MISSISSIPPI LEGISLATURE REGULAR SESSION 2026

By: Representative Zuber To: State Affairs

HOUSE BILL NO. 579

AN ACT TO BRING FORWARD SECTIONS 31-1-1, 31-1-21, 31-1-23, 31-1-25, 31-1-27, 31-3-1, 31-3-2, 31-3-3, 31-3-5, 31-3-7, 31-3-9, 31-3-11, 31-3-13, 31-3-14, 31-3-15, 31-3-16, 31-3-17, 31-3-21, 31-3-23, 31-5-3, 31-5-15, 31-5-17, 31-5-19, 31-5-21, 31-5-23, 31-5-25, 31-5-27, 31-5-29, 31-5-31, 31-5-33, 31-5-35, 31-5-37, 31-5-39, 31-5-41, 31-5-51, 31-5-52, 31-5-53, 31-5-55, 31-5-57, 31-7-1, 31-7-3, 31-7-5, 31-7-7, 31-7-9, 31-7-10, 31-7-11, 31-7-12, 31-7-13, 31-7-13.1, 31-7-13.2, 31-7-13.3, 31-7-14, 31-7-14.1, 31-7-15, 31-7-16, 31-7-18, 31-7-21, 31-7-23, 31-7-38, 31-7-47, 31-7-49, 31-7-53, 31-7-55, 31-7-57, 31-7-59, 31-7-61, 31-7-63, 31-7-65, 31-7-67, 31-7-73, 31-7-301, 31-7-303, 31-7-305, 31-7-307, 31-7-309, 31-7-311, 31-7-313, 31-7-315, 31-7-317, 31-7-401, 31-7-403, 31-7-405, 31-7-407, 31-7-409, 31-7-411, 31-7-413, 31-7-415, 31-7-417, 31-7-419, 31-7-421, 31-7-423, 31-8-1, 31-8-3, 31-8-5, 31-8-7, 31-8-9, 31-8-11, 31-8-13, 31-9-1, 31-9-5, 31-9-9, 31-9-13, 31-9-15, 31-11-1, 31-11-4, 31-11-7, 31-11-25, 31-11-27, 31-11-29, 31-11-30, 31-11-31, 31-11-33, 31-11-35, 5-3-72, 7-7-23, 7-7-25, 7-7-27, 7-7-51, 17-17-121, 17-25-5, 19-31-37, 25-1-78, 25-53-3, 25-53-5, 25-53-21, 25-53-25, 25-53-29, 25-53-101, 25-53-105, 25-53-107, 25-53-109, 25-53-111, 25-53-113, 25-53-115, 25-53-117, 25-53-119, 25-53-121, 25-53-123, 25-53-125, 25-53-151, 25-53-191, 25-53-201, 25-53-257, 25-58-21, 25-61-5, 25-61-9, 27-103-129, 27-104-7, 27-104-23, 27-104-103, 27-104-107, 27-104-109, 27-104-152, 27-104-153, 27-104-155, 27-104-157, 27-104-158, 27-104-159, 27-104-161, 27-104-163, 27-104-165, 27-104-167, 27-115-49, 27-115-69, 29-1-1, 29-5-2, 37-68-9, 37-41-101, 37-101-15, 37-101-413, 43-27-35, 43-37-3, 45-1-39, 45-11-7, 47-5-20, 47-5-47, 47-5-64, 47-5-66, 47-5-79, 47-5-105, 47-5-357, 49-2-9, 49-31-7, 57-1-55, 57-69-3, 57-69-5, 57-69-9, 57-75-3, 57-75-5, 57-75-7, 57-75-9, 57-75-11, 57-75-13, 57-75-15, 57-75-17, 57-75-19, 57-75-21, 57-75-22, 57-75-23, 57-75-25, 57-75-27, 57-75-33, 57-75-35, 57-75-37, 59-5-37, 59-9-25, 59-17-31, 61-13-1, 61-13-5, 63-11-47, 65-1-87, 65-17-105, 65-19-61, 65-19-77, 65-25-53, 65-27-7, 65-43-3, 71-5-116,

73-13-45, 73-63-55, AND 77-3-42, MISSISSIPPI CODE OF 1972, FOR THE PURPOSE OF POSSIBLE AMENDMENT; TO AMEND SECTIONS 25-1-77, 31-11-3, 47-5-307, 47-5-313, AND 57-69-7, MISSISSIPPI CODE OF 1972, TO MAKE MINOR NONSUBSTANTIVE CHANGES; AND FOR RELATED PURPOSES.

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

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

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

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

All state agencies shall purchase all commodities required for their operation or for the proper fulfillment of their duties and functions in accordance with Chapter 7 of this title in order to coordinate and promote efficiency and economy in the purchase of such commodities for the state.

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

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

SECTION 3. Section 31-1-23, Mississippi Code of 1972, is brought forward as follows:

31-1-23. The department for which the work is done shall examine the proof sheets of all work executed under the provisions of this chapter, and see that they are correctly printed and that all such work is executed in a suitable manner and in accordance with the requirements of law.

SECTION 4. Section 31-1-25, Mississippi Code of 1972, is brought forward as follows:

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

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

SECTION 5. Section 31-1-27, Mississippi Code of 1972, is brought forward as follows:

31-1-27. Appraisal information in the possession of a public body, as defined by paragraph (a) of Section 25-61-3, which concern the sale or purchase of real or personal property for public purposes prior to public announcement of the purchase or sale, where the release of such records would have a detrimental effect on such sale or purchase, shall be exempt from the provisions of the Mississippi Public Records Act of 1983.

SECTION 6. Section 31-3-1, Mississippi Code of 1972, is brought forward as follows:

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

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

"Contractor": Any person contracting or undertaking as prime contractor, subcontractor or sub-subcontractor of any tier to do any erection, building, construction, reconstruction, demolition, repair, maintenance or related work on any public or private project; however, "contractor" shall not include any owner of a dwelling or other structure to be constructed, altered, repaired or improved and not for sale, lease, public use or assembly, or

any person duly permitted by the Mississippi State Oil and Gas Board, pursuant to Section 53-3-11, Mississippi Code of 1972, to conduct operations within the state, and acting pursuant to said permit. It is further provided that nothing herein shall apply to:

(a) Any contract or undertaking on a public or private project by a prime contractor, subcontractor or sub-subcontractor of any tier involving erection, building, construction, reconstruction, repair, maintenance or related work where such contract, subcontract or undertaking is less than Fifty Thousand Dollars ($50,000.00);

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

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

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

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

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

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

(h) Any contract or undertaking on a private project by a prime contractor, subcontractor or sub-subcontractor of any tier involving the construction, reconstruction, repair or maintenance of fire protection systems where such contract, subcontract or undertaking is less than Ten Thousand Dollars ($10,000.00);

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

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

"Certificate of responsibility": A certificate numbered and held by a contractor issued by the board under the provisions of

this chapter after payment of the special privilege license tax therefor levied under this chapter.

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

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

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

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

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

SECTION 7. Section 31-3-2, Mississippi Code of 1972, is brought forward as follows:

31-3-2. The purpose of this chapter is to protect the health, safety and general welfare of all persons dealing with those who are engaged in the vocation of contracting and to afford such persons an effective and practical protection against

incompetent, inexperienced, unlawful and fraudulent acts of contractors.

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

31-3-3. There is hereby created the State Board of Contractors of the State of Mississippi, which shall consist of ten (10) members who shall be appointed by the Governor. All appointments to the board shall be made with the advice and consent of the Senate. Two (2) road contractors; two (2) building contractors; two (2) residential builders as defined in Section 73-59-1; one (1) plumbing or heating and air-conditioning contractor; one (1) electrical contractor; and one (1) water and sewer contractor shall compose the board. The Governor shall appoint one (1) additional member who shall be a roofing contractor and whose term of office shall be five (5) years. Each member shall be an actual resident of the State of Mississippi and must have been actually engaged in the contracting business for a period of not less than ten (10) years before appointment. The initial terms of the two (2) residential builders shall be for two (2) and four (4) years, respectively.

Upon the expiration of the term of office of any member of the board, the Governor shall appoint a new member for a term of five (5) years, such new appointments being made so as to maintain on the board two (2) building contractors; two (2) road contractors; two (2) residential builders; one (1) plumbing or

heating and air-conditioning contractor; one (1) electrical contractor; and one (1) water and sewer contractor; and one (1) roofing contractor. The Governor shall fill any vacancy by appointment, such appointee to serve the balance of the term of the original appointee. The Governor may remove any member of the board for misconduct, incompetency or willful neglect of duty.

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

SECTION 9. Section 31-3-5, Mississippi Code of 1972, is brought forward as follows:

31-3-5. The board shall be assigned suitable office space at the seat of government and shall elect one (1) of its members as chairman and one (1) as vice chairman; and each shall perform the usual duties of such offices. The board may adopt a seal. Six (6) members of the board shall constitute a quorum, and a majority vote of those present and voting at any meeting shall be necessary for the transaction of any business coming before the board. Members must be present to cast votes on any and all business. The executive director shall serve as secretary of the board. The board is authorized to employ such personnel as shall be necessary in the performance of its duties including sufficient administrative and clerical staff to process and review

applications for certificates of responsibility, to prepare and administer tests therefor, to investigate applications for certificates of responsibility and to inspect work performed by contractors as may be necessary to enforce and carry out the purpose of this chapter.

SECTION 10. Section 31-3-7, Mississippi Code of 1972, is brought forward as follows:

31-3-7. The board shall have four (4) regular meetings in each year, one (1) on the second Wednesday in January, one (1) on the second Wednesday in April, one (1) on the second Wednesday in July, and one (1) on the second Wednesday in October, at its offices at the seat of government or through the means of teleconference or video conferencing in accordance with Section 25-41-5. If the regular meeting day falls on a legal holiday, the board shall meet on the next day. The board may hold such special meetings as it finds necessary. However, before any special meeting is held, a notice stating the time, place and primary purpose of such meeting shall be sent by certified or registered mail from the chairman or vice chairman of the board to the other members of the board at least five (5) days before such meeting. Certificates of responsibility shall be issued at any time during the course of a calendar year as prescribed by the rules and regulations of the board. All meetings shall be held in the State of Mississippi. At any regular or special meeting the board may

recess from time to time to reconvene on a day and time fixed by an order of the board entered upon its minutes.

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

SECTION 11. Section 31-3-9, Mississippi Code of 1972, is brought forward as follows:

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

SECTION 12. Section 31-3-11, Mississippi Code of 1972, is brought forward as follows:

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

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

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

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

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

No certificate of responsibility or any renewal thereof shall be issued until the applicant furnishes to the board his

Mississippi state sales tax number or Mississippi state use tax number and his state income tax identification numbers.

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

The board shall conduct an objective, standardized examination of an applicant for a certificate to ascertain the ability of the applicant to make practical application of his knowledge of the profession or business of construction in the category or categories for which he has applied for a certificate of responsibility. The board may administer an oral examination to applicants who are unable to take the written examination. The cost of the test and the cost of administering the test shall be paid for by applicants for certificates of responsibility at the time applications are filed. The board shall investigate thoroughly the past record of all applicants, which will include an effort toward ascertaining the qualifications of applicants in reading plans and specifications, estimating costs, construction ethics, and other similar matters. The board shall take all applicants under consideration after having examined him or them and go thoroughly into the records and examinations, prior to granting any certificate of responsibility. If the applicant is an individual, examination may be taken by his personal appearance for examination or by the appearance for examination of one or more of his responsible managing employees; and if a copartnership or corporation or any other combination or organization, by the

examination of one or more of the responsible managing officers or members of the executive staff of the applicant's firm, according to its own designation, and such person shall be known as the qualifying party. A qualifying party may serve no more than three (3) separate entities as the qualifying party without first appearing before the board and being granted special permission.

(b) To conduct thorough investigations of all applicants seeking renewal of their licenses and of all complaints filed with the board concerning the performance of a contractor on a public or private project.

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

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

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

(f) To revoke by order entered on its minutes a certificate of responsibility upon a finding by the board that a particular contractor or qualifying party is not responsible, and to suspend such certificate of responsibility in particular cases pending investigation, upon cause to be stated in the board's order of suspension. No such revocation or suspension shall be ordered without a hearing conducted upon not less than ten (10) days' notice to such certificate holder by certified or registered mail, wherein the holder of the certificate of responsibility shall be given an opportunity to present all lawful evidence which he may offer.

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

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

The powers of the State Board of Contractors shall not extend to fixing a maximum limit in the bid amount of any contractor, or the bonding capacity, or a maximum amount of work which a contractor may have under contract at any time, except as stated in paragraph (a) of this section; and the Board of Contractors shall not have jurisdiction or the power or authority to determine the maximum bond a contractor may be capable of obtaining. The board, in determining the qualifications of any applicant for an original certificate of responsibility or any renewal thereof, shall, among other things, take into consideration the following: (i) experience and ability, (ii) character, (iii) the manner of performance of previous contracts, (iv) financial condition, (v) equipment, (vi) personnel, (vii) work completed, (viii) work on hand, (ix) ability to perform satisfactorily work under contract at the time of an application for a certificate of responsibility or a renewal thereof, (x) default in complying with provisions of this law, or any other law of the state, and (xi) the results of objective, standardized examinations. A record shall be made and preserved by the board of each examination of an applicant and the findings of the board thereon, and a certified copy of the record

and findings shall be furnished to any applicant desiring to appeal from any order or decision of the board.

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

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

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

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

31-3-14. (1) In addition to the fees required for application and renewal for certification and registration of all contractors in Section 31-3-13, all holders of a certificate of

responsibility shall pay a fee equal to Two Hundred Dollars ($200.00) at the time of application or renewal of certificates of responsibility. Any residential builder licensed under the provisions of Section 73-59-1 et seq. shall be exempt from the fee imposed under this section. The revenue derived from such additional fees shall be deposited into a fund to be known as the "Construction Education Fund," a special fund created in the State Treasury, and distributed by the State Board of Contractors created in Section 31-3-3, to the Mississippi Construction Education Foundation, public high schools and community colleges that participate in the Mississippi Construction Education Foundation's "school-to-work" program, state universities that have construction technology programs, the Mississippi Housing Institute and certain construction educational trusts approved by the State Board of Contractors in the manner hereinafter provided to offer courses for construction education and construction craft training to meet the needs of the construction industry of the State of Mississippi.

(2) The State Board of Contractors shall, on an annual basis, solicit from the Mississippi state institutions of higher learning, all the public community and junior colleges, the Mississippi Construction Education Foundation, public high schools that participate in the Mississippi Construction Education Foundation's "school-to-work" program and certain construction educational trusts, applications for the use of such funds in

construction education and craft training programs in a manner prescribed by the board. The board may appoint a technical advisory committee to advise the board on the most needed areas of construction education and craft training, continuing education or research relating to the construction education and craft training in the state, based on significant changes in the construction industry's practices, economic development or on problems costing public or private contractors substantial waste. The board shall ensure that the monies distributed from this fund are properly spent to promote construction education and craft training in programs in the state which are approved by the board. At least seventy-five percent (75%) of the monies distributed by the board, pursuant to this section, must be used for construction craft training with the exception of the Mississippi Housing Institute.

(3) Each university, junior college, community college, the Mississippi Construction Education Foundation, public high school that participates in the foundation's "school-to-work" program and construction educational trust receiving funds pursuant to this section for construction education or construction craft training programs shall utilize such funds only for construction education and craft training curricula and program development, faculty development, equipment, student scholarships, student assistantships, and for continuing education programs related to construction education and craft training. Such funds shall not

be commingled with the normal operating funds of the educational institution, regardless of the source of such funds.

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

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

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

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

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

31-3-15. No contract for public or private projects shall be issued or awarded to any contractor who did not have a current certificate of responsibility issued by said board at the time of the submission of the bid, or a similar certificate issued by a similar board of another state which recognizes certificates issued by said board. Any contract issued or awarded in violation of this section shall be null and void.

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

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

Notwithstanding the definition of "contractor" in Section 31-3-1, for purposes of this section, a commercial contractor is a person or entity contracting or offering to contract with an owner or possessor of commercial real estate to construct a building thereon, or to repair or renovate any portion of a building

thereon, regardless of the cost of the project, and regardless of whether all or part of the cost is expected to be paid as a benefit of a property and casualty insurance policy.

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

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

31-3-17. There is hereby levied, in addition to any taxes otherwise provided for by law, a special privilege license tax of Two Hundred Dollars ($200.00) on each contractor who applies for a certificate of responsibility issued under this chapter; and such tax shall be paid to the executive director of the board upon making such application in this state. The board may levy an additional special privilege license tax not to exceed One Hundred Dollars ($100.00) for each additional classification for which a contractor applies and is found to be qualified. The executive director of the board shall promptly deposit all monies received under this chapter in the State Treasury. Except for the civil penalty provided in Section 31-3-21 which shall be deposited into the State General Fund and the fee provided in Section 31-3-14, all monies received under this chapter shall be kept in a special fund in the State Treasury known as the "State Board of Contractors Fund," and shall be used only for the purposes of this chapter. Such monies shall not lapse at the end of each fiscal

year, but all monies in such State Board of Contractors Fund in excess of the sum of fifty percent (50%) of the approved budget for the fiscal year shall be paid over into the General Fund of the State Treasury. All expenditures from the Board of Contractors Fund shall be by requisition to the State Auditor, signed by the executive director of the board and countersigned by the chairman or vice chairman of the board, and the State Treasurer shall issue warrants thereon.

SECTION 18. Section 31-3-21, Mississippi Code of 1972, is brought forward as follows:

31-3-21. (1) It shall be unlawful for any person who does not hold a certificate of responsibility issued under this chapter to submit a bid, enter into a contract, or otherwise engage in or continue in this state in the business of a contractor, as defined in this chapter. Any bid which is submitted without a certificate of responsibility number issued under this chapter and without that number appearing on the exterior of the bid envelope, as and if herein required, at the time designated for the opening of such bid, shall not be considered further, and the person or public agency soliciting bids shall not enter into a contract with a contractor submitting a bid in violation of this section. In addition, any person violating this section by knowingly and willfully submitting a bid for projects without holding a certificate of responsibility number issued under this chapter, as and if herein required, at the time of the submission or opening

of such bid shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not more than One Thousand Dollars ($1,000.00), or by imprisonment for not more than six (6) months, or by both such fine and imprisonment.

(2) All bids submitted for public or private projects where the bid is in excess of Fifty Thousand Dollars ($50,000.00) shall contain on the outside or exterior of the envelope or container of such bid the contractor's current certificate number, and no bid shall be opened or considered unless such contractor's current certificate number appears on the outside or exterior of said envelope or container, or unless there appears a statement on the outside or exterior of such envelope or container to the effect that the bid enclosed therewith did not exceed Fifty Thousand Dollars ($50,000.00) with respect to public or private projects. Any person violating the provisions of this subsection shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not more than One Thousand Dollars ($1,000.00), or by imprisonment for not more than six (6) months, or by both such fine and imprisonment.

(3) In the letting of public contracts preference shall be given to resident contractors, and a nonresident bidder domiciled in a state having laws granting preference to local contractors shall be awarded Mississippi public contracts only on the same basis as the nonresident bidder's state awards contracts to Mississippi contractors bidding under similar circumstances; and

resident contractors actually domiciled in Mississippi, be they corporate, individuals, or partnerships, are to be granted preference over nonresidents in awarding of contracts in the same manner and to the same extent as provided by the laws of the state of domicile of the nonresident. When a nonresident contractor submits a bid for a public project, he shall attach thereto a copy of his resident state's current preference law, if any, pertaining to such state's treatment of nonresident contractors. Any bid submitted by a nonresident contractor which does not include the nonresident contractor's current state law shall be rejected and not considered for award. As used in this section, the term "resident contractors" includes a nonresident person, firm or corporation that has been qualified to do business in this state and has maintained a permanent full-time office in the State of Mississippi for two (2) years prior to submission of the bid and the subsidiaries and affiliates of such a person, firm or corporation. Any public agency awarding a contract shall promptly report to the Department of Revenue the following information:

(a) The amount of the contract.

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

(c) The name and location of the project.

(4) In addition to any other penalties provided in this chapter, and upon a finding of a violation of this chapter, the State Board of Contractors may, after notice and hearing, issue an

order of abatement directing the contractor to cease all actions constituting violations of this chapter until such time as the contractor complies with Mississippi state law, and to pay to the board a civil penalty to be deposited into the State Board of Contractors Fund, created in Section 31-3-17, of not more than three percent (3%) of the total contract being performed by the contractor. In addition to, or in lieu of, such civil penalty, the board may issue a public or private reprimand. The funds collected from civil penalty payments shall be used by the State Board of Contractors for enforcement and education.

SECTION 19. Section 31-3-23, Mississippi Code of 1972, is brought forward as follows:

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

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

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

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

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

SECTION 20. Section 31-5-3, Mississippi Code of 1972, is brought forward as follows:

31-5-3. Any person, firm or corporation entering into a formal contract with this state, any county thereof, municipality therein, or any public board, department, commission, or political subdivision of this state, for the construction or maintenance of public buildings, works or projects or the doing of repairs to any public building, works or projects shall be required before commencing same to execute the usual bond with good and sufficient sureties, as required by law, with the additional obligation that such contractor shall promptly make payment of all taxes, licenses, assessments, contributions, damages, penalties, and interest thereon, when and as the same may lawfully be due this state, or any county, municipality, board, department, commission or political subdivision thereof, by reason of and directly connected with the performance of such contract or any part thereof.

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

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

SECTION 21. Section 31-5-15, Mississippi Code of 1972, is brought forward as follows:

31-5-15. Under any public contract heretofore or hereafter made or awarded by the State of Mississippi, or any agency or department of the State of Mississippi, or by any political subdivision thereof, the contractor may, with the written consent of his or its surety, from time to time, withdraw the whole or any portion of the amount retained from payments due the contractor pursuant to the terms of the contract by depositing with the State Treasurer of the State of Mississippi, or the treasurer or secretary of the political subdivision of the State of Mississippi holding funds belonging to the contractor, the following security, or any combination thereof in an amount equal to or in excess of the amount so withdrawn, said securities to be accepted at the time of deposit at market value but not in excess of par value, to wit:

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

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

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

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

(e) Certificates of deposit issued by savings and loan associations located in the State of Mississippi, the accounts of which are insured by the Federal Deposit Insurance Corporation, or whose accounts are insured by a company approved by the State Board of Savings and Loan Associations, provided that such certificate is made payable with accrued interest on demand and is accompanied by a power of attorney executed by the owner of the certificate in favor of the Treasurer of the State of Mississippi or the treasurer or secretary of the political subdivision involved, and provided that any such certificate from any of the savings and loan associations referred to in this subparagraph shall not be for an amount in excess of the maximum dollar amount of coverage of the Federal Savings and Loan Insurance Corporation.

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

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

If in the event of an overpayment to a contractor the contracting authority is unable to obtain reimbursement for such overpayments from the contractor, the chief administrative officer of the contracting authority shall notify the contractor, its surety and the State Treasurer or other holder of the security, of the nature of the overpayment and of the failure to obtain reimbursement. Upon such notification, the security holder shall retain the income on the deposited security until an amount equal to the overpayment is accumulated and paid to the contracting authority.

In the event the contractor shall default in the performance of the contract or any portion thereof, the securities deposited by him in lieu of retainage and all interest and coupons and income accruing on said securities after said default may be sold by the state or any agency or department thereof, or any political subdivision, and the proceeds of said sale used as if such proceeds represented the retainage provided for under the

contract. For the purposes of this section, the term "retainage" means money, or other security as agreed to by the parties to a construction contract, earned by the contractor, subcontractor or lower-tier sub-subcontractor or supplier, as the case may be, for work properly performed or materials suitably stored if payment for stored materials is provided for in the contract, which has been retained by the owner conditioned on final completion, to include, but not be limited to, deliverable and nondeliverable requirements such as completion of contractual closeout, provision of equipment manuals, provision of warranty documents, completion of punch list and acceptance of all work in connection with a project by the contractor, subcontractor or lower-tier sub-subcontractor or supplier.

SECTION 22. Section 31-5-17, Mississippi Code of 1972, is brought forward as follows:

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

SECTION 23. Section 31-5-19, Mississippi Code of 1972, is brought forward as follows:

31-5-19. In the event workmen or laborers qualified under the provisions of Section 31-5-17 are not available, then the contractor, officer, superintendent, agent, or person in charge of such work shall notify in writing the mayor of the city in which said work is being done, the president of the board of supervisors of the county in which said work is being done, the Governor where said work is being done for the State of Mississippi, and the president, chairman, or executive officer of such board, city commission, or governmental agency for which said work is being done, of such fact. Unless the mayor, Governor, president, executive officer, or chairman aforesaid, as the case may be, shall forthwith supply such contractor, officer, superintendent, agent, or person in charge of said works with the satisfactory workmen or laborers needed, said contractor, officer, superintendent, agent, or person shall be authorized to employ workmen or laborers who are not qualified under the provisions of Section 31-5-17 to make up the deficiency. Nothing herein shall be construed to prevent the State of Mississippi, any county, municipality, board, or commission from placing or letting any contract for the erection or construction of any public building or public work in the open market, or soliciting bids from persons, firms, or corporations without the State of Mississippi. Any person, persons, firm, or corporation from without the State of Mississippi that may obtain such contracts for public buildings

or public works shall comply with the provisions of Section 31-5-17 upon undertaking the said contract or work.

SECTION 24. Section 31-5-21, Mississippi Code of 1972, is brought forward as follows:

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

However, where any workman or laborer furnishes such employer with a certificate by the sheriff, chancery clerk, or county registrar of the county of his domicile to the effect that such workman or laborer has actually resided in this state two (2) years next preceding such employment, such employer, acting in good faith, shall be relieved of any liability by reason of employing such person.

SECTION 25. Section 31-5-23, Mississippi Code of 1972, is brought forward as follows:

31-5-23. In the construction of any building, highway, road, bridge, or other public work or improvement by the State of Mississippi or any of its political subdivisions or municipalities, only materials grown, produced, prepared, made

and/or manufactured within the State of Mississippi should be used. Paint, varnish and lacquer shall be used which shall contain as vehicles tung oil and either ester gum or modified resin (with rosin as the principal base of constituents), and turpentine shall be used as solvent or thinner, all of which said products shall be produced in Mississippi. However, preference shall not be given to materials grown, produced, prepared, made and/or manufactured in the State of Mississippi when other materials of like quality produced without the State of Mississippi may be purchased or secured at less cost, or any other materials of better quality produced without the State of Mississippi can be secured at a reasonable cost.

The duty is hereby enjoined upon all public officers or bodies having the right to contract for the purchase of materials for any such public work to be paid for by the State of Mississippi or any of its political subdivisions or municipalities to faithfully observe the provisions of this section.

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

Nothing herein shall in any manner apply to any public work or improvement which will be paid for either in whole or in part

by funds contributed either directly or indirectly by the United States.

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

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

SECTION 26. Section 31-5-25, Mississippi Code of 1972, is brought forward as follows:

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

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

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

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

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

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

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

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

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

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

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

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

31-5-27. When a contractor receives any payment under a public construction contract, the contractor shall, upon receipt of that payment, pay each subcontractor and material supplier in proportion to the percentage of work completed by each subcontractor and material supplier. If for any reason the contractor receives less than the full payment due under the public construction contract, the contractor shall be obligated to disburse on a pro rata basis those funds received, with the contractor, subcontractors and material suppliers each receiving a prorated portion based on the amount due on the payment. If the contractor without reasonable cause fails to make any payment to

his subcontractors and material suppliers within fifteen (15) days after the receipt of payment under the public construction contract, the contractor shall pay to his subcontractors and material suppliers, in addition to the payment due them, a penalty in the amount of one-half of one percent (1/2 of 1%) per day of the delinquency, calculated from the expiration of the fifteen-day period until fully paid. The total penalty shall not exceed fifteen percent (15%) of the outstanding balance due.

SECTION 28. Section 31-5-29, Mississippi Code of 1972, is brought forward as follows:

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

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

31-5-31. Any person, firm or corporation who leases, rents or sells to any subcontractor any equipment to be used in a road construction contract, wherein a performance and payment bond is required of the general contractor, shall notify the general contractor involved in such contract that credit is being extended by them to the subcontractor and stating the terms of the credit agreement. In the event the subcontractor does not meet his payment obligations as set forth in the credit agreement, the

creditor shall notify the general contractor of the nonpayment within thirty (30) days after such payment is due. The creditor shall notify the general contractor upon receipt of any payment which had been reported as past due.

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

SECTION 30. Section 31-5-33, Mississippi Code of 1972, is brought forward as follows:

31-5-33. (1) In any contract for the construction, repair, alteration or demolition of any building, structure or facility awarded by the State of Mississippi, or any agency, unit or department of the State of Mississippi, or by any political subdivision thereof, which contract provides for progress payments in installments based upon an estimated percentage of completion with a percentage of the contract proceeds to be retained by the state agency, unit or department, or by the political subdivision or contractor pending completion of the contract, such retainage shall be five percent (5%), and the amount retained by the prime contractor from each payment due the subcontractor shall not exceed the percentage withheld by the state, or any agency, unit or department of the state, or by any political subdivision thereof, from the prime contractor. For the purposes of this section and Section 31-5-15, the term "retainage" means that

money, or other security as agreed to by the parties to a construction contract, earned by the contractor, subcontractor or lower-tier sub-subcontractor or supplier, as the case may be, for work properly performed or materials suitably stored if payment for stored materials is provided for in the contract, which has been retained by the owner conditioned on final completion and acceptance of all work in connection with a project or projects by the contractor, subcontractor or lower-tier sub-subcontractor or supplier.

On any contract as described herein, of which the total amount is Two Hundred Fifty Thousand Dollars ($250,000.00) or greater, or on any contract with a subcontractor, regardless of amount, five percent (5%) shall be retained until the work is at least fifty percent (50%) complete, on schedule and satisfactory in the architect's and/or engineer's opinion, at which time fifty percent (50%) of the retainage held to date shall be returned to the prime contractor for distribution to the appropriate subcontractors and suppliers. Provided, however, that future retainage shall be withheld at the rate of two and one-half percent (2-1/2%).

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

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

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

SECTION 32. Section 31-5-37, Mississippi Code of 1972, is brought forward as follows:

31-5-37. (1) All public works projects utilizing funds received by state or local governmental entities resulting from a federally declared disaster or a spill of national significance, including damages, penalties, fines or supplemental projects paid or financed by responsible parties pursuant to a court order, negotiated settlement, or other instrument, including under any law distributing such fines and penalties including the federal Resources and Ecosystems Sustainability, Tourist Opportunities and Revived Economy of the Gulf Coast Act of 2011 (R.E.S.T.O.R.E.), the Oil Pollution Act of 1990 or the Federal Water Pollution Control Act or similar legislation, shall be subject to the hiring policies established by this section.

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

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

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

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

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

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

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

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

(3) From the date written notice of the contract award is received and until ten (10) business days after the receipt of the employment plan by the Mississippi Department of Employment Security, the contractor and any subcontractor shall not hire any personnel to fill vacant positions necessary for the public works project except residents of the State of Mississippi who are to be verified by the Mississippi Department of Employment Security and/or those qualified individuals who are submitted by the Mississippi Department of Employment Security. For purposes of this subsection, the contractor or subcontractor is authorized to employ Mississippi residents to begin work immediately, and such persons are to be verified by the Mississippi Department of Employment Security after employment by the contractor or subcontractor. During the ten-day period the Mississippi Department of Employment Security shall submit qualified individuals to the contractor to consider for the vacant positions. The contractor shall review the individuals submitted by the department before hiring individuals who are not submitted by the department. The contract award shall be vacated if the contractor fails to comply with the provisions of this subsection.

SECTION 33. Section 31-5-39, Mississippi Code of 1972, is brought forward as follows:

31-5-39. On or before the date and time established to receive bids for any contract related to the construction of any building, highway, road, bridge or other public work or

improvement by the State of Mississippi, its agencies, departments, institutions, or instrumentalities of the state or political subdivisions of the state, such entity shall establish a cost estimate for the project. The cost estimate shall reflect the total amount of funds allocated to the project, including the specific amount allocated for construction. Additional funds may be allocated to a project at any time, including for purposes of awarding a contract to the lowest and best bidder. Additional funds may not be allocated after the date and time established for the receipt of bids for the purpose of increasing negotiation authority.

SECTION 34. Section 31-5-41, Mississippi Code of 1972, is brought forward as follows:

31-5-41. With respect to all public or private contracts or agreements, for the construction, alteration, repair or maintenance of buildings, structures, highway bridges, viaducts, water, sewer or gas distribution systems, or other work dealing with construction, or for any moving, demolition or excavation connected therewith, every covenant, promise and/or agreement contained therein to indemnify or hold harmless another person from that person's own negligence is void as against public policy and wholly unenforceable.

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

SECTION 35. Section 31-5-51, Mississippi Code of 1972, is brought forward as follows:

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

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

(b) A payment bond payable to such public body but conditioned for the prompt payment of all persons supplying labor or material used in the prosecution of the work under said contract, for the use of each such person, in an amount not less than the amount of the contract; and

(c) The bonds herein provided for may be made by any surety company which is authorized to do business in the State of Mississippi and listed on the United States Treasury Department's list of acceptable sureties, or such bonds may be guaranteed by a personal surety as provided for herein. The personal surety shall deposit with the State Treasurer cash or certificates of deposit in an amount not less than the amount of the contract, and the

State Treasurer shall hold same in trust and on deposit for the benefit of the public body that is a party to the contract providing for the construction, alteration or repair of the public building or for the public work.

(2) Every person who has furnished labor or material used in the prosecution of the work provided for in such contract, in respect of which a payment bond is furnished and who has not been paid in full therefor before the expiration of a period of ninety (90) days after the date on which the last of the labor was performed by him or the last of the materials was furnished by him and for which such claim is made, provided the same has been approved, where required, by the public authority or its architect or engineers, or such approval is being withheld as a result of unreasonable acts of the contractor, shall have the right to sue on such payment bond for the amount, or the balance thereof that is due and payable, but unpaid at the time of institution of such suit and to prosecute said action to final execution and judgment. Notwithstanding anything to the contrary contained herein, if the amount claimed in such action is subject to contractual provisions or conditions, between the parties involved in such action, the action shall be abated pending the performance of such provisions and the fulfillment of such conditions.

(3) Any person having direct contractual relationship with a subcontractor but no contractual relationship express or implied with the contractor furnishing said payment bond shall have a

right of action upon the said payment bond upon giving written notice to said contractor within ninety (90) days from the date on which such person did or performed the last of the labor or furnished or supplied the last of the material for which such claim is made, stating with substantial accuracy the amount claimed and the name of the party to whom the material was furnished or supplied or for whom the labor was done or performed. Such notice shall be given in writing by the claimant to the contractor or surety at any place where the contractor or surety maintains an office or conducts business. Such notice may be personally delivered by the claimant to the contractor or surety, or it may be mailed by certified mail, return receipt requested, postage prepaid, to the contractor or surety. No such action may be maintained by any person not having a direct contractual relationship with the contractor-principal, unless the notice required by this section shall have been given.

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

(a) Subcontractors and material suppliers of the contractor;

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

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

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

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

(7) Any person entering into a formal contract with the state which exceeds Five Thousand Dollars ($5,000.00), or with a county, city or other public authority which exceeds Twenty-five Thousand dollars ($25,000.00), for the construction, alteration or repair of any public building or public work, before entering into such contract, shall furnish to the public body proof of general liability insurance coverage in an amount not less than One Million Dollars ($1,000,000.00) for bodily injury and property

damage. Exempted from the provisions of this subsection are any persons who enter into a contract with the Mississippi Department of Rehabilitation Services for the construction, alteration or repair of the home of a disabled individual who has been determined eligible for services by the Mississippi Department of Rehabilitation Services.

SECTION 36. Section 31-5-52, Mississippi Code of 1972, is brought forward as follows:

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

SECTION 37. Section 31-5-53, Mississippi Code of 1972, is brought forward as follows:

31-5-53. (a) When suit is instituted on a performance bond given in accordance with this chapter, it shall be commenced within one (1) year after the obligee shall have made final payment on the contract; provided, however, if the contract is abandoned by the general contractor as bond principal or is terminated by the bond obligee, suit shall be commenced within one (1) year after the earlier of the abandonment by the bond principal or termination by the bond obligee.

(b) When suit is instituted on a payment bond given in accordance with this chapter, it shall be commenced within one (1)

year after the day on which the last of the labor was performed or material was supplied by the person bringing the action and not later.

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

SECTION 38. Section 31-5-55, Mississippi Code of 1972, is brought forward as follows:

31-5-55. Any person supplying labor or materials for the prosecution of the work shall, upon request to the owner or obligee, or to the contractor or principal, be furnished promptly with a true and correct copy of the contract and bonds within thirty (30) days of the request or the recipient of the request shall thereafter become liable for reasonable attorney's fees and costs in any subsequent action under this section. The written request may be evidenced by any reliable means of delivery.

SECTION 39. Section 31-5-57, Mississippi Code of 1972, is brought forward as follows:

31-5-57. Whenever any person supplying labor or material in the prosecution of the work brings an action on such payment bond and the trial judge finds that the defense raised to such action by the contractor or surety was not reasonable, or not in good faith, or merely for the purpose of delaying payment, then the

trial judge may, in his discretion, award the claimant a reasonable amount to be determined by the trial judge as claimant's attorney's fees in bringing such successful action. Likewise, if the trial judge finds that such action was brought by claimant without just cause or in bad faith, the trial judge may, in his discretion, award the contractor or surety a reasonable amount to be determined by the trial judge as attorney's fees for defending such action; provided, however, this section shall not affect the right of any person to recover attorney's fees where provided by contract or bond.

SECTION 40. Section 31-7-1, Mississippi Code of 1972, is brought forward as follows:

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

(a) "Agency" means any state board, commission, committee, council, university, department or unit thereof created by the Constitution or statutes if such board, commission, committee, council, university, department, unit or the head thereof is authorized to appoint subordinate staff by the Constitution or statute, except a legislative or judicial board, commission, committee, council, department or unit thereof; except a charter school authorized by the Mississippi Charter School Authorizer Board; and except the Mississippi State Port Authority; except the Mississippi School of the Arts (MSA) established in Section 37-140-1 et seq. for the sole purpose of the application

of the term "agency" as it pertains to the Public Procurement Review Board's powers and responsibilities as defined in Section 27-104-7(2)(a), but without application to the use of the term within this chapter, effective July 1, 2020; and except the Mississippi School for the Blind and the Mississippi School for the Deaf (MSBD) for the sole purpose of the application of the term "agency" as it pertains to the Public Procurement Review Board's powers and responsibilities as defined in Section 27-104-7(2)(a), but without application to the use of the term within this chapter, effective July 1, 2021. An academic medical center or health sciences school as defined in Section 37-115-50 is not an "agency" for those purchases of commodities as defined in this section that are used for clinical purposes and (i) intended for use in the diagnosis of disease or other conditions or in the cure, mitigation, treatment or prevention of disease, and (ii) medical devices, biological, drugs and radiation emitting devices as defined by the United States Food and Drug Administration.

(b) "Governing authority" means boards of supervisors, governing boards of all school districts, all boards of directors of public water supply districts, boards of directors of master public water supply districts, municipal public utility commissions, governing authorities of all municipalities, port authorities, Mississippi State Port Authority, commissioners and boards of trustees of any public hospitals, boards of trustees of

public library systems, district attorneys, school attendance officers and any political subdivision of the state supported wholly or in part by public funds of the state or political subdivisions thereof, including commissions, boards and agencies created or operated under the authority of any county or municipality of this state. The term "governing authority" shall not include economic development authorities supported in part by private funds, or commissions appointed to hold title to and oversee the development and management of lands and buildings which are donated by private individuals to the public for the use and benefit of the community and which are supported in part by private funds. The term "governing authority" also shall not include the governing board of a charter school. The term "governing authority" also shall not include the Mississippi School of the Arts established in Section 37-140-1 et seq., for the sole purpose of the application of the term "agency" as it pertains to the Public Procurement Review Board's powers and responsibilities as defined in Section 27-104-7(2)(a), but without application to the use of the term within this chapter, effective July 1, 2020. The term "governing authority" also shall not include the Mississippi School for the Blind and the Mississippi School for the Deaf (MSBD) for the sole purpose of the application of the term "governing authority" as it pertains to the Public Procurement Review Board's powers and responsibilities as defined

in Section 27-104-7(2)(a), but without application to the use of the term within this chapter, effective July 1, 2021.

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

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

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

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

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

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

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

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

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

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

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

SECTION 41. Section 31-7-3, Mississippi Code of 1972, is brought forward as follows:

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

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

SECTION 42. Section 31-7-5, Mississippi Code of 1972, is brought forward as follows:

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

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

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

(a) A study of the purchases of commodities by the agencies of the state; the compilation, exchange and coordination

of information concerning same; and the distribution of such information to the agencies and governing authorities requesting same.

(b) The planning and coordination of purchases in volume for the agencies in order to take advantage of and secure the economies possible by volume purchasing; the arrangement of agreements between agencies and between governing authorities whereby one may make a purchase or purchases for the other or whereby an agency may make a purchase for a governing authority; the arrangement of agreements whereby purchases of commodities can be made between an agency and another agency or governing authority at a fair price, less depreciated value; the negotiations and execution of purchasing agreements and contracts through and under which the Office of General Services may require state agencies to purchase; and the obtaining or establishment of methods for obtaining of competitive bid prices upon which any agency of the state may purchase at the price approved by the Office of General Services.

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

SECTION 44. Section 31-7-9, Mississippi Code of 1972, is brought forward as follows:

31-7-9. (1) (a) The Office of Purchasing, Travel and Fleet Management shall adopt purchasing regulations governing the purchase by any agency of any commodity or commodities and establishing standards and specifications for a commodity or commodities and the maximum fair prices of a commodity or commodities, subject to the approval of the Public Procurement Review Board. It shall have the power to amend, add to or eliminate purchasing regulations. The adoption of, amendment, addition to or elimination of purchasing regulations shall be based upon a determination by the Office of Purchasing, Travel and Fleet Management with the approval of the Public Procurement Review Board, that such action is reasonable and practicable and advantageous to promote efficiency and economy in the purchase of commodities by the agencies of the state. Upon the adoption of any purchasing regulation, or an amendment, addition or elimination therein, copies of same shall be furnished to the State Auditor and to all agencies affected thereby. Thereafter, and except as otherwise may be provided in subsection (2) of this section, no agency of the state shall purchase any commodities covered by existing purchasing regulations unless such commodities be in conformity with the standards and specifications set forth in the purchasing regulations and unless the price thereof does not exceed the maximum fair price established by such purchasing regulations. The Office of Purchasing, Travel and Fleet Management shall furnish to any county or municipality or other

local public agency of the state requesting same, copies of purchasing regulations adopted by the Office of Purchasing, Travel and Fleet Management and any amendments, changes or eliminations of same that may be made from time to time.

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

(c) Pursuant to the provision of Section 37-61-33(2), the Office of Purchasing, Travel and Fleet Management of the Department of Finance and Administration is authorized to issue procurement cards or credentials for a digital solution to all public school district classroom teachers, charter school teachers, full- or part-time gifted or special education teachers and other necessary direct support personnel at the beginning of the school year, but no later than August 1 of each year, for the purchase of instructional supplies using Educational Enhancement Funds. The cards will be issued in equal amounts per teacher determined by the total number of qualifying personnel and the then current state appropriation for classroom instructional

supplies under the Education Enhancement Fund. All purchases shall be in accordance with state law and teachers are responsible for verification of capital asset requirements when pooling monies to purchase equipment. The cards will expire on a predetermined date at the end of each school year, but not before April 1 of each year. All unexpended amounts will be carried forward, to be combined with the following year's instructional supply fund allocation, and reallocated for the following year. The Department of Finance and Administration is authorized to loan any start-up funds at the beginning of the school year to fund this procurement system for instructional supplies with loan repayment being made from sales tax receipts earmarked for the Education Enhancement Fund.

(d) In a sale of goods or services, the seller shall not impose a surcharge on a buyer who uses a state-issued credit card, procurement card, travel card, or fuel card. The Department of Finance and Administration shall have exclusive jurisdiction to enforce and adopt rules relating to this paragraph. Any rules adopted under this paragraph shall be consistent with federal laws and regulations governing credit card transactions described by this paragraph. This paragraph does not create a cause of action against an individual for a violation of this paragraph.

(2) The Office of Purchasing, Travel and Fleet Management shall adopt, subject to the approval of the Public Procurement Review Board, purchasing regulations governing the purchase of

unmarked vehicles to be used by the Bureau of Narcotics and Department of Public Safety in official investigations pursuant to Section 25-1-87. Such regulations shall ensure that purchases of such vehicles shall be at a fair price and shall take into consideration the peculiar needs of the Bureau of Narcotics and Department of Public Safety in undercover operations.

(3) The Office of Purchasing, Travel and Fleet Management shall adopt, subject to the approval of the Public Procurement Review Board, regulations governing the certification process for certified purchasing offices, including the Mississippi Purchasing Certification Program, which shall be required of all purchasing agents at state agencies. Such regulations shall require entities desiring to be classified as certified purchasing offices to submit applications and applicable documents on an annual basis, and in the case of a state agency purchasing office, to have one hundred percent (100%) participation and completion by purchasing agents in the Mississippi Purchasing Certification Program, at which time the Office of Purchasing, Travel and Fleet Management may provide the governing entity with a certification valid for one (1) year from the date of issuance. The Office of Purchasing, Travel and Fleet Management shall set a fee in an amount that recovers its costs to administer the Mississippi Purchasing Certification Program, which shall be assessed to the participating state agencies.

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

SECTION 45. Section 31-7-10, Mississippi Code of 1972, is brought forward as follows:

31-7-10. (1) For the purposes of this section, the term "equipment" shall mean equipment, furniture, and if applicable, associated software and other applicable direct costs associated with the acquisition. In addition to its other powers and duties, the Department of Finance and Administration shall have the authority to develop a master lease-purchase program and, pursuant to that program, shall have the authority to execute on behalf of the state master lease-purchase agreements for equipment to be used by an agency, as provided in this section. Each agency electing to acquire equipment by a lease-purchase agreement shall participate in the Department of Finance and Administration's master lease-purchase program, unless the Department of Finance and Administration makes a determination that such equipment cannot be obtained under the program or unless the equipment can be obtained elsewhere at an overall cost lower than that for which the equipment can be obtained under the program. Such lease-purchase agreements may include the refinancing or consolidation, or both, of any state agency lease-purchase agreements entered into after June 30, 1990.

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

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

(4) The level of lease-purchase debt recommended by the Department of Finance and Administration shall be subject to approval by the State Bond Commission. After such approval, the Department of Finance and Administration shall be authorized to advertise and solicit written competitive proposals for a lessor, who will purchase the equipment pursuant to bid awards made by the

using agency under a given category and then transfer the equipment to the Department of Finance and Administration as lessee, pursuant to a master lease-purchase agreement.

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

(5) Each master lease-purchase agreement, and any subsequent amendments, shall include such terms and conditions as the State Bond Commission shall determine to be appropriate and in the public interest, and may include any covenants deemed necessary or desirable to protect the interests of the lessor, including, but not limited to, provisions setting forth the interest rate (or method for computing interest rates) for financing pursuant to such agreement, covenants concerning application of payments and funds held in the Master Lease-Purchase Program Fund, covenants to maintain casualty insurance with respect to equipment subject to the master lease-purchase agreement (and all state agencies are specifically authorized to purchase any insurance required by a master lease-purchase agreement) and covenants precluding or limiting the right of the lessee or user to acquire equipment within a specified time (not to exceed five (5) years) after cancellation on the basis of a failure to appropriate funds for payment of amounts due under a lease-purchase agreement covering comparable equipment. The State Bond Commission shall transmit

copies of each such master lease-purchase agreement and each such amendment to the Joint Legislative Budget Committee. To the extent provided in any master lease-purchase agreement, title to equipment leased pursuant thereto shall be deemed to be vested in the state or the user of the equipment (as specified in such master lease-purchase agreement), subject to default under or termination of such master lease-purchase agreement.

A master lease-purchase agreement may provide for payment by the lessor to the lessee of the purchase price of the equipment to be acquired pursuant thereto prior to the date on which payment is due to the vendor for such equipment and that the lease payments by the lessee shall commence as though the equipment had been provided on the date of payment. If the lessee, or lessee's escrow agent, has sufficient funds for payment of equipment purchases prior to payment due date to vendor of equipment, such funds shall be held or utilized on an as-needed basis for payment of equipment purchases either by the State Treasurer (in which event the master lease-purchase agreement may include provisions concerning the holding of such funds, the creation of a security interest for the benefit of the lessor in such funds until disbursed and other appropriate provisions approved by the Bond Commission) or by a corporate trustee selected by the Department of Finance and Administration (in which event the Department of Finance and Administration shall have the authority to enter into an agreement with such a corporate trustee containing terms and

conditions approved by the Bond Commission). Earnings on any amount paid by the lessor prior to the acquisition of the equipment may be used to make lease payments under the master lease-purchase agreement or applied to pay costs and expenses incurred in connection with such lease-purchase agreement. In such event, the equipment-use agreements with the user agency may provide for lease payments to commence upon the date of payment by the lessor and may also provide for a credit against such payments to the extent that investment receipts from investment of the purchase price are to be used to make lease-purchase payments.

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

(7) The Department of Finance and Administration shall furnish the equipment to the various agencies, also known as the user, pursuant to an equipment-use agreement developed by the Department of Finance and Administration. Such agreements shall require that all monthly payments due from such agency be paid, transferred or allocated into the Master Lease-Purchase Program Fund pursuant to a schedule established by the Department of Finance and Administration. In the event such sums are not paid by the defined payment period, the Executive Director of the Department of Finance and Administration shall issue a requisition for a warrant to draw such amount as may be due from any funds

appropriated for the use of the agency which has failed to make the payment as agreed.

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

(9) The maximum lease term for any equipment acquired under the master lease-purchase program shall not exceed the useful life of such equipment as determined according to the upper limit of the asset depreciation range (ADR) guidelines for the Class Life Asset Depreciation Range System established by the Internal Revenue Service pursuant to the United States Internal Revenue Code and Regulations thereunder as in effect on December 31, 1980, or comparable depreciation guidelines with respect to any equipment not covered by ADR guidelines. The Department of

Finance and Administration shall be deemed to have met the requirements of this subsection if the term of a master lease-purchase agreement does not exceed the weighted average useful life of all equipment covered by such agreement and the schedules thereto as determined by the Department of Finance and Administration. For purposes of this subsection, the "term of a master lease-purchase agreement" shall be the weighted average maturity of all principal payments to be made under such master lease-purchase agreement and all schedules thereto.

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

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

(12) Any master lease-purchase agreement reciting in substance that such agreement has been entered into pursuant to this section shall be conclusively deemed to have been entered into in accordance with all of the provisions and conditions set forth in this section. Any defect or irregularity arising with

respect to procedures applicable to the acquisition of any equipment shall not invalidate or otherwise limit the obligation of the Department of Finance and Administration, or the state or any agency of the state, under any master lease-purchase agreement or any equipment-use agreement.

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

(14) Lease-purchase agreements entered into by the Board of Trustees of State Institutions of Higher Learning pursuant to the authority of Section 37-101-413 or by any other agency which has specific statutory authority other than pursuant to Section 31-7-13(e) to acquire equipment by lease-purchase shall not be made pursuant to the master lease-purchase program under this section, unless the Board of Trustees of State Institutions of Higher Learning or such other agency elects to participate as to part or all of its lease-purchase acquisitions in the master lease-purchase program pursuant to this section.

(15) The Department of Finance and Administration may develop a master lease-purchase program for school districts and, pursuant to that program, may execute on behalf of the school districts master lease-purchase agreements for equipment to be

used by the school districts. The form and structure of this program shall be substantially the same as set forth in this section for the master lease-purchase program for state agencies. If sums due from a school district under the master lease-purchase program are not paid by the expiration of the defined payment period, the Executive Director of the Department of Finance and Administration may withhold such amount that is due from the school district's allotments of the total funding formula funds as determined by Sections 37-151-200 through 37-151-215.

(16) The Department of Finance and Administration may develop a master lease-purchase program for community and junior college districts and, pursuant to that program, may execute on behalf of the community and junior college districts master lease-purchase agreements for equipment to be used by the community and junior college districts. The form and structure of this program must be substantially the same as set forth in this section for the master lease-purchase program for state agencies. If sums due from a community or junior college district under the master lease-purchase program are not paid by the expiration of the defined payment period, the Executive Director of the Department of Finance and Administration may withhold an amount equal to the amount due under the program from any funds allocated for that community or junior college district in the state appropriations for the use and support of the community and junior colleges.

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

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

SECTION 46. Section 31-7-11, Mississippi Code of 1972, is brought forward as follows:

31-7-11. Each agency of the state shall furnish information relative to its purchase of commodities, and as to its method of purchasing such commodities, to the Department of Finance and Administration annually and at such other times as the Department of Finance and Administration may request.

The Department of Finance and Administration shall have supervision over the purchasing and purchasing practices of each state agency and may by regulation or order correct any practice that appears contrary to the provisions of this chapter or to the best interests of the state. If it shall appear that any agency is not practicing economy in its purchasing or is permitting favoritism or any improper purchasing practice, the Department of Finance and Administration shall require that the agency immediately cease such improper activity, with full and complete

authority in the Department of Finance and Administration to carry into effect its directions in such regard.

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

SECTION 47. Section 31-7-12, Mississippi Code of 1972, is brought forward as follows:

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

provide a cost effective alternative to the established state contract.

(2) Governing authorities may purchase commodities approved by the Department of Finance and Administration from the state contract vendor, or from any source offering the identical commodity, at a price not exceeding the state contract price established by the Department of Finance and Administration for such commodity, without obtaining or advertising for competitive bids. Governing authorities that do not exercise the option to purchase such commodities from the state contract vendor or from another source offering the identical commodity at a price not exceeding the state contract price established by the Department of Finance and Administration shall make such purchases pursuant to the provisions of Section 31-7-13 without regard to state contract prices established by the Department of Finance and Administration, unless such purchases are authorized to be made under subsection (5) of this section.

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

(4) The Department of Finance and Administration shall ensure that the prices of all commodities on the state contract are the lowest and best prices available from any source offering

that commodity at the same level of quality or service, utilizing the reasonable standards established therefor by the Department of Finance and Administration. If the Department of Finance and Administration does not list an approved price for the particular item involved, purchase shall be made according to statutory bidding and licensing requirements. To encourage prudent purchasing practices, the Department of Finance and Administration shall be authorized and empowered to exempt certain commodities from the requirement that the lowest and best price be approved by order placed on its minutes.

(5) Any school district may purchase commodities from vendors with which any levying authority of the school district, as defined in Section 37-57-1, has contracted through competitive bidding procedures pursuant to Section 31-7-13 for purchases of the same commodities. Purchases authorized by this subsection may be made by a school district without obtaining or advertising for competitive bids, and such purchases shall be made at the same prices and under the same conditions as purchases of the same commodities are to be made by the levying authority of the school district under the contract with the vendor.

SECTION 48. Section 31-7-13, Mississippi Code of 1972, is brought forward as follows:

31-7-13. All agencies and governing authorities shall purchase their commodities and printing; contract for garbage collection or disposal; contract for solid waste collection or

disposal; contract for sewage collection or disposal; contract for public construction; and contract for rentals as herein provided.

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

(b) **Bidding procedure for purchases over $5,000.00 but not over $75,000.00.** Purchases which involve an expenditure of more than Five Thousand Dollars ($5,000.00) but not more than Seventy-five Thousand Dollars ($75,000.00), exclusive of freight and shipping charges, may be made from the lowest and best bidder without publishing or posting advertisement for bids, provided at least two (2) competitive written bids have been obtained. Any state agency or community or junior college purchasing commodities or procuring construction pursuant to this paragraph (b) may authorize its purchasing agent, or his designee, to accept the lowest competitive written bid under Seventy-five Thousand Dollars ($75,000.00). Any governing authority purchasing commodities pursuant to this paragraph (b) may authorize its purchasing agent, or his designee, with regard to governing authorities other than counties, or its purchase clerk, or his designee, with regard to

counties, to accept the lowest and best competitive written bid. Such authorization shall be made in writing by the governing authority and shall be maintained on file in the primary office of the agency and recorded in the official minutes of the governing authority, as appropriate. The purchasing agent or the purchase clerk, or his designee, as the case may be, and not the governing authority, shall be liable for any penalties and/or damages as may be imposed by law for any act or omission of the purchasing agent or purchase clerk, or his designee, constituting a violation of law in accepting any bid without approval by the governing authority. The term "competitive written bid" shall mean a bid submitted on a bid form furnished by the buying agency or governing authority and signed by authorized personnel representing the vendor, or a bid submitted on a vendor's letterhead or identifiable bid form and signed by authorized personnel representing the vendor. "Competitive" shall mean that the bids are developed based upon comparable identification of the needs and are developed independently and without knowledge of other bids or prospective bids. Any bid item for construction in excess of Five Thousand Dollars ($5,000.00) shall be broken down by components to provide detail of component description and pricing. These details shall be submitted with the written bids and become part of the bid evaluation criteria. Bids may be submitted by facsimile, electronic mail or other generally accepted method of information distribution. Bids submitted by

electronic transmission shall not require the signature of the vendor's representative unless required by agencies or governing authorities.

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

(i) **Publication requirement.**

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

2. Reverse auctions shall be the primary method for receiving bids during the bidding process. If a purchasing entity determines that a reverse auction is not in the best interest of the state, then that determination must be approved by the Public Procurement Review Board. The purchasing entity shall submit a detailed explanation of why a reverse auction would not be in the best interest of the state and present an alternative process to be approved by the Public Procurement

Review Board. If the Public Procurement Review Board authorizes the purchasing entity to solicit bids with a method other than reverse auction, then the purchasing entity may designate the other methods by which the bids will be received, including, but not limited to, bids sealed in an envelope, bids received electronically in a secure system, or bids received by any other method that promotes open competition and has been approved by the Office of Purchasing and Travel. However, reverse auction shall not be used for any public contract for design, construction, improvement, repair or remodeling of any public facilities, including the purchase of materials, supplies, equipment or goods for same and including buildings, roads and bridges. The Public Procurement Review Board must approve any contract entered into by alternative process. The provisions of this item 2 shall not apply to the individual state institutions of higher learning. The provisions of this item 2 requiring reverse auction as the primary method of receiving bids shall not apply to term contract purchases as provided in paragraph (n) of this section; however, a purchasing entity may, in its discretion, utilize reverse auction for such purchases. The provisions of this item 2 shall not apply to individual public schools, including public charter schools and public school districts, only when purchasing copyrighted educational supplemental materials and software as a service product. For such purchases, a local school board may authorize a purchasing entity in its jurisdiction to use a Request for

Qualifications which promotes open competition and meets the requirements of the Office of Purchasing and Travel.

3. The date as published for the bid opening shall not be less than seven (7) working days after the last published notice; however, if the purchase involves a construction project in which the estimated cost is in excess of Seventy-five Thousand Dollars ($75,000.00), such bids shall not be opened in less than fifteen (15) working days after the last notice is published and the notice for the purchase of such construction shall be published once each week for two (2) consecutive weeks. The notice of intention to let contracts or purchase equipment shall state the time and place at which bids shall be received, list the contracts to be made or types of equipment or supplies to be purchased, and, if all plans and/or specifications are not published, refer to the plans and/or specifications on file. If there is no newspaper published in the county or municipality, then such notice shall be given by posting same at the courthouse, or for municipalities at the city hall, and at two (2) other public places in the county or municipality, and also by publication once each week for two (2) consecutive weeks in some newspaper having a general circulation in the county or municipality in the above-provided manner. On the same date that the notice is submitted to the newspaper for publication, the agency or governing authority involved shall mail written notice to, or provide electronic notification to the main office of the

Mississippi Procurement Technical Assistance Program under the Mississippi Development Authority that contains the same information as that in the published notice. Within one (1) working day of the contract award, the agency or governing authority shall post to the designated web page maintained by the Department of Finance and Administration, notice of the award, including the award recipient, the contract amount, and a brief summary of the contract in accordance with rules promulgated by the department. Within one (1) working day of the contract execution, the agency or governing authority shall post to the designated web page maintained by the Department of Finance and Administration a summary of the executed contract and make a copy of the appropriately redacted contract documents available for linking to the designated web page in accordance with the rules promulgated by the department. The information provided by the agency or governing authority shall be posted to the web page until the project is completed.

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

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

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

(iv) **Specification restrictions.**

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

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

(v) **Electronic bids.** Agencies and governing authorities shall provide a secure electronic interactive system for the submittal of bids requiring competitive bidding that shall be an additional bidding option for those bidders who choose to submit their bids electronically. The Department of Finance and Administration shall provide, by regulation, the standards that agencies must follow when receiving electronic bids. Agencies and governing authorities shall make the appropriate provisions necessary to accept electronic bids from those bidders who choose to submit their bids electronically for all purchases requiring competitive bidding under this section. Any special condition or requirement for the electronic bid submission shall be specified in the advertisement for bids required by this section. Agencies or governing authorities that are currently without available high speed Internet access shall be exempt from the requirement of this subparagraph (v) until such time that high speed Internet access becomes available. Any county having a population of less than twenty thousand (20,000) shall be exempt from the provisions of this subparagraph (v). Any municipality having a population of less than ten thousand (10,000) shall be exempt from the provisions of this subparagraph (v). The provisions of this subparagraph (v) shall not require any bidder to submit bids electronically. When construction bids are submitted electronically, the requirement for including a certificate of responsibility, or a statement that the bid enclosed does not

exceed Fifty Thousand Dollars ($50,000.00), on the exterior of the bid envelope as indicated in Section 31-3-21(1) and (2) shall be deemed in compliance with by including same as an attachment with the electronic bid submittal.

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

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

(ii) **Decision procedure for Certified Purchasing Offices.** In addition to the decision procedure set forth in subparagraph (i) of this paragraph (d), Certified Purchasing Offices may also use the following procedure: Purchases may be made from the bidder offering the best value. In determining the

best value bid, freight and shipping charges shall be included. Life-cycle costing, total cost bids, warranties, guaranteed buy-back provisions, documented previous experience, training costs and other relevant provisions, including, but not limited to, a bidder having a local office and inventory located within the jurisdiction of the governing authority, may be included in the best value calculation. This provision shall authorize Certified Purchasing Offices to utilize a Request For Proposals (RFP) process when purchasing commodities. All best value procedures for state agencies must be in compliance with regulations established by the Department of Finance and Administration. No agency or governing authority shall accept a bid based on items or criteria not included in the specifications.

(iii) **Decision procedure for Prequalified Construction.** In addition to the decision procedure set forth in subparagraph (i) of this paragraph (d), where purchase involves renovation, restoration, or both, of the State Capitol Building or any other historical building designated for at least five (5) years as a Mississippi Landmark by the Board of Trustees of the Department of Archives and History under the authority of Sections 39-7-7 and 39-7-11, or for any other construction procurement with a minimum construction cost of Ten Million Dollars ($10,000,000.00) where the agency or governing authority has determined that prequalification of bidders is in the best interest of the state, the agency or governing authority may use

the following procedure: Purchases may be made from the lowest and best prequalified bidder. Solicitation of the prequalification of bidders shall be in accordance with paragraph (c) of this section and shall be determined not less than fifteen (15) working days before the prequalified bidders are invited to submit bids. Prequalification criteria shall be limited to bidder's and proposed sub-contractor's knowledge and experience on projects of similar size and scope, past performance, project management team and financial stability. All best bid and prequalification procedures for state agencies must be in compliance with regulations established by the Department of Finance and Administration. If any governing authority accepts a bid other than the lowest bid actually submitted, it shall place on its minutes detailed calculations and narrative summary showing that the accepted bid was determined to be the lowest and best bid, including the dollar amount of the accepted bid and the dollar amount of the lowest bid. No agency or governing authority shall accept a bid based on items not included in the specifications.

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

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

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

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

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

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

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

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

(i) **Road construction petroleum products price adjustment clause authorization.** Any agency or governing authority authorized to enter into contracts for the construction, maintenance, surfacing or repair of highways, roads or streets, may include in its bid proposal and contract documents a price adjustment clause with relation to the cost to the contractor,

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

(j) **State agency emergency purchase procedure.** If the governing board or the executive head, or his designees, of any agency of the state shall determine that an emergency exists in regard to the purchase of any commodities or repair contracts, so that the delay incident to giving opportunity for competitive bidding would be detrimental to the interests of the state, then the head of such agency, or his designees, shall file with the Department of Finance and Administration (i) a statement explaining the conditions and circumstances of the emergency, which shall include a detailed description of the events leading up to the situation and the negative impact to the entity if the

purchase is made following the statutory requirements set forth in paragraph (a), (b) or (c) of this section, and (ii) a certified copy of the appropriate minutes of the board of such agency requesting the emergency purchase, if applicable. Upon receipt of the statement and applicable board certification, the State Fiscal Officer, or his designees, may, in writing, authorize the purchase or repair without having to comply with competitive bidding requirements.

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

Total purchases made under this paragraph (j) shall only be for the purpose of meeting needs created by the emergency situation. Following the emergency purchase, documentation of the purchase, including a description of the commodity purchased, the purchase price thereof and the nature of the emergency shall be

filed with the Department of Finance and Administration. Any contract awarded pursuant to this paragraph (j) shall not exceed a term of one (1) year.

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

(k) **Governing authority emergency purchase procedure.** If the governing authority, or the governing authority acting through its designee, shall determine that an emergency exists in regard to the purchase of any commodities or repair contracts, so that the delay incident to giving opportunity for competitive bidding would be detrimental to the interest of the governing authority, then the provisions herein for competitive bidding shall not apply and any officer or agent of such governing authority having general or special authority therefor in making such purchase or repair shall approve the bill presented therefor, and he shall certify in writing thereon from whom such purchase was made, or with whom such a repair contract was made. At the board meeting next following the emergency purchase or repair contract, documentation of the purchase or repair contract, including a description of the commodity purchased, the price thereof and the nature of the emergency shall be presented to the board and shall be placed on the minutes of the board of such

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

(l) **Hospital purchase, lease-purchase and lease authorization.**

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

(ii) In addition to the authority granted in subparagraph (i) of this paragraph (l), the commissioners or board of trustees is authorized to enter into contracts for the lease of equipment or services, or both, which it considers necessary for the proper care of patients if, in its opinion, it is not financially feasible to purchase the necessary equipment or services. Any such contract for the lease of equipment or services executed by the commissioners or board shall not exceed a maximum of five (5) years' duration and shall include a cancellation clause based on unavailability of funds. If such cancellation clause is exercised, there shall be no further liability on the part of the lessee. Any such contract for the lease of equipment or services executed on behalf of the

commissioners or board that complies with the provisions of this subparagraph (ii) shall be excepted from the bid requirements set forth in this section.

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

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

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

(iii) **In-house equipment repairs.** Purchases of parts for repairs to equipment, when such repairs are made by personnel of the agency or governing authority; however, entire assemblies, such as engines or transmissions, shall not be

included in this exemption when the entire assembly is being replaced instead of being repaired.

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

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

(vi) **Intergovernmental sales and transfers.** Purchases, sales, transfers or trades by governing authorities or state agencies when such purchases, sales, transfers or trades are made by a private treaty agreement or through means of negotiation, from any federal agency or authority, another governing authority or state agency of the State of Mississippi, or any state agency or governing authority of another state. Nothing in this section shall permit such purchases through public auction except as provided for in subparagraph (v) of this

paragraph (m). It is the intent of this section to allow governmental entities to dispose of and/or purchase commodities from other governmental entities at a price that is agreed to by both parties. This shall allow for purchases and/or sales at prices which may be determined to be below the market value if the selling entity determines that the sale at below market value is in the best interest of the taxpayers of the state. Governing authorities shall place the terms of the agreement and any justification on the minutes, and state agencies shall obtain approval from the Department of Finance and Administration, prior to releasing or taking possession of the commodities.

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

(viii) **Single-source items.** Noncompetitive items available from one (1) source only. In connection with the purchase of noncompetitive items only available from one (1) source, a certification of the conditions and circumstances requiring the purchase shall be filed by the agency with the Department of Finance and Administration and by the governing authority with the board of the governing authority. Upon receipt of that certification the Department of Finance and Administration or the board of the governing authority, as the case may be, may, in writing, authorize the purchase, which authority shall be noted

on the minutes of the body at the next regular meeting thereafter. In those situations, a governing authority is not required to obtain the approval of the Department of Finance and Administration. Following the purchase, the executive head of the state agency, or his designees, shall file with the Department of Finance and Administration, documentation of the purchase, including a description of the commodity purchased, the purchase price thereof and the source from whom it was purchased.

(ix) **Waste disposal facility construction contracts.** Construction of incinerators and other facilities for disposal of solid wastes in which products either generated therein, such as steam, or recovered therefrom, such as materials for recycling, are to be sold or otherwise disposed of; however, in constructing such facilities, a governing authority or agency shall publicly issue requests for proposals, advertised for in the same manner as provided herein for seeking bids for public construction projects, concerning the design, construction, ownership, operation and/or maintenance of such facilities, wherein such requests for proposals when issued shall contain terms and conditions relating to price, financial responsibility, technology, environmental compatibility, legal responsibilities and such other matters as are determined by the governing authority or agency to be appropriate for inclusion; and after responses to the request for proposals have been duly received, the governing authority or agency may select the most qualified

proposal or proposals on the basis of price, technology and other relevant factors and from such proposals, but not limited to the terms thereof, negotiate and enter contracts with one or more of the persons or firms submitting proposals.

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

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

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

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

(xiv) **Library books and other reference materials.** Purchases by libraries or for libraries of books and periodicals;

processed film, videocassette tapes, filmstrips and slides; recorded audiotapes, cassettes and diskettes; and any such items as would be used for teaching, research or other information distribution; however, equipment such as projectors, recorders, audio or video equipment, and monitor televisions are not exempt under this subparagraph.

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

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

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

(xviii) **Purchases of prison industry products by the Department of Corrections, regional correctional facilities or privately owned prisons.** Purchases made by the Mississippi Department of Corrections, regional correctional facilities or

privately owned prisons involving any item that is manufactured, processed, grown or produced from the state's prison industries.

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

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

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

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

(xxiii) **Municipal water tank maintenance contracts.** Professional maintenance program contracts for the repair or maintenance of municipal water tanks, which provide professional services needed to maintain municipal water storage

tanks for a fixed annual fee for a duration of two (2) or more years.

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

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

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

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

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

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

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

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

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

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

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

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

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

(xxxvii) **Certain purchases made under the Alyce G. Clarke Mississippi Lottery Law.** Contracts made by the Mississippi

Lottery Corporation pursuant to the Alyce G. Clarke Mississippi Lottery Law.

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

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

selected by the agency was more than twenty-five percent (25%) higher than the lowest cost option available.

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

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

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

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

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

(q) **Fuel management system bidding procedure.** Any governing authority or agency of the state shall, before contracting for the services and products of a fuel management or

fuel access system, enter into negotiations with not fewer than two (2) sellers of fuel management or fuel access systems for competitive written bids to provide the services and products for the systems. In the event that the governing authority or agency cannot locate two (2) sellers of such systems or cannot obtain bids from two (2) sellers of such systems, it shall show proof that it made a diligent, good-faith effort to locate and negotiate with two (2) sellers of such systems. Such proof shall include, but not be limited to, publications of a request for proposals and letters soliciting negotiations and bids. For purposes of this paragraph (q), a fuel management or fuel access system is an automated system of acquiring fuel for vehicles as well as management reports detailing fuel use by vehicles and drivers, and the term "competitive written bid" shall have the meaning as defined in paragraph (b) of this section. Governing authorities and agencies shall be exempt from this process when contracting for the services and products of fuel management or fuel access systems under the terms of a state contract established by the Office of Purchasing and Travel.

(r) **Solid waste contract proposal procedure.** Before entering into any contract for garbage collection or disposal, contract for solid waste collection or disposal or contract for sewage collection or disposal, which involves an expenditure of more than Seventy-five Thousand Dollars ($75,000.00), a governing authority or agency shall issue publicly a request for proposals

concerning the specifications for such services which shall be advertised for in the same manner as provided in this section for seeking bids for purchases which involve an expenditure of more than the amount provided in paragraph (c) of this section. Any request for proposals when issued shall contain terms and conditions relating to price, financial responsibility, technology, legal responsibilities and other relevant factors as are determined by the governing authority or agency to be appropriate for inclusion; all factors determined relevant by the governing authority or agency or required by this paragraph (r) shall be duly included in the advertisement to elicit proposals. After responses to the request for proposals have been duly received, the governing authority or agency shall select the most qualified proposal or proposals on the basis of price, technology and other relevant factors and from such proposals, but not limited to the terms thereof, negotiate and enter into contracts with one or more of the persons or firms submitting proposals. If the governing authority or agency deems none of the proposals to be qualified or otherwise acceptable, the request for proposals process may be reinitiated. Notwithstanding any other provisions of this paragraph, where a county with at least thirty-five thousand (35,000) nor more than forty thousand (40,000) population, according to the 1990 federal decennial census, owns or operates a solid waste landfill, the governing authorities of any other county or municipality may contract with the governing

authorities of the county owning or operating the landfill, pursuant to a resolution duly adopted and spread upon the minutes of each governing authority involved, for garbage or solid waste collection or disposal services through contract negotiations.

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

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

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

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

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

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

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

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

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

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

(ii) Any board of supervisors of any county or any governing authority of any municipality may opt in to the benefits and services provided under the appropriate and relevant contract established in subparagraph (i) of this paragraph at the time of a disaster event in that county or municipality. At the time of opt in, the county or municipality shall assume responsibility for

payment in full to the contractor for the disaster-related solid waste collection, disposal or monitoring services provided. Nothing in this subparagraph (ii) shall be construed as requiring a county or municipality to opt in to any such contract established in subparagraph (i) of this paragraph.

SECTION 49. Section 31-7-13.1, Mississippi Code of 1972, is brought forward as follows:

31-7-13.1. (1) The method of contracting for construction described in this section shall be known as the "design-build method" of construction contracting. The design-build method of construction contracting may only be used when the Department of Finance and Administration or a governing authority has determined that it satisfies the public interest better than traditional design-bid-build or when the Legislature has specifically required or authorized the use of this method in the legislation authorizing a project. At a minimum, the determination must include a detailed explanation of why using the design-build method for a particular project satisfies the public need better than the traditional design-bid-build method.

(2) For each proposed design-build project, the public agency or governing authority shall solicit proposals from qualified design-builders, with the final contract between the public entity and the design-builder being either a fixed firm price or guaranteed maximum price contract that includes payment for both the design and construction phases of the project.

Before solicitation of proposals, the agency or governing authority shall develop a scope of work statement that provides prospective offerors with sufficient information regarding the requirements of the agency or governing authority. The scope of work statement must include, but is not limited to, the following information:

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

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

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

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

(3) The agency or governing authority shall cause to be published once a week, for at least two (2) consecutive weeks in a regular newspaper published in the county in which the project is

to be located, or a newspaper with statewide circulation, a notice inviting proposals for the design-build construction project. On the same date that the notice is submitted to the newspaper for publication, the agency or governing authority involved shall post the notice on the Mississippi Procurement Portal or mail written notice to, or provide electronic notification to, the main office of the Mississippi Procurement Technical Assistance Program under the Mississippi Development Authority that contains the same information as that in the published notice. The proposals shall not be opened in less than fifteen (15) working days after the last notice is published. The notice must inform potential offerors of how to obtain the scope of work statement developed for the project, and the notice must contain such other information to describe adequately the general nature and scope of the project so as to promote full, equal and open competition.

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

(5) Proposals that include criteria other than cost only shall be evaluated by an evaluation committee established by the procuring entity. The evaluation committee shall be composed of

not less than three (3) people. Selection criteria of the evaluation committee shall be limited to the following:

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

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

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

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

(e) Schedule control; and

(f) Cost factors.

Cost as an evaluation factor shall be given the highest criteria weighting and at least thirty-five percent (35%) out of the one hundred percent (100%) total weight of all the other evaluation factors.

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

(7) All facilities that are governed by this section shall be designed and constructed to comply with standards equal to or

exceeding the minimum building code standards employed by the state as required under Section 31-11-33 in force at the time of contracting. All private contractors or private entities contracting or performing under this section must comply at all times with all applicable laws, codes and other legal requirements pertaining to the project.

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

(9) This section shall not authorize the awarding of construction contracts according to any contracting method that does not require the contractor to satisfactorily perform, at a minimum, both any balance of design, using a professional licensed in Mississippi, and construction of the project for which the contract is awarded.

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

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

SECTION 50. Section 31-7-13.2, Mississippi Code of 1972, is brought forward as follows:

31-7-13.2 (1) When used in this section, "construction manager at risk" means a method of project delivery in which a construction manager guarantees a maximum price for the construction of a project and in which the governing authority or

board, before using this method of project delivery, shall include a detailed explanation of why using the construction manager at risk method of project delivery for a particular project satisfies the public need better than that traditional design-bid-build method based on the following criteria:

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

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

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

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

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

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

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

(3) When procuring design professional services under a construction manager at risk project delivery method, the agency

or governing authority shall procure the services of a design professional pursuant to qualifications-based selection procedures.

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

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

(6) The agency or governing authority may require the architect or engineer and the construction manager, by contract, to cooperate in the design, planning and scheduling, and construction process. The contract shall not make the primary designer or construction manager a subcontractor or joint-venture partner to the other or limit the primary designer's or construction manager's independent obligations to the agency or governing authority.

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

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

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

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

(9) The state shall, on an annual basis, compile and make public all proceedings, records, contracts and other public records relating to procurement transactions authorized under this section.

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

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

(b) Agencies or governing authorities shall establish procedures to prequalify firms seeking to provide construction management at risk, architectural, engineering, and land surveying

services or may use prequalification lists from other state agencies or governing authorities to meet the requirements of this section.

(c) Whenever a project requiring construction management at risk, architectural, engineering, or land surveying services is proposed for an agency or governing authority, the agency or governing authority shall provide advance notice published in a professional services bulletin or advertised within the official state newspaper setting forth the projects and services to be procured for not less than fourteen (14) days. The professional services bulletin shall be mailed to each firm that has requested the information or is prequalified under Section 31-7-13. The professional services bulletin shall include a description of each project and shall state the time and place for interested firms to submit a letter of interest and, if required by the public notice, a statement of qualifications.

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

(i) Ability of professional personnel;

(ii) Past record and experience;

(iii) Performance data on file;

(iv) Willingness to meet time requirements;

(v) Location;

(vi) Workload of the firm; and

(vii) Any other qualifications-based factors as the agency or governing authority may determine in writing are applicable.

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

(e) The agency or governing authority shall establish a committee to select firms to provide construction management at risk, architectural, engineering, and land surveying services. A selection committee may include at least one (1) public member nominated by a statewide association of the profession affected. The public member may not be employed or associated with any firm holding a contract with the agency or governing authority nor may the public member's firm be considered for a contract with that agency or governing authority while serving as a public member of the committee. In no case shall the agency or governing authority, before selecting a firm for negotiation under paragraph (f) of this subsection (10), seek formal or informal submission of verbal or written estimates of costs or proposals in terms of dollars, hours required, percentage of construction cost, or any other measure of compensation.

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

(g) The agency or governing authority shall prepare a written description of the scope of the proposed services to be used as a basis for negotiations and shall negotiate a contract with the highest qualified firm at compensation that the agency or governing authority determines in writing to be fair and reasonable. In making this decision, the agency or governing authority shall take into account the estimated value, scope, complexity, and professional nature of the services to be rendered. In no case may the agency or governing authority establish a maximum overhead rate or other payment formula designed to eliminate firms from contention or restrict competition or negotiation of fees. If the agency or governing authority is unable to negotiate a satisfactory contract with the

firm that is most preferred, negotiations with that firm shall be terminated. The agency or governing authority shall then begin negotiations with the firm that is next preferred. If the agency or governing authority is unable to negotiate a satisfactory contract with that firm, negotiations with that firm shall be terminated. The agency or governing authority shall then begin negotiations with the firm that is next preferred. If the agency or governing authority is unable to negotiate a satisfactory contract with any of the selected firms, the agency or governing authority shall reevaluate the construction management at risk, architectural, engineering, or land surveying services requested, including the estimated value, scope, complexity, and fee requirements. The agency or governing authority shall then compile a second list of not less than three (3) qualified firms and proceed in accordance with the provisions of this section. A firm negotiating a contract with an agency or governing authority shall negotiate subcontracts for architectural, engineering, and land surveying services at compensation that the firm determines in writing to be fair and reasonable based upon a written description of the scope of the proposed services.

(11) (a) Except as otherwise provided in this section, the construction manager selected by the agency or governing authority to provide construction management at risk services shall solicit bids for construction on the project pursuant to Section 31-7-13. The construction manager shall be entitled to enter into contracts

for construction with the lowest and best bidders, as determined in consultation with the agency or governing authority. Before soliciting bids or entering into any such contract, the construction manager, in consultation with the agency or governing authority, may prequalify any contractors or vendors seeking to submit a bid on the project, taking into account defined qualifications which may include, but not be limited to, the following:

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

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

(iii) Current workload and backlog of committed work for the period scheduled for the project under consideration;

(iv) Safety record to include prior citations and fines if applicable;

(v) History of legal disputes or performance defaults;

(vi) Identification and experience of project personnel and required manpower;

(vii) Plan for and ability to meet the applicable project schedule; and

(viii) Any other qualification-based factors as the agency, governing authority or construction manager may determine are applicable.

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

(c) The failure of a bidder to provide information in a timely and complete manner in response to any prequalification process may result in the disqualification of such bidder in the discretion of the agency, governing authority, and construction manager.

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

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

SECTION 51. Section 31-7-13.3, Mississippi Code of 1972, is brought forward as follows:

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

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

SECTION 52. Section 31-7-14, Mississippi Code of 1972, is brought forward as follows:

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

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

(ii) "Energy services" or "energy efficient services" means energy efficiency equipment, services relating to the installation, operation and maintenance of equipment and improvements reasonably required to existing or new equipment and

existing or new improvements and facilities including, but not limited to, heating, ventilation and air-conditioning systems, lighting, windows, insulation and energy management controls, life safety measures that provide long-term operating-cost reductions, building operation programs that reduce operating costs, alternative fuel motor vehicles including vehicles that have been converted to such and ancillary equipment related to or associated with the fueling of alternative fuel motor vehicles, or other energy-conservation-related improvements, including improvements or equipment related to renewable energy, water and other natural resources conservation, including accuracy and measurement of water distribution and/or consumption, and other equipment, services and improvements providing verifiable cost savings.

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

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

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

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

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

(iv) "Entity" means the board of trustees of any public school district, junior college, institution of higher learning, publicly owned hospital, state agency or governmental authority under this chapter.

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

(vi) "Energy performance contract" means an agreement to provide energy services which includes, but is not limited to, the design, installation, financing and maintenance or

management of the energy systems or equipment in order to improve its energy efficiency.

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

(viii) "Reduce operating costs" means elimination of future expenses or avoidance of future replacement expenditures as a result of new equipment installed or services performed. Material savings, labor savings, cancelled maintenance contracts, et cetera, shall be considered as being viable to reduce operating costs. Reduce operating costs may be included in the performance contract or energy services agreement solely at the discretion of the entity. A contract that otherwise satisfies the requirements of this section shall satisfy the requirements allowing use of an energy performance, energy services or shared-savings contract even if the sole expense being eliminated is maintenance expense.

(ix) "Capital cost avoidance" means planned capital improvement expenditures that will be avoided through implementation of the energy services project. Capital cost avoidance may be included in an energy services contract or an energy performance contract solely at the discretion of the entity. Capital cost avoidance may be claimed as an annual avoidance or as a one-time avoidance in a specific year of the

contract term, depending upon the nature of the avoided capital cost.

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

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

(xii) "Simple payback period" means the amount of time for the recuperation of the initial investment. The simple payback period is calculated by dividing the initial investment by the annual savings. The simple payback period for any contract shall not exceed twenty (20) years. The simple payback period of an individual energy conservation measure shall not be considered in any evaluation provided the simple payback period for the contract does not exceed twenty (20) years.

(b) An entity may, using any sources of funding available to the entity, enter into an energy services contract, energy performance contract, shared-savings contract, any of which may contain a lease, or lease-purchase contract for energy efficiency equipment, services relating to the installation, operation and maintenance of equipment or improvements reasonably required to existing or new equipment and existing or new

improvements and facilities and shall contract in accordance with the following provisions:

(i) The division may assemble a list of prequalified energy services providers. The division shall use objective criteria in the selection process. The criteria for evaluation shall include, but shall not be limited to, the following factors: to assess the capability of the qualified energy services provider in the area of design engineering, installation, maintenance and repairs associated with energy services or guaranteed energy performance contracts; qualifications including engineering depth and experience, post-installation project monitoring, data collection, and verification of and reporting of savings; overall project experience and qualifications; management capability; ability to access long-term sources of project financing; financial health and stability, litigation history with customers and other factors determined by the division to be relevant and appropriate and related to the ability to perform the project. The division shall either accept or reject an application for prequalification from an energy services provider within sixty (60) days after receipt. If the division fails to act within sixty (60) days from the date of receiving an application, then the application shall automatically be accepted and the energy services provider shall be added to the prequalified list.

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

(iii) Upon receiving responses to the request for proposals, the entity may select the most qualified proposal or proposals on the basis of experience and qualifications of the proposers, the technical approach, the financial arrangements, the overall benefits to the entity and any other relevant factors determined to be appropriate.

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

(v) The annual rate of interest paid under any lease-purchase agreement authorized by this section shall not

exceed the maximum interest rate to maturity on general obligation indebtedness permitted under Section 75-17-101.

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

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

(2) (a) The division may contract with a party selected under this subsection to provide financing to entities and private "nonprofit" hospitals, to purchase energy efficiency equipment, services relating to the installation, operation and maintenance of equipment or improvements reasonably required to existing or new equipment and existing or new improvements and facilities or an energy saving performance contract, energy services contract, or lease-purchase basis. Any energy efficiency lease financing contract entered into by the division before May 15, 1992, shall be valid and binding when the contract was entered into under this subsection.

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

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

(d) Any entity or private "nonprofit" hospital having approval of the division may borrow money in anticipation of entering into a lease-purchase agreement pursuant to subsection (2)(b) of this section. Any borrowing may be upon terms and conditions as may be agreed upon by the borrowing entity and the party advancing interim funds; however, the principal on any borrowing shall be repaid within a period of time not to exceed one hundred eighty (180) days. In borrowing money under this paragraph (d), it is not necessary to publish notice of intention to do so or to secure the consent of the qualified electors,

either by election or otherwise. Any borrowing may be negotiated between the parties and is not required to be publicly bid, may be evidenced by negotiable notes or lease and shall not be considered when computing any limitation of indebtedness of the borrowing entity established by law. The principal, interest and costs of incurring any borrowing shall not exceed the principal amount of the final contract or agreement approved by the division, and accepted by the borrowing entity, under subsection (2)(b) of this section.

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

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

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

(b) If an entity decides to enter into a contract for energy efficiency equipment, services relating to the

installation, operation or maintenance of equipment or improvements reasonably required to existing or new equipment and existing or new improvements and facilities on a shared-savings basis or performance basis, the entity shall issue a request for proposals or a request for qualifications, as determined necessary by the division, in the same manner as prescribed under subsection (1)(b) of this section. The entity shall notify the division in writing of its intention to issue a request for proposals or a request for qualifications.

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

(d) The terms of any shared-savings or energy performance contract entered into under this section must contain a guarantee of savings clause from the company providing energy efficiency equipment services relating to the installation, operation and maintenance of equipment or improvements reasonably required to existing or new equipment and existing or new improvements and facilities.

(5) (a) By March 1 and September 1 of each year, each entity that enters into an energy performance contract or shared-savings contract shall report to the division its energy

usage by meter in dollars and consumption by fuel type for the previous six-month period determined by the division.

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

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

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

(7) This section shall stand repealed on July 1, 2028.

SECTION 53. Section 31-7-14.1, Mississippi Code of 1972, is brought forward as follows:

31-7-14.1. (1) Any agency as defined in this chapter that receives state budgetary consideration and has submitted a detailed energy management plan to the Energy Division of the Department of Economic and Community Development, referred to in this section as "division," as required under Section 57-39-111 shall undertake energy efficiency projects for the purpose of producing energy and/or dollar savings whereby a portion of the savings may be retained by the participating agency. The plan shall describe specific measures to be implemented to reduce the agency's energy consumption by energy unit measure or energy cost. The division shall provide assistance in preparing the detailed

energy management plan according to prescribed guidelines and reporting procedures. The plan shall specify a project description of the energy efficiency measures to be undertaken, including, but not limited to, type of measure, cost, estimated savings in dollars and energy units, project and measure location, and terms and conditions of project financing.

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

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

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

(a) Any agency initiating energy savings through the implementation of an energy efficiency project may retain one-half

(1/2) of all such net savings which may be used for any nonrecurring capital projects; and

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

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

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

SECTION 54. Section 31-7-15, Mississippi Code of 1972, is brought forward as follows:

31-7-15. (1) Whenever two (2) or more competitive bids are received, one or more of which relates to commodities grown, processed or manufactured within this state, and whenever all things stated in such received bids are equal with respect to price, quality and service, the commodities grown, processed or manufactured within this state shall be given preference. A similar preference shall be given to commodities grown, processed or manufactured within this state whenever purchases are made without competitive bids, and when practical the Department of

Finance and Administration may by regulation establish reasonable preferential policies for other commodities, giving preference to resident suppliers of this state.

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

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

(4) Each state agency is required to procure products made from recovered materials when those products are available at a competitive price. For purposes of this subsection, "competitive price" means a price not greater than ten percent (10%) above the lowest and best bidder. A decision not to procure products made from recovered materials must be based on a determination that such procurement:

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

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

(c) Is not available at a competitive price.

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

SECTION 55. Section 31-7-16, Mississippi Code of 1972, is brought forward as follows:

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

SECTION 56. Section 31-7-18, Mississippi Code of 1972, is brought forward as follows:

31-7-18. In addition to the method of purchasing authorized in this chapter, said governing authorities are hereby authorized to accept the lowest bid received from a motor vehicle dealer domiciled within the county of the governing authority for the purchase of any motor vehicle having a gross vehicle weight rating of less than twenty-six thousand (26,000) pounds that shall not exceed a sum equal to three percent (3%) greater than the price or cost which the dealer pays the manufacturer, as evidenced by the factory invoice for the motor vehicle. In the event said county does not have an authorized motor vehicle dealer, said board or

governing authority may, in like manner, receive bids from motor vehicle dealers in any adjoining county.

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

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

SECTION 57. Section 31-7-21, Mississippi Code of 1972, is brought forward as follows:

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

SECTION 58. Section 31-7-23, Mississippi Code of 1972, is brought forward as follows:

31-7-23. Any rebates, refunds, coupons, merit points, gratuities or any article of value tendered or received by any agency or governing authority from any vendor of material, supplies, equipment or other articles shall inure to the benefit of the agency or governing authority making the purchase. The

agency or governing authority may, in accordance with its best interest, either take delivery of the article of value tendered and use the same or convert it to cash by selling it for its fair and reasonable value, making use of the proceeds from such sale for the exclusive benefit of the agency or governing authority.

SECTION 59. Section 31-7-38, Mississippi Code of 1972, is brought forward as follows:

31-7-38. The board of trustees or governing board of any hospital or regional mental health center owned or owned and operated separately or jointly by the State of Mississippi or any of its branches, agencies, departments or subdivisions, or by one or more counties, cities, towns, supervisors districts or election districts, or combinations thereof, may authorize by resolution the organization and operation of, or the participation in, a group purchasing program with other hospitals or regional mental health centers, for the purchase of supplies, commodities and equipment when it appears to the board of trustees or governing board that such a group purchasing program could or would affect economy or efficiency in their operations. Purchases by hospitals or regional mental health centers participating in group purchasing programs of supplies, commodities and equipment through such programs shall be exempt from the provisions of Sections 31-7-9, 31-7-10, 31-7-11, 31-7-12 and 31-7-13.

SECTION 60. Section 31-7-47, Mississippi Code of 1972, is brought forward as follows:

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

SECTION 61. Section 31-7-49, Mississippi Code of 1972, is brought forward as follows:

31-7-49. In placing orders for purchases under bids received and contracts awarded under the provisions of this chapter, the governing authority, by orders entered on its minutes, may authorize its members, or agents designated by its order, to place orders for the purchase of such supplies and materials from time to time during the period covered by the contract, as such supplies and materials are needed. Claims for such supplies so ordered by an individual board member or other duly authorized agent shall not be allowed and paid by the board until such claims

shall have been approved in writing by the individual board member or agent who ordered such supplies or the successor to such member or agent.

SECTION 62. Section 31-7-53, Mississippi Code of 1972, is brought forward as follows:

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

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

The State Penitentiary Board, the Board of Trustees of the State Institutions of Higher Learning, and any other agency, department, or board of trustees of the State of Mississippi are hereby authorized to purchase all needed quantities of anhydrous ammonia and ammonium nitrate fertilizers available through the facilities of Mississippi State University of Agriculture and Applied Science. Such purchase may be at public or private sale, provided that such fertilizers can be obtained for not more than

the price that the same are then available to such board, agency, or department from any other source.

SECTION 63. Section 31-7-55, Mississippi Code of 1972, is brought forward as follows:

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

(1) It is hereby declared to be unlawful and a violation of public policy of the State of Mississippi for any elected or appointed public officer of the state or the executive head of a state board, commission, department, subdivision of the state government or governing authority to make any purchases without the full compliance with the provisions of Chapter 7, Title 31, Mississippi Code of 1972. Any elected or appointed public officer of the state or the executive head of a state board, commission, department, subdivision of the state government or governing authority who violates the provisions of Chapter 7, Title 31, Mississippi Code of 1972, shall be deemed guilty of a misdemeanor and, upon conviction therefor, shall be fined not less than One Hundred Dollars ($100.00) and not more than Five Hundred Dollars ($500.00) for each separate offense, or sentenced to the county jail for not more than six (6) months, or both such fine and imprisonment, and shall be removed from his office or position.

(2) Any person diverting the benefits of any article of value tendered or received by any agency or governing authority to

his or her personal use, in violation of Section 31-7-23, shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not less than One Hundred Dollars ($100.00) nor more than Five Hundred Dollars ($500.00), or sentenced to the county jail for not more than six (6) months, or by both such fine and imprisonment, and shall be required to return the money value of the article unlawfully diverted to the agency involved.

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

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

(2) Except as otherwise provided in subsection (4) of this section, any person who intentionally, willfully and knowingly violates the provisions of Chapter 7, Title 31, Mississippi Code of 1972, shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than One Hundred Dollars ($100.00) and not more than Five Hundred Dollars ($500.00) for each separate offense, or sentenced to the county jail for not more than six (6) months, or both such fine and imprisonment, and shall be removed from his office or position.

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

(4) Any person diverting the benefits of any article of value tendered or received by any agency or governing authority to his or her personal use, in violation of Section 31-7-23, if the value of such article be less than Five Hundred Dollars ($500.00), shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not less than One Hundred Dollars ($100.00) nor more than Five Hundred Dollars ($500.00), or sentenced to the county jail for not more than six (6) months, or by both such fine and imprisonment, shall be removed from his office or position, and shall be required to return the money value of the article unlawfully diverted to the agency or governing authority involved. If the value of the article be Five Hundred Dollars ($500.00) or more, such person shall be guilty of a felony and, upon conviction, shall be punished by a fine of not less than One Thousand Dollars ($1,000.00) nor more than Five Thousand Dollars ($5,000.00), or sentenced to the Department of Corrections for not less than one (1) year nor more than five (5) years, or by both such fine and imprisonment, shall be removed from his office or

position, and shall be required to return the money value of the article unlawfully diverted to the agency or governing authority involved.

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

SECTION 64. Section 31-7-57, Mississippi Code of 1972, is brought forward as follows:

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

(2) No individual member, officer, employee or agent of any agency or board of a governing authority shall let contracts or

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

(3) The individual members, officers, employees or agents of any agency or governing authority as defined in Section 31-7-1 causing any public funds to be expended, any contract made or let, any payment made on any contract or any purchase made, or any payment made, in any manner whatsoever, contrary to or without complying with any statute of the State of Mississippi, regulating or prescribing the manner in which such contracts shall be let, payment on any contract made, purchase made, or any other payment

or expenditure made, shall be liable, individually, and upon their official bond, for compensatory damages, in such sum up to the full amount of such contract, purchase, expenditure or payment as will fully and completely compensate and repay such public funds for any actual loss caused by such unlawful expenditure.

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

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

(6) Except as otherwise provided in subsection (1) of this section, any individual member of an agency or governing authority as defined in Section 31-7-1 shall not be individually liable under this section if he voted against payment for contracts let

or purchases made contrary to law and had his vote recorded in the official minutes of the board or governing authority at the time of such vote, or was absent at the time of such vote.

SECTION 65. Section 31-7-59, Mississippi Code of 1972, is brought forward as follows:

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

(2) The aforesaid supplies and equipment may likewise be purchased from the General Services Administration without advertising for bids even though the Office of General Services does not have same listed on statewide contracts so long as the purchase price thereof is ten percent (10%) below the latest purchase price of comparable supplies and equipment.

SECTION 66. Section 31-7-61, Mississippi Code of 1972, is brought forward as follows:

31-7-61. It shall be unlawful for any person knowingly to purchase or to authorize or requisition the purchase of beef other than beef raised and produced within the United States when such

purchase is to be paid by the state government or any of its political subdivisions out of public funds of any nature. However, all canned meats not available which are processed in the United States shall be exempt from Sections 31-7-61 through 31-7-65.

SECTION 67. Section 31-7-63, Mississippi Code of 1972, is brought forward as follows:

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

SECTION 68. Section 31-7-65, Mississippi Code of 1972, is brought forward as follows:

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

SECTION 69. Section 31-7-67, Mississippi Code of 1972, is brought forward as follows:

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

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

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

(c) "Domestic sUAS company" means a company which provides maintenance, repair, and other technical services for small unmanned aircraft systems, including drones, which is incorporated, headquartered and primarily provides such services in the United States of America.

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

(2) Beginning January 1, 2025, all small unmanned aircraft systems and drones purchased by the State of Mississippi or any agency or political subdivision thereof shall be purchased

exclusively from a domestic manufacturer and shall possess collision avoidance systems. All maintenance, repair and other technical services on drones owned by the State of Mississippi or any agency or political subdivision thereof shall be performed by a domestic sUAS company. All infrastructure inspection services requiring the use of sUAS and contracted for on behalf of the State shall be performed using domestically manufactured sUAS.

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

(4) Except as provided in subsection (6), an agency may not purchase or operate a small unmanned aircraft system manufactured in the People's Republic of China. For purposes of this section, the term "manufactured" includes a small unmanned aircraft system that is assembled in a country other than the People's Republic of China but which is comprised of more than a negligible amount of parts, software, components or raw materials originating in the People's Republic of China.

(5) The provisions of this section shall not apply to a state institution of higher learning with a federally designated

research center when such institution is conducting research regarding sUAS and related matters.

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

SECTION 70. Section 31-7-73, Mississippi Code of 1972, is brought forward as follows:

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

SECTION 71. Section 31-7-301, Mississippi Code of 1972, is brought forward as follows:

31-7-301. (1) The Legislature hereby declares that it is essential to the efficient operation of public bodies of this state that adequate supplies of goods and services continue to be available from private sources; that the good name and credit of the state may be promoted by timely and responsible payment of just claims; and that fair compensation be awarded suppliers when payments of their claims are delayed without justification.

(2) The term "public bodies" shall mean all state agencies, political subdivisions, school districts, municipalities and public corporations, whether created by charter, statute or

executive order, whether supported wholly or in part by public funds, or which expend public funds.

SECTION 72. Section 31-7-303, Mississippi Code of 1972, is brought forward as follows:

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

(2) The warrant, in payment of an invoice submitted to a public body of the state, shall be mailed or otherwise delivered by the public body not later than fifteen (15) days after filing of the requisition for payment; however, this requirement may be waived by the State Fiscal Management Board on a showing of exceptional circumstances in accordance with rules and regulations

of the State Fiscal Management Board or as otherwise provided in Section 7-7-35, Mississippi Code of 1972.

SECTION 73. Section 31-7-305, Mississippi Code of 1972, is brought forward as follows:

31-7-305. (1) All public bodies of the state, including those which issue checks and those which file requisitions for payment with the State Fiscal Management Board, shall keep a record of the date of receipt of the invoice, dates of receipt, inspection and approval of the goods or services, date of issuing the check or date of filing the requisition for payment, as the case may be, and date of mailing or otherwise delivering the warrant or check in payment thereof. In the event that the State Fiscal Management Board mails or otherwise delivers the warrant directly to the claimant, pursuant to Section 7-7-35, Mississippi Code of 1972, the State Fiscal Management Board shall notify the public body of the date thereof. The provisions of this section are supplemental to the requirements of Sections 19-13-29, 21-39-7, 21-39-13 and 37-5-93, Mississippi Code of 1972.

(2) All public bodies that are authorized to issue checks in payment of goods and services and are not required to issue requisitions for payment to the State Fiscal Management Board shall mail or otherwise deliver such checks no later than forty-five (45) days after receipt of the invoice and receipt, inspection and approval of the goods or services; however, in the

event of a bona fide dispute, the public body shall pay only the amount not disputed.

(3) If a warrant or check, as the case may be, in payment of an invoice is not mailed or otherwise delivered within forty-five (45) days after receipt of the invoice and receipt, inspection and approval of the goods and services, the public body shall be liable to the vendor, in addition to the amount of the invoice, for interest at a rate of one and one-half percent (1-1/2%) per month or portion thereof on the unpaid balance from the expiration of such forty-five-day period until such time as the warrant or check is mailed or otherwise delivered to the vendor. The provisions of this subsection (3) shall apply only to undisputed amounts for which payment has been authorized. In the case of an error on the part of the vendor, the forty-five-day period shall begin to run upon receipt of a corrected invoice by the public body and upon compliance with the other provisions of this section. The various public bodies shall be responsible for initiating the penalty payments required by this subsection and shall use this subsection as authority to make such payments. Also, at the time of initiating such penalty payment, the public body shall specify in writing an explanation of the delay and shall attach such explanation to the requisition for payment of the penalty or to the file copy of the check issued by the public body, as the case may be.

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

(b) If a warrant or check, as the case may be, in payment of an invoice, subject to a prior dispute, is not mailed or otherwise delivered within thirty (30) days after settlement of the dispute, the public body shall be liable to the vendor, in addition to the amount of the invoice, for interest at a rate of one and one-half percent (1-1/2%) per month or portion thereof on the unpaid balance from the expiration of said thirty-day period until such time as the warrant or check is mailed or otherwise delivered to the vendor. At the time of initiating such penalty payment, the public body shall specify in writing an explanation of the delay and shall attach such explanation to the requisition for payment of the penalty or to the file copy of the check issued by the public body, as the case may be. The interest penalty prescribed in this paragraph shall be in lieu of the penalty provided in subsection (3).

SECTION 74. Section 31-7-307, Mississippi Code of 1972, is brought forward as follows:

31-7-307. (1) The budget request submitted by a public body to the Legislature shall specifically disclose the amount of any interest paid by any public body pursuant to Sections 31-7-301 through 31-7-317. However, no provision of Sections 31-7-301

through 31-7-317 authorizes a new appropriation to cover such interest penalties, and public bodies shall not seek to increase appropriations for the purpose of obtaining funds to pay any interest penalties.

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

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

SECTION 75. Section 31-7-309, Mississippi Code of 1972, is brought forward as follows:

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

SECTION 76. Section 31-7-311, Mississippi Code of 1972, is brought forward as follows:

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

SECTION 77. Section 31-7-313, Mississippi Code of 1972, is brought forward as follows:

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

SECTION 78. Section 31-7-315, Mississippi Code of 1972, is brought forward as follows:

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

SECTION 79. Section 31-7-317, Mississippi Code of 1972, is brought forward as follows:

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

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

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

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

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

SECTION 80. Section 31-7-401, Mississippi Code of 1972, is brought forward as follows:

31-7-401. Except as otherwise provided by law, the provisions of Sections 31-7-401 through 31-7-423 shall apply to every procurement of commodities, supplies, equipment, construction, technology, personal and professional services other than those in Section 27-104-7(2)(f) and (8), state agency employee benefits, supplemental insurance and cafeteria plans, that are solicited by any state agency by a request for proposals or request for qualifications, except any personal or professional services contract entered into by an agency for the design, operation or maintenance of museum exhibits, purchases made by an agency related to the fabrication, construction, installation or

refurbishing of museum exhibits. The following provisions are intended to ensure that the best practices for soliciting requests for proposals or requests for qualifications are implemented. Any agency that is required to receive approval by the Public Procurement Review Board before entering into a personal or professional services contract as provided in subsection (2)(g) of Section 27-104-7 shall implement the best practices specified in Sections 31-7-401 through 31-7-423. The Public Procurement Review Board shall promulgate any necessary rules and regulations to administer the provisions of Sections 31-7-401 through 31-7-423.

SECTION 81. Section 31-7-403, Mississippi Code of 1972, is brought forward as follows:

31-7-403. **Conditions for use.** (1) Competitive sealed bidding is the preferred method of procurement; however, if it is not practicable and advantageous, a request for proposals or request for qualifications may be used. The terms "practicable" and "advantageous" are to be given ordinary dictionary meanings. The term "practicable" denotes what may be accomplished or put into practical application. "Advantageous" denotes a judgmental assessment of what is in the state's best interest.

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

(a) The need for flexibility;

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

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

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

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

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

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

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

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

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

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

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

(4) On or before January 1 of each year, and every time a chief procurement officer is hired, each state agency shall provide to the state purchasing agent the name of the state agency's chief procurement officer and information identifying the state agency's central purchasing office, if applicable. If the chief procurement officer of an agency or his or her designee determines, in writing, that the use of competitive sealed bidding is either not practicable or not advantageous to the state, he or she shall submit a detailed explanation of the reasons for that determination to the Public Procurement Review Board. If the Public Procurement Review Board determines that competitive sealed bidding is either not practicable or not advantageous to the state, then a contract may be entered into for the procurement of commodities, supplies, equipment, construction, technology, personal and professional services, state agency purchased employee benefits or state agency supplemental insurance and cafeteria plans, by a request for proposals or request for qualifications. However, these procurements contracted for through a request for proposals or request for qualifications may not be combined or included in a contract with other procurements that are required to be procured through competitive sealed bidding so as to avoid the statutory obligation for procurement through competitive sealed bidding. The board may modify or

revoke its determination at any time, and the determination should be reviewed for current applicability from time to time.

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

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

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

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

SECTION 82. Section 31-7-405, Mississippi Code of 1972, is brought forward as follows:

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

(a) Instructions and information to offerers concerning the request for proposals or request for qualifications submission requirements, including the time and date set for receipt of

proposals or qualifications, the address of the office to which proposals or qualifications are to be delivered, the maximum time for proposal or qualification acceptance by the state, the manner in which proposals or qualifications are to be submitted, including any forms for that purpose and any other special information;

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

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

(d) A statement that discussions may be conducted with offerers who submit proposals or qualifications determined to be reasonably susceptible of being selected for the award, but that proposals or qualifications may be accepted without such discussions; and

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

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

(3) Proposal or qualification preparation time shall be set to provide offerers a reasonable time to prepare their proposals

or qualifications. A minimum of thirty (30) days shall be provided unless a shorter time is deemed necessary for a particular procurement as determined in writing by the chief procurement officer of the requesting agency.

SECTION 83. Section 31-7-407, Mississippi Code of 1972, is brought forward as follows:

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

(a) The due date for responses;

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

(c) The means of obtaining the solicitation.

(2) The notice shall be posted at least thirty (30) days before the date that proposals or qualifications are to be submitted to the chief procurement officer, unless a shorter time is deemed necessary for a particular procurement as determined in writing by the chief procurement officer of the requesting agency.

(3) Each chief procurement officer may determine that other methods of public notification are best for that particular agency

or that particular request for proposals or request for qualifications. If such a determination is made, the chief procurement officer may provide notice in an alternative manner about the request for proposals or request for qualifications in addition to the methods provided for in Sections 31-7-401 through 31-7-423.

(4) The Department of Finance and Administration (DFA) shall monitor agency websites and the Mississippi procurement portal to ensure that the agencies are posting the required notice. DFA shall audit agencies and report its findings to the Chairs of the House of Representatives and Senate Accountability, Efficiency and Transparency Committees and House of Representatives and Senate Appropriations Committees by December 31 of each year.

SECTION 84. Section 31-7-409, Mississippi Code of 1972, is brought forward as follows:

31-7-409. **Pre-proposal conferences.** (1) Pre-proposal conferences may be conducted to explain the procurement requirements. If a chief procurement officer plans to hold such a conference, he or she shall prominently place the notification in the request for proposals or request for qualifications solicitation. The notification shall include the date, time and location of the conference. If the chief procurement officer decides to hold a pre-proposal conference after the request for proposals or request for qualifications has been sent out, then he

or she shall notify all prospective offerers known to have received a request for proposals or request for qualifications.

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

(3) The chief procurement officer issuing the request for proposals or request for qualifications shall serve as chair of the conference. Offerers attending the conference shall be required to sign an attendance sheet provided by the soliciting agency. The chair shall announce at the beginning of the conference how the conference is to be handled. The conference shall be recorded. A chief procurement officer may mandate attendance at a conference if he or she feels it is critical to understanding the solicitation. Once the conference is over, the chief procurement officer shall put the recordings from the conference and the questions and answers from the conference in writing and send them to the offerers who received the request for proposals or request for qualifications and post them on the Mississippi procurement portal and the soliciting agency's website.

SECTION 85. Section 31-7-411, Mississippi Code of 1972, is brought forward as follows:

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

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

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

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

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

SECTION 86. Section 31-7-413, Mississippi Code of 1972, is brought forward as follows:

31-7-413. **Evaluation factors in the request for proposals or request for qualifications.** (1) When the chief procurement officer submits the determination that the use of competitive sealed bidding is either not practicable or not advantageous to

the state to the Public Procurement Review Board for its approval, he or she shall include in that submission the evaluation factors that will be used in reviewing the submitted proposals or qualifications. The evaluation factors shall be approved by the Public Procurement Review Board in the same way that the decision to solicit procurements through a request for proposals or request for qualifications must be approved.

(2) (a) The request for proposals or request for qualifications shall state all of the approved evaluation factors, including price, and their relative importance. When the chief procurement officer is determining the weights and importance of each evaluation factor, price as an evaluation factor shall be given the highest criteria weighting and at least thirty-five percent (35%) out of the one hundred percent (100%) total weight of all the other evaluation factors. The evaluation shall be based on the evaluation factors set forth in the request for proposals or request for qualifications. The evaluation factors used and the weights given to each shall be decided and agreed to by the evaluation committee before the opening of any proposal or qualification. Numerical rating systems shall be used when determining the weight and importance of each evaluation factor. Factors not specified in the request for proposals or request for qualifications shall not be considered. Upon completion of the evaluation, the evaluation score sheets used to review the

submitted proposals or qualifications shall be made part of the report required under Section 31-7-423(1).

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

(i) Technical factors (Proposed methodology):

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

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

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

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

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

1. Project management:

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

b. Is there a project management plan?

2. History and experience in performing the work:

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

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

c. Does the offerer document industry or program experience?

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

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

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

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

4. Qualification and experience of personnel:

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

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

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

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

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

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

2. Assurances of performance:

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

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

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

SECTION 87. Section 31-7-415, Mississippi Code of 1972, is brought forward as follows:

31-7-415. **Evaluation committee.** (1) Evaluation committees shall be used to evaluate request for proposals or request for qualifications and award contracts. Persons appointed to an

evaluation committee shall have the relevant experience necessary to evaluate the proposal or qualification. The members of the evaluation committee shall have no personal, financial or familial interest in any of the contract offerers, or principals thereof, to be evaluated.

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

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

"I hereby certify that I have reviewed the conflict of interest standards prescribed herein, and that I do not have a conflict of interest with respect to the evaluation of this proposal or qualification. I further certify that I am not

engaged in any negotiations or arrangements for prospective employment or association with any of the offerers submitting proposals or qualifications or their parent or subsidiary organization."

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

(5) The committee may use advisors, as it deems necessary to give opinions on evaluating proposals or qualifications, except that such advisors shall be subject to the provisions of subsection (3) of this section. The names of the advisors shall be made public at the same time as members of the evaluation committee as provided in subsection (2) of this section. For the purposes of this section, the term "advisors" shall mean those individuals who provide such significant input to a member or members of the evaluation committee that the advisor's opinions are fundamental in shaping the committee member's evaluation of the submitted proposals or qualifications.

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

SECTION 88. Section 31-7-417, Mississippi Code of 1972, is brought forward as follows:

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

SECTION 89. Section 31-7-419, Mississippi Code of 1972, is brought forward as follows:

31-7-419. **Evaluating submitted proposals or qualifications.** (1) The evaluation committee shall evaluate proposals or qualifications only in accordance with the methodology and weighting criteria described in the request for proposals or request for qualifications. Proposals or qualifications shall be initially classified as: (a) acceptable; (b) potentially acceptable, which means reasonably susceptible of being made acceptable; or (c) unacceptable. Offerers whose proposals or qualifications are unacceptable shall be so notified promptly.

(2) Discussions may be held with offerers to:

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

(b) Facilitate arriving at a contract that will be the most practicable and advantageous to the state taking into

consideration price and the other evaluation factors set forth in the request for proposals or request for qualifications.

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

SECTION 90. Section 31-7-421, Mississippi Code of 1972, is brought forward as follows:

31-7-421. **Best and final offers.** The chief procurement officer shall establish a common date and time for the submission of best and final offers. Best and final offers shall be submitted only once; however, the chief procurement officer may make a written determination that it is in the state's best interest to conduct additional discussions or change the state's

requirements and require another submission of best and final offers. Otherwise, no discussion of or changes in the best and final offers shall be allowed before the award. Offerers shall also be informed that if they do not submit a notice of withdrawal or another best and final offer, their immediate previous offer will be construed as their best and final offer.

SECTION 91. Section 31-7-423, Mississippi Code of 1972, is brought forward as follows:

31-7-423. **Awarding the contract.** (1) After proposals or qualifications have been evaluated, the evaluation committee shall prepare a report evaluating and recommending the award of a contract or contracts. The report shall list the names of all potential offerers who submitted a proposal or qualification and shall summarize the proposals or qualifications of each offerer. The report shall rank offerers in order of evaluation, shall recommend the selection of an offerer or offerers, as appropriate, for a contract, shall be clear in the reasons why the offerer or offerers have been selected among others considered, and shall detail the terms, conditions, scope of services, fees and other matters to be incorporated into the contract. The report shall be available to the public at least forty-eight (48) hours before the awarding of the contract.

(2) The chief procurement officer shall publish a notice on the agency's website and the Mississippi procurement portal summarizing the award of the contract, which shall include, but

not be limited to, the nature, duration and amount of the contract, the name of the offerer and a statement that the contract is on file and available for public inspection in the office of the chief procurement officer.

SECTION 92. Section 31-8-1, Mississippi Code of 1972, is brought forward as follows:

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

SECTION 93. Section 31-8-3, Mississippi Code of 1972, is brought forward as follows:

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

(a) Public buildings;

(b) Courthouses;

(c) Office buildings;

(d) Jails;

(e) Auditoriums;

(f) Community centers;

(g) Civic art centers;

(h) Public libraries;

(i) Gymnasiums;

(j) Fire stations; and

(k) Machinery and equipment for use in connection with any of the above, but shall not include office furniture and/or office machines, provided that the primary term of a lease with respect to machinery and equipment shall not exceed the estimated useful economic life of such machinery and equipment, as such useful economic life is mutually agreed upon by the lessor and lessee.

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

SECTION 94. Section 31-8-5, Mississippi Code of 1972, is brought forward as follows:

31-8-5. All such leases shall contain an option granting to the county or municipality the right to purchase the leased property upon the expiration of the primary term, or upon such earlier date as may be agreed upon, at a price not to exceed the unpaid principal balance at such time.

SECTION 95. Section 31-8-7, Mississippi Code of 1972, is brought forward as follows:

31-8-7. (1) The counties and municipalities of the state are authorized to lease publicly owned real property to any corporation, partnership, limited partnership, joint venture or individual for the purpose of enabling such person to construct or renovate thereon any of the buildings or facilities described in Section 31-8-1 and to lease such buildings and facilities to the county or municipality. No such ground lease shall be for a primary term in excess of the primary term of the lease with respect to the buildings and facilities to be constructed thereon.

(2) The counties and municipalities of the state are authorized to sublease buildings and facilities leased pursuant to subsection (1) of this section to the United States Postal Service or to any state or federal governmental agency. Any sublease entered into pursuant to this subsection may contain an option granting the sublessee the right to purchase the leased property upon the expiration of the primary term of the sublease, or upon such earlier date as may be agreed upon, at a price not to exceed the unpaid principal balance at such time.

Before entering into any lease agreement pursuant to this subsection, the board of supervisors or the governing authorities of the municipality shall follow and be subject to the same procedures regarding publishing notice, filing protest and holding an election specified for lease agreements under Section 31-8-11,

except that the notice shall not state that the rental is a continuing obligation and a charge against the general credit and leasing power of the county or municipality.

SECTION 96. Section 31-8-9, Mississippi Code of 1972, is brought forward as follows:

31-8-9. Subject to the provisions of this chapter, any such lease agreement may extend over any period, notwithstanding any provision or rule of law to the contrary, and any such lease agreement shall be binding upon the county or municipality and any other party thereto in accordance with its terms. Any such lease agreement may include, at the discretion of the governing authorities entering into the same, a pledge of the full faith and credit of such county or municipality for the payment of its monetary obligations thereunder; or may contain a provision that so long as no default of any monetary obligation of the lessee has occurred, the lessee's obligation to pay any amounts due or perform any covenants requiring or resulting in the expenditure of money shall be contingent and expressly limited to the extent of any specific appropriation made by the governing authorities to fund such lease agreement, and that nothing contained in the lease agreement shall be construed as creating any monetary obligation on the part of the lessee beyond such current and specific appropriation. Obligations incurred by a county or municipality under the provisions of this chapter secured by a pledge of its full faith and credit shall be included within the limitation on

bonded indebtedness established by law for counties and municipalities.

SECTION 97. Section 31-8-11, Mississippi Code of 1972, is brought forward as follows:

31-8-11. Before entering into any lease agreement pursuant to this chapter secured by a pledge of its full faith and credit, the governing authorities of any county or municipality shall publish notice of their intention to receive suitable proposals for the leasing of such buildings, facilities or equipment. Such notice shall specify the nature of the proposed building, facility or equipment, the general geographic area in which the same is to be located, the term of the proposed lease agreement, that the obligation to pay rentals during the primary term is to be a continuing obligation of and a charge against the general credit and leasing power of the county or municipality, and the date and hour on or before which such proposals may be received. Such notice shall be published by municipalities and counties in the same manner as required for publishing notice of intention to issue general obligation bonds of the county or municipality, as appropriate. If at least twenty percent (20%), or fifteen hundred (1500), of the qualified electors of a county, whichever is less, or at least ten percent (10%), or fifteen hundred (1500), of the qualified electors of a municipality, whichever is less, file a written protest with the appropriate governing authorities, then an election shall be called by the county in the same manner as

provided for the issuance of county general obligation bonds in Sections 19-9-11 through 19-9-17, Mississippi Code of 1972, or by a municipality in the same manner as provided for the issuance of municipal general obligation bonds in Sections 21-33-307 through 21-33-311, Mississippi Code of 1972, to determine whether or not the proposed lease agreement may be executed by the county or municipality. The lease agreement shall be advertised for competitive sealed proposals once each week for two (2) consecutive weeks in a regular newspaper published or having a general circulation in the county or municipality of the governing authority. The date as published for the proposal opening shall be not less than five (5) working days after the last published notice. The lease shall be awarded to the person submitting the lowest and best proposal; however, all proposals may be rejected.

SECTION 98. Section 31-8-13, Mississippi Code of 1972, is brought forward as follows:

31-8-13. This chapter, without reference to any other statute, shall be deemed to be full and complete authority for the authorization, execution and delivery of lease agreements authorized hereunder, and shall be construed as an additional and alternative method therefor, and none of the present restrictions, requirements, conditions and limitations of law applicable to the acquisition, construction and drawing of buildings or facilities in this state shall apply to lease agreements under this chapter, and no proceedings shall be required for the authorization,

execution and delivery of such leases other than those required herein, and all powers necessary to be exercised in order to carry out the provisions of this chapter are hereby conferred.

SECTION 99. Section 31-9-1, Mississippi Code of 1972, is brought forward as follows:

31-9-1. (1) For purposes of this chapter, the term "Office of General Services" shall mean the Governor's Office of General Services acting through the Bureau of Surplus Property.

(2) Wherever the term "Surplus Property Procurement Commission" appears in the laws of the State of Mississippi, it shall be construed to mean the Governor's Office of General Services.

SECTION 100. Section 31-9-5, Mississippi Code of 1972, is brought forward as follows:

31-9-5. (1) The Office of General Services with the approval of the Public Procurement Review Board shall negotiate and contract with any appropriate agency or commission of the United States government or of the State of Mississippi for the purpose of purchasing or otherwise securing surplus material or property in bulk lots or quantities, and for the purpose of assisting all agencies, departments, institutions and instrumentalities of the State of Mississippi, the boards of supervisors of the various counties, and the governing authorities of the various municipalities, drainage districts and other taxing units in purchasing, leasing or otherwise securing surplus

material or property. After ascertaining the needs of the various state departments and institutions, counties, municipalities, drainage districts and other taxing units, the Office of General Services may enter into contracts with the governing authorities of such governmental entities as will enable them to carry out the provisions of this section.

(2) The Office of General Services also may acquire state or federal government surplus property for nonprofit and tax exempt health and educational institutions, Boy Scouts, Girl Scouts, Camp Fire Girls, military academies, volunteer fire departments, nonprofit cooperative water associations, Boys Clubs of America and Girls Clubs of America; however, deliveries to these institutions shall be made only after they have established their eligibility by meeting the requirements of the federal government, have requested the Office of General Services to act for them in acquiring government surplus property, and have agreed to comply with both the state and federal laws pertaining to acquisition and utilization of the property.

(3) Any state agency, with the approval of the Office of General Services, is authorized and empowered, in the discretion of the governing board or authority of the state agency, to donate goods or services for the support of any local chapter of the American Red Cross. This subsection (3) shall stand repealed from and after July 1, 2005.

(4) The Office of General Services may do all other things which may be necessary to effectuate the purposes of this section.

SECTION 101. Section 31-9-9, Mississippi Code of 1972, is brought forward as follows:

31-9-9. All laws or parts of laws requiring the various state institutions, departments, and agencies, the boards of supervisors of the various counties, and the governing authorities of the various municipalities, drainage districts, and other taxing units to advertise or request and receive bids for the purchase of furniture, equipment, supplies, and other commodities are hereby waived for the purposes of this chapter and shall not be applicable to purchases made hereunder.

SECTION 102. Section 31-9-13, Mississippi Code of 1972, is brought forward as follows:

31-9-13. In lieu of regular appropriations, the Department of Finance and Administration may assess against each institution, agency or individual acquiring surplus property from and through the Department of Finance and Administration a fee or commission on each item in sufficient amount to establish and maintain a revolving fund, to be used to operate and support the Department of Finance and Administration, Office of Surplus Property's Federal Donation program. The Department of Finance and Administration shall follow the procedure outlined by the United States General Services Administration in establishing the fund, and the fund shall never exceed more than One Million Dollars

($1,000,000.00) above and beyond four (4) months of operating expenses of the Department of Finance and Administration.

With this revolving fund so acquired, the Department of Finance and Administration shall meet all items of expense incurred in acquiring, transporting, warehousing and distributing property to eligible applicants and also all items of expense incident to the operation of the offices of the Department of Finance and Administration, including salaries, office supplies and necessary general expenses, and all other items as are covered by legislative appropriation for those purposes.

The Department of Finance and Administration may escalate, budget and expend funds from the revolving fund in an amount not to exceed Two Hundred Fifty Thousand Dollars ($250,000.00) in any one fiscal year to carry out the provisions of this section.

SECTION 103. Section 31-9-15, Mississippi Code of 1972, is brought forward as follows:

31-9-15. The Office of General Services shall furnish to the State Auditor of Public Accounts copies of transfers of property to state boards, commissions and agencies on all property transferred to such agencies, federal reviews, in addition to an inventory on all furniture, equipment, machinery and vehicles used by the Office of General Services in carrying out the purposes of this chapter. The Office of General Services shall likewise keep a perpetual current inventory on all property in books and records.

SECTION 104. Section 31-11-1, Mississippi Code of 1972, is brought forward as follows:

31-11-1. (1) For purposes of this chapter, the term "State Building Commission" shall mean the Governor's Office of General Services acting through the Bureau of Building, Grounds and Real Property Management.

(2) Wherever the term "State Building Commission" or "building commission" appears in the laws of the State of Mississippi, it shall be construed to mean the Governor's Office of General Services.

SECTION 105. Section 31-11-3, Mississippi Code of 1972, is amended as follows:

31-11-3. (1) The Department of Finance and Administration, for the purposes of carrying out the provisions of this chapter, in addition to all other rights and powers granted by law, shall have full power and authority to employ and compensate architects or other employees necessary for the purpose of making inspections, preparing plans and specifications, supervising the erection of any buildings, and making any repairs or additions as may be determined by the Department of Finance and Administration to be necessary, pursuant to the rules and regulations of the State Personnel Board. The department shall have entire control and supervision of, and determine what, if any, buildings, additions, repairs, demolitions or improvements are to be made

under the provisions of this chapter, subject to the regulations adopted by the Public Procurement Review Board.

(2) The department shall have full power to erect buildings, make repairs, additions or improvements, demolitions, to grant or acquire easements or rights-of-way, and to buy materials, supplies and equipment for any of the institutions or departments of the state subject to the regulations adopted by the Public Procurement Review Board. In addition to other powers conferred, the department shall have full power and authority, as directed by the Legislature, or when funds have been appropriated for its use for these purposes, to:

(a) Build a state office building;

(b) Build suitable plants or buildings for the use and housing of any state schools or institutions, including the building of plants or buildings for new state schools or institutions, as provided for by the Legislature;

(c) Provide state aid for the construction of school buildings;

(d) Promote and develop the training of returned veterans of the United States in all sorts of educational and vocational learning to be supplied by the proper educational institution of the State of Mississippi, and in so doing allocate monies appropriated to it for these purposes to the Governor for use by him in setting up, maintaining and operating an office and employing a state director of on-the-job training for veterans and

the personnel necessary in carrying out Public Law No. 346 of the United States;

(e) Build and equip a hospital and administration building at the Mississippi State Penitentiary;

(f) Build and equip additional buildings and wards at the Boswell Retardation Center;

(g) Construct a sewage disposal and treatment plant at the Mississippi State Hospital, and in so doing acquire additional land as may be necessary, and to exercise the right of eminent domain in the acquisition of this land;

(h) Build and equip the Mississippi central market and purchase or acquire by eminent domain, if necessary, any lands needed for this purpose;

(i) Build and equip suitable facilities for a training and employing center for the blind;

(j) Build and equip a gymnasium at Columbia Training School;

(k) Approve or disapprove the expenditure of any money appropriated by the Legislature when authorized by the bill making the appropriation;

(l) Expend monies appropriated to it in paying the state's part of the cost of any street paving;

(m) Sell and convey state lands when authorized by the Legislature, cause said lands to be properly surveyed and platted, execute all deeds or other legal instruments, and do any and all

other things required to effectively carry out the purpose and intent of the Legislature. Any transaction which involves state lands under the provisions of this paragraph shall be done in a manner consistent with the provisions of Section 29-1-1;

(n) Collect and receive from educational institutions of the State of Mississippi monies required to be paid by these institutions to the state in carrying out any veterans' educational programs;

(o) Purchase lands for building sites, or as additions to building sites, for the erection of buildings and other facilities which the department is authorized to erect, and demolish and dispose of old buildings, when necessary for the proper construction of new buildings. Any transaction which involves state lands under the provisions of this paragraph shall be done in a manner consistent with the provisions of Section 29-1-1;

(p) Obtain business property insurance with a deductible of not less than One Hundred Thousand Dollars ($100,000.00) on state-owned buildings under the management and control of the department;

(q) In consultation with and approval by the Chairmen of the Public Property Committees of the Senate and the House of Representatives, enter into contracts for the purpose of providing parking spaces for state employees who work in the Woolfolk

Building, the Carroll Gartin Justice Building or the Walter Sillers Office Building; and

(r) The department is hereby authorized to transfer up to Three Million Dollars ($3,000,000.00) of available bond funds to each community college requesting to be exempt from department control and supervision relating to the repair, renovation and improvement of existing facilities owned by the community colleges, including utility infrastructure projects; heating and air conditioning systems; and the replacement of furniture and equipment. The community colleges shall abide by all applicable statutes related to the purchase of the repair, renovation and improvement of such existing facilities. This paragraph (r) shall stand repealed on July 1, 2028.

(3) The department shall survey state-owned and state-utilized buildings to establish an estimate of the costs of architectural alterations, pursuant to the Americans With Disabilities Act of 1990, 42 USCS, Section 12111 et seq. The department shall establish priorities for making the identified architectural alterations and shall make known to the Legislative Budget Office and to the Legislature the required cost to effectuate such alterations. To meet the requirements of this section, the department shall use standards of accessibility that are at least as stringent as any applicable federal requirements and may consider:

(a) Federal minimum guidelines and requirements issued by the United States Architectural and Transportation Barriers Compliance Board and standards issued by other federal agencies;

(b) The criteria contained in the American Standard Specifications for Making Buildings Accessible and Usable by the Physically Handicapped and any amendments thereto as approved by the American Standards Association, Incorporated (ANSI Standards);

(c) Design manuals;

(d) Applicable federal guidelines;

(e) Current literature in the field;

(f) Applicable safety standards; and

(g) Any applicable environmental impact statements.

(4) The department shall observe the provisions of Section 31-5-23 in letting contracts and shall use Mississippi products, including paint, varnish and lacquer which contain as vehicles tung oil and either ester gum or modified resin (with rosin as the principal base of constituents), and turpentine shall be used as a solvent or thinner, where these products are available at a cost not to exceed the cost of products grown, produced, prepared, made or manufactured outside of the State of Mississippi.

(5) The department shall have authority to accept grants, loans or donations from the United States government or from any other sources for the purpose of matching funds in carrying out the provisions of this chapter.

(6) The department shall build a wheelchair ramp at the War Memorial Building which complies with all applicable federal laws, regulations and specifications regarding wheelchair ramps.

(7) The department shall review and preapprove all architectural or engineering service contracts entered into by any state agency, institution, commission, board or authority, regardless of the source of funding used to defray the costs of the construction or renovation project, for which services are to be obtained to ensure compliance with purchasing regulations and to confirm that the contracts are procured by a competitive qualification-based selection process except where such appointment is for an emergency project or for a continuation of a previous appointment for a directly related project. The provisions of this subsection (7) shall not apply to:

(a) Any architectural or engineering contract fully paid for by self-generated funds of any of the state institutions of higher learning;

(b) Any architectural or engineering contract that is self-administered at a state institution of higher learning as provided under Section 27-104-7(2)(b) or 37-101-15(m);

(c) Community college projects that are fully funded from local funds or other nonstate sources which are outside the Department of Finance and Administration's appropriations or as directed by the Legislature;

(d) (i) The Mississippi Community College Board (MCCB) shall establish criteria for projects up to Ten Million Dollars ($10,000,000.00) in value in order to make a determination to whether a community college may self-manage capital projects funded, in whole or in part, by general obligation bonds or other state source funds appropriated in lieu of general * * * <u>obligation</u> bonds of the State of Mississippi. The criteria to be considered shall include whether the community college employs applicable full-time personnel, including licensed architects, qualified construction engineers, and other experienced employees designated for the management of the construction of capital projects. The board may include additional criteria in making its determination, including site visits, existing college policies, and other relevant qualifications that may exist.

(ii) Upon application by a community college for approval of an eligible self-management capital project, the board shall consider all criteria and make a determination at a meeting of the Mississippi Community College Board.

(iii) Subsequent to a favorable approval determination by the Mississippi Community College Board, the established Board of Trustees of each college shall make a second determination as to whether it is in the best interest of the college to procure and self-manage all such contracts.

(iv) If the criteria are met and the local board further determines that self-management is appropriate, a

memorandum of understanding shall be executed by the Mississippi Community College Board and the college.

(e) Any construction or design projects of the State Military Department that are fully or partially funded from federal funds or other nonstate sources; and

(f) Any project of the State Department of Transportation.

(8) (a) The department shall have the authority to obtain annually from the state institutions of higher learning, the state community colleges and junior colleges, the Department of Mental Health, the Department of Corrections and the Department of Wildlife, Fisheries and Parks information on all renovation and repair expenditures for buildings under their operation and control, including duties, responsibilities and costs of any architect or engineer hired by any such institutions, and shall annually report the same to the Legislative Budget Office, the Chairman of the House Public Property Committee and the Chairman of the Senate Public Property Committee before September 1.

(b) All state agencies, departments and institutions are required to cooperate with the Department of Finance and Administration in carrying out the provisions of this subsection.

(c) Expenditures shall not include those amounts expended for janitorial, landscaping or administrative support, but shall include expenditures from both state and nonstate sources.

(d) Expenditures shall not include amounts expended by the department on behalf of state agencies, departments and institutions through the Department of Finance and Administration administered contracts, but shall include amounts transferred to the Department of Finance and Administration for support of such contracts.

(9) As an alternative to other methods of awarding contracts as prescribed by law, the department may elect to use the method of contracting for construction projects set out in Sections 31-7-13.1 and 31-7-13.2; however, the design-build method of construction contracting authorized under Section 31-7-13.1 may be used only when the Legislature has specifically required or authorized the use of this method in the legislation authorizing a project.

(10) The department shall have the authority, for the purposes of carrying out the provisions of this chapter, and in addition to all other rights and powers granted by law, to create and maintain a list of suspended and debarred contractors and subcontractors. Consistent with this authority, the department may adopt regulations governing the suspension or debarment of contractors and subcontractors, which regulations shall be subject to the approval of the Public Procurement Review Board. A suspended or debarred contractor or subcontractor shall be disqualified from consideration for contracts with the department

during the suspension or debarment period in accordance with the department's regulations.

(11) This section shall not apply to the Mississippi State Port Authority.

SECTION 106. Section 31-11-4, Mississippi Code of 1972, is brought forward as follows:

31-11-4. (1) There is hereby created the Facilities Management Advisory Committee, hereinafter referred to as the "committee," for the purpose of advising the Bureau of Building, Grounds and Real Property Management, Department of Finance and Administration, with its duties of preplanning, construction, repair and renovation for buildings of all state agencies, institutions and departments.

(2) The committee shall be composed of the following eight (8) members:

(a) The Chairman and Vice Chairman of the Senate Public Property Committee;

(b) The Chairman and Vice Chairman of the House Public Building, Grounds and Lands Committee;

(c) Two (2) Senators appointed by the Lieutenant Governor; and

(d) Two (2) Representatives appointed by the Speaker of the House of Representatives.

(3) The committee shall advise the Bureau of Building, Grounds and Real Property Management with its duties of

preplanning, construction, repair and renovation for buildings of all state agencies, institutions and departments, including but not limited to the following:

(a) Traveling with the Bureau of Building, Grounds and Real Property Management to inspect and consider requests for improvement and repair of buildings of state agencies, institutions and departments;

(b) Acquiring a working knowledge of state building matters in order to become leaders in facility related legislation; and

(c) Advising and making recommendations to the Legislature on matters relating to preplanning, construction, repair and renovation for all state buildings.

(4) The members of the committee shall have no jurisdiction or vote on any matter within the jurisdiction of the Bureau of Building, Grounds and Real Property Management.

(5) No committee member may receive per diem, travel or other expenses unless authorized by the Management Committees of the Senate and the House of Representatives. Members of the committee shall be paid from the contingent expense funds of the Senate and the House of Representatives in the same amounts as provided for committee meetings when the Legislature is not in session; however, no per diem or expense for attending meetings of the committee will be paid while the Legislature is in session.

SECTION 107. Section 31-11-7, Mississippi Code of 1972, is brought forward as follows:

31-11-7. The Office of General Services shall submit a full report of its work and all transactions carried on by it and a complete statement of all expenditures made by it, to each regular session of the Legislature or to a special session before that time if its work has been completed.

SECTION 108. Section 31-11-25, Mississippi Code of 1972, is brought forward as follows:

31-11-25. The Office of General Services with the approval of the Public Procurement Review Board shall have the power and authority to acquire in its own name, or in the name of such other agency or instrumentality in the State of Mississippi as it may deem proper, by purchase, contribution or otherwise, all land and real property which shall be necessary and desirable in connection with the development or expansion of any state institution or public agency of this state upon any real property adjacent to or contiguous to such institution or agency or in connection with any project under the supervision of said Office of General Services for the construction, repair, remodeling, renovating, or making additions to any building structure or other facility which the Office of General Services is required or authorized by law to construct, repair, remodel, or make an addition to. If the Office of General Services shall be unable to agree with the owner or owners of any such land or real property which is necessary or

desirable for the public use in connection with any such project, the Office of General Services shall have the power and authority to acquire any such land or real property by condemnation proceedings in the manner otherwise provided by law and, for such purpose, the right of eminent domain is hereby conferred upon and vested in said Office of General Services.

SECTION 109. Section 31-11-27, Mississippi Code of 1972, is brought forward as follows:

31-11-27. (1) (a) The Department of Finance and Administration shall conduct a detailed study of the building and other capital needs at each state institution and at each community college and junior college immediately prior to September first in each year. This study shall include, but shall not be limited to, the following matters:

(i) An inventory of every state building and other capital facility which is the property of the State of Mississippi;

(ii) The location, date of construction or acquisition, the purpose for which used, outstanding indebtedness against such facility, if any, and cost of repairs for the preceding fiscal year;

(iii) An examination of the condition of the building or other facility, including current conditions and ratings of all roofs at each state agency, state institution of higher learning, community college and junior college;

(iv) An estimate of the cost of repairs required to place the facility in good condition;

(v) An estimate of the cost of major renovations, if contemplated; and

(vi) A determination of the new building and other facility needs of each institution with such needs classified under immediate or long range requirements.

(b) All state agencies, departments and institutions are hereby required and directed to cooperate with the Department of Finance and Administration in carrying out the provisions of this section. For purposes of validating subsection (1)(a)(iii) above, each roof of a building not planned for demolition must be visually inspected by institution or agency facilities' staff, by a licensed architect or engineer or by thermal imaging inspection at least every three (3) years.

(c) The Department of Finance and Administration shall submit a detailed report to the Legislative Budget Office, the House Public Property Committee and the Senate Public Property Committee on or before September first of each year. Such report shall be in such detail and in such form as may be prescribed by the Legislative Budget Office.

(d) The architect or building inspector of the Department of Finance and Administration shall make a biennial inspection of the New Capitol, Old Capitol, Woolfolk State Office Building, War Memorial Building, the Governor's Mansion, and all

other buildings under jurisdiction of the Department of Finance and Administration for structural or other physical needs or defects of such buildings, and he shall further inquire of the department or its representatives regarding the condition of the buildings. He shall make a written report of his finding to the Department of Finance and Administration, Governor, Lieutenant Governor and Speaker of the House of Representatives. The report shall also make recommendations for repairs and list, by number, the priority which should be given to making necessary repairs.

(2) (a) In addition to any report required in subsection (1) of this section, the Department of Finance and Administration shall prepare and submit an annual report to the Legislative Budget Office, the House Public Property Committee and the Senate Public Property Committee describing the proposed capital improvements projects for state agencies, departments and institutions for the upcoming five-year period. The Department of Finance and Administration shall not be required to include in the report any project costing less than One Million Dollars ($1,000,000.00). The department shall submit the report before September 1 of each year. The report shall include at least the following information:

(i) A prioritized list of the projects proposed for the five-year period, with each project ranked on the basis of need, consistent with the primary goal of preserving existing

capital assets where possible and replacing existing capital assets where necessary;

(ii) A prioritized list of the projects proposed for the next regular legislative session, with each project ranked on the basis of need, consistent with the primary goal of preserving existing capital assets where possible and replacing existing capital assets where necessary;

(iii) A prioritized list of the projects requested by each state agency, department or institution;

(iv) A detailed explanation of criteria used by the Department of Finance and Administration to rank projects for purposes of any list it prepares under this paragraph (a);

(v) A detailed statement of justification for each project;

(vi) The approximate cost for each project, including, but not limited to, itemized estimates of costs for preplanning, constructing, furnishing and equipping a project, and costs for property acquisition;

(vii) The estimated beginning date and completion date for each project;

(viii) Whether a project, as proposed, is a complete project or a phase or part of a project;

(ix) How a project will affect the operating budget of the applicable agency, department or institution for the upcoming five-year period, regarding such items as additional

personnel requirements, utility costs, maintenance costs, security costs, etc. Any request for new construction other than replacement, or for purposes other than incidental expansion of existing facilities, shall also identify the total amount of nonstate funds to support such project;

(x) The proposed method of financing each project and the effect such financing will have on the state budget, including an estimate of any required debt service for the project, and an estimate of any federal funds or other funds that the agency, department or institution may have access to because of the project; and

(xi) A list of the projects requested by each agency, department or institution for the five-year period, with each project ranked by the appropriate agency, department or institution on the basis of need.

(b) To enable the Department of Finance and Administration to prepare the report required in this subsection (2), it may require all state agencies, departments and institutions to file a capital improvements projects request with such information and in such form and in such detail as the department may deem necessary and advisable. Such request shall be filed with the Department of Finance and Administration no later than August 1 of each year.

SECTION 110. Section 31-11-29, Mississippi Code of 1972, is brought forward as follows:

31-11-29. The Legislative Budget Office shall prepare and submit to each regular session of the Legislature a "capital expense and development" budget based on information furnished as herein provided by the Office of General Services, plus such other information as may be obtained. The said budget shall contain an estimate of the immediate and the long term capital needs of each state department, agency, institution, and each junior college. Such budget shall include a description of the buildings and other facilities which are recommended as needed at each institution, along with an estimate of the cost. The budget shall also include a suggested method of financing the immediate needs. "Immediate needs" shall be construed to mean: buildings, major improvements, and other facilities required for the proper functioning of the institution for the next year. "Long range" needs shall be construed to mean: buildings, major improvements, and other facilities of a similar nature which may be required at some indefinite date in the future.

SECTION 111. Section 31-11-30, Mississippi Code of 1972, is brought forward as follows:

31-11-30. (1) Every capital improvements project for new facilities, costing Two Million Dollars ($2,000,000.00) or more, which is developed to repair, renovate, construct, remodel, add to or improve a state-owned public building shall be funded by the Legislature in two (2) phases. The two-phase funding requirement shall not apply to capital improvements projects for a state-owned

port or where the Legislature finds that an emergency or critical need must be met or a court order complied with. The two (2) phases shall not be funded in the same regular session of the Legislature. Each phase shall be funded in a separate session of the Legislature. Phase 1 shall be a preplanned capital improvements project budget projection for the project and shall be funded first. Phase 2 shall be the actual repair, renovation, construction, remodeling, addition to or improvement of the state-owned public building and the acquisition of furniture and equipment for the capital improvements project and shall be funded second.

(2) For the purposes of this section:

(a) "Preplanned" or "preplanning" means the preliminary planning that establishes the program, scope, design and budget for a capital improvements project.

(b) "Emergency" has the meaning as defined in Section 31-7-1.

(c) "Critical need" means necessary to meet accreditation standards or necessary to respond to failures in planning.

(3) Every state agency that plans to repair, renovate, construct, remodel, add to or improve a state-owned public building shall submit a preplanned capital improvements project budget projection to the Bureau of Building, Grounds and Real Property Management for evaluation. The bureau shall assess the

need for all preplanned projects submitted and shall compile a report on its findings. Any capital improvements project for new facilities costing less than Two Million Dollars ($2,000,000.00) shall not be required to be preplanned.

(4) Upon the completion of any preplanning for a capital improvements project, if such preplanning is funded with self-generated funds by a state agency, the plan shall be submitted to the bureau for evaluation.

(5) This section shall not apply to capital improvements projects authorized by the Legislature before the 2001 Regular Session of the Legislature.

(6) This section shall not apply to any community or junior college project funded in whole or in part by either state bonds or funds appropriated for that construction by the Legislature.

SECTION 112. Section 31-11-31, Mississippi Code of 1972, is brought forward as follows:

31-11-31. The Office of General Services of the State of Mississippi is hereby authorized and empowered to act as the commission designated to perform all functions on behalf of the State of Mississippi as provided for and required in Public Law No. 88-204 of the 88th Congress of the United States of America and being entitled "Higher Education Facilities Act of 1963" as thereafter amended, and the said Office of General Services is hereby granted such power and authority necessary for the purpose of performing for and on behalf of the State of Mississippi all

things required to be done and performed by the Office of General Services as specified in said Public Law No. 88-204 of the 88th Congress of the United States government, as thereafter amended.

SECTION 113. Section 31-11-33, Mississippi Code of 1972, is brought forward as follows:

31-11-33. (1) For purposes of this section, the following terms shall have the meanings hereinafter ascribed:

(a) "Department" means the Department of Finance and Administration, Bureau of Building, Grounds and Real Property Management.

(b) "Public facility" means any building or other facility owned by the State of Mississippi, or by any agency, department of the State of Mississippi, that is occupied, used or under the control of the State of Mississippi, or any agency or department of the State of Mississippi, or any junior college district of the State of Mississippi, or the Board of Trustees of State Institutions of Higher Learning of the State of Mississippi, or any institution under the jurisdiction of the Board of Trustees of State Institutions of Higher Learning of the State of Mississippi.

(2) Any public facility newly constructed from and after July 1, 2006, shall comply with and be built according to specifications not less stringent than those required by the International Code Council and such other standards as adopted by the department that provide guidelines for plumbing, electrical,

gas, sanitary and other physical components of new building construction.

(3) Upon the awarding of a design contract for a new public facility, the architect/engineer shall prepare drawings and specifications in conformity with the code requirements in effect at the time of agreement or, if the code requirements at the time of the agreement are amended, then the drawings and specifications shall be prepared according to the more stringent standards.

(4) The department may regulate the height, number of stories and size of public facilities, the percentage of the lot that may be occupied, courts and other open spaces, and the location and use of public facilities.

SECTION 114. Section 31-11-35, Mississippi Code of 1972, is brought forward as follows:

31-11-35. (1) The Department of Finance and Administration shall adopt rules and regulations which:

(a) Optimize the energy performance of state-funded buildings throughout the state;

(b) Increase the demand for building and construction materials, finishes, furnishings and other products made in or incorporating materials produced in Mississippi;

(c) Improve environmental quality in this state by decreasing the discharge of pollutants from state-funded buildings;

(d) Conserve energy and utilize local and renewable energy sources;

(e) Protect and restore this state's natural resources by avoiding development of inappropriate state-funded building sites;

(f) Reduce the burden on public water supply and treatment by reducing potable water consumption; and

(g) Encourage obtaining ENERGY STAR designation from the United States Environmental Protection Agency to further demonstrate a building project's energy independence.

(2) Except as otherwise provided in Section 39-25-1, each major facility project shall be designed and constructed to meet or exceed the requirements of ASHRAE 90.1-2010 or any more stringent code adopted by the Bureau of Building, Grounds and Real Property Management and the Department of Finance and Administration.

(3) In order to achieve sustainable building standards, construction projects may utilize a nationally recognized high performance environmental building rating system; provided, however, that any such rating system that uses a material or product-based credit system which is disadvantageous to materials or products manufactured or produced in Mississippi shall not be utilized. Additionally, such rating systems shall not exclude certificate credits for forest products certified by the Sustainable Forestry Initiative, Forest Stewardship Council or the

American Tree Farm System. The Department of Finance and Administration shall designate rating systems which meet these criteria and may establish its own rating system.

(4) A nationally certified commissioning authority professional shall certify that the major facility project's systems for heating, ventilation, air-conditioning, energy conservation and water conservation are installed and working properly to ensure that each major facility project performs according to the major facility project's overall environmental design intent and operational objectives.

(5) For purposes of this section, a major facility project shall mean either:

(a) A state-funded new construction building project which is:

(i) From July 1 through December 31, 2009, the project shall be larger than twenty thousand (20,000) gross square feet;

(ii) From January 1, 2010, through December 31, 2010, the project shall be larger than fifteen thousand (15,000) gross square feet;

(iii) From January 1, 2011, through December 31, 2011, the project shall be larger than ten thousand (10,000) gross square feet; and

(iv) From January 1, 2012, and thereafter, the project shall be larger than five thousand (5,000) gross square feet.

(b) A state-funded renovation project which involves more than fifty percent (50%) of the replacement value of the facility where compliance is cost-effective and practical.

(6) A major facility project shall not mean a building, regardless of size, which does not have conditioned space as defined by Standard 90.1 of the American Society of Heating, Refrigerating, and Air-Conditioning Engineers.

(7) For purposes of this section, a "major facility project" shall include, but not be limited to, the construction or renovation of buildings that are financed, in whole or in part, through the use of a Community Development Block Grant.

SECTION 115. Section 5-3-72, Mississippi Code of 1972, is brought forward as follows:

5-3-72. The Joint Committee on Performance Evaluation and Expenditure Review (PEER) shall evaluate on a biennial basis the procurement process utilized by all state agencies, including, but not limited to, the contract review, reporting and recordkeeping requirements in Section 25-9-120, and the bid requirements in Section 31-7-13. Upon completion of its evaluation, the PEER Committee shall submit a report to the Legislature with recommendations for improving the procurement process. The Department of Finance and Administration and the Personal Service

Contract Review Board shall cooperate with the PEER Committee to carry out the provisions of this section.

SECTION 116. Section 7-7-23, Mississippi Code of 1972, is brought forward as follows:

7-7-23. (1) Purchases of equipment, supplies, materials or services of whatever kind or nature for any department, officer, institution or other agency of the state, the cost of which is to be paid from funds in the State Treasury on State Fiscal Officer disbursement warrants, may be made only by written purchase orders duly signed by the official authorized so to do, on forms prescribed by the State Fiscal Officer. Purchases of such equipment, supplies, materials, or services, as specified herein, made without the issuance of such purchase orders shall not be deemed to be obligations of the state unless the State Fiscal Officer, by general rule or special order, permits certain purchases to be made without same. As many copies of each purchase order shall be prepared as may be prescribed by the State Fiscal Officer, but at least one (1) copy shall be furnished the vendor, one (1) copy shall be furnished the State Fiscal Officer, and one (1) copy shall be retained by the department or agency for whose benefit the purchase is made. The State Fiscal Officer, by general rule or special order, may allow for the submission of purchase orders in a format not requiring a signature. It shall be the duty of the proper official in each department or agency to forward the copy of each purchase order to the State Fiscal

Officer on the same day the said order is issued. All purchase orders covering purchases to be paid for out of funds appropriated for any fiscal year shall be executed by June 30 of the fiscal year and shall be filed with and received for recording by the State Fiscal Officer within five (5) working days thereafter, and for electronically submitted purchase orders, the State Fiscal Officer shall issue regulations as to the last filing date required for purchase orders; otherwise, the same shall not be deemed to constitute valid obligations against the state within the meaning of Section 64 of the Constitution. The provisions of this subsection shall not apply to contracts for services of investigators employed by any agency of the state government authorized by law to employ such investigators.

(2) The State Fiscal Officer may approve electronically submitted purchase orders, thereby releasing such purchase orders and recording the encumbrances. For purposes of electronically submitted purchase orders, the State Fiscal Officer may exempt agencies from furnishing a copy of the purchase order to the State Fiscal Officer as required in subsection (1) above.

SECTION 117. Section 7-7-25, Mississippi Code of 1972, is brought forward as follows:

7-7-25. Upon receipt of each purchase order filed with the State Fiscal Officer under the provisions of Section 7-7-23, the State Fiscal Officer shall, upon approval of such purchase order, make due entry of the same on the record of encumbrances, which

shall be established in the General Accounting Office, showing separately thereon an account for each department, institution or other agency and the law authorizing the appropriation from which the same is to be paid, if from appropriated funds. Encumbrances so made and entered shall, until paid, be shown in the General Accounting Office's books of account so as to be used as a liability against the then cash balance of the particular fund which is applicable, whether general or special, and against the appropriation balance, if the encumbrance is to be paid from appropriated funds.

SECTION 118. Section 7-7-27, Mississippi Code of 1972, is brought forward as follows:

7-7-27. (1) Except as provided otherwise in subsection (2) of this section, all claims against the state as the result of purchases, services, salaries, travel expense, or other encumbrances made or liabilities incurred by any officer, department, division, board, commission, institution or other agency of the state authorized to incur such obligations, whether as the result of the issuance of purchase orders, as hereinabove provided, or not, shall be filed with, certified and approved by the agency incurring such obligation pursuant to rules and regulations established by the Department of Finance and Administration. These rules and regulations shall set forth certain circumstances where certification by the approving officers that the goods and services have been received or

performed may be waived by the Department of Finance and Administration. Such waivers may pertain to, but should not be limited to, service contracts of limited time periods for lease of office space and equipment, computer software and subgrantee disbursements under federal grant programs.

(2) The Board of Trustees of State Institutions of Higher Learning and the local board of trustees of a community or junior college shall adopt rules and regulations for institutions under their governance for the waiver of certification that goods or services have been received or performed. These rules and regulations shall be consistent with those established by the Department of Finance and Administration under subsection (1) of this section.

SECTION 119. Section 7-7-51, Mississippi Code of 1972, is brought forward as follows:

7-7-51. The State Fiscal Officer is hereby given the authority, and it shall be his duty, to procure on competitive bids and install or have installed all machines, equipment, records and other things necessary for the performance of the duties imposed upon the State Fiscal Officer by Sections 7-7-1 through 7-7-65. Such machines and equipment as are to be purchased shall be purchased in full compliance with the laws of the state pertaining thereto and, if in the discretion of the State Fiscal Officer, it is to the best interests of the state, he may rent certain machines and equipment.

SECTION 120. Section 17-17-121, Mississippi Code of 1972, is brought forward as follows:

17-17-121. Contracts for acquisition, purchase, construction and/or installation of a project contemplated by Sections 17-17-101 through 17-17-135 shall be effected in the manner prescribed by law for public contracts; provided, however, that where (a) the municipality finds and records such finding on its minutes, that because of availability or particular nature of a project, it would not be in the public interest or would less effectively achieve the purposes of Sections 17-17-101 through 17-17-135 to enter into such contracts upon the basis of public bidding pursuant to advertising, (b) the industry concurs in such finding, and (c) such finding is approved by the board, public bidding pursuant to advertisement may be dispensed with and such contracts may be entered into based upon negotiation; and provided further, that the industry, at its option, may negotiate such contracts in the name of the municipality.

SECTION 121. Section 17-25-5, Mississippi Code of 1972, is brought forward as follows:

17-25-5. (1) Every municipality and county of the State of Mississippi shall grant competency examination reciprocity to any contractor, including, but not limited to, any electrical, plumbing, heating and air conditioning, water and sewer, roofing or mechanical contractor, who is licensed by another municipality

or county of this state without imposing any further competency examination requirements provided:

(a) That the contractor furnishes evidence that he has a license issued on the basis of a competency examination administered in one (1) municipality or county of the State of Mississippi which has an examining board that regularly gives a written examination which has been approved by the State Board of Public Contractors or the Building Officials Association of Mississippi;

(b) That he furnishes evidence that he actually took and passed the written examination which qualified him for such license; however, in lieu thereof, he may furnish evidence that he was issued a license prior to May 1, 1972, and prior to the existence of a written examination by a county or municipality which has an examining board that requires written examination to qualify for a license;

(c) That he has been actively engaged in the business for which he is licensed for two (2) years or more;

(d) That he has held a license for his business for one (1) year or more; and

(e) That he pays the license fee to the municipality or county to which application is made for a license unless he holds a current certificate of responsibility issued by the State Board of Public Contractors, in which case no license fee shall be collected.

(2) (a) Any contractor who operates more than one (1) separate place of business within the state must obtain the appropriate privilege license and pay the privilege license fee for each location if required by the local jurisdiction.

(b) Every jurisdiction in which a contractor does business may impose its own separate bonding requirements on the contractor desiring to do business there.

SECTION 122. Section 19-31-37, Mississippi Code of 1972, is brought forward as follows:

19-31-37. The district shall comply with the provisions of Section 31-7-1 et seq., regarding the construction of public works or the purchase of materials or supplies.

SECTION 123. Section 25-1-77, Mississippi Code of 1972, is amended as follows:

25-1-77. (1) There is created the Bureau of Fleet Management within the Office of Purchasing, Travel and Fleet Management, Department of Finance and Administration, for the purposes of coordinating and promoting efficiency and economy in the purchase, lease, rental, acquisition, use, maintenance and disposal of vehicles by state agencies. The Executive Director of the Department of Finance and Administration may employ a Fleet Management Officer to manage the bureau and carry out its purposes. The bureau may employ other suitable and competent personnel as necessary. The bureau shall encourage the use of fuel efficient or hybrid vehicles appropriate for the state

agency's intended purpose and, when feasible, the use of alternative fuels or energy sources, including, but not limited to, ethanol, biodiesel, natural gas or electric power. The bureau shall prepare a fiscal analysis of the cost-effectiveness of using alternative fuel or energy source vehicles by state agencies, and submit a report of that fiscal analysis to the Legislature by December 15, 2009. Not later than July 1, 2014, at least seventy-five percent (75%) of all vehicles to which the bureau holds title in the name of the state must have a fuel economy estimate by the United States Environmental Protection Agency of forty (40) miles per gallon or higher for highway driving.

(2) The Bureau of Fleet Management shall perform the following duties:

(a) To hold title in the name of the State of Mississippi to all vehicles currently in possession of state agencies as defined in Section 25-9-107(d) and to assign vehicles to such agencies for use; however, the bureau shall exempt any agency or agency vehicles from the provisions of this paragraph (a) if it determines that state or federal law requires that title be vested only in the agency;

(b) To establish rules and regulations for state agency use of vehicles;

(c) To gather information and specify proper fleet management practices for state agencies;

(d) To acquire fleet management software and require agencies to provide necessary information for the bureau to properly monitor the size, use, maintenance and disposal of the state's fleet of vehicles; the bureau shall communicate regularly with the fleet managers of each state agency to determine strengths and weaknesses of the various fleet operations; the bureau shall disseminate information to the agencies so that each can take advantage of any beneficial practices being incorporated at other entities; the bureau shall promulgate rules and regulations concerning the mileage reimbursement practices of each state agency;

(e) To carry out responsibilities relative to budget recommendations as provided in Section 27-103-129;

(f) To reassign vehicles in the possession of any state agency if the bureau believes that another state agency can make more efficient use of a vehicle *** * ***;

(g) To investigate at any time the vehicle usage practices of any state agency; and

(h) To require each agency to submit to the bureau a vehicle acquisition/use/disposal plan on an annual basis. From the plans received, the bureau shall evaluate the proposed plans and shall submit a recommendation to the Legislature prior to January 1 of each year.

(3) No state department, institution or agency shall purchase, rent, lease or acquire any motor vehicle, regardless of

the source of funds from which the motor vehicle is to be purchased, except under authority granted by the Department of Finance and Administration. The Bureau of Fleet Management, Department of Finance and Administration, shall promulgate rules and regulations governing the purchase, rental, lease or acquisition of any motor vehicle by a state department, institution or agency with regard to the appropriateness of the vehicle to its intended use. The Bureau of Fleet Management, Department of Finance and Administration, shall only grant authority to purchase, rent, lease or acquire a motor vehicle which is the lowest cost vehicle to carry out its intended use. Before the disposal or sale of any vehicle, the Bureau of Fleet Management shall make a determination that the lifetime use and mileage of the vehicle has been maximized and that it would not be feasible for another state agency to use the vehicle.

(4) The department, institution or agency shall maintain proper documentation which provides the intended use of the vehicle and the basis for choosing the vehicle. Such documentation shall show that the department, institution or agency made diligent efforts to purchase, rent, lease or acquire a vehicle that is the lowest cost vehicle for its intended use. Such documentation shall be updated as needed when the intended use of the vehicle or any other facts concerning the vehicle are changed. All such documentation shall be approved by the State Fleet Officer prior to purchase, rental, lease or acquisition or

change in use of any vehicle and shall be maintained and made available for review by the State Auditor, any other reviewing agency and the Legislature. The Bureau of Fleet Management shall immediately notify the department head of any agency that has a vehicle found to be in violation of the bureau's rules and regulations. At the same time, the bureau shall notify the Speaker of the House of Representatives and the Lieutenant Governor of its findings regarding any such vehicle. If the violation is not rectified within five (5) days of the notice, then the bureau may seize the vehicle and dispose of it as the bureau deems to be in the best interest of the State of Mississippi.

(5) On or before September 1 of each year, the Bureau of Fleet Management shall prepare and deliver to the Senate and House Appropriations Committees and the Joint Legislative Budget Committee a report containing any irregularities that it finds concerning purchases of state-owned vehicles.

(6) The Department of Public Safety and the Department of Wildlife, Fisheries and Parks may retain any vehicle seized pursuant to the forfeiture laws of this state, and the total number of vehicles assigned to each such agency shall not be reduced by the number of seized vehicles which the agency retains.

(7) The Bureau of Fleet Management, upon request, shall grant an exemption from the provisions of this section for only any vehicle assigned to a sworn officer of the Department of

Public Safety or of the Agricultural and Livestock Theft Bureau of the Department of Agriculture and Commerce and used in undercover operations when the bureau determines that compliance could jeopardize the life, health or safety of the sworn officer.

(8) The provisions of this section shall not apply to any state institution of higher learning.

(9) When making requests for authority to purchase, rent, lease or acquire vehicles as provided in subsection (3) of this section, agencies shall submit the lowest cost vehicle possible to carry out its intended use. Any such request shall be in writing from the agency head, certifying the vehicle requested is the lowest cost option available and acknowledging that any request contrary to this provision shall subject the agency head to penalties as provided in Sections 25-1-91, 31-7-55 and 31-7-57, where applicable. The Bureau of Fleet Management shall only approve the lowest cost vehicle, which in its estimation, will carry out the intended use. No agency may purchase any vehicle that the Bureau of Fleet Management has disapproved as being a higher cost option.

(10) No requests authorized under subsections (3) and (9) of this section shall be approved by the Bureau of Fleet Management if the requesting agency has not properly maintained in the fleet/asset reporting system all information required by the Bureau of Fleet Management. Agencies shall correct any

inadequacies or discrepancies in the system noted by the Bureau of Fleet Management before the bureau may approve any requests.

SECTION 124. Section 25-1-78, Mississippi Code of 1972, is brought forward as follows:

25-1-78. (1) For purposes of this section, the term "state agency" means any agency that is subject to oversight by the Bureau of Fleet Management of the Department of Finance and Administration under Section 25-1-77.

(2) Except as otherwise provided in this section, beginning on July 1, 2017, through June 30, 2018, the Bureau of Fleet Management, Department of Finance and Administration, shall not approve the purchase, lease or acquisition of any motor vehicle by a state agency, regardless of the source of funds used. However, any agency that has a fleet of not more than fifty (50) vehicles may replace a vehicle that has been wrecked and deemed a total loss or any vehicle whose repair cost exceeds the cash value of the vehicle as determined by the Bureau of Fleet Management. Documentation of such loss or repair costs must be submitted to the Bureau of Fleet Management prior to replacement of the vehicle.

(3) Beginning July 1, 2012, any state agency with a fleet of more than fifty (50) motor vehicles shall reduce the total number of its motor vehicles by two percent (2%) each fiscal year until June 30, 2016. The Bureau of Fleet Management and the State

Auditor shall work together to enforce the provisions of this subsection.

(4) The provisions of subsections (2) and (3) of this section, with regard to the purchase, lease or acquisition of vehicles and to the mandatory reduction of the agency's fleet of vehicles, shall not apply to:

(a) A state agency's law enforcement or emergency vehicles, upon demonstrating to the Bureau of Fleet Management a justifiable need to be excluded from the provisions of subsections (2) and (3) of this section.

(b) A state agency's vehicles that are acquired by the use of grant monies that are specified to be used for that purpose and for which no state matching funds from the State General Fund are required, expended or used.

(c) Vehicles of the Department of Child Protection Services.

SECTION 125. Section 25-53-3, Mississippi Code of 1972, is brought forward as follows:

25-53-3. (1) Whenever the term "Central Data Processing Authority" or the term "authority," when referring to the Central Data Processing Authority, is used in any law, rule, regulation, document or elsewhere, it shall be construed to mean the Mississippi Department of Information Technology Services.

(2) For the purposes of this chapter the following terms shall have the meanings ascribed in this section unless the context otherwise requires:

(a) "Central Data Processing Authority" and "CDPA" mean "Mississippi Department of Information Technology Services (ITS)" and the term "authority" means "board of the ITS."

(b) "Bureau of Systems Policy and Planning," "Bureau of Telecommunications," "Bureau of Central Data Processing" and "bureau" mean "ITS."

(c) "Acquisition" of information technology means the purchase, lease, rental, or acquisition in any other manner of any such information technology.

(d) "Agency" means and includes all the various state agencies, officers, departments, boards, commissions, offices and institutions of the state.

(e) "Governing authority" means boards of supervisors, governing boards of all school districts, all boards of directors of public water supply districts, boards of directors of master public water supply districts, municipal public utility commissions, governing authorities of all municipalities, port authorities, commissioners and boards of trustees of any public hospitals and any governing authority of the state supported wholly or in part by public funds of the state or governing authority thereof.

(f) "Bid" means any of the valid source selection techniques and competitive procurement methods appropriate to information technology procurement in the public sector, including, but not limited to, competitive sealed bidding, competitive sealed proposals, simplified small purchase procedures, sole source procurements, and emergency procurements.

(g) "Telecommunications transmission facility" means any transmission medium, switch, instrument, inside wiring system or other facility which is used, in whole or part, to provide any transmission.

(h) "Equipment support contract" means a contract which covers a single, specific class or classes of telecommunications equipment or service and all features associated with that class, through which state agencies may purchase or lease the item of equipment or service specified by issuing a purchase order under the terms of the contract without the necessity of further competitive bidding.

(i) "Inside wiring system" means any wiring which:

(i) Directly or indirectly, interconnects any terminal equipment with any other terminal equipment or with any regulated facility or common carrier services; and

(ii) Is located at the premises of the customer and is not inside any terminal equipment.

(j) "Procurement" means the selling, buying, purchasing, renting, leasing or otherwise obtaining information

technology as well as activities engaged in, resulting in or expected to result in selling, buying, purchasing, renting, leasing or otherwise obtaining information technology.

(k) "Telecommunications equipment, systems, related services" are limited to the equipment and means to provide:

(i) Telecommunications transmission facilities.

(ii) Telephone systems, including voice processing systems.

(iii) Facsimile systems.

(iv) Radio paging services.

(v) Mobile telephone services, including cellular mobile telephone service.

(vi) Intercom and paging systems.

(vii) Video teleconferencing systems.

(viii) Personal communications networks and services.

(ix) Any and all systems based on emerging and future telecommunications technologies relative to (i) through (viii) above.

(l) "Telecommunications system lease contract" means a contract between a supplier of telecommunications systems, including equipment and related services, and the Mississippi Department of Information Technology Services.

(m) "Tariffed or regulated service" means telecommunications service offered by common carriers and subject

to control by the Mississippi Public Service Commission or the Federal Communications Commission.

(n) "State Data Center" means one or more facilities operated by ITS to provide information technology resources requiring enterprise computing resources or any other ITS managed information resources.

(o) "Information technology" means any technology as defined by ITS, including, but not limited to, computer and/or telecommunications equipment, systems or related services.

SECTION 126. Section 25-53-5, Mississippi Code of 1972, is brought forward as follows:

25-53-5. The authority shall have the following powers, duties, and responsibilities:

(a) The authority shall provide for the development of plans for the efficient acquisition and utilization of information technology by all agencies of state government, and provide for their implementation. In so doing, the authority may use the ITS' staff, at the discretion of the executive director of the authority, or the authority may contract for the services of qualified consulting firms in the field of information technology and utilize the service of such consultants as may be necessary for such purposes.

(b) The authority shall immediately institute procedures for carrying out the purposes of this chapter and supervise the efficient execution of the powers and duties of the

executive director of the ITS. In the execution of its functions under this chapter, the authority shall maintain as a paramount consideration the successful internal organization and operation of the several agencies so that efficiency existing therein shall not be adversely affected or impaired. In executing its functions in relation to the institutions of higher learning and junior colleges in the state, the authority shall take into consideration the special needs of such institutions in relation to the fields of teaching and scientific research.

(c) The authority shall adopt rules, regulations, and procedures governing the acquisition of information technology which shall, to the fullest extent practicable, ensure the maximum of competition between all manufacturers of supplies or equipment or services. In the writing of specifications, in the making of contracts relating to the acquisition of such information technology, and in the performance of its other duties the authority shall provide for the maximum compatibility of all information systems hereafter installed or utilized by all state agencies and may require the use of common computer languages where necessary to accomplish the purposes of this chapter. The authority may establish by regulation and charge reasonable fees on a nondiscriminatory basis for the furnishing to bidders of copies of bid specifications and other documents issued by the authority.

(d) The authority shall adopt rules and regulations governing the sharing with, or the sale or lease of information technology services to any nonstate agency or person. Such regulations shall provide that any such sharing, sale or lease shall be restricted in that same shall be accomplished only where such services are not readily available otherwise within the state, and then only at a charge to the user not less than the prevailing rate of charge for similar services by private enterprise within this state.

(e) The authority may, in its discretion, establish a special technical advisory committee or committees to study and make recommendations on matters within the competence of the authority as the authority may see fit. Persons serving on any such committees shall be entitled to receive their actual and necessary expenses actually incurred in the performance of such duties, together with mileage as provided by law for state employees, provided the same has been authorized by a resolution duly adopted by the authority and entered on its minutes prior to the performance of such duties. For the purposes of this paragraph, such committee meetings are exempt from the requirements of Sections 25-41-1 through 25-41-17.

(f) The authority may provide for the development and require the adoption of standardized computer programs and may provide for the dissemination of information to and the establishment of training programs for the personnel of the

various information technology centers of state agencies and personnel of the agencies utilizing the services thereof.

(g) The authority shall adopt reasonable rules and regulations requiring the reporting to the authority through the office of executive director of such information as may be required for carrying out the purposes of this chapter and may also establish such reasonable procedures to be followed in the presentation of bills for payment under the terms of all contracts for the acquisition of information technology now or hereafter in force as may be required by the authority or by the executive director in the execution of their powers and duties.

(h) The authority shall require such adequate documentation of information technology procedures utilized by the various state agencies and may require the establishment of such organizational structures within state agencies relating to information technology operations as may be necessary to effectuate the purposes of this chapter.

(i) The authority may adopt such further reasonable rules and regulations as may be necessary to fully implement the purposes of this chapter. All rules and regulations adopted by the authority shall be published in readily accessible form to all affected state agencies, and to all current suppliers of computer equipment and services to the state, and to all prospective suppliers requesting the same. Such rules and regulations shall be kept current, be periodically revised, and copies thereof shall

be available at all times for inspection by the public at reasonable hours in the offices of the authority. Whenever possible no rule, regulation or any proposed amendment to such rules and regulations shall be finally adopted or enforced until copies of the proposed rules and regulations have been published.

(j) The authority shall establish rules and regulations which shall provide for the submission of all contracts proposed to be executed by the executive director for information technology, including cloud computing, to the authority for approval before final execution, and the authority may provide that such contracts involving the expenditure of less than such specified amount as may be established by the authority may be finally executed by the executive director without first obtaining such approval by the authority.

(k) The authority is authorized to consider new technologies, such as cloud computing, to purchase, lease, or rent information technology and to operate that information technology when in its opinion such operation will provide maximum efficiency and economy in the functions of any such agency or agencies.

(l) Upon the request of the governing body of a political subdivision or instrumentality, the authority shall assist the political subdivision or instrumentality in its development of plans for the efficient acquisition and utilization of information technology. An appropriate fee shall be charged the political subdivision by the authority for such assistance.

(m) The authority shall adopt rules and regulations governing the protest procedures to be followed by any actual or prospective bidder, offerer or contractor who is aggrieved in connection with the solicitation or award of a contract for the acquisition of information technology. Such rules and regulations shall prescribe the manner, time and procedure for making protests and may provide that a protest not timely filed shall be summarily denied. The authority may require the protesting party, at the time of filing the protest, to post a bond, payable to the state, in an amount that the authority determines sufficient to cover any expense or loss incurred by the state; however, in no event may the amount of the bond required exceed a reasonable estimate of the total project cost. The authority, in its discretion, also may prohibit any prospective bidder, offerer or contractor who is a party to any protest or litigation involving any such contract with the state, the authority or any agency of the state to participate in any other such bid, offer or contract, or to be awarded any such contract, during the pendency of the protest or litigation.

(n) The authority shall make a report in writing to the Legislature each year in the month of January. Such report shall contain a full and detailed account of the work of the authority for the preceding year as specified in Section 25-53-29(3).

All acquisitions of information technology involving the expenditure of funds in excess of the dollar amount established in

Section 31-7-13(c), or rentals or leases in excess of the dollar amount established in Section 31-7-13(c) for the term of the contract, shall be based upon bid. The authority may reserve the right to reject any or all bids, and if all bids are rejected, the authority may negotiate a contract within the limitations of the specifications so long as the terms of any such negotiated contract are equal to or better than the lowest bidder, and so long as the total cost to the State of Mississippi does not exceed the lowest bid. If the authority accepts one (1) of such bids, it shall be that which is the lowest and best. The provisions of this paragraph shall not apply to acquisitions of information technology equipment and services made by the Mississippi Department of Health and the Mississippi Department of Revenue for the purposes of implementing, administering and enforcing the provisions of the Mississippi Medical Cannabis Act by June 30, 2024.

(o) When applicable, the authority may procure information technology in accordance with the law or regulations, or both, which govern the Bureau of Purchasing of the Office of General Services or which govern the Mississippi Department of Information Technology Services procurement of information technology.

(p) The authority is authorized to purchase, lease, or rent information technology for the purpose of establishing pilot projects to investigate emerging technologies. These acquisitions

shall be limited to new technologies and shall be limited to an amount set by annual appropriation of the Legislature. These acquisitions shall be exempt from the advertising and bidding requirement.

(q) To promote the maximum use and benefit from technology and services now in operation or which will in the future be placed in operation and to identify opportunities, minimize duplication, reduce costs and improve the efficiency of providing common technology services the authority is authorized to:

(i) Enter into master agreements for information technology, including cloud computing, available for shared use by state agencies, institutions of higher learning and governing authorities; and

(ii) Enter into contracts for the acquisition of information technology, including cloud computing, that have been acquired by other entities, located within or outside of the State of Mississippi, so long as it is determined by the authority to be in the best interest of the state. The acquisitions provided in this paragraph (q) shall be exempt from the advertising and bidding requirements of Sections 25-53-1 et seq. and 31-7-1 et seq.

(r) All fees collected by the Mississippi Department of Information Technology Services shall be deposited into the

Mississippi Department of Information Technology Services Revolving Fund unless otherwise specified by the Legislature.

(s) The authority shall work closely with the council to bring about effective coordination of policies, standards and procedures relating to procurement of remote sensing and geographic information systems (GIS) resources.

(t) The authority shall manage one or more State Data Centers to provide information technology services on a cost-sharing basis. In determining the appropriate services to be provided through the State Data Center, the authority should consider those services that:

(i) Result in savings to the state as a whole;

(ii) Improve and enhance the security and reliability of the state's information and business systems; and

(iii) Optimize the efficient use of the state's information technology assets, including, but not limited to, promoting partnerships with the state institutions of higher learning and community colleges to capitalize on advanced information technology resources.

(u) The authority shall oversee the Mississippi Statewide Data Exchange, ensuring compliance with the requirements of Section 25-53-281. The Department of Information Technology Services shall have the authority to promulgate rules and regulations necessary to develop, implement and oversee the Mississippi Statewide Data Exchange. The department shall engage

with state agencies and other stakeholders to identify data-sharing opportunities and address potential barriers. Additionally, the department shall establish a Chief Information Officer (CIO) Council, composed of information technology leadership from state agencies, to provide strategic oversight, promote interoperability and recommend policies to enhance the effectiveness and security of statewide data-sharing initiatives.

(v) The authority shall increase federal participation in the cost of the State Data Center to the extent provided by law and its shared technology infrastructure through providing such shared services to agencies that receive federal funds. With regard to state institutions of higher learning and community colleges, the authority may provide shared services when mutually agreeable, following a determination by both the authority and the Board of Trustees of State Institutions of Higher Learning or the Mississippi Community College Board, as the case may be, that the sharing of services is mutually beneficial.

(w) The authority, in its discretion, may require new or replacement agency business applications to be hosted at the State Data Center. With regard to state institutions of higher learning and community colleges, the authority and the Board of Trustees of State Institutions of Higher Learning or the Mississippi Community College Board, as the case may be, may agree that institutions of higher learning or community colleges may utilize business applications that are hosted at the State Data

Center, following a determination by both the authority and the applicable board that the hosting of those applications is mutually beneficial. In addition, the authority may establish partnerships to capitalize on the advanced technology resources of the Board of Trustees of State Institutions of Higher Learning or the Mississippi Community College Board, following a determination by both the authority and the applicable board that such a partnership is mutually beneficial.

(x) The authority shall provide a periodic update regarding reform-based information technology initiatives to the Chairmen of the House and Senate Accountability, Efficiency and Transparency Committees.

From and after July 1, 2018, the expenses of this agency shall be defrayed by appropriation from the State General Fund. In addition, in order to receive the maximum use and benefit from information technology and services, expenses for the provision of statewide shared services that facilitate cost-effective information technology shall be defrayed by pass-through funding and shall be deposited into the Mississippi Department of Information Technology Services Revolving Fund unless otherwise specified by the Legislature. These funds shall only be utilized to pay the actual costs incurred by the Mississippi Department of Information Technology Services for providing these shared services to state agencies. Furthermore, state agencies shall work in full cooperation with the Board of the Mississippi

Department of Information Technology Services to identify information technology to minimize duplication, reduce costs, and improve the efficiency of providing common technology services across agency boundaries.

SECTION 127. Section 25-53-21, Mississippi Code of 1972, is brought forward as follows:

25-53-21. The executive director shall have the following duties, responsibilities and authority:

(a) He shall conduct continuing studies of all information technology activities carried out by all agencies of the state and shall develop a long-range plan for the efficient and economical performance of such activities in state government. Such plan shall be submitted to the authority for its approval and, having been approved by the authority, shall be implemented by the executive director and all state agencies. Such plan shall be continuously reviewed and modifications thereof shall be proposed to the authority by the executive director as developments in information technology techniques and changes in the structure, activities, and functions of state government may require.

(b) He shall review the purchasing practices of all state agencies in the area of the purchasing of supplies for information technology and make recommendations to the authority for the institution of purchasing procedures which will ensure the most economical procurement of such supplies commensurate with the

efficient operation of all departments and agencies of state government.

(c) He shall see that all reports required of all agencies are promptly and accurately made in accordance with the rules and regulations adopted by the authority. Either in person or through his authorized agents, he shall make such inspections of information technology operations being conducted by any of the agencies of the state as may be necessary for the performance of his duties.

(d) He shall suggest and cause to be brought about cooperation between the several state agencies in order to provide efficiency in information technology operation. He shall, together with the heads of the agencies involved, reduce to writing and execute cooperative plans for the acquisition and operation of information technology equipment, and any such plan so adopted shall be carried out in accordance with the provisions of such plan unless the same shall be amended by the joint action of the executive director and the heads of agencies involved. The executive director shall report to the authority the details of any plan so adopted and all amendments or modifications thereof, and shall otherwise report to the authority any failure on the part of any agency to carry out the provisions of such plan. In the event the head of any agency involved or the executive director shall propose amendments to a plan so adopted and such amendment is disapproved by the head of another agency involved or

the executive director, an appeal may be taken to the authority which may, after full consideration thereof, order the adoption of the proposed amendment or any modification thereof. The executive director shall make decisions on all questions of the division of the cost of information technology operations among the several agencies, but his findings shall be subject to the approval or modification by the authority on appeal to it.

(e) He shall review all contracts for acquisition of information technology now or hereafter in force and may require the renegotiation, termination, amendment or execution of any such contracts in proper form and in accordance with the policies and rules and regulations and subject to the direction of the authority. A contract that expires by its terms may be renewed if it is the intent of all parties to renew the contract within a reasonable timeframe. In the negotiation and execution of such contracts, the executive director may negotiate a limitation on the liability to the state of prospective contractors provided such limitation affords the state reasonable protection and the limitation is approved by the state entity for whom the acquisition is being made. For purposes of this section, reasonable protection does not include limitations on intentional torts, negligence, death, bodily injury, bad faith, breach of state data, infringement issues and damage to tangible state property.

(f) He shall act as the purchasing and contracting agent for the State of Mississippi in the negotiation and execution of all contracts for the acquisition of information technology. He shall receive, review, and promptly approve or disapprove all requests of agencies of the state for the acquisition of information technology, which are submitted in accordance with rules and regulations of the authority. In the event that any such request is disapproved, he shall immediately notify the requesting agency and the members of the authority in writing of such disapproval, stating his reasons therefor. The disapproval of any request by the executive director of the authority may be appealed to the authority in such manner as may be authorized by such reasonable rules and regulations hereby authorized to be adopted by the authority. The executive director shall report the approval of all such requests to the authority in such manner as may be directed by the authority, and shall execute any such contracts only after complying with rules and regulations which may be adopted by the authority in relation thereto. Any contracts for personal or professional services entered into by the executive director shall be exempted from the requirements of Section 25-9-120(3) relating to submission of such contract to the State Personal Service Contract Review Board.

(g) He shall suggest and cause to be brought about cooperation between the several state agencies, departments and institutions in order that work may be done by one agency for

another agency, and equipment in one agency may be made available to another agency, and suggest and cause to be brought about such improvements as may be necessary in joint or cooperative information technology operations.

(h) He shall be designated as the "Chief Information Confidentiality Officer" after being duly sworn to the oath of this office by the chairman of the authority and shall be responsible for administering the oath to other qualified officers he may designate.

(i) He shall appoint employees of the Mississippi Department of Information Technology Services, or at his discretion, employees of other state agencies and institutions that are responsible for handling or processing data for any agency or institution other than that for which they are employed, to a position of information custodial care that shall be known as "Information Confidentiality Officer." The selection and swearing of all officers shall be reported to the authority at the next regular meeting and names, affirmation dates and employment dates shall be recorded in the permanent minutes of the authority.

SECTION 128. Section 25-53-25, Mississippi Code of 1972, is brought forward as follows:

25-53-25. (1) Except as otherwise provided in Section 25-53-5, 25-53-25(5) or any other provision of law, nothing in this chapter shall be construed to imply exemption from the public purchases law, being Section 31-7-1 et seq.

(2) The authority may establish policies and procedures for the purpose of delegating the acquisition and contracting responsibilities related to the procurement of information technology to the purchasing agency. Such policies and procedures must address the following issues:

(a) Establish categories of equipment or services affected;

(b) Establish maximum unit and/or ceiling prices of such procurements;

(c) Establish reporting, monitoring and control of such procurements; and

(d) Establish other such rules and regulations as necessary to fully implement the purposes of this section. Nothing in this subsection shall be construed to imply exemption from the public purchases law, being Section 31-7-1 et seq.

(3) Acquisitions of information technology by institutions of higher learning or junior colleges wholly with federal funds and not with state general funds shall be exempt from the provisions of this chapter; however, nothing in this subsection shall be construed to imply an exemption of such acquisitions from the public purchases law, being Section 31-7-1 et seq.

(4) [Repealed]

(5) Acquisitions of information technology made by agencies while exempt from the public purchasing requirements of this chapter and/or as specified in the authority's regulations shall

remain exempt until a new acquisition is required, as determined by ITS.

SECTION 129. Section 25-53-29, Mississippi Code of 1972, is brought forward as follows:

25-53-29. (1) For the purposes of this section the term "bureau" shall mean the "Mississippi Department of Information Technology Services." The authority shall have the following powers and responsibilities to carry out the establishment of policy and provide for long-range planning and consulting:

(a) Provide a high level of technical expertise for agencies, institutions, political subdivisions and other governmental entities as follows: planning; consulting; project management; systems and performance review; system definition; design; application programming; training; development and documentation; implementation; maintenance; and other tasks as may be required, within the resources available to the bureau.

(b) Publish written planning guides, policies and procedures for use by agencies and institutions in planning future information technology. The bureau may require agencies and institutions to submit data, including periodic electronic equipment inventory listings, information on agency staffing, systems under study, planned applications for the future, and other information needed for the purposes of preparing the state master plan. The bureau may require agencies and institutions to

submit any additional data required for purposes of preparing the state master plan.

(c) Inspect agency facilities and equipment, interview agency employees and review records at any time deemed necessary by the bureau for the purpose of identifying cost-effective applications of electronic information technology. Upon conclusion of any inspection, the bureau shall issue a management letter containing cost estimates and recommendations to the agency head and governing board concerning applications identified that would result in staff reductions, other monetary savings and improved delivery of public services.

(d) Conduct classroom and on-site training for end users for applications and systems developed by the bureau.

(e) Provide consulting services to agencies and institutions or Mississippi governmental subdivisions requesting technical assistance in information technology. The bureau may submit proposals and enter into contracts to provide services to agencies and institutions or governmental subdivisions for such purposes.

(2) The bureau shall annually issue a three-year master plan in writing to the Governor, available on request to any member of the Legislature, including recommended statewide strategies and goals for the effective and efficient use of information technology in state government. The report shall also include

recommended information policy actions and other recommendations for consideration by the Governor and members of the Legislature.

(3) The bureau shall make an annual report in writing to the Governor, available on request to any member of the Legislature, to include a full and detailed account of the work of the authority for the preceding year. The report shall contain recommendations to agencies and institutions resulting from inspections or consulting contracts. The report shall also contain a summary of the master plan, progress made, and legislative and policy recommendations for consideration by the Governor and members of the Legislature.

(4) The bureau may charge fees to agencies and institutions for services rendered to them. The bureau may charge fees to vendors to recover the cost of providing procurement services and the delivery of procurement awards to public bodies. The amounts of such fees shall be set by the authority upon recommendation of the Executive Director of the ITS, and all such fees collected shall be paid into the fund established for carrying out the purposes of this section.

(5) The bureau may, from time to time, at the discretion of the Executive Director of ITS, contract with firms or qualified individuals to be used to augment the bureau's professional staff in order to assure timely completion and implementation of assigned tasks, provided that funds are available in the fund established for carrying out the purposes of this section. Such

individuals may be employees of any agency, bureau or institution provided that these individuals or firms meet the requirements of other individuals or firms doing business with the state through the ITS. Individuals who are employees of an agency or institution may contract with the ITS only with the concurrence of the agency or institution for whom they are employed.

From and after July 1, 2018, the expenses of this agency shall be defrayed by appropriation from the State General Fund. In addition, in order to receive the maximum use and benefit from information technology, expenses for the provision of statewide shared services that facilitate cost-effective information processing and telecommunication solutions shall be defrayed by pass-through funding and shall be deposited into the Mississippi Department of Information Technology Services Revolving Fund unless otherwise specified by the Legislature. These funds shall only be utilized to pay the actual costs incurred by the ITS for providing these shared services to state agencies. Furthermore, state agencies shall work in full cooperation with the ITS to identify information technology to minimize duplication, reduce costs, and improve the efficiency of providing common technology services across agency boundaries.

SECTION 130. Section 25-53-101, Mississippi Code of 1972, is brought forward as follows:

25-53-101. (1) The Legislature finds that:

(a) The State of Mississippi needs to support stakeholders as they gather information and decide the best means to utilize and oversee artificial intelligence (AI) tools and systems used by the State of Mississippi's governing bodies;

(b) The Legislature acknowledges that artificial intelligence cannot replace human creativity and involvement and so promotes responsibly using AI tools and systems while aligning and adhering to the state's long term policies, goals, values and missions while maintaining citizen trust and balancing the benefits, risks and potential dangers of artificial intelligence; and

(c) As the use of artificial intelligence has implications for state, national and personal security and privacy, the use of artificial intelligence must be conducted in a responsible, ethical, transparent and beneficial manner.

(2) There is hereby established the Artificial Intelligence Regulation (Air) Task Force.

(3) (a) The task force shall consist of the following seven (7) voting members:

(i) The Lieutenant Governor and Speaker of the House shall each appoint one (1) respective member of the Mississippi Senate and the Mississippi House of Representatives to serve as co-chairs of the task force;

(ii) The Executive Director of the Mississippi Department of Information Technology Services, or his or her designee;

(iii) The Director of the Mississippi Artificial Intelligence Network (MAIN), or his or her designee;

(iv) The Executive Director of the Mississippi Office of Homeland Security, or his or her designee;

(v) The Adjutant General of the Mississippi National Guard, or his or her designee; and

(vi) The Attorney General of Mississippi, or his or her designee.

(b) The Chairpersons of the Artificial Intelligence Regulation (AIR) Task Force, with the advice and consent of the remaining official executive agency committee members specified in paragraph (a), or their respective designees, may appoint ex-officio nonvoting members to the task force to serve in an advisory capacity for such terms to be determined at the discretion of the task force. The voting members of the task force, upon a majority of its membership, present and voting, and spread upon its minutes, may reduce or expand the number of ex-officio members who may serve, provided that such members are deemed necessary to provide expertise or access to resources involving AI technology and are representative of:

(i) Workforce development, who possesses expert knowledge of and experience with AI technology;

(ii) Elementary and secondary education, public or private, who possesses expert knowledge of and experience with AI technology;

(iii) Four-year postsecondary education, public or private, who possesses expert knowledge of and experience with AI technology;

(iv) Two-year postsecondary education, public or proprietary, who possesses expert knowledge of and experience with AI technology;

(v) Healthcare, who possesses expert knowledge of and experience with AI technology;

(vi) Private business entity, who possesses expert knowledge of and experience with AI technology, including, but not limited to:

1. Data storage and management;

2. Cloud computing infrastructure;

3. Computer power provided by graphic processing units, tensor processing units and quantum computing;

4. Data processing and preparation through data cleaning, data integration and ETL (extract, transform and load) process;

5. AI algorithms and frameworks;

6. AI software and applications;

7. Data security and privacy;

8. AI governance and ethical frameworks;

9. Integration with business processes;

10. Training and talent development; and

(vii) Automation and manufacturing;

(viii) Ethics and transparency;

(ix) Agriculture; and

(x) Entertainment.

(4) The Legislative members named by the Lieutenant Governor and Speaker of the House of Representatives shall serve as co-chairs of the AIR Task Force. The task force must meet within fifteen (15) days of the effective date of this act upon the call of the co-chairs, and at its first meeting shall elect any officers from among its members as it deems necessary for the efficient discharge of the task force's duties.

(5) The task force shall adopt rules and regulations governing times and places for meetings and governing the manner of conducting its business. A majority of the members shall constitute a quorum for the purpose of conducting any business of the task force, and a majority vote of all members present shall be required for any recommendations to the Legislature.

(6) The task force shall be responsible for balancing innovation and public interest while endeavoring to mitigate risks and unintended consequences of AI and its regulation. The task force shall:

(a) Facilitate and evaluate through comprehensive review, develop tentative drafts of any necessary proposed

revisions to the Mississippi Code involving the regulation of AI technologies, which may or may not include the following:

(i) Fostering innovation by providing an environment for businesses and organizations to develop and test AI systems under relaxed regulatory constraints;

(ii) Regulatory oversight of the designing, testing and refinement of regulations to ensure responsible AI deployment;

(iii) Collaborating with stakeholders to bridge communication and idea exchanges between developers, policymakers and the public to align AI innovation with ethical and societal goals; and

(iv) Any other areas as deemed necessary by the task force.

(b) Review laws, policies and procedures concerning the use of AI technology established by the United States Congress and other state legislatures, if any, and compile a list of recommendations to include in the report required by this act. The review shall focus on, but not be limited to focusing on:

(i) Privacy and data protection;

(ii) Development for a framework for AI testing;

(iii) Compliance with ethical standards which enforce adherence to fairness, accountability, transparency, disclosures and promoting equitable outcomes;

(iv) Assessment of risk and benefits which measures the societal and economic impact of AI innovations;

(v) Liability;

(vi) Constituent and consumer impact;

(vii) Bias and social impact; and

(viii) Copyright and provenance.

(c) Consider implementation and use of artificial intelligence in state government agencies and compile a list of recommendations of best practices and potential uses for AI technologies in government to include in the report required by this act;

(d) Consider ways to allocate funding for development and use of artificial intelligence technologies in the state and draft proposals accordingly to include in the report required by this act; and

(e) Any other issues related to artificial intelligence technologies that the task force finds appropriate to address.

(7) Members of the task force shall receive a per diem in the amount provided in Section 25-3-69 for each day engaged in the business of the task force. Members of the task force other than the legislative members shall receive reimbursement for travel expenses incurred while engaged in official business of the task force in accordance with Section 25-3-41, and the legislative members of the task force shall receive the expense allowance provided for in Section 5-1-47.

(8) The Joint Legislative Committee on Performance Evaluation and Expenditure Review shall provide necessary clerical support for the meetings of the task force and the preparation of the report, with assistance from the clerical and legal staff of the Mississippi House of Representatives and the Mississippi Senate.

(9) The task force is authorized to apply for and accept gifts, grants, subsidies and other funds from persons, corporations, foundations, the United States government or other entities, and the receipt of any gifts, grants, subsidies or funds shall be reported and otherwise accounted for in the manner provided by law. If financial subsidies are sufficient, the task force may hire additional contract staff to support its work.

25-53-101. (11) The task force may request the assistance of the Joint Legislative Committee on Performance Evaluation and Expenditure Review, the legal staffs of the Mississippi House of Representatives and the Mississippi Senate, or any other related organization with expertise in domestic relations.

(12) The work of the task force described in this act relates to sensitive matters of security. Notwithstanding any other law, the meetings, work and findings of the commission as described in this act are not subject to the requirements of Chapters 41 or 61 of Title 25, Mississippi Code of 1972.

(13) The task force shall report its findings and recommendations to the Legislature annually not later than December 1 each year, and shall dissolve in December 31, 2027.

SECTION 131. Section 25-53-105, Mississippi Code of 1972, is brought forward as follows:

25-53-105. The Mississippi Department of Information Technology Services shall administer the provisions of Sections 25-53-109 through 25-53-125. The purposes and aims of the Mississippi Department of Information Technology Services in carrying out said provisions shall be to coordinate and promote efficiency in the acquisition, operation and maintenance of all telecommunications systems and networks being used by agencies of the state and further to coordinate the compatibility of systems and networks to the state with those of governing authorities so as to promote a uniform, compatible telecommunications system for agencies and governing authorities.

SECTION 132. Section 25-53-107, Mississippi Code of 1972, is brought forward as follows:

25-53-107. (1) The Mississippi Department of Information Technology Services shall promulgate rules and regulations governing the manner in which the authority and duties prescribed by Sections 25-53-101 through 25-53-125 shall be carried out. It shall employ competent personnel necessary to carry out its purposes, under rules promulgated by the State Personnel Board.

(2) The bureau, during a fiscal year, may utilize time-limited escalated positions in order to implement telecommunications enterprise decisions that yield cost avoidance, cost reductions or revenue increases and so long as the Mississippi Department of Information Technology Services can provide the necessary funds without such action causing a telephone service rate increase to agency customers. Such employees of the bureau shall be considered nonstate service employees, shall be highly qualified telecommunications professionals and may be compensated at a rate comparable to the prevailing rate of telecommunications personnel in the private sector. Such compensation rates shall be determined by the State Personnel Director. The number of such positions shall be set by annual appropriation legislation. The compensation and classification of such positions and qualifications of employees shall be set by the State Personnel Board upon recommendation by the Executive Director of the Mississippi Department of Information Technology Services. Nonstate service positions can be recommended for conversion to permanent state service on a case by case basis if the supported function appears long-term in duration, if accomplished in accordance with State Personnel Board procedures, and if properly identified in the state budgetary process.

SECTION 133. Section 25-53-109, Mississippi Code of 1972, is brought forward as follows:

25-53-109. The bureau is hereby authorized and empowered to exercise such duties and powers necessary to effectuate the purposes of Sections 25-53-101 through 25-53-125 including the following:

(a) Form an advisory council made up of persons with expertise, and experience in the field of telecommunications for the purpose of setting goals, establishing long-range plans and policies and to oversee and assist in the procurement activities regarding telecommunications equipment and services;

(b) Provide more effective management of state telecommunications resources and implement long-range plans and procurement;

(c) Manage, plan and coordinate all telecommunications systems under the jurisdiction of the state. This centralized management function would be provided throughout the following activities:

(i) Administration of existing systems including coordination of activities, vendors, service orders and billing/record-keeping functions;

(ii) Planning of new systems or services;

(iii) Design of replacement systems;

(iv) Project management during specification writing, bid letting, proposal evaluation and contract negotiations;

(v) Implementation supervision of new systems and ongoing support;

(vi) Implementation of long-term state plans; and

(vii) Management of intra-LATA and inter-LATA networks.

SECTION 134. Section 25-53-111, Mississippi Code of 1972, is brought forward as follows:

25-53-111. The bureau shall have the following additional duties:

(a) To establish and coordinate through either state ownership or commercial leasing, all telecommunications systems and services affecting the management and operations of the state.

(b) To act as the sole centralized customer for the acquisition, billing and record keeping of all telecommunications systems or services provided to state agencies whether obtained through lease or purchase.

(c) To charge respective user agencies for their proportionate cost of the installation, maintenance and operation of the telecommunications systems and services, including the operation of the bureau.

(d) To offer or provide transmission, switch and network services on a reimbursable basis to agencies financed entirely by federal funds, to governing authorities and to other governmental agencies.

(e) To approve or provide state telephone services on a reimbursable basis to full-time students at state institutions of higher learning and junior colleges, including where such services are provided by the state or the institution.

(f) To develop coordinated telecommunications systems or services within and among all state agencies and require, where appropriate, cooperative utilization of telecommunications equipment and services by aggregating users. Where such cooperative utilization of telecommunications system or service would affect an agency authorized to receive information from the National Crime Information Center of the Federal Bureau of Investigation, such plans for cooperative utilization shall first be approved by the National Crime Information Center before implementation of such telecommunications systems or service can proceed.

(g) To review, coordinate, approve or disapprove all requests by state agencies for the procurement, through purchase or contract for lease of telecommunications systems or services including telecommunication proposals, studies and consultation contracts and intra-LATA and inter-LATA transmission channels.

(h) To establish and define telecommunications systems and services specifications and designs so as to assure compatibility of telecommunications systems and services within state government and governing authorities.

(i) To provide a continuous, comprehensive analysis and inventory of telecommunications costs, facilities and systems within state government.

(j) To promote, coordinate or assist in the design and engineering of emergency telecommunications systems, including but not limited to "911" service, emergency medical services and other emergency telecommunications services.

(k) To advise and provide consultation to agencies and governing authorities with respect to telecommunications management planning and related matters and to provide training to users within state government in telecommunications technology and system use.

(l) To develop policies, procedures and long-range plans, consistent with the protection of citizens' rights to privacy and access to information, for the acquisition and use of telecommunications systems, and to base such policies on current information about state telecommunications activities in relation to the full range of emerging technologies.

Any state agency requesting an increase in expenditure of funds for new telecommunications equipment systems or services shall submit to the Legislative Budget Office with its budget request preceding the fiscal year for which funding is requested detailed justification for such request. The justification shall be provided on forms developed by the bureau in accordance with the Administrative Procedure Act. In addition, all state agencies

shall submit to the bureau, when requested, a long-range plan for use of telecommunications equipment, systems and services.

SECTION 135. Section 25-53-113, Mississippi Code of 1972, is brought forward as follows:

25-53-113. Each and every agency of the state shall give full cooperation to the bureau in furnishing all information of any kind as it pertains to telecommunications.

SECTION 136. Section 25-53-115, Mississippi Code of 1972, is brought forward as follows:

25-53-115. No agency shall rent, lease, lease/purchase, purchase or in any way own or pay for the operation of any telecommunications system out of any funds available for the use by that agency without the written approval of the bureau.

SECTION 137. Section 25-53-117, Mississippi Code of 1972, is brought forward as follows:

25-53-117. No agency shall be permitted to obligate the state to any vendor source for a telecommunications system of any kind. All transactions dealing with a telecommunications system shall be conducted through the bureau, and any vendor found in violation of this policy may be prohibited from bidding on such systems for a period of time commensurate with the severity of the violation. Provided, however, that this period shall not exceed twenty-four (24) months.

SECTION 138. Section 25-53-119, Mississippi Code of 1972, is brought forward as follows:

25-53-119. The bureau shall, subject to the provisions of Sections 25-53-101 through 25-53-125, have sole authority and responsibility for defining the specific telecommunications equipment, systems and related services to which the provisions of Sections 25-53-101 through 25-53-125 shall be applicable. However, the provisions of Sections 25-53-101 through 25-53-125 shall not be applicable with respect to computer and telecommunications equipment, systems and related services that are only available from a sole source.

SECTION 139. Section 25-53-121, Mississippi Code of 1972, is brought forward as follows:

25-53-121. (1) The types of contracts permitted in the procurement of telecommunications equipment, systems and related services are defined herein, and the provisions in Sections 25-53-101 through 25-53-125 and 25-53-5 supplement the provisions of Chapter 7, Title 31, Mississippi Code of 1972.

(2) The Mississippi Department of Information Technology Services may, on behalf of any state agency, enter into an equipment support contract with a vendor of telecommunications equipment or services for the purchase or lease of such equipment or services in accordance with the following provisions:

(a) Specifications for equipment support contracts shall be developed in advance and shall conform to the following requirements:

(i) Specifications for equipment support contracts shall cover a specific class or classes of equipment and service and may include all features associated with that class or classes.

(ii) Specifications in the bid for equipment support contracts shall be developed by the Mississippi Department of Information Technology Services.

(iii) Specifications shall be based on the projected needs of user agencies.

(iv) Specifications for equipment support contracts for purchase or lease of telecommunications equipment may include specifications for the maintenance of the equipment desired.

(b) The initial procurement of an equipment support contract, and procurement of equipment and services to be utilized by agencies under an equipment support contract, shall be as follows:

(i) Equipment support contracts shall be awarded in accordance with Section 25-53-5.

(ii) A using agency may procure required telecommunications equipment and service available under an equipment support contract through release of a purchase order for the required equipment and service to the vendor holding an equipment support contract. However, such procurement by purchase order shall be accomplished in accordance with the procedures and

regulations prescribed by the Mississippi Department of Information Technology Services, and shall be subject to all other statutory requirements including approval by the bureau.

(c) The final authority for entering into equipment support contracts shall rest with the bureau, and such contracts shall be executed by the Mississippi Department of Information Technology Services in accordance with the procedures and regulations defined by said authority.

(d) Equipment support contracts shall include the following annual appropriation dependency clause:

"The continuation of this contract is contingent upon the appropriation of funds to fulfill the requirements of the contract by the Legislature. If the Legislature fails to appropriate sufficient monies to provide for the continuance of the contract, the contract shall terminate on the date of the beginning of the first fiscal year for which funds are not appropriated."

(3) The Mississippi Department of Information Technology Services may on behalf of any state agency enter into contracts for the lease or purchase of telecommunications equipment systems or services in accordance with the following provisions:

(a) The bureau may directly contract for or approve contracts for regulated or tariffed telecommunications services upon determination by the bureau that the application of such service is in the best interests of the State of Mississippi.

(b) All other contracts of this type shall be entered into through a bid as defined in Section 25-53-3.

(c) The justification of such contracts must be presented to the bureau. Such justification shall identify and consider all cost factors relevant to that contract.

(d) [Deleted]

(e) All lease contracts must contain the following annual appropriation dependency clause:

"The continuation of this contract is contingent upon the appropriation of funds to fulfill the requirements of the contract by the Legislature. If the Legislature fails to appropriate sufficient monies to provide for the continuation of a contract, the contract shall terminate on the date of the beginning of the first fiscal year for which funds are not appropriated."

(f) The Mississippi Department of Information Technology Services shall maintain a list of all such contracts. This list shall show as a minimum the name of the vendor, the annual cost of each contract and the term of the contract or the purchase cost.

SECTION 140. Section 25-53-123, Mississippi Code of 1972, is brought forward as follows:

25-53-123. (1) The only method of procurement permitted for the acquisition of nonregulated telecommunications systems, including equipment and related services, shall be in conformity with Section 25-53-5.

SECTION 141. Section 25-53-125, Mississippi Code of 1972, is brought forward as follows:

25-53-125. The following general provisions shall apply to all procurements under Sections 25-53-101 through 25-53-125:

(a) No contracts entered into hereunder shall have an initial effective date earlier than the date on which such contract receives approval as required herein.

(b) All changes, modifications and amendments to any contract hereunder shall be approved in advance by the bureau, in addition to any other approvals required by law.

(c) The bureau shall promulgate rules and regulations in accordance with the Administrative Procedures Law, Section 25-43-1.101 et seq., Mississippi Code of 1972, for the establishment of contract format.

(d) Where written proposals or bids are submitted by vendors, the proposal or bid of the successful vendor shall be incorporated into the final contract consummated with that vendor.

(e) The provisions of Sections 25-53-101 through 25-53-125 shall, with respect to the procurement of telecommunications equipment, systems or related services, supersede specifications of any contradictory or conflicting provisions of Chapter 7, Title 31, Mississippi Code of 1972, and other laws with respect to awarding public contracts.

SECTION 142. Section 25-53-151, Mississippi Code of 1972, is brought forward as follows:

25-53-151. (1) There is established in the State Treasury the "Electronic Government Services Fund," into which shall be deposited specific funds appropriated by the Legislature for developing and providing electronic government services within the State of Mississippi. Any funds in the Electronic Government Services Fund at the end of a fiscal year shall not lapse into the State General Fund, but shall be available for expenditure in the subsequent fiscal year. The funds in the Electronic Government Fund shall be available for expenditure pursuant to specific appropriation by the Legislature beginning in fiscal year 2002, to the Mississippi Department of Information Technology Services.

(2) There is hereby established an Electronic Government Oversight Committee to oversee the implementation of E-Government and related technology initiatives. Duties of this committee would include: (a) prioritize and make recommendations for all electronic government services, in order to cut across state and local governmental organizational structures; (b) address policy issues such as privacy, security, transaction fees and accessibility; (c) review ongoing fiscal and operational management and support of portal; (d) provide a mechanism for gathering input from citizens, businesses and government entities; (e) encourage self-service models for citizens through state websites and other electronic services; and (f) promote economic development and efficient delivery of government services by encouraging governmental and private sector entities to conduct

their business and transactions using electronic media. The Electronic Government Oversight Committee shall be composed of the following: (a) the Executive Director of the Mississippi Department of Information Technology Services, or his designee; (b) the State Auditor, or his designee; (c) the State Treasurer, or his designee; (d) the Secretary of State, or his designee; (e) the Executive Director of the Department of Finance and Administration, or his designee; (f) the Commissioner of Public Safety, or his designee; (g) the Commissioner of Revenue, or his designee; (h) the Executive Director of the Mississippi Department of Wildlife, Fisheries and Parks or his designee; (i) the Executive Director of the Department of Archives and History or his/her designee. The committee shall annually elect one (1) member to serve as chairman and one (1) member to serve as vice chairman, who shall act as chairman in the absence of the chairman. The committee shall meet monthly or upon the call of the chairman, and shall make necessary reports and recommendations to the Legislature and the appropriate agencies of state government. All agencies of state government shall cooperate with the committee in providing requested information, shall work closely with and provide information to the committee and shall report to the committee at its request. The Mississippi Department of Information Technology Services shall provide administrative support for the committee. Nonlegislative members of the committee shall serve without compensation.

(3) The Electronic Government Oversight Committee shall advise and provide direction to the Department of Finance and Administration to develop a procurement portal that will enable potential vendors of goods and services to access relevant and necessary information related to the sale of the following types of goods and services to the State of Mississippi and its agencies:

(a) Commodities, as defined by Section 31-7-1;

(b) Contract personnel, as defined by Sections 25-9-107 and 25-9-120; and

(c) Computer equipment and services, as defined by Section 25-53-3.

(4) The procurement portal provided for in subsection (3) must provide potential vendors with the following:

(a) A searchable database of business procurement opportunities with the state which includes a breakdown by product or service and by the organization seeking the product or service;

(b) Listings of the published date and closing date for each business procurement opportunity;

(c) A "Frequently Asked Questions" section regarding doing business with the respective agencies;

(d) A breakdown of "Frequently Asked Questions" regarding the selection process with the respective agencies;

(e) An open-air forum for questions and answers relating to the procurement process, in general, as well as specifically relating to a single contract; and

(f) Links to individual agency websites and contacts to enable potential vendors to obtain more specific information, if necessary.

(5) The procurement portal must be linked to the Transparency Mississippi website established in accordance with Sections 27-104-151 through 27-104-163. The Mississippi Department of Information Technology Services shall develop and maintain a link to the procurement portal from the state website.

From and after July 1, 2018, the expenses of this agency shall be defrayed by appropriation from the State General Fund. In addition, in order to receive the maximum use and benefit from information technology and services, expenses for the provision of statewide shared services that facilitate cost-effective information processing and telecommunication solutions shall be defrayed by pass-through funding and shall be deposited into the Mississippi Department of Information Technology Services Revolving Fund unless otherwise specified by the Legislature. These funds shall only be utilized to pay the actual costs incurred by the Mississippi Department of Information Technology Services for providing these shared services to state agencies. Furthermore, state agencies shall work in full cooperation with the Board of the Mississippi Department of Information Technology

Services (MDITS) to identify computer equipment or services to minimize duplication, reduce costs, and improve the efficiency of providing common technology services across agency boundaries.

SECTION 143. Section 25-53-191, Mississippi Code of 1972, is brought forward as follows:

25-53-191. (1) For the purposes of this section, the following terms shall have the meanings ascribed to them in this section unless the context otherwise clearly requires:

(a) "Department" means the Mississippi Department of Information Technology.

(b) "State agency" means any agency, department, commission, board, bureau, institution or other instrumentality of the state.

(c) "Wireless communication device" means a cellular telephone, pager or a personal digital assistant device having wireless communication capability.

(2) Before a wireless communication device may be assigned, issued or made available to an agency officer or employee, the agency head, or his designee, shall sign a statement certifying the need or reason for issuing the device. No officer or employee of any state agency, except for an officer or employee of the Mississippi Emergency Management Agency, shall be assigned or issued more than one (1) such wireless communication device. No officer or employee of any state agency to whom has been assigned, issued or made available the use of a wireless communication

device, the cost of which is paid through the use of public funds, shall use such device for personal use.

(3) A state agency shall not reimburse any officer or employee for use of his or her personal wireless communication device.

(4) Every state agency that, at the expense of the state agency, assigns, issues or makes available to any of its officers or employees a wireless communication device shall obtain and maintain detailed billing for every wireless communication device account. A list of approved vendors for the procurement of wireless communication devices and the delivery of wireless communication device services shall be developed for all state agencies by the Mississippi Department of Information Technology Services. The department shall exercise the option of selecting one (1) vendor from which to procure wireless communication devices and to provide wireless communication device services, or if it deems such to be most advantageous to the state agencies, it may select multiple vendors. The department shall select a vendor or vendors on the basis of lowest and best bid proposals. A state agency may not procure a wireless communication device from any vendor or contract for wireless communication device services with any vendor unless the vendor appears on the list approved by the department. A contract entered into in violation of this section shall be void and unenforceable.

(5) The department shall promulgate a model acceptable use policy defining the appropriate use of all wireless communication devices. The department shall include in its definition of appropriate use a prohibition on the downloading, accessing, or using of a prohibited technology pursuant to the National Security on State Devices and Networks Act. The acceptable use policy should specify that these resources, including both devices and services, are provided at the state agency's expense as tools for accomplishing the business missions of the state agency; that all those resources are for business use; and that more than incidental personal use of those resources is prohibited. The acceptable use policy should require that each official and employee issued one (1) of the above devices or authorized to access one (1) of the above services sign the policy and that the signed copy be placed in the personnel file of the official or employee. The acceptable use policy should also require that the use of these resources be tracked, verified and signed by the official or employee and the supervisor of the official or employee at each billing cycle or other appropriate interval. All state agencies shall adopt the model policy or adopt a policy that is, at minimum, as stringent as the model policy and shall provide a copy of the policy to the department.

(6) All state agencies shall purchase or acquire only the lowest cost cellular telephone, pager or personal digital assistance device which will carry out its intended use.

(7) The University of Mississippi Medical Center and its employees, the Mississippi State University Extension Service and its agents and faculty members, the Mississippi State University Agricultural and Forestry Experiment Station and its faculty members, the Mississippi State University Forestry and Wildlife Research Center and its faculty members, and the Mississippi State University College of Veterinary Medicine and its faculty members shall be exempt from the application of this section.

(8) Employees of State Institutions of Higher Learning shall be exempt from the provisions of this section when incurring international usage charges for the business-related use of their personal wireless communication devices during business-related international travel. Such exemption shall only apply after a determination by the employer-institution that reimbursement to the employee for the use of his or her personal wireless communication device is the lowest-cost option to prevent business interruption during such travel.

(9) The State Auditor shall conduct necessary audits to ensure compliance with the provisions of this section.

SECTION 144. Section 25-53-201, Mississippi Code of 1972, is brought forward as follows:

25-53-201. (1) There is hereby established the Enterprise Security Program which shall provide for the coordinated oversight of the cybersecurity efforts across all state agencies, including

cybersecurity systems, services and the development of policies, standards and guidelines.

(2) The Mississippi Department of Information Technology Services (MDITS), in conjunction with all state agencies, shall provide centralized management and coordination of state policies for the security of data and information technology resources, which such information shall be compiled by MDITS and distributed to each participating state agency. MDITS shall:

(a) Serve as sole authority, within the constraints of this statute, for defining the specific enterprise cybersecurity systems and services to which this statute is applicable;

(b) Acquire and operate enterprise technology solutions to provide services to state agencies when it is determined that such operation will improve the cybersecurity posture in the function of any agency, institution or function of state government as a whole;

(c) Provide oversight of enterprise security policies for state data and information technology (IT) resources including, the following:

(i) Establishing and maintaining the security standards and policies for all state data and IT resources state agencies shall implement to the extent that they apply; and

(ii) Including the defined enterprise security requirements as minimum requirements in the specifications for

solicitation of state contracts for procuring data and information technology systems and services;

(d) Adhere to all policies, standards and guidelines in the management of technology infrastructure supporting the state data centers, telecommunications networks and backup facilities;

(e) Coordinate and promote efficiency and security with all applicable laws and regulations in the acquisition, operation and maintenance of state data, cybersecurity systems and services used by agencies of the state;

(f) Manage, plan and coordinate all enterprise cybersecurity systems under the jurisdiction of the state;

(g) Develop, in conjunction with agencies of the state, coordinated enterprise cybersecurity systems and services for all state agencies;

(h) Provide ongoing analysis of enterprise cybersecurity systems and services costs, facilities and systems within state government;

(i) Develop policies, procedures and long-range plans for the use of enterprise cybersecurity systems and services;

(j) Form an advisory council of information security officers from each state agency to plan, develop and implement cybersecurity initiatives;

(k) Coordinate the activities of the advisory council to provide education and awareness, identify cybersecurity-related issues, set future direction for cybersecurity plans and policy,

and provide a forum for interagency communications regarding cybersecurity;

(l) Charge respective user agencies on a reimbursement basis for their proportionate cost of the installation, maintenance and operation of the cybersecurity systems and services; and

(m) Require cooperative utilization of cybersecurity systems and services by aggregating users.

(3) Each state agency's executive director or agency head shall:

(a) Be solely responsible for the security of all data and IT resources under its purview, irrespective of the location of the data or resources. Locations include data residing:

(i) At agency sites;

(ii) On agency real property and tangible and intangible assets;

(iii) On infrastructure in the State Data Centers;

(iv) At a third-party location;

(v) In transit between locations;

(b) Ensure that an agency-wide security program is in place;

(c) Designate an information security officer to administer the agency's security program;

(d) Ensure the agency adheres to the requirements established by the Enterprise Security Program, to the extent that they apply;

(e) Participate in all Enterprise Security Program initiatives and services in lieu of deploying duplicate services specific to the agency;

(f) Develop, implement and maintain written agency policies and procedures to ensure the security of data and IT resources. The agency policies and procedures are confidential information and exempt from public inspection, except that the information must be available to the Office of the State Auditor in performing auditing duties;

(g) Implement policies and standards to ensure that all of the agency's data and IT resources are maintained in compliance with state and federal laws and regulations, to the extent that they apply;

(h) Implement appropriate cost-effective safeguards to reduce, eliminate or recover from identified threats to data and IT resources;

(i) Ensure that internal assessments of the security program are conducted. The results of the internal assessments are confidential and exempt from public inspection, except that the information must be available to the Office of the State Auditor in performing auditing duties;

(j) Include all appropriate cybersecurity requirements in the specifications for the agency's solicitation of state contracts for procuring data and information technology systems and services;

(k) Include a general description of the security program and future plans for ensuring security of data in the agency long-range information technology plan;

(l) Participate in annual information security training designed specifically for the executive director or agency head to ensure that such individual has an understanding of:

(i) The information and information systems that support the operations and assets of the agency;

(ii) The potential impact of common types of cyber-attacks and data breaches on the agency's operations and assets;

(iii) How cyber-attacks and data breaches on the agency's operations and assets could impact the operations and assets of other state agencies on the Enterprise State Network;

(iv) How cyber-attacks and data breaches occur;

(v) Steps to be undertaken by the executive director or agency head and agency employees to protect their information and information systems; and

(vi) The annual reporting requirements required of the executive director or agency head.

(4) The Mississippi Department of Information Technology Services shall evaluate the Enterprise Security Program. Such evaluation shall include the following factors:

(a) Whether the Enterprise Security Program incorporates nationwide best practices;

(b) Whether opportunities exist to centralize and coordinate oversight of cybersecurity efforts across all state agencies;

(c) A review of the minimum enterprise security requirements that must be incorporated in solicitations for state contracts for procuring data and information technology systems and services; and

(d) Whether opportunities exist to expand the Enterprise Security Program, including providing oversight of cybersecurity efforts of those governing authorities as defined in Section 25-53-3(e).

In performing such evaluation, the Mississippi Department of Information Technology Services may retain experts. This evaluation shall be completed by November 1, 2023. All records in connection with this evaluation shall be exempt from the Mississippi Public Records Act of 1983, pursuant to Section 25-61-11.2(f) and (k).

(5) For the purpose of this subsection, the following words shall have the meanings ascribed herein, unless the context clearly indicates otherwise:

(a) "Cyberattack" shall mean any attempt to gain illegal access, including any data breach, to a computer, computer system or computer network for purposes of causing damage, disruption or harm.

(b) "Ransomware" shall mean a computer contaminant or lock placed or introduced without authorization into a computer, computer system or computer network that restricts access by an authorized person to the computer, computer system, computer network or any data therein under circumstances in which the person responsible for the placement or introduction of the ransomware demands payment of money or other consideration to remove the computer contaminant, restore access to the computer, computer system, computer network or data, or otherwise remediate the impact of the computer contaminant or lock.

(c) From and after July 1, 2023, all state agencies shall notify the Mississippi Department of Information Technology Services of any cyberattack or demand for payment as a result of ransomware no later than the close of the next business day following the discovery of such cyberattack or demand. The Mississippi Department of Information Technology Services shall develop a reporting format to be utilized by state agencies to provide such notification. The Mississippi Department of Information Technology Services shall periodically analyze all such reports and attempt to identify any patterns or weaknesses in the state's cybersecurity efforts. Such reports shall be exempt

from the Mississippi Public Records Act of 1983, pursuant to Section 25-61-11.2(j).

SECTION 145. Section 25-53-257, Mississippi Code of 1972, is brought forward as follows:

25-53-257. (1) The Cloud Center of Excellence (CCOE) shall establish a two-year phased implementation plan, which shall accomplish the following benchmarks by July 1, 2027:

(a) Conduct statewide readiness assessments and develop detailed cloud migration plans for pilot agencies;

(b) Initiate pilot migrations for selected state agencies, establish key performance indicators (KPIs) and refine processes based on feedback;

(c) Expand cloud adoption to additional state agencies, focusing on optimizing resource utilization and ensuring adherence to best practices;

(d) Integrate governing authorities into the cloud ecosystem and provide support for local governments, postsecondary educational institutions and school districts; and

(e) Achieve full statewide adoption of cloud services, with ongoing monitoring, training, and optimization provided by the CCOE for all state agencies and governing authorities.

(2) During the implementation described in subsection (1), each state agency and governing authority integrated into the CCOE at that time shall consider:

(a) Cloud computing service options, including any security benefits and cost savings associated with purchasing those service options from a cloud computing service provider and from a statewide technology center established by the department, when making purchases; and

(b) Cloud computing service options and compatibility with cloud computing services in the development of new information technology software applications.

(3) (a) Except as provided by paragraph (b) of this subsection, a state agency or governing authority shall ensure, when making purchases for an automated information system, that the system is capable of being deployed and run on cloud computing services.

(b) When making a purchase for an automated information system, a state agency or governing authority may determine that, due to integration limitations with legacy systems, security risks or costs, the state agency or governing authority is unable to purchase a system capable of being deployed and run on cloud computing services.

(c) At least fourteen (14) days before the date a state agency or governing authority solicits bids, proposals, offers or other applicable expressions of interest for a purchase described by paragraph (b) of this subsection, the state agency or governing authority shall submit a report that describes the purchase and the agency's reasoning for making the purchase of an automated

information system to the Mississippi Department of Information Technology Services (ITS).

(4) The department shall provide administrative support and oversight to the CCOE and ensure compliance with Sections 25-53-251 through 25-53-263.

(5) The department is authorized to:

(a) Enter into agreements with cloud service providers to facilitate cost-effective procurement of cloud solutions;

(b) Develop and enforce statewide cloud security and compliance standards;

(c) Establish funding mechanisms, including interagency agreements, to support the operations of the CCOE; and

(d) Promulgate rules and regulations necessary to carry out the provisions of Sections 25-53-251 through 25-53-263.

SECTION 146. Section 25-58-21, Mississippi Code of 1972, is brought forward as follows:

25-58-21. (1) There is established the Mississippi Coordinating Council for Remote Sensing and Geographic Information Systems, hereinafter referred to as the "council." The council shall set and assure enforcement of policies and standards to make it easier for remote sensing and geographic information system users around the state to share information and to facilitate cost-sharing arrangements to reduce the costs of acquiring remote sensing and geographic information system data. The council shall not oversee or regulate the activities of higher education

entities where it relates to the fields of teaching or research; however, the council shall be informed of these activities for the purpose of coordinating these higher education activities with other public remote sensing and GIS initiatives to achieve the maximum benefit for the State of Mississippi and its taxpayers. The council's responsibilities include, but are not limited to:

(a) Coordination of remote sensing and geographic information system activities within Mississippi;

(b) Establishing policies and standards to guide Mississippi Department of Information Technology Services (MDITS) in the review and approval of state and local government procurement of both hardware and software development relating to remote sensing and geographic information systems;

(c) Oversight of MDITS' implementation of these responsibilities;

(d) Preparing a plan, with proposed state funding priorities, for Mississippi's remote sensing and geographic information system activities, including development, operation and maintenance of the Mississippi Digital Earth Model;

(e) Oversight of the Mississippi Department of Environmental Quality's development and maintenance of the Mississippi Digital Earth Model, including establishing policies and standards for the procurement of remote sensing and geographic information system data by state and local governmental entities

and establishing the order in which the seven (7) core data layers shall be developed;

(f) Designating Mississippi's official representative to the National States Geographic Information Council and to any other national or regional remote sensing or geographical information system organizations on which Mississippi has an official seat;

(g) Establishing and designating the members of an advisory committee made up of policy level officials from major state, local, regional and federal agencies, including, but not limited to, the National Association of Space Administration, the Mississippi Institute for Forestry Inventory, the Mississippi Department of Wildlife, Fisheries and Parks, the Mississippi Public Utilities Staff, the Department of Marine Resources, the county E911 coordinator, the State Health Officer, the Commissioner of Agriculture and Commerce, the State Tax Commission, the Council of Consulting Engineers and the Mississippi Band of Choctaw Indians, as well as members of the private sector;

(h) Creating a staff level technical users committee, in which any public or private sector entity in Mississippi interested in remote sensing and geographic information may be allowed to participate;

(i) Coordinating with the State Tax Commission to assure that state and local governmental entities do not have to

comply with two (2) sets of requirements imposed by different organizations.

(2) The Mississippi Coordinating Council for Remote Sensing and Geographic Information Systems will be composed of the following members:

(a) The Executive Director of the Mississippi Department of Environmental Quality;

(b) The Executive Director of the Mississippi Department of Information Technology Services;

(c) The Executive Director of the Mississippi Department of Transportation;

(d) The Executive Director of the Mississippi Emergency Management Agency;

(e) The Executive Director of the Mississippi Development Authority;

(f) The Secretary of State;

(g) The Executive Director of the Mississippi Forestry Commission;

(h) The Director of the Mississippi State Board of Registered Professional Geologists;

(i) A representative from the Institutions of Higher Learning, appointed by the Commissioner of the Institutions of Higher Learning;

(j) One (1) mayor, serving a municipality, appointed by the Executive Director of the Mississippi Municipal League;

(k) The Executive Director of the Mississippi Municipal League or his designee who will serve as the member;

(l) One (1) county supervisor appointed by the Executive Director of the Mississippi Association of Supervisors;

(m) The Executive Director of the Mississippi Association of Supervisors or his designee who will serve as the member;

(n) A member of the Tax Assessors/Collectors Association or the executive director of the association, to be appointed by the president of that association;

(o) A representative of the Planning and Development Districts, appointed by the Governor;

(p) A Senator, as a nonvoting member, appointed by the Lieutenant Governor;

(q) A Representative, as a nonvoting member, appointed by the Speaker of the House;

(r) A county surveyor who is a member of the Mississippi Association of Professional Surveyors, appointed by the president of the association; and

The members listed in paragraphs (a) through (g) may appoint a designee, but the designee must be the head of an office, bureau, division or branch within the member's agency.

The members of the council shall serve for a term concurrent with their service as an elected or appointed official or concurrent with the term of the appointing official.

The Executive Director of the Department of Environmental Quality shall serve as council chair and the Executive Director of Information Technology Services as vice chair for the first two (2) years. After the first two (2) years, the council shall elect from its members a chair and vice chair, for terms to be specified by the council.

With regard to the designee chosen by the Executive Director of the Mississippi Municipal League or the Executive Director of the Mississippi Association of Supervisors, the designee shall become a permanent member of the council for a term concurrent with the term of the appointing executive director.

(3) At the direction of the chairman of the council and contingent upon the availability of sufficient funds, each member may receive reimbursement for reasonable expenses, including travel expenses in accordance with rates established pursuant to Section 25-3-41, incurred in attending meetings of the council. Any member of the council who is also a state employee may not receive per diem compensation for attending meetings of the study committee, but may be reimbursed in accordance with Section 25-3-41 for mileage and actual expenses incurred in the performance of the duties, if authorized by vote, at a meeting of the council, which action must be recorded in the official minutes of the meeting. Legislative members of the council will be paid from the contingent expense funds of their respective houses in

the same amounts as provided for committee meetings when the Legislature is not in session.

(4) The council may accept money from any source, public or private, to be expended in implementing the duties under this section.

(5) The council may utilize staff employed by the agencies affected by this section and any other assistance made available to it.

SECTION 147. Section 25-61-5, Mississippi Code of 1972, is brought forward as follows:

25-61-5. (1) (a) Except as otherwise provided by Sections 25-61-9, 25-61-11, 25-61-11.2 and 37-153-7, all public records are hereby declared to be public property, and any person shall have the right to inspect, copy or mechanically reproduce or obtain a reproduction of any public record of a public body in accordance with reasonable written procedures adopted by the public body concerning the cost, time, place and method of access, and public notice of the procedures shall be given by the public body, or, if a public body has not adopted written procedures, the right to inspect, copy or mechanically reproduce or obtain a reproduction of a public record of the public body shall be provided within one (1) working day after a written request for a public record is made. No public body shall adopt procedures which will authorize the public body to produce or deny production of a public record

later than seven (7) working days from the date of the receipt of the request for the production of the record.

(b) If a public body is unable to produce a public record by the seventh working day after the request is made, the public body must provide a written explanation to the person making the request stating that the record requested will be produced and specifying with particularity why the records cannot be produced within the seven-day period. Unless there is mutual agreement of the parties, in no event shall the date for the public body's production of the requested records be any later than fourteen (14) working days from the receipt by the public body of the original request.

(2) If any public record contains material which is not exempted under this chapter, the public agency shall redact the exempted material and make the nonexempted material available for examination. Such public agency shall be entitled to charge a reasonable fee for the redaction of any exempted material, not to exceed the agency's actual cost.

(3) Denial by a public body of a request for access to or copies of public records under this chapter shall be in writing and shall contain a statement of the specific exemption relied upon by the public body for the denial. Each public body shall maintain a file of all denials of requests for public records. Public bodies shall be required to preserve such denials on file for not less than three (3) years from the date such denials are

made. This file shall be made available for inspection or copying, or both, during regular office hours to any person upon written request.

(4) Where any public body is preparing or conducting a competitive procurement, the time limitations contained in this section shall be tolled until the public body determines it will not issue the procurement, cancels the procurement or issues a notice naming its intended awardee.

(5) This section shall stand repealed on July 1, 2028.

SECTION 148. Section 25-61-9, Mississippi Code of 1972, is brought forward as follows:

25-61-9. (1) (a) Records furnished to public bodies by third parties which contain trade secrets or confidential commercial or financial information shall not be subject to inspection, examination, copying or reproduction under this chapter until notice to third parties has been given, but the records shall be released no later than twenty-one (21) days from the date the third parties are given notice by the public body unless the third parties have filed in chancery court a petition seeking a protective order on or before the expiration of the twenty-one-day time period. Any party seeking the protective order shall give notice to the party requesting the information in accordance with the Mississippi Rules of Civil Procedure.

(b) If a court determines that a person or entity has made duplicative requests for public records that are the subject

of a protective order under paragraph (a) of this subsection, the court shall order the requesting person or entity to reimburse the third party's costs and attorney's fees for seeking additional protective orders for the same or substantially similar requests for public records.

(2) If any public record which is held to be exempt from disclosure pursuant to this chapter contains material which is not exempt pursuant to this chapter, the public body shall separate the exempt material and make the nonexempt material available for examination or copying, or both, as provided for in this chapter.

(3) Trade secrets and confidential commercial and financial information of a proprietary nature developed by a college, university or public hospital under contract with a firm, business, partnership, association, corporation, individual or other like entity shall not be subject to inspection, examination, copying or reproduction under this chapter.

(4) Misappropriation of a trade secret shall be governed by the provisions of the Mississippi Uniform Trade Secrets Act, Sections 75-26-1 through 75-26-19.

(5) A waste minimization plan and any updates developed by generators and facility operators under the Mississippi Comprehensive Multimedia Waste Minimization Act of 1990 shall be retained at the facility and shall not be subject to inspection, examination, copying or reproduction under this chapter.

(6) Data processing software obtained by an agency under a licensing agreement that prohibits its disclosure and which software is a trade secret, as defined in Section 75-26-3, and data processing software produced by a public body which is sensitive must not be subject to inspection, copying or reproduction under this chapter.

As used in this subsection, "sensitive" means only those portions of data processing software, including the specifications and documentation, used to:

(a) Collect, process, store, and retrieve information which is exempt under this chapter.

(b) Control and direct access authorizations and security measures for automated systems.

(c) Collect, process, store, and retrieve information, disclosure of which would require a significant intrusion into the business of the public body.

(7) For all procurement contracts awarded by state agencies, the provisions of the contract which contain the commodities purchased or the personal or professional services provided, the unit prices contained within the procurement contracts, the overall price to be paid, and the term of the contract shall not be deemed to be a trade secret or confidential commercial or financial information under this section, and shall be available for examination, copying or reproduction as provided for in this chapter. Any party seeking a protective order for a procurement

contract awarded by state agencies shall give notice to and provide the reasons for the protective order to the party requesting the information in accordance with the Mississippi Rules of Civil Procedure. The notice and reasons for the protective order must be posted on the Mississippi procurement portal for a minimum of seven (7) days before filing the petition seeking the protective order in chancery court. Any party seeking a protective order in violation of this subsection may be barred by a state agency from submitting bids, proposals or qualifications for procurement for a period not to exceed five (5) years.

SECTION 149. Section 27-103-129, Mississippi Code of 1972, is brought forward as follows:

27-103-129. (1) To enable the Legislative Budget Office to prepare such budget, it shall have full and plenary power and authority to require all general-fund and special-fund agencies and the Mississippi Department of Transportation and the Division of State Aid Road Construction of the Mississippi Department of Transportation to file a budget request with such information and in such form and in such detail as it may deem necessary and advisable, and it shall have the further power and authority to reduce or eliminate any item or items of requested appropriation by any state agency in the Legislative Budget Office's recommended budget to the Legislature. However, where any item of requested appropriation shall be so reduced or eliminated, the head of the

agency involved shall have the right to appear before the appropriate legislative committee to urge a revision of the budget to restore the item reduced or eliminated. The budget requests shall include a definition of the mission of the agency, a description of the duties and responsibilities of the agency, financial data relative to the various programs operated by the agency and performance measures associated with each program of the agency. The performance measures to be contained within the agency budget request shall be developed by cooperative efforts of the Legislative Budget Office, the Department of Finance and Administration and the agency itself and shall be approved jointly by the Legislative Budget Office and the Department of Finance and Administration prior to inclusion within the agency budget request. The budget requests shall also include in an addendum format a five-year strategic plan for the agency which shall include, but not be limited to, the following items of information:

(a) A comprehensive mission statement,

(b) Performance effectiveness objectives for each program of the agency for each of the five (5) years covered by the plan,

(c) A description of significant external factors which may affect the projected levels of performance,

(d) A description of the agency's internal management system utilized to evaluate its performance achievements in relationship to the targeted performance levels,

(e) An evaluation by the agency of the agency's performance achievements in relationship to the targeted performance levels for the two (2) preceding fiscal years for which accounting records have been finalized.

(2) All agencies enumerated in subsection (1) of this section shall include in their budget requests the following information regarding contract workers for the most recently completed fiscal year:

(a) The name of each worker;

(b) The specific type of services provided;

(c) Hourly rate of compensation, or the basis for compensation if a rate other than the hourly rate is used;

(d) Total gross salary or wages paid; and

(e) Whether the worker is a retired member of the Public Employees' Retirement System.

(3) (a) In addition to any other information required by law, each state agency, general-fund agency and special-fund agency, as defined in Section 27-103-103, desiring to purchase any vehicle as defined by this section shall submit as part of its budget request to the Legislative Budget Office and the Department of Finance and Administration a detailed justification for the proposed purchase. The Legislative Budget Office and the

Department of Finance and Administration shall jointly prescribe the forms and formats to be used by agencies making the requests. Such forms shall require, at minimum, the following information:

(i) The kind of vehicle to be purchased;

(ii) The person to whom the vehicle will be assigned and the employment responsibilities of that person which necessitate a state-owned vehicle;

(iii) Whether the vehicle is a work vehicle or passenger vehicle; and

(iv) If the vehicle is assigned to a pool and not an individual, the purposes for which the pool vehicle is assigned and the names of the anticipated users of the pool vehicle.

(b) The Legislative Budget Office and the Department of Finance and Administration shall offer a recommendation to the Joint Legislative Budget Committee on all agency requests for vehicles. In making the recommendation, the Legislative Budget Office and the Department of Finance and Administration may consider break-even analyses for the kind of vehicle requested, the travel patterns of the person for whom the vehicle shall be acquired, and shall determine if there exists surplus vehicles in the possession of other agencies that could be used as a substitute for a new vehicle and why such vehicle should not be used. The purchase of vehicles by an agency shall be a specific line item in the agency's appropriation bill.

(c) If an agency determines that an urgent need exists for a vehicle when it is not feasible to obtain prior legislative approval, the agency may make an emergency request to the Bureau of Fleet Management. Any emergency determination shall be made only upon the existence of extraordinary circumstances. The Bureau of Fleet Management shall make a recommendation to the Executive Director of the Department of Finance and Administration and shall give notification of such recommendation to the Lieutenant Governor, the Speaker of the House and the Chairmen of the Senate and House of Representatives Appropriations Committees. The Executive Director of the Department of Finance and Administration shall have the final authority to approve or disapprove the emergency request. The executive director must set forth specific reasons for approval which shall be a public record. If approved and if adequate funding is available, the agency may purchase a specific vehicle to meet its specific emergency needs. The Bureau of Fleet Management shall report any emergency purchase to the Legislative Budget Office. Any such vehicle shall be subject to the same rules and regulations as provided for nonemergency vehicles.

(d) For purposes of subsections (3) and (4) of this section, the term "passenger vehicle" shall mean a vehicle used primarily in transporting agency personnel and the agency's equipment from one location to another. This term shall include

only those vehicles for which a license plate or tag is required under Chapter 19, Title 27, Mississippi Code of 1972.

(e) For purposes of subsections (3) and (4) of this section, the term "work vehicle" shall mean a vehicle used primarily to perform a work assignment or task while incidentally transporting agency personnel and agency equipment from one location to another. This term shall include only those vehicles for which a license plate or tag is required under Chapter 19, Title 27, Mississippi Code of 1972.

(4) All state agencies, special-fund agencies and general-fund agencies making budget requests under the authority of this section shall include with their budget requests a report of all passenger and work vehicles in their possession. Such report shall detail the persons to whom the vehicles are assigned and the purposes for the vehicles.

(5) Subsections (3) and (4) of this section shall not apply to any vehicle assigned to a sworn officer of the Department of Public Safety and used in undercover operations.

(6) The provisions of subsections (3) and (4) of this section shall not apply to any state institution of higher learning.

(7) The purchase of wireless communication devices as defined in Section 25-53-191 by any state agency, special-fund agency or general-fund agency making budget requests under the

authority of this section shall be a specific line item in the agency's appropriation bill.

(8) (a) Beginning with the fiscal year 2017 budget submission, the Legislative Budget Office shall annually publish on its website all budget requests submitted under the authority of this section by state agencies, special-fund agencies and general-fund agencies and shall include all budget units for which budget requests are submitted.

(b) Beginning with the fiscal year 2017 budget submission, any state agency, special-fund agency and general-fund agency making a budget request under the authority of this section shall annually publish on its agency website a copy of the budget request that it submitted.

SECTION 150. Section 27-104-7, Mississippi Code of 1972, is brought forward as follows:

27-104-7. (1) (a) There is created the Public Procurement Review Board, which shall be reconstituted on January 1, 2018, and shall be composed of the following members:

(i) Three (3) individuals appointed by the Governor with the advice and consent of the Senate;

(ii) Two (2) individuals appointed by the Lieutenant Governor with the advice and consent of the Senate; and

(iii) The Executive Director of the Department of Finance and Administration, serving as an ex officio and nonvoting member.

(b) The initial terms of each appointee shall be as follows:

(i) One (1) member appointed by the Governor to serve for a term ending on June 30, 2019;

(ii) One (1) member appointed by the Governor to serve for a term ending on June 30, 2020;

(iii) One (1) member appointed by the Governor to serve for a term ending on June 30, 2021;

(iv) One (1) member appointed by the Lieutenant Governor to serve for a term ending on June 30, 2019; and

(v) One (1) member appointed by the Lieutenant Governor to serve for a term ending on June 30, 2020.

After the expiration of the initial terms, all appointed members' terms shall be for a period of four (4) years from the expiration date of the previous term, and until such time as the member's successor is duly appointed and qualified.

(c) When appointing members to the Public Procurement Review Board, the Governor and Lieutenant Governor shall take into consideration persons who possess at least five (5) years of management experience in general business, health care or finance for an organization, corporation or other public or private entity. Any person, or any employee or owner of a company, who receives any grants, procurements or contracts that are subject to approval under this section shall not be appointed to the Public Procurement Review Board. Any person, or any employee or owner of

a company, who is a principal of the source providing a personal or professional service shall not be appointed to the Public Procurement Review Board if the principal owns or controls a greater than five percent (5%) interest or has an ownership value of One Million Dollars ($1,000,000.00) in the source's business, whichever is smaller. No member shall be an officer or employee of the State of Mississippi while serving as a voting member on the Public Procurement Review Board.

(d) Members of the Public Procurement Review Board shall be entitled to per diem as authorized by Section 25-3-69 and travel reimbursement as authorized by Section 25-3-41.

(e) The members of the Public Procurement Review Board shall elect a chair from among the membership, and he or she shall preside over the meetings of the board. The board shall annually elect a vice chair, who shall serve in the absence of the chair. No business shall be transacted, including adoption of rules of procedure, without the presence of a quorum of the board. Three (3) members shall be a quorum. No action shall be valid unless approved by a majority of the members present and voting, entered upon the minutes of the board and signed by the chair. Necessary clerical and administrative support for the board shall be provided by the Department of Finance and Administration. Minutes shall be kept of the proceedings of each meeting, copies of which shall be filed on a monthly basis with the chairs of the Accountability, Efficiency and Transparency Committees of the

Senate and House of Representatives and the chairs of the Appropriations Committees of the Senate and House of Representatives.

(2) The Public Procurement Review Board shall have the following powers and responsibilities:

(a) Approve all purchasing regulations governing the purchase or lease by any agency, as defined in Section 31-7-1, of commodities and equipment, except computer equipment acquired pursuant to Sections 25-53-1 through 25-53-29;

(b) Adopt regulations governing the approval of contracts let for the construction and maintenance of state buildings and other state facilities as well as related contracts for architectural and engineering services.

The provisions of this paragraph (b) shall not apply to such contracts involving buildings and other facilities of state institutions of higher learning which are self-administered as provided under this paragraph (b) or Section 37-101-15(m);

(c) Adopt regulations governing any lease or rental agreement by any state agency or department, including any state agency financed entirely by federal funds, for space outside the buildings under the jurisdiction of the Department of Finance and Administration. These regulations shall require each agency requesting to lease such space to provide the following information that shall be published by the Department of Finance and Administration on its website: the agency to lease the space;

the terms of the lease; the approximate square feet to be leased; the use for the space; a description of a suitable space; the general location desired for the leased space; the contact information for a person from the agency; the deadline date for the agency to have received a lease proposal; any other specific terms or conditions of the agency; and any other information deemed appropriate by the Division of Real Property Management of the Department of Finance and Administration or the Public Procurement Review Board. The information shall be provided sufficiently in advance of the time the space is needed to allow the Division of Real Property Management of the Department of Finance and Administration to review and preapprove the lease before the time for advertisement begins;

(d) Adopt, in its discretion, regulations to set aside at least five percent (5%) of anticipated annual expenditures for the purchase of commodities from minority businesses; however, all such set-aside purchases shall comply with all purchasing regulations promulgated by the department and shall be subject to all bid requirements. Set-aside purchases for which competitive bids are required shall be made from the lowest and best minority business bidder; however, if no minority bid is available or if the minority bid is more than two percent (2%) higher than the lowest bid, then bids shall be accepted and awarded to the lowest and best bidder. However, the provisions in this paragraph shall not be construed to prohibit the rejection of a bid when only one

(1) bid is received. Such rejection shall be placed in the minutes. For the purposes of this paragraph, the term "minority business" means a business which is owned by a person who is a citizen or lawful permanent resident of the United States and who is:

(i) Black: having origins in any of the black racial groups of Africa;

(ii) Hispanic: of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish or Portuguese culture or origin regardless of race;

(iii) Asian-American: having origins in any of the original people of the Far East, Southeast Asia, the Indian subcontinent, or the Pacific Islands;

(iv) American Indian or Alaskan Native: having origins in any of the original people of North America; or

(v) Female;

(e) In consultation with and approval by the Chairs of the Senate and House Public Property Committees, approve leases, for a term not to exceed eighteen (18) months, entered into by state agencies for the purpose of providing parking arrangements for state employees who work in the Woolfolk Building, the Carroll Gartin Justice Building or the Walter Sillers Office Building;

(f) (i) Except as otherwise provided in subparagraph (ii) of this paragraph, promulgate rules and regulations governing the solicitation and selection of contractual services personnel,

including personal and professional services contracts for any form of consulting, policy analysis, public relations, marketing, public affairs, legislative advocacy services or any other contract that the board deems appropriate for oversight, with the exception of:

1. Any personal service contracts entered into by any agency that employs only nonstate service employees as defined in Section 25-9-107(c);

2. Any personal service contracts entered into for computer or information technology-related services governed by the Mississippi Department of Information Technology Services;

3. Any personal service contracts entered into by the individual state institutions of higher learning;

4. Any personal service contracts entered into by the Mississippi Department of Transportation;

5. Any personal service contracts entered into by the Department of Human Services through June 30, 2019, which the Executive Director of the Department of Human Services determines would be useful in establishing and operating the Department of Child Protection Services;

6. Any personal service contracts entered into by the Department of Child Protection Services through June 30, 2019;

7. Any contracts for entertainers and/or performers at the Mississippi State Fairgrounds entered into by the Mississippi Fair Commission;

8. Any contracts entered into by the Department of Finance and Administration when procuring aircraft maintenance, parts, equipment and/or services;

9. Any contract entered into by the Department of Public Safety for service on specialized equipment and/or software required for the operation of such specialized equipment for use by the Office of Forensics Laboratories;

10. Any personal or professional service contract entered into by the Mississippi Department of Health or the Department of Revenue solely in connection with their respective responsibilities under the Mississippi Medical Cannabis Act from February 2, 2022, through June 30, 2026;

11. Any contract for attorney, accountant, actuary auditor, architect, engineer, anatomical pathologist, or utility rate expert services;

12. Any personal service contracts approved by the Executive Director of the Department of Finance and Administration and entered into by the Coordinator of Mental Health Accessibility through June 30, 2022;

13. Any personal or professional services contract entered into by the State Department of Health in

carrying out its responsibilities under the ARPA Rural Water Associations Infrastructure Grant Program through June 30, 2026;

14. And any personal or professional services contract entered into by the Mississippi Department of Environmental Quality in carrying out its responsibilities under the Mississippi Municipality and County Water Infrastructure Grant Program Act of 2022, through June 30, 2026;

15. Any personal or professional services contract entered into by an agency for the design, operation or maintenance of museum exhibits. An agency making a purchase under this exemption shall publicly advertise a Request for Qualifications but shall be otherwise exempt. Any contracts arising from the use of this exemption must be approved by the Public Procurement Review Board prior to execution by the agency;

16. Any personal or professional services contract entered into by the Mississippi Department of Environmental Quality in carrying out its responsibilities under Section 49-2-13(l). This item 16 shall stand repealed on July 1, 2028; and

17. Any contract entered into by the State Department of Health for service on specialized equipment and/or software required for the operation of such specialized equipment for the use by the Public Health Laboratory.

Any such rules and regulations shall provide for maintaining continuous internal audit covering the activities of such agency

affecting its revenue and expenditures as required under Section 7-7-3(6)(d). Any rules and regulation changes related to personal and professional services contracts that the Public Procurement Review Board may propose shall be submitted to the Chairs of the Accountability, Efficiency and Transparency Committees of the Senate and House of Representatives and the Chairs of the Appropriation Committees of the Senate and House of Representatives at least fifteen (15) days before the board votes on the proposed changes, and those rules and regulation changes, if adopted, shall be promulgated in accordance with the Mississippi Administrative Procedures Act.

(ii) From and after July 1, 2024, the Public Procurement Review Board shall promulgate rules and regulations that require the Department of Finance and Administration to conduct personal and professional services solicitations as provided in subparagraph (i) of this paragraph for those services in excess of Seventy-five Thousand Dollars ($75,000.00) for the Department of Marine Resources, the Department of Wildlife, Fisheries and Parks, the Mississippi Emergency Management Agency and the Mississippi Development Authority, with assistance to be provided from these entities. Any powers that have been conferred upon agencies in order to comply with the provisions of this section for personal and professional services solicitations shall be conferred upon the Department of Finance and Administration to conduct personal and professional services solicitations for the

Department of Marine Resources, the Department of Wildlife, Fisheries and Parks, the Mississippi Emergency Management Agency and the Mississippi Development Authority for those services in excess of Seventy-five Thousand Dollars ($75,000.00). The Department of Finance and Administration shall make any submissions that are required to be made by other agencies to the Public Procurement Review Board for the Department of Marine Resources, the Department of Wildlife, Fisheries and Parks, the Mississippi Emergency Management Agency and the Mississippi Development Authority.

The provisions of this subparagraph (ii) shall stand repealed on June 30, 2027;

(g) Approve all personal and professional services contracts involving the expenditures of funds in excess of Seventy-five Thousand Dollars ($75,000.00), except as provided in paragraph (f) of this subsection (2) and in subsection (8);

(h) Develop mandatory standards with respect to contractual services personnel that require invitations for public bid, requests for proposals, record keeping and financial responsibility of contractors. The Public Procurement Review Board shall, unless exempted under this paragraph (h) or under paragraph (i) or (o) of this subsection (2), require the agency involved to submit the procurement to a competitive procurement process, and may reserve the right to reject any or all resulting procurements;

(i) Prescribe certain circumstances by which agency heads may enter into contracts for personal and professional services without receiving prior approval from the Public Procurement Review Board. The Public Procurement Review Board may establish a preapproved list of providers of various personal and professional services for set prices with which state agencies may contract without bidding or prior approval from the board;

(i) Agency requirements may be fulfilled by procuring services performed incident to the state's own programs. The agency head shall determine in writing whether the price represents a fair market value for the services. When the procurements are made from other governmental entities, the private sector need not be solicited; however, these contracts shall still be submitted for approval to the Public Procurement Review Board.

(ii) Contracts between two (2) state agencies, both under Public Procurement Review Board purview, shall not require Public Procurement Review Board approval. However, the contracts shall still be entered into the enterprise resource planning system;

(j) Provide standards for the issuance of requests for proposals, the evaluation of proposals received, consideration of costs and quality of services proposed, contract negotiations, the administrative monitoring of contract performance by the agency and successful steps in terminating a contract;

(k) Present recommendations for governmental privatization and to evaluate privatization proposals submitted by any state agency;

(l) Authorize personal and professional service contracts to be effective for more than one (1) year provided a funding condition is included in any such multiple year contract, except the State Board of Education, which shall have the authority to enter into contractual agreements for student assessment for a period up to ten (10) years. The State Board of Education shall procure these services in accordance with the Public Procurement Review Board procurement regulations;

(m) Request the State Auditor to conduct a performance audit on any personal or professional service contract;

(n) Prepare an annual report to the Legislature concerning the issuance of personal and professional services contracts during the previous year, collecting any necessary information from state agencies in making such report;

(o) Develop and implement the following standards and procedures for the approval of any sole source contract for personal and professional services regardless of the value of the procurement:

(i) For the purposes of this paragraph (o), the term "sole source" means only one (1) source is available that can provide the required personal or professional service.

(ii) An agency that has been issued a binding, valid court order mandating that a particular source or provider must be used for the required service must include a copy of the applicable court order in all future sole source contract reviews for the particular personal or professional service referenced in the court order.

(iii) Any agency alleging to have a sole source for any personal or professional service, other than those exempted under paragraph (f) of this subsection (2) and subsection (8), shall publish on the procurement portal website established by Sections 25-53-151 and 27-104-165, for at least fourteen (14) days, the terms of the proposed contract for those services. In addition, the publication shall include, but is not limited to, the following information:

1. The personal or professional service offered in the contract;

2. An explanation of why the personal or professional service is the only one that can meet the needs of the agency;

3. An explanation of why the source is the only person or entity that can provide the required personal or professional service;

4. An explanation of why the amount to be expended for the personal or professional service is reasonable; and

5. The efforts that the agency went through to obtain the best possible price for the personal or professional service.

(iv) If any person or entity objects and proposes that the personal or professional service published under subparagraph (iii) of this paragraph (o) is not a sole source service and can be provided by another person or entity, then the objecting person or entity shall notify the Public Procurement Review Board and the agency that published the proposed sole source contract with a detailed explanation of why the personal or professional service is not a sole source service.

(v) 1. If the agency determines after review that the personal or professional service in the proposed sole source contract can be provided by another person or entity, then the agency must withdraw the sole source contract publication from the procurement portal website and submit the procurement of the personal or professional service to an advertised competitive bid or selection process.

2. If the agency determines after review that there is only one (1) source for the required personal or professional service, then the agency may appeal to the Public Procurement Review Board. The agency has the burden of proving that the personal or professional service is only provided by one (1) source.

3. If the Public Procurement Review Board has any reasonable doubt as to whether the personal or professional service can only be provided by one (1) source, then the agency must submit the procurement of the personal or professional service to an advertised competitive bid or selection process. No action taken by the Public Procurement Review Board in this appeal process shall be valid unless approved by a majority of the members of the Public Procurement Review Board present and voting.

(vi) The Public Procurement Review Board shall prepare and submit a quarterly report to the House of Representatives and Senate Accountability, Efficiency and Transparency Committees that details the sole source contracts presented to the Public Procurement Review Board and the reasons that the Public Procurement Review Board approved or rejected each contract. These quarterly reports shall also include the documentation and memoranda required in subsection (4) of this section. An agency that submitted a sole source contract shall be prepared to explain the sole source contract to each committee by December 15 of each year upon request by the committee;

(p) Assess any fines and administrative penalties provided for in Sections 31-7-401 through 31-7-423.

(3) All submissions shall be made sufficiently in advance of each monthly meeting of the Public Procurement Review Board as prescribed by the Public Procurement Review Board. If the Public Procurement Review Board rejects any contract submitted for review

or approval, the Public Procurement Review Board shall clearly set out the reasons for its action, including, but not limited to, the policy that the agency has violated in its submitted contract and any corrective actions that the agency may take to amend the contract to comply with the rules and regulations of the Public Procurement Review Board.

(4) All sole source contracts for personal and professional services awarded by state agencies, other than those exempted under Section 27-104-7(2)(f) and (8), whether approved by an agency head or the Public Procurement Review Board, shall contain in the procurement file a written determination for the approval, using a request form furnished by the Public Procurement Review Board. The written determination shall document the basis for the determination, including any market analysis conducted in order to ensure that the service required was practicably available from only one (1) source. A memorandum shall accompany the request form and address the following four (4) points:

(a) Explanation of why this service is the only service that can meet the needs of the purchasing agency;

(b) Explanation of why this vendor is the only practicably available source from which to obtain this service;

(c) Explanation of why the price is considered reasonable; and

(d) Description of the efforts that were made to conduct a noncompetitive negotiation to get the best possible price for the taxpayers.

(5) In conjunction with the State Personnel Board, the Public Procurement Review Board shall develop and promulgate rules and regulations to define the allowable legal relationship between contract employees and the contracting departments, agencies and institutions of state government under the jurisdiction of the State Personnel Board, in compliance with the applicable rules and regulations of the federal Internal Revenue Service (IRS) for federal employment tax purposes. Under these regulations, the usual common law rules are applicable to determine and require that such worker is an independent contractor and not an employee, requiring evidence of lawful behavioral control, lawful financial control and lawful relationship of the parties. Any state department, agency or institution shall only be authorized to contract for personnel services in compliance with those regulations.

(6) No member of the Public Procurement Review Board shall use his or her official authority or influence to coerce, by threat of discharge from employment, or otherwise, the purchase of commodities, the contracting for personal or professional services, or the contracting for public construction under this chapter.

(7) Notwithstanding any other laws or rules to the contrary, the provisions of subsection (2) of this section shall not be applicable to the Mississippi State Port Authority at Gulfport.

(8) Nothing in this section shall impair or limit the authority of the Board of Trustees of the Public Employees' Retirement System to enter into any personal or professional services contracts directly related to their constitutional obligation to manage the trust funds, including, but not limited to, actuarial, custodial banks, cash management, investment consultant and investment management contracts. Nothing in this section shall impair or limit the authority of the State Treasurer to enter into any personal or professional services contracts involving the management of trust funds, including, but not limited to, actuarial, custodial banks, cash management, investment consultant and investment management contracts.

(9) Through December 31, 2026, the provisions of this section related to rental agreements or leasing of real property for the purpose of conducting agency business shall not apply to the Office of Workforce Development created in Section 37-153-7.

SECTION 151. Section 27-104-23, Mississippi Code of 1972, is brought forward as follows:

27-104-23. The State Auditor and from and after July 1, 1986, the State Fiscal Officer, shall maintain his records and accounts in such a manner that, insofar as funds paid from the State Treasury are concerned, only the amounts approved by the

State Fiscal Officer or authorized in the agency appropriation bill shall be available for expenditure during any allotment period by the state agency entitled thereto. The State Auditor, or the State Fiscal Officer, as the case may be, shall be liable on his official bond for any failure on his part to fully comply with the provisions of this section.

It shall be the duty of any officer or employee of any state agency who is clothed with the authority to make purchases or obligations or incur expenses to keep records of such purchases, obligations, or expenses incurred by him, and such purchases, obligations, or expenses incurred shall be entered upon the records the day they are made. No such purchases, obligations, or expenses shall be incurred after June 30 of the then fiscal year which would encumber funds appropriated for the fiscal year just ending. It shall be the duty of each agency coming within the purview of Sections 27-103-101 through 27-103-139 and 27-104-1 through 27-104-29 to submit, on or before July 15, a statement on a form prepared and furnished by the State Fiscal Officer, showing a detailed list of all encumbrances outstanding as of the close of the preceding fiscal year, together with purchase order numbers and such other information as the State Fiscal Officer may require.

SECTION 152. Section 27-104-103, Mississippi Code of 1972, is brought forward as follows:

27-104-103. (1) The Department of Finance and Administration shall have the following duties and powers:

(a) To provide administrative guidance to the various departments and agencies of state government;

(b) To facilitate the expedient delivery of services and programs for the benefit of the citizens of the state;

(c) To analyze and develop efficient management practices and assist departments and agencies in implementing effective and efficient work management systems;

(d) To conduct management review of state agencies and departments and recommend a management plan to state departments and agencies when corrective action is required;

(e) To, at least annually, report to the Governor and the Legislature on programs and actions taken to improve the conduct of state operations and to prepare and recommend management programs for effective and efficient management of the operations of state government;

(f) To allocate the federal-state programs funds to the departments responsible for the delivery of the programs and services for which the appropriation was made;

(g) To coordinate the planning functions of all agencies in the executive branch of government and review any and all plans which are developed by those agencies and departments;

(h) To collect and maintain the necessary data on which to base budget and policy development issues;

(i) To develop and analyze policy recommendations to the Governor;

(j) To develop and manage the executive budget process;

(k) To prepare the executive branch budget recommendations;

(l) To review and monitor the expenditures of the executive agencies and departments of government;

(m) To manage the state's fiscal affairs;

(n) To administer programs relating to general services, public procurement, insurance and the Bond Advisory Division;

(o) To administer the state's aircraft operation.

(2) The department shall have the following additional powers and duties under Chapter 18 of Title 17:

(a) It shall acquire the site submitted by the Mississippi Hazardous Waste Facility Siting Authority and, if determined necessary, design, finance, construct and operate a state commercial hazardous waste management facility;

(b) It may acquire by deed, purchase, lease, contract, gift, devise or otherwise any real or personal property, structures, rights-of-way, franchises, easements and other interest in land which is necessary and convenient for the construction or operation of the state commercial hazardous waste management facility, upon such terms and conditions as it deems advisable, hold, mortgage, pledge or otherwise encumber the same,

and lease, sell, convey or otherwise dispose of the same in such a manner as may be necessary or advisable to carry out the purposes of Chapter 18 of Title 17;

(c) It shall develop and implement, in consultation with the Department of Environmental Quality, schedules of user fees, franchise fees and other charges, including nonregulatory penalties and surcharges applicable to the state commercial hazardous waste management facility;

(d) It may employ consultants and contractors to provide services including site acquisition, design, construction, operation, closure, post-closure and perpetual care of the state commercial hazardous waste management facility;

(e) It may apply for and accept loans, grants and gifts from any federal or state agency or any political subdivision or any private or public organization;

(f) It shall make plans, surveys, studies and investigations as may be necessary or desirable with respect to the acquisition, development and use of real property and the design, construction, operation, closure and long-term care of the state commercial hazardous waste management facility;

(g) It shall have the authority to preempt any local ordinance or restriction which prohibits or has the effect of prohibiting the establishment or operation of the state commercial hazardous waste management facility;

(h) It may negotiate any agreement for site acquisition, design, construction, operation, closure, post-closure and perpetual care of the state commercial hazardous waste management facility and may negotiate any agreement with any local governmental unit pursuant to Chapter 18 of Title 17;

(i) It may promulgate rules and regulations necessary to effectuate the purposes of Chapter 18 of Title 17 not inconsistent therewith;

(j) If funds are not appropriated or if the appropriated funds are insufficient to carry out the provisions of Chapter 18 of Title 17, the department shall expend any funds available to it from any source to defray its costs to implement Chapter 18 of Title 17 through February 1, 1991;

(k) To carry out such duties and responsibilities assigned to it by the Public Procurement Review Board as provided in Section 27-104-7(2)(f);

(l) To establish, with the approval of the Public Procurement Review Board, rules and regulations that prohibit agencies from requiring that a vendor be located in the same municipality or surrounding area as the agency. Such rules and regulations shall further prohibit agencies from giving preference to any vendor based on location. Such rules and regulations shall provide that a winning bidder without a local office shall be given a reasonable opportunity to open an office in Mississippi

when such local office is necessary to deliver the relevant services.

The provisions of this paragraph (l) shall stand repealed on June 30, 2027.

(3) From and after July 1, 2016, the expenses of the Department of Finance and Administration shall be defrayed by appropriation from the State General Fund and all user charges and fees authorized under law such as rents, MAGIC fees, and other fees for services shall be deposited into the State General Fund as authorized by law.

(4) From and after July 1, 2016, the Department of Finance and Administration shall not charge another state agency a fee, assessment, rent or other charge for services or resources received by that state agency from the department.

SECTION 153. Section 27-104-107, Mississippi Code of 1972, is brought forward as follows:

27-104-107. (1) As used in this section, the following words shall have the meanings ascribed herein unless the context clearly requires otherwise:

(a) "Department" means the Department of Finance and Administration.

(b) "Commission" means the State Bond Commission.

(c) "Director" means the Executive Director of the Department of Finance and Administration.

(d) "Committee" means the Joint Legislative Budget Committee.

(e) "Office" means the Office of General Services of the Department of Finance and Administration.

(2) In addition to any other authority conferred upon it, and subject to the approval of its proposal by the commission, the department may enter into purchase contracts, lease-purchase agreements, rental agreements or other similar contracts for the ultimate acquisition of real property by the state. Before entering into any purchase contract or lease-purchase agreement, the office must first demonstrate to the Public Procurement Review Board satisfactory evidence that the contract would be economically advantageous to the state and that any consolidation of agencies into buildings at a common location would not impair or impede the function of that agency in this location. The contracts shall be approved by the Public Procurement Review Board and the State Bond Commission.

(3) Acquisitions shall be made only with legislative approval and be in accordance with a long-range development plan which the department shall annually prepare and present to the Legislature as a part of the Governor's capitol budget recommendation; however, if in the opinion of the Department of Finance and Administration circumstances involving a proposed acquisition are such that waiting for legislative approval will not be economically advantageous to the state or may cause the

state financial loss, then such acquisition may be made upon approval by the State Bond Commission after consultation with the Chairman of the Public Property Committee of the Senate and the Chairman of the Public Buildings, Grounds and Lands Committee of the House of Representatives. Acquisition of lands and buildings shall be based upon appraisals approved by the Department of Finance and Administration. The office shall not pay an amount in excess of the appraised value of the land and buildings to be acquired. The appraised value shall be determined by taking the average of two (2) appraisals performed by two (2) appraisers to be selected by the Department of Finance and Administration. Further, the office shall file quarterly reports describing this process and its progress with the Chairman of the Senate Public Property Committee and the Chairman of the House Public Buildings, Grounds and Lands Committee.

(4) With the exception of the Public Employees' Retirement System, whenever any contract or agreement entered into is for and on behalf of the State of Mississippi, title to property, when acquired, shall vest in the State of Mississippi and not in the name of any state agency. Any building subject to a lease purchase agreement with the state shall be considered a state-owned building and therefore exempt from the assessment and levy of ad valorem taxes.

(5) All contracts executed under this section shall include provisions whereby the obligation of the state for any payment in

excess of reasonable rental of the property while actually occupying the property is dependent upon the availability of appropriated funds for the purchase of the property.

(6) Activity under this section shall be reported annually in a detailed resolution from the commission to the committee.

(7) All funds allocated to rents and chargeable by the department shall be paid into a special fund that is created in the State Treasury. Unexpended amounts remaining in the special fund at the end of a fiscal year shall not lapse into the State General Fund, and any interest earned on amounts in the special fund shall be deposited to the credit of the special fund. This fund shall be used by the department (a) to retire indebtedness incurred in the acquisition of properties under this section; (b) to renovate, maintain and otherwise protect subject properties; (c) to pay the cost of utilities necessary to operate the buildings; and (d) to acquire properties in accordance with this section.

SECTION 154. Section 27-104-109, Mississippi Code of 1972, is brought forward as follows:

27-104-109. (1) In addition to any other duties of the Department of Finance and Administration (DFA), by January 1, 2009, the DFA shall create a report of Mississippi-based companies that manufacture products using recycled materials. In addition to the name, location and phone number of the company, the report shall include:

(a) The name of products that are produced using recycled materials; and

(b) The percent of the product that is made from recycled materials; and

(c) The recommended use of such products by state agencies.

(2) The DFA shall negotiate a price for the purchase of the products by state agencies and political subdivisions of the state and create rules and regulations to encourage state agencies and political subdivisions of the state to purchase the products at the negotiated prices.

SECTION 155. Section 27-104-152, Mississippi Code of 1972, is brought forward as follows:

27-104-152. The Legislature finds that the public should be able to easily access the details on how the state is spending tax dollars and other state funds and what performance results are achieved for the expenditures. It is the intent of the Legislature that the state, acting through the Department of Finance and Administration, create and maintain a searchable website providing access, to the extent possible, to where, for what purpose and what results are achieved for all taxpayer investments in state government.

SECTION 156. Section 27-104-153, Mississippi Code of 1972, is brought forward as follows:

27-104-153. As used in Sections 27-104-151 through 27-104-159:

(a) "Searchable website" means an Internet site that:

(i) Allows the public to access information identified in Sections 27-104-151 through 27-104-159 without any fee or charge to the public for that access;

(ii) Provides keyword or other efficient search capability to support the public's ability to find, aggregate and display that information with reasonable ease by accessing a single website; and

(iii) Allows the public to programmatically search and access all data in a serialized machine readable format, such as XML, via a Web-services application programming interface.

(b) "Agency" means a state agency, department, institution, board, commission, council, office, bureau, division, committee or subcommittee of the state. The term "agency" includes individual agencies and programs as well as multiple agencies whenever programs and activities involve more than one (1) agency. The term "agency" includes all elective offices in the executive, legislative and judicial branches of state government. The term "agency" does not include counties or municipalities.

(c) "Entity" or "recipient" means a corporation, association, union, limited liability company, limited liability partnership, grantee, contractor, county, municipality or other

local government entity, or any other legal business entity, including a nonprofit entity. The term "entity" or "recipient" does not include an individual recipient of state public assistance.

(d) "Expenditure of state funds" means the disbursement or transfer of any funds, from any source or funds, whether appropriated or nonappropriated, from any agency. The term "expenditure of state funds" includes the expenditures from bond proceeds.

(e) "Funding action" means the transfer of funds from a state agency to another entity for a specific purpose. These would include subgranting of funds for specific purposes or the funding through bonds or other authority specific projects and actions.

(f) "Funding source" means the state account against which an expenditure is recorded.

(g) "State audit or report" means any audit or report issued by the State Auditor, Joint Legislative Committee on Performance Evaluation and Expenditure Review (PEER) or an executive body relating to the entity or recipient of funds or to the budget program or activity or agency.

SECTION 157. Section 27-104-155, Mississippi Code of 1972, is brought forward as follows:

27-104-155. (1) The Department of Finance and Administration shall develop and operate a searchable website that

includes information on expenditures of state funds from all funding sources. The website shall have a unique and simplified website address, and the department shall require each agency that maintains a generally accessible Internet site or for which a generally accessible Internet site is maintained to include a link on the front page of the agency's Internet site to the searchable website required under this section.

(a) With regard to disbursement of funds, the website shall include, but not be limited to:

(i) The name and principal location of the entity or recipients of the funds, excluding release of information relating to an individual's place of residence, the identity of recipients of state or federal assistance payments, and any other information deemed confidential by state or federal law relating to privacy rights;

(ii) The amount of state funds expended;

(iii) A descriptive purpose of the funding action or expenditure;

(iv) The funding source of the expenditure;

(v) The budget program or activity of the expenditure;

(vi) The specific source of authority and descriptive purpose of the expenditure, to include a link to the funding authorization document(s) in a searchable PDF form;

(vii) The specific source of authority for the expenditure including, but not limited to, a grant, subgrant, contract, or the general discretion of the agency director, provided that if the authority is a grant, subgrant or contract, the website entry shall include a grant, subgrant or contract number or similar information that clearly identifies the specific source of authority. The information required under this paragraph includes data relative to tax exemptions and credits;

(viii) The expending agency;

(ix) The type of transaction;

(x) The expected performance outcomes achieved for the funding action or expenditure;

(xi) Links to any state audit or report relating to the entity or recipient of funds or the budget program or activity or agency; and

(xii) Any other information deemed relevant by the Department of Finance and Administration.

(b) When the expenditure of state funds involves the expenditure of bond proceeds, the searchable website must include a clear, detailed description of the purpose of the bonds, a current status report on the project or projects being financed by the bonds, and a current status report on the payment of the principal and interest on the bonds.

(c) The searchable website must include access to an electronic summary of each grant, including amendments; subgrant,

including amendments; contract, including amendments; and payment voucher that includes, wherever possible, a hyperlink to the actual document in a searchable PDF format, subject to the restrictions in paragraph (d) of this section. The Department of Finance and Administration may cooperate with other agencies to accomplish the requirements of this paragraph.

(d) Nothing in Sections 27-104-151 through 27-104-159 shall permit or require the disclosure of trade secrets or other proprietary information, including confidential vendor information, or any other information that is required to be confidential by state or federal law.

(e) The information available from the searchable website must be updated no later than fourteen (14) days after the receipt of data from an agency, and the Department of Finance and Administration shall require each agency to provide to the department access to all data that is required to be accessible from the searchable website within fourteen (14) days of each expenditure, grant award, including amendments; subgrant, including amendments; or contract, including amendments; executed by the agency.

(f) The searchable website must include all information required by this section for all transactions that are initiated in fiscal year 2015 or later. In addition, all information that is included on the searchable website from the date of the inception of the website until July 1, 2014, must be maintained on

the website according to the requirements of this section before July 1, 2014, and remain accessible for ten (10) years from the date it was originally made available. All data on the searchable website must remain accessible to the public for a minimum of ten (10) years.

(g) For the purposes of this subsection (1), the term "contract" includes, but is not limited to, personal and professional services contracts.

(2) The Board of Trustees of State Institutions of Higher Learning shall create the IHL Accountability and Transparency website to include its executive office and the institutions of higher learning no later than July 1, 2012. This website shall:

(a) Provide access to existing financial reports, financial audits, budgets and other financial documents that are used to allocate, appropriate, spend and account for appropriated funds;

(b) Have a unique and simplified website address;

(c) Be directly accessible via a link from the main page of the Department of Finance and Administration website, as well as the IHL website and the main page of the website of each institution of higher learning;

(d) Include other links, features or functionality that will assist the public in obtaining and reviewing public financial information;

(e) Report expenditure information currently available within these enterprise resource planning (ERP) computer systems; and

(f) Design the reporting format using the existing capabilities of these ERP computer systems.

(3) The Mississippi Community College Board shall create the Community and Junior Colleges Accountability and Transparency website to include its executive office and the community and junior colleges no later than July 1, 2012. This website shall:

(a) Provide access to existing financial reports, financial audits, budgets and other financial documents that are used to allocate, appropriate, spend and account for appropriated funds;

(b) Have a unique and simplified website address;

(c) Be directly accessible via a link from the main page of the Department of Finance and Administration website, as well as the Mississippi Community College Board website and the main page of the website of each community and junior college;

(d) Include other links, features or functionality that will assist the public in obtaining and reviewing public financial information;

(e) Report expenditure information currently available within the computer system of each community and junior college; and

(f) Design the reporting format using the existing capabilities of the computer system of each community and junior college.

(4) Not later than January 1, 2016, the owner or owners of a community hospital, as defined in Section 41-13-10, shall create and maintain an accountability and transparency website for the community hospital or set up a separate section for the community hospital on the current website of the owner or owners. This website of the community hospital or section of the website of the owner or owners shall:

(a) Provide access to existing financial reports, financial audits, budgets and other financial documents of the community hospital that are used to allocate, appropriate, spend and account for public funds;

(b) Have a unique and simplified website address if it is a new website for the community hospital, or be an easily accessible section of the website of the owner or owners;

(c) Include links, features or functionality that will assist the public in obtaining and reviewing public financial information of the community hospital;

(d) Report expenditure information of the community hospital in functional expenditure categories that is currently available within the computer system of the community hospital; and

(e) Design the reporting format using the existing capabilities of the computer system or systems of the owner or owners of the community hospital.

SECTION 158. Section 27-104-157, Mississippi Code of 1972, is brought forward as follows:

27-104-157. The Department of Finance and Administration shall have the authority to establish the form, processes and procedures, and timelines for agencies to report the information required by Sections 27-104-151 through 27-104-159. At the latest, each agency shall provide access to all required data within fourteen (14) days after the data becomes available to the agency. All agencies shall fully cooperate with the Department of Finance and Administration in compiling and providing all information necessary to comply with the requirements of Sections 27-104-151 through 27-104-159.

SECTION 159. Section 27-104-158, Mississippi Code of 1972, is brought forward as follows:

27-104-158. The Office of the State Auditor shall examine agencies' compliance with the requirements of Sections 27-104-151 through 27-104-159 in the course of the powers and duties of the office as prescribed in Section 7-7-211.

SECTION 160. Section 27-104-159, Mississippi Code of 1972, is brought forward as follows:

27-104-159. Nothing in Sections 27-104-151 through 27-104-159 shall be construed to supersede the Mississippi Public

Records Act of 1983, as amended, except that Sections 27-104-151 through 27-104-158 shall apply to expenditures of the legislative branch.

SECTION 161. Section 27-104-161, Mississippi Code of 1972, is brought forward as follows:

27-104-161. No provision of Sections 27-104-151 through 27-104-159 shall be construed as conferring upon the Department of Finance and Administration any authority to review, approve or deny any expenditures or contracts entered into by the Legislature or any of its committees, or to impose any requirement on the Legislature or any of its committees to take any action other than to disclose expenditures and contracts entered into on or after July 1, 2011. For the purposes of this section, the term "contract" includes, but is not limited to, personal and professional services contracts.

SECTION 162. Section 27-104-163, Mississippi Code of 1972, is brought forward as follows:

27-104-163. The Department of Finance and Administration shall publish on its searchable website notice of any regular meeting held by a state agency, other than a legislative committee, in accordance with Section 25-41-13. For purposes of this section, the term "state agency" means an agency, department, institution, board, commission, council, office, bureau, division, committee or subcommittee of the state. However, the term "state

agency" does not include institutions of higher learning, community and junior colleges, counties or municipalities.

SECTION 163. Section 27-104-165, Mississippi Code of 1972, is brought forward as follows:

27-104-165. The Department of Finance and Administration, with assistance from the Mississippi Department of Information Technology Services and the State Personnel Board, may develop a phased-in plan that ensures that the procurement portal required under Section 25-53-151 be fully functional by July 1, 2015.

SECTION 164. Section 27-104-167, Mississippi Code of 1972, is brought forward as follows:

27-104-167. The Department of Finance and Administration shall publish on its searchable website the annual report of each agency, board, commission, department and institution required to be prepared by Section 27-101-1. The Department of Finance and Administration shall have the authority to establish the forms, processes, procedures and timelines to furnish the annual report. All such agencies, boards, commissions, departments and institutions shall fully cooperate with the Department of Finance and Administration in providing the information necessary to comply with the requirements of this section.

SECTION 165. Section 27-115-49, Mississippi Code of 1972, is brought forward as follows:

27-115-49. (1) The corporation shall enter into its contracts for major procurements after bidding. The corporation

may adopt administrative rules and regulations pursuant to the provisions of this chapter providing for special procedures whereby the Mississippi Lottery Corporation may make any class of procurement.

(2) In its bidding processes, the corporation may do its own bidding and procurement or may utilize the services of the Department of Finance and Administration, the Department of Information Technology Services, or other state agencies as appropriate and necessary. The president of the corporation may, with approval of the board, declare an emergency for purchasing purposes which shall be governed by the administrative rules and regulations adopted by the board.

SECTION 166. Section 27-115-69, Mississippi Code of 1972, is brought forward as follows:

27-115-69. (1) The corporation may purchase, lease or lease-purchase such goods or services as are necessary for effectuating the purposes of this chapter. The corporation shall not contract with any person or entity for the total operation and administration of the lottery, but it may make procurements which integrate such functions as lottery game design, lottery ticket distribution to retailers, supply of goods and services and advertising. In all procurement decisions, the corporation shall take into account the particularly sensitive nature of the lottery and shall act to promote and ensure security, honesty, fairness and integrity in the operation and administration of the lottery

and the objectives of raising net proceeds for the benefit of the public.

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

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

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

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

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

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

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

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

(d) A disclosure of all the states and jurisdictions in which the vendor has applied for, has sought renewal of, has received, has been denied, has pending, or has had revoked a gaming license of any kind, or had fines or penalties assessed on their license, contract, or operation, and the disposition of such in each such state or jurisdiction. If any lottery license or contract has been revoked or has not been renewed or any lottery license or application has remained pending for more than six (6) months, then it shall be disclosed.

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

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

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

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

(3) In no case shall the corporation enter into a contract for a procurement of any video lottery or video lottery terminal or any other illegal lottery device, and shall only enter into a contract for a procurement for any lottery system with a vendor who has complied with the disclosures required by the corporation and described in subsection (2) of this section, and any contract with such a vendor is void and unenforceable. Any contract with a vendor who does not comply with such requirements for periodically updating such disclosures during the tenure of a contract as may be specified in such contract is voidable and may be terminated by the corporation. The provisions of this section shall be construed broadly and liberally to achieve the ends of full disclosure of all information necessary to allow for a full and complete evaluation by the corporation of the competence, integrity, background and character of vendors.

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

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

(5) The corporation may require that each vendor shall, at the execution of the contract with the corporation, post a performance bond or letter of credit from a bank acceptable to the corporation, in an amount established by the corporation subject to the provisions of Section 27-115-61. In lieu of the bond, a vendor may, to assure the faithful performance of its obligations, deposit and maintain with the corporation securities that are interest-bearing or accruing and that are rated in one (1) of the three (3) highest classifications by an established nationally recognized investment rating service. Securities eligible under this subsection are limited to:

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

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

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

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

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

SECTION 167. Section 29-1-1, Mississippi Code of 1972, is brought forward as follows:

29-1-1. (1) Except as otherwise provided in subsections (7), (8), (9) and (13) of this section, the title to all lands held by any agency of the State of Mississippi shall appear on all deeds and land records under the name of the "State of Mississippi." A deed may also recite the name of the agency for whose benefit and use the land is acquired, but the recital shall not be deemed or construed to be a limitation on the grant or an impairment of title held by the State of Mississippi. Use and possession of the land may be reassigned by act of the Legislature or by interagency conveyance where each agency has statutory authority to acquire and dispose of land. For the purpose of this

section, the term "agency" shall be defined as set forth in Section 31-7-1(a). The provisions of this section shall not affect the authority of any agency to use any land held by the agency. No assets or property of the Public Employees' Retirement System of Mississippi shall be transferred in violation of Section 272A of the Mississippi Constitution of 1890. Each state agency shall inventory any state-held lands which are titled in the name of the agency. The agency shall execute quitclaim deeds and any other necessary documents to transfer the name and title of the property to the State of Mississippi. State agencies shall furnish to the Secretary of State certified copies of the quitclaim deeds and all other deeds whereby the state agency acquires or disposes of state-held land.

(2) The Secretary of State, under the general direction of the Governor and as authorized by law, shall sell and convey the public lands in the manner and on the terms provided herein for the several classes thereof; he shall perform all the administrative and executive duties appertaining to the selection, location, surveying, platting, listing, and registering these lands or otherwise concerning them; and he shall investigate the status of the various "percent" funds accrued and accruing to the state from the sale of lands by the United States, and shall collect and pay the funds into the Treasury in the manner provided by law. The Secretary of State, with the approval of the

Governor, acting on behalf of the state, may accept gifts or donations of land to the State of Mississippi.

(3) In accordance with Sections 7-11-11 and 7-11-13, the Secretary of State shall be required to sign all conveyances of all state-held land. For purposes of this section, the term "conveyance" shall mean any sale or purchase of land by the State of Mississippi for use by any agency, board or commission thereof. Failure to obtain legislative approval pursuant to subsection (4) of this section and the signature of the Secretary of State on any conveyance regarding the sale or purchase of lands for the state including any agency, board or commission thereof, shall render the attempted sale or purchase of the lands void. Nothing in this section shall be construed to authorize any state agency, board, commission or public official to convey any state-held land unless this authority is otherwise granted by law. The Secretary of State shall not withhold arbitrarily his signature from any purchase or sale authorized by the Mississippi State Legislature. Except for those lands forfeited to the state for the nonpayment of taxes, conveyed to another state agency or entity as provided in subsection (11) of this section or acquired by the Mississippi Transportation Commission under Section 65-1-123, no state-held land shall be sold for less than the fair market value as determined by two (2) professional appraisers selected by the State Department of Finance and Administration, who are certified general appraisers of the State of Mississippi. The proceeds from

any sale by an agency, board, commission or public official of state-held lands shall be deposited into the State General Fund unless otherwise provided by law.

(4) Before any state-held land is sold to any individual or private entity, thirty (30) days' advance notice of the intended sale shall be provided by the Secretary of State to the State Legislature and to all state agencies for the purpose of ascertaining whether an agency has a need for the land and for the purpose of ascertaining whether the sale of the land was authorized by law. If no agency of the state expresses in writing to the Secretary of State by the end of the thirty-day period a desire to use the land, then the Secretary of State, with the prior approval of the Mississippi Legislature to sell the state-held land, may offer the land for sale to any individual or private entity. Such notice to state agencies is given in aid of internal management of the real property inventory of the state, and this notice requirement shall not be applied to challenge or defeat any title heretofore or hereafter granted by the state under any law authorized by the Mississippi Legislature providing for the sale or disposal of property.

(5) A cultural resources survey may be performed on any state-held land before the disposition of the land if the Mississippi Department of Archives and History deems this survey necessary. The cost of the survey and any archaeological studies deemed necessary by the Mississippi Department of Archives and

History shall be paid by the selling agency and recouped from the proceeds of the sale.

(6) Before any land may be purchased by the state for the benefit of any state agency, the Secretary of State, or his designee, shall search and examine all state land records to determine whether the state owns any land that may fit the particular need of the agency. The Secretary of State, or his designee, shall notify the agency if it is determined that any state-held land is available for use by the agency. The agency shall determine if such land accommodates its needs and shall determine whether to make an official request to the proper authorities to have the use of the land.

(7) This section shall not apply to: (a) any lands purchased or acquired for construction and maintenance of highways or highway rights-of-way by the Mississippi Department of Transportation, or (b) any lands acquired by the state by forfeiture for nonpayment of ad valorem taxes and heretofore or hereafter sold under authority of any other section of Chapter 1, Title 29, specifically relating to tax-forfeited lands.

(8) This section shall not apply to any lands purchased solely by the use of federal funds or lands for which authority to transfer or dispose of these lands is governed by federal law or federal regulations insofar as the application of this section limits or impairs the ability of the Secretary of State to acquire or dispose of the land. However, any state agency acquiring or

disposing of land exempted from the application of this section by this subsection shall furnish the Secretary of State certified copies of all deeds executed for those transfers or disposals.

(9) Any lands purchased by the Mississippi Major Economic Impact Authority for a "project" as defined in Section 57-75-5 shall be excluded from the provisions of this section.

(10) The Secretary of State may recover from any agency, corporation, board, commission, entity or individual any cost that is incurred by his office for the record-keeping responsibilities regarding the sale or purchase of any state-held lands.

(11) Subsections (4), (5) and (6) of this section shall not apply to sales or purchases of land when the Legislature expressly authorizes or directs a state agency to sell, purchase or lease-purchase a specifically described property. However, when the Legislature authorizes a state agency to sell or otherwise convey specifically described real property to another state agency or other entity such as a county, municipality, economic development district created under Section 19-5-99 or similar entity, without providing that the conveyance may not be made for less than the fair market value of the property, then the state agency authorized to convey such property must make the following determinations before conveying the property:

(a) That the state agency or other entity to which the proposed conveyance is to be made has an immediate need for the property;

(b) That there are quantifiable benefits that will inure to the state agency or other entity to which the proposed conveyance is to be made which outweigh any quantifiable costs to the state agency authorized to make the conveyance; and

(c) That the state agency or other entity to which the proposed conveyance is to be made lacks available funds to pay fair market value for the property. If the state agency authorized to convey such property fails to make such determinations, then it shall not convey the property for less than the fair market value of the property.

(12) This section shall not apply to the donation and conveyance of the Nanih Waiya State Park to the Mississippi Band of Choctaw Indians.

(13) This section shall not apply to any lands acquired, sold, or leased pursuant to Section 59-5-1 et seq.

SECTION 168. Section 29-5-2, Mississippi Code of 1972, is brought forward as follows:

29-5-2. The duties of the Department of Finance and Administration shall be as follows:

(a) (i) To exercise general supervision and care over and keep in good condition the following state property located in the City of Jackson: the New State Capitol Building, the Woolfolk State Office Building and Parking Garage, the Carroll Gartin Justice Building, the Walter Sillers Office Building and Parking Garage, the War Veterans' Memorial Building, the Charlotte Capers

Building, the William F. Winter Archives and History Building, the Mississippi Museum Complex, the Gulf, Mobile and Ohio Train Depot (GM&O Depot), the Old State Capitol Building, the Governor's Mansion, the Heber Ladner Building, the Robert E. Lee Office Building, the Robert E. Lee Parking Garage, the former Naval Reserve Center, 515 East Amite Street, 620 North Street, 660 North Street, 700 North State Street, 350 High Street, 401 North Lamar Street, 455 North Lamar Street, the State Records Center, the Robert G. Clark, Jr. Building, the Mississippi State Fairgrounds Complex, the former Central High Building, the Mississippi Workers' Compensation Commission Office Building, as well as all state-owned or leased buildings situated on seat of government property.

(ii) To exercise general supervision and care over and keep in good condition the Dr. Eldon Langston Bolton Building located in Biloxi, Mississippi.

(iii) To exercise general supervision and care over and keep in good condition the State Service Center, located at the intersection of U.S. Highway 49 and John Merl Tatum Industrial Drive in Hattiesburg, Mississippi.

(iv) To exercise general supervision and care over and keep in good condition any property purchased, constructed or otherwise acquired by the State of Mississippi for conducting state business and not specifically under the supervision and care by any other state entity, but which is reasonably assumed the

department would be responsible for such, as approved by the Public Procurement Review Board, including, but not limited to:

1. The National Aeronautics and Space Administration (NASA) Shared Services Center and Lockheed Martin Building at Stennis Space Center;

2. The Mississippi Sports Hall of Fame;

3. The Mississippi Crafts Center;

4. The Mississippi Children's Museum; and

5. The Mississippi Arts and Entertainment Center.

(b) To assign suitable office space for the various state departments, officers and employees who are provided with an office in any of the buildings under the jurisdiction or control of the Department of Finance and Administration. However, the assignment of space in the New Capitol Building shall be designated by duly passed resolution of the combined Senate Rules Committee and the House Management Committee, meeting as a joint committee, approved by the Lieutenant Governor and Speaker of the House of Representatives. A majority vote of the members of the Senate Rules Committee and a majority vote of the members of the House Management Committee shall be required on all actions taken, resolutions or reports adopted, and all other matters considered by the full combined committee on occasions when the Senate Rules Committee and the House Management Committee shall meet as a full combined committee.

(c) To approve or disapprove with the concurrence of the Public Procurement Review Board, any lease or rental agreements by any state agency or department, including any state agency financed entirely by federal and special funds, for space outside the buildings under the jurisdiction of the Department of Finance and Administration, including space necessary for parking to be used by state employees who work in the Woolfolk Building, the Carroll Gartin Justice Building or the Walter Sillers Office Building. In no event shall any employee, officer, department, federally funded agency or bureau of the state be authorized to enter into a lease or rental agreement without prior approval of the Department of Finance and Administration and the Public Procurement Review Board.

The Department of Finance and Administration is authorized to use architects, engineers, building inspectors and other personnel for the purpose of making inspections as may be deemed necessary in carrying out its duties and maintaining the facilities.

This section is not intended to apply to locations for which the Department of Finance and Administration has decided to solicit proposals in accordance with subsection (e) of this section.

(d) To acquire by lease, lease-purchase agreement, or otherwise, as provided in Section 27-104-107, and to assign through the Office of General Services, by lease or sublease agreement from the office, and with the concurrence of the Public

Procurement Review Board, to any state agency or department, including any state agency financed entirely by federal and special funds, appropriate office space in the buildings acquired.

(e) To solicit and approve or disapprove, notwithstanding any rule of law to the contrary, and with the concurrence of the Public Procurement Review Board, any lease, use or rental agreement for a charge or other consideration for space not exceeding three thousand (3,000) square feet in any individual building listed in subsection (a) of this section, with a private entry who will provide food and/or catering services for state employees, visitors and the general public.

The department shall select the entity using a competitive process which shall be publicly advertised. In addition to satisfying any other requirements for the Public Procurement Review Board's approval, the department must demonstrate that any agreement entered into under this section will neither result in a net cost to the state, nor impair or impede the function of state agencies at such location.

SECTION 169. Section 37-68-9, Mississippi Code of 1972, is brought forward as follows:

37-68-9. (1) The department shall:

(a) Inform each school of its portion of the funds appropriated to this grant program as provided for in Section 37-68-7(2);

(b) Develop regulations and procedures to govern the administration of this grant program, to include:

(i) A reimbursement process for schools to submit expenditures and receive reimbursement for eligible expenses from the department up to the total amount allocated to each school in Section 37-68-7;

(ii) Provide guidance to schools in the development of a technology sustainability plan, addressing how devices and other technology purchased and used by the school district, and students, teachers and other administrators and staff, will be maintained throughout their usage and replaced before the expiration of the term of their expected useful life;

(iii) Provide guidance to schools in the development of a responsible use policy for students, teachers and administrators or other staff to govern the use of devices and other technology purchased under this grant program;

(c) Provide guidance to schools on the development and implementation of a distance learning plan;

(d) Solicit bid proposals from vendors to establish an EPL; and

(e) Seek an emergency exemption from the procurement laws and bidding procedures established in Section 31-7-13 to expedite the compilation of an EPL and to minimize the cost of relevant devices or other technology for school districts through bulk purchasing.

(2) The department may:

(a) Revise the adopted EPL based upon purchasing demands as needed to provide schools with choice in the selection of the electronic devices; and

(b) Use the federal ESSER funds set aside for administration of the program to administer this grant program, to the extent permissible under federal law.

SECTION 170. Section 37-41-101, Mississippi Code of 1972, is brought forward as follows:

37-41-101. (1) The State Board of Education is hereby authorized, empowered and directed to advertise for and receive sealed bids and proposals for sale of school bus bodies and school buses sold as complete units to the school boards of school districts in this state. The State Board of Education shall approve persons, firms, corporations or associations authorized to sell school bus bodies and school buses sold as complete units, and shall establish prices relative thereto based upon the lowest and best bids, which school districts may not exceed in purchasing such equipment. In determining the lowest and best bids received for such equipment, there shall be included as part of the total cost thereof any transportation or freight charges which will be incurred. The State Board of Education may permit all such bidders to sell said equipment provided that the bidders agree to sell the equipment at prices established based upon the lowest and best bid and in compliance with rules and regulations relative

thereto promulgated by the state board. Persons, firms, corporations or associations permitted to sell school bus bodies and school buses sold as complete units shall be limited to those actually submitting bids for consideration by the State Board of Education. The State Board of Education shall reserve the right to reject any and all bids submitted.

(2) School boards may purchase school bus bodies and school buses sold as complete units without additional advertisement for bids, provided that the prices for such equipment do not exceed the maximum allowable prices established under the provisions of subsection (1) of this section, and that said purchases are in compliance with the conditions specified therein. All such purchases shall be subject to the approval of the State Department of Education, which shall verify compliance with the applicable specifications, rules and regulations promulgated by the State Board of Education.

(3) In addition to the method of purchasing authorized under this section, school boards are hereby authorized to advertise for and accept the lowest and best bid received for the purchase of school bus chassis and/or pupil transportation service vehicles. Provided, however, that local school governing boards may purchase school bus chassis and/or pupil transportation service vehicles from any motor vehicle dealer domiciled within the county of such governing board, whose bid does not exceed a sum equal to three percent (3%) greater than the price or cost which the dealer pays

the manufacturer, as evidenced by the factory invoice for such vehicles. In the event said county does not have an authorized motor vehicle dealer, said board may, in like manner, receive and accept bids from motor vehicle dealers in any adjoining county. No purchase of school bus chassis or service vehicles under the provisions of this subsection shall be valid unless the purchase is made according to statutory bidding and licensing requirements. All purchases under provisions of this subsection shall be subject to the approval of the State Department of Education, which shall verify compliance with the applicable specifications, rules and regulations promulgated by the State Board of Education.

(4) Upon application to and approval by the State Department of Education, school governing boards are hereby authorized to purchase used school buses and used pupil transportation service vehicles, provided that said vehicles meet applicable specifications and the purchase price does not exceed their fair market value. Said fair market value shall be determined by an appraisal by three (3) experienced and impartial citizens, the selection of whom shall be mutually agreed upon by the parties thereto. Said appraisers may be subject to approval by the State Department of Education. Maximum regard for pupil safety and adequate protection of health shall be primary requirements which shall be observed by local school governing boards in purchasing used school buses. The State Department of Education may inspect or have inspected any used school bus prior to purchase to

determine whether said bus meets requirements of law and regulations of the state board.

(5) In the event the school board shall have determined that school buses or pupil transportation service vehicles are no longer needed for the transportation of pupils in such school district, such equipment may be sold to another school district without the necessity of advertising for bids. The school district proposing to sell the buses or service vehicles and the school district proposing to purchase such equipment shall agree upon a fair and reasonable price therefor. The agreement shall be spread upon the minutes of the boards of the respective school districts and shall be subject to the prior approval of the State Department of Education, which shall verify compliance with applicable specifications, rules and regulations of the State Board of Education.

SECTION 171. Section 37-101-15, Mississippi Code of 1972, is brought forward as follows:

37-101-15. (a) The Board of Trustees of State Institutions of Higher Learning shall succeed to and continue to exercise control of all records, books, papers, equipment, and supplies, and all lands, buildings, and other real and personal property belonging to or assigned to the use and benefit of the board of trustees formerly supervising and controlling the institutions of higher learning named in Section 37-101-1. The board shall have and exercise control of the use, distribution and disbursement of

all funds, appropriations and taxes, now and hereafter in possession, levied and collected, received, or appropriated for the use, benefit, support, and maintenance or capital outlay expenditures of the institutions of higher learning, including the authorization of employees to sign vouchers for the disbursement of funds for the various institutions, except where otherwise specifically provided by law.

(b) The board shall have general supervision of the affairs of all the institutions of higher learning, including the departments and the schools thereof. The board shall have the power in its discretion to determine who shall be privileged to enter, to remain in, or to graduate therefrom. The board shall have general supervision of the conduct of libraries and laboratories, the care of dormitories, buildings, and grounds; the business methods and arrangement of accounts and records; the organization of the administrative plan of each institution; and all other matters incident to the proper functioning of the institutions. The board shall have the authority to establish minimum standards of achievement as a prerequisite for entrance into any of the institutions under its jurisdiction, which standards need not be uniform between the various institutions and which may be based upon such criteria as the board may establish.

(c) The board shall exercise all the powers and prerogatives conferred upon it under the laws establishing and providing for the operation of the several institutions herein specified. The

board shall adopt such bylaws and regulations from time to time as it deems expedient for the proper supervision and control of the several institutions of higher learning, insofar as such bylaws and regulations are not repugnant to the Constitution and laws, and not inconsistent with the object for which these institutions were established. The board shall have power and authority to prescribe rules and regulations for policing the campuses and all buildings of the respective institutions, to authorize the arrest of all persons violating on any campus any criminal law of the state, and to have such law violators turned over to the civil authorities.

(d) For all institutions specified herein, the board shall provide a uniform system of recording and of accounting approved by the State Department of Audit. The board shall annually prepare, or cause to be prepared, a budget for each institution of higher learning for the succeeding year which must be prepared and in readiness for at least thirty (30) days before the convening of the regular session of the Legislature. All relationships and negotiations between the State Legislature and its various committees and the institutions named herein shall be carried on through the board of trustees. No official, employee or agent representing any of the separate institutions shall appear before the Legislature or any committee thereof except upon the written order of the board or upon the request of the Legislature or a committee thereof.

(e) For all institutions specified herein, the board shall prepare an annual report to the Legislature setting forth the disbursements of all monies appropriated to the respective institutions. Each report to the Legislature shall show how the money appropriated to the several institutions has been expended, beginning and ending with the fiscal years of the institutions, showing the name of each teacher, officer, and employee, and the salary paid each, and an itemized statement of each and every item of receipts and expenditures. Each report must be balanced, and must begin with the former balance. If any property belonging to the state or the institution is used for profit, the reports shall show the expense incurred in managing the property and the amount received therefrom. The reports shall also show a summary of the gross receipts and gross disbursements for each year and shall show the money on hand at the beginning of the fiscal period of the institution next preceding each session of the Legislature and the necessary amount of expense to be incurred from said date to January 1 following. The board shall keep the annual expenditures of each institution herein mentioned within the income derived from legislative appropriations and other sources, but in case of emergency arising from acts of providence, epidemics, fire or storm with the written approval of the Governor and by written consent of a majority of the senators and of the representatives it may exceed the income. The board shall require a surety bond in a surety company authorized to do business in this state of

every employee who is the custodian of funds belonging to one or more of the institutions mentioned herein, which bond shall be in a sum to be fixed by the board in an amount that will properly safeguard the said funds, the premium for which shall be paid out of the funds appropriated for said institutions.

(f) The board shall have the power and authority to elect the heads of the various institutions of higher learning and to contract with all deans, professors, and other members of the teaching staff, and all administrative employees of said institutions for a term not exceeding four (4) years. The board shall have the power and authority to terminate any such contract at any time for malfeasance, inefficiency, or contumacious conduct, but never for political reasons. It shall be the policy of the board to permit the executive head of each institution to nominate for election by the board all subordinate employees of the institution over which he presides. It shall be the policy of the board to elect all officials for a definite tenure of service and to reelect during the period of satisfactory service. The board shall have the power to make any adjustments it thinks necessary between the various departments and schools of any institution or between the different institutions.

(g) The board shall keep complete minutes and records of all proceedings which shall be open for inspection by any citizen of the state.

(h) The board shall have the power to enter into an energy performance contract, energy services contract, on a shared-savings, lease or lease-purchase basis, for energy efficiency services and/or equipment as prescribed in Section 31-7-14.

(i) The Board of Trustees of State Institutions of Higher Learning, for and on behalf of Jackson State University, is hereby authorized to convey by donation or otherwise easements across portions of certain real estate located in the City of Jackson, Hinds County, Mississippi, for right-of-way required for the Metro Parkway Project.

(j) In connection with any international contract between the board or one (1) of the state's institutions of higher learning and any party outside of the United States, the board or institution that is the party to the international contract is hereby authorized and empowered to include in the contract a provision for the resolution by arbitration of any controversy between the parties to the contract relating to such contract or the failure or refusal to perform any part of the contract. Such provision shall be valid, enforceable and irrevocable without regard to the justiciable character of the controversy. Provided, however, that in the event either party to such contract initiates litigation against the other with respect to the contract, the arbitration provision shall be deemed waived unless asserted as a

defense on or before the responding party is required to answer such litigation.

(k) The Board of Trustees of State Institutions of Higher Learning ("board"), on behalf of any institution under its jurisdiction, shall purchase and maintain business property insurance and business personal property insurance on all university-owned buildings and/or contents as required by federal law and regulations of the Federal Emergency Management Agency (FEMA) as is necessary for receiving public assistance or reimbursement for repair, reconstruction, replacement or other damage to those buildings and/or contents caused by the Hurricane Katrina Disaster of 2005 or subsequent disasters. The board is authorized to expend funds from any available source for the purpose of obtaining and maintaining that property insurance. The board is authorized to enter into agreements with the Department of Finance and Administration, local school districts, community/junior college districts, community hospitals and/or other state agencies to pool their liabilities to participate in a group business property and/or business personal property insurance program, subject to uniform rules and regulations as may be adopted by the Department of Finance and Administration.

(l) The Board of Trustees of State Institutions of Higher Learning, or its designee, may approve the payment or reimbursement of reasonable travel expenses incurred by candidates for open positions at the board's executive office or at any of

the state institutions of higher learning, when the job candidate has incurred expenses in traveling to a job interview at the request of the board, the Commissioner of Higher Education or a state institution of higher learning administrator.

(m) (i) The Board of Trustees of State Institutions of Higher Learning is authorized to administer and approve contracts for the construction and maintenance of buildings and other facilities of the state institutions of higher learning, including related contracts for architectural and engineering services, which are paid for with self-generated funds.

(ii) Additionally, the board is authorized to oversee, administer and approve contracts for the construction and maintenance of buildings and other facilities of the state institutions of higher learning, including related contracts for architectural and engineering services, which are funded in whole or in part by general obligation bonds of the State of Mississippi at institutions designated annually by the board as being capable to procure and administer all such contracts. Prior to the disbursement of funds, an agreement for each project between the institution and the Department of Finance and Administration shall be executed. The approval and execution of the agreement shall not be withheld by either party unless the withholding party provides a written, detailed explanation of the basis for withholding to the other party. The agreement shall stipulate the responsibilities of each party, applicable procurement

regulations, documentation and reporting requirements, conditions prior to, and schedule of, disbursement of general obligation bond funds to the institution and provisions concerning handling any remaining general obligation bonds at the completion of the project. Such agreement shall not include provisions that constitute additional qualifications or criteria that act to invalidate the designation of an institution as capable of procuring and administering such project. Inclusion of any such provisions may be appealed to the Public Procurement Review Board.

(n) The Board of Trustees of State Institutions of Higher Learning ("board") shall require all on-campus faculty and staff employed by, and all students attending, any of the state institutions of higher learning identified in Section 37-101-1 to be issued an identification badge in physical or electronic format. Any identification card issued or renewed pursuant to this section, whether physical or in an electronic format, shall include the words "Crisis Lifeline - Dial or Text 988, or chat 988lifeline.org" or like language for formatting purposes.

SECTION 172. Section 37-101-413, Mississippi Code of 1972, is brought forward as follows:

37-101-413. (1) As used in this section, the term "state institutions of higher learning" means those institutions identified in Section 37-101-1 and the University Research Center.

(2) The Board of Trustees of State Institutions of Higher Learning may establish an equipment leasing and purchase program

for the use of the state institutions of higher learning. In establishing and administering the program, the board may perform the following actions:

(a) Adopt policies and procedures to implement the program;

(b) Establish offices or subordinate units as may be necessary for the administration of the program;

(c) Adopt rules and regulations pertaining to the program;

(d) Acquire by purchase, lease or lease-purchase contract and retain or transfer ownership or possession of instructional and other equipment;

(e) Contract for the leasing of such properties and for the financing of leases and purchases;

(f) Enter into contracts with others to provide any services deemed necessary and advisable by the board;

(g) Make purchases and enter into leases according to the requirements of the state public purchasing laws and the requirements of those laws establishing the Mississippi Department of Information Technology Services;

(h) Enter into lease financing agreements in connection with purchases made under the authority of this section;

(i) Require the transfer of appropriations of general funds or self-generated funds from the state institutions to those

funds that the board may determine are required in connection with any lease financing agreements;

(j) Develop administrative methods for determining age, useful life, replacement value, current use, condition and other characteristics of instructional and research equipment at the state institutions and research facilities;

(k) Determine obsolescence of the equipment and establish priorities for replacement or provision of the equipment or its transfer to another state institution that can continue to utilize it; and

(l) Develop long-range plans for the orderly and systematic acquisition and utilization of the instructional and research equipment in order to eliminate waste and duplication, provide the maximum efficiency of use for expenditures, and achieve equitable allocations of equipment funds to the state institutions consistent with the roles of the institutions and disciplines served.

(3) All institutions of higher learning desiring to purchase, lease or lease-purchase equipment involving an expenditure or expenditures of more than Five Thousand Dollars ($5,000.00) must procure that equipment under the equipment leasing and purchase program unless funds for the procurement of the equipment under the program are unavailable or the equipment can be procured elsewhere at an overall cost lower than that for which the equipment can be procured under the program.

SECTION 173. Section 43-27-35, Mississippi Code of 1972, is brought forward as follows:

43-27-35. (1) The Department of Finance and Administration, for and on behalf of the Department of Human Services and the State of Mississippi, may enter into a purchase contract, a lease-purchase agreement or other similar contract for the acquisition of land, buildings or equipment that would be suitable for use by the Department of Human Services in providing housing and facilities for youth under its jurisdiction regardless of the ages of such youths and that would assist the Department of Human Services in the performance of its duties under Chapter 27, Title 43, Mississippi Code of 1972. Before entering into any such contract or agreement, the Department of Finance and Administration must first demonstrate to the Public Procurement Review Board satisfactory evidence that the contract or agreement would be economically advantageous to the Department of Human Services.

(2) Acquisition of the property described in subsection (1) of this section shall be made only as provided in subsection (3) and upon legislative approval or upon approval of the State Bond Commission in accordance with the manner and procedure prescribed in Section 27-104-107.

(3) If Newton County is selected as a site to house a facility under this section, the governing authorities of any municipality in which all or part of the facility is to be located

and the Board of Supervisors of Newton County shall adopt resolutions spread on their minutes requesting the location of the facility in such municipality and the county. If such resolutions are adopted, the qualified electors of the municipality, if all or part of the facility is to be located in a municipality, shall vote in an election to be set by the governing authorities to determine if a facility shall be sited. If a majority of the qualified electors voting in the election vote in favor of siting a facility, a second election set by the board of supervisors shall be held in the county. If a majority of the qualified electors of the county voting in the election vote in favor of siting a facility, a facility shall be sited. If a majority of the qualified electors of the municipality voting in the election vote against siting a facility, a second election shall not be held in the county and a facility shall not be sited.

SECTION 174. Section 43-37-3, Mississippi Code of 1972, is brought forward as follows:

43-37-3. (1) Any person, agency or other entity acquiring real property for any project or program in which public funds are used shall comply with the following policies:

(a) Every reasonable effort shall be made to acquire expeditiously real property by negotiation.

(b) Real property shall be appraised before the initiation of negotiations, except that the acquiring person, agency or other entity may adopt a procedure in compliance with

federal regulations to waive the appraisal in cases involving the acquisition by sale or donation of property with a low fair market value. For the purposes of this chapter, property with a low fair market value is property with a fair market value of Ten Thousand Dollars ($10,000.00) or less. The owner or his designated representative shall be given an opportunity to accompany the appraiser during his inspection of the property.

(c) (i) Except as otherwise provided in subparagraph (ii) of this paragraph, the price that shall be paid for real property shall be the lesser of the best negotiated price or the approved appraisal of the fair market value or the price at which the property is offered for sale. Any decrease or increase in the fair market value of real property prior to the date of valuation caused by the public improvement for which the property is acquired or by the likelihood that the property would be acquired for such improvement, other than that due to physical deterioration within the reasonable control of the owner, will be disregarded in determining the compensation for the property. The owner of the real property to be acquired shall be provided with a written statement of, and summary of the basis for, the amount established as just compensation. Where appropriate, the just compensation for the real property acquired and for damages to remaining real property shall be separately stated.

(ii) The purchase price for real property may exceed the amount offered as just compensation for the property

when reasonable efforts to negotiate an agreement at that amount have failed, and the person, agency or other entity seeking to acquire the property approves an administrative settlement as reasonable, prudent and in the best interests of the public. When state funds pay for all or a portion of the acquisition, the purchasing person, agency or other entity shall prepare a written statement explaining the reasons that justified the purchase price exceeding the amount offered as just compensation, including any anticipated trial risks, and any available information supporting an administrative settlement.

(d) No owner shall be required to surrender possession of real property before the agreed purchase price is paid or there is deposited with the state court, in accordance with applicable law, for the benefit of the owner an amount not less than the approved appraisal of the fair market value of such property, or the amount of the award of compensation in the condemnation proceeding of such property.

(e) The construction or development of a public improvement shall be so scheduled that, to the greatest extent practicable, no person lawfully occupying real property shall be required to move from a dwelling (assuming a replacement dwelling will be available) or to move his business or farm operation without at least ninety (90) days' written notice from the date by which such move is required.

(f) If an owner or tenant is permitted to occupy the real property acquired on a rental basis for a short term or for a period subject to termination by the acquiring authority on short notice, the amount of rent required shall not exceed the fair rental value of the property to a short-term occupier.

(g) In no event shall the time of condemnation be advanced, or negotiations or condemnation and the deposit of funds in court for the use of the owner be deferred, or any other coercive action be taken to compel an agreement on the price to be paid for the property.

(h) If an interest in real property is to be acquired by exercise of power of eminent domain, formal condemnation proceedings shall be instituted. The acquiring authority shall not intentionally make it necessary for an owner to institute legal proceedings to prove the fact of the taking of his real property.

(i) If the acquisition of only part of the property would leave its owner with an uneconomic remnant, an offer to acquire that remnant shall be made. For the purposes of this chapter, an uneconomic remnant is a parcel of real property in which the owner is left with an interest after the partial acquisition of the owner's property and which the person, agency or other entity acquiring the property determines has little or no value or utility to the owner.

(j) A person whose real property is being acquired in accordance with this chapter may, after the person has been fully informed of his right to receive just compensation for such property, donate such property, any part thereof, any interest therein or any compensation paid therefor to the person, agency or other entity acquiring the property in such manner as he so determines.

(2) Any real property acquired by any person, agency or other entity using public funds in accordance with Section 57-75-37(3), Section 57-75-37(4), Section 57-75-37(5), Section 57-75-37(6), Section 57-75-37(7) or Section 57-31-35 shall be exempt from the provisions of subsection (1)(b) and (c) of this section to the extent permitted by Section 57-75-37(3), Section 57-75-37(4), Section 57-75-37(5), Section 57-75-37(6), Section 57-75-37(7) or Section 57-31-35.

SECTION 175. Section 45-1-39, Mississippi Code of 1972, is brought forward as follows:

45-1-39. (1) For the purposes of this section, the following words and phrases shall have the following meanings unless the context clearly indicates otherwise:

(a) "Project" means the project for construction of interior elements at the new Department of Public Safety building in Pearl, Mississippi.

(b) "Bureau" means the Bureau of Building, Ground, and Real Property Management.

(c) "Contract" means the contract for the project which shall be awarded under the construction-manager-at-risk methodology as otherwise provided for herein.

(d) "Standards" means the American Institute of Architects (AIA) A133-2019 Owner/Construction Manager as Constructor Agreement-Cost of the Work Plus Fee with GMP, the AIA A133-2019 Exhibit A: GMP Amendment, and the AIA A133-2019 Exhibit B: Insurance and Bonds, with such revisions, qualifications, and assumptions as the bureau and the construction manager deem appropriate due to market conditions and the overall nature of the project.

(2) The Legislature finds that the size and nature of the project require the use of the construction-manager-at-risk methodology and that the resulting opportunities for savings in construction time and cost justify the direct negotiation of the contract between the bureau and a construction manager. The bureau shall negotiate and execute the contract based on the standards.

(3) The project and the contract are hereby exempt from the public purchasing requirements of Sections 31-7-13 and 31-7-13.2.

SECTION 176. Section 45-11-7, Mississippi Code of 1972, is brought forward as follows:

45-11-7. (1) There is hereby created a State Fire Academy for the training and education of persons engaged in municipal, county and industrial fire protection. The Commissioner of Insurance shall appoint an Executive Director of the State Fire

Academy who, along with his employees, shall be designated as a division of the Insurance Department. The executive director shall serve at the pleasure of the Commissioner of Insurance. The State Fire Academy shall be under the supervision and direction of the Executive Director of the State Fire Academy. State Fire Academy training programs for fire personnel shall be conducted at the academy with seminars to be conducted in other sections of the state as and when the State Fire Academy Advisory Board considers it necessary and advisable.

The Commissioner of Insurance may establish and charge reasonable fees for the training programs and other services provided by the academy. A record of all funds received pursuant to this paragraph shall be maintained as is required for other monies pursuant to Section 45-11-5.

The Executive Director of the State Fire Academy is authorized and empowered to purchase, operate and maintain mobile firefighting equipment as he may find necessary and proper for the operation of the academy subject to approval of the Commissioner of Insurance. The equipment may be utilized wherever training sessions may be held at the discretion of the State Fire Academy Advisory Board.

(2) The Commissioner of Insurance shall be authorized to undertake appropriate action to accomplish and fulfill the purposes of the State Fire Academy, including the hiring of instructors and personnel, the lease and purchase of appropriate

training equipment and to lease, purchase or construct suitable premises and quarters for conducting annual school and seminars, as the State Fire Academy Advisory Board may deem necessary and required for such purposes. Any contract entered into under and by virtue of the provisions of this section shall first be submitted to and approved by the Public Procurement Review Board, and construction pursuant to the contract shall be under the supervision of the Governor's Office of General Services.

(3) Vouchers for operating expense for the State Fire Academy shall be signed by the Executive Director of the State Fire Academy and payment thereof shall be made from such funds to be derived from a special allocation from the State Fire Academy Fund as provided in Section 45-11-5.

(4) The State Fire Academy is hereby officially designated as the agency of this state to conduct training for fire personnel on a statewide basis in which members of all duly constituted fire departments may participate. This subsection shall not be construed to affect the authority of any fire department to conduct training for its own personnel.

(5) Each state agency, private agency or federal agency which provides training for the fire service shall coordinate such efforts with the State Fire Academy to prevent duplication of cost and to ensure standardization of training.

(6) The State Fire Academy shall present an appropriate certificate signifying the successful completion of its prescribed courses.

(7) National firefighter standards approved by the Mississippi Fire Personnel Minimum Standards and Certification Board shall be used as the basis for classroom instruction at the fire academy.

(8) The Commissioner of Insurance, Executive Director of the State Fire Academy, and the Mississippi Fire Personnel Minimum Standards and Certification Board shall coordinate all state programs related to fire department operations.

(9) The Commissioner of Insurance is hereby authorized and empowered to establish standard guidelines for the use of, and accountability for, municipal and county fire protection funds distributed pursuant to the provisions of Sections 83-1-37 and 83-1-39, Mississippi Code of 1972. Such guidelines shall include requirements for the establishment of record keeping and reports to the Commissioner of Insurance by municipalities and counties relating to the receipt and expenditure of fire protection funds, the training of fire department personnel and the submission to the Commissioner of Insurance of other data reasonably related to local fire protection responsibilities which the Commissioner of Insurance deems necessary for the performance of the duties of the State Fire Academy Advisory Board.

(10) In order that the Commissioner of Insurance may more effectively execute the duties imposed upon him by subsection (9) of this section, there is hereby created within the State Fire Academy a Division of Fire Services Development. The division shall be staffed by a Fire Services Development Coordinator, appointed by the executive director of the academy from his current staff and by such other personnel as deemed by the Commissioner of Insurance. The division shall work with municipal and county fire coordinators to ensure effective implementation of guidelines established pursuant to subsection (9) of this section and shall serve in an advisory capacity for all aspects of fire service improvement. The Fire Service Coordinator shall annually notify the Department of Finance and Administration of those municipalities and counties which are not eligible to receive a portion of fire protection fund distributions because of failure to comply with requirements imposed in Sections 83-1-37 and 83-1-39 as a prerequisite to receipt of such funds.

(11) There is created in the State Treasury a separate account to be known as the "State Fire Academy Construction Fund." The State Treasurer shall transfer on July 1, 1997, the sum of Six Hundred Seventy-five Thousand Dollars ($675,000.00) and on July 1, 1998, the sum of Six Hundred Seventy-five Thousand Dollars ($675,000.00) from the State Fire Academy Fund 3502 into the separate account created in this subsection. Monies in such account shall be expended solely, upon legislative appropriations,

to defray expenses related to the construction of capital improvements project known as "Fire Safety and Education Building" and parking areas at the State Fire Academy by the Bureau of Building, Grounds and Real Property Management of the Office of General Services and to pay any indebtedness incurred to accomplish such construction. Funds not used after the completion of this capital improvements project shall be transferred back into State Fund 3502.

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

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

(14) The State Fire Academy is designated as an authorized training program for Emergency Medical Response and Emergency Medical Technician, and is authorized to provide initial and national continued competency program training, including Emergency Medical Responder, Emergency Medical Technician-Basic and Emergency Medical Technician-Advanced. The State Fire Academy shall be limited to a total of one hundred twenty (120) students per year for Emergency Medical Technician-Basic and Emergency

Medical Technician-Advanced training; however, no limitation shall apply to the number of Emergency Medical Responder students. The training program established by the State Fire Academy shall meet or exceed the requirements of the most current training program national standard curriculum as developed by the United States Department of Transportation, National Highway Traffic Safety Administration, and shall also meet the minimum testing and certification requirements established by the State Board of Health. Successful graduates of the State Fire Academy Emergency Medical Response and Emergency Medical Technician training shall be eligible for certification by the State Board of Health for the training level achieved, provided that their training meets or exceeds the minimum testing and certification requirements established by the State Board of Health for these respective skills, and such certification may be obtained in coordination with the State Board of Health pursuant to Chapters 59 and 60, Title 41, Mississippi Code of 1972.

SECTION 177. Section 47-5-20, Mississippi Code of 1972, is brought forward as follows:

47-5-20. The commissioner shall have the following powers and duties:

(a) To establish the general policy of the department;

(b) To approve proposals for the location of new facilities, for major renovation activities, and for the creation of new programs and divisions within the department as well as for

the abolition of the same; provided, however, that the commissioner shall approve the location of no new facility unless the board of supervisors of the county or the governing authorities of the municipality in which the new facility is to be located shall have had the opportunity with at least sixty (60) days' prior notice to disapprove the location of the proposed facility. If either the board of supervisors or the governing authorities shall disapprove the facility, it shall not be located in that county or municipality. Said notice shall be made by certified mail, return receipt requested, to the members of the board or governing authorities and to the clerk thereof;

(c) Except as otherwise provided or required by law, to open bids and approve the sale of any products or manufactured goods by the department according to applicable provisions of law regarding bidding and sale of state property, and according to rules and regulations established by the State Fiscal Management Board;

(d) To adopt administrative rules and regulations including, but not limited to, offender transfer procedures, award of administrative earned time, personnel procedures, employment practices.

SECTION 178. Section 47-5-47, Mississippi Code of 1972, is brought forward as follows:

47-5-47. It shall be unlawful for any person related by affinity or consanguinity within the third degree computed

according to the rules of the civil law to the Governor, Lieutenant Governor or commissioner to accept any employment in the state correctional system, neither shall the commissioner or other officer or employee of the state correctional system be directly or indirectly interested in any contract, purchase or sale for or in behalf of or on account of the state correctional system.

SECTION 179. Section 47-5-64, Mississippi Code of 1972, is brought forward as follows:

47-5-64. (1) The commissioner is hereby directed to determine the number of acres and location of land under the department's jurisdiction that are needed for security purposes, for Prison Agricultural Enterprises and for nonagricultural purposes. The commissioner shall designate and reserve such additional land for agricultural or nonagricultural enterprise projects of the department, as he deems necessary. The commissioner shall then recommend to the Department of Finance and Administration the number of acres of department land that should be leased to private entities and the term of the leases.

(2) The Department of Finance and Administration is authorized to lease for agricultural purposes that Penitentiary land so recommended for not less than three (3) nor more than eight (8) years, with the approval of the Public Procurement Review Board.

(3) The Department of Finance and Administration, with the approval of the Governor, the Secretary of State and the Commissioner of the Department of Corrections, is authorized to lease Penitentiary land for power generation projects or other commercial or industrial projects at the same time that it leases the land as prescribed in subsection (2) of this section. The Department of Finance and Administration is authorized to negotiate all aspects of leases or related agreements executed under this subsection consistent with the following:

(a) The period of the lease term combined with the term of renewal shall not exceed forty (40) years.

(b) Any lease or renewal lease shall:

(i) Provide for periodic rent adjustments throughout the term of the lease; and

(ii) Require the lessee to provide a decommissioning and restoration bond or other security securing the lessee's obligation to remove all aboveground and underground facilities to a depth of at least three (3) feet underground and to restore the surface to a condition similar to its condition before the commencement of the lease.

(c) Any lease or renewal lease may provide for any combination of the following: base rent, bonuses, percentage of income payments, royalty payments or other terms and conditions that the Department of Finance and Administration deems necessary to maintain a fair and equitable return to the state and to

protect the leased land throughout the term of the lease or renewal lease.

(d) Oil, gas and mineral rights in the leased land shall be reserved to the State of Mississippi.

(e) This subsection does not authorize the sale or transfer of title to any state lands.

(f) The Department of Finance and Administration may charge fees and expenses, not to exceed costs, incurred in administering this subsection.

(g) Any monies derived from leasing lands under this subsection shall be deposited to the Prison Agricultural Enterprise Fund as provided in Section 47-5-66.

SECTION 180. Section 47-5-66, Mississippi Code of 1972, is brought forward as follows:

47-5-66. (1) Except as provided in Section 47-5-64(3), it shall be the duty of the Department of Finance and Administration, with the approval of the Public Procurement Review Board, to lease lands at public contract upon the submission of two (2) or more sealed bids to the Department of Finance and Administration after having advertised the land for rent in newspapers of general circulation published in Jackson, Mississippi; Memphis, Tennessee; the county in which the land is located; and contiguous counties for a period of not less than two (2) successive weeks. The first publication shall be made not less than ten (10) days before the date of the public contract, and the last publication shall be

made not more than seven (7) days before that date. The Department of Finance and Administration may reject any and all bids. If all bids on a tract or parcel of land are rejected, the Department of Finance and Administration may then advertise for new bids on that tract or parcel of land. Successful bidders shall take possession of their leaseholds at the time authorized by the Department of Finance and Administration. However, rent shall be due no later than the day upon which the lessee shall assume possession of the leasehold, and shall be due on the anniversary date for each following year of the lease. The Department of Finance and Administration may provide in any lease that rent shall be paid in full in advance or paid in installments, as may be necessary or appropriate. In addition, the Department of Finance and Administration may accept, and the lease may provide for, assignments of federal, state or other agricultural support payments, growing crops or the proceeds from the sale thereof, promissory notes, or any other good and valuable consideration offered by any lessee to meet the rent requirements of the lease. If a promissory note is offered by a lessee, it shall be secured by a first lien on the crop of the lessee, or the proceeds from the sale thereof. The lien shall be filed pursuant to Article 9 of the Uniform Commercial Code and Section 1324 of the Food Security Act of 1985, as enacted or amended. If the note is not paid at maturity, it shall bear interest at the rate provided for judgments and decrees in Section 75-17-7 from its

maturity date until the note is paid. The note shall provide for the payment of all costs of collection and reasonable attorney's fees if default is made in the payment of the note. The payment of rent by promissory note or any means other than cash in advance shall be subject to the approval of the Public Procurement Review Board, which shall place the approval of record in the minutes of the board.

(2) There is created a special fund to be designated as the "Prison Agricultural Enterprises Fund" and to be used for the purpose of conducting, operating and managing the agricultural and nonagricultural enterprises of the department. Any monies derived from the leasing of Penitentiary lands, from the sales of timber as provided in Section 47-5-56, from the prison's agricultural enterprises or earmarked for the Prison Industries Fund shall be deposited to the special fund. However, fifteen percent (15%) of the monies derived from the leasing of Penitentiary lands under Section 47-5-64(3) shall be deposited to a special fund to be distributed annually on a student pro rata basis to the public schools located in Sunflower County by the Department of Finance and Administration.

(3) All profits derived from prison industries shall be placed in a special fund in the State Treasury to be known as the "Prison Industries Fund," to be appropriated each year by the Legislature to the nonprofit corporation, which is required to be

organized under the provisions of Section 47-5-535, for the purpose of operating and managing the prison industries.

(4) The state shall have the rights and remedies for the security and collection of the rents given by law to landlords.

(5) Lands leased for agricultural purposes under Section 47-5-64(2) shall be subject to a fee-in-lieu of ad valorem taxes, including taxes levied for school purposes. The fee-in-lieu shall be Nine Dollars ($9.00) per acre. Upon the execution of the agricultural leases to private entities as authorized by Section 47-5-64(2), the Department of Finance and Administration shall collect the in lieu fee and shall forward the fees to the tax collector in which the land is located. The tax collector shall disburse the fees to the appropriate county or municipal governing authority on a pro rata basis. The sum apportioned to a school district shall not be less than the school district's pro rata share based upon the proportion that the millage imposed for the school district by the appropriate levying authority bears to the millage imposed by the levying authority for all other county or municipal purposes. Any funds obtained by the corporation as a result of sale of goods and services manufactured and provided by it shall be accounted for separate and apart from any funds received by the corporation through appropriation from the State Legislature. All nonappropriated funds generated by the corporation shall not be subject to appropriation by the State Legislature.

(6) Any land leased, as provided under Section 47-5-64(2), shall not be leased for an amount less than would be received if such land were to be leased under any federal loan program. In addition, all leases shall be subject to the final approval of the Public Procurement Review Board before such leases are to become effective.

SECTION 181. Section 47-5-79, Mississippi Code of 1972, is brought forward as follows:

47-5-79. All contracts for the purchase of materials, supplies, equipment and sustenance for the offenders of the correctional system shall be made under the provisions of the State Purchasing Law, same being Sections 31-7-1 through 31-7-55.

SECTION 182. Section 47-5-105, Mississippi Code of 1972, is brought forward as follows:

47-5-105. The award of all contracts within the purview of the Department of Finance and Administration under Section 27-104-7 in excess of Five Hundred Thousand Dollars ($500,000.00) entered into by the commissioner shall be approved by the Public Procurement Review Board and shall be entered on the minutes of such board before any funds shall be expended therefor. Provided further, that the entrance of the award of contracts on the minutes of the Public Procurement Review Board shall contain a detailed accounting of all bids entered showing clearly the lowest bid and best bid that was awarded in each and every case and, if the bid accepted is not the lowest, then the reasons and

justification for not accepting the lowest bid shall be spread on the minutes. A true copy of the minutes of each meeting of the Public Procurement Review Board shall be sent monthly to the Governor, members of the Legislative Budget Office and Chairmen of the Corrections Committees of the Senate and the House of Representatives.

SECTION 183. Section 47-5-307, Mississippi Code of 1972, is amended as follows:

47-5-307. (1) On and after the establishment of the industries provided for in Sections 47-5-301 through 47-5-327, all commissions, departments, institutions and other agencies of this state, which are supported in whole or in part by this state, may purchase from the State Department of Corrections all articles or products required by such commissions, departments, institutions or agencies which are produced or manufactured by the State Department of Corrections with the use of penitentiary labor as provided for by Sections 47-5-301 through 47-5-327. All purchases made by state agencies shall be made through the * * * Department of Finance and Administration upon requisition by the proper authority of the commission, department, institution or agency. Political subdivisions of this state may purchase directly from the State Department of Corrections.

(2) Any article or product manufactured by the State Department of Corrections for sale through the * * * Department of Finance and Administration to any commission, department,

institution or agency of the state or to any political subdivision thereof, shall be manufactured and/or produced only upon state specifications developed by and through the * * * Department of Finance and Administration. However, if such specifications have not been developed by the * * * Department of Finance and Administration, then production may be based upon commercial specifications in current use by industry for the manufacture of such articles and products for sale to the state and political subdivisions thereof which have first been approved by the * * * Department of Finance and Administration. For purposes of Sections 47-5-301 through 47-5-327, state specifications and commercial specifications approved by the * * * Department of Finance and Administration shall mean the latest complete version of any specification including amendments thereto.

SECTION 184. Section 47-5-313, Mississippi Code of 1972, is amended as follows:

47-5-313. At least thirty (30) days before the beginning of each fiscal year, the * * * Department of Finance and Administration shall provide to the State Department of Corrections, summary reports of the kind and amount of articles and products purchased for state commissions, departments, institutions, agencies and political subdivisions based upon the previous nine (9) months' experience. Not more than one hundred (100) days following the close of each fiscal year, the * * * Department of Finance and Administration shall submit to the State

Department of Corrections a report showing the kinds and amounts of such Penitentiary-manufactured articles purchased by all state commissions, departments, institutions, agencies and political subdivisions based upon the purchase experience of the entire previous fiscal year. All such reports shall refer, insofar as possible, to the items or products contained in the catalogue as issued by the State Department of Corrections. The *** * *** Department of Finance and Administration may at any time request the State Department of Corrections to manufacture or produce additional articles or products.

SECTION 185. Section 47-5-357, Mississippi Code of 1972, is brought forward as follows:

47-5-357. (1) (a) Due to the unique and time sensitive requirements of growing and harvesting products produced by the prison agricultural enterprises, the Department of Finance and Administration and the department shall establish a prudent purchasing policy which may exempt from bid requirements those commodities, items or services which are needed for the efficient and effective management of the prison agricultural enterprises.

(b) Due to the unique and time sensitive requirements of growing and harvesting products produced by the prison agricultural enterprises, the Department of Finance and Administration and the department shall establish a prudent leasing policy which may exempt from bid requirements agricultural

equipment which is needed for the efficient and effective management of the prison agricultural enterprises.

(2) The Department of Finance and Administration shall, by order entered on its minutes, list those commodities, items and services exempted from bid requirements as provided in Section 31-7-12.

SECTION 186. Section 49-2-9, Mississippi Code of 1972, is brought forward as follows:

49-2-9. (1) Effective July 1, 1979, the commission shall have the following powers and duties:

(a) To formulate the policy of the department regarding natural resources within the jurisdiction of the department;

(b) To adopt, modify, repeal, and promulgate, after due notice and hearing, and where not otherwise prohibited by federal or state law, to make exceptions to and grant exemptions and variances from, and to enforce rules and regulations implementing or effectuating the powers and duties of the commission under any and all statutes within the commission's jurisdiction, and as the commission may deem necessary to prevent, control and abate existing or potential pollution;

(c) To apply for, receive and expend any federal or state funds or contributions, gifts, devises, bequests or funds from any other source;

(d) To commission or conduct studies designed to determine alternative methods of managing or using the natural

resources of this state, in a manner to ensure efficiency and maximum productivity;

(e) To enter into, and to authorize the executive director to execute with the approval of the commission, contracts, grants and cooperative agreements with any federal or state agency or subdivision thereof, or any public or private institution located inside or outside the State of Mississippi, or any person, corporation or association in connection with carrying out the provisions of this chapter; but this authority under this chapter and under any and all statutes within the commission's jurisdiction, except those statutes relating to the Bureau of Recreation and Parks, shall not include contracts, grants or cooperative agreements which do not develop data or information usable by the commission, or which provide goods, services or facilities to the commission or any of its bureaus, and shall exclude any monies for special interest groups for purposes of lobbying or otherwise promoting their special interests; and

(f) To discharge such other duties, responsibilities and powers as are necessary to implement the provisions of this chapter.

(2) The Mississippi Department of Environmental Quality, Office of Geology and Energy Resources shall be responsible for program management, procurement, development and maintenance of the Mississippi Digital Earth Model, which should include the

following seven (7) core data layers of a digital land base computer model of the State of Mississippi:

(a) Geodetic control;

(b) Elevation and bathymetry;

(c) Orthoimagery;

(d) Hydrography;

(e) Transportation;

(f) Government boundaries; and

(g) Cadastral. With respect to the cadastral layer, the authority and responsibility of the Mississippi Department of Environmental Quality, Office of Geology and Energy Resources shall be limited to compiling information submitted by counties.

For all seven (7) framework layers, the Mississippi Department of Environmental Quality, Office of Geology and Energy Resources shall be the integrator of data from all sources and the guarantor of data completeness and consistency and shall administer the council's policies and standards for the procurement of remote sensing and geographic information system data by state and local governmental entities.

SECTION 187. Section 49-31-7, Mississippi Code of 1972, is brought forward as follows:

49-31-7. The purposes of this chapter are:

(a) To establish state policy with regard to the role of pollution prevention and recycling in waste management;

(b) To promote pollution prevention, reuse and recycling of waste in lieu of treatment or disposal of waste;

(c) To require all state agencies to aid and promote the development of recycling through the establishment of recycling programs;

(d) To require all state agencies to aid and promote the development of recycling through the establishment of policies for the procurement of goods containing recycled materials;

(e) To establish statewide pollution prevention and waste reduction goals;

(f) To provide for the creation and administration of the Mississippi Multimedia Pollution Prevention Program;

(g) To promote pollution prevention through the requirement of educational curricula for primary and secondary schools;

(h) To foster the education of the general public and the training of waste management professionals to reduce the production of waste, to prevent pollution and to encourage recycling;

(i) To establish and maintain a cooperative state program of planning and technical and financial assistance for the use of pollution prevention and recycling in waste management;

(j) To mandate waste minimization planning by certain generators and facility operators for the reduction of waste;

(k) To encourage the development of pollution prevention and recycling programs as a means of managing waste and conserving resources through planning, grants, technical assistance and other incentives;

(l) To encourage local governments to develop and implement recycling programs within their jurisdictions to return valuable materials to productive use and to protect capacity at waste management facilities;

(m) To further the development of the state's recycling industry by promoting the successful development of markets for recycled items; and

(n) To provide for the funding of the Mississippi Multimedia Pollution Prevention Program through the establishment of a pollution prevention fee.

SECTION 188. Section 57-1-55, Mississippi Code of 1972, is brought forward as follows:

57-1-55. (1) The Mississippi Development Authority shall have the following general powers and duties: To develop and manage programs which enhance the climate for economic growth through assistance to private sector businesses, local communities and individuals, and through an extensive national and international marketing effort.

(2) The Mississippi Development Authority shall have the following general powers and duties with respect to economic development:

(a) To plan, supervise and direct an active program of solicitation of industries to locate within the state;

(b) To prepare, maintain and disseminate information which is needed by companies in evaluating site locations;

(c) To consult with, advise and assist prospective industries wishing to locate within the state;

(d) To encourage new or expanding industries, which will add to the economy, to locate within the state;

(e) To maintain a coordinated liaison function with other development groups, including state and federal agencies, and planning and development districts, utility companies, chambers of commerce and railroads;

(f) To assist communities and counties within the state in preparation for economic growth;

(g) To assist new and existing business and industry and encourage their development and expansion;

(h) To plan and conduct a nationwide advertising program promoting the state to prospective industry. Any contract entered into for such purposes shall be advertised, bid and accepted in accordance with the same procedure as prescribed for the advertisement and acceptance of bids for the purchase of commodities and contracts for public purchases under Chapter 7, Title 31, Mississippi Code of 1972;

(i) To work with economic development agencies of the federal government in areas of industrial development and provide

information to industrial prospects regarding the availability of federal funds and assistance;

(j) To work with the Department of Corrections, pursuant to the provisions of Section 47-5-501 et seq., in identifying and evaluating acceptable industries and businesses and in acting as an agent of the Department of Corrections by communicating with such concerns and aggressively soliciting their participation in the Correctional Industries Work Program;

(k) To perform related work as required;

(l) To disseminate information about financial and other programs of the Mississippi Development Authority that will assist in the creation or expansion of industries processing wood products in this state;

(m) To market processed and raw agricultural products domestically and abroad;

(n) To aid in the establishment of business incubation centers by private business interests, not-for-profit corporations, and/or governmental entities. The department may provide funds by contract for the establishment of business incubation centers and may contract for space in which business incubation centers will be located. Business incubation centers are defined as facilities and support services that encourage the establishment of successful small businesses by providing a short-term sheltered environment. The department may solicit and accept grants and other financial aid or support from private or

public sources to aid in the development of business incubation centers. In addition, advice and assistance to established business incubation centers may be provided by the department;

(o) To employ licensed real estate brokers and appraisers necessary for the industrial development of any real estate under the ownership or control of the Mississippi Development Authority. Any contract entered into for such purposes shall be advertised, bid and accepted in accordance with the same procedure as prescribed for the advertisement and acceptance of bids for the purchase of commodities and contracts for public purchases under Chapter 7, Title 31, Mississippi Code of 1972; and

(p) The Mississippi Development Authority will establish, administer, manage, make expenditures and allocations from the Forestry Facility Grant Program under the provisions of Section 57-1-781.

SECTION 189. Section 57-69-3, Mississippi Code of 1972, is brought forward as follows:

57-69-3. Unless the context requires otherwise, the following words shall have the following meanings for the purposes of this chapter:

(a) "Class of contract basis" means an entire group of contracts having a common characteristic.

(b) "Commercially useful function" means being responsible for execution of a contract or a distinct element of

the work under a contract by actually performing, managing, and supervising the work involved.

(c) "Contract" means all types of state agreements, regardless of what they may be called, for the purchase of supplies or services or for construction or major repairs. "Contract" includes the following:

(i) Awards and notices of award.

(ii) Contracts of a fixed price, cost, cost-plus-a-fixed-fee, or incentive types.

(iii) Contracts providing for the issuance of job or task orders.

(iv) Leases.

(v) Letter contracts.

(vi) Purchase orders.

(vii) Any supplemental agreements with respect to (i) through (vi) of this paragraph.

(d) "Contracting base" means the dollar amount of contracts for public works and procurement of goods and services awarded by a state agency or a state educational institution during a fiscal year.

(e) "Contract by contract basis" means a single contract within a specific class of contracts.

(f) "Contractor" means a party who enters into a contract to provide a state or educational institution with goods

or services, including construction, or a subcontractor or sublessee of such a party.

(g) "Director" means the Executive Director of the Office of Minority Business Enterprises of the Mississippi Development Authority.

(h) "Educational institutions" means the state universities, vocational institutions, and any other state-supported educational institutions.

(i) "Joint venture" means an association of two (2) or more persons or businesses to carry out a single business enterprise for profit for which purpose they combine their property, capital, efforts, skills, and knowledge, and in which they exercise control and share in profits and losses in proportion to their contribution to the enterprise.

(j) "Minority" means a person who is a citizen or lawful permanent resident of the United States and who is:

(i) Black: having origins in any of the black racial groups of Africa.

(ii) Hispanic: of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish or Portuguese culture or origin regardless of race.

(iii) Asian American: having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent, or the Pacific Islands.

(iv) American Indian or Alaskan Native: having origins in any of the original peoples of North America.

(v) Female.

(k) "Minority business enterprise" or "minority owned business" means a socially and economically disadvantaged small business concern organized for profit performing a commercially useful function which is owned and controlled by one or more individuals or minority business enterprises certified by the office, at least seventy-five percent (75%) of whom are resident citizens of the State of Mississippi. For purposes of this paragraph, the term "socially and economically disadvantaged small business concern" shall have the meaning ascribed to such term under the Small Business Act (15 USCS, Section 637(a)). Owned and controlled means a business in which one or more minorities or minority business enterprises certified by the office own at least fifty-one percent (51%) or in the case of a corporation at least fifty-one percent (51%) of the voting stock and control at least fifty-one percent (51%) of the management and daily business operations of the business. The term "minority business enterprise" does not include any medical cannabis establishment as defined in the Mississippi Medical Cannabis Act.

(l) "Minority business enterprise supplier" means a socially and economically disadvantaged small business concern which is owned and controlled by one or more individuals, at least seventy-five percent (75%) of whom are resident citizens of the

State of Mississippi. For purposes of this paragraph, the term "socially and economically disadvantaged small business concern" shall have the meaning ascribed to such term under the Small Business Act (15 USCS, Section 637(a)) except that the net worth of the business may not be greater than Seven Hundred Fifty Thousand Dollars ($750,000.00). Owned and controlled means a business in which one or more minorities own at least fifty-one percent (51%) or in the case of a corporation at least fifty-one percent (51%) of the voting stock and control at least fifty-one percent (51%) of the management and daily business operations of the business. The term "minority business enterprise supplier" does not include any medical cannabis establishment as defined in the Mississippi Medical Cannabis Act.

(m) "Office" means the Office of Minority Business Enterprises of the Mississippi Development Authority.

(n) "Procurement" means the purchase, lease, or rental of any goods or services.

(o) "Commodities" means the various items described in Section 31-7-1(e).

(p) "Professional services" means all personal service contracts utilized by state agencies and institutions.

(q) "Small business" means a small business as defined by the Small Business Administration of the United States government which for purposes of size eligibility or other factors meets the applicable criteria set forth in Part 121 of Title 13 of

the Code of Federal Regulations as amended, and which has its principal place of business in Mississippi.

(r) "State agency" includes the State of Mississippi and all agencies, departments, offices, divisions, boards, commissions, and correctional and other types of institutions. "State agency" does not include the Mississippi Department of Transportation nor the judicial or legislative branches of government except to the extent that procurement or public works for these branches is performed by a state agency.

SECTION 190. Section 57-69-5, Mississippi Code of 1972, is brought forward as follows:

57-69-5. (1) There is hereby created the Office of Minority Business Enterprises of the Mississippi Development Authority under the Mississippi Development Authority. The Executive Director of the Mississippi Development Authority shall appoint an executive director for the office. The executive director may employ a staff subject to approval of the Executive Director of the Mississippi Development Authority as necessary to carry out the purposes of this office.

(2) The office shall perform the following:

(a) Develop, plan and implement programs to provide an opportunity for participation by qualified minority owned businesses in public works and the process by which goods and services are procured by state agencies and educational institutions from the private sector;

(b) Develop a comprehensive plan encouraging that qualified minority owned businesses are provided an opportunity to participate in public contracts for public works and commodities and services;

(c) Identify barriers to equal participation by qualified minority owned businesses in all state agency and educational institution contracts;

(d) Develop and maintain a central minority business enterprise certification list for all state agencies and educational institutions;

(e) Adopt rules for the implementation of this chapter;

(f) Develop and maintain a central minority business enterprise certification program;

(g) Develop and maintain a central minority business enterprise supplier certification program;

(h) Submit an annual report to the Governor and the Legislature outlining the progress and economic impact on the public and private sectors of implementing this chapter;

(i) Increase efforts to inform minority businesses of state government procurement procedures and policies;

(j) Serve as the principal advocate in the state on behalf of minority business enterprises and minority business enterprise suppliers and provide advice in the consideration of administrative requirements and legislation that affect minority business enterprises and minority business enterprise suppliers;

(k) Evaluate the effectiveness of efforts of state agencies and other entities to assist minority business enterprises and minority business enterprise suppliers and make appropriate recommendations to assist the development and strengthening of minority business enterprises and minority business enterprise suppliers;

(l) Determine the availability of financial and other resources to minority business enterprises and minority business enterprise suppliers and recommend methods for:

(i) Increasing the availability of equity capital and other forms of financial assistance to minority business enterprises and minority business enterprise suppliers;

(ii) Generating markets for the goods and services of minority business enterprises and minority business enterprise suppliers;

(iii) Providing more effective education, training and management and technical assistance to minority business enterprises and minority business enterprise suppliers; and

(iv) Providing assistance to minority business enterprises and minority business enterprise suppliers in complying with federal, state and local laws;

(m) Serve as a focal point for receiving complaints and suggestions concerning state government policies and activities that affect minority business enterprises and minority business enterprise suppliers;

(n) Develop and advocate proposals for changes in state policies and activities that adversely affect minority business enterprises and minority business enterprise suppliers;

(o) Provide to legislative committees and state agencies information on the effects of proposed policies or actions that affect minority business enterprises and minority business enterprise suppliers;

(p) Enlist the assistance of public and private agencies, businesses and other organizations in disseminating information about state programs and services that benefit minority business enterprises and minority business enterprise suppliers and information regarding means by which minority business enterprises and minority business enterprise suppliers can use those programs and services;

(q) Identify sources of financial assistance for minority business enterprises, match minority business enterprises and minority business enterprise suppliers with sources of financial assistance, and assist minority business enterprises and minority business enterprise suppliers with the preparation of applications for loans from governmental or private sources;

(r) Sponsor meetings, to the extent practicable in cooperation with public and private educational institutions, to provide training and disseminate information beneficial to minority business enterprises and minority business enterprise suppliers;

(s) Assist minority business enterprises and minority business enterprise suppliers in their dealings with federal, state and local governmental agencies and provide information regarding governmental requirements affecting minority business enterprises and minority business enterprise suppliers;

(t) Develop and implement programs to encourage governmental agencies, public sector business associations and other organizations to provide useful services to minority business enterprises and minority business enterprise suppliers;

(u) Use available resources within the state, such as minority business enterprise development centers, educational institutions and nonprofit associations, to coordinate the provision of management and technical assistance to minority business enterprises and minority business enterprise suppliers in a systematic manner;

(v) Publish newsletters, brochures and other documents containing information useful to minority business enterprises and minority business enterprise suppliers;

(w) Identify successful minority business enterprise assistance programs provided by other states and determine the feasibility of adapting those programs for implementation in Mississippi;

(x) Establish an outreach program to make the existence of the office known to minority business enterprises, minority

business enterprise suppliers and potential clients throughout the state; and

(y) Identify potential business opportunities for minority business enterprises and minority business enterprise suppliers and develop programs to maximize those opportunities.

SECTION 191. Section 57-69-7, Mississippi Code of 1972, is amended as follows:

57-69-7. (1) The Executive Director of the Mississippi Development Authority shall certify minority business enterprises that qualify as such. The director shall establish criteria by which minority business enterprises may qualify for certification.

(2) The Executive Director of the Mississippi Development Authority shall certify minority business *** * *** <u>enterprise</u> suppliers that qualify as such. The director shall establish criteria by which minority business enterprise suppliers may qualify for certification.

SECTION 192. Section 57-69-9, Mississippi Code of 1972, is brought forward as follows:

57-69-9. Each state agency and educational institution shall report the participation of minority business enterprises in the public works and procurement contracts executed by the agency or institution. The reports shall be made on a an annual basis.

SECTION 193. Section 57-75-3, Mississippi Code of 1972, is brought forward as follows:

57-75-3. The Legislature hereby finds and declares that:

(a) There exists in the State of Mississippi a continuing need for gainful employment for the citizens of this state.

(b) To help provide employment opportunities, a division within the Mississippi Development Authority should be created with power to secure the location and expansion within this state of major economic impact projects by providing assistance and incentives in connection with such projects.

(c) In accomplishing this purpose, such division will be acting in all respects for the benefit of the people of the state in the performance of essential public functions and is serving a valid public purpose in improving and otherwise promoting their health, welfare and prosperity, and the enactment of the provisions hereinafter set forth is for a valid public purpose.

(d) Public agencies of the state, as herein defined, must be authorized and empowered to contract with and cooperate with the authority for the purposes herein set out.

(e) The borrowing of money and the issuance of bonds for the purposes hereinafter set out serves valid public purposes in that the project will significantly contribute to the employment base and scientific and educational growth of the state.

(f) The Mississippi Major Economic Impact Authority created pursuant to this chapter shall implement the provisions of

this chapter and exercise all power as authorized in this chapter; however, the application of this chapter or the offering of any assistance and incentives as to any particular project or person shall be in the sole discretion of the Mississippi Major Economic Impact Authority, and nothing in this chapter shall be deemed to vest in any person any right to any assistance or incentive contained herein unless the assistance or incentive is approved by the Mississippi Major Economic Impact Authority pursuant to this chapter. The exercise of powers conferred by this chapter shall be deemed and held to be the performance of essential public purposes.

SECTION 194. Section 57-75-5, Mississippi Code of 1972, is brought forward as follows:

57-75-5. Words and phrases used in this chapter shall have meanings as follows, unless the context clearly indicates a different meaning:

(a) "Act" means the Mississippi Major Economic Impact Act as originally enacted or as hereafter amended.

(b) "Authority" means the Mississippi Major Economic Impact Authority created pursuant to the act.

(c) "Bonds" means general obligation bonds, interim notes and other evidences of debt of the State of Mississippi issued pursuant to this chapter.

(d) "Facility related to the project" means and includes any of the following, as the same may pertain to the

project within the project area: (i) facilities to provide potable and industrial water supply systems, sewage and waste disposal systems and water, natural gas and electric transmission systems to the site of the project; (ii) airports, airfields and air terminals; (iii) rail lines; (iv) port facilities; (v) highways, streets and other roadways; (vi) public school buildings, classrooms and instructional facilities, training facilities and equipment, including any functionally related facilities; (vii) parks, outdoor recreation facilities and athletic facilities; (viii) auditoriums, pavilions, campgrounds, art centers, cultural centers, folklore centers and other public facilities; (ix) health care facilities, public or private; and (x) fire protection facilities, equipment and elevated water tanks.

(e) "Person" means any natural person, corporation, association, partnership, limited liability company, receiver, trustee, guardian, executor, administrator, fiduciary, governmental unit, public agency, political subdivision, or any other group acting as a unit, and the plural as well as the singular.

(f) "Project" means:

(i) Any industrial, commercial, research and development, warehousing, distribution, transportation, processing, mining, United States government or tourism enterprise together with all real property required for construction,

maintenance and operation of the enterprise with an initial capital investment of not less than Three Hundred Million Dollars ($300,000,000.00) from private or United States government sources together with all buildings, and other supporting land and facilities, structures or improvements of whatever kind required or useful for construction, maintenance and operation of the enterprise; or with an initial capital investment of not less than One Hundred Fifty Million Dollars ($150,000,000.00) from private or United States government sources together with all buildings and other supporting land and facilities, structures or improvements of whatever kind required or useful for construction, maintenance and operation of the enterprise and which creates at least one thousand (1,000) net new full-time jobs; or which creates at least one thousand (1,000) net new full-time jobs which provides an average salary, excluding benefits which are not subject to Mississippi income taxation, of at least one hundred twenty-five percent (125%) of the most recently published average annual wage of the state as determined by the Mississippi Department of Employment Security. "Project" shall include any addition to or expansion of an existing enterprise if such addition or expansion has an initial capital investment of not less than Three Hundred Million Dollars ($300,000,000.00) from private or United States government sources, or has an initial capital investment of not less than One Hundred Fifty Million Dollars ($150,000,000.00) from private or United States government

sources together with all buildings and other supporting land and facilities, structures or improvements of whatever kind required or useful for construction, maintenance and operation of the enterprise and which creates at least one thousand (1,000) net new full-time jobs; or which creates at least one thousand (1,000) net new full-time jobs which provides an average salary, excluding benefits which are not subject to Mississippi income taxation, of at least one hundred twenty-five percent (125%) of the most recently published average annual wage of the state as determined by the Mississippi Department of Employment Security. "Project" shall also include any ancillary development or business resulting from the enterprise, of which the authority is notified, within three (3) years from the date that the enterprise entered into commercial production, that the project area has been selected as the site for the ancillary development or business.

(ii) 1. Any major capital project designed to improve, expand or otherwise enhance any active duty or reserve United States armed services bases and facilities or any major Mississippi National Guard training installations, their support areas or their military operations, upon designation by the authority that any such base was or is at risk to be recommended for closure or realignment pursuant to the Defense Base Closure and Realignment Act of 1990, as amended, or other applicable federal law; or any major development project determined by the authority to be necessary to acquire or improve base properties

and to provide employment opportunities through construction of projects as defined in Section 57-3-5, which shall be located on or provide direct support service or access to such military installation property in the event of closure or reduction of military operations at the installation.

2. Any major study or investigation related to such a facility, installation or base, upon a determination by the authority that the study or investigation is critical to the expansion, retention or reuse of the facility, installation or base.

3. Any project as defined in Section 57-3-5, any business or enterprise determined to be in the furtherance of the public purposes of this act as determined by the authority or any facility related to such project each of which shall be, directly or indirectly, related to any military base or other military-related facility no longer operated by the United States armed services or the Mississippi National Guard.

(iii) Any enterprise to be maintained, improved or constructed in Tishomingo County by or for a National Aeronautics and Space Administration facility in such county.

(iv) 1. Any major capital project with an initial capital investment from private sources of not less than Seven Hundred Fifty Million Dollars ($750,000,000.00) which will create at least three thousand (3,000) jobs meeting criteria established by the Mississippi Development Authority.

2. "Project" shall also include any ancillary development or business resulting from an enterprise operating a project as defined in item 1 of this paragraph (f)(iv), of which the authority is notified, within three (3) years from the date that the enterprise entered into commercial production, that the state has been selected as the site for the ancillary development or business.

(v) Any manufacturing, processing or industrial project determined by the authority, in its sole discretion, to contribute uniquely and significantly to the economic growth and development of the state, and which meets the following criteria:

1. The project shall create at least two thousand (2,000) net new full-time jobs meeting criteria established by the authority, which criteria shall include, but not be limited to, the requirement that such jobs must be held by persons eligible for employment in the United States under applicable state and federal law.

2. The project and any facility related to the project shall include a total investment from private sources of not less than Sixty Million Dollars ($60,000,000.00), or from any combination of sources of not less than Eighty Million Dollars ($80,000,000.00).

(vi) Any real property owned or controlled by the National Aeronautics and Space Administration, the United States government, or any agency thereof, which is legally conveyed to

the State of Mississippi or to the State of Mississippi for the benefit of the Mississippi Major Economic Impact Authority, its successors and assigns pursuant to Section 212 of Public Law 104-99, enacted January 26, 1996 (110 Stat. 26 at 38).

(vii) Any major capital project related to the establishment, improvement, expansion and/or other enhancement of any active duty military installation and having a minimum capital investment from any source or combination of sources other than the State of Mississippi of at least Forty Million Dollars ($40,000,000.00), and which will create at least four hundred (400) military installation related full-time jobs, which jobs may be military jobs, civilian jobs or a combination of military and civilian jobs. The authority shall require that binding commitments be entered into requiring that the minimum requirements for the project provided for in this subparagraph shall be met not later than July 1, 2008.

(viii) Any major capital project with an initial capital investment from any source or combination of sources of not less than Ten Million Dollars ($10,000,000.00) which will create at least eighty (80) full-time jobs which provide an average annual salary, excluding benefits which are not subject to Mississippi income taxes, of at least one hundred thirty-five percent (135%) of the most recently published average annual wage of the state or the most recently published average annual wage of the county in which the project is located as determined by the

Mississippi Department of Employment Security, whichever is the lesser. The authority shall require that binding commitments be entered into requiring that:

1. The minimum requirements for the project provided for in this subparagraph shall be met; and

2. That if such commitments are not met, all or a portion of the funds provided by the state for the project as determined by the authority shall be repaid.

(ix) Any regional retail shopping mall with an initial capital investment from private sources in excess of One Hundred Fifty Million Dollars ($150,000,000.00), with a square footage in excess of eight hundred thousand (800,000) square feet, which will create at least seven hundred (700) full-time jobs with an average hourly wage of Eleven Dollars ($11.00) per hour. The authority shall require that binding commitments be entered into requiring that:

1. The minimum requirements for the project provided for in this subparagraph shall be met; and

2. That if such commitments are not met, all or a portion of the funds provided by the state for the project as determined by the authority shall be repaid.

(x) Any major capital project with an initial capital investment from any source or combination of sources of not less than Seventy-five Million Dollars ($75,000,000.00) which will create at least one hundred twenty-five (125) full-time jobs

which provide an average annual salary, excluding benefits which are not subject to Mississippi income taxes, of at least one hundred thirty-five percent (135%) of the most recently published average annual wage of the state or the most recently published average annual wage of the county in which the project is located as determined by the Mississippi Department of Employment Security, whichever is the greater. The authority shall require that binding commitments be entered into requiring that:

1. The minimum requirements for the project provided for in this subparagraph shall be met; and

2. That if such commitments are not met, all or a portion of the funds provided by the state for the project as determined by the authority shall be repaid.

(xi) Any potential major capital project that the authority has determined is feasible to recruit.

(xii) Any project built according to the specifications and federal provisions set forth by the National Aeronautics and Space Administration Center Operations Directorate at Stennis Space Center for the purpose of consolidating common services from National Aeronautics and Space Administration centers in human resources, procurement, financial management and information technology located on land owned or controlled by the National Aeronautics and Space Administration, which will create at least four hundred seventy (470) full-time jobs.

(xiii) Any major capital project with an initial capital investment from any source or combination of sources of not less than Ten Million Dollars ($10,000,000.00) which will create at least two hundred fifty (250) full-time jobs. The authority shall require that binding commitments be entered into requiring that:

1. The minimum requirements for the project provided for in this subparagraph shall be met; and

2. That if such commitments are not met, all or a portion of the funds provided by the state for the project as determined by the authority shall be repaid.

(xiv) Any major pharmaceutical facility with a capital investment of not less than Fifty Million Dollars ($50,000,000.00) made after July 1, 2002, through four (4) years after the initial date of any loan or grant made by the authority for such project, which will maintain at least seven hundred fifty (750) full-time employees. The authority shall require that binding commitments be entered into requiring that:

1. The minimum requirements for the project provided for in this subparagraph shall be met; and

2. That if such commitments are not met, all or a portion of the funds provided by the state for the project as determined by the authority shall be repaid.

(xv) Any pharmaceutical manufacturing, packaging and distribution facility with an initial capital investment from

any local or federal sources of not less than Five Hundred Thousand Dollars ($500,000.00) which will create at least ninety (90) full-time jobs. The authority shall require that binding commitments be entered into requiring that:

1. The minimum requirements for the project provided for in this subparagraph shall be met; and

2. That if such commitments are not met, all or a portion of the funds provided by the state for the project as determined by the authority shall be repaid.

(xvi) Any major industrial wood processing facility with an initial capital investment of not less than One Hundred Million Dollars ($100,000,000.00) which will create at least one hundred twenty-five (125) full-time jobs which provide an average annual salary, excluding benefits which are not subject to Mississippi income taxes, of at least Thirty Thousand Dollars ($30,000.00). The authority shall require that binding commitments be entered into requiring that:

1. The minimum requirements for the project provided for in this subparagraph shall be met; and

2. That if such commitments are not met, all or a portion of the funds provided by the state for the project as determined by the authority shall be repaid.

(xvii) Any technical, engineering, manufacturing-logistic service provider with an initial capital investment of not less than One Million Dollars ($1,000,000.00)

which will create at least ninety (90) full-time jobs. The authority shall require that binding commitments be entered into requiring that:

1. The minimum requirements for the project provided for in this subparagraph shall be met; and

2. That if such commitments are not met, all or a portion of the funds provided by the state for the project as determined by the authority shall be repaid.

(xviii) Any major capital project with an initial capital investment from any source or combination of sources other than the State of Mississippi of not less than Six Hundred Million Dollars ($600,000,000.00) which will create at least four hundred fifty (450) full-time jobs with an average annual salary, excluding benefits which are not subject to Mississippi income taxes, of at least Seventy Thousand Dollars ($70,000.00). The authority shall require that binding commitments be entered into requiring that:

1. The minimum requirements for the project provided for in this subparagraph shall be met; and

2. That if such commitments are not met, all or a portion of the funds provided by the state for the project as determined by the authority shall be repaid.

(xix) Any major coal and/or petroleum coke gasification project with an initial capital investment from any source or combination of sources other than the State of

Mississippi of not less than Eight Hundred Million Dollars ($800,000,000.00), which will create at least two hundred (200) full-time jobs with an average annual salary, excluding benefits which are not subject to Mississippi income taxes, of at least Forty-five Thousand Dollars ($45,000.00). The authority shall require that binding commitments be entered into requiring that:

1. The minimum requirements for the project provided for in this subparagraph shall be met; and

2. That if such commitments are not met, all or a portion of the funds provided by the state for the project as determined by the authority shall be repaid.

(xx) Any planned mixed use development located on not less than four thousand (4,000) acres of land that will consist of commercial, recreational, resort, tourism and residential development with a capital investment from private sources of not less than Four Hundred Seventy-five Million Dollars ($475,000,000.00) in the aggregate in any one (1) or any combination of tourism projects that will create at least three thousand five hundred (3,500) jobs in the aggregate. For the purposes of this paragraph (f)(xx), the term "tourism project" means and has the same definition as that term has in Section 57-28-1. In order to meet the minimum capital investment required under this paragraph (f)(xx), at least Two Hundred Thirty-seven Million Five Hundred Thousand Dollars ($237,500,000.00) of such investment must be made not later than June 1, 2015, and the

remainder of the minimum capital investment must be made not later than June 1, 2017. In order to meet the minimum number of jobs required to be created under this paragraph (f)(xx), at least one thousand seven hundred fifty (1,750) of such jobs must be created not later than June 1, 2015, and the remainder of the jobs must be created not later than June 1, 2017. The authority shall require that binding commitments be entered into requiring that:

1. The minimum requirements for the project provided for in this subparagraph shall be met; and

2. That if such commitments are not met, all or a portion of the funds provided by the state for the project as determined by the authority shall be repaid.

(xxi) Any enterprise owning or operating an automotive manufacturing and assembly plant and its affiliates for which construction begins after March 2, 2007, and not later than December 1, 2007, with an initial capital investment from private sources of not less than Five Hundred Million Dollars ($500,000,000.00) which will create at least one thousand five hundred (1,500) jobs meeting criteria established by the authority, which criteria shall include, but not be limited to, the requirement that such jobs must be held by persons eligible for employment in the United States under applicable state and federal law. The authority shall require that binding commitments be entered into requiring that:

1. The minimum requirements for the project provided for in this subparagraph shall be met; and

2. That if such commitments are not met, all or a portion of the funds provided by the state for the project as determined by the authority shall be repaid.

(xxii) Any enterprise owning or operating a major powertrain component manufacturing and assembly plant for which construction begins after May 11, 2007, and not later than December 1, 2007, with an initial capital investment from private sources of not less than Three Hundred Million Dollars ($300,000,000.00) which will create at least five hundred (500) new full-time jobs meeting criteria established by the authority, which criteria shall include, but not be limited to, the requirement that such jobs must be held by persons eligible for employment in the United States under applicable state and federal law, and the requirement that the average annual wages and taxable benefits of such jobs shall be at least one hundred twenty-five percent (125%) of the most recently published average annual wage of the state or the most recently published average annual wage of the county in which the project is located as determined by the Mississippi Department of Employment Security, whichever is the lesser. The authority shall require that binding commitments be entered into requiring that:

1. The minimum requirements for the project provided for in this subparagraph shall be met; and

2. That if such commitments are not met, all or a portion of the funds provided by the state for the project as determined by the authority shall be repaid.

(xxiii) Any biological and agricultural defense project operated by an agency of the government of the United States with an initial capital investment of not less than Four Hundred Fifty Million Dollars ($450,000,000.00) from any source other than the State of Mississippi and its subdivisions, which will create at least two hundred fifty (250) new full-time jobs. All jobs created by the project must be held by persons eligible for employment in the United States under applicable state and federal law.

(xxiv) Any enterprise owning or operating an existing tire manufacturing plant which adds to such plant capital assets of not less than Twenty-five Million Dollars ($25,000,000.00) after January 1, 2009, and that maintains at least one thousand two hundred (1,200) full-time jobs in this state at one (1) location with an average annual salary, excluding benefits which are not subject to Mississippi income taxes, of at least Forty-five Thousand Dollars ($45,000.00). The authority shall require that binding commitments be entered into requiring that:

1. The minimum requirements for the project provided for in this subparagraph shall be met; and

2. That if such commitments are not met, all or a portion of the funds provided by the state for the project as determined by the authority shall be repaid.

(xxv) Any enterprise owning or operating a facility for the manufacture of composite components for the aerospace industry which will have an investment from private sources of not less than One Hundred Seventy-five Million Dollars ($175,000,000.00) by not later than December 31, 2015, and which will result in the full-time employment at the project site of not less than two hundred seventy-five (275) persons by December 31, 2011, and not less than four hundred twenty-five (425) persons by December 31, 2013, and not less than eight hundred (800) persons by December 31, 2017, all with an average annual compensation, excluding benefits which are not subject to Mississippi income taxes, of at least Fifty-three Thousand Dollars ($53,000.00). The authority shall require that binding commitments be entered into requiring that:

1. The minimum requirements for the project provided for in this subparagraph shall be met; and

2. That if such commitments are not met, all or a portion of the funds provided by the state for the project as determined by the authority shall be repaid.

(xxvi) Any enterprise owning or operating a facility for the manufacture of pipe which will have an investment from any source other than the State of Mississippi and its

subdivisions of not less than Three Hundred Million Dollars ($300,000,000.00) by not later than December 31, 2015, and which will create at least five hundred (500) new full-time jobs within five (5) years after the start of commercial production and maintain such jobs for at least ten (10) years, all with an average annual compensation, excluding benefits which are not subject to Mississippi income taxes, of at least Thirty-two Thousand Dollars ($32,000.00). The authority shall require that binding commitments be entered into requiring that:

1. The minimum requirements for the project provided for in this subparagraph shall be met; and

2. That if such commitments are not met, all or a portion of the funds provided by the state for the project as determined by the authority shall be repaid.

(xxvii) Any enterprise owning or operating a facility for the manufacture of solar panels which will have an investment from any source other than the State of Mississippi and its subdivisions of not less than One Hundred Thirty-two Million Dollars ($132,000,000.00) by not later than December 31, 2015, and which will create at least five hundred (500) new full-time jobs within five (5) years after the start of commercial production and maintain such jobs for at least ten (10) years, all with an average annual compensation, excluding benefits which are not subject to Mississippi income taxes, of at least Thirty-four

Thousand Dollars ($34,000.00). The authority shall require that binding commitments be entered into requiring that:

1. The minimum requirements for the project provided for in this subparagraph shall be met; and

2. That if such commitments are not met, all or a portion of the funds provided by the state for the project as determined by the authority shall be repaid.

(xxviii) 1. Any enterprise owning or operating an automotive parts manufacturing plant and its affiliates for which construction begins after June 1, 2013, and not later than June 30, 2014, with an initial capital investment of not less than Three Hundred Million Dollars ($300,000,000.00) which will create at least five hundred (500) new full-time jobs meeting criteria established by the authority, which criteria shall include, but not be limited to, the requirement that such jobs must be held by persons eligible for employment in the United States under applicable state and federal law, and the requirement that the average annual wages and taxable benefits of such jobs shall be at least one hundred ten percent (110%) of the most recently published average annual wage of the state or the most recently published average annual wage of the county in which the project is located as determined by the Mississippi Department of Employment Security, whichever is the lesser. The authority shall require that binding commitments be entered into requiring that:

a. The minimum requirements for the project provided for in this subparagraph shall be met; and

b. That if such commitments are not met, all or a portion of the funds provided by the state for the project as determined by the authority shall be repaid.

2. It is anticipated that the project defined in this subparagraph (xxviii) will expand in three (3) additional phases, will create an additional five hundred (500) full-time jobs meeting the above criteria in each phase, and will invest an additional Three Hundred Million Dollars ($300,000,000.00) per phase.

(xxix) Any enterprise engaged in the manufacture of tires or other related rubber or automotive products for which construction of a plant begins after January 1, 2016, and is substantially completed no later than December 31, 2022, and for which such enterprise commits to an aggregate capital investment by such enterprise and its affiliates of not less than One Billion Four Hundred Fifty Million Dollars ($1,450,000,000.00) and the creation thereby of at least two thousand five hundred (2,500) new full-time jobs meeting criteria established by the authority, which criteria shall include, but not be limited to, the requirement that such jobs must be held by persons eligible for employment in the United States under applicable state and federal law, and the requirement that the average annual salary or wage, excluding the value of any benefits which are not subject to

Mississippi income tax, of such jobs shall be at least Forty Thousand Dollars ($40,000.00). The authority shall require that binding commitments be entered into requiring that:

1. Minimum requirements for investment and jobs for the project shall be met; and

2. If such requirements are not met, all or a portion of the funds provided by the state for the project may, as determined by the authority, be subject to repayment by such enterprise and/or its affiliates, together with any penalties or damages required by the authority in connection therewith.

(xxx) Any enterprise owning or operating a maritime fabrication and assembly facility for which construction begins after February 1, 2016, and concludes not later than December 31, 2018, with an initial capital investment in land, buildings and equipment not less than Sixty-eight Million Dollars ($68,000,000.00) and will create not less than one thousand (1,000) new full-time jobs meeting criteria established by the authority, which criteria shall include, but not be limited to, the requirement that such jobs must be held by persons eligible for employment in the United States under applicable state and federal law, and the requirement that the average annual compensation, excluding benefits which are not subject to Mississippi income taxes, of at least Forty Thousand Dollars ($40,000.00). The authority shall require that binding commitments be entered into requiring that:

1. The minimum requirements for the project provided for in this subparagraph shall be met; and

2. If such commitments are not met, all or a portion of the funds provided by the state for the project may, as determined by the authority, be subject to repayment by such enterprise, together with any penalties or damages required by the authority in connection therewith.

(xxxi) Each of the projects defined in this paragraph (f)(xxxi)1 and 2 that are undertaken by affiliated enterprises, together with any or all of the projects defined in this paragraph (f)(xxxi)3 and/or 4 if they are undertaken by the same or other enterprises affiliated with those enterprises that undertake projects defined in this paragraph (f)(xxxi)1 and 2:

1. An enterprise engaged in the manufacturing and production of recycled flat-rolled aluminum or related products for which construction of a recycled aluminum flat-rolled mill begins after January 1, 2023, and is substantially completed no later than December 31, 2026; and

2. An enterprise engaged in the manufacturing and production of biocarbon from biomass for which construction of the biocarbon manufacturing facility begins after December 1, 2022, and is substantially completed no later than December 31, 2026; provided that such series of projects may additionally, but shall not be required to, include:

3. Any other affiliated enterprise that undertakes the development and operation of a new industrial or commercial facility in the state, excluding any area or areas designated by the authority in a written agreement between such enterprise or any affiliate thereof, for which the construction of any such facility begins after January 1, 2023, and is substantially completed no later than December 31, 2029; and/or

4. An enterprise engaged in the development and operation of port activities (e.g., the loading and unloading of barges, rail cars and trucks, the storage and handling of materials, and other port-related operations) in support of all or any of the enterprises enumerated in this paragraph (f)(xxxi)1, 2 and 3, or otherwise in support of an existing electric arc furnace steel mill producing flat-rolled steel and related products; and for which the parent enterprise of such affiliated enterprises enumerated in this paragraph (f)(xxxi)1, 2, 3 and/or 4 commits to an aggregate, collective capital investment by one or more or any combination of such enterprises and their affiliates, as well as by any co-located customers, of not less than Two Billion Five Hundred Million Dollars ($2,500,000,000.00) and the creation thereby of at least one thousand (1,000) new full-time jobs meeting criteria established by the authority, which criteria shall include, but not be limited to, the requirement that such jobs must be held by persons eligible for employment in the United States under applicable state and federal law, and the requirement

that the average annual salary or wage, excluding the value of any benefits which are not subject to Mississippi income tax, of such jobs shall be at least Ninety-three Thousand Dollars ($93,000.00). The authority shall require that binding commitments be entered into requiring that:

a. Minimum requirements for investment and jobs for such affiliated projects shall be met; and

b. If such requirements are not collectively met, all or a portion of the funds provided by the state for such affiliated projects may, as determined by the authority, be subject to repayment by such enterprises and/or their affiliates, together with any penalties or damages required by the authority in connection therewith.

For purposes of this paragraph (f)(xxxi), A. a co-located customer shall mean a person who locates and operates any new manufacturing, processing, warehousing and/or distribution facility within the project area for the project defined in this paragraph (f)(xxxi)1 and utilizes, directly or indirectly, in its operations any aluminum or related products produced by such project, and B. an affiliated enterprise or an affiliate means a related business entity which shares a common direct or indirect ownership with the enterprise owning or operating a project as defined in this paragraph (f)(xxxi)1, 2, 3 or 4. References in the act to a project, as defined by this paragraph (f)(xxxi) shall

mean any one of, any combination or all of the projects as defined in this paragraph (f)(xxxi)1, 2, 3 or 4.

(xxxii) Any enterprise engaged in the manufacture and assembly of battery cells for electric commercial vehicles and industrial applications, for which construction of a manufacturing and assembly plant begins after January 1, 2024, and the manufacturing and assembly of battery cells thereby commences on or prior to December 31, 2029, and for which such enterprise commits to an aggregate, collective capital investment by such enterprise, one or more affiliates of such enterprise or any combination of such enterprise and its affiliates, of not less than One Billion Nine Hundred Million Dollars ($1,900,000,000.00) and the creation by such enterprise, one or more affiliates of such enterprise or any combination of such enterprise and its affiliates, as well as by any other co-located project participant, of at least two thousand (2,000) new full-time jobs meeting criteria established by the authority, which criteria shall include, but not be limited to, the requirement that such jobs must be held by persons eligible for employment in the United States under applicable state and federal law, and the requirement that the average annual salary or wage, excluding the value of any benefits which are not subject to Mississippi income tax prior to January 1, 2024, of such jobs shall be at least Sixty-five Thousand Five Hundred Sixty-four Dollars ($65,564.00). The

authority shall require that binding commitments be entered into requiring that:

1. Minimum requirements for investment and jobs for such affiliated projects shall be met; and

2. If such requirements are not collectively met, all or a portion of the funds provided by the state for such project may, as determined by the authority, be subject to repayment by such enterprise and/or its affiliates, together with any penalties or damages required by the authority in connection therewith.

For purposes of this paragraph (f)(xxxii), a co-located project participant shall mean a person or business entity that, pursuant to one or more contracts with an enterprise owning or operating a project as defined in this paragraph (f)(xxxii) or an affiliate thereof, performs within the project area one or more of the following: a. storage, handling and processing services for raw materials, work in process and/or finished goods inventories; b. maintenance, operation and/or other servicing of equipment and machinery used in the project; c. management of real and tangible personal property used in the project; d. any manufacturing, processing or assembly work, in each instance with respect to the manufacturing and/or assembly of battery cells for electric commercial vehicles or industrial applications manufactured or otherwise assembled within the project area by such enterprise or an affiliate thereof; or e. the supply to such enterprise or any

affiliate thereof of any components, parts or materials of any battery cells for electric commercial vehicles or industrial applications manufactured or otherwise assembled within the project area by such enterprise or any affiliate thereof.

(xxxiii) Any enterprise engaged in data processing, for which construction of a data processing facility or facilities begins after January 1, 2024, the processing of data by at least one (1) data processing facility commences on or prior to December 31, 2027, and for which such enterprise commits to an aggregate, collective capital investment by such enterprise, one or more affiliates of such enterprise or any combination of such enterprise and its affiliates, of not less than Ten Billion Dollars ($10,000,000,000.00) and the creation by such enterprise, one or more affiliates or contractors of such enterprise or any combination of such enterprises and its affiliates, as well as by any other co-located project participant, of at least one thousand (1,000) new full-time jobs meeting criteria established by the authority, which criteria shall include, but not be limited to, the requirement that such jobs must be held by persons eligible for employment in the United States under applicable state and federal law, and the requirement that the average annual salary or wage, excluding the value of any benefits which are not subject to Mississippi income tax prior to January 1, 2024, of such jobs shall be at least one hundred twenty-five percent (125%) of the published average annual wage of the state as determined by the

Mississippi Department of Employment Security. The authority shall require that binding commitments be entered into requiring that:

1. Minimum requirements for investment and jobs for such affiliated projects shall be met; and

2. If such requirements are not collectively met, all or a portion of the funds provided by the state for such project may, as determined by the authority, be subject to repayment by such enterprise and/or its affiliates, together with any penalties or damages required by the authority in connection therewith.

For purposes of this paragraph (f)(xxxiii), a co-located project participant shall mean a person or business entity that, pursuant to one or more contracts with an enterprise owning or operating a project as defined in this paragraph (f)(xxxiii) or an affiliate thereof, performs within the project area one or more of the following: a. maintenance, operation and/or other servicing of equipment and machinery used in the project; b. management of real and tangible personal property used in the project; or c. the supply to such enterprise or any affiliate thereof of any components, parts or services within the project area by such enterprise or any affiliate thereof.

For purposes of this paragraph (f)(xxxiii), "project" shall include the construction of additional data processing facilities or the expansion of existing data processing facilities within the

state by the enterprise, one or more affiliates of such enterprise, or any combination of such enterprise and its affiliates, if such construction or expansion has a minimum capital investment of Five Hundred Million Dollars ($500,000,000.00) and creates at least fifty (50) net new full-time jobs and written notice thereof is provided to the authority.

(g) (i) "Project area" means the project site, together with any area or territory within the state lying within sixty-five (65) miles of any portion of the project site whether or not such area or territory be contiguous; however, for the project defined in paragraph (f)(iv) and (xxxiii) of this section the term "project area" means any area or territory within the state. The project area shall also include all territory within a county if any portion of such county lies within sixty-five (65) miles of any portion of the project site. "Project site" means the real property on which the principal facilities of the enterprise will operate; however, for the project defined in paragraph (f)(xxxiii) of this section, the term "project site" means any area or territory within the state upon which an enterprise constructs one or more data processing facilities. The provisions of this subparagraph (i) shall not apply to a project as defined in paragraph (f)(xxi) of this section.

(ii) For the purposes of a project as defined in paragraph (f)(xxi) of this section, the term "project area" means

the acreage authorized in the certificate of convenience and necessity issued by the Mississippi Development Authority to a regional economic development alliance under Section 57-64-1 et seq.

(iii) For the purposes of a project as defined in either paragraph (f)(xxxi)1 or paragraph (f)(xxxii) of this section, the term "project area" means the acreage specified by the authority in written agreement with the enterprise undertaking such project and/or an affiliate thereof.

(h) "Public agency" means:

(i) Any department, board, commission, institution or other agency or instrumentality of the state;

(ii) Any city, town, county, political subdivision, school district or other district created or existing under the laws of the state or any public agency of any such city, town, county, political subdivision or district or any other public entity created or existing under local and private legislation;

(iii) Any department, commission, agency or instrumentality of the United States of America; and

(iv) Any other state of the United States of America which may be cooperating with respect to location of the project within the state, or any agency thereof.

(i) "State" means State of Mississippi.

(j) "Fee-in-lieu" means a negotiated fee to be paid by the project in lieu of any franchise taxes imposed on the project by Chapter 13, Title 27, Mississippi Code of 1972. The fee-in-lieu shall not be less than Twenty-five Thousand Dollars ($25,000.00) annually. A fee-in-lieu may be negotiated with an enterprise operating an existing project defined in paragraph (f)(iv)1 of this section; however, a fee-in-lieu shall not be negotiated for other existing enterprises that fall within the definition of the term "project."

(k) (i) "Affiliate" means a subsidiary or related business entity which shares a common direct or indirect ownership with the enterprise owning or operating a project as defined in paragraph (f)(xxi), paragraph (f)(xxviii) or paragraph (f)(xxix) of this section. The subsidiary or related business must provide services directly related to the core activities of the project.

(ii) For the purposes of a project as defined in paragraph (f)(xxxi) of this section, an "affiliated enterprise" or an "affiliate" means a related business entity which shares a common direct or indirect ownership with the enterprise owning or operating a project as defined in paragraph (f)(xxxi)1, 2, 3 or 4 of this section.

(iii) For the purposes of a project as defined in paragraph (f)(xxxii) of this section, an "affiliated enterprise" or an "affiliate" means a related business entity which shares a common direct or indirect ownership with the enterprise owning or

operating a project as defined in paragraph (f)(xxxii) of this section.

(iv) For the purposes of a project as defined in paragraph (f)(xxxiii) of this section, an "affiliated enterprise" or an "affiliate" means a related business entity which shares a common direct or indirect ownership with the enterprise owning or operating a project as defined in paragraph (f)(xxxiii) of this section; provided, any such related business entity may be excluded from this definition pursuant to the terms of a written agreement between the authority and the enterprise owning or operating a project as defined in paragraph (f)(xxxiii) of this section.

(l) "Tier One supplier" means a supplier of a project as defined in paragraph (f)(xxi) of this section that is certified by the enterprise owning the project and creates a minimum of fifty (50) new full-time jobs.

SECTION 195. Section 57-75-7, Mississippi Code of 1972, is brought forward as follows:

57-75-7. (1) There is created within the Department of Economic Development a division to be known as the "Mississippi Major Economic Impact Authority" for the performance of essential public functions. The Executive Director of the Department of Economic Development or his designee shall be the director of the authority.

(2) The director shall administer, manage and direct the affairs and business of the authority.

SECTION 196. Section 57-75-9, Mississippi Code of 1972, is brought forward as follows:

57-75-9. (1) The authority is hereby designated and empowered to act on behalf of the state in submitting a siting proposal for any project eligible for assistance under this act. The authority is empowered to take all steps appropriate or necessary to effect the siting, development, and operation of the project within the state, including the negotiation of a fee-in-lieu. If the state is selected as the preferred site for the project, the authority is hereby designated and empowered to act on behalf of the state and to represent the state in the planning, financing, development, construction and operation of the project or any facility related to the project, with the concurrence of the affected public agency. The authority may take affirmative steps to coordinate fully all aspects of the submission of a siting proposal for the project and, if the state is selected as the preferred site, to coordinate fully, with the concurrence of the affected public agency, the development of the project or any facility related to the project with private business, the United States government and other public agencies. All public agencies are encouraged to cooperate to the fullest extent possible to effectuate the duties of the authority; however, the development of the project or any facility related to

the project by the authority may be done only with the concurrence of the affected public agency.

(2) (a) Contracts, by the authority or a public agency, including, but not limited to, design and construction contracts, for the acquisition, purchase, construction or installation of a project defined in Section 57-75-5(f)(iv)1 or any facility related to the project shall be exempt from the provisions of Section 31-7-13 if:

(i) The authority finds and records such finding on its minutes, that because of availability or the particular nature of a project, it would not be in the public interest or would less effectively achieve the purposes of this chapter to enter into such contracts on the basis of Section 31-7-13; and

(ii) The enterprise that is involved in the project concurs in such finding.

(b) When the requirements of paragraph (a) of this subsection are met:

(i) The requirements of Section 31-7-13 shall not apply to such contracts; and

(ii) The contracts may be entered into on the basis of negotiation.

(c) The enterprise involved with the project may, upon approval of the authority, negotiate such contracts in the name of the authority.

(d) The provisions of this subsection (2) shall not apply to contracts by the authority for excavation, fill dirt and compaction for the preparation of the site of a project as defined in Section 57-75-5(f)(iv)1 and such contracts may be entered into pursuant to subsection (3) of this section.

(3) (a) Contracts by the authority for excavation, fill dirt and compaction for the preparation of the site of a project defined in Section 57-75-5(f)(iv)1 shall be exempt from the provisions of Section 31-7-13 and the following procedure shall be followed in the award of such contracts:

(i) The authority shall advertise for a period of time to be set by the authority, but in no event less than one (1) business day, the date, time and place of a meeting with the authority to receive specifications on a request for proposals on excavation, fill dirt and compaction for the preparation of the site of the project defined in Section 57-75-5(f)(iv)1.

(ii) The authority shall set the minimum qualifications necessary to be considered for award of the contract and the advertisement shall set forth such minimum qualifications.

(iii) Following the meeting the authority shall, in its discretion, select one or more of the qualified contractors with whom to negotiate or award the contract. The decision of the authority concerning the selection of the contractor shall be final.

(b) Contracts by the authority or a public agency for site preparation, utilities, real estate improvements, wastewater or for public works for a project defined in Section 57-75-5(f)(xxi) or Section 57-75-5(f)(xxii) shall be exempt from the provisions of Section 31-7-13 and the following procedure shall be followed in the award of such contracts:

(i) The authority or the public agency shall advertise for a period of time to be set by the authority or the public agency, but in no event less than one (1) nor more than five (5) calendar days, the date, time and place of a meeting with the authority or the public agency to receive specifications on the preparation of the site of the project defined in Section 57-75-5(f)(xxi) or Section 57-75-5(f)(xxii).

(ii) The authority or the public agency shall set the minimum qualifications necessary to be considered for award of the contract and the advertisement shall set forth such minimum qualifications.

(iii) Following the meeting the authority or the public agency shall, in its discretion, select one or more of the qualified contractors with whom to negotiate or award the contract. The decision of the authority or the public agency concerning the selection of the contractor shall be final.

(c) Contracts by a public agency for site preparation, utilities, real estate improvements, infrastructure, roads or for public works for a project defined in Section 57-75-5(f)(xxiii),

Section 57-75-5(f)(xxix), Section 57-75-5(f)(xxx), Section 57-75-5(f)(xxxi), Section 57-75-5(f)(xxxii) or Section 57-75-5(f)(xxxiii) may be exempt from the provisions of Section 31-7-13 and the following procedure shall be followed in the award of contracts:

(i) The public agency shall advertise for a period of time to be set by the public agency, but in no event less than one (1) nor more than five (5) calendar days, the date, time and place of a meeting with the public agency to receive specifications on site preparation, utilities, real estate improvements, infrastructure, roads or for public works related to the project defined in Section 57-75-5(f)(xxiii), Section 57-75-5(f)(xxix), Section 57-75-5(f)(xxx), Section 57-75-5(f)(xxxi), Section 57-75-5(f)(xxxii) or Section 57-75-5(f)(xxxiii).

(ii) The public agency shall set the minimum qualifications necessary to be considered for award of the contract and the advertisement shall set forth such minimum qualifications.

(iii) Following the meeting the public agency shall, in its discretion, which discretion may include participation by an enterprise involved in the project, select one or more of the qualified contractors with whom to negotiate or award the contract. The decision of the public agency concerning selection of the contractor shall be final.

(4) (a) Contracts, by the authority or a public agency, including, but not limited to, design and construction contracts, for the acquisition, purchase, construction or installation of a project defined in Section 57-75-5(f)(xxvi), Section 57-75-5(f)(xxvii), Section 57-75-5(f)(xxviii), Section 57-75-5(f)(xxix), Section 57-75-5(f)(xxx), Section 57-75-5(f)(xxxi), Section 57-75-5(f)(xxxii) or Section 57-75-5(f)(xxxiii), and any contracts by the authority or a public agency for site preparation, utilities, real estate improvements, infrastructure, roads or for other public facilities related to any such project shall be exempt from the provisions of Section 31-7-13 if:

(i) The authority finds and records such finding on its minutes, that because of availability or the particular nature of a project, it would not be in the public interest or would less effectively achieve the purposes of this chapter to enter into such contracts on the basis of Section 31-7-13; and

(ii) The enterprise that is involved in the project concurs in such finding.

(b) When the requirements of paragraph (a) of this subsection are met:

(i) The requirements of Section 31-7-13 shall not apply to such contracts; and

(ii) The contracts may be entered into on the basis of negotiation with the authority or such public agency, and

the authority or such public agency may, as part of such negotiations, further negotiate and require the level of participation by the enterprise involved in the project in the negotiation of such contracts.

(c) Contracts by the authority or a public agency for site preparation, utilities, real estate improvements, infrastructure, roads or for other public facilities related to a project defined in Section 57-75-5(f)(xxxii), shall be exempt from the provisions of Section 65-1-85, and the authority or public agency is authorized to use any method for design and/or construction procurement and contracting. With respect to any such contract that is anticipated to be federally funded, in whole or in part, the authority or public agency may nonetheless comply with the provisions of Section 65-1-85 for purposes of compliance with any applicable federal funding requirements.

(d) The decision of the authority or the public agency concerning selection of the contractor shall be final.

(e) The company shall make commercially reasonable efforts to place out for bid, such that Mississippi Contractors and Mississippi Disadvantaged Business Enterprises ("DBEs") shall have an equal opportunity to respond to such bid, any contract by the company which (i) is subject to tax pursuant to Mississippi Code Section 27-65-21 (i.e., contracts for constructing, building, erecting, grading, excavating, etc.), and (ii) will be paid, or payment thereunder by the company will be reimbursed, using any

portion of the grant proceeds or funds provided by the authority to the company in accordance with this agreement. In carrying out such efforts, in order to increase the pool of qualified DBE bidders, the company will request that successful prime contract bidders include in their response a commitment to (a) participate in and/or host forums that highlight subcontract bidding opportunities for DBEs; and (b) work with various trade associations and the Mississippi Development Authority to promote increased participation from DBEs. With respect to awarding any contract placed out for bid, the company shall be allowed to award such contract in the company's sole discretion (e.g., based upon optimization of quality, cost and efficiency or on any other basis as the company may see fit). MDA agrees that it will offer to eligible contractor DBEs that have an opportunity to work on the project assistance through its Minority Surety Bond Guaranty Program.

(5) The Department of Employment Security is authorized to provide to the authority any information received, obtained or produced, or findings or determinations made thereby, with respect to any jobs created or maintained for a project that has been certified by the authority as a project as defined in Section 57-75-5(f).

SECTION 197. Section 57-75-11, Mississippi Code of 1972, is brought forward as follows:

57-75-11. The authority, in addition to any and all powers now or hereafter granted to it, is empowered and shall exercise discretion and the use of these powers depending on the circumstances of the project or projects:

(a) To maintain an office at a place or places within the state.

(b) To employ or contract with architects, engineers, attorneys, accountants, construction and financial experts and such other advisors, consultants and agents as may be necessary in its judgment and to fix and pay their compensation.

(c) To make such applications and enter into such contracts for financial assistance as may be appropriate under applicable federal or state law.

(d) To apply for, accept and utilize grants, gifts and other funds or aid from any source for any purpose contemplated by the act, and to comply, subject to the provisions of this act, with the terms and conditions thereof.

(e) (i) To acquire by purchase, lease, gift, or in other manner, including quick-take eminent domain, or obtain options to acquire, and to own, maintain, use, operate and convey any and all property of any kind, real, personal, or mixed, or any interest or estate therein, within the project area, necessary for the project or any facility related to the project. The provisions of this paragraph that allow the acquisition of

property by quick-take eminent domain shall be repealed by operation of law on July 1, 1994; and

(ii) Notwithstanding any other provision of this paragraph (e), from and after November 6, 2000, to exercise the right of immediate possession pursuant to the provisions of Sections 11-27-81 through 11-27-89 for the purpose of acquiring land, property and/or rights-of-way in the county in which a project as defined in Section 57-75-5(f)(iv)1 is located, that are necessary for such project or any facility related to the project.

(f) To acquire by purchase or lease any public lands and public property, including sixteenth section lands and lieu lands, within the project area, which are necessary for the project. Sixteenth section lands or lieu lands acquired under this act shall be deemed to be acquired for the purposes of industrial development thereon and such acquisition will serve a higher public interest in accordance with the purposes of this act.

(g) If the authority identifies any land owned by the state as being necessary, for the location or use of the project, or any facility related to the project, to recommend to the Legislature the conveyance of such land or any interest therein, as the Legislature deems appropriate.

(h) To make or cause to be made such examinations and surveys as may be necessary to the planning, design, construction and operation of the project.

(i) From and after the date of notification to the authority by the enterprise that the state has been finally selected as the site of the project, to acquire by condemnation and to own, maintain, use, operate and convey or otherwise dispose of any and all property of any kind, real, personal or mixed, or any interest or estate therein, within the project area, necessary for the project or any facility related to the project, with the concurrence of the affected public agency, and the exercise of the powers granted by this act, according to the procedures provided by Chapter 27, Title 11, Mississippi Code of 1972, except as modified by this act.

(i) Except as otherwise provided in subparagraph (iii) of this paragraph (i), in acquiring lands by condemnation, the authority shall not acquire minerals or royalties in minerals unless a competent registered professional engineer shall have certified that the acquisition of such minerals and royalties in minerals is necessary for purposes of the project; provided that limestone, clay, chalk, sand and gravel shall not be considered as minerals for the purposes of subparagraphs (i) and (ii) of this paragraph (i);

(ii) Unless minerals or royalties in minerals have been acquired by condemnation or otherwise, no person or persons owning the drilling rights or the right to share in production of minerals shall be prevented from exploring, developing, or producing oil or gas with necessary rights-of-way for ingress and

egress, pipelines and other means of transporting interests on any land or interest therein of the authority held or used for the purposes of this act; but any such activities shall be under such reasonable regulation by the authority as will adequately protect the project contemplated by this act as provided in paragraph (r) of this section; and

(iii) In acquiring lands by condemnation, including the exercise of immediate possession, for a project, as defined in Section 57-75-5(f)(iv)1, the authority may acquire minerals or royalties in minerals.

(j) To negotiate the necessary relocation or rerouting of roads and highways, railroad, telephone and telegraph lines and properties, electric power lines, pipelines and related facilities, or to require the anchoring or other protection of any of these, provided due compensation is paid to the owners thereof or agreement is had with such owners regarding the payment of the cost of such relocation, and to acquire by condemnation or otherwise easements or rights-of-way for such relocation or rerouting and to convey the same to the owners of the facilities being relocated or rerouted in connection with the purposes of this act.

(k) To negotiate the necessary relocation of graves and cemeteries and to pay all reasonable costs thereof.

(l) To perform or have performed any and all acts and make all payments necessary to comply with all applicable federal

laws, rules or regulations including, but not limited to, the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 USCS 4601, 4602, 4621 to 4638, and 4651 to 4655) and relocation rules and regulations promulgated by any agency or department of the federal government.

(m) To construct, extend, improve, maintain, and reconstruct, to cause to be constructed, extended, improved, maintained, and reconstructed, and to use and operate any and all components of the project or any facility related to the project, with the concurrence of the affected public agency, within the project area, necessary to the project and to the exercise of such powers, rights, and privileges granted the authority.

(n) To incur or defray any designated portion of the cost of any component of the project or any facility related to the project acquired or constructed by any public agency.

(o) (i) To lease, sell or convey any or all property acquired by the authority under the provisions of this act to the enterprise, its successors or assigns, and/or any entity for purposes in furtherance of economic development as determined by the authority, and in connection therewith to pay the costs of title search, perfection of title, title insurance and recording fees as may be required. The authority may provide in the instrument conveying such property a provision that such property shall revert to the authority if, as and when the property is declared by the transferee to be no longer needed.

(ii) To lease, sell, transfer or convey on any terms agreed upon by the authority any or all real and personal property, improvements, leases, funds and contractual obligations of a project as defined in Section 57-75-5(f)(vi) and conveyed to the State of Mississippi by a Quitclaim Deed from the United States of America dated February 23, 1996, filed of record at pages 511 to 524, Deed Book Number B179, Chancery Clerk's Office, Tishomingo County, Mississippi, to any governmental authority located within the geographic boundaries of the county wherein such project exists upon agreement of such governmental authority to undertake and assume from the State of Mississippi all obligations and responsibilities in connection with ownership and operation of the project. Property leased, sold, transferred or otherwise conveyed by the authority under this paragraph (o) shall be used only for economic development purposes.

(p) To enter into contracts with any person or public agency, including, but not limited to, contracts authorized by Section 57-75-17, in furtherance of any of the purposes authorized by this act upon such consideration as the authority and such person or public agency may agree. Any such contract may extend over any period of time, notwithstanding any rule of law to the contrary, may be upon such terms as the parties thereto shall agree, and may provide that it shall continue in effect until bonds specified therein, refunding bonds issued in lieu of such bonds, and all other obligations specified therein are paid or

terminated. Any such contract shall be binding upon the parties thereto according to its terms. Such contracts may include an agreement to reimburse the enterprise, its successors and assigns for any assistance provided by the enterprise in the acquisition of real property for the project or any facility related to the project.

(q) To establish and maintain reasonable rates and charges for the use of any facility within the project area owned or operated by the authority, and from time to time, to adjust such rates and to impose penalties for failure to pay such rates and charges when due.

(r) To adopt and enforce with the concurrence of the affected public agency all necessary and reasonable rules and regulations to carry out and effectuate the implementation of the project and any land use plan or zoning classification adopted for the project area, including, but not limited to, rules, regulations, and restrictions concerning mining, construction, excavation or any other activity the occurrence of which may endanger the structure or operation of the project. Such rules may be enforced within the project area and without the project area as necessary to protect the structure and operation of the project. The authority is authorized to plan or replan, zone or rezone, and make exceptions to any regulations, whether local or state, with the concurrence of the affected public agency which

are inconsistent with the design, planning, construction or operation of the project and facilities related to the project.

(s) To plan, design, coordinate and implement measures and programs to mitigate impacts on the natural environment caused by the project or any facility related to the project.

(t) To develop plans for technology transfer activities to ensure private sector conduits for exchange of information, technology and expertise related to the project to generate opportunities for commercial development within the state.

(u) To consult with the State Department of Education and other public agencies for the purpose of improving public schools and curricula within the project area.

(v) To consult with the State Board of Health and other public agencies for the purpose of improving medical centers, hospitals and public health centers in order to provide appropriate health care facilities within the project area.

(w) To consult with the Office of Minority Business Enterprise Development and other public agencies for the purpose of developing plans for technical assistance and loan programs to maximize the economic impact related to the project for minority business enterprises within the State of Mississippi.

(x) To deposit into the "Yellow Creek Project Area Fund" created pursuant to Section 57-75-31:

(i) Any funds or aid received as authorized in this section for the project described in Section 57-75-5(f)(vi), and

(ii) Any funds received from the sale or lease of property from the project described in Section 57-75-5(f)(vi) pursuant to the powers exercised under this section.

(y) To manage and develop the project described in Section 57-75-5(f)(vi).

(z) To promulgate rules and regulations necessary to effectuate the purposes of this act.

(aa) To negotiate a fee-in-lieu with the owners of the project.

(bb) To enter into contractual agreements to warrant any site work for a project defined in Section 57-75-5(f)(iv)1; provided, however, that the aggregate amount of such warranties shall not exceed Fifteen Million Dollars ($15,000,000.00).

(cc) To provide grant funds to an enterprise operating a project defined in Section 57-75-5(f)(iv)1 in an amount not to exceed Thirty-nine Million Dollars ($39,000,000.00).

(dd) (i) To own surface water transmission lines constructed with the proceeds of bonds issued pursuant to this act and in connection therewith to purchase and provide water to any project defined in Section 57-75-5(f)(iv) and to certificated water providers; and

(ii) To lease such surface water transmission lines to a public agency or public utility to provide water to such project and to certificated water providers.

(ee) To provide grant funds to an enterprise operating a project defined in Section 57-75-5(f)(v) or, in connection with a facility related to such a project, for job training, recruiting and infrastructure.

(ff) To enter into negotiations with persons proposing projects defined in Section 57-75-5(f)(xi) and execute acquisition options and conduct planning, design and environmental impact studies with regard to such project.

(gg) To establish such guidelines, rules and regulations as the authority may deem necessary and appropriate from time to time in its sole discretion, to promote the purposes of this act.

(hh) In connection with projects defined in Section 57-75-5(f)(ii):

(i) To provide grant funds or loans to a public agency or an enterprise owning, leasing or operating a project defined in Section 57-75-5(f)(ii) in amounts not to exceed the amount authorized in Section 57-75-15(3)(b);

(ii) To supervise the use of all such grant funds or loans; and

(iii) To requisition money in the Mississippi Major Economic Impact Authority Revolving Loan Fund in connection with such loans.

(ii) In connection with projects defined under Section 57-75-5(f)(xiv):

(i) To provide grant funds or loans to an enterprise owning, leasing or operating a project defined in Section 57-75-5(f)(xiv); however, the aggregate amount of any such loans under this paragraph (ii) shall not exceed Eighteen Million Dollars ($18,000,000.00) and the aggregate amount of any such grants under this paragraph (ii) shall not exceed Six Million Dollars ($6,000,000.00);

(ii) To supervise the use of all such grant funds or loans; and

(iii) Notwithstanding any provision of this act to the contrary, such loans shall be for a term not to exceed twenty (20) years as may be determined by the authority, shall bear interest at such rates as may be determined by the authority, shall, in the sole discretion of the authority, be secured in an amount and a manner as may be determined by the authority.

(jj) In connection with projects defined under Section 57-75-5(f)(xviii):

(i) To provide grant funds of Twenty-five Million Dollars ($25,000,000.00) to an enterprise owning or operating a project defined in Section 57-75-5(f)(xviii) to be used for real

estate improvements and which may be disbursed as determined by the authority;

(ii) To provide loans to an enterprise owning or operating a project defined in Section 57-75-5(f)(xviii) or make payments to a lender providing financing to the enterprise; subject to the following provisions:

1. Not more than Ten Million Dollars ($10,000,000.00) may be loaned to such an enterprise for the purpose of defraying costs incurred by the enterprise for site preparation and real property improvements during the construction of the project in excess of budgeted costs; however, the amount of any such loan shall not exceed fifty percent (50%) of such excess costs;

2. Not more than Sixty Million Dollars ($60,000,000.00) may be loaned to such an enterprise or paid to a lender providing financing to the enterprise for purposes determined appropriate by the authority, and the enterprise shall be obligated to repay the amount of the loan or payment plus any expenses incurred by the state as a result of the issuance of bonds pursuant to Section 57-75-15(3)(p); however, no such loan or payment may be made before the beginning of the fifth year after issuance by the enterprise of debt in like amount the proceeds of which are to be used in connection with the project;

(iii) To supervise the use of all such loan funds;

(iv) Loans under this paragraph (jj) may be for any term determined appropriate by the authority provided that the payments on any loan must be in an amount sufficient to pay the state's debt service on bonds issued for the purpose of providing funds for such a loan; and

(v) The repayment obligation of the enterprise for any loan or payment authorized under this paragraph (jj) shall, in the discretion of the authority, be secured in an amount and a manner as may be determined by the authority.

(kk) In connection with projects defined in Section 57-75-5(f)(xxi) or a facility related to such a project:

(i) To provide grant funds to reimburse public agencies, Itawamba Community College, Northeast Mississippi Community College, and/or East Mississippi Community College, public or private nonprofits or an enterprise owning or operating a project as defined in Section 57-75-5(f)(xxi) for site preparation, real estate improvements, utilities, railroads, roads, infrastructure, job training, recruiting and any other expenses approved by the authority in amounts not to exceed the amount authorized in Section 57-75-15(3)(s);

(ii) To supervise the use of all such grant funds so reimbursed; and

(iii) To enter into contractual agreements to warrant site preparation and availability for a project defined in Section 57-75-5(f)(xxi).

(ll) In connection with a project related to a Tier One supplier:

(i) To provide grant funds to reimburse public agencies, public or private nonprofits and Tier One suppliers for site preparation, real estate improvements, utilities, railroads, roads, infrastructure, job training, recruiting and any other expenses approved by the authority in amounts not to exceed the amount authorized in Section 57-75-15(3)(t);

(ii) To supervise the use of all such grant funds so reimbursed.

(mm) In connection with projects defined in Section 57-75-5(f)(xxii) or a facility related to such a project:

(i) To provide grant funds to reimburse public agencies or an enterprise owning or operating a project as defined in Section 57-75-5(f)(xxii) for site preparation, real estate improvements, utilities, fire protection, wastewater, railroads, roads, infrastructure, job training, recruiting and any other expenses approved by the authority in amounts not to exceed the amount authorized in Section 57-75-15(3)(u); and

(ii) To supervise the use of all such grant funds so reimbursed.

(nn) It is the policy of the authority and the authority is authorized to accommodate and support any enterprise owning or operating a project defined in Section 57-75-5(f)(xviii), 57-75-5(f)(xxi), 57-75-5(f)(xxii),

57-75-5(f)(xxvi), 57-75-5(f)(xxvii), 57-75-5(f)(xxviii), 57-75-5(f)(xxix), 57-75-5(f)(xxx), 57-75-5(f)(xxxi), 57-75-5(f)(xxxii) or 57-75-5(f)(xxxiii), or an enterprise developing or owning a project defined in Section 57-75-5(f)(xx), that wishes to have a program of diversity in contracting, and/or that wishes to do business with or cause its prime contractor to do business with Mississippi companies, including those companies that are small business concerns owned and controlled by socially and economically disadvantaged individuals. The term "socially and economically disadvantaged individuals" shall have the meaning ascribed to such term under Section 8(d) of the Small Business Act (15 USCS 637(d)) and relevant subcontracting regulations promulgated pursuant thereto; except that women shall be presumed to be socially and economically disadvantaged individuals for the purposes of this paragraph.

(oo) To provide grant funds to an enterprise developing or owning a project defined in Section 57-75-5(f)(xx) for reimbursement of costs incurred by such enterprise for infrastructure improvements in the initial phase of development of the project, upon dedication of such improvements to the appropriate public agency.

(pp) In connection with projects defined in Section 57-75-5(f)(xxiii):

(i) To provide grant funds to reimburse public agencies or an enterprise operating a project as defined in

Section 57-75-5(f)(xxiii) for site preparation, utilities, real estate improvements, infrastructure, roads, public works, job training and any other expenses approved by the authority in amounts not to exceed the amount authorized in Section 57-75-15(3)(v); and

(ii) To supervise the use of all such grant funds so reimbursed.

(qq) (i) To provide grant funds for the expansion of a publicly owned building for the project defined in Section 57-75-5(f)(xxiv) or loans to an enterprise owning, leasing or operating a project defined in Section 57-75-5(f)(xxiv) for the purchase and/or relocation of equipment, or for any other purpose related to the project as approved by the authority; however, the aggregate amount of any such loans under this paragraph (qq) shall not exceed Six Million Dollars ($6,000,000.00) and the aggregate amount of any such grants under this paragraph (qq) shall not exceed Seven Million Dollars ($7,000,000.00);

(ii) To supervise the use of all such grant funds or loans; and

(iii) Notwithstanding any provision of this act to the contrary, such loans shall be for a term not to exceed ten (10) years as may be determined by the authority, shall bear a rate of interest to be determined by the authority, and shall be secured in an amount and a manner as may be determined by the authority.

(rr) (i) To provide grant funds to an enterprise owning or operating a project defined in Section 57-75-5(f)(xxv) for reimbursement of costs incurred by the enterprise in reconfiguring the manufacturing plant and for the purchase of equipment, or for any other purpose related to the project as approved by the authority;

(ii) To supervise the use of all such grant funds.

(ss) In connection with projects defined under Section 57-75-5(f)(xxvi):

(i) To provide grant funds and/or loans to a public agency in an amount not to exceed Fifteen Million Dollars ($15,000,000.00) for the construction of a publicly owned building to be leased by the enterprise owning or operating the project;

(ii) To provide loan guarantees in an amount not to exceed the total cost of the project for which financing is sought or Twenty Million Dollars ($20,000,000.00), whichever is less, for the purpose of encouraging the extension of conventional financing and the issuance of letters of credit to the enterprise owning or operating the project;

(iii) In connection with any loan guarantee made pursuant to this paragraph, to make payments to lenders providing financing to the enterprise owning or operating the project and the enterprise shall be obligated to repay the amount of the payment plus any expenses incurred by the state as a result of the issuance of bonds pursuant to Section 57-75-15(3)(y);

(iv) To supervise the use of all such grant funds, loan funds or payments; and

(v) To require the enterprise owning or operating the project to provide security for the repayment obligation for any loan guarantee authorized under this paragraph in an amount and in a manner as may be determined by the authority.

(tt) In connection with projects defined under Section 57-75-5(f)(xxvii):

(i) To provide loans to a public agency in an amount not to exceed Fifty Million Dollars ($50,000,000.00) for the construction of a publicly owned building and acquisition of equipment to be leased by the enterprise owning or operating the project; and

(ii) To supervise the use of all such loan funds.

(uu) In connection with projects defined under Section 57-75-5(f)(xxviii):

(i) To provide grant funds to reimburse public agencies or an enterprise operating a project for site preparation, utilities, real estate purchase and improvements, infrastructure, roads, rail improvements, public works, job training and any other expenses approved by the authority in amounts not to exceed the amount authorized in Section 57-75-15(3)(aa);

(ii) To supervise the use of all such grant funds so reimbursed.

(vv) In connection with projects defined under Section 57-75-5(f)(xxix):

(i) To provide grant funds to reimburse or otherwise defray the costs incurred by public agencies or an enterprise operating a project for site preparation, utilities, real estate purchases, purchase options and improvements, infrastructure, roads, rail improvements, public works, buildings and fixtures, job recruitment and training, as well as planning, design, environmental mitigation and environmental impact studies with respect to a project, and any other purposes approved by the authority in amounts not to exceed the amount authorized in Section 57-75-15(3)(bb);

(ii) To provide loans to public agencies for site preparation, utilities, real estate purchases, purchase options and improvements, infrastructure, roads, rail improvements, public works, buildings and fixtures, job recruiting and training, as well as planning, design, environmental mitigation and environmental impact studies with respect to a project, and any other purposes approved by the authority in amounts not to exceed the amount authorized in Section 57-75-15(3)(bb);

(iii) To supervise the use of all such grant funds so reimbursed and/or loans so made; and

(iv) To the extent that the authority enters into any construction or similar contract for site preparation work or for the construction of any improvements on a project site, to

assign or otherwise transfer to an enterprise or affiliate thereof that owns or operates such a project on such project site any and all contractual, express or implied warranties of any kind arising from such contract or work performed or materials purchased in connection therewith, and cause any such contract to contain terms and provisions designating such enterprise as a third-party beneficiary under the contract.

(ww) In connection with projects defined under Section 57-75-5(f)(xxx):

(i) To provide grant funds to reimburse or otherwise defray the costs incurred by public agencies or an enterprise operating a project for public infrastructure needs, site preparation, building improvements, purchase of launch systems, recruitment of employees to fill new full-time jobs, providing internal company training and train prospective, new and existing employees of the enterprise associated with the project, including training of company employees who will utilize such instruction to teach other prospective, new and existing employees of the company and other workforce expenses and any other expenses approved by the authority in amounts not to exceed the amount authorized in Section 57-75-15(3)(cc); and

(ii) To supervise the use of all such grant funds so reimbursed.

(xx) In connection with projects defined under Section 57-75-5(f)(xxxi):

(i) To provide grant funds to reimburse or otherwise defray the costs incurred by public agencies or any enterprise operating one or more such projects for site preparation, utilities, real estate purchases, purchase options and improvements, infrastructure, utilities, roads, rail improvements, public works, buildings and fixtures, job recruitment and training, as well as planning, design, environmental mitigation and environmental impact studies with respect to a project, and any other purposes approved by the authority in amounts not to exceed the amount authorized in Section 57-75-15(3)(dd);

(ii) To provide loans to public agencies for site preparation, utilities, real estate purchases, purchase options and improvements, infrastructure, roads, rail improvements, public works, buildings and fixtures, job recruiting and training, as well as planning, design, environmental mitigation and environmental impact studies with respect to a project, and any other purposes approved by the authority in amounts not to exceed the amount authorized in Section 57-75-15(3)(dd).

(yy) (i) In connection with projects defined under Section 57-75-5(f)(xxxi), the authority is further authorized to provide to the enterprises operating one or more of the projects, an annual grant in an amount not to exceed three and one-half percent (3.5%) of the additional payroll for a period of ten (10) consecutive years. Each such aggregate annual grant amount shall

be remitted to one or more of the enterprises and/or one or more of their affiliates, in such sub-amounts as the enterprises shall collectively direct, or that their common direct or indirect parent company shall direct, in writing, to the authority each year during such ten-year period. The ten-year period for the series of ten (10) annual grants authorized by this paragraph (yy) shall commence no later than January 1, 2029.

(ii) In the event that the annual number of full-time jobs maintained or caused to be maintained by the enterprises operating one or more projects and/or one or more affiliates thereof falls below the minimum annual number of full-time jobs required by the authority pursuant to a written agreement between the authority and the enterprises and/or any affiliate thereof for one or more years, the annual grant authorized by this paragraph (yy) may be reduced or suspended by the authority until the first calendar year during which the annual number of full-time jobs maintained or caused to be maintained by the enterprises and/or their affiliates reaches the minimum annual number of full-time jobs required by the authority pursuant to the written agreement.

(iii) The annual grants authorized by this paragraph (yy) may be funded from the proceeds of bonds issued pursuant to Section 57-75-15(3)(dd); provided that the aggregate amount of the annual grants over the entire ten-year period shall not exceed Forty-five Million Dollars ($45,000,000.00).

(iv) For purposes of this paragraph (yy):

1. "Additional payroll" shall mean the sum of the annual payroll amount (i.e., all annual employee income that is subject to State of Mississippi and/or federal income taxation) for any calendar year beginning January 1, 2023, which is associated with full-time jobs created and maintained by all enterprises that undertake any project and/or by any affiliates thereof, in excess of the amount the annualized payroll (i.e., all annual employee income that is subject to State of Mississippi and/or federal income taxation), which is associated with employees employed in the State of Mississippi by such enterprises or their affiliates as of September 30, 2022; and

2. "Base payroll level" shall mean the annualized payroll amount (i.e., all annual employee income that is subject to State of Mississippi and/or federal income taxation) paid to employees employed in the State of Mississippi by all enterprises that undertake any project and/or by any affiliates thereof during the twelve-month period ending on September 30, 2022.

(v) The Mississippi Development Authority may promulgate rules and regulations necessary to administer the provisions of this paragraph (yy) and may otherwise administer and prescribe rules and restrictions with respect to the annual grant authorized by this paragraph (yy) pursuant to a written agreement

between the authority and any enterprises operating one or more projects and/or any affiliate thereof.

(zz) In connection with a project defined under Section 57-75-5(f)(xxxii):

(i) To provide grant funds to reimburse or otherwise defray the costs incurred by public agencies or any enterprise operating one or more such projects for site preparation, utilities, real estate purchases, purchase options and improvements, infrastructure, utilities, roads, rail improvements, public works, buildings and fixtures, job recruitment and training, as well as planning, design, environmental mitigation and environmental impact studies with respect to a project, and any other purposes approved by the authority in amounts not to exceed the amount authorized in Section 57-75-15(3)(ee);

(ii) To provide loans, grants and other funds to public agencies for site preparation, utilities, real estate purchases, purchase options and improvements, infrastructure, roads, rail improvements, public works, buildings and fixtures, job recruiting and training, as well as planning, design, environmental mitigation and environmental impact studies with respect to a project, and any other purposes approved by the authority in amounts not to exceed the amount authorized in Section 57-75-15(3)(ee).

(aaa) In connection with a project defined under Section 57-75-5(f)(xxxiii):

(i) To provide grant funds to reimburse or otherwise defray the costs incurred by public agencies or any enterprise operating one or more such projects for site preparation, utilities, real estate purchases, purchase options and improvements, infrastructure, utilities, roads, rail improvements, public works, buildings and fixtures, job recruitment and training, as well as planning, design, environmental mitigation and environmental impact studies with respect to a project, and any other purposes approved by the authority in amounts not to exceed the amount authorized in Section 57-75-15(3)(ff); and

(ii) To provide loans to public agencies for site preparation, utilities, real estate purchases, purchase options and improvements, infrastructure, roads, rail improvements, public works, buildings and fixtures, job recruiting and training, as well as planning, design, environmental mitigation and environmental impact studies with respect to a project, and any other purposes approved by the authority in amounts not to exceed the amount authorized in Section 57-75-15(3)(ff).

(aab) (i) In addition to any other requirements or conditions under this chapter, the authority shall require that any application required by the authority for assistance regarding a project under this chapter include, at a minimum:

1. A two-year business plan (which shall include pro forma balance sheets, income statements and monthly cash flow statements);

2. Financial statements or tax returns for the three (3) years immediately prior to the application (if the project is a new company or enterprise, personal financial statements or tax returns will be required);

3. Credit reports on all persons or entities with a twenty percent (20%) or greater interest in the project;

4. Data supporting the expertise of the project's principals;

5. A cost-benefit analysis of the project performed by a state institution of higher learning or other entity selected by the authority; and

6. Any other information required by the authority.

(ii) The authority shall require that binding commitments be entered into requiring that:

1. The applicable minimum requirements of this chapter and such other requirements as the authority considers proper shall be met; and

2. If the agreed upon commitments are not met, all or a portion of the funds provided under this chapter as determined by the authority shall be repaid.

(iii) Where appropriate, in the discretion of the authority, the authority shall acquire a security interest in or other lien upon any applicable collateral.

(iv) The provisions of this paragraph (xx) shall not apply to a project defined in Section 57-75-5(f)(xxiii).

SECTION 198. Section 57-75-13, Mississippi Code of 1972, is brought forward as follows:

57-75-13. The Board of Trustees of State Institutions of Higher Learning is hereby authorized to support the project by creating institutes and developing curricula of direct benefit to the enterprise. Upon notification to the authority by the enterprise that the state has been selected as the site of the project, the Board of Trustees of State Institutions of Higher Learning may establish and create programs to enhance the project's success.

SECTION 199. Section 57-75-15, Mississippi Code of 1972, is brought forward as follows:

57-75-15. (1) Upon notification to the authority by the enterprise that the state has been finally selected as the site for the project, the State Bond Commission shall have the power and is hereby authorized and directed, upon receipt of a declaration from the authority as hereinafter provided, to borrow money and issue general obligation bonds of the state in one or more series for the purposes herein set out. Upon such notification, the authority may thereafter, from time to time,

declare the necessity for the issuance of general obligation bonds as authorized by this section and forward such declaration to the State Bond Commission, provided that before such notification, the authority may enter into agreements with the United States government, private companies and others that will commit the authority to direct the State Bond Commission to issue bonds for eligible undertakings set out in subsection (4) of this section, conditioned on the siting of the project in the state.

(2) Upon receipt of any such declaration from the authority, the State Bond Commission shall verify that the state has been selected as the site of the project and shall act as the issuing agent for the series of bonds directed to be issued in such declaration pursuant to authority granted in this section.

(3) (a) Bonds issued under the authority of this section for projects as defined in Section 57-75-5(f)(i) shall not exceed an aggregate principal amount in the sum of Sixty-seven Million Three Hundred Fifty Thousand Dollars ($67,350,000.00).

(b) Bonds issued under the authority of this section for projects as defined in Section 57-75-5(f)(ii) shall not exceed Eighty-seven Million Dollars ($87,000,000.00). The authority, with the express direction of the State Bond Commission, is authorized to expend any remaining proceeds of bonds issued under the authority of this act prior to January 1, 1998, for the purpose of financing projects as then defined in Section 57-75-5(f)(ii) or for any other projects as defined in Section

57-75-5(f)(ii), as it may be amended from time to time. No bonds shall be issued under this paragraph (b) until the State Bond Commission by resolution adopts a finding that the issuance of such bonds will improve, expand or otherwise enhance the military installation, its support areas or military operations, or will provide employment opportunities to replace those lost by closure or reductions in operations at the military installation or will support critical studies or investigations authorized by Section 57-75-5(f)(ii).

(c) Bonds issued under the authority of this section for projects as defined in Section 57-75-5(f)(iii) shall not exceed Ten Million Dollars ($10,000,000.00). No bonds shall be issued under this paragraph after December 31, 1996.

(d) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(iv) shall not exceed Three Hundred Fifty-one Million Dollars ($351,000,000.00). An additional amount of bonds in an amount not to exceed Twelve Million Five Hundred Thousand Dollars ($12,500,000.00) may be issued under the authority of this section for the purpose of defraying costs associated with the construction of surface water transmission lines for a project defined in Section 57-75-5(f)(iv) or for any facility related to the project. No bonds shall be issued under this paragraph after June 30, 2005.

(e) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(v) and for facilities

related to such projects shall not exceed Thirty-eight Million Five Hundred Thousand Dollars ($38,500,000.00). No bonds shall be issued under this paragraph after April 1, 2005.

(f) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(vii) shall not exceed Five Million Dollars ($5,000,000.00). No bonds shall be issued under this paragraph after June 30, 2006.

(g) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(viii) shall not exceed Four Million Five Hundred Thousand Dollars ($4,500,000.00). No bonds shall be issued under this paragraph after June 30, 2008.

(h) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(ix) shall not exceed Five Million Dollars ($5,000,000.00). No bonds shall be issued under this paragraph after June 30, 2007.

(i) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(x) shall not exceed Five Million Dollars ($5,000,000.00). No bonds shall be issued under this paragraph after April 1, 2005.

(j) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(xii) shall not exceed Thirty-three Million Dollars ($33,000,000.00). The amount of bonds that may be issued under this paragraph for projects defined in Section 57-75-5(f)(xii) may be reduced by the amount of any federal or local funds made available for such projects. No bonds

shall be issued under this paragraph until local governments in or near the county in which the project is located have irrevocably committed funds to the project in an amount of not less than Two Million Five Hundred Thousand Dollars ($2,500,000.00) in the aggregate; however, this irrevocable commitment requirement may be waived by the authority upon a finding that due to the unforeseen circumstances created by Hurricane Katrina, the local governments are unable to comply with such commitment. No bonds shall be issued under this paragraph after June 30, 2008.

(k) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(xiii) shall not exceed Three Million Dollars ($3,000,000.00). No bonds shall be issued under this paragraph after June 30, 2009.

(l) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(xiv) shall not exceed Twenty-four Million Dollars ($24,000,000.00). No bonds shall be issued under this paragraph until local governments in the county in which the project is located have irrevocably committed funds to the project in an amount of not less than Two Million Dollars ($2,000,000.00). No bonds shall be issued under this paragraph after June 30, 2009.

(m) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(xv) shall not exceed Five Hundred Thousand Dollars ($500,000.00). No bonds shall be issued under this paragraph after June 30, 2009.

(n) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(xvi) shall not exceed Ten Million Dollars ($10,000,000.00). No bonds shall be issued under this paragraph after June 30, 2011.

(o) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(xvii) shall not exceed Three Million Five Hundred Thousand Dollars ($3,500,000.00). No bonds shall be issued under this paragraph after June 30, 2010.

(p) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(xviii) shall not exceed Ninety-six Million Dollars ($96,000,000.00). No bonds shall be issued under this paragraph after June 30, 2011.

(q) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(xix) shall not exceed Fifteen Million Dollars ($15,000,000.00). No bonds shall be issued under this paragraph after June 30, 2012.

(r) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(xx) shall not exceed Twenty-three Million Dollars ($23,000,000.00). No bonds shall be issued under this paragraph after April 25, 2013.

(s) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(xxi) shall not exceed Two Hundred Ninety-three Million Nine Hundred Thousand Dollars ($293,900,000.00). No bonds shall be issued under this paragraph after July 1, 2020.

(t) Bonds issued under the authority of this section for Tier One suppliers shall not exceed Thirty Million Dollars ($30,000,000.00). No bonds shall be issued under this paragraph after July 1, 2020.

(u) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(xxii) shall not exceed Forty-eight Million Four Hundred Thousand Dollars ($48,400,000.00). No bonds shall be issued under this paragraph after July 1, 2020.

(v) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(xxiii) shall not exceed Eighty-eight Million Two Hundred Fifty Thousand Dollars ($88,250,000.00). No bonds shall be issued under this paragraph after July 1, 2009.

(w) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(xxiv) shall not exceed Thirteen Million Dollars ($13,000,000.00). No bonds shall be issued under this paragraph after July 1, 2020.

(x) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(xxv) shall not exceed Twenty-five Million Dollars ($25,000,000.00). No bonds shall be issued under this paragraph after July 1, 2017.

(y) [Deleted]

(z) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(xxvii) shall not exceed

Fifty Million Dollars ($50,000,000.00). No bonds shall be issued under this paragraph after April 25, 2013.

(aa) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(xxviii) shall not exceed Seventy Million Dollars ($70,000,000.00). No bonds shall be issued under this paragraph after July 1, 2026.

(bb) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(xxix) shall not exceed Two Hundred Sixty-three Million Dollars ($263,000,000.00). No bonds shall be issued under this paragraph after July 1, 2034.

(cc) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(xxx) shall not exceed Six Million Dollars ($6,000,000.00). No bonds shall be issued under this paragraph after July 1, 2025.

(dd) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(xxxi) shall not exceed Two Hundred Forty-six Million Seven Hundred Ninety-eight Thousand Five Hundred Fifty Dollars ($246,798,550.00); however, the total amount of bonds that may be issued under the authority of this section for projects defined in Section 57-75-5(f)(xxxi) shall be reduced by the amount of any other funds authorized by the Legislature during the 2022 First Extraordinary Session specifically for such projects. No bonds shall be issued under this paragraph after July 1, 2040.

(ee) Bonds issued under the authority of this section for a project defined in Section 57-75-5(f)(xxxii) shall not exceed Four Hundred Eighty-two Million Dollars ($482,000,000.00); however, the total amount of bonds that may be issued under the authority of this section for a project defined in Section 57-75-5(f)(xxxii) shall be reduced by the amount of any other funds authorized by the Legislature specifically for such project. No bonds shall be issued under this paragraph after July 1, 2040.

(ff) Bonds issued under the authority of this section for a project defined in Section 57-75-5(f)(xxxiii) shall not exceed Two Hundred Sixty Million Dollars ($260,000,000.00); however, the total amount of bonds that may be issued under the authority of this section for a project defined in Section 57-75-5(f)(xxxiii) shall be reduced by the amount of any other funds authorized by the Legislature specifically for such project. No bonds shall be issued under this paragraph after July 1, 2040.

(4) (a) The proceeds from the sale of the bonds issued under this section may be applied for the following purposes:

(i) Defraying all or any designated portion of the costs incurred with respect to acquisition, planning, design, construction, installation, rehabilitation, improvement, relocation and with respect to state-owned property, operation and maintenance of the project and any facility related to the project located within the project area, including costs of design and engineering, all costs incurred to provide land, easements and

rights-of-way, relocation costs with respect to the project and with respect to any facility related to the project located within the project area, and costs associated with mitigation of environmental impacts and environmental impact studies;

(ii) Defraying the cost of providing for the recruitment, screening, selection, training or retraining of employees, candidates for employment or replacement employees of the project and any related activity;

(iii) Reimbursing the Mississippi Development Authority for expenses it incurred in regard to projects defined in Section 57-75-5(f)(iv) prior to November 6, 2000. The Mississippi Development Authority shall submit an itemized list of expenses it incurred in regard to such projects to the Chairmen of the Finance and Appropriations Committees of the Senate and the Chairmen of the Ways and Means and Appropriations Committees of the House of Representatives;

(iv) Providing grants to enterprises operating projects defined in Section 57-75-5(f)(iv)1;

(v) Paying any warranty made by the authority regarding site work for a project defined in Section 57-75-5(f)(iv)1;

(vi) Defraying the cost of marketing and promotion of a project as defined in Section 57-75-5(f)(iv)1, Section 57-75-5(f)(xxi) or Section 57-75-5(f)(xxii). The authority shall submit an itemized list of costs incurred for marketing and

promotion of such project to the Chairmen of the Finance and Appropriations Committees of the Senate and the Chairmen of the Ways and Means and Appropriations Committees of the House of Representatives;

(vii) Providing for the payment of interest on the bonds;

(viii) Providing debt service reserves;

(ix) Paying underwriters' discount, original issue discount, accountants' fees, engineers' fees, attorneys' fees, rating agency fees and other fees and expenses in connection with the issuance of the bonds;

(x) For purposes authorized in paragraphs (b) and (c) of this subsection (4);

(xi) Providing grants to enterprises operating projects defined in Section 57-75-5(f)(v), or, in connection with a facility related to such a project, for any purposes deemed by the authority in its sole discretion to be necessary and appropriate;

(xii) Providing grant funds or loans to a public agency or an enterprise owning, leasing or operating a project defined in Section 57-75-5(f)(ii);

(xiii) Providing grant funds or loans to an enterprise owning, leasing or operating a project defined in Section 57-75-5(f)(xiv);

(xiv) Providing grants, loans and payments to or for the benefit of an enterprise owning or operating a project defined in Section 57-75-5(f)(xviii);

(xv) Purchasing equipment for a project defined in Section 57-75-5(f)(viii) subject to such terms and conditions as the authority considers necessary and appropriate;

(xvi) Providing grant funds to an enterprise developing or owning a project defined in Section 57-75-5(f)(xx);

(xvii) Providing grants and loans for projects as authorized in Section 57-75-11(kk), (ll), (mm), (uu), (vv) or, in connection with a facility related to such a project, for any purposes deemed by the authority in its sole discretion to be necessary and appropriate;

(xviii) Providing grants for projects as authorized in Section 57-75-11(pp) for any purposes deemed by the authority in its sole discretion to be necessary and appropriate;

(xix) Providing grants and loans for projects as authorized in Section 57-75-11(qq);

(xx) Providing grants for projects as authorized in Section 57-75-11(rr);

(xxi) Providing grants, loans and payments as authorized in Section 57-75-11(ss);

(xxii) Providing grants and loans as authorized in Section 57-75-11(tt);

(xxiii) Providing grants as authorized in Section 57-75-11(ww) for any purposes deemed by the authority in its sole discretion to be necessary and appropriate; and

(xxiv) Providing loans, grants and other funds as authorized in Section 57-75-11(xx), (yy), (zz) and (aaa) for any purposes deemed by the authority in its sole discretion to be necessary and appropriate.

Such bonds shall be issued, from time to time, and in such principal amounts as shall be designated by the authority, not to exceed in aggregate principal amounts the amount authorized in subsection (3) of this section. Proceeds from the sale of the bonds issued under this section may be invested, subject to federal limitations, pending their use, in such securities as may be specified in the resolution authorizing the issuance of the bonds or the trust indenture securing them, and the earning on such investment applied as provided in such resolution or trust indenture.

(b) (i) The proceeds of bonds issued after June 21, 2002, under this section for projects described in Section 57-75-5(f)(iv) may be used to reimburse reasonable actual and necessary costs incurred by the Mississippi Development Authority in providing assistance related to a project for which funding is provided from the use of proceeds of such bonds. The Mississippi Development Authority shall maintain an accounting of actual costs incurred for each project for which reimbursements are sought.

Reimbursements under this paragraph (b)(i) shall not exceed Three Hundred Thousand Dollars ($300,000.00) in the aggregate. Reimbursements under this paragraph (b)(i) shall satisfy any applicable federal tax law requirements.

(ii) The proceeds of bonds issued after June 21, 2002, under this section for projects described in Section 57-75-5(f)(iv) may be used to reimburse reasonable actual and necessary costs incurred by the Department of Audit in providing services related to a project for which funding is provided from the use of proceeds of such bonds. The Department of Audit shall maintain an accounting of actual costs incurred for each project for which reimbursements are sought. The Department of Audit may escalate its budget and expend such funds in accordance with rules and regulations of the Department of Finance and Administration in a manner consistent with the escalation of federal funds. Reimbursements under this paragraph (b)(ii) shall not exceed One Hundred Thousand Dollars ($100,000.00) in the aggregate. Reimbursements under this paragraph (b)(ii) shall satisfy any applicable federal tax law requirements.

(c) (i) Except as otherwise provided in this subsection, the proceeds of bonds issued under this section for a project described in Section 57-75-5(f) may be used to reimburse reasonable actual and necessary costs incurred by the Mississippi Development Authority in providing assistance related to the project for which funding is provided for the use of proceeds of

such bonds. The Mississippi Development Authority shall maintain an accounting of actual costs incurred for each project for which reimbursements are sought. Reimbursements under this paragraph shall not exceed Twenty-five Thousand Dollars ($25,000.00) for each project.

(ii) Except as otherwise provided in this subsection, the proceeds of bonds issued under this section for a project described in Section 57-75-5(f) may be used to reimburse reasonable actual and necessary costs incurred by the Department of Audit in providing services related to the project for which funding is provided from the use of proceeds of such bonds. The Department of Audit shall maintain an accounting of actual costs incurred for each project for which reimbursements are sought. The Department of Audit may escalate its budget and expend such funds in accordance with rules and regulations of the Department of Finance and Administration in a manner consistent with the escalation of federal funds. Reimbursements under this paragraph shall not exceed Twenty-five Thousand Dollars ($25,000.00) for each project. Reimbursements under this paragraph shall satisfy any applicable federal tax law requirements.

(5) The principal of and the interest on the bonds shall be payable in the manner hereinafter set forth. The bonds shall bear date or dates; be in such denomination or denominations; bear interest at such rate or rates; be payable at such place or places within or without the state; mature absolutely at such time or

times; be redeemable before maturity at such time or times and upon such terms, with or without premium; bear such registration privileges; and be substantially in such form; all as shall be determined by resolution of the State Bond Commission except that such bonds shall mature or otherwise be retired in annual installments beginning not more than five (5) years from the date thereof and extending not more than twenty-five (25) years from the date thereof. The bonds shall be signed by the Chairman of the State Bond Commission, or by his facsimile signature, and the official seal of the State Bond Commission shall be imprinted on or affixed thereto, attested by the manual or facsimile signature of the Secretary of the State Bond Commission. Whenever any such bonds have been signed by the officials herein designated to sign the bonds, who were in office at the time of such signing but who may have ceased to be such officers before the sale and delivery of such bonds, or who may not have been in office on the date such bonds may bear, the signatures of such officers upon such bonds shall nevertheless be valid and sufficient for all purposes and have the same effect as if the person so officially signing such bonds had remained in office until the delivery of the same to the purchaser, or had been in office on the date such bonds may bear.

(6) All bonds issued under the provisions of this section shall be and are hereby declared to have all the qualities and incidents of negotiable instruments under the provisions of the Uniform Commercial Code and in exercising the powers granted by

this chapter, the State Bond Commission shall not be required to and need not comply with the provisions of the Uniform Commercial Code.

(7) The State Bond Commission shall act as issuing agent for the bonds, prescribe the form of the bonds, determine the appropriate method for sale of the bonds, advertise for and accept bids or negotiate the sale of the bonds, issue and sell the bonds, pay all fees and costs incurred in such issuance and sale, and do any and all other things necessary and advisable in connection with the issuance and sale of the bonds. The State Bond Commission may sell such bonds on sealed bids at public sale or may negotiate the sale of the bonds for such price as it may determine to be for the best interest of the State of Mississippi. The bonds shall bear interest at such rate or rates not exceeding the limits set forth in Section 75-17-101 as shall be fixed by the State Bond Commission. All interest accruing on such bonds so issued shall be payable semiannually or annually.

If the bonds are to be sold on sealed bids at public sale, notice of the sale of any bonds shall be published at least one time, the first of which shall be made not less than ten (10) days prior to the date of sale, and shall be so published in one or more newspapers having a general circulation in the City of Jackson, Mississippi, selected by the State Bond Commission.

The State Bond Commission, when issuing any bonds under the authority of this section, may provide that the bonds, at the

option of the state, may be called in for payment and redemption at the call price named therein and accrued interest on such date or dates named therein.

(8) State bonds issued under the provisions of this section shall be the general obligations of the state and backed by the full faith and credit of the state. The Legislature shall appropriate annually an amount sufficient to pay the principal of and the interest on such bonds as they become due. All bonds shall contain recitals on their faces substantially covering the foregoing provisions of this section.

(9) The State Treasurer is authorized to certify to the Department of Finance and Administration the necessity for warrants, and the Department of Finance and Administration is authorized and directed to issue such warrants payable out of any funds appropriated by the Legislature under this section for such purpose, in such amounts as may be necessary to pay when due the principal of and interest on all bonds issued under the provisions of this section. The State Treasurer shall forward the necessary amount to the designated place or places of payment of such bonds in ample time to discharge such bonds, or the interest thereon, on the due dates thereof.

(10) The bonds may be issued without any other proceedings or the happening of any other conditions or things other than those proceedings, conditions and things which are specified or required by this chapter. Any resolution providing for the

issuance of general obligation bonds under the provisions of this section shall become effective immediately upon its adoption by the State Bond Commission, and any such resolution may be adopted at any regular or special meeting of the State Bond Commission by a majority of its members.

(11) In anticipation of the issuance of bonds hereunder, the State Bond Commission is authorized to negotiate and enter into any purchase, loan, credit or other agreement with any bank, trust company or other lending institution or to issue and sell interim notes for the purpose of making any payments authorized under this section. All borrowings made under this provision shall be evidenced by notes of the state which shall be issued from time to time, for such amounts not exceeding the amount of bonds authorized herein, in such form and in such denomination and subject to such terms and conditions of sale and issuance, prepayment or redemption and maturity, rate or rates of interest not to exceed the maximum rate authorized herein for bonds, and time of payment of interest as the State Bond Commission shall agree to in such agreement. Such notes shall constitute general obligations of the state and shall be backed by the full faith and credit of the state. Such notes may also be issued for the purpose of refunding previously issued notes. No note shall mature more than three (3) years following the date of its issuance. The State Bond Commission is authorized to provide for the compensation of any purchaser of the notes by payment of a

fixed fee or commission and for all other costs and expenses of issuance and service, including paying agent costs. Such costs and expenses may be paid from the proceeds of the notes.

(12) The bonds and interim notes authorized under the authority of this section may be validated in the Chancery Court of the First Judicial District of Hinds County, Mississippi, in the manner and with the force and effect provided now or hereafter by Chapter 13, Title 31, Mississippi Code of 1972, for the validation of county, municipal, school district and other bonds. The necessary papers for such validation proceedings shall be transmitted to the State Bond Attorney, and the required notice shall be published in a newspaper published in the City of Jackson, Mississippi.

(13) Any bonds or interim notes issued under the provisions of this chapter, a transaction relating to the sale or securing of such bonds or interim notes, their transfer and the income therefrom shall at all times be free from taxation by the state or any local unit or political subdivision or other instrumentality of the state, excepting inheritance and gift taxes.

(14) All bonds issued under this chapter shall be legal investments for trustees, other fiduciaries, savings banks, trust companies and insurance companies organized under the laws of the State of Mississippi; and such bonds shall be legal securities which may be deposited with and shall be received by all public officers and bodies of the state and all municipalities and other

political subdivisions thereof for the purpose of securing the deposit of public funds.

(15) The Attorney General of the State of Mississippi shall represent the State Bond Commission in issuing, selling and validating bonds herein provided for, and the Bond Commission is hereby authorized and empowered to expend from the proceeds derived from the sale of the bonds authorized hereunder all necessary administrative, legal and other expenses incidental and related to the issuance of bonds authorized under this chapter.

(16) There is hereby created a special fund in the State Treasury to be known as the Mississippi Major Economic Impact Authority Fund wherein shall be deposited the proceeds of the bonds issued under this chapter and all monies received by the authority to carry out the purposes of this chapter. Expenditures authorized herein shall be paid by the State Treasurer upon warrants drawn from the fund, and the Department of Finance and Administration shall issue warrants upon requisitions signed by the director of the authority.

(17) (a) There is hereby created the Mississippi Economic Impact Authority Sinking Fund from which the principal of and interest on such bonds shall be paid by appropriation. All monies paid into the sinking fund not appropriated to pay accruing bonds and interest shall be invested by the State Treasurer in such securities as are provided by law for the investment of the sinking funds of the state.

(b) In the event that all or any part of the bonds and notes are purchased, they shall be cancelled and returned to the loan and transfer agent as cancelled and paid bonds and notes and thereafter all payments of interest thereon shall cease and the cancelled bonds, notes and coupons, together with any other cancelled bonds, notes and coupons, shall be destroyed as promptly as possible after cancellation but not later than two (2) years after cancellation. A certificate evidencing the destruction of the cancelled bonds, notes and coupons shall be provided by the loan and transfer agent to the seller.

(c) The State Treasurer shall determine and report to the Department of Finance and Administration and Legislative Budget Office by September 1 of each year the amount of money necessary for the payment of the principal of and interest on outstanding obligations for the following fiscal year and the times and amounts of the payments. It shall be the duty of the Governor to include in every executive budget submitted to the Legislature full information relating to the issuance of bonds and notes under the provisions of this chapter and the status of the sinking fund for the payment of the principal of and interest on the bonds and notes.

(d) Any monies repaid to the state from loans authorized in Section 57-75-11(hh) shall be deposited into the Mississippi Major Economic Impact Authority Sinking Fund unless the State Bond Commission, at the request of the authority, shall

determine that such loan repayments are needed to provide additional loans as authorized under Section 57-75-11(hh). For purposes of providing additional loans, there is hereby created the Mississippi Major Economic Impact Authority Revolving Loan Fund and loan repayments shall be deposited into the fund. The fund shall be maintained for such period as determined by the State Bond Commission for the sole purpose of making additional loans as authorized by Section 57-75-11(hh). Unexpended amounts remaining in the fund at the end of a fiscal year shall not lapse into the State General Fund and any interest earned on amounts in such fund shall be deposited to the credit of the fund.

(e) Any monies repaid to the state from loans authorized in Section 57-75-11(ii) shall be deposited into the Mississippi Major Economic Impact Authority Sinking Fund.

(f) Any monies repaid to the state from loans, grants and other funds authorized in Section 57-75-11(jj), (vv), (xx), (zz) and (aaa) shall be deposited into the Mississippi Major Economic Impact Authority Sinking Fund. However:

(i) Monies paid to the state from a county in which a project as defined in Section 57-75-5(f)(xxxii) is located and which is paid pursuant to any agreement under Section 57-75-37(6)(c)(iii) shall, after being received from the county and properly accounted for, be deposited into the State General Fund; and

(ii) Monies paid to the state from a county and/or municipality in which a project as defined in Section 57-75-5(f)(xxxiii) is located and which is paid pursuant to any agreement under Section 57-75-37(7)(c)(iii) shall, after being received from the county and/or municipality and properly accounted for, be deposited into the State General Fund.

(18) (a) Upon receipt of a declaration by the authority that it has determined that the state is a potential site for a project, the State Bond Commission is authorized and directed to authorize the State Treasurer to borrow money from any special fund in the State Treasury not otherwise appropriated to be utilized by the authority for the purposes provided for in this subsection.

(b) The proceeds of the money borrowed under this subsection may be utilized by the authority for the purpose of defraying all or a portion of the costs incurred by the authority with respect to acquisition options and planning, design and environmental impact studies with respect to a project defined in Section 57-75-5(f)(xi) or Section 57-75-5(f)(xxix). The authority may escalate its budget and expend the proceeds of the money borrowed under this subsection in accordance with rules and regulations of the Department of Finance and Administration in a manner consistent with the escalation of federal funds.

(c) The authority shall request an appropriation or additional authority to issue general obligation bonds to repay

the borrowed funds and establish a date for the repayment of the funds so borrowed.

(d) Borrowings made under the provisions of this subsection shall not exceed Five Hundred Thousand Dollars ($500,000.00) at any one time.

SECTION 200. Section 57-75-17, Mississippi Code of 1972, is brought forward as follows:

57-75-17. (1) For the purpose of aiding in the planning, design, undertaking and carrying out of the project or any facility related to the project, any public agency is authorized and empowered upon such terms, with or without consideration, as it may determine:

(a) To enter into agreements, which may extend over any period, with the authority respecting action to be taken by such public agency with respect to the acquisition, planning, construction, improvement, operation, maintenance or funding of the project or any such facility, and which agreements may include:

(i) The appropriation or payment of funds to the authority or to a trustee in amounts which shall be sufficient to enable the authority to defray any designated portion or percentage of the expenses of administering, planning, designing, constructing, acquiring, improving, operating, and maintaining the project or any facility related to the project,

(ii) The appropriation or payment of funds to the authority or to a trustee to pay interest and principal (whether at maturity or upon sinking fund redemption) on bonds of the authority issued pursuant to this act and to fund reserves for debt service, for operation and maintenance and for renewals and replacements, and to fulfill requirements of any covenant with respect to debt service contained in any resolution, trust indenture or other security agreement relating to the bonds of the authority issued pursuant to this act,

(iii) The furnishing of other assistance in connection with the project or facility related to the project, and

(iv) The borrowing of money from the authority in connection with a project defined in Section 57-75-5(f)(ii);

(b) To dedicate, sell, donate, convey or lease any property or interest in property to the authority or grant easements, licenses or other rights or privileges therein to the authority;

(c) To incur the expense of any public improvements made or to be made by such public agency in exercising the powers granted in this section;

(d) To lend, grant or contribute funds to the authority;

(e) To cause public buildings and public facilities, including parks, playgrounds, recreational areas, community

meeting facilities, water, sewer or drainage facilities, or any other works which it is otherwise empowered to undertake, to be furnished to or with respect to the project or any such facility;

(f) To furnish, dedicate, close, vacate, pave, install, upgrade or improve highways, streets, roads, sidewalks, airports, railroads, or ports;

(g) To plan or replan, zone or rezone any parcel of land within the public agency or make exceptions from land use, building and zoning regulations;

(h) To cause administrative and other services to be furnished to the authority, including services pertaining to the acquisition of real property and the furnishing of relocation assistance; and

(i) To loan to the owner, lessee or operator of any project defined in Section 57-75-5(f)(ii) the proceeds of any loan from the authority to the public entity under the provisions of this act.

(2) Any contract between a public agency entered into with the authority pursuant to any of the powers granted by this act shall be binding upon said public agency according to its terms, and such public agency shall have the power to enter into such contracts as in the discretion of the governing authorities thereof would be to the best interest of the people of such public agency. Such contracts may include within the discretion of such governing authorities of public agencies defined under Section

57-75-5(h)(ii) a pledge of the full faith and credit of such public agency or any other lawfully available funds for the performance thereof. If at any time title to or possession of the project or any such facility is held by any public body or governmental agency other than the authority, including any agency or instrumentality of the United States of America, the agreements referred to in this section shall inure to the benefit of and may be enforced by such public body or governmental agency.

(3) Notwithstanding any provisions of this act to the contrary, any contract entered into between the authority and any public agency for the appropriation or payment of funds to the authority under item (a)(ii) or (a)(iv) of this section shall contain a provision therein requiring periodic payments by the public agency as required by the authority to pay its indebtedness and, if the public agency is not a county or municipality, such contract shall include as an additional party to the contract the county or municipality (referred to in this paragraph as "levying authority") that levies and collects taxes for the contracting public agency. If the public agency fails to pay its indebtedness for any month, the authority shall certify to the Department of Revenue, or other appropriate agency, the amount of the delinquency, and the Department of Revenue shall deduct such amount from the public agency's or levying authority's, as the case may be, next allocation of sales taxes, petroleum taxes, highway privilege taxes, severance taxes, Tennessee Valley

Authority payments in lieu of taxes and homestead exemption reimbursements in that order of priority. The Department of Revenue, or other appropriate agency, shall pay the sums so deducted to the authority to be applied to the discharge of the contractual obligation.

(4) Notwithstanding any provision of this act to the contrary, all loans made pursuant to Section 57-75-11(hh) and this section shall be for a term not to exceed twenty (20) years as may be determined by the authority, shall bear interest at such rates as may be determined by the authority, shall, in the sole discretion of the authority, be secured in an amount and a manner as may be determined by the authority.

(5) (a) Before authorizing any loan to a public agency defined in Section 57-75-5(h)(ii), a local governmental unit, the governing authority of such local governmental unit in connection with a project defined in Section 57-75-5(f)(ii), shall adopt a resolution declaring its intention so to do, stating the amount of the loan proposed to be authorized and the purpose for which the loan is to be authorized, and the date upon which the loan will be authorized. Such resolution shall be published once a week for at least three (3) consecutive weeks in at least one (1) newspaper published in such local governmental unit. The first publication of such resolution shall be made not less than twenty-one (21) days before the date fixed in such resolution for the authorization of the loan and the last publication shall be made

not more than seven (7) days before such date. If no newspaper is published in such local governmental unit, then such notice shall be given by publishing the resolution for the required time in some newspaper having a general circulation in such local governmental unit and, in addition, by posting a copy of such resolution for at least twenty-one (21) days next preceding the date fixed therein at three (3) public places in such local governmental unit. If fifteen percent (15%) of the qualified electors of the local governmental unit or fifteen hundred (1500), whichever is the lesser, file a written protest against the authorization of such loan on or before the date specified in such resolution, then an election on the question of the authorization of such loan shall be called and held as otherwise provided for in connection with the issuance of general obligation indebtedness of such local governmental unit. Notice of such election shall be given as otherwise required in connection with the issuance of general obligation indebtedness of such local governmental unit. If three-fifths (3/5) of the qualified electors voting in the election vote in favor of authorizing the loan, then the governing authority of the local governmental unit shall proceed with the loan; however, if less than three-fifths (3/5) of the qualified electors voting in the election vote in favor of authorizing the loan, then the loan shall not be incurred. If no protest be filed, then such loan may be entered into by the local governmental unit without an election on the question of the

authorization of such loan, at any time within a period of two (2) years after the date specified in the resolution. However, the governing authority of any local governmental unit, in its discretion, may nevertheless call an election on such question, in which event it shall not be necessary to publish the resolution declaring its intention to authorize such loan as provided in this subsection.

(b) Local governmental units may, in connection with any such loan, enter into any covenants and agreements with respect to such local governmental unit's operations, revenues, assets, monies, funds or property, or such loan, as may be prescribed by the authority.

(c) Upon the making of any such loan by the authority to any local governmental unit, such local governmental unit shall be held and be deemed to have agreed that if such governmental unit fails to pay the principal of, premium, if any, and interest on any such loan as when due and payable, such governmental unit shall have waived any and all defenses to such nonpayment, and the authority, upon such nonpayment, shall thereupon avail itself of all remedies, rights and provisions of law applicable in such circumstance, including without limitation any remedies or rights theretofore agreed to by the local governmental unit, and that such loan shall for all of the purposes of this section, be held and be deemed to have become due and payable and to be unpaid. The authority may carry out the provisions of this section and

exercise all of the rights and other applicable laws of this state.

(d) This section shall be deemed to provide an additional, alternative and complete method for the doing of the things authorized by this section and shall be deemed and construed to be supplemental to any power conferred by other laws on public agencies and not in derogation of any such powers. Any obligation incurred pursuant to the provisions of this section shall not constitute an indebtedness of the public agency within the meaning of any constitutional or statutory limitation or restriction. For purposes of this act, a public agency shall not be required to comply with the provisions of any other law except as provided in this section.

(6) Any public agency providing any utility service or services, to any project defined in Section 57-75-5(f)(iv)1 may enter into leases or subleases for any period of time not to exceed thirty (30) years, in the capacity as lessor or lessee or sublessor or sublessee of lands alone, or lands and facilities located thereon, whether the facilities are owned by the owner of the land, a lessee, sublessee or a third party, and whether the public agency is a lessor, lessee or owner of the land. Any such public agency may also enter into operating agreements and/or lease-purchase agreements with respect to land or utility facilities as owner, operator, lessor or lessee for any period of time not to exceed thirty (30) years. Any such public agency may

also enter into contracts for the provision of utilities for any period of time not to exceed thirty (30) years and may set a special rate structure for such utilities.

(7) (a) No well shall be permitted by any public agency responsible for the conservation of oil and gas in the State of Mississippi to be drilled on or under a tract of land which is a part of a project owned or operated by an enterprise as defined in Section 57-75-5(f)(xxix), Section 57-75-5(f)(xxxi), Section 57-75-5(f)(xxxii) or Section 57-75-5(f)(xxxiii) and which enterprise is a nonconsenting owner as defined in Section 53-3-7(1), which owns both the surface estate of said tract of land and also owns one hundred percent (100%) of the drilling rights in said tract of land.

(b) No mining activities on or under land which is part of a project as defined in Section 57-75-5(f)(xxix), Section 57-75-5(f)(xxxi), Section 57-75-5(f)(xxxii) or Section 57-75-5(f)(xxxiii) shall be permitted by any public agency responsible for mining in the state without the consent of the enterprise owning or operating such project.

SECTION 201. Section 57-75-19, Mississippi Code of 1972, is brought forward as follows:

57-75-19. The authority shall not undertake to develop any project or facility related to the project within a county, municipality and/or school district without the concurrence of the affected county, municipality and/or school district.

SECTION 202. Section 57-75-21, Mississippi Code of 1972, is brought forward as follows:

57-75-21. (1) (a) The authority shall set a goal to expend not less than ten percent (10%) of the total amounts expended by the authority on planning, construction, training, research, development, testing, evaluation, personal services, procurement, and for the operation and maintenance of any facilities or activities controlled by such authority, with minority small business concerns owned and controlled by socially and economically disadvantaged individuals. For the purpose of determining the total amounts expended with such minority small business concerns, credit shall be given for that portion of any prime contract entered into with the authority which inures to the benefit of such minority small business concern as a subcontractor thereunder.

(b) For the purposes of this section, the term "socially and economically disadvantaged individuals" shall have the meaning ascribed to such term under Section 8(d) of the Small Business Act (15 USCS, Section 637(d)) and relevant subcontracting regulations promulgated pursuant thereto.

(c) For the purposes of this section, the term "minority small business concern" means any small business concern:

(i) Which is at least fifty-one percent (51%) owned by one or more socially and economically disadvantaged

individuals; or, in the case of any publicly owned businesses, at least fifty-one percent (51%) of the stock of which is owned by one or more socially and economically disadvantaged individuals; and

(ii) Whose management and daily business operations are controlled by one or more of such individuals.

(d) For the purpose of this section, the term "small business concern" shall mean "small business" as the latter term is defined in Section 57-10-155, Mississippi Code of 1972.

(2) In order to comply in a timely manner with its minority small business participation mandate, the authority shall set an annual goal to expend not less than ten percent (10%) of its aggregate yearly expenditures with minority small business concerns.

(3) The authority shall:

(a) Monitor the minority small business concerns assistance programs prescribed in this section.

(b) Review and determine the business capabilities of minority small business concerns.

(c) Establish standards for a certification procedure for minority small business concerns seeking to do business with the authority.

(d) Provide technical assistance services to minority small business concerns. Such technical assistance shall include but not be limited to:

(i) Research;

(ii) Assistance in obtaining bonds;

(iii) Bid preparation;

(iv) Certification of business concerns;

(v) Marketing assistance; and

(vi) Joint venture and capital development.

(e) Develop alternative bidding and contracting procedures for minority small business concerns in conjunction with the State Fiscal Management Board and the Governor's Office of General Services.

(f) Utilize such alternative bidding and contracting procedures in lieu of those prescribed in Title 31, Chapters 5 and 7, Mississippi Code of 1972, when contracting with minority small business concerns that have qualified to bid for contracts and have satisfied any other disclosure provisions required by the authority.

(g) Be authorized to accept in lieu of any bond otherwise required from minority small business concerns or small business concerns contracting with the authority, in an amount equal to one hundred percent (100%) of the total cost of the contracted project, any combination of the following:

(i) Cash;

(ii) Certificates of deposit from any bank or banking corporation insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation;

(iii) Federal treasury bills;

(iv) Letters of credit issued by a bank as that term is defined in Section 81-3-1, Mississippi Code of 1972; or

(v) Surety bonds issued by an insurance company licensed and qualified to do business in the State of Mississippi.

(h) Be authorized, in its discretion, to waive any bond required on any project which does not exceed a total dollar value of One Hundred Thousand Dollars ($100,000.00). A retainage shall be held by the authority in an amount not to exceed fifteen percent (15%) from each draw according to American Institute of Architects (AIA) standards. Upon satisfactory completion of such project, ten percent (10%) of the total cost of the contract shall be held in an interest-bearing escrow account for one (1) year. Funds deposited in such escrow account shall stand as a surety for any defects in workmanship or materials detected within twelve (12) months of completion. The balance of all monies so escrowed including accrued interest shall be paid to the contractor at the end of such twelve-month period.

(i) Be empowered to provide an incentive of bimonthly payments to any prime contractors utilizing minority small business concerns as subcontractors on twenty-five percent (25%) or more of the total dollar value of any single project or contract.

(j) Submit an annual report on its progress concerning minority small business contracts to the Legislature by January 30 of each year.

(k) Take all steps necessary to implement the provisions of this section.

SECTION 203. Section 57-75-22, Mississippi Code of 1972, is brought forward as follows:

57-75-22. Any highways or highway segments constructed or improved by the Mississippi Department of Transportation under the provisions of this chapter for a project as defined in Section 57-75-5(f)(iv) shall become a state highway and shall be placed under the jurisdiction of the Mississippi Transportation Commission for construction and maintenance.

SECTION 204. Section 57-75-23, Mississippi Code of 1972, is brought forward as follows:

57-75-23. The provisions of this act are cumulative of other statutes now or hereafter enacted relating to the authority, and the authority may exercise all presently held powers in the furtherance of this act. If any section, paragraph, sentence, clause, phrase or any part of the provisions of this act is declared to be unconstitutional or void, or for any reason is declared to be invalid or of no effect, the remaining sections, paragraphs, sentences, clauses and phrases shall in no manner be affected thereby but shall remain in full force and effect.

SECTION 205. Section 57-75-25, Mississippi Code of 1972, is brought forward as follows:

57-75-25. No member of the Legislature, elected official or appointed official, or any partner or associate of any member of the Legislature, elected official or appointed official, shall derive any income from the issuance of any bonds under this act contrary to the provisions of Section 109, Mississippi Constitution of 1890, or Article 3, Chapter 4, Title 25, Mississippi Code of 1972.

SECTION 206. Section 57-75-27, Mississippi Code of 1972, is brought forward as follows:

57-75-27. Notwithstanding any provision of Chapter 61, Title 57, Mississippi Code of 1972, to the contrary, the Mississippi Major Economic Impact Authority shall certify to the Department of Economic and Community Development the amount of money necessary for the Major Economic Impact Authority to purchase land in fee simple to provide a buffer zone for the National Aeronautics and Space Administration facility to be constructed in Tishomingo County, which amount shall not be more than Seven Million Dollars ($7,000,000.00); and the department shall, if funds have not otherwise been made available, provide a grant to the authority for such amount out of the proceeds of bonds issued under the Mississippi Business Investment Act. Any funds remaining unexpended after the purchase of land hereunder shall be deposited in the Mississippi Business Investment Sinking Fund. No funds in

excess of the amount authorized in this section shall be expended pursuant to the Mississippi Business Investment Act for or in connection with the National Aeronautics and Space Administration facility to be constructed in Tishomingo County.

SECTION 207. Section 57-75-33, Mississippi Code of 1972, is brought forward as follows:

57-75-33. The board of supervisors of a county or the governing authorities of a municipality may each enter into an agreement with an enterprise operating a project as defined in Section 57-75-5(f)(iv)1, Section 57-75-5(f)(xxi), Section 57-75-5(f)(xxii), Section 57-75-5(f)(xxviii), Section 57-75-5(f)(xxix), Section 57-75-5(f)(xxxi), Section 57-75-5(f)(xxxii) or Section 57-75-5(f)(xxxiii), providing that the county or municipality will not levy any taxes, fees or assessments upon the enterprise other than taxes, fees or assessments that are generally levied upon all taxpayers, or all other taxpayers in the taxing districts in which such project is located, and the board of supervisors or the governing authorities also may each enter into a fee-in-lieu agreement as provided in Section 27-31-104 and/or Section 27-31-105(2). Such agreements may be for a period not to exceed thirty (30) years, except that any fee-in-lieu agreement entered into under this section and Section 27-31-104 and/or Section 27-31-105(2) shall become effective upon its execution by the enterprise and the county board of supervisors and/or municipal governing authorities, as

the case may be, in accordance with Section 27-31-104, and continue in effect until all fee-in-lieu periods granted thereunder have expired; however, the period during which any fee-in-lieu may be granted under this section shall not exceed thirty (30) years, and no particular parcel of land, real property improvement or item of personal property shall be subject to a fee-in-lieu for a duration of more than ten (10) years.

SECTION 208. Section 57-75-35, Mississippi Code of 1972, is brought forward as follows:

57-75-35. The board of supervisors of a county or the governing authorities of a municipality may enter into an agreement with an enterprise operating a project as defined in Section 57-75-5(f)(iv)1, Section 57-75-5(f)(xxi) or 57-75-5 (f)(xxii), providing that the board of supervisors or governing authorities will agree in advance to approve any request for exemption from ad valorem taxes submitted by a supplier of such enterprise in the manner provided by law and that any such exemption shall be for a period of ten (10) years. Such an agreement on the part of the board of supervisors or governing authorities may be for a period not to exceed twenty (20) years.

SECTION 209. Section 57-75-37, Mississippi Code of 1972, is brought forward as follows:

57-75-37. (1) (a) (i) Any county in which there is to be constructed a project as defined in Section 57-75-5(f)(xviii) is

authorized to assist in defraying the costs incurred or to be incurred by the enterprise establishing such project by:

1. Contributing a sum of up to Five Million Dollars ($5,000,000.00) to such enterprise for use in connection with the construction of the project; and/or

2. Lending a sum of up to Five Million Dollars ($5,000,000.00) upon such terms as the board of supervisors of such county and such enterprise may agree, the proceeds of which loan shall be used by such enterprise in connection with the construction or financing of the project.

(ii) In order to provide the amounts set forth in paragraph (a)(i) of this subsection (1), any such county may appropriate monies from the county's general funds or provide such amounts from the proceeds of general obligation bonds, or any combination of the foregoing. Any such county may issue the bonds for such purpose pursuant to the procedures for the issuance of bonds under Chapter 9, Title 19, Mississippi Code of 1972, or Section 19-5-99.

(b) The board of supervisors of any county may donate real property for use in the location, construction and/or operation of a project as defined under Section 57-75-5(f)(xviii) to one or more economic development authorities, economic development districts, industrial development authorities or similar public agencies created pursuant to state law that engage in economic or industrial development in the county, and any such

public agencies may accept such donation of real property from the county. Such public agencies also may transfer and convey among themselves, with or without consideration being paid or received, real property to be used in the location, construction and/or operation of such a project, and may accept such transfers or donations.

(2) Any county or municipality in which there is to be constructed a project as defined in Section 57-75-5(f)(xxvi) or 57-75-5(f)(xxvii) is authorized to:

(a) Acquire the site for such project and contribute the site to the enterprise owning or operating the project;

(b) Apply for grants and loans and utilize the proceeds of such grants and loans for infrastructure related to the project; and

(c) Enter into a lease agreement with the enterprise owning or operating the project for a term not to exceed ninety-nine (99) years.

(3) (a) As used in this subsection:

(i) "Project" shall have the meaning ascribed to such term in Section 57-75-5(f)(xxviii).

(ii) "Public agency" means the county in which the project is located, any municipality located in the county, and/or any economic development authority, economic development district, industrial development authority or similar public agency created

pursuant to state law that engages in economic or industrial development in the county or a municipality in the county.

(b) Any county in which there is to be located a project is authorized to assist as provided in this paragraph in defraying the costs incurred or to be incurred by the enterprise establishing the project and any public agency in connection with the location, construction and/or operation of the project or any facilities or public infrastructure related to the project. The county may provide such assistance by contributing or lending any sum approved for such purpose by the board of supervisors of the county, upon such terms as the board of supervisors may agree, to the entity that directly or indirectly incurs or will incur such costs or as otherwise provided in paragraph (c) of this subsection. The proceeds of the contribution or loan shall be used by the recipient in connection with the location, construction and/or operation of the project or any facilities or public infrastructure related to the project.

(c) In order to provide the amounts set forth in paragraph (b) of this subsection, any such county may appropriate monies from the county's general funds or provide such amounts from the proceeds of general obligation bonds, or any combination of the foregoing. Any such county may issue the bonds for such purpose pursuant to the procedures for the issuance of bonds under Chapter 9, Title 19, Mississippi Code of 1972, or Section 19-5-99.

(d) In any county in which there is to be located a project, the governing authorities of any public agency may:

(i) Transfer and convey to the authority or the Mississippi Development Authority, with or without consideration being paid or received, any real and/or personal property for use in connection with the location, construction and/or operation of the project or any facilities or public infrastructure related to the project, and the authority and the Mississippi Development Authority may accept such transfers or donations;

(ii) Transfer and convey among themselves, with or without consideration being paid or received, any real and/or personal property for use in connection with the location, construction and/or operation of a project or any facilities or public infrastructure related to the project, and may accept such transfers or donations; and

(iii) Make grants or other contributions of funds to one another for use in connection with the location, construction and/or operation of such a project or any facilities or public infrastructure related to the project, and may accept such grants or contributions of funds.

(e) In any county in which there is to be located a project, the person, entity or other agency seeking to acquire any real property to be used in connection with the location, construction and/or operation of the project, shall be exempt with respect to such property from the requirements of Section

43-37-3(1)(b) and (c) if the purchase price for such property equals the lowest price negotiated between the owner of the property and the person, agency or other entity seeking to acquire the property, and at which the owner of the property is willing to sell the property.

(4) (a) As used in this subsection:

(i) "Project" shall have the meaning ascribed to such term in Section 57-75-5(f)(xxix).

(ii) "Public agency" means the county in which the project is located, any municipality located in the county, and/or any economic development authority, economic development district, industrial development authority or similar public agency created pursuant to state law that engages in economic or industrial development in the county or a municipality in the county.

(iii) "Board of education" shall have the meaning ascribed to such term in Section 29-3-1.1.

(iv) "Superintendent of education" shall have the meaning ascribed to such term in Section 29-3-1.1.

(b) In any county in which there is to be located a project, any public agency is authorized to assist as provided in this paragraph in defraying the costs incurred or to be incurred by the enterprise establishing the project and/or any public agency in connection with the location, construction and/or operation of the project or any facilities or public infrastructure related to the project. Any such public agency may

provide such assistance by contributing or lending any sum approved for such purpose by the governing authority of such public agency, upon such terms as the governing authority of such public agency may agree, to the entity or public agency that directly or indirectly incurs or will incur such costs or as otherwise provided in paragraph (c) of this subsection. The proceeds of the contribution or loan shall be used by the recipient in connection with the location, construction and/or operation of the project or any facilities or public infrastructure related to the project, including, without limitation, to defray the costs of site preparation, utilities, real estate purchases, purchase options and improvements, infrastructure, roads, rail improvements, public works, job training, as well as planning, design and environmental impact studies with respect to a project, and any other expenses approved by any such public agency.

(c) In order to provide the amounts set forth in paragraph (b) of this subsection:

(i) Any such county may appropriate monies from the county's general funds or provide such amounts from the proceeds of general obligation bonds. Any such county may issue the bonds for such purpose pursuant to the procedures for the issuance of bonds under Chapter 9, Title 19, Mississippi Code of 1972, Section 19-5-99 or in any other manner permitted by any local and private law or other general laws; and

(ii) Any public agency may borrow or accept grants of such amounts from the authority or the Mississippi Development Authority for such duration and upon such terms and conditions approved by the governing authority of such public agency and the authority or Mississippi Development Authority, as applicable.

(d) In any county in which there is to be located a project, the governing authority of any public agency may:

(i) Transfer and convey to the authority or the Mississippi Development Authority, with or without consideration being paid or received, any real and/or personal property for use in connection with the location, construction and/or operation of the project or any facilities or public infrastructure related to the project, and the authority and the Mississippi Development Authority may accept such transfers or donations;

(ii) Transfer and convey among themselves, with or without consideration being paid or received, any real and/or personal property for use in connection with the location, construction and/or operation of a project or any facilities or public infrastructure related to the project, and may accept such transfers or donations;

(iii) Make grants or other contributions of funds to:

1. One another for use in connection with the location, construction and/or operation of such a project or any

facilities or public infrastructure related to the project, and may accept such grants or contributions of funds; and/or

2. A local water association incorporated as a nonprofit corporation and located within such county for the purpose of defraying the costs incurred or to be incurred thereby in connection with water or wastewater-related infrastructure improvements, including an elevated water tank, located within the project area; and

(iv) Make one or more periodic grants or other contributions of funds to an enterprise or affiliate thereof owning and/or operating a project in such amount or amounts approved by such governing authority, and enter into an agreement with such enterprise to make such periodic grants or other contributions of funds; however, the duration of any such obligation of the public agency to make such grants or other contributions shall not exceed thirty (30) years.

(e) In any county in which there is to be located a project, the public agency seeking to acquire any real property to be used in connection with the location, construction and/or operation of the project, shall be exempt with respect to such property from the requirements of Section 43-37-3(1)(b) and (c) if the purchase price for such property equals the lowest price negotiated between the owner of the property and the public agency seeking to acquire the property, and at which the owner of the property is willing to sell the property, and any such public

agency is further authorized to procure an option to purchase any such real property for such purchase price authorized by this subsection for the lowest option payment at which the owner of the property is willing to grant such option.

(f) In any county in which there is to be located a project, upon the sale of any sixteenth section lands for industrial purposes as provided by law for such project, the board of education controlling such lands, the superintendent of education and the Mississippi Development Authority, on behalf of the state, may sell and convey all minerals in, on and under any such lands for such consideration determined to be adequate by, and upon such terms and conditions prescribed by, such board of education, superintendent of education and the Mississippi Development Authority.

(g) In any county in which there is to be located a project, the governing authority of the applicable public agency may enter into an agreement binding on future governing authorities, for any period not to exceed thirty (30) years to:

(i) Waive any and all fees and expenses associated with building permits and privilege licenses required for the project;

(ii) Establish and/or maintain a rate structure for water supplied to the project and wastewater received from the project, which shall be no higher than the lowest tariff prices

for such water and wastewater charged to any customer of equal or lesser volume located within the boundaries of the public agency;

(iii) Provide firefighting, hazardous materials emergency response, technical rescue and medical response assistance to the enterprise owning or operating the project; and

(iv) Require any contractor hired by the public agency for purposes of entering onto the project site for such project to perform work-related to the provision of water supply or wastewater services, to procure customary liability insurance designating the enterprise owning or operating the project as an additional insured and to contractually indemnify such enterprise for any losses incurred by the enterprise as a result of such contractor's negligence and/or willful acts or omissions arising from the contractor's entry upon such project site.

(5) (a) As used in this subsection:

(i) "Project" shall have the meaning ascribed to such term in Section 57-75-5(f)(xxxi).

(ii) "Public agency" means the county in which the project is located, any municipality located in the county, and/or any economic development authority, economic development district, industrial development authority, port authority or airport authority or similar public agency created pursuant to state law.

(iii) "Board of education" shall have the meaning ascribed to such term in Section 29-3-1.1.

(iv) "Superintendent of education" shall have the meaning ascribed to such term in Section 29-3-1.1.

(b) In any county in which there is to be located a project, any public agency is authorized to assist as provided in this paragraph in defraying the costs incurred or to be incurred by the enterprise establishing the project and/or any public agency in connection with the location, construction and/or operation of the project or any facilities or public infrastructure related to the project. Any such public agency may provide such assistance by contributing or lending any sum approved for such purpose by the governing authority of such public agency, upon such terms as the governing authority of such public agency may agree, to the entity or public agency that directly or indirectly incurs or will incur such costs or as otherwise provided in paragraph (c) of this subsection. The proceeds of the contribution or loan shall be used by the recipient in connection with the location, construction and/or operation of the project or any facilities or public infrastructure related to the project, including, without limitation, to defray the costs of site preparation, utilities, real estate purchases, purchase options and improvements, infrastructure, roads, rail improvements, public works, job training, as well as planning, design and environmental impact studies with respect to a project, and any other expenses approved by any such public agency.

(c) In order to provide the amounts set forth in paragraph (b) of this subsection:

(i) Any such county may appropriate monies from the county's general funds or provide such amounts from the proceeds of general obligation bonds. Any such county may issue the bonds for such purpose pursuant to the procedures for the issuance of bonds under Chapter 9, Title 19, Mississippi Code of 1972, Section 19-5-99 or in any other manner permitted by any local and private law or other general laws; and

(ii) Any public agency may borrow or accept grants of such amounts from the authority or the Mississippi Development Authority for such duration and upon such terms and conditions approved by the governing authority of such public agency and the authority or Mississippi Development Authority, as applicable.

(d) In any county in which there is to be located a project, the governing authorities of public agencies may:

(i) Transfer and convey among themselves, with or without consideration being paid or received, any real and/or personal property for use in connection with the location, construction and/or operation of a project or any facilities or public infrastructure related to the project, and may accept such transfers or donations;

(ii) Make grants or other contributions of funds to one another for use in connection with the location, construction and/or operation of such a project or any facilities

or public infrastructure related to the project, and may accept such grants or contributions of funds; and

(iii) Make one or more grants or other contributions of funds to an enterprise or affiliate thereof owning and/or operating a project in such amount or amounts approved by such governing authority, and enter into an agreement with such enterprise to make such grants or other contributions of funds; however, the duration of any such obligation of the public agency to make such grants or other contributions shall not exceed thirty (30) years.

(e) In any county in which there is to be located a project, the public agency seeking to acquire any real property to be used in connection with the location, construction and/or operation of the project, shall be exempt with respect to such property from the requirements of Section 43-37-3(1)(b) and (c) if the purchase price for such property equals the lowest price negotiated between the owner of the property and the public agency seeking to acquire the property, and at which the owner of the property is willing to sell the property, and any such public agency is further authorized to procure an option to purchase any such real property for such purchase price authorized by this subsection for the lowest option payment at which the owner of the property is willing to grant such option.

(f) In any county in which there is to be located a project, upon the sale of land owned by an industrial development

authority, port authority or airport authority for industrial purposes as provided by law for such project, the governing authorities controlling such lands may sell and convey all minerals in, on and under any such lands for such consideration determined to be adequate by, and upon such terms and conditions prescribed by, such governing authority or may otherwise enter into a written agreement with the enterprise owning and/or operating such project pursuant to which such governing authority of the industrial development authority, port authority or airport authority, as the case may be, may agree to perpetually refrain from using the surface of such land upon which the project is located to access any minerals located thereunder in which such public agency has a retained ownership interest. Any such written agreement shall be binding upon future governing authorities.

(g) In any county in which there is to be located a project, the governing authority of the applicable public agency may enter into an agreement binding on future governing authorities, for any period not to exceed thirty (30) years to:

(i) Waive any and all fees and expenses associated with building permits and privilege licenses required for the project;

(ii) Establish and/or maintain a rate structure for water supplied to the project and wastewater received from the project, which shall be no higher than the lowest tariff prices for such water and wastewater charged to any customer of equal or

lesser volume located within the boundaries of the public agency; and

(iii) Require any contractor hired by the public agency for purposes of entering onto the project site for such project to perform work related to the provision of water supply or wastewater services, to procure customary liability insurance designating the enterprise owning or operating the project as an additional insured and to contractually indemnify such enterprise for any losses incurred by the enterprise as a result of such contractor's negligence and/or willful acts or omissions arising from the contractor's entry upon such project site.

(6) (a) As used in this subsection:

(i) "Project" shall have the meaning ascribed to such term in Section 57-75-5(f)(xxxii).

(ii) "Public agency" means the county in which the project is located, any municipality located in the county, and/or any economic development authority, economic development district, industrial development authority, port authority, airport authority, public utility or similar public agency created pursuant to state law.

(b) In any county in which there is to be located a project, any public agency is authorized to assist as provided in this paragraph in defraying the costs incurred or to be incurred by the enterprise establishing the project and/or any public agency in connection with the location, construction and/or

operation of the project or any facilities or public infrastructure related to the project. Any such public agency may provide such assistance by contributing or lending any sum approved for such purpose by the governing authority of such public agency, upon such terms as the governing authority of such public agency may agree, to the entity or public agency that directly or indirectly incurs or will incur such costs or as otherwise provided in paragraph (c) of this subsection. The proceeds of the contribution or loan shall be used by the recipient in connection with the location, construction and/or operation of the project or any facilities or public infrastructure related to the project, including, without limitation, to defray the costs of site preparation, utilities, real estate purchases, purchase options and improvements, infrastructure, roads, rail improvements, public works, job training, as well as planning, design and environmental impact studies with respect to a project, and any other expenses approved by any such public agency. Any such public agency may alternatively provide such assistance by undertaking the acquisition of real and/or personal property, or interests therein, with respect to, and the design, engineering, construction and installation of, any facilities or public infrastructure related to the project regardless of whether it is authorized by applicable statutes to operate such facilities or public infrastructure and/or provide any utility services

therefrom following the completion thereof; provided that, if the public agency is authorized by applicable statutes to operate such facilities or public infrastructure following the completion thereof, such public agency may transfer, and if the public agency is not authorized by applicable statutes to operate such facilities or public infrastructure and/or provide any utility services therefrom following the completion thereof, the public agency shall transfer, such facilities or public infrastructure to another public agency that is authorized by applicable statutes to operate such facilities or public infrastructure and/or provide any utility services therefrom.

(c) In order to provide the amounts or otherwise perform any permitted actions set forth in paragraph (b) of this subsection:

(i) Any such county may appropriate monies from the county's general funds or provide such amounts from the proceeds of general obligation bonds or other indebtedness permitted by any local and private law or other general laws. Any such county may issue the bonds for such purpose pursuant to the procedures for the issuance of bonds under Chapter 9, Title 19, Mississippi Code of 1972, Section 19-5-99 or in any other manner permitted by any local and private law or other general laws; and

(ii) Any public agency may borrow or accept grants or other funds of such amounts from the authority or the Mississippi Development Authority for such duration and upon such

terms and conditions approved by the governing authority of such public agency and the authority or Mississippi Development Authority, as applicable.

(iii) Any such county may enter into one or more agreements with the authority or Mississippi Development Authority approved by the board of supervisors of the county and, as applicable, to remit to the authority or Mississippi Development Authority, as applicable, on an annual or other periodic basis for a duration up to thirty (30) years, a portion of any fee-in-lieu of ad valorem taxes, together with a portion of any county ad valorem taxes, derived from the project. Any such written agreement shall be binding upon future boards of supervisors of the county.

(d) In any county in which there is to be located a project, the governing authorities of public agencies may:

(i) Transfer and convey among themselves, or to the authority, the Mississippi Development Authority, the Mississippi Department of Transportation or any other state agency, with or without consideration being paid or received, any real and/or personal property for use in connection with the location, construction and/or operation of a project or any facilities or public infrastructure related to the project, and may accept such transfers or donations;

(ii) Make grants or other contributions of funds to any public agency and/or any local water association

incorporated as a nonprofit corporation and located within such county for the purpose of defraying the costs incurred or to be incurred thereby in connection with water or wastewater-related infrastructure improvements, including one or more water tanks, related to the project, and/or undertake the acquisition of real and/or personal property, or interests therein, with respect to, and the design, engineering, construction and installation of, any water or wastewater-related infrastructure, including one or more water tanks, related to the project, and thereafter transfer and convey to any other public agency and/or any local water association any real and/or personal property for use in connection with water or wastewater-related infrastructure improvements, including one or more water tanks, related to the project, in consideration solely of the acceptance by the public agency and/or the local water association, as applicable, of such improvements and its agreement to operate the improvements to provide water or wastewater-related services to the project;

(iii) Make grants or other contributions of funds to a municipality located within such county for the purpose of defraying the costs incurred or to be incurred thereby in connection with natural gas-related infrastructure improvements related to the project, and/or undertake the acquisition of real and/or personal property, or interests therein, with respect to, and the design, engineering, construction and installation of, any natural gas-related infrastructure improvements related to the

project, and thereafter transfer and convey to any such municipality any real and/or personal property for use in connection with natural gas-related infrastructure improvements related to the project, in consideration solely of the acceptance by the municipality of such improvements and its agreement to operate the improvements to provide natural gas-related services to the project;

(iv) Make grants or other contributions of funds to one another, or to the authority, the Mississippi Development Authority, the Mississippi Department of Transportation or any other state agency, for use in connection with the location, construction and/or operation of such a project or any facilities or public infrastructure related to the project, and may accept such grants or contributions of funds;

(v) Make one or more grants or other contributions of funds to an enterprise or affiliate thereof owning and/or operating a project in such amount or amounts approved by such governing authority, and enter into an agreement with such enterprise that is binding on future governing authorities to make such grants or other contributions of funds; however, the duration of any such obligation of the public agency to make such grants or other contributions shall not exceed thirty (30) years; and

(vi) Provide firefighting, hazardous materials emergency response, technical rescue and medical response assistance to the enterprise owning or operating the project, and

enter into an agreement binding on future governing authorities with such enterprise to provide such firefighting, hazardous materials emergency response, technical rescue and medical response assistance for a term not to exceed thirty (30) years, to be determined by the governing authority of the public agency entering into such agreement.

(e) In any county in which there is to be located a project, the public agency seeking to acquire any real property to be used in connection with the location, construction and/or operation of the project or any facilities or public infrastructure related to the project, shall be exempt with respect to such property from the requirements of Section 43-37-3(1)(b) and (c) if the purchase price for such property equals the lowest price negotiated between the owner of the property and the public agency seeking to acquire the property, and at which the owner of the property is willing to sell the property, and any such public agency is further authorized to procure an option to purchase any such real property for such purchase price authorized by this subsection for the lowest option payment at which the owner of the property is willing to grant such option.

(f) In any county in which there is to be located a project, upon the conveyance or other disposition of land owned by a public agency for industrial purposes as provided by law for such project, the governing authority of the public agency

controlling such lands may enter into a written agreement with the enterprise owning and/or operating such project pursuant to which such governing authority may agree to perpetually refrain from using the surface of such land upon which the project is located to access any minerals located thereunder in which such public agency has a retained ownership interest. Any such written agreement shall be binding upon future governing authorities.

(g) In any county in which there is to be located a project, the governing authority of the applicable public agency may enter into an agreement binding on future governing authorities, for any period not to exceed thirty (30) years to:

(i) Waive any and all fees and expenses associated with building permits and privilege licenses required for the project;

(ii) Establish and/or maintain a rate structure for water and natural gas supplied to the project and wastewater received from the project, which shall be no higher than the lowest tariff prices for such water, natural gas and wastewater charged to any customer of equal or lesser volume located within the boundaries of the public agency; and

(iii) Require any contractor hired by the public agency for purposes of entering onto the project site for such project to perform work related to the provision of water or natural gas supply or wastewater services, to procure customary liability insurance designating the enterprise owning or operating

the project as an additional insured and to contractually indemnify such enterprise for any losses incurred by the enterprise as a result of such contractor's negligence and/or willful acts or omissions arising from the contractor's entry upon such project site.

(7) (a) As used in this subsection:

(i) "Project" shall have the meaning ascribed to such term in Section 57-75-5(f)(xxxiii).

(ii) "Public agency" means the county in which the project is located, any municipality located in the county, and/or any economic development authority, economic development district, industrial development authority, port authority, airport authority, public utility or similar public agency created pursuant to state law.

(iii) "Board of education" shall have the meaning ascribed to such term in Section 29-3-1.1.

(iv) "Superintendent of education" shall have the meaning ascribed to such term in Section 29-3-1.1.

(b) In any county in which there is to be located a project, any public agency is authorized to assist as provided in this paragraph in defraying the costs incurred or to be incurred by the enterprise establishing the project and/or any public agency in connection with the location, construction and/or operation of the project or any facilities or public infrastructure related to the project. Any such public agency may

provide such assistance by contributing or lending any sum approved for such purpose by the governing authority of such public agency, upon such terms as the governing authority of such public agency may agree, to the entity or public agency that directly or indirectly incurs or will incur such costs or as otherwise provided in paragraph (c) of this subsection. The proceeds of the contribution or loan shall be used by the recipient in connection with the location, construction and/or operation of the project or any facilities or public infrastructure related to the project, including, without limitation, to defray the costs of site preparation, utilities, real estate purchases, purchase options and improvements, infrastructure, roads, rail improvements, public works, job training, as well as planning, design and environmental impact studies with respect to a project, and any other expenses approved by any such public agency. Any such public agency may alternatively provide such assistance by undertaking the acquisition of real and/or personal property, or interests therein, with respect to, and the design, engineering, construction and installation of, any facilities or public infrastructure related to the project regardless of whether it is the public agency authorized by applicable statutes to operate such facilities or public infrastructure and/or provide any utility services therefrom following the completion thereof; provided that, if the public agency is authorized by applicable

statutes to operate such facilities or public infrastructure following the completion thereof, such public agency may transfer, and if the public agency is not authorized by applicable statutes to operate such facilities or public infrastructure and/or provide any utility services therefrom following the completion thereof, the public agency shall transfer such facilities or public infrastructure to another public agency that is authorized by applicable statutes to operate such facilities or public infrastructure and/or provide any utility services therefrom.

(c) In order to provide the amounts or otherwise perform any permitted actions set forth in paragraph (b) of this subsection:

(i) Any such county may appropriate monies from the county's general fund or provide such amounts from the proceeds of general obligation bonds or other indebtedness permitted by any local and private law or other general laws. Any such county may issue the bonds for such purpose pursuant to the procedures for the issuance of bonds under Title 19, Chapter 9, Mississippi Code of 1972, Section 19-5-99 or in any other manner permitted by any local and private law or other general laws;

(ii) Any public agency may borrow or accept grants or other funds of such amounts from the authority or the Mississippi Development Authority for such duration and upon such terms and conditions approved by the governing authority of such

public agency and the authority or Mississippi Development Authority, as applicable; and

(iii) Any such county and/or municipality may enter into one or more agreements with the authority or Mississippi Development Authority approved by the board of supervisors of such county and/or the governing authority of such municipality, as applicable, to remit to the authority or Mississippi Development Authority, as applicable, on an annual or other periodic basis for a duration up to thirty (30) years, a portion of any fee-in-lieu of ad valorem taxes, together with a portion of any ad valorem taxes that the county and/or municipality derives from the project. Any such written agreement shall be binding upon future governing authorities of the county and/or municipality, as applicable.

(d) In any county in which there is to be located a project, the governing authorities of public agencies may:

(i) Transfer and convey among themselves, or to the authority, the Mississippi Development Authority, the Mississippi Department of Transportation or any other state agency, with or without consideration being paid or received, any real and/or personal property for use in connection with the location, construction and/or operation of a project or any facilities or public infrastructure related to the project, and may accept such transfers or donations;

(ii) Make grants or other contributions of funds to any public agency and/or any local water association incorporated as a nonprofit corporation and located within such county for the purpose of defraying the costs incurred or to be incurred thereby in connection with water or wastewater-related infrastructure improvements, including one or more water tanks, related to the project, and/or undertake the acquisition of real and/or personal property, or interests therein, with respect to, and the design, engineering, construction and installation of, any water or wastewater-related infrastructure, including one or more water tanks, related to the project, and thereafter transfer and convey to any other public agency and/or any local water association any real and/or personal property for use in connection with water or wastewater-related infrastructure improvements, including one or more water tanks, related to the project, in consideration solely of the acceptance by the public agency and/or the local water association, as applicable, of such improvements and its agreement to operate the improvements to provide water or wastewater-related services to the project;

(iii) Make grants or other contributions of funds to one another, or to the authority, the Mississippi Development Authority, the Mississippi Department of Transportation or any other state agency, for use in connection with the location, construction and/or operation of such a project or any facilities

or public infrastructure related to the project, and may accept such grants or contributions of funds;

(iv) Make one or more grants or other contributions of funds to an enterprise or affiliate thereof owning and/or operating a project in such amount or amounts approved by such governing authority, and enter into an agreement with such enterprise that is binding on future governing authorities to make such grants or other contributions of funds; however, the duration of any such obligation of the public agency to make such grants or other contributions shall not exceed thirty (30) years; and

(v) Provide firefighting, hazardous materials emergency response, technical rescue and medical response assistance to the enterprise owning or operating the project, and enter into an agreement binding on future governing authorities with such enterprise to provide such firefighting, hazardous materials emergency response, technical rescue and medical response assistance for a term not to exceed thirty (30) years, to be determined by the governing authority of the public agency entering into such agreement.

(e) In any county in which there is to be located a project, the public agency seeking to acquire any real property to be used in connection with the location, construction and/or operation of the project or any facilities or public infrastructure related to the project, shall be exempt with

respect to such property from the requirements of Section 43-37-3(1)(b) and (c) if the purchase price for such property equals the lowest price negotiated between the owner of the property and the public agency seeking to acquire the property, and at which the owner of the property is willing to sell the property, and any such public agency is further authorized to procure an option to purchase any such real property for such purchase price authorized by this subsection for the lowest option payment at which the owner of the property is willing to grant such option.

(f) In any county in which there is to be located a project:

(i) Upon the conveyance or other disposition of land owned by a public agency for industrial purposes as provided by law for such project, the governing authority of the public agency controlling such lands may enter into a written agreement with the enterprise owning and/or operating such project pursuant to which such governing authority may agree to perpetually refrain from using the surface of such land upon which the project is located to access any minerals located thereunder in which such public agency has a retained ownership interest. Any such written agreement shall be binding upon future governing authorities.

(ii) Upon the sale of any sixteenth section lands for industrial purposes as provided by law for such project, the board of education controlling such lands, the superintendent of

education and the Mississippi Development Authority, acting in concert on behalf of the state, may sell and convey all minerals in, on and under any such lands for such consideration determined to be adequate by, and upon such terms and conditions prescribed by, the board of education, the superintendent of education and the Mississippi Development Authority, or may otherwise enter into a written agreement with the enterprise owning or operating such project pursuant to which the board of education, the superintendent of education and the Mississippi Development Authority may agree to perpetually refrain from using the surface of such sixteenth section land upon which the project is located to access any minerals located thereunder in which the state has a retained ownership interest. Any such written agreement shall be binding upon future governing authorities.

(g) In any county in which there is to be located a project, the governing authority of the applicable public agency may enter into an agreement binding on future governing authorities, for any period not to exceed thirty (30) years, to:

(i) Waive or reduce any fees and expenses associated with building permits and privilege licenses required for the project;

(ii) Establish and/or maintain a rate structure for potable water to the project, nonpotable and treated, reclaimed wastewater supplied to the project for nonpotable purposes, and wastewater received from the project, which rates

shall be established and/or maintained, as applicable, in the manner prescribed by state law and the local tariffs of the public agency providing such water and accepting such wastewater; and

(iii) Require any contractor hired by the public agency for purposes of entering onto the project site for such project to perform work related to the provision of water or wastewater services, to procure customary liability insurance designating the enterprise owning or operating the project as an additional insured and to contractually indemnify such enterprise for any losses incurred by the enterprise as a result of such contractor's negligence and/or willful acts or omissions arising from the contractor's entry upon such project site.

(h) In any county in which there is to be located a project, the governing authority of any public agency accepting and treating wastewater from the project may provide and sell to any public agency providing water to the project treated, reclaimed wastewater supplied for nonpotable purposes for resale by such public agency providing water to the project to any enterprise or affiliate thereof owning and/or operating the project or any portion thereof for use in the operation of the project for cooling or other exclusively nonpotable purposes. Such public agencies may enter into an agreement binding on future governing authorities thereof, for any period designated thereby, to memorialize the terms and conditions of the provision, sale and use of treated, reclaimed wastewater supplied for nonpotable

purposes to the project, including, but not limited to, the rates applicable for such reclaimed wastewater supplied for nonpotable purposes.

(8) The powers and authority granted in this section are an additional, alternative and supplemental method for doing the things authorized by this section and are additional and supplemental to, and not in derogation of, any other powers conferred by law.

SECTION 210. Section 59-5-37, Mississippi Code of 1972, is brought forward as follows:

59-5-37. (1) The board or State Port Authority, in the performance of its duties, may employ such personnel and make all contracts and purchases incidental to or necessary for the advancement, promotion, development, establishment, insurance, maintenance, repair, improvement and operation of any ports, harbors, rivers, channels and waterways including, if required for its protection, retirement benefits, workers' compensation insurance and other employee benefits for the benefit of any employees of the board or State Port Authority. The board or State Port Authority may establish a trade development and promotion account to pay all direct and necessary expenses for the promotion and development of the state port. The authority is granted the power to sue and be sued in its own name.

(2) (a) The board or State Port Authority may, in its discretion, make such contracts or purchases according to the

state purchasing laws. Contracts let for any port, harbor, river, channel or waterway improvements shall be advertised as required by law for the letting of public contracts, and such contracts shall be awarded to the lowest and best bidder who shall make bond as shall be required by the board or State Port Authority conditioned for the faithful prosecution and completion of work according to such contracts, such bond to be furnished by a corporate surety company qualified to do business in this state. However, the board may negotiate and enter into contracts with responsible lessees for the construction of facilities by lessees, such as those referred to in Section 59-5-11, and the acquisition thereof by the board upon such terms and conditions and for such amount as may be approved by the board.

(b) The State Port Authority shall be considered to be a "governing authority" under the state public purchasing laws as that term is defined in Section 31-7-1 and used in Sections 31-7-1 through 31-7-73, and shall not be subject to the jurisdiction of the Department of Finance and Administration, the Public Procurement Review Board or the Bureau of Building, Grounds and Real Property Management under the provisions of Sections 27-104-7, 29-5-2 and 31-11-3.

(3) (a) The board or State Port Authority, in its discretion, may use the design-build method of contracting for the renovation, repair and/or making of other improvements to not more than one (1) freezer and related equipment and/or facilities at

the State Port at Gulfport, Mississippi. Notwithstanding any other provision of law to the contrary, any port or port commission may use the design-build method of contracting for the renovation, repair and/or making of other improvements to equipment and/or facilities at the port. For the purposes of this subsection (3), the term "design-build method of contracting" means a contract that combines the design and construction phases of a project into a single contract and the contractor is required to satisfactorily perform, at a minimum, both the design and construction of the project.

(b) This subsection (3) shall stand repealed from and after July 1, 2027.

SECTION 211. Section 59-9-25, Mississippi Code of 1972, is brought forward as follows:

59-9-25. The board of supervisors of such county, acting through its county port authority, and the governing authorities of the municipality in which the port of entry is located, acting through its port commission, may, in their discretion and acting jointly, enter into a contract or contracts for the development, construction, repair, maintenance or operation of any seaports, wharves, piers, docks, ways, elevators, compresses, warehouses, tourism facilities, service facilities, roadways, floating dry docks, graving docks, marine railways, tugboats, and water, air and rail terminals and other structures, facilities and lands needful for the convenient use of the same in the aid of commerce,

or any other property at the port of entry under the joint jurisdiction of said county port authority and such port commission under such terms and conditions as both bodies may deem best economically to the city and county wherein the port of entry is located. In the letting of contracts, and in advertisement for bids thereon, for the development, construction, repair, maintenance or operation of any structures, facilities and lands acquired pursuant to any of the provisions of this chapter, the said board of supervisors, the governing authorities of the said municipality, the county port authority and the municipal port commission shall comply with all the requirements of the general laws of the State of Mississippi governing the advertisement for bids and letting of contracts by county boards of supervisors. However, where the rentals provided in a lease will be sufficient to fully retire the cost of the particular facility, contracts for the construction, repair, maintenance and operation of the facility may be negotiated and consummated with the lessee of the facility without the necessity of advertising and obtaining competitive bids therefor. The county port authority is given full power and authority to employ engineers, attorneys and other professional and technical assistance in and about the operations, development and advancement of harbors and ports of such county, and to pay reasonable compensation therefor, such employment and compensation therefor to be approved by the board of supervisors of such county. The county port authority, and the port

commission of the port of entry are jointly vested with the power and authority herein conferred, subject to the approval of the board of supervisors and the governing authorities of the municipality of all joint undertakings of such county port authority and port commission.

SECTION 212. Section 59-17-31, Mississippi Code of 1972, is brought forward as follows:

59-17-31. The board or the State Inland Port Authority, in the performance of its duties, may employ such personnel and make all contracts and purchases incidental to or necessary for the advancement, promotion, development, establishment, insurance, maintenance, repair, improvement and operation of any ports, harbors, rivers, channels and waterways, including, if required for its protection, retirement benefits, workers' compensation insurance and other employee benefits for the benefit of any employees of the board or State Inland Port Authority. The board or State Inland Port Authority shall make such contracts or purchases in accordance with state purchasing laws. Contracts let for any port, harbor, river, channel or waterway improvements shall be advertised as required by law for the letting of public contracts, and such contracts shall be awarded to the lowest and best bidder, who shall make such bond as shall be required by the board or State Inland Port Authority, conditioned for the faithful prosecution and completion of the work according to such contract, such bond to be furnished by a corporate surety company qualified

to do business in this state. However, the board may negotiate and enter into contracts with responsible lessees for the construction of facilities by lessees, such as those referred to in Section 59-17-13, Mississippi Code of 1972, and the acquisition thereof by the board upon such terms and conditions and for such amounts as may be approved by the board. Where the rentals provided in the lease will be sufficient to fully repay the cost of the particular facility or where the monetary consideration for a deed is sufficient to fully repay the cost of land acquired for industrial operations described in the deed, contracts for construction, repairs, maintenance and operation of the facility or for the sale of the land may be negotiated and consummated without the necessity of advertising and obtaining competitive bids therefor.

The authority is granted the power to sue and be sued in its own name.

SECTION 213. Section 61-13-1, Mississippi Code of 1972, is brought forward as follows:

61-13-1. The Department of Finance and Administration of the State of Mississippi is authorized and empowered to purchase or lease, operate and maintain nonmilitary aircraft for use by the Governor's Office, state departments, agencies, boards and commissions, the Legislature, its officers and employees, all under the general direction of the Department of Finance and Administration.

SECTION 214. Section 61-13-5, Mississippi Code of 1972, is brought forward as follows:

61-13-5. The purchase of aircraft to be used for the purpose in this chapter shall be in compliance with Sections 31-7-1 through 31-7-21. The Department of Finance and Administration is hereby exempt from the requirements of Section 27-104-7(2)(f) when procuring aircraft maintenance, parts, equipment and/or services. It shall be the responsibility of the Executive Director of the Department of Finance and Administration to ensure commercially reasonable practices, including competitive pricing and superb industry maintenance standards. The selection process of maintenance facility shall consider: their capability and experience, the scope of work, the cost, and the length of time the aircraft will be out of service. The process undertaken by the Department of Finance and Administration for procurement of the maintenance facility shall be reported to the Public Procurement Review Board.

SECTION 215. Section 63-11-47, Mississippi Code of 1972, is brought forward as follows:

63-11-47. The Commissioner of Public Safety, acting in concert with the Mississippi Forensics Laboratory created pursuant to Section 45-1-17, is hereby expressly authorized and directed to determine the equipment and supplies which are adequate and necessary from both a medical and law enforcement standpoint for administration of this chapter. The Commissioner of Public

Safety, upon receiving such recommendation from the Mississippi Forensics Laboratory, shall recommend an equipment standard for such equipment to the Department of Finance and Administration. The Department of Finance and Administration, using such a uniform standard for said equipment, shall advertise its intention of purchasing said equipment by one (1) publication in at least one (1) newspaper having general circulation in the State of Mississippi at least ten (10) days before the purchase of such equipment and supplies, and the advertisement shall clearly and distinctly describe the articles to be purchased, and shall receive sealed bids thereon which shall be opened in public at a time and place to be specified in the advertisement.

The Department of Finance and Administration shall accept the lowest and best bid for said equipment and supplies; in its discretion, it may reject any and all bids submitted. The lowest and best bid for said equipment and supplies accepted by the Department of Finance and Administration shall be the state-approved price of said equipment for purchase by the state, county and city governments.

Title to all such testing equipment in the state purchased hereunder shall remain in the Commissioner of Public Safety regardless of what entity pays the purchase price.

The state, counties and municipalities may purchase in the name of the Commissioner of Public Safety such equipment and supplies from other vendors of said equipment and supplies

necessary to implement this chapter, provided they purchase of the same quality and standard as certified to the Department of Finance and Administration and approved by the department. However, such equipment and supplies shall not be purchased by the state, counties and municipalities unless it is at a price equivalent to or lower than that approved by the Department of Finance and Administration, pursuant to the bid procedure as outlined herein.

SECTION 216. Section 65-1-87, Mississippi Code of 1972, is brought forward as follows:

65-1-87. The Mississippi State Highway Commission is hereby authorized and empowered to purchase war surplus equipment, supplies, and materials from the General Services Administration of the United States of America without the necessity of advertising for bids for such materials and equipment and supplies, even though the cost of such materials, equipment, and supplies exceed the sum of One Thousand Dollars ($1,000.00), provided that such equipment, materials, and supplies shall be purchased for less than the then prevailing market price.

SECTION 217. Section 65-17-105, Mississippi Code of 1972, is brought forward as follows:

65-17-105. The road accountant shall be the purchasing agent of the county and, by and with the consent of the board of supervisors, shall purchase all materials, implements, and supplies used in such road and bridge work.

SECTION 218. Section 65-19-61, Mississippi Code of 1972, is brought forward as follows:

65-19-61. The board of supervisors of the county in which a road district organized under this chapter is situated shall have plenary power of supervision and control over all of the official acts of the road commissioners and the road superintendent, and shall refuse to ratify or confirm any contract or report of any action of such commissioners or superintendent, when the same is reported to them, which is not for the best interest of such district. They shall require the letting of contracts and the purchase of teams, materials, lumber, supplies, and all other property for the use of the district to be made after advertisement and competitive bidding when such method is deemed likely to best subserve the interest of the district and be most economical.

SECTION 219. Section 65-19-77, Mississippi Code of 1972, is brought forward as follows:

65-19-77. The road superintendent shall have the power to purchase nails, lumber, tools, and other things necessary, where the need for the same is immediate and the value of said purchase does not exceed Fifty Dollars ($50.00). In cases of emergency he shall have power to contract for the immediate repair of a bridge, causeway, culvert, or a bad place in the road, provided such contract is not for a sum greater than Fifty Dollars ($50.00) and the need of the repair immediate and urgent. Such purchases and

contracts shall be subject to ratification by the road commissioners and the board of supervisors.

SECTION 220. Section 65-25-53, Mississippi Code of 1972, is brought forward as follows:

65-25-53. The commissioners appointed by such governing body or municipality, or the commissioners whose terms are continued in force as above authorized, shall, subject to the approval of such governing body, have the following authority, powers, and rights: Said commission shall manage and control the affairs of the bridge as a separate proprietary venture, apart from other public roads and bridges within the county, and shall provide for the regular inspection, repair, maintenance, and upkeep of said bridge and its approaches, which expenses and all liabilities which may exist or later come into being or be claimed to exist shall be wholly borne from the bridge properties themselves and the revenues received from the lease of such properties to private or public utilities. In connection with operating the affairs of the said bridge and maintaining the same, said commission is vested with the following powers and authority, subject to the veto power or approval of the governing body owning the said bridge, viz: (1) contracts and purchases shall be made on the same basis and under the same requirements of advertisement for bids as those made by the board of supervisors; (2) the commissioners may employ a superintendent or manager of the bridge properties and fix the amount of his salary, and either employ or delegate to said manager the

employment of subordinate personnel and provide for the wages and compensation of such employees, and, should the commission so determine, may require the manager or other employees to post bond in such sum as the commission may designate for the faithful discharge of their duties as such employees; however, the number of persons employed in an election year shall not exceed the average number employed during the preceding three (3) years, except that additional employees may be hired on a temporary basis in cases of emergency when the specific reasons therefor shall be entered on the minutes of the commission; (3) provide for an adequate bookkeeping system pertinent to the affairs of said bridge and for regular audits, with the revenues derived following the freeing of said bridge to vehicular traffic, if any there be over and above cost of operating and maintaining the said bridge, to be kept by the clerk of the said board or treasurer of the said municipality in a separate account and to so remain, properly invested in the same manner as sinking funds of the county or municipality may be invested, said assets to be subject to bear and discharge the liabilities of the said bridge and not to be utilized for any other or different purpose until a period of at least five (5) years following the freeing of the said bridge from tolls (unless sooner there be another free bridge constructed and opened to public travel crossing said Mississippi River located not more than one (1) mile from said bridge, in which event that factor, rather than the five-year time limit, shall be

determinative), and then not until a determination is made by the board or governing authority that such funds, to the extent amassed, will not be further needed for operational maintenance purposes; and that said audits thus caused to be made shall be done by a certified public accountant or accountants duly qualified under the laws of this state; (4) that, without in anywise sacrificing or waiving the entire exempt status of the said bridge properties from ad valorem taxation, to pay a sum or sums in lieu of ad valorem taxes which, by agreement with the taxing authorities of this or any neighboring state, will in no event exceed in any year a sum equaling more than one-half (½) of the average amount paid per year by way of such taxes or in lieu thereof over the five-year period preceding June 15, 1966; (5) employ nationally recognized engineers and such other professional assistance as may be deemed necessary, and to pay reasonable compensation for such services; (6) to have and exercise any other authority and right conferred by existing laws, state or federal, applicable to the operation of such bridge; and (7) fulfill the requirements of any outstanding lease contracts to the extent that the bridge properties will permit and the revenues to be derived from such leases will allow, but without incurring any pecuniary liability on the part of the governing authorities or taxpayers generally.

SECTION 221. Section 65-27-7, Mississippi Code of 1972, is brought forward as follows:

65-27-7. The bond given by the keeper of a toll ferry, bridge, turnpike, causeway, or plank road may be put in suit by the county, or by any person damaged, for a breach thereof; and the bond may be sued on from time to time until the whole penalty be recovered. The board of supervisors may require such bonds to be renewed when proper.

SECTION 222. Section 65-43-3, Mississippi Code of 1972, is brought forward as follows:

65-43-3. (1) (a) In addition to and as an alternative to any other authority granted by law, including, but not limited to, Section 65-43-1, any governmental entities, as defined in Section 65-43-1, in their discretion, may contract, individually or jointly with other governmental entities, with any persons, corporations, partnerships or other businesses licensed to do business in the State of Mississippi (hereinafter referred to as "companies" or "company") for the purpose of designing, financing, constructing, operating and maintaining one or more new toll roads or toll bridges in the state for motor vehicle traffic, including tollbooths and related facilities, at those locations where an alternate untolled route exists. Such contracts may provide that the governmental entities may grant certain rights (including, but not limited to, the right to exclusively operate and maintain) in land held by the governmental entities, whether in fee simple, as an easement or other interest, to a company for design, construction, operation and/or maintenance of roadways, highways

or bridges for motor vehicle traffic, tollbooths and related facilities. All such highways, pavement, bridges, drainage-related structures and other infrastructure comprising the projects shall be built and maintained in accordance with not less than the minimum highway design, construction and maintenance standards established by the contracting governmental entity for such highways, infrastructure and facilities. The contracting governmental entity shall conduct periodic inspections of any such project throughout the term of the contract to ensure compliance by the company. Failure of a company to comply with minimum standards established for the project by the contracting governmental entity shall constitute a breach and shall subject the company to liability on its bond or security or to rescission of the contract in accordance with the terms and provisions of the contract.

(b) A governmental entity may not enter into a contract under this section with (i) any company designated as a foreign terrorist organization pursuant to Presidential Executive Order 13224 or Section 302 of the federal Antiterrorism or Effective Death Penalty Act of 1996, (ii) any company under the control of a so-designated foreign terrorist organization, or (iii) any company controlled by a foreign person if to do so would violate any order of the Committee on Foreign Investment in the United States under the Foreign Investment and National Security Act of 2007, H.R. 566, 110th Cong. (2007), Public Law 110-49, 121 Stat. 246. These

requirements also shall apply to any proposed transfer or assignment of any contract entered into under this section.

(2) (a) Every contract entered into by a governmental entity under this section (except for contracts entered into with another governmental entity or following termination of a predecessor contract entered into under this section), at a minimum, must provide for the design and construction of a new toll road or toll bridge project and may also provide for the financing, acquisition, lease, maintenance, and/or operation of a new toll road or toll bridge project.

(b) If a governmental entity enters into a contract with a company as authorized by this section, such governmental entity shall use a competitive procurement process that provides the best value for the governmental entity. The governmental entity may accept unsolicited proposals for a proposed new toll road or solicit proposals in accordance with this section.

(c) A governmental entity shall publish a request for competing proposals and qualifications in a newspaper having a general circulation within such governmental entity or, if the governmental entity is the Mississippi Transportation Commission, shall publish the request in a newspaper having a general circulation at the seat of government and, if the governmental entity has a website, shall post the request on such website. Such request shall include the criteria used to evaluate the proposals, the relative weight given to the criteria and a

deadline by which proposals must be received. At a minimum, a proposal submitted in response to such request must contain:

(i) Information regarding the proposed project location, scope and limits;

(ii) Information regarding the company's qualifications, experience, technical competence, and capability to develop the project; and

(iii) A proposed financial plan for the proposed project that includes, at a minimum, the projected project costs, projected revenues and proposed sources of funds.

A governmental entity may interview a company submitting a solicited or unsolicited proposal. In evaluating such proposals, a governmental entity may solicit input from other sources regarding such proposals.

(d) The governmental entity shall rank each proposal based on the criteria described in the request for proposals and select the company whose proposal offers the best value to the governmental entity. The governmental entity may enter into discussions with the company whose proposal offers the best value. If at any point during the discussions it appears to the governmental entity that the highest ranking proposal will not provide the governmental entity with the overall best value, the governmental entity may enter into discussions with the company submitting the next highest ranking proposal.

(e) The governmental entity may withdraw a request for competing proposals and qualifications at any time and for any reason and may reject any one (1) or all proposals. In either case, the governmental entity may then publish a new request for competing proposals and qualifications. A governmental entity shall not be required to pay any company for the costs of preparing or submitting proposals.

(f) The governmental entity shall prescribe the general form of a contract authorized by this section and may include any matter the governmental entity considers advantageous to it. The governmental entity and the company shall negotiate the specific terms of the contract.

(g) Except as provided under this subsection (2), no such contract entered into hereunder shall be subject to the provisions of Section 65-1-8, Section 31-7-13 or any other public bid or public procurement laws of this state.

(h) The Transportation Commission shall evaluate each proposal based on the criteria established by the commission. The Transportation Commission shall approve or disapprove a proposal within ninety (90) days after receipt of the proposal. If the Transportation Commission needs additional information, it may delay approval for an additional sixty (60) days.

(i) Any right or interest arising under or as a result of any contract entered into under this section by a governmental entity with a company involving a franchise, license agreement,

concession agreement, operating agreement, construction agreement, design agreement and/or any other similar contractual arrangement in connection with the financing, design, construction, acquisition, maintenance and/or operation of a toll road or toll bridge project shall not constitute any right, title or interest in land or other real property or real estate or in personal property within the meaning of Article 1, Chapter 35, Title 27, Mississippi Code of 1972, in the toll road or toll bridge project, including tollbooths and related toll facilities (including, but not limited to, land, pavement, drainage-related structures, and other infrastructure and property related thereto) in which a governmental entity is the title owner of such property and/or holder of easements, rights-of-way and/or other interests for such toll road or toll bridge project.

(3) Every contract entered into by a governmental entity under this section shall require a company to enter into bond and provide such security as the governmental entity determines may be necessary or advisable to ensure timely completion and proper execution and performance of the contract. The term of the contract shall not exceed fifty (50) years, with the exception of extensions, automatic renewals or other contractual terms as agreed to by the governmental entity in the original or a subsequent agreement. The governmental entities are authorized to acquire such property or interests in property as may be necessary, by gift, purchase or eminent domain, for construction

and maintenance of the highways or bridges built pursuant to contracts entered into under this section. Upon expiration, termination or rescission of the contract, any and all rights and/or interests that the company may have in the land, infrastructure, facilities or other improvements to the property subject to contract shall terminate and automatically, by operation of law, be returned or conveyed to and vested in the State of Mississippi or the contracting governmental entity. Upon termination, expiration or rescission of the contract, the collection of tolls shall cease.

(4) The governmental entity having jurisdiction over the toll highway or bridge may, after notice and public hearing, establish, charge and collect motor vehicle operator tolls for use of the highway or bridge and its facilities. Alternatively, during the term of any contract entered into under this section, the company may establish, charge and collect motor vehicle operators tolls for use of the highway or bridge and its facilities. The amount of such tolls, and any modification thereto, shall be subject to approval by the contracting governmental entity after notice and public hearing. All such contracts entered into with the Mississippi Transportation Commission may require a company to pay a percentage or other specified portion of all tolls collected to the Mississippi Department of Transportation. If bonds are issued pursuant to Section 65-43-13, then all such tolls paid to the department shall

be deposited into the special bond sinking fund under Section 65-43-11, and may be expended only as authorized by the Legislature. If bonds are not issued pursuant to Section 65-43-13, then all such tolls paid to the department shall be deposited into the department's highway fund to be used by the department for the construction and maintenance of highways.

(5) If a toll road is a designated evacuation route and a declaration of a state of emergency is issued by the President of the United States or by the Governor, the collection of tolls shall cease until the termination of the state of emergency.

(6) All statutes of this state relating to vehicle and traffic regulation and control shall be applicable to motor vehicles operated upon highways and bridges constructed under this section and shall be enforceable by the Mississippi Department of Public Safety, the Mississippi Highway Safety Patrol or any other law enforcement agency having jurisdiction over such highways and bridges.

(7) The State of Mississippi, the Mississippi Transportation Commission, the Mississippi Department of Transportation, counties, municipalities or any other agency or political subdivision, or any officer or employee thereof, shall not be liable for any tortious act or omission arising out of the construction, maintenance or operation of any highway or bridge project under the provisions of this section where the act or omission occurs during the term of any such contract entered into

by the Mississippi Transportation Commission or other governmental entity and a company.

SECTION 223. Section 71-5-116, Mississippi Code of 1972, is brought forward as follows:

71-5-116. The Mississippi Department of Employment Security will develop an annual report which tracks data received from contractors. Contractors will cooperate with the Mississippi Department of Employment Security to accumulate relevant data. Collected data and reports are intended solely to allow the Mississippi Department of Employment Security to improve workforce training programs, tailoring trainings to employer needs and hiring trends for in-demand jobs in Mississippi.

SECTION 224. Section 73-13-45, Mississippi Code of 1972, is brought forward as follows:

73-13-45. (1) (a) Neither the state, nor any of its political subdivisions, such as a county, city or town, shall award construction contracts of any public work involving the practice of engineering or architecture unless the plans, specifications and estimates have been prepared and such work supervised by a registered professional engineer or architect; however, nothing in this subsection shall be held to apply to such public work in which the expenditure does not exceed One Hundred Thousand Dollars ($100,000.00).

(b) The state and any of its political subdivisions, such as a county, city or town, may engage in construction of

public buildings involving the practice of engineering or architecture and using political subdivision workforces without the supervision of a licensed professional engineer or architect, provided that the total cost of the public building does not exceed One Hundred Fifty Thousand Dollars ($150,000.00). This paragraph (1)(b) shall not supersede any rules and regulations promulgated by the State Department of Health and the Department of Environmental Quality.

(2) (a) In the awarding of public contracts for professional engineering services, preference shall be given to resident professional engineers over those nonresident professional engineers domiciled in a state having laws which grant a preference to the professional engineers who are residents of that state. Nonresident professional engineers shall be awarded Mississippi public contracts only on the same basis as the nonresident professional's state awards contracts to Mississippi professional engineers under similar circumstances. When a nonresident professional engineer submits a proposal for a public project, he shall attach thereto a copy of his resident state's current statute, resolution, policy, procedure or executive order pertaining to such state's treatment of nonresident professional engineers. Resident professional engineers actually domiciled in Mississippi, be they corporate, individuals or partnerships, shall be granted preference over nonresidents in the awarding of contracts in the same manner and to the same extent as provided by

the laws of the state of domicile of the nonresident. As used in this section, the term "resident professional engineer" includes a nonresident person, firm or corporation that has been qualified to do business in this state and has maintained a permanent full-time office in the State of Mississippi for not less than two (2) years prior to submitting a proposal for a public project, and the subsidiaries and affiliates of such a person, firm or corporation.

(b) The provisions of this subsection shall not apply to any contract for any project upon which federal funds would be withheld because of the preference requirements of this subsection.

(c) Any contract, agreement or arrangement for professional engineering services negotiated, made or entered into, directly or indirectly, by the state, counties, municipalities or any political subdivision thereof, or by any special districts, which is in any way in violation of the provisions of this subsection is hereby declared to be void as contrary to the public policy of this state and shall not be given effect or enforced by any court of this state or by any of its officers or employees.

(d) Nothing in this subsection shall affect the validity of any contract in existence prior to July 1, 1989.

(e) For purposes of this section, the term "professional engineering services" means those within the scope of the practice of professional engineering as defined by Sections

73-13-1 through 73-13-45, or those performed by any registered professional engineer in connection with professional employment or practice.

SECTION 225. Section 73-63-55, Mississippi Code of 1972, is brought forward as follows:

73-63-55. (1) In awarding public contracts for professional geological services, preference shall be given to resident registered professional geologists over those nonresident professional geologists domiciled in a state having laws which grant a preference to the professional geologists who are residents of that state. Nonresident registered professional geologists shall be awarded Mississippi public contracts only on the same basis as the nonresident professional's state awards contracts to Mississippi registered professional geologists under similar circumstances. When a nonresident professional geologist submits a proposal for a public project, that person shall attach a copy of the resident state's current statute, resolution, policy, procedure or executive order pertaining to that state's treatment of nonresident professional geologists. Resident registered professional geologists actually domiciled in Mississippi, be they corporate, individuals or partnerships, shall be granted preference over nonresidents in the awarding of contracts in the same manner and to the same extent as provided by the laws of the state of domicile of the nonresident. As used in this section, the term "resident registered professional

geologist" includes a nonresident person that has been qualified to do business in this state and has maintained a permanent full-time office in the State of Mississippi for not less than two (2) years prior to submitting a proposal for a public project, and the subsidiaries and affiliates of that person.

(2) This section shall not apply to any contract for any project upon which federal funds would be withheld because of the preference requirements of this subsection.

(3) Any contract, agreement or arrangement for professional geological services negotiated, made or entered into, directly or indirectly, by the state, counties, municipalities or any political subdivision thereof, or by any special districts, which is in any way in violation of this section, is declared to be void as contrary to the public policy of this state and shall not be given effect or enforced by any court of this state or by any of its officers or employees.

(4) Nothing in this section shall affect the validity of any contract in existence before July 1, 1997.

(5) For purposes of this section, "professional geological services" means the practice of geology or those services performed by any registered professional geologist in connection with professional employment or practice.

SECTION 226. Section 77-3-42, Mississippi Code of 1972, is brought forward as follows:

77-3-42. (1) (a) No public utility, the rates of which are subject to regulation under the provisions of this chapter, shall increase its rate or rate schedule in addition to its base rate as a result of what is commonly referred to as "fuel adjustment clauses" increase or "fuel adjustment riders" if the application of such clause or rider shall result in ultimate cost recovery exceeding the actual cost of fuel burned or consumed in its generating facilities and the cost of purchased energy.

(b) For the purpose of such fuel adjustment clause or rider, the cost of fuel as used herein shall include only the actual cost of the fuel and its transportation and may include such other cost items which are as of the effective date of this section allowed by the federal energy regulatory commission for inclusion in wholesale fuel adjustment clauses under its jurisdiction. In addition thereto fuel cost may include direct costs associated with burning the fuel at the generating plant, such as fuel-handling expenses and the cost of fuel sampling and analysis.

(2) (a) The commission is hereby directed to cause a continuous monitoring by the public utilities staff and a complete audit, as necessary but not less than annually, of all fuel purchases for which fuel adjustment clauses or riders have been placed in effect prior to and after the effective date of this section, which shall totally verify fuel costs as might be consumed in generating plants and all purchased energy of such

electric utilities in Mississippi with said audit being based upon generally accepted auditing standards which would accurately provide detailed information as to the actual monthly utility fuel costs. Such audit shall be completely independent of any audit performed on behalf of such utility.

(b) The commission is hereby directed to promulgate rules and regulations, not inconsistent with the laws, (i) to define allowable costs for inclusion in fuel adjustments, (ii) to establish guidelines for defining what elements constitute a just and reasonable fuel adjustment clause or rider, (iii) to establish guidelines for defining what elements constitute efficient and economical procurement and use of energy and fuel, and (iv) to establish general guidelines for making the required review of fuel adjustment clauses or riders as required by this section. Such rules and regulations shall be spread upon the minutes of the commission.

(c) Such audits shall include (i) a determination if fuel and associated costs are properly identified and recorded in the appropriate uniform system of accounts, (ii) a determination if purchased energy and associated costs are properly identified, (iii) an assessment of a utility's practices for economical purchase and use of fuel and electric energy, and (iv) an assessment of the relevant contract terms and conditions and any variations from contract terms.

(3) The audits required by this section shall extend to the fuel acquisition activities of any corporation which is owned in whole or in part by any such public utility under the jurisdiction of the commission or owned in whole or in part by a public utility holding company which is the parent company of any public utility under the jurisdiction of the commission. Public utilities under the jurisdiction of this commission, the rates of which are subject to regulation under the provisions of this chapter, shall not purchase fuel and/or energy from a company or corporation which is owned in whole or in part by that public utility or by the parent company of that public utility unless the selling company or corporation assents to audits as provided for under this section.

(4) Upon receipt of each audit report, the certified public accountant of the public utilities staff shall review the report and furnish the commissioners with a written summary of, and his comments on, the report. The commission shall meet within one (1) week after receipt of the accountant's summary, and shall spread upon the minutes of the commission that it has reviewed said summary and further shall describe any action which it takes regarding the audit report or the fact that no action was required. Any costs included in a fuel adjustment clause or rider by a public utility under the jurisdiction of the commission found in violation of this section shall, by order of the commission, be refunded to the appropriate person or persons. In lieu of

payment, the utility may credit the service account with the amount due under this subsection if the consumer entitled to the refund is, at that time, a consumer of the utility.

(5) Periodically, and not less frequently than annually, the commission shall review the audit reports, the reports of the certified public accountant of the public utilities staff, any reports of the public utilities staff relating to its monitoring of fuel purchases, and all other relevant information relating to fuel purchases, fuel adjustment clauses or riders, and purchased energy for the purpose of determining (a) whether or not the utility is properly and correctly employing the use of the fuel adjustment clause or rider applicable to its operations and billing procedures, (b) whether or not the utility has engaged in practices in the acquisition of fuel or purchased energy which are efficient and economical, and (c) whether or not there is reason to question the practices, contracts, operations or procedures of the utility in the purchase or acquisition of fuel or purchased energy relative to efficiency, economy and the public interest.

If the commission, after following the procedures described above, has reasonable cause to believe that inefficient or uneconomical procurement or use of fuel or purchased energy has resulted in unreasonable or unjust charges or costs to the consumers, then the commission shall initiate a procedure for hearing as provided for in Section 77-3-47 for the purpose of determining whether or not any of the costs or charges included in

the fuel adjustment charges to the consumers were unreasonable or unjust. If the commission upon hearing shall find that any charges for the purchase or procurement of fuel or purchased energy were unreasonable or unjust, then the commission shall order that such costs or charges be refunded to the appropriate person or persons together with interest at the same rate prescribed in Section 77-3-39, Section 77-3-69 and Section 77-3-71. In lieu of payment, the utility may credit the service account with the amount due under this subsection if the consumer entitled to the refund is, at that time, a consumer of the utility.

(6) (a) The commission shall maintain at all times complete and current data relating to sales and purchases of electric capacity of all utilities, including copies of contracts and agreements for the purchase of electric capacity, amendments to such contracts, records of purchases and sales of electric capacity, and all other relevant information and data deemed appropriate by the commission for carrying out the provisions of this section.

(b) The commission is hereby directed to review, not less frequently than annually, the information and data described above. If, from said review the commission has reasonable cause to believe that inefficient or uneconomical sales or purchases of electric capacity by a utility, the rates of which are subject to regulation by the commission, have resulted in unreasonable or

unjust charges or costs to the consumers, then the commission shall initiate a procedure for hearing as provided for in Section 77-3-47 for the purpose of determining whether or not any of the costs or charges for sales or purchases of electric capacity included in the charges to consumers were unreasonable or unjust. If the commission, upon hearing, shall find that any such charges for the sale or purchase of electric capacity were unreasonable or unjust, then the commission shall order that such costs or charges be refunded to the appropriate person or persons, together with interest thereon at the same rate prescribed in Section 77-3-39, Section 77-3-69 and Section 77-3-71. In lieu of payment, the utility may credit the service account with the amount due under this subsection if the consumer entitled to the refund is, at that time, a consumer of the utility.

(7) The commission shall provide a full and complete report of said audits to the Legislature on or before March 15 of each year. The report shall include certification by the commission that the information is true and correct as well as other clarifications of the audit information and any recommendations for correcting imperfections in statutes relative to existing fuel or purchased gas adjustments.

(8) Nothing in this section shall prohibit the commission from entering an order in a declared emergency allowing public utilities under such emergency circumstances to adjust their rates for a period not to exceed sixty (60) days upon declaration of

said emergency. There shall be a full hearing and a complete and total accounting as to total costs of said commission order to public utilities customers, with detailed accounting of such emergency fuel adjustment clause order being made available to the public.

(9) This section shall not apply to a municipality, including a joint agency organized pursuant to Section 77-5-701 et seq., as amended.

SECTION 227. This act shall take effect and be in force from and after July 1, 2026.