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Chapter No. 301
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HOUSE BILL NO. 338

Originated in House Don Richardson Clerk

HOUSE BILL NO. 338

AN ACT TO AMEND SECTION 57-75-5, MISSISSIPPI CODE OF 1972, TO REVISE THE DEFINITION OF THE TERM "PROJECT" UNDER THE MISSISSIPPI MAJOR ECONOMIC IMPACT ACT TO INCLUDE CERTAIN MANUFACTURERS OF PIPE; TO AMEND SECTION 57-75-9, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT CONTRACTS BY THE MISSISSIPPI MAJOR ECONOMIC IMPACT AUTHORITY OR A PUBLIC AGENCY FOR THE ACQUISITION, PURCHASE, CONSTRUCTION OR INSTALLATION OF SUCH PROJECTS SHALL BE EXEMPT FROM THE PROVISIONS OF SECTION 31-7-13, MISSISSIPPI CODE OF 1972, IF CERTAIN CONDITIONS ARE MET; TO AMEND SECTION 57-75-11, MISSISSIPPI CODE OF 1972, TO GRANT THE MISSISSIPPI MAJOR ECONOMIC IMPACT AUTHORITY CERTAIN ADDITIONAL POWERS AND DUTIES WITH REGARD TO SUCH PROJECTS; TO AMEND SECTION 57-75-15, MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE ISSUANCE OF STATE GENERAL OBLIGATION BONDS FOR SUCH PROJECTS AND TO SPECIFY THE PURPOSES FOR WHICH THE PROCEEDS OF SUCH BONDS MAY BE UTILIZED; TO EXTEND UNTIL JULY 1, 2012, THE PERIOD OF TIME DURING WHICH BONDS FOR CERTAIN PROJECTS MAY BE ISSUED; TO AMEND SECTION 57-75-37, MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE COUNTY IN WHICH SUCH A PROJECT IS LOCATED TO ACQUIRE THE SITE FOR SUCH PROJECT AND CONTRIBUTE THE SITE TO THE ENTERPRISE OPERATING THE PROJECT, APPLY FOR GRANTS AND LOANS AND UTILIZE THE PROCEEDS OF SUCH GRANTS AND LOANS FOR INFRASTRUCTURE RELATED TO THE PROJECT AND ENTER INTO A LEASE AGREEMENT WITH THE ENTERPRISE OPERATING THE PROJECT FOR A TERM NOT TO EXCEED 99 YEARS; TO AMEND SECTION 27-31-104, MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE BOARD OF SUPERVISORS OF THE COUNTY IN WHICH SUCH A PROJECT IS LOCATED TO NEGOTIATE WITH THE SCHOOL DISTRICT AS TO THE AMOUNT OF THE FEE-IN-LIEU TO BE ALLOCATED TO THE SCHOOL DISTRICT; TO AMEND SECTION 31-7-13, MISSISSIPPI CODE OF 1972, IN CONFORMITY THERETO; AND FOR RELATED PURPOSES.

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

SECTION 1. Section 57-75-5, Mississippi Code of 1972, is amended 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(a) "Act" means the Mississippi Major Economic Impact Act as originally enacted or as hereafter amended.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, 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.

(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) 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. 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.

(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 Section 57-75-5(f)(iv)1; however, a fee-in-lieu shall not be negotiated

for other existing enterprises that fall within the definition of the term "project."

(k) "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 Section 57-75-5(f)(xxi). The subsidiary or related business must provide services directly related to the core activities of the project.

(l) "Tier One supplier" means a supplier of a project as defined in Section 57-75-5(f)(xxi) that is certified by the enterprise owning the project and creates a minimum of fifty (50) new full-time jobs.

SECTION 2. Section 57-75-9, Mississippi Code of 1972, is amended 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) 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).

(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, 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) 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.

SECTION 3. Section 57-75-11, Mississippi Code of 1972, is amended 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 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 enterprise 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) or 57-75-5(f)(xxvi) 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) (i) In addition to any other requirements or conditions under this chapter, the authority shall require that any application 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 (tt) shall not apply to a project defined in Section 57-75-5(f)(xxiii).

SECTION 4. Section 57-75-15, Mississippi Code of 1972, is amended as follows:

[Through June 30, 2011, this section shall read 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 Sixty-one Million Dollars (\$61,000,000.00). 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. If there are any monetary proceeds derived from the disposition of any improvements located on real property in Kemper County purchased pursuant to this act for projects related to the NAAS and if there are any monetary proceeds derived from the disposition of any timber located on real property in Kemper County purchased pursuant to this act for projects related to the NAAS, all of such proceeds (both from the disposition of improvements and the disposition of timber) commencing July 1, 1996, through June 30, 2010, shall be paid to the Board of Education of Kemper County, Mississippi, for expenditure by such board of education to benefit the public schools of Kemper County. 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, 2016.

(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 June 30, 2015.

(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) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(xxvi) shall not exceed Thirty-five Million One Hundred Thousand Dollars (\$35,100,000.00). No bonds shall be issued under this paragraph after July 1, 2021.

(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), (c), (d), (e) and (f) 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 for projects as authorized in Section 57-75-11(kk), (ll) and (mm), 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); and

(xxi) Providing grants, loans and payments as authorized in Section 57-75-11(ss).

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) The proceeds of bonds issued under this section for projects described in Section 57-75-5(f) (ix) 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 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) in the aggregate.

(ii) The proceeds of bonds issued under this section for projects described in Section 57-75-5(f) (ix) 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 shall not exceed Twenty-five Thousand Dollars (\$25,000.00) in the aggregate. Reimbursements under this paragraph shall satisfy any applicable federal tax law requirements.

(d) (i) The proceeds of bonds issued under this section for projects described in Section 57-75-5(f) (x) 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 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) in the aggregate.

(ii) The proceeds of bonds issued under this section for projects described in Section 57-75-5(f)(x) 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 shall not exceed Twenty-five Thousand Dollars (\$25,000.00) in the aggregate. Reimbursements under this paragraph shall satisfy any applicable federal tax law requirements.

(e) (i) The proceeds of bonds issued under this section for projects described in Section 57-75-5(f)(xii) 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 (e)(i) shall not exceed Twenty-five Thousand Dollars (\$25,000.00) in the aggregate.

(ii) The proceeds of bonds issued under this section for projects described in Section 57-75-5(f)(xii) 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 (e)(ii) shall not exceed Twenty-five Thousand Dollars (\$25,000.00) in the aggregate. Reimbursements under this paragraph (e)(ii) shall satisfy any applicable federal tax law requirements.

(f) (i) The proceeds of bonds issued under this section for projects described in Section 57-75-5(f)(xiii), (f)(xiv), (f)(xv), (f)(xvi), (f)(xvii), (f)(xviii) and (f)(xx) 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 (f)(i) shall not exceed Twenty-five Thousand Dollars (\$25,000.00) for each project.

(ii) The proceeds of bonds issued under this section for projects described in Section 57-75-5(f)(xiii), (f)(xiv), (f)(xv), (f)(xvi), (f)(xvii), (f)(xviii) and (f)(xx) 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 (f)(ii) shall not exceed Twenty-five Thousand Dollars (\$25,000.00) for each project.

Reimbursements under this paragraph (f)(ii) shall satisfy any applicable federal tax law requirements.

(g) (i) The proceeds of bonds issued under this section for projects described in Section 57-75-5(f)(xxi) or projects for a Tier One supplier 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 (g)(i) shall not exceed Twenty-five Thousand Dollars (\$25,000.00) in the aggregate.

(ii) The proceeds of bonds issued under this section for projects described in Section 57-75-5(f)(xxi) or projects for a Tier One supplier 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 (g)(ii) shall not exceed Twenty-five Thousand Dollars (\$25,000.00) in the aggregate. Reimbursements under this paragraph (g)(ii) shall satisfy any applicable federal tax law requirements.

(h) (i) The proceeds of bonds issued under this section for projects described in Section 57-75-5(f)(xxii) 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 (h)(i) shall not exceed Twenty-five Thousand Dollars (\$25,000.00) in the aggregate.

(ii) The proceeds of bonds issued under this section for projects described in Section 57-75-5(f)(xxii) 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 (h)(ii) shall not exceed Twenty-five Thousand Dollars (\$25,000.00) in the aggregate. Reimbursements under this paragraph (h)(ii) shall satisfy any applicable federal tax law requirements.

(i) (i) The proceeds of bonds issued under this section for projects described in Section 57-75-5(f)(xxiii) 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 (i)(i) shall not exceed Twenty-five Thousand Dollars (\$25,000.00) in the aggregate.

(ii) The proceeds of bonds issued under this section for projects described in Section 57-75-5(f)(xxiii) 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 (i)(ii) shall not exceed Twenty-five Thousand Dollars (\$25,000.00) in the aggregate. Reimbursements under this paragraph (i)(ii) shall satisfy any applicable federal tax law requirements.

(j) (i) The proceeds of bonds issued under this section for projects described in Section 57-75-5(f)(xxiv) 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 (j)(i) shall not exceed Twenty-five Thousand Dollars (\$25,000.00) in the aggregate.

(ii) The proceeds of bonds issued under this section for projects described in Section 57-75-5(f)(xxiv) 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 (j)(ii) shall not exceed Twenty-five Thousand Dollars (\$25,000.00) in the aggregate. Reimbursements under this paragraph (j)(ii) shall satisfy any applicable federal tax law requirements.

(k) (i) The proceeds of bonds issued under this section for projects described in Section 57-75-5(f)(xxv) 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 (k)(i) shall not exceed Twenty-five Thousand Dollars (\$25,000.00) in the aggregate.

(ii) The proceeds of bonds issued under this section for projects described in Section 57-75-5(f)(xxv) 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 (k)(ii) shall not exceed Twenty-five Thousand Dollars (\$25,000.00) in the aggregate. Reimbursements under this

paragraph (k)(ii) shall satisfy any applicable federal tax law requirements.

(1) (i) The proceeds of bonds issued under this section for projects described in Section 57-75-5(f)(xxvi) 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 (1)(i) shall not exceed Twenty-five Thousand Dollars (\$25,000.00) in the aggregate.

(ii) The proceeds of bonds issued under this section for projects described in Section 57-75-5(f)(xxvi) 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 (1)(ii) shall not exceed Twenty-five Thousand Dollars (\$25,000.00) in the aggregate. Reimbursements under this paragraph (1)(ii) 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.

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 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 First Judicial District of the Chancery Court 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 authorized in Section 57-75-11(jj) shall be deposited into the Mississippi Major Economic Impact Authority Sinking 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). 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.

[From and after July 1, 2011, this section shall read 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 Sixty-one Million Dollars (\$61,000,000.00). 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. If there are any monetary proceeds derived from the disposition of any improvements located on real property in Kemper County purchased pursuant to this act for projects related to the NAAS and if there are any monetary proceeds derived from the disposition of any timber located on real property in Kemper County purchased pursuant to this act for projects related to the NAAS, all of such proceeds (both from the disposition of improvements and the disposition of timber) commencing July 1, 1996, through June 30, 2010, shall be paid to the Board of Education of Kemper County, Mississippi, for expenditure by such board of education to benefit the public schools of Kemper County. 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, 2016.

(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 June 30, 2015.

(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) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(xxvi) shall not exceed Thirty-five Million One Hundred Thousand Dollars (\$35,100,000.00). No bonds shall be issued under this paragraph after July 1, 2021.

(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), (c), (d), (e) and (f) 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 for projects as authorized in Section 57-75-11(kk), (ll) and (mm), 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); and

(xxi) Providing grants, loans and payments as authorized in Section 57-75-11(ss).

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) The proceeds of bonds issued under this section for projects described in Section 57-75-5(f)(ix) 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 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) in the aggregate.

(ii) The proceeds of bonds issued under this section for projects described in Section 57-75-5(f)(ix) 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 shall not exceed Twenty-five Thousand Dollars (\$25,000.00) in the aggregate. Reimbursements under this

paragraph shall satisfy any applicable federal tax law requirements.

(d) (i) The proceeds of bonds issued under this section for projects described in Section 57-75-5(f)(x) 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 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) in the aggregate.

(ii) The proceeds of bonds issued under this section for projects described in Section 57-75-5(f)(x) 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 shall not exceed Twenty-five Thousand Dollars (\$25,000.00) in the aggregate. Reimbursements under this paragraph shall satisfy any applicable federal tax law requirements.

(e) (i) The proceeds of bonds issued under this section for projects described in Section 57-75-5(f)(xii) 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 (e)(i) shall not exceed Twenty-five Thousand Dollars (\$25,000.00) in the aggregate.

(ii) The proceeds of bonds issued under this section for projects described in Section 57-75-5(f)(xii) 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 (e)(ii) shall not exceed Twenty-five Thousand Dollars (\$25,000.00) in the aggregate. Reimbursements under this paragraph (e)(ii) shall satisfy any applicable federal tax law requirements.

(f) (i) The proceeds of bonds issued under this section for projects described in Section 57-75-5(f)(xiii), (f)(xiv), (f)(xv), (f)(xvi), (f)(xvii), (f)(xviii) and (f)(xx) 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 (f)(i) shall not exceed Twenty-five Thousand Dollars (\$25,000.00) for each project.

(ii) The proceeds of bonds issued under this section for projects described in Section 57-75-5(f)(xiii), (f)(xiv), (f)(xv), (f)(xvi), (f)(xvii), (f)(xviii) and (f)(xx) 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 (f)(ii) shall not exceed Twenty-five Thousand Dollars (\$25,000.00) for each project. Reimbursements under this paragraph (f)(ii) shall satisfy any applicable federal tax law requirements.

(g) (i) The proceeds of bonds issued under this section for projects described in Section 57-75-5(f)(xxi) or projects for a Tier One supplier 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 (g)(i) shall not exceed Twenty-five Thousand Dollars (\$25,000.00) in the aggregate.

(ii) The proceeds of bonds issued under this section for projects described in Section 57-75-5(f)(xxi) or projects for a Tier One supplier 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 (g) (ii) shall not exceed Twenty-five Thousand Dollars (\$25,000.00) in the aggregate. Reimbursements under this paragraph (g) (ii) shall satisfy any applicable federal tax law requirements.

(h) (i) The proceeds of bonds issued under this section for projects described in Section 57-75-5(f) (xxii) 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 (h) (i) shall not exceed Twenty-five Thousand Dollars (\$25,000.00) in the aggregate.

(ii) The proceeds of bonds issued under this section for projects described in Section 57-75-5(f) (xxii) 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 (h) (ii) shall not exceed Twenty-five Thousand Dollars (\$25,000.00) in the aggregate. Reimbursements under this paragraph (h) (ii) shall satisfy any applicable federal tax law requirements.

(i) (i) The proceeds of bonds issued under this section for projects described in Section 57-75-5(f) (xxiii) 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 (i)(i) shall not exceed Twenty-five Thousand Dollars (\$25,000.00) in the aggregate.

(ii) The proceeds of bonds issued under this section for projects described in Section 57-75-5(f)(xxiii) 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 (i)(ii) shall not exceed Twenty-five Thousand Dollars (\$25,000.00) in the aggregate. Reimbursements under this paragraph (i)(ii) shall satisfy any applicable federal tax law requirements.

(j) (i) The proceeds of bonds issued under this section for projects described in Section 57-75-5(f)(xxiv) 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 (j)(i) shall not exceed Twenty-five Thousand Dollars (\$25,000.00) in the aggregate.

(ii) The proceeds of bonds issued under this section for projects described in Section 57-75-5(f)(xxiv) 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 (j)(ii) shall not exceed Twenty-five Thousand Dollars (\$25,000.00) in the aggregate. Reimbursements under this paragraph (j)(ii) shall satisfy any applicable federal tax law requirements.

(k) (i) The proceeds of bonds issued under this section for projects described in Section 57-75-5(f)(xxv) 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 (k)(i) shall not exceed Twenty-five Thousand Dollars (\$25,000.00) in the aggregate.

(ii) The proceeds of bonds issued under this section for projects described in Section 57-75-5(f)(xxv) 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 (k)(ii) shall not exceed Twenty-five Thousand Dollars (\$25,000.00) in the aggregate. Reimbursements under this paragraph (k)(ii) shall satisfy any applicable federal tax law requirements.

(l) (i) The proceeds of bonds issued under this section for projects described in Section 57-75-5(f)(xxvi) 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 (l)(i) shall not exceed Twenty-five Thousand Dollars (\$25,000.00) in the aggregate.

(ii) The proceeds of bonds issued under this section for projects described in Section 57-75-5(f)(xxvi) 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 (l)(ii) shall not exceed Twenty-five Thousand Dollars (\$25,000.00) in the aggregate. Reimbursements under this paragraph (l)(ii) 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, advertise for and accept bids, issue and sell the bonds on sealed bids at public sale, 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 for such price as it may determine to be for the best interest of the State of Mississippi, but no such sale shall be made at a price less than par plus accrued interest to date of delivery of the bonds to the purchaser. 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; provided that the first interest payment may be for any period of not more than one (1) year.

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 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 First Judicial District of the Chancery Court 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 authorized in Section 57-75-11(jj) shall be deposited into the Mississippi Major Economic Impact Authority Sinking 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). 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 5. Section 57-75-37, Mississippi Code of 1972, is amended as follows:

57-75-37. (1) (a) 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:

(i) 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

(ii) 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.

(b) In order to provide the amounts set forth in paragraph (a) 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 of Title 19, Mississippi Code of 1972, or Section 19-5-99.

(2) 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.

(3) Any county in which there is to be constructed a project as defined in Section 57-75-5(f)(xxvi) 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.

(4) The powers and authority granted in this section are an additional, alternative and supplemental method for the doing of the things authorized by this section and are additional and supplemental to, and not in derogation of, any other powers conferred by law.

SECTION 6. Section 27-31-104, Mississippi Code of 1972, is amended as follows:

27-31-104. (1) County boards of supervisors and municipal authorities are hereby authorized and empowered to grant a fee-in-lieu of taxes, including taxes levied for school purposes, for projects totaling over One Hundred Million Dollars (\$100,000,000.00). In addition to those new enterprises enumerated in Section 27-31-101, Mississippi Code of 1972, the term "projects," as used in this section, shall include a private company (as such term is defined in Section 57-61-5, Mississippi Code of 1972) having a minimum capital investment of One Hundred Million Dollars (\$100,000,000.00).

(2) The fee-in-lieu shall be negotiated by and given final approval by the Mississippi Development Authority.

(3) The minimum sum allowable as a fee-in-lieu shall not be less than one-third (1/3) of the ad valorem levy, including ad valorem taxes for school district purposes, and except as otherwise provided, the sum allowed shall be apportioned between the county or municipality, as appropriate, and the school districts in such amounts as may be determined by the county board of supervisors or municipal governing authority, as the case may be, however, from the sum allowed the apportionment to school

districts shall not be less than the school districts' pro rata share based upon the proportion that the millage imposed for the school districts by the appropriate levying authority bears to the millage imposed by such levying authority for all other county or municipal purposes. The agreement shall be for a term of not more than ten (10) years.

(4) The fee-in-lieu may be a stated fraction or percentage of the ad valorem taxes otherwise payable or a stated dollar amount. If the fee is a fraction or percentage of the ad valorem tax levy, it shall be annually computed on all ad valorem taxes otherwise payable, including school taxes, as the same may vary from year to year based upon changes in the millage rate or assessed value and shall not be less than one-third (1/3) of that amount. If the fee is a stated dollar amount, said amount shall be the higher of the sum provided for fixed payment or one-third (1/3) of the total of all ad valorem taxes otherwise payable as annually determined during each year of the fee-in-lieu.

(5) For a project as defined in Section 57-75-5(f)(xxi) and located in a county that is a member of a regional economic development alliance created under Section 57-64-1 et seq., the members of the regional economic development alliance may divide the sum allowed as a fee-in-lieu in a manner as determined by the alliance agreement, and the boards of supervisors of the member counties may then apportion the sum allowed between school district purposes and all other county purposes.

(6) For a project as defined in Section 57-75-5(f)(xxvi), the board of supervisors of the county in which the project is located may negotiate with the school district in which the project is located and apportion to the school district an amount of the fee-in-lieu that is agreed upon in the negotiations different than the amount provided for in subsection (3) of this section.

SECTION 7. Section 31-7-13, Mississippi Code of 1972, is amended 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 \$50,000.00.** Purchases which involve an expenditure of more than Five Thousand Dollars (\$5,000.00) but not more than Fifty Thousand Dollars (\$50,000.00), 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/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 Fifty Thousand Dollars (\$50,000.00). 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 their 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 their 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 \$50,000.00.**

(i) **Publication requirement.**

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

2. The purchasing entity may designate the method by which the bids will be received, including, but not limited to, bids sealed in an envelope, bids received electronically in a secure system, bids received via a reverse auction, or bids received by any other method that promotes open competition and has been approved by the Office of Purchasing and Travel. The provisions of this item 2 of subparagraph (i) shall be repealed on July 1, 2011.

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 Fifty Thousand Dollars (\$50,000.00), 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. However, all American Recovery and Reinvestment Act projects in excess of Twenty-five Thousand Dollars (\$25,000.00) shall be bid. For any projects in excess of Twenty-five Thousand Dollars (\$25,000.00) under the American Recovery and Reinvestment Act, publication shall be made one (1) time and the bid opening for construction projects shall not be less than ten (10) working days after the date of the published notice. 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. Submissions received by the Mississippi Procurement Technical Assistance Program for projects funded by the American Recovery and Reinvestment Act shall be displayed on a separate and unique Internet Web page accessible to the public and maintained by the Mississippi Development Authority for the Mississippi Procurement Technical Assistance Program. Those American Recovery and Reinvestment Act related submissions shall be publicly posted within twenty-four (24) hours of receipt by the Mississippi Development Authority and the bid opening shall not occur until the submission has been posted for ten (10) consecutive days. The Department of Finance and Administration shall maintain information regarding contracts and other expenditures from the American Recovery and Reinvestment Act, on a unique Internet Web page accessible to the public. The Department of Finance and Administration shall promulgate rules regarding format, content and deadlines, unless otherwise specified by law, of the posting of award notices, contract execution and subsequent amendments, links to the contract documents, expenditures against the awarded contracts and general expenditures of funds from the American Recovery and Reinvestment Act. 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 for the duration of the American Recovery and Reinvestment Act funding or until the project is completed, whichever is longer.

(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) Agencies and governing authorities may establish secure procedures by which bids may be submitted via electronic means.

(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 paragraph (d)(i), 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 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) **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 designee, 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 provisions herein for competitive bidding shall not apply and the head of such agency shall be authorized to make the purchase or repair. Total purchases so made shall only be for the purpose of meeting needs created by the emergency situation. In the event such executive head is responsible to an agency board, at the meeting next 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 presented to the board and placed on the minutes of the board of such agency. The head of such agency, or his designee, shall, at the earliest possible date following such emergency purchase, 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, if applicable.

(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.

(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 (1), 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 section. 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.

(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, video cassette tapes, filmstrips and slides; recorded audio tapes, 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.**

From and after January 1, 1991, purchases made by state agencies or governing authorities 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.** Purchases made by state agencies or governing authorities involving any item that is manufactured, processed or produced 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 (1)(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; provided, however, that 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.

(xxxii) **Design-build method and dual-phase design-build method of contracting.** 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.

(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 Fifty Thousand Dollars (\$50,000.00), 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.

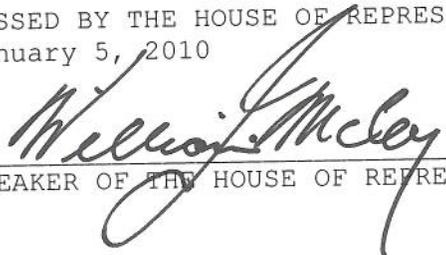
(u) **Procurement of construction services by state institutions of higher learning.** Contracts for privately financed construction of auxiliary facilities on the campus of a state institution of higher learning may be awarded by the Board of Trustees of State Institutions of Higher Learning to the 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.

SECTION 8. This act shall take effect and be in force from and after its passage.

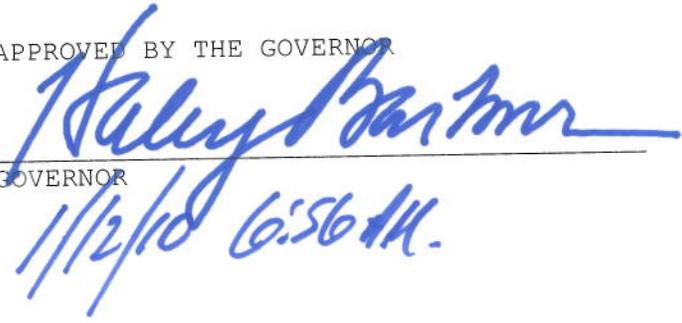
PASSED BY THE HOUSE OF REPRESENTATIVES
January 5, 2010


SPEAKER OF THE HOUSE OF REPRESENTATIVES

PASSED BY THE SENATE
January 5, 2010


PRESIDENT OF THE SENATE

APPROVED BY THE GOVERNOR


GOVERNOR
1/12/10 6:56 AM.