his designees, of any
2514 agency of the state shall determine that an emergency exists in
2515 regard to the purchase of any commodities or repair contracts, so
2516 that the delay incident to giving opportunity for competitive
2517 bidding would be detrimental to the interests of the state, then
2518 the head of such agency, or his designees, shall file with the
2519 Department of Finance and Administration (i) a statement
2520 explaining the conditions and circumstances of the emergency,
2521 which shall include a detailed description of the events leading
2522 up to the situation and the negative impact to the entity if the
2523 purchase is made following the statutory requirements set forth in
2524 paragraph (a), (b) or (c) of this section, and (ii) a certified
2525 copy of the appropriate minutes of the board of such agency
2526 requesting the emergency purchase, if applicable. Upon receipt of
2527 the statement and applicable board certification, the State Fiscal



2528 Officer, or his designees, may, in writing, authorize the purchase
2529 or repair without having to comply with competitive bidding
2530 requirements.

2531 If the governing board or the executive head, or his
2532 designees, of any agency determines that an emergency exists in
2533 regard to the purchase of any commodities or repair contracts, so
2534 that the delay incident to giving opportunity for competitive
2535 bidding would threaten the health or safety of any person, or the
2536 preservation or protection of property, then the provisions in
2537 this section for competitive bidding shall not apply, and any
2538 officer or agent of the agency having general or specific
2539 authority for making the purchase or repair contract shall approve
2540 the bill presented for payment, and he shall certify in writing
2541 from whom the purchase was made, or with whom the repair contract
2542 was made.

2543 Total purchases made under this paragraph (j) shall only be
2544 for the purpose of meeting needs created by the emergency
2545 situation. Following the emergency purchase, documentation of the
2546 purchase, including a description of the commodity purchased, the
2547 purchase price thereof and the nature of the emergency shall be
2548 filed with the Department of Finance and Administration. Any
2549 contract awarded pursuant to this paragraph (j) shall not exceed a
2550 term of one (1) year.

2551 (k) **Governing authority emergency purchase procedure.**

2552 If the governing authority, or the governing authority acting



2553 through its designee, shall determine that an emergency exists in
2554 regard to the purchase of any commodities or repair contracts, so
2555 that the delay incident to giving opportunity for competitive
2556 bidding would be detrimental to the interest of the governing
2557 authority, then the provisions herein for competitive bidding
2558 shall not apply and any officer or agent of such governing
2559 authority having general or special authority therefor in making
2560 such purchase or repair shall approve the bill presented therefor,
2561 and he shall certify in writing thereon from whom such purchase
2562 was made, or with whom such a repair contract was made. At the
2563 board meeting next following the emergency purchase or repair
2564 contract, documentation of the purchase or repair contract,
2565 including a description of the commodity purchased, the price
2566 thereof and the nature of the emergency shall be presented to the
2567 board and shall be placed on the minutes of the board of such
2568 governing authority.

2569 (1) **Hospital purchase, lease-purchase and lease**
2570 **authorization.**

2571 (i) The commissioners or board of trustees of any
2572 public hospital may contract with such lowest and best bidder for
2573 the purchase or lease-purchase of any commodity under a contract
2574 of purchase or lease-purchase agreement whose obligatory payment
2575 terms do not exceed five (5) years.

2576 (ii) In addition to the authority granted in
2577 subparagraph (i) of this paragraph (1), the commissioners or board



2578 of trustees is authorized to enter into contracts for the lease of
2579 equipment or services, or both, which it considers necessary for
2580 the proper care of patients if, in its opinion, it is not
2581 financially feasible to purchase the necessary equipment or
2582 services. Any such contract for the lease of equipment or
2583 services executed by the commissioners or board shall not exceed a
2584 maximum of five (5) years' duration and shall include a
2585 cancellation clause based on unavailability of funds. If such
2586 cancellation clause is exercised, there shall be no further
2587 liability on the part of the lessee. Any such contract for the
2588 lease of equipment or services executed on behalf of the
2589 commissioners or board that complies with the provisions of this
2590 subparagraph (ii) shall be excepted from the bid requirements set
2591 forth in this section.

2592 (m) **Exceptions from bidding requirements.** Excepted
2593 from bid requirements are:

2594 (i) **Purchasing agreements approved by department.**
2595 Purchasing agreements, contracts and maximum price regulations
2596 executed or approved by the Department of Finance and
2597 Administration.

2598 (ii) **Outside equipment repairs.** Repairs to
2599 equipment, when such repairs are made by repair facilities in the
2600 private sector; however, engines, transmissions, rear axles and/or
2601 other such components shall not be included in this exemption when
2602 replaced as a complete unit instead of being repaired and the need



2603 for such total component replacement is known before disassembly
2604 of the component; however, invoices identifying the equipment,
2605 specific repairs made, parts identified by number and name,
2606 supplies used in such repairs, and the number of hours of labor
2607 and costs therefor shall be required for the payment for such
2608 repairs.

2609 (iii) **In-house equipment repairs.** Purchases of
2610 parts for repairs to equipment, when such repairs are made by
2611 personnel of the agency or governing authority; however, entire
2612 assemblies, such as engines or transmissions, shall not be
2613 included in this exemption when the entire assembly is being
2614 replaced instead of being repaired.

2615 (iv) **Raw gravel or dirt.** Raw unprocessed deposits
2616 of gravel or fill dirt which are to be removed and transported by
2617 the purchaser.

2618 (v) **Governmental equipment auctions.** Motor
2619 vehicles or other equipment purchased from a federal agency or
2620 authority, another governing authority or state agency of the
2621 State of Mississippi, or any governing authority or state agency
2622 of another state at a public auction held for the purpose of
2623 disposing of such vehicles or other equipment. Any purchase by a
2624 governing authority under the exemption authorized by this
2625 subparagraph (v) shall require advance authorization spread upon
2626 the minutes of the governing authority to include the listing of



2627 the item or items authorized to be purchased and the maximum bid
2628 authorized to be paid for each item or items.

2629 (vi) **Intergovernmental sales and transfers.**

2630 Purchases, sales, transfers or trades by governing authorities or
2631 state agencies when such purchases, sales, transfers or trades are
2632 made by a private treaty agreement or through means of
2633 negotiation, from any federal agency or authority, another
2634 governing authority or state agency of the State of Mississippi,
2635 or any state agency or governing authority of another state.

2636 Nothing in this section shall permit such purchases through public
2637 auction except as provided for in subparagraph (v) of this
2638 paragraph (m). It is the intent of this section to allow
2639 governmental entities to dispose of and/or purchase commodities
2640 from other governmental entities at a price that is agreed to by
2641 both parties. This shall allow for purchases and/or sales at
2642 prices which may be determined to be below the market value if the
2643 selling entity determines that the sale at below market value is
2644 in the best interest of the taxpayers of the state. Governing
2645 authorities shall place the terms of the agreement and any
2646 justification on the minutes, and state agencies shall obtain
2647 approval from the Department of Finance and Administration, prior
2648 to releasing or taking possession of the commodities.

2649 (vii) **Perishable supplies or food.** Perishable
2650 supplies or food purchased for use in connection with hospitals,



2651 the school lunch programs, homemaking programs and for the feeding
2652 of county or municipal prisoners.

2653 (viii) **Single source items.** Noncompetitive items
2654 available from one (1) source only. In connection with the
2655 purchase of noncompetitive items only available from one (1)
2656 source, a certification of the conditions and circumstances
2657 requiring the purchase shall be filed by the agency with the
2658 Department of Finance and Administration and by the governing
2659 authority with the board of the governing authority. Upon receipt
2660 of that certification the Department of Finance and Administration
2661 or the board of the governing authority, as the case may be, may,
2662 in writing, authorize the purchase, which authority shall be noted
2663 on the minutes of the body at the next regular meeting thereafter.
2664 In those situations, a governing authority is not required to
2665 obtain the approval of the Department of Finance and
2666 Administration. Following the purchase, the executive head of the
2667 state agency, or his designees, shall file with the Department of
2668 Finance and Administration, documentation of the purchase,
2669 including a description of the commodity purchased, the purchase
2670 price thereof and the source from whom it was purchased.

2671 (ix) **Waste disposal facility construction**
2672 **contracts.** Construction of incinerators and other facilities for
2673 disposal of solid wastes in which products either generated
2674 therein, such as steam, or recovered therefrom, such as materials
2675 for recycling, are to be sold or otherwise disposed of; however,



2676 in constructing such facilities, a governing authority or agency
2677 shall publicly issue requests for proposals, advertised for in the
2678 same manner as provided herein for seeking bids for public
2679 construction projects, concerning the design, construction,
2680 ownership, operation and/or maintenance of such facilities,
2681 wherein such requests for proposals when issued shall contain
2682 terms and conditions relating to price, financial responsibility,
2683 technology, environmental compatibility, legal responsibilities
2684 and such other matters as are determined by the governing
2685 authority or agency to be appropriate for inclusion; and after
2686 responses to the request for proposals have been duly received,
2687 the governing authority or agency may select the most qualified
2688 proposal or proposals on the basis of price, technology and other
2689 relevant factors and from such proposals, but not limited to the
2690 terms thereof, negotiate and enter contracts with one or more of
2691 the persons or firms submitting proposals.

2692 (x) **Hospital group purchase contracts.** Supplies,
2693 commodities and equipment purchased by hospitals through group
2694 purchase programs pursuant to Section 31-7-38.

2695 (xi) **Information technology products.** Purchases
2696 of information technology products made by governing authorities
2697 under the provisions of purchase schedules, or contracts executed
2698 or approved by the Mississippi Department of Information
2699 Technology Services and designated for use by governing
2700 authorities.



2701 (xii) **Energy efficiency services and equipment.**
2702 Energy efficiency services and equipment acquired by school
2703 districts, community and junior colleges, institutions of higher
2704 learning and state agencies or other applicable governmental
2705 entities on a shared-savings, lease or lease-purchase basis
2706 pursuant to Section 31-7-14.

2707 (xiii) **Municipal electrical utility system fuel.**
2708 Purchases of coal and/or natural gas by municipally owned electric
2709 power generating systems that have the capacity to use both coal
2710 and natural gas for the generation of electric power.

2711 (xiv) **Library books and other reference materials.**
2712 Purchases by libraries or for libraries of books and periodicals;
2713 processed film, videocassette tapes, filmstrips and slides;
2714 recorded audiotapes, cassettes and diskettes; and any such items
2715 as would be used for teaching, research or other information
2716 distribution; however, equipment such as projectors, recorders,
2717 audio or video equipment, and monitor televisions are not exempt
2718 under this subparagraph.

2719 (xv) **Unmarked vehicles.** Purchases of unmarked
2720 vehicles when such purchases are made in accordance with
2721 purchasing regulations adopted by the Department of Finance and
2722 Administration pursuant to Section 31-7-9(2).

2723 (xvi) **Election ballots.** Purchases of ballots
2724 printed pursuant to Section 23-15-351.



2725 (xvii) **Multichannel interactive video systems.**
2726 From and after July 1, 1990, contracts by Mississippi Authority
2727 for Educational Television with any private educational
2728 institution or private nonprofit organization whose purposes are
2729 educational in regard to the construction, purchase, lease or
2730 lease-purchase of facilities and equipment and the employment of
2731 personnel for providing multichannel interactive video systems
2732 (ITSF) in the school districts of this state.

2733 (xviii) **Purchases of prison industry products by**
2734 **the Department of Corrections, regional correctional facilities or**
2735 **privately owned prisons.** Purchases made by the Mississippi
2736 Department of Corrections, regional correctional facilities or
2737 privately owned prisons involving any item that is manufactured,
2738 processed, grown or produced from the state's prison industries.

2739 (xix) **Undercover operations equipment.** Purchases
2740 of surveillance equipment or any other high-tech equipment to be
2741 used by law enforcement agents in undercover operations, provided
2742 that any such purchase shall be in compliance with regulations
2743 established by the Department of Finance and Administration.

2744 (xx) **Junior college books for rent.** Purchases by
2745 community or junior colleges of textbooks which are obtained for
2746 the purpose of renting such books to students as part of a book
2747 service system.

2748 (xxi) **Certain school district purchases.**
2749 Purchases of commodities made by school districts from vendors



2750 with which any levying authority of the school district, as
2751 defined in Section 37-57-1, has contracted through competitive
2752 bidding procedures for purchases of the same commodities.

2753 (xxii) **Garbage, solid waste and sewage contracts.**
2754 Contracts for garbage collection or disposal, contracts for solid
2755 waste collection or disposal and contracts for sewage collection
2756 or disposal.

2757 (xxiii) **Municipal water tank maintenance**
2758 **contracts.** Professional maintenance program contracts for the
2759 repair or maintenance of municipal water tanks, which provide
2760 professional services needed to maintain municipal water storage
2761 tanks for a fixed annual fee for a duration of two (2) or more
2762 years.

2763 (xxiv) **Purchases of Mississippi Industries for the**
2764 **Blind products.** Purchases made by state agencies or governing
2765 authorities involving any item that is manufactured, processed or
2766 produced by the Mississippi Industries for the Blind.

2767 (xxv) **Purchases of state-adopted textbooks.**
2768 Purchases of state-adopted textbooks by public school districts.

2769 (xxvi) **Certain purchases under the Mississippi**
2770 **Major Economic Impact Act.** Contracts entered into pursuant to the
2771 provisions of Section 57-75-9(2), (3) and (4).

2772 (xxvii) **Used heavy or specialized machinery or**
2773 **equipment for installation of soil and water conservation**
2774 **practices purchased at auction.** Used heavy or specialized



2775 machinery or equipment used for the installation and
2776 implementation of soil and water conservation practices or
2777 measures purchased subject to the restrictions provided in
2778 Sections 69-27-331 through 69-27-341. Any purchase by the State
2779 Soil and Water Conservation Commission under the exemption
2780 authorized by this subparagraph shall require advance
2781 authorization spread upon the minutes of the commission to include
2782 the listing of the item or items authorized to be purchased and
2783 the maximum bid authorized to be paid for each item or items.

2784 (xxviii) **Hospital lease of equipment or services.**

2785 Leases by hospitals of equipment or services if the leases are in
2786 compliance with paragraph (1)(ii).

2787 (xxix) **Purchases made pursuant to qualified**

2788 **cooperative purchasing agreements.** Purchases made by certified
2789 purchasing offices of state agencies or governing authorities
2790 under cooperative purchasing agreements previously approved by the
2791 Office of Purchasing and Travel and established by or for any
2792 municipality, county, parish or state government or the federal
2793 government, provided that the notification to potential
2794 contractors includes a clause that sets forth the availability of
2795 the cooperative purchasing agreement to other governmental
2796 entities. Such purchases shall only be made if the use of the
2797 cooperative purchasing agreements is determined to be in the best
2798 interest of the governmental entity.



2799 (xxx) **School yearbooks.** Purchases of school
2800 yearbooks by state agencies or governing authorities; provided,
2801 however, that state agencies and governing authorities shall use
2802 for these purchases the RFP process as set forth in the
2803 Mississippi Procurement Manual adopted by the Office of Purchasing
2804 and Travel.

2805 (xxxii) **Design-build method and dual-phase**
2806 **design-build method of contracting.** Contracts entered into under
2807 the provisions of Section 31-7-13.1, 37-101-44 or 65-1-85.

2808 (xxxiii) **Toll roads and bridge construction**
2809 **projects.** Contracts entered into under the provisions of Section
2810 65-43-1 or 65-43-3.

2811 (xxxiiii) **Certain purchases under Section 57-1-221.**
2812 Contracts entered into pursuant to the provisions of Section
2813 57-1-221.

2814 (xxxiv) **Certain transfers made pursuant to the**
2815 **provisions of Section 57-105-1(7).** Transfers of public property
2816 or facilities under Section 57-105-1(7) and construction related
2817 to such public property or facilities.

2818 (xxxv) **Certain purchases or transfers entered into**
2819 **with local electrical power associations.** Contracts or agreements
2820 entered into under the provisions of Section 55-3-33.

2821 (xxxvi) **Certain purchases by an academic medical**
2822 **center or health sciences school.** Purchases by an academic
2823 medical center or health sciences school, as defined in Section



2824 37-115-50, of commodities that are used for clinical purposes and
2825 1. intended for use in the diagnosis of disease or other
2826 conditions or in the cure, mitigation, treatment or prevention of
2827 disease, and 2. medical devices, biological, drugs and
2828 radiation-emitting devices as defined by the United States Food
2829 and Drug Administration.

2830 (xxxvii) **Certain purchases made by the Mississippi**
2831 **Lottery Corporation.** Contracts made by the Mississippi Lottery
2832 Corporation pursuant to the Mississippi Lottery Law.

2833 (n) **Term contract authorization.** All contracts for the
2834 purchase of:

2835 (i) All contracts for the purchase of commodities,
2836 equipment and public construction (including, but not limited to,
2837 repair and maintenance), may be let for periods of not more than
2838 sixty (60) months in advance, subject to applicable statutory
2839 provisions prohibiting the letting of contracts during specified
2840 periods near the end of terms of office. Term contracts for a
2841 period exceeding twenty-four (24) months shall also be subject to
2842 ratification or cancellation by governing authority boards taking
2843 office subsequent to the governing authority board entering the
2844 contract.

2845 (ii) Bid proposals and contracts may include price
2846 adjustment clauses with relation to the cost to the contractor
2847 based upon a nationally published industry-wide or nationally
2848 published and recognized cost index. The cost index used in a



2849 price adjustment clause shall be determined by the Department of
2850 Finance and Administration for the state agencies and by the
2851 governing board for governing authorities. The bid proposal and
2852 contract documents utilizing a price adjustment clause shall
2853 contain the basis and method of adjusting unit prices for the
2854 change in the cost of such commodities, equipment and public
2855 construction.

2856 (o) **Purchase law violation prohibition and vendor**
2857 **penalty.** No contract or purchase as herein authorized shall be
2858 made for the purpose of circumventing the provisions of this
2859 section requiring competitive bids, nor shall it be lawful for any
2860 person or concern to submit individual invoices for amounts within
2861 those authorized for a contract or purchase where the actual value
2862 of the contract or commodity purchased exceeds the authorized
2863 amount and the invoices therefor are split so as to appear to be
2864 authorized as purchases for which competitive bids are not
2865 required. Submission of such invoices shall constitute a
2866 misdemeanor punishable by a fine of not less than Five Hundred
2867 Dollars (\$500.00) nor more than One Thousand Dollars (\$1,000.00),
2868 or by imprisonment for thirty (30) days in the county jail, or
2869 both such fine and imprisonment. In addition, the claim or claims
2870 submitted shall be forfeited.

2871 (p) **Electrical utility petroleum-based equipment**
2872 **purchase procedure.** When in response to a proper advertisement
2873 therefor, no bid firm as to price is submitted to an electric



2874 utility for power transformers, distribution transformers, power
2875 breakers, reclosers or other articles containing a petroleum
2876 product, the electric utility may accept the lowest and best bid
2877 therefor although the price is not firm.

2878 (q) **Fuel management system bidding procedure.** Any
2879 governing authority or agency of the state shall, before
2880 contracting for the services and products of a fuel management or
2881 fuel access system, enter into negotiations with not fewer than
2882 two (2) sellers of fuel management or fuel access systems for
2883 competitive written bids to provide the services and products for
2884 the systems. In the event that the governing authority or agency
2885 cannot locate two (2) sellers of such systems or cannot obtain
2886 bids from two (2) sellers of such systems, it shall show proof
2887 that it made a diligent, good-faith effort to locate and negotiate
2888 with two (2) sellers of such systems. Such proof shall include,
2889 but not be limited to, publications of a request for proposals and
2890 letters soliciting negotiations and bids. For purposes of this
2891 paragraph (q), a fuel management or fuel access system is an
2892 automated system of acquiring fuel for vehicles as well as
2893 management reports detailing fuel use by vehicles and drivers, and
2894 the term "competitive written bid" shall have the meaning as
2895 defined in paragraph (b) of this section. Governing authorities
2896 and agencies shall be exempt from this process when contracting
2897 for the services and products of fuel management or fuel access



2898 systems under the terms of a state contract established by the
2899 Office of Purchasing and Travel.

2900 (r) **Solid waste contract proposal procedure.** Before
2901 entering into any contract for garbage collection or disposal,
2902 contract for solid waste collection or disposal or contract for
2903 sewage collection or disposal, which involves an expenditure of
2904 more than Fifty Thousand Dollars (\$50,000.00), a governing
2905 authority or agency shall issue publicly a request for proposals
2906 concerning the specifications for such services which shall be
2907 advertised for in the same manner as provided in this section for
2908 seeking bids for purchases which involve an expenditure of more
2909 than the amount provided in paragraph (c) of this section. Any
2910 request for proposals when issued shall contain terms and
2911 conditions relating to price, financial responsibility,
2912 technology, legal responsibilities and other relevant factors as
2913 are determined by the governing authority or agency to be
2914 appropriate for inclusion; all factors determined relevant by the
2915 governing authority or agency or required by this paragraph (r)
2916 shall be duly included in the advertisement to elicit proposals.
2917 After responses to the request for proposals have been duly
2918 received, the governing authority or agency shall select the most
2919 qualified proposal or proposals on the basis of price, technology
2920 and other relevant factors and from such proposals, but not
2921 limited to the terms thereof, negotiate and enter into contracts
2922 with one or more of the persons or firms submitting proposals. If



2923 the governing authority or agency deems none of the proposals to
2924 be qualified or otherwise acceptable, the request for proposals
2925 process may be reinitiated. Notwithstanding any other provisions
2926 of this paragraph, where a county with at least thirty-five
2927 thousand (35,000) nor more than forty thousand (40,000)
2928 population, according to the 1990 federal decennial census, owns
2929 or operates a solid waste landfill, the governing authorities of
2930 any other county or municipality may contract with the governing
2931 authorities of the county owning or operating the landfill,
2932 pursuant to a resolution duly adopted and spread upon the minutes
2933 of each governing authority involved, for garbage or solid waste
2934 collection or disposal services through contract negotiations.

2935 (s) **Minority set-aside authorization.** Notwithstanding
2936 any provision of this section to the contrary, any agency or
2937 governing authority, by order placed on its minutes, may, in its
2938 discretion, set aside not more than twenty percent (20%) of its
2939 anticipated annual expenditures for the purchase of commodities
2940 from minority businesses; however, all such set-aside purchases
2941 shall comply with all purchasing regulations promulgated by the
2942 Department of Finance and Administration and shall be subject to
2943 bid requirements under this section. Set-aside purchases for
2944 which competitive bids are required shall be made from the lowest
2945 and best minority business bidder. For the purposes of this
2946 paragraph, the term "minority business" means a business which is
2947 owned by a majority of persons who are United States citizens or



2948 permanent resident aliens (as defined by the Immigration and
2949 Naturalization Service) of the United States, and who are Asian,
2950 Black, Hispanic or Native American, according to the following
2951 definitions:

2952 (i) "Asian" means persons having origins in any of
2953 the original people of the Far East, Southeast Asia, the Indian
2954 subcontinent, or the Pacific Islands.

2955 (ii) "Black" means persons having origins in any
2956 black racial group of Africa.

2957 (iii) "Hispanic" means persons of Spanish or
2958 Portuguese culture with origins in Mexico, South or Central
2959 America, or the Caribbean Islands, regardless of race.

2960 (iv) "Native American" means persons having
2961 origins in any of the original people of North America, including
2962 American Indians, Eskimos and Aleuts.

2963 (t) **Construction punch list restriction.** The
2964 architect, engineer or other representative designated by the
2965 agency or governing authority that is contracting for public
2966 construction or renovation may prepare and submit to the
2967 contractor only one (1) preliminary punch list of items that do
2968 not meet the contract requirements at the time of substantial
2969 completion and one (1) final list immediately before final
2970 completion and final payment.

2971 (u) **Procurement of construction services by state**
2972 **institutions of higher learning.** Contracts for privately financed



2973 construction of auxiliary facilities on the campus of a state
2974 institution of higher learning may be awarded by the Board of
2975 Trustees of State Institutions of Higher Learning to the lowest
2976 and best bidder, where sealed bids are solicited, or to the
2977 offeror whose proposal is determined to represent the best value
2978 to the citizens of the State of Mississippi, where requests for
2979 proposals are solicited.

2980 (v) **Insurability of bidders for public construction or**
2981 **other public contracts.** In any solicitation for bids to perform
2982 public construction or other public contracts to which this
2983 section applies including, but not limited to, contracts for
2984 repair and maintenance, for which the contract will require
2985 insurance coverage in an amount of not less than One Million
2986 Dollars (\$1,000,000.00), bidders shall be permitted to either
2987 submit proof of current insurance coverage in the specified amount
2988 or demonstrate ability to obtain the required coverage amount of
2989 insurance if the contract is awarded to the bidder. Proof of
2990 insurance coverage shall be submitted within five (5) business
2991 days from bid acceptance.

2992 (w) **Purchase authorization clarification.** Nothing in
2993 this section shall be construed as authorizing any purchase not
2994 authorized by law.

2995 **SECTION 52.** Section 67-1-71, Mississippi Code of 1972, is
2996 amended as follows:



2997 67-1-71. The department may revoke or suspend any permit
2998 issued by it for a violation by the permittee of any of the
2999 provisions of this chapter or of the regulations promulgated under
3000 it by the department.

3001 Permits must be revoked or suspended for the following
3002 causes:

3003 (a) Conviction of the permittee for the violation of
3004 any of the provisions of this chapter;

3005 (b) Willful failure or refusal by any permittee to
3006 comply with any of the provisions of this chapter or of any rule
3007 or regulation adopted pursuant thereto;

3008 (c) The making of any materially false statement in any
3009 application for a permit;

3010 (d) Conviction of one or more of the clerks, agents or
3011 employees of the permittee, of any violation of this chapter upon
3012 the premises covered by such permit within a period of time as
3013 designated by the rules or regulations of the department;

3014 (e) The possession on the premises of any retail
3015 permittee of any alcoholic beverages upon which the tax has not
3016 been paid;

3017 (f) The willful failure of any permittee to keep the
3018 records or make the reports required by this chapter, or to allow
3019 an inspection of such records by any duly authorized person;



3020 (g) The suspension or revocation of a permit issued to
3021 the permittee by the federal government, or conviction of
3022 violating any federal law relating to alcoholic beverages;

3023 (h) The failure to furnish any bond required by Section
3024 27-71-21 within fifteen (15) days after notice from the
3025 department; and

3026 (i) The conducting of any form of illegal gambling on
3027 the premises of any permittee or on any premises connected
3028 therewith or the presence on any such premises of any gambling
3029 device with the knowledge of the permittee.

3030 The provisions of paragraph (i) of this section shall not
3031 apply to gambling or the presence of any gambling devices, with
3032 knowledge of the permittee, on board a cruise vessel in the waters
3033 within the State of Mississippi, which lie adjacent to the State
3034 of Mississippi south of the three (3) most southern counties in
3035 the State of Mississippi, or on any vessel as defined in Section
3036 27-109-1 whenever such vessel is on the Mississippi River or
3037 navigable waters within any county bordering on the Mississippi
3038 River. The department may, in its discretion, issue on-premises
3039 retailer's permits to a common carrier of the nature described in
3040 this paragraph.

3041 The provisions of paragraph (i) of this section shall not
3042 apply to the operation of any game or lottery authorized by
3043 Sections 1 through 46 of this act.



3044 No permit shall be suspended or revoked until after the
3045 permittee has been provided reasonable notice of the charges
3046 against him for which suspension or revocation is sought and the
3047 opportunity to a hearing before the Board of Tax Appeals to
3048 contest such charges and the suspension or revocation proposed.
3049 Opportunity to a hearing is provided without an actual hearing if
3050 the permittee, after receiving reasonable notice, including notice
3051 of his right to a hearing, fails to timely request a hearing. The
3052 permittee may also at any time waive his rights to reasonable
3053 notice and/or to the opportunity to a hearing by agreeing to a
3054 suspension or revocation offered by the department.
3055 Notwithstanding the requirement above that a permit may not be
3056 suspended without notice and opportunity to a hearing, sales of
3057 alcoholic beverages by a permittee under a permit for which the
3058 bond under Section 27-71-21 has been cancelled shall be suspended
3059 from and after issuance of the notice provided in * * * paragraph
3060 (h) above and shall continue to be suspended until the bond is
3061 reinstated, a new bond is posted or sufficient cash or securities
3062 as provided under Section 27-71-21 are deposited with the State
3063 Treasurer for this permit.

3064 In addition to the causes specified in this section and other
3065 provisions of this chapter, the department shall be authorized to
3066 suspend the permit of any permit holder for being out of
3067 compliance with an order for support, as defined in Section
3068 93-11-153. The procedure for suspension of a permit for being out



3069 of compliance with an order for support, and the procedure for the
3070 reissuance or reinstatement of a permit suspended for that
3071 purpose, and the payment of any fees for the reissuance or
3072 reinstatement of a permit suspended for that purpose, shall be
3073 governed by Section 93-11-157 or 93-11-163, as the case may be.
3074 If there is any conflict between any provision of Section
3075 93-11-157 or 93-11-163 and any provision of this chapter, the
3076 provisions of Section 93-11-157 or 93-11-163, as the case may be,
3077 shall control.

3078 **SECTION 53.** Section 97-33-9, Mississippi Code of 1972, is
3079 amended as follows:

3080 97-33-9. Except as otherwise provided in Section 97-33-8, if
3081 any person shall be guilty of keeping or exhibiting any game or
3082 gaming table commonly called A.B.C. or E.O. roulette or
3083 rowley-powley, or rouge et noir, roredo, keno, monte, or any
3084 faro-bank, or other game, gaming table, or bank of the same or
3085 like kind or any other kind or description under any other name
3086 whatever, or shall be in any manner either directly or indirectly
3087 interested or concerned in any gaming tables, banks, or games,
3088 either by furnishing money or articles for the purpose of carrying
3089 on the same, being interested in the loss or gain of said table,
3090 bank or games, or employed in any manner in conducting, carrying
3091 on, or exhibiting said gaming tables, games, or banks, every
3092 person so offending and being thereof convicted, shall be fined
3093 not less than Twenty-five Dollars (\$25.00) nor more than Two



3094 Thousand Dollars (\$2,000.00), or be imprisoned in the county jail
3095 not longer than two (2) months, or by both such fine and
3096 imprisonment, in the discretion of the court. Nothing in this
3097 section shall apply to any person who owns, possesses, controls,
3098 installs, procures, repairs or transports any gambling device,
3099 machine or equipment in accordance with subsection (4) of Section
3100 97-33-7 or Section 75-76-34.

3101 This section shall not apply to the operation of any game or
3102 lottery authorized by Sections 1 through 46 of this act.

3103 **SECTION 54.** Section 97-33-11, Mississippi Code of 1972, is
3104 amended as follows:

3105 97-33-11. It shall not be lawful for any association of
3106 persons of the character commonly known as a "club," whether such
3107 association be incorporated or not, in any manner, either directly
3108 or indirectly, to have any interest or concern in any gambling
3109 tables, banks, or games, by means of what is sometimes called a
3110 "rake-off" or "take-out," or by means of an assessment upon
3111 certain combinations, or hands at cards, or by means of a
3112 percentage extracted from players, or an assessment made upon, or
3113 a contribution from them, or by any other means, device or
3114 contrivance whatsoever. It shall not be lawful for such an
3115 association to lend or advance money or any other valuable thing
3116 to any person engaged or about to engage in playing any game of
3117 chance prohibited by law, or to become responsible directly or
3118 indirectly for any money or other valuable thing lost, or which



3119 may be lost, by any player in any such game. If any such
3120 association shall violate any of the provisions of this section
3121 each and every member thereof shall be guilty of a misdemeanor
3122 and, upon conviction thereof, shall be fined in a sum not more
3123 than Five Hundred Dollars (\$500.00); and unless such fine and
3124 costs be immediately paid, shall be imprisoned in the county jail
3125 for not less than five (5) nor more than twenty (20) days. Each
3126 grand jury shall cause such of the members of such an association
3127 as it may choose to appear before them and submit to examination
3128 touching the observance or nonobservance by such association of
3129 the provisions hereof.

3130 This section shall not apply to the operation of any game or
3131 lottery authorized by Sections 1 through 46 of this act.

3132 **SECTION 55.** Section 97-33-13, Mississippi Code of 1972, is
3133 amended as follows:

3134 97-33-13. Any owner, lessee, or occupant of any outhouse or
3135 other building, who shall knowingly permit or suffer any of the
3136 before mentioned tables, banks, or games, or any other game
3137 prohibited by law, to be carried on, kept, or exhibited in his
3138 said house or other building, or on his lot or premises, being
3139 thereof convicted, shall be fined not less than One Hundred
3140 Dollars (\$100.00) nor more than Two Thousand Dollars (\$2,000.00).

3141 This section shall not apply to the operation of any game or
3142 lottery authorized by Sections 1 through 46 of this act.



3143 **SECTION 56.** Section 97-33-21, Mississippi Code of 1972, is
3144 amended as follows:

3145 97-33-21. Any person of full age who shall bet any money or
3146 thing of any value with a minor, or allow a minor to bet at any
3147 game or gaming-table exhibited by him, or in which he is
3148 interested or in any manner concerned, on conviction thereof,
3149 shall be fined not less than Three Hundred Dollars (\$300.00) and
3150 imprisoned not less than three (3) months.

3151 This section shall apply to minors under the age of eighteen
3152 (18) as it might apply to the operation of any game or lottery
3153 authorized by Sections 1 through 46 of this act.

3154 **SECTION 57.** Section 97-33-23, Mississippi Code of 1972, is
3155 amended as follows:

3156 97-33-23. Any person of full age who shall bet any money or
3157 thing of value with a minor, knowing such minor to be under the
3158 age of twenty-one (21) years, or allowing any such minor to bet at
3159 any game or games, or at any gaming table exhibited by him, or in
3160 which he is interested or in any manner concerned, on conviction
3161 thereof, shall be punished by imprisonment in the Penitentiary not
3162 exceeding two (2) years.

3163 This section shall apply to minors under the age of eighteen
3164 (18) as it might apply to the operation of any game or lottery
3165 authorized by Sections 1 through 46 of this act.

3166 **SECTION 58.** Section 97-33-31, Mississippi Code of 1972, is
3167 amended as follows:



3168 97-33-31. If any person, in order to raise money for himself
3169 or another, or for any purpose whatever, shall publicly or
3170 privately put up a lottery to be drawn or adventured for, he
3171 shall, on conviction, be imprisoned in the Penitentiary not
3172 exceeding five (5) years.

3173 This section shall not apply to the operation of any game or
3174 lottery authorized by Sections 1 through 46 of this act.

3175 **SECTION 59.** Section 97-33-33, Mississippi Code of 1972, is
3176 amended as follows:

3177 97-33-33. If any person shall in any way advertise any
3178 lottery whatever, no matter where located, or shall knowingly have
3179 in his possession any posters or other lottery advertisements of
3180 any kind * * *, save a regularly issued newspaper containing such
3181 an advertisement without intent to circulate the same as an
3182 advertisement * * *, he shall, on conviction, be fined not less
3183 than Twenty-five Dollars (\$25.00) nor more than One Hundred
3184 Dollars (\$100.00), or be imprisoned in the county jail not
3185 exceeding three (3) months, or both.

3186 This section shall not apply to the operation of any game or
3187 lottery authorized by Sections 1 through 46 of this act.

3188 **SECTION 60.** Section 97-33-35, Mississippi Code of 1972, is
3189 amended as follows:

3190 97-33-35. If any newspaper published or circulated in this
3191 state shall contain an advertisement of any lottery whatever, or
3192 any matter intended to advertise a lottery, no matter where



3193 located, the editor or editors, publisher or publishers, and the
3194 owner or owners thereof permitting the same, shall be guilty of a
3195 misdemeanor and, on conviction, shall be fined not less than One
3196 Hundred Dollars (\$100.00) nor more than One Thousand Dollars
3197 (\$1,000.00), and be imprisoned in the county jail not less than
3198 ten (10) days nor more than three (3) months, for each offense.
3199 The issuance of each separate daily or weekly edition of the
3200 newspaper that shall contain such an advertisement shall be
3201 considered a separate offense.

3202 This section shall not apply to the operation of any game or
3203 lottery authorized by Sections 1 through 46 of this act.

3204 **SECTION 61.** Section 97-33-37, Mississippi Code of 1972, is
3205 amended as follows:

3206 97-33-37. If any newsdealer or other person shall, directly
3207 or indirectly, sell or offer for sale any newspaper or other
3208 publication containing a lottery advertisement, he shall be guilty
3209 of a misdemeanor and, upon conviction, shall be fined not less
3210 than Ten Dollars (\$10.00) or imprisoned not less than ten (10)
3211 days, or both.

3212 This section shall not apply to the operation of any game or
3213 lottery authorized by Sections 1 through 46 of this act.

3214 **SECTION 62.** Section 97-33-39, Mississippi Code of 1972, is
3215 amended as follows:

3216 97-33-39. If any person shall sell, or offer or expose for
3217 sale, any lottery ticket, whether the lottery be in or out of this



3218 state, or for or in any other state, territory, district, or
3219 country, he shall, on conviction, be fined not less than
3220 Twenty-five Dollars (\$25.00) nor more than One Hundred Dollars
3221 (\$100.00), or imprisoned in the county jail not less than ten (10)
3222 days nor more than sixty (60) days, or both.

3223 This section shall not apply to the operation of any game or
3224 lottery authorized by Sections 1 through 46 of this act.

3225 **SECTION 63.** Section 97-33-41, Mississippi Code of 1972, is
3226 amended as follows:

3227 97-33-41. If any person shall buy in this state any lottery
3228 ticket, whether the lottery be in or out of this state, or of or
3229 in any other state, territory, district, or country, he shall, on
3230 conviction, be fined not less than Five Dollars (\$5.00) nor more
3231 than Twenty-five Dollars (\$25.00), or be imprisoned in the county
3232 jail not exceeding ten (10) days, or both.

3233 This section shall not apply to the operation of any game or
3234 lottery authorized by Sections 1 through 46 of this act.

3235 **SECTION 64.** Section 97-33-43, Mississippi Code of 1972, is
3236 amended as follows:

3237 97-33-43. If any railroad company shall suffer or permit the
3238 sale of a lottery ticket of any kind on its cars, or at its depots
3239 or depot grounds, or by its employees, no matter where the lottery
3240 is located, it shall be guilty of a misdemeanor and, on
3241 conviction, shall be fined not less than Twenty Dollars (\$20.00)



3242 nor more than One Hundred Dollars (\$100.00) for every such ticket
3243 so sold.

3244 This section shall not apply to the operation of any game or
3245 lottery authorized by Sections 1 through 46 of this act.

3246 **SECTION 65.** Section 97-33-45, Mississippi Code of 1972, is
3247 amended as follows:

3248 97-33-45. If the owner or owners of any steamboat shall
3249 suffer or permit the sale of a lottery ticket of any kind on his
3250 or their boat, or by his or their employees, no matter where the
3251 lottery is located, he or they shall be guilty of a misdemeanor
3252 and shall, on conviction, be punished as prescribed in Section
3253 97-33-43.

3254 This section shall not apply to the operation of any game or
3255 lottery authorized by Sections 1 through 46 of this act.

3256 **SECTION 66.** Section 97-33-47, Mississippi Code of 1972, is
3257 amended as follows:

3258 97-33-47. If any person shall act as agent for any lottery
3259 or lottery company, no matter where domiciled or located, or if he
3260 shall assume to so act as agent, or if he receive any money or
3261 other thing for any such lottery or lottery company, or deliver to
3262 any person any ticket or tickets, prize or prizes, or other thing
3263 from such lottery or lottery company, he shall, on conviction, be
3264 fined not less than One Hundred Dollars (\$100.00), nor more than
3265 Five Hundred Dollars (\$500.00), and be imprisoned in the county
3266 jail not less than three (3) months nor more than six (6) months.



3267 This section shall not apply to the operation of any game or
3268 lottery authorized by Sections 1 through 46 of this act.

3269 **SECTION 67.** Section 97-33-49, Mississippi Code of 1972, is
3270 amended as follows:

3271 97-33-49. Except as otherwise provided in Section 97-33-51,
3272 if any person, in order to raise money for himself or another,
3273 shall publicly or privately put up or in any way offer any prize
3274 or thing to be raffled or played for, he shall, on conviction, be
3275 fined not more than Twenty Dollars (\$20.00), or be imprisoned not
3276 more than one (1) month in the county jail.

3277 This section shall not apply to the operation of any game or
3278 lottery authorized by Sections 1 through 46 of this act.

3279 **SECTION 68.** This act shall take effect and be in force from
3280 and after September 1, 2018.

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

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; TO PROVIDE THAT THE MISSISSIPPI LOTTERY CORPORATION
8 SHALL BE MANAGED BY A PRESIDENT SELECTED BY THE BOARD WITH THE
9 APPROVAL OF THE GOVERNOR; TO PROVIDE THAT THE DIRECTOR SHALL SERVE
10 AT THE PLEASURE OF THE BOARD; TO PROVIDE FOR THE POWERS AND DUTIES
11 OF THE PRESIDENT; TO AUTHORIZE THE BOARD TO EMPLOY LEGAL COUNSEL;
12 TO REQUIRE BACKGROUND INVESTIGATION OF APPLICANTS FOR EMPLOYMENT
13 WITH THE CORPORATION; TO PROVIDE FOR THE DISPOSITION OF PROCEEDS
14 RECEIVED FROM THE SALE OF LOTTERY TICKETS; TO PROVIDE FOR APPEALS
15 BY RETAILERS, VENDORS OR APPLICANTS AGGRIEVED BY DECISIONS OF THE
16 PRESIDENT OR THE BOARD OF DIRECTORS; TO PROHIBIT THE SALE OF



17 LOTTERY TICKETS TO ANYONE UNDER THE AGE OF 21; TO PROVIDE THE
18 MANNER IN WHICH PRIZES MAY BE PAID AND TO AUTHORIZE THE VOLUNTARY
19 ASSIGNMENT OF PRIZES; TO PROVIDE FOR THE SELECTION OF LOTTERY
20 TICKET RETAILERS AND THE REQUIREMENTS THAT MUST BE MET TO BECOME A
21 RETAILER; TO PROVIDE THAT THE PROCEEDS FROM THE SALE OF LOTTERY
22 TICKETS AND RECEIVED BY A LOTTERY RETAILER SHALL CONSTITUTE A
23 TRUST; TO PLACE CERTAIN REQUIREMENTS ON VENDORS OF GOODS OR
24 SERVICES NECESSARY FOR THE IMPLEMENTATION OF THE STATE LOTTERY; TO
25 PROVIDE FOR CRIMINAL BACKGROUND INVESTIGATIONS BY THE MISSISSIPPI
26 DEPARTMENT OF PUBLIC SAFETY ON POTENTIAL VENDORS, POTENTIAL
27 RETAILERS AND CERTAIN EMPLOYEES OF THE CORPORATION; TO MAKE
28 UNLAWFUL CERTAIN ACTS WITH REGARD TO THE STATE LOTTERY; TO PROVIDE
29 FOR THE DISPOSITION OF PROCEEDS RECEIVED FROM THE SALE OF LOTTERY
30 TICKETS; TO PROVIDE THAT THE NET PROCEEDS COLLECTED FROM THE SALE
31 OF LOTTERY TICKETS SHALL BE DEPOSITED INTO A LOTTERY PROCEEDS FUND
32 CREATED IN THE STATE TREASURY AND TRANSFERRED INTO THE STATE
33 HIGHWAY FUND; TO AMEND SECTION 7-7-211, MISSISSIPPI CODE OF 1972,
34 TO AUTHORIZE THE DEPARTMENT OF AUDIT TO REVIEW AND APPROVE ANY
35 INDEPENDENT AUDITOR SELECTED BY THE MISSISSIPPI LOTTERY
36 CORPORATION TO CONDUCT AN ANNUAL AUDIT OF THE CORPORATION AND TO
37 CONDUCT AUDITS OR INVESTIGATIONS OF THE MISSISSIPPI LOTTERY
38 CORPORATION IF IN THE OPINION OF THE STATE AUDITOR CONDITIONS
39 JUSTIFY SUCH AUDITS OR INVESTIGATIONS; TO AMEND SECTIONS 25-9-107,
40 25-11-103, 25-41-3, 31-7-13, 67-1-71, 97-33-9, 97-33-11, 97-33-13,
41 97-33-21, 97-33-23, 97-33-31, 97-33-33, 97-33-35, 97-33-37,
42 97-33-39, 97-33-41, 97-33-43, 97-33-45, 97-33-47 AND 97-33-49,
43 MISSISSIPPI CODE OF 1972, IN CONFORMITY TO THE PROVISIONS OF THIS
44 ACT; AND FOR RELATED PURPOSES.

