

By: Senator(s) Johnson

To: Finance

SENATE BILL NO. 3070

1 AN ACT TO PROVIDE FOR AN INCOME TAX AND INSURANCE PREMIUM TAX
2 CREDIT FOR TAXPAYERS THAT PAY A QUALIFIED COMMUNITY DEVELOPMENT
3 ENTITY FOR QUALIFIED EQUITY INVESTMENTS; TO DEFINE CERTAIN TERMS
4 FOR THE PURPOSES OF THE TAX CREDIT; TO PROVIDE THAT THE AMOUNT OF
5 THE CREDIT SHALL BE EQUAL TO A CERTAIN PERCENTAGE OF THE ADJUSTED
6 PURCHASE PRICE PAID TO THE QUALIFIED COMMUNITY DEVELOPMENT ENTITY
7 FOR THE QUALIFIED EQUITY INVESTMENT; TO PROVIDE THAT THE MAXIMUM
8 AGGREGATE AMOUNT OF THE CREDITS THAT MAY BE ALLOCATED TO ALL
9 TAXPAYERS IN ANY ONE STATE FISCAL YEAR SHALL NOT EXCEED
10 \$48,000,000.00 AND THAT THE CREDITS SHALL BE ALLOCATED BY THE
11 MISSISSIPPI DEVELOPMENT AUTHORITY; TO PROVIDE FOR THE RECAPTURE OF
12 ALL OR A PORTION OF THE CREDIT UNDER CERTAIN CIRCUMSTANCES; TO
13 DEFINE THE TERMS "NEW MARKETS TAX CREDIT TRANSACTION," "PUBLIC
14 BENEFIT CORPORATION," "PUBLIC ENTITY OR PUBLIC ENTITIES" AND
15 "PUBLIC PROPERTY OR FACILITIES"; TO AUTHORIZE PUBLIC ENTITIES TO
16 CREATE PUBLIC BENEFIT CORPORATIONS FOR THE PURPOSE OF ENTERING
17 INTO FINANCING AGREEMENTS AND ENGAGING IN NEW MARKETS TAX CREDIT
18 TRANSACTIONS; TO AUTHORIZE PUBLIC ENTITIES TO ENTER INTO FINANCING
19 ARRANGEMENTS IN ORDER TO TRANSFER PUBLIC PROPERTY OR FACILITIES TO
20 OR FROM PUBLIC BENEFIT CORPORATIONS; TO AUTHORIZE PUBLIC ENTITIES
21 AND PUBLIC BENEFIT CORPORATIONS, WITH RESPECT TO NEW MARKETS TAX
22 CREDIT TRANSACTIONS, TO ENTER INTO FINANCING ARRANGEMENTS WITH
23 GOVERNMENTAL, NONPROFIT OR FOR PROFIT ENTITIES IN ORDER TO
24 LEVERAGE FUNDS NOT OTHERWISE AVAILABLE TO PUBLIC ENTITIES FOR THE
25 ACQUISITION, CONSTRUCTION OR RENOVATION OF PROPERTIES TRANSFERRED
26 TO A PUBLIC BENEFIT CORPORATION; TO AMEND SECTION 27-15-129,
27 MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE INVESTMENTS THAT MAY
28 REDUCE A TAXPAYER'S INSURANCE PREMIUM TAX LIABILITY UNDER SUCH
29 SECTION SHALL NOT INCLUDE ANY INVESTMENT FOR WHICH A TAX CREDIT IS
30 ALLOCATED UNDER THIS ACT; TO AMEND SECTION 31-7-13, MISSISSIPPI
31 CODE OF 1972, TO CONFORM TO THE PROVISIONS OF THIS ACT; AND FOR
32 RELATED PURPOSES.

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



34 **SECTION 1.** (1) As used in this section, the following words
35 and phrases shall have the meanings as defined in this subsection
36 unless the context clearly requires otherwise:

37 (a) "Applicable percentage" means sixteen percent (16%)
38 for each of the first through third credit allowance dates for
39 purposes of the taxes imposed by Section 27-7-5 or the taxes
40 imposed by Sections 27-15-103, 27-15-109 and 27-15-123.

41 (b) "CDFI fund" means the Community Development
42 Financial Institutions fund of the United States Department of the
43 Treasury.

44 (c) "Credit allowance date" means, with respect to any
45 qualified equity investment: (i) the date on which the qualified
46 equity investment is initially made; and (ii) each of the
47 subsequent two (2) anniversary dates of the date the qualified
48 equity investment was initially made.

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

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

54 (f) "Principal business operations" means the physical
55 location of an entity where at least sixty percent (60%) of a
56 qualified active low-income community business's employees work.
57 An entity that has agreed to relocate employees or a Mississippi
58 business that has agreed to hire employees using the proceeds of a



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

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

68 (h) "Qualified active low-income community business"
69 shall have the meaning ascribed to such term in Section 45D of the
70 Internal Revenue Code of 1986, as amended, provided such entity
71 has its principal business operations within the state's
72 geographical boundary. An entity is deemed a qualified active
73 low-income community business for the duration of a qualified
74 low-income community investment if the qualified community
75 development entity reasonably expects, at the time it makes the
76 qualified low-income community investment, that the entity will
77 continue to satisfy the requirements for being a qualified active
78 low-income community business throughout the entire period of the
79 qualified low-income community investment.

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



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

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

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

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

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

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

106 (iii) Is:



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

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

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

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



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

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



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

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

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

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

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

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

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



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

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

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

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

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

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



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

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



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



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

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

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

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

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

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



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

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

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



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

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

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



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

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

344 (b) As used in this subsection:

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

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

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



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

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

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

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



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

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



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

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

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

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



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

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

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



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

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

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

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

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

468 (d) Real property located in this state;

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

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

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

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



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

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

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

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

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



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

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



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

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

555 (i) **Publication requirement.**



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

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



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

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



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



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



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

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



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

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

694 (iv) **Specification restrictions.**

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



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

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

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



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

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

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



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

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



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

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

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



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

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

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

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



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



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

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

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



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

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



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

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



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

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



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

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

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

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

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



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

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

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

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



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

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

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

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



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

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

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

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



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

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

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

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

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



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

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

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



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

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

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



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

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

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

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

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



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

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

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

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

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



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

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

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

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

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

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

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



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

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

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



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

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

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

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

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

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

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



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

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

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

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

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

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



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

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

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



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

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

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



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

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



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

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



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

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

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

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

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



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

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

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



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

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

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

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

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

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

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



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

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



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

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

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

