

By: Horne

To: Ways and Means

HOUSE BILL NO. 170

1 AN ACT TO AMEND SECTIONS 43-33-702, 43-33-704, 7-7-1,
 2 25-9-107, 25-53-5, 27-103-103, 27-103-127, 27-103-129, 27-104-1,
 3 27-104-11 AND 31-7-1, MISSISSIPPI CODE OF 1972, TO REQUIRE THE
 4 MISSISSIPPI HOME CORPORATION TO COMPLY WITH ALL STATE FISCAL,
 5 PURCHASING, BUDGETING AND PERSONNEL LAWS AND RULES AND REGULATIONS
 6 PROMULGATED PURSUANT TO SUCH LAWS; AND FOR RELATED PURPOSES.

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

8 SECTION 1. Section 43-33-702, Mississippi Code of 1972, is
 9 amended as follows:

10 43-33-702. The Legislature hereby finds and declares:

11 (a) That there exists in the State of Mississippi a
 12 severe shortage of adequate, safe and sanitary residential and
 13 rental housing available at prices or rentals within the financial
 14 means of persons of low or moderate income; that this shortage has
 15 contributed to and will contribute to the creation and persistence
 16 of substandard living conditions and is damaging to the health,
 17 welfare and prosperity of the residents of this state;

18 (b) That private enterprise and investment have been
 19 unable, without assistance, to produce the needed construction or
 20 rehabilitation of adequate, safe and sanitary housing at prices or
 21 rentals which persons of low or moderate income can afford and to
 22 provide sufficient long-term mortgage financing for residential or
 23 rental housing for occupancy by such persons;

24 (c) That the shortage of adequate and affordable
25 housing can best be addressed through a strong, unified
26 organization which can develop creative approaches to housing
27 production and assistance through active cooperation of public and
28 private entities, including federal, state and local government,
29 private nonprofit and for profit entities, community and citizens
30 groups, charitable organizations, and private citizens; that this
31 organization should stimulate private development, construction
32 and rehabilitation, develop a wide range of state housing
33 assistance programs, engage in comprehensive planning, study,
34 research and statewide coordination with respect to low and
35 moderate housing, provide technical, educational and consultative
36 services, and promote governmental and community interest in the
37 provision of housing for low and moderate income persons in the
38 state; that this organization should receive appropriations of
39 public funds, should be authorized to obtain funding for its
40 programs by issuing its bonds and notes; and that this
41 organization should be authorized to administer available federal,
42 state or local programs and monies and to retain for its corporate
43 purposes all such fees and income generated thereby;

44 (d) To aid in remedying these conditions and to
45 accomplish these public purposes, effective September 1, 1989,
46 there is created a public body corporate and politic, separate and
47 apart from the state, constituting a governmental instrumentality,
48 to be known as the Mississippi Home Corporation, for the
49 performance of essential public functions. The corporation shall
50 be constituted and shall have such powers as provided in this
51 article, but also shall operate in compliance with all state
52 fiscal, purchasing, budgeting and personnel laws and rules and
53 regulations promulgated pursuant to such laws.

54 SECTION 2. Section 43-33-704, Mississippi Code of 1972, is

55 amended as follows:

56 43-33-704. (1) There is created by this article the
57 Mississippi Home Corporation, which shall be a continuation of the
58 corporate existence of the Mississippi Housing Finance Corporation
59 and (a) all property, rights and powers of the Mississippi Housing
60 Finance Corporation are vested in, and shall be exercised by, the
61 corporation, subject, however, to all pledges, covenants,
62 agreements, undertakings and trusts made or created by the
63 Mississippi Housing Finance Corporation; (b) all references to the
64 Mississippi Housing Finance Corporation in any other law or
65 regulation shall be deemed to refer to and apply to the
66 corporation; and (c) all regulations of the Mississippi Housing
67 Finance Corporation shall continue to be in effect as the
68 regulations of the corporation until amended, supplemented or
69 rescinded by the corporation in accordance with law.

70 (2) The corporation is created with power to: raise funds
71 from private investors in order to make such private funds
72 available to finance the acquisition, construction, rehabilitation
73 and improvement of residential and rental housing for persons of
74 low or moderate income within the state; provide financing to
75 qualified sponsors or individuals for a wide range of loans
76 including, but not limited to, housing development, mortgage,
77 rehabilitation or energy conservation loans; make loans to private
78 lenders to finance any of these loans; purchase any of these loans
79 from private lenders; refinance, insure or guarantee any of these
80 loans; provide for temporary or partial financing for any of these
81 purposes; develop, operate and administer housing programs which
82 further its stated goals of improving the availability,

83 affordability and quality of low and moderate income housing in
84 the state; and make grants or loans to private nonprofit
85 developers, local governments or private persons in furtherance of
86 these goals.

87 (3) The corporation shall be composed of thirteen (13)
88 members. The Governor, with the advice and consent of the Senate,
89 shall appoint the members of the corporation, who shall be
90 residents of the state and shall not hold other public office.
91 There shall be at least one (1) member and not more than three (3)
92 members appointed from each of the five (5) congressional
93 districts in existence on January 1, 1989, and, in addition, (a)
94 from and after September 1, 1980, (i) at least one (1) member
95 shall have at least three (3) years' experience and background in
96 the savings and loan association business, the commercial banking
97 business or the mortgage banking business, (ii) at least one (1)
98 member shall have at least three (3) years' experience and
99 background in the residential housing construction industry, (iii)
100 at least one (1) member shall have at least three (3) years'
101 experience and background in the licensed residential housing
102 brokerage business, and (iv) at least one (1) member shall be a
103 member of the general public not engaged in any business, industry
104 or activity described in clauses (i) through (iii) of this
105 subparagraph. From and after September 1, 1989, (i) at least one
106 (1) member shall have at least three (3) years' experience and
107 background in the manufactured housing business; (ii) at least one
108 (1) member shall have at least three (3) years' experience and
109 background in nonprofit housing development in a Metropolitan
110 Statistical Area (MSA); (iii) at least one (1) member shall have

111 at least three (3) years' experience and background in nonprofit
112 housing development outside a MSA; and (iv) at least (1) member
113 shall be a low or moderate income person qualified for assistance
114 under this article.

115 (4) Appointments shall be for terms of four (4) years. Each
116 member shall hold office until his successor has been appointed
117 and qualified. Vacancies shall be filled by appointment of the
118 Governor, subject to the advice and consent of the Senate, for the
119 length of the unexpired term only. Any member of the corporation
120 shall be eligible for reappointment. Any member of the
121 corporation may be removed by the Governor for misfeasance,
122 malfeasance or willful neglect of duty after reasonable notice and
123 a public hearing, unless the same are expressly waived in writing.
124 Each member of the corporation shall before entering upon his duty
125 take an oath of office to administer the duties of his office
126 faithfully and impartially, and a record of such oath shall be
127 filed in the office of the Secretary of State. The corporation
128 shall annually elect from its membership a chairman who shall be
129 eligible for reelection. The corporation shall annually elect
130 from its membership a vice-chairman who shall be eligible for
131 reelection. The corporation shall also elect or appoint, and
132 prescribe the duties of, such other officers (who need not be
133 members) as the corporation deems necessary or advisable, and the
134 corporation shall fix the compensation of such officers. The
135 corporation may delegate to one or more of its members, officers,
136 employees or agents such powers and duties as it may deem proper,
137 not inconsistent with this article or other provisions of law.

138 (5) The Executive Director of the Department of Economic and

139 Community Development, the Director of the Veterans' Home Purchase
140 Board and the State Treasurer shall serve as ex officio members of
141 the corporation.

142 (6) In accomplishing its purposes, the corporation is acting
143 in all respects for the benefit of the people of the state and the
144 performance of essential public functions and is serving a vital
145 public purpose in approving and otherwise promoting their health,
146 welfare and prosperity, and the enactment of the provisions
147 hereinafter set forth is for a valid public purpose and is hereby
148 so declared to be such as a matter of express legislative
149 determination.

150 (7) It is the intention of the Legislature by the enactment
151 of this section to effect a recodification of the substance of the
152 provisions of Section 43-33-507 as such section existed prior to
153 its repeal by Laws, 1991, Chapter 528; and the creation of this
154 new Section 43-33-704 shall not be construed to require that
155 members of the corporation serving on June 30, 1991, who were
156 appointed and confirmed under Section 43-33-507, be reappointed
157 and reconfirmed in order to continue to serve out the remainder of
158 their terms.

159 (8) Notwithstanding the language of this article creating
160 the Mississippi Home Corporation, or the language of Section
161 43-33-702(d) declaring the corporation to be separate and apart
162 from the state, or any other provision of this article, the
163 Mississippi Home Corporation shall comply with all state fiscal,
164 purchasing, budgeting and personnel laws and rules and regulations
165 promulgated pursuant to such laws.

166 SECTION 3. Section 7-7-1, Mississippi Code of 1972, is

167 amended as follows:

168 7-7-1. (1) As used in this chapter, the terms "State
169 Auditor" and "Auditor" mean the Auditor of Public Accounts.

170 (2) As used in this chapter, the term "State Fiscal Officer"
171 means the official created in Section 27-104-5, acting through the
172 Bureau of Budget and Fiscal Management.

173 (3) "Agency" means any state board, commission, committee,
174 council, department or unit thereof created by the Constitution or
175 statutes if such board, commission, committee, council,
176 department, unit or the head thereof is authorized to appoint
177 subordinate staff by the Constitution or statute, except a
178 legislative or judicial board, commission, committee, council,
179 department or unit thereof. The term "agency" also means the
180 Mississippi Home Corporation.

181 (4) For the purposes of Sections 7-7-1 through 7-7-65, the
182 term "public funds" shall mean all funds which are received,
183 collected by, or available for the support of or expenditure by
184 any state department, institution or agency, whether such funds be
185 derived from taxes or from fees collected by such state
186 department, institution or agency or from some other source, and
187 which should be included in the entity of the state under
188 generally accepted accounting principles, although such funds may
189 not be required by law to be deposited in the State Treasury.

190 Funds such as endowment funds and research funds, special
191 building and plant funds, funds of a proprietary function, and the
192 like shall be excluded from the meaning of the term, unless
193 specifically required by law to be handled through the State
194 Treasury or unless deemed necessary by the State Fiscal Officer to

195 be included.

196 All funds of state departments, institutions and agencies
197 within the contemplation of this section that are not required by
198 law to be deposited in the State Treasury, or are not declared to
199 be exempt from the provisions of Sections 7-7-1 through 7-7-65 by
200 the State Fiscal Officer shall be reported to the State Fiscal
201 Officer in reports of revenues, expenditures, assets, liabilities,
202 encumbrances, fund balances and other financial statements, at
203 such times and in the form required by the State Fiscal Officer.

204 It is hereby declared to be the intent of this section to
205 provide that all "public funds" necessary to present a complete
206 and comprehensive statement of the fiscal operations of the state
207 government shall be handled through the State Fiscal Officer,
208 whether through State Fiscal Officer receipt warrants and
209 disbursement warrants, as is generally provided, or through the
210 method of reporting, as required herein.

211 SECTION 4. Section 25-9-107, Mississippi Code of 1972, is
212 amended as follows:

213 25-9-107. The following terms, when used in this chapter,
214 unless a different meaning is plainly required by the context,
215 shall have the following meanings:

216 (a) "Board" shall mean the State Personnel Board
217 created under the provisions of this chapter.

218 (b) "State service" shall mean all employees of state
219 departments, agencies and institutions as defined herein, except
220 those officers and employees excluded by this chapter.

221 (c) "Nonstate service" shall mean the following
222 officers and employees excluded from the state service by this

223 chapter. The following are excluded from the state service:

224 (i) Members of the state Legislature, their staffs
225 and other employees of the legislative branch;

226 (ii) The Governor and staff members of the
227 immediate Office of the Governor;

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

230 (iv) The Lieutenant Governor, staff members of the
231 immediate Office of the Lieutenant Governor and officers and
232 employees directly appointed by the Lieutenant Governor;

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

235 (vi) Members of boards and commissioners appointed
236 by the Governor, Lieutenant Governor or the state Legislature;

237 (vii) All academic officials, members of the
238 teaching staffs and employees of the state institutions of higher
239 learning, the State Board for Community and Junior Colleges, and
240 community and junior colleges;

241 (viii) Officers and enlisted members of the
242 National Guard of the state;

243 (ix) Prisoners, inmates, student or patient help
244 working in or about institutions;

245 (x) Contract personnel; provided, that any agency
246 which employs state service employees may enter into contracts for
247 personal and professional services only if such contracts are
248 approved in compliance with the rules and regulations promulgated
249 by the State Personal Service Contract Review Board under Section
250 25-9-120(3). Before paying any warrant for such contractual

251 services in excess of One Hundred Thousand Dollars (\$100,000.00),
252 the Auditor of Public Accounts, or the successor to those duties,
253 shall determine whether the contract involved was for personal or
254 professional services, and, if so, was approved by the State
255 Personal Service Contract Review Board;

256 (xi) Part-time employees; provided, however,
257 part-time employees shall only be hired into authorized employment
258 positions classified by the board, shall meet minimum
259 qualifications as set by the board, and shall be paid in
260 accordance with the Variable Compensation Plan as certified by the
261 board;

262 (xii) Persons appointed on an emergency basis for
263 the duration of the emergency; the effective date of the emergency
264 appointments shall not be earlier than the date approved by the
265 State Personnel Director, and shall be limited to thirty (30)
266 working days. Emergency appointments may be extended to sixty
267 (60) working days by the State Personnel Board;

268 (xiii) Physicians, dentists, veterinarians, nurse
269 practitioners and attorneys, while serving in their professional
270 capacities in authorized employment positions who are required by
271 statute to be licensed, registered or otherwise certified as such,
272 provided that the State Personnel Director shall verify that the
273 statutory qualifications are met prior to issuance of a payroll
274 warrant by the auditor;

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

279 be time-limited in nature. This subparagraph shall apply to
280 personnel employed under the provisions of the Comprehensive
281 Employment and Training Act of 1973, as amended, and other special
282 federal grant programs which are not a part of regular federally
283 funded programs wherein appropriations and employment positions
284 are appropriated by the Legislature. Such employees shall be paid
285 in accordance with the Variable Compensation Plan and shall meet
286 all qualifications required by federal statutes or by the
287 Mississippi Classification Plan;

288 (xv) The administrative head who is in charge of
289 any state department, agency, institution, board or commission,
290 wherein the statute specifically authorizes the Governor, board,
291 commission or other authority to appoint said administrative head;
292 provided, however, that the salary of such administrative head
293 shall be determined by the State Personnel Board in accordance
294 with the Variable Compensation Plan unless otherwise fixed by
295 statute;

296 (xvi) The State Personnel Board shall exclude top
297 level positions if the incumbents determine and publicly advocate
298 substantive program policy and report directly to the agency head,
299 or the incumbents are required to maintain a direct confidential
300 working relationship with a key excluded official. Provided
301 further, a written job classification shall be approved by the
302 board for each such position, and positions so excluded shall be
303 paid in conformity with the Variable Compensation Plan;

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

307 (xviii) Repealed;
308 (xix) The associate director, deputy directors and
309 bureau directors within the Department of Agriculture and
310 Commerce;

311 (xx) Personnel employed by the Mississippi
312 Industries for the Blind; provided, that any agency may enter into
313 contracts for the personal services of MIB employees without the
314 prior approval of the State Personnel Board or the State Personal
315 Service Contract Review Board; however, any agency contracting for
316 the personal services of an MIB employee shall provide the MIB
317 employee with not less than the entry level compensation and
318 benefits that the agency would provide to a full-time employee of
319 the agency who performs the same services.

320 (d) "Agency" means any state board, commission,
321 committee, council, department or unit thereof created by the
322 Constitution or statutes if such board, commission, committee,
323 council, department, unit or the head thereof, is authorized to
324 appoint subordinate staff by the Constitution or statute, except a
325 legislative or judicial board, commission, committee, council,
326 department or unit thereof. The term "agency" also means the
327 Mississippi Home Corporation.

328 SECTION 5. Section 25-53-5, Mississippi Code of 1972, is
329 amended as follows:

330 25-53-5. The authority shall have the following powers,
331 duties, and responsibilities:

332 (a) The authority shall provide for the development of
333 plans for the efficient acquisition and utilization of computer
334 equipment and services by all agencies of state government, and

335 provide for their implementation. In so doing, the authority may
336 use the MDITS staff, at the discretion of the executive director
337 of the authority, or the authority may contract for the services
338 of qualified consulting firms in the field of information
339 technology and utilize the service of such consultants as may be
340 necessary for such purposes.

341 (b) The authority shall immediately institute
342 procedures for carrying out the purposes of this chapter and
343 supervise the efficient execution of the powers and duties of the
344 office of executive director of the authority. In the execution
345 of its functions under this chapter, the authority shall maintain
346 as a paramount consideration the successful internal organization
347 and operation of the several agencies so that efficiency existing
348 therein shall not be adversely affected or impaired. In executing
349 its functions in relation to the institutions of higher learning
350 and junior colleges in the state, the authority shall take into
351 consideration the special needs of such institutions in relation
352 to the fields of teaching and scientific research.

353 (c) Title of whatever nature of all computer equipment
354 now vested in any agency of the State of Mississippi is hereby
355 vested in the authority, and no such equipment shall be disposed
356 of in any manner except in accordance with the direction of the
357 authority or under the provisions of such rules and regulations as
358 may hereafter be adopted by the authority in relation thereto.

359 (d) The authority shall adopt rules, regulations, and
360 procedures governing the acquisition of computer and
361 telecommunications equipment and services which shall, to the
362 fullest extent practicable, insure the maximum of competition

363 between all manufacturers of supplies or equipment or services.
364 In the writing of specifications, in the making of contracts
365 relating to the acquisition of such equipment and services, and in
366 the performance of its other duties the authority shall provide
367 for the maximum compatibility of all information systems hereafter
368 installed or utilized by all state agencies and may require the
369 use of common computer languages where necessary to accomplish the
370 purposes of this chapter. The authority may establish by
371 regulation and charge reasonable fees on a nondiscriminatory basis
372 for the furnishing to bidders of copies of bid specifications and
373 other documents issued by the authority.

374 (e) The authority shall adopt rules and regulations
375 governing the sharing with, or the sale or lease of information
376 technology services to any nonstate agency or person. Such
377 regulations shall provide that any such sharing, sale, or lease
378 shall be restricted in that same shall be accomplished only where
379 such services are not readily available otherwise within the
380 state, and then only at a charge to the user not less than the
381 prevailing rate of charge for similar services by private
382 enterprise within this state.

383 (f) The authority may, in its discretion, establish a
384 special technical advisory committee or committees to study and
385 make recommendations on technology matters within the competence
386 of the authority as the authority may see fit. Persons serving on
387 the Information Resource Council, its task forces, or any such
388 technical advisory committees shall be entitled to receive their
389 actual and necessary expenses actually incurred in the performance
390 of such duties, together with mileage as provided by law for state

391 employees, provided the same has been authorized by a resolution
392 duly adopted by the authority and entered on its minutes prior to
393 the performance of such duties.

394 (g) The authority may provide for the development and
395 require the adoption of standardized computer programs and may
396 provide for the dissemination of information to and the
397 establishment of training programs for the personnel of the
398 various information technology centers of state agencies and
399 personnel of the agencies utilizing the services thereof.

400 (h) The authority shall adopt reasonable rules and
401 regulations requiring the reporting to the authority through the
402 office of executive director of such information as may be
403 required for carrying out the purposes of this chapter and may
404 also establish such reasonable procedures to be followed in the
405 presentation of bills for payment under the terms of all contracts
406 for the acquisition of computer equipment and services now or
407 hereafter in force as may be required by the authority or by the
408 executive director in the execution of their powers and duties.

409 (i) The authority shall require such adequate
410 documentation of information technology procedures utilized by the
411 various state agencies and may require the establishment of such
412 organizational structures within state agencies relating to
413 information technology operations as may be necessary to
414 effectuate the purposes of this chapter.

415 (j) The authority may adopt such further reasonable
416 rules and regulations as may be necessary to fully implement the
417 purposes of this chapter. All rules and regulations adopted by
418 the authority shall be published and disseminated in readily

419 accessible form to all affected state agencies, and to all current
420 suppliers of computer equipment and services to the state, and to
421 all prospective suppliers requesting the same. Such rules and
422 regulations shall be kept current, be periodically revised, and
423 copies thereof shall be available at all times for inspection by
424 the public at reasonable hours in the offices of the authority.
425 Whenever possible no rule, regulation or any proposed amendment to
426 such rules and regulations shall be finally adopted or enforced
427 until copies of said proposed rules and regulations have been
428 furnished to all interested parties for their comment and
429 suggestions.

430 (k) The authority shall establish rules and regulations
431 which shall provide for the submission of all contracts proposed
432 to be executed by the executive director for computer equipment or
433 services to the authority for approval before final execution, and
434 the authority may provide that such contracts involving the
435 expenditure of less than such specified amount as may be
436 established by the authority may be finally executed by the
437 executive director without first obtaining such approval by the
438 authority.

439 (l) The authority is authorized to purchase, lease, or
440 rent computer equipment or services and to operate said equipment
441 and utilize said services in providing services to one or more
442 state agencies when in its opinion such operation will provide
443 maximum efficiency and economy in the functions of any such agency
444 or agencies.

445 (m) The authority shall assist political subdivisions
446 and instrumentalities in their development of plans for the

447 efficient acquisition and utilization of computer equipment and
448 services. An appropriate fee shall be charged the political
449 subdivision by the authority for such assistance.

450 (n) The authority shall adopt rules and regulations
451 governing the protest procedures to be followed by any actual or
452 prospective bidder, offerer or contractor who is aggrieved in
453 connection with the solicitation or award of a contract for the
454 acquisition of computer equipment or services. Such rules and
455 regulations shall prescribe the manner, time and procedure for
456 making protests and may provide that a protest not timely filed
457 shall be summarily denied. The authority may require the
458 protesting party, at the time of filing the protest, to post a
459 bond, payable to the state, in an amount that the authority
460 determines sufficient to cover any expense or loss incurred by the
461 state, the authority or any state agency as a result of the
462 protest if the protest subsequently is determined by a court of
463 competent jurisdiction to have been filed without any substantial
464 basis or reasonable expectation to believe that the protest was
465 meritorious; however, in no event may the amount of the bond
466 required exceed a reasonable estimate of the total project cost.
467 The authority, in its discretion, also may prohibit any
468 prospective bidder, offerer or contractor who is a party to any
469 litigation involving any such contract with the state, the
470 authority or any agency of the state to participate in any other
471 such bid, offer or contract, or to be awarded any such contract,
472 during the pendency of the litigation.

473 (o) The authority shall make a report in writing to the
474 Legislature each year in the month of January. Such report shall

475 contain a full and detailed account of the work of the authority
476 for the preceding year as specified in Section 25-53-29(3).

477 All acquisitions of computer equipment and services involving
478 the expenditure of funds in excess of the dollar amount
479 established in Section 31-7-13(c), or rentals or leases in excess
480 of the dollar amount established in Section 31-7-13(c) for the
481 term of the contract, shall be based upon competitive and open
482 specifications, and contracts therefor shall be entered into only
483 after advertisements for bids are published in one or more daily
484 newspapers having a general circulation in the state not less than
485 fourteen (14) days prior to receiving sealed bids therefor. The
486 authority may reserve the right to reject any or all bids, and if
487 all bids are rejected, the authority may negotiate a contract
488 within the limitations of the specifications so long as the terms
489 of any such negotiated contract are equal to or better than the
490 comparable terms submitted by the lowest and best bidder, and so
491 long as the total cost to the State of Mississippi does not exceed
492 the lowest bid. If the authority accepts one (1) of such bids, it
493 shall be that which is the lowest and best.

494 (p) When applicable, the authority may procure
495 equipment, systems and related services in accordance with the law
496 or regulations, or both, which govern the Bureau of Purchasing of
497 the Office of General Services or which govern the Mississippi
498 Department of Information Technology Services procurement of
499 telecommunications equipment, software and services.

500 (q) The authority is authorized to purchase, lease, or
501 rent information technology and services for the purpose of
502 establishing pilot projects to investigate emerging technologies.

503 These acquisitions shall be limited to new technologies and shall
504 be limited to an amount set by annual appropriation of the
505 Legislature. These acquisitions shall be exempt from the
506 advertising and bidding requirement.

507 (r) All fees collected by the Mississippi Department of
508 Information Technology Services shall be deposited into the
509 Mississippi Department of Information Technology Services
510 Revolving Fund unless otherwise specified by the Legislature.

511 The Mississippi Home Corporation shall be subject to all
512 regulations, procedures, plans and reports provided for in this
513 section to the same extent as though it were a state agency.

514 SECTION 6. Section 27-103-103, Mississippi Code of 1972, is
515 amended as follows:

516 27-103-103. (1) For the purpose of Sections 27-103-101
517 through 27-103-139 and 27-104-1 through 27-104-27, the term "state
518 general-fund agency" or "general-fund agency" shall mean any
519 agency, department, institution, board or commission of the State
520 of Mississippi which is supported in whole or in part by
521 appropriations from the General Fund; but such term shall not
522 include the Legislature.

523 (2) For the purposes of Sections 27-103-101 through
524 27-103-139 and 27-104-1 through 27-104-27, the term "state
525 special-fund agency" or "special-fund agency" shall mean any
526 agency, department, institution, board or commission of the State
527 of Mississippi which receives no appropriation from the General
528 Fund, but which is supported entirely from special fund sources,
529 by appropriation, or otherwise, but such term shall not include
530 the Mississippi Department of Transportation; nor shall such term

531 include the Mississippi Industries for the Blind. The term
532 includes the Mississippi Home Corporation.

533 (3) For the purposes of Sections 27-103-101 through
534 27-103-139 and 27-104-1 through 27-104-27, the term "state agency"
535 shall mean any general fund agency or special fund agency as
536 defined in this section, or the Mississippi Department of
537 Transportation, or the Office of State Aid Road Construction of
538 the Mississippi Department of Transportation as is evident from
539 the context wherein it is used.

540 (4) For the purposes of Sections 27-103-101 through
541 27-103-139 and 27-104-1 through 27-104-27, the term "special
542 funds" shall mean all revenues and/or income other than
543 appropriations from the State General Fund which are received,
544 collected by, or available for the support of or expenditure by
545 any state general-fund agency or special-fund agency or the
546 Mississippi Department of Transportation or the Office of State
547 Aid Road Construction of the Mississippi Department of
548 Transportation, whether such funds be derived from taxes or fees
549 collected by or for such general-fund agency or special-fund
550 agency or the Mississippi Department of Transportation or the
551 Office of State Aid Road Construction of the Mississippi
552 Department of Transportation, as the case may be, or from any
553 other types of revenue from any other source.

554 (5) For the purposes of Sections 27-103-101 through
555 27-103-139 and 27-104-1 through 27-104-27, the term "special
556 funds" shall include revolving funds and all funds received from
557 the United States Government by any state general-fund agency or
558 special-fund agency, but shall not include any revolving fund

559 established prior to July 1, 1984, for the purpose of paying or
560 retiring any indebtedness as is authorized by statute.

561 SECTION 7. Section 27-103-127, Mississippi Code of 1972, is
562 amended as follows:

563 27-103-127. To the end that the overall budget shall present
564 in comparable terms a complete summary of all financial operations
565 of all state agencies, Part 2 of the overall budget shall include
566 therein the requested budget and the recommended budget for each
567 special fund agency. The overall budget shall show for each
568 special fund agency, in addition to such other information as may
569 be prescribed by the Legislative Budget Office, the following:

570 (a) The amount by source of all special fund receipts
571 collected or otherwise available in the current fiscal year, and
572 an estimate by source of all special funds which will be collected
573 or become available by the end of the then current fiscal year;

574 (b) The estimated amount of all expenditures to be made
575 or obligations to be incurred payable from such special funds
576 during the then current fiscal year;

577 (c) The estimated aggregate amount of special funds
578 which will be needed by the agency for the succeeding fiscal year;
579 beginning with the 1995 fiscal year and in the event that any
580 services proposed to be provided by the agency in the succeeding
581 fiscal year are Medicaid reimbursable, any state general matching
582 funds necessary for such reimbursement shall be included in the
583 agency's proposed budget, and the appropriation to the Division of
584 Medicaid in the 1995 fiscal year shall be adjusted accordingly;

585 (d) The estimated amount by source of special funds
586 which will be available under existing laws during the succeeding

587 fiscal year, including any balances which will be on hand at the
588 close of the then current fiscal year;

589 (e) The estimated amount which will be needed and which
590 will require change in existing law or laws;

591 (f) If any new item of expense is included in the
592 proposed budget of any special fund agency, the reason therefor
593 shall be given; and in any case where the Legislative Budget
594 Office shall eliminate or reduce any item or items in the proposed
595 budget of any special fund agency, it shall note briefly the
596 reasons therefor, together with the reasons advanced by the agency
597 in support of the item or items eliminated or reduced;

598 (g) The proposed budget of each special fund agency
599 shall show the amounts required for operating expenses separately
600 from the amounts required for permanent improvements.

601 Proposed expenditures for any agency in Part 2 of the overall
602 budget shall not exceed the amount of estimated revenues which
603 will be available to it. Provided, that the Legislative Budget
604 Office may recommend changes in existing law so as to decrease or
605 increase the revenues available to any agency if in its judgment
606 such changes are necessary or desirable.

607 Provided further, that expenditures approved or authorized by
608 the Legislature for any special fund agency or special funds
609 approved for general fund agency shall constitute a maximum to be
610 expended or encumbered by such agency, and shall not constitute
611 authority to expend or encumber more than the amount of revenue
612 actually collected or otherwise received.

613 No special fund agency or general fund agency shall make
614 expenditures from special funds available to such agency unless

615 such expenditures are set forth in a budget approved by the
616 Legislature. Such legislative approval shall be set forth in an
617 appropriation act. Provided, however, that special funds derived
618 from the collection of taxes for any political subdivision of the
619 state shall be excepted from the foregoing provisions. The
620 executive head of the state agency shall be liable on his official
621 bond for expenditures or encumbrances which exceed the total
622 amount of the budget or the amount received if receipts are less
623 than the approved budget. This paragraph does not prohibit the
624 Mississippi Home Corporation from expending funds for the
625 retirement of bonds issued under Section 43-33-729.

626 Provided, however, that each university and college shall
627 submit through the Board of Trustees of State Institutions of
628 Higher Learning an annual budget to the Legislative Budget Office
629 prior to the beginning of each fiscal year with such information
630 and in such form, and in such detail, as may be required by the
631 Legislative Budget Office. If the Legislative Budget Office
632 determines that sufficient funds will be available during the
633 fiscal year to fund the proposed budget as submitted, then and in
634 that event the proposed budget shall be approved. However, if the
635 Legislative Budget Office determines that, in its judgment,
636 sufficient funds will not be available to fund the proposed
637 budget, the affected institution or institutions and the Board of
638 Trustees of State Institutions of Higher Learning shall be
639 promptly notified and given an opportunity to either justify the
640 proposed budget or proposed amendments which can be mutually
641 agreed upon. The Legislative Budget Office shall then approve the
642 proposed budget or budgets of the several universities and

643 colleges. The total amount approved for each institution shall
644 constitute the maximum funds which may be expended during the
645 fiscal year.

646 The municipal, county or combined municipal and county port
647 and harbor commissions, authorities or other port or harbor
648 agencies not owned or operated by the state, shall submit annual
649 or amended budgets of their estimated receipts and expenditures to
650 the governing bodies of such municipality, county or municipality
651 and county, for their approval, and a copy of such budget as
652 approved by such governing body or bodies shall be filed with the
653 Legislative Budget Office. Such budget shall itemize all
654 estimated receipts and expenditures, and the Legislative Budget
655 Office may require particularization, explanation or audit
656 thereof, and shall report such information to the Legislature.

657 To the end that the overall budget shall present in
658 comparable terms a complete summary of all financial operations of
659 all state agencies, Part 3 of such overall budget shall consist of
660 an estimated preliminary annual budget of the Department of
661 Transportation and the Division of State Aid Road Construction of
662 the Department of Transportation and such information for the
663 current fiscal year as is necessary to make presentation
664 comparable to that specified for Part 2 special fund agencies.

665 The annual budget request of the Department of Transportation
666 shall be divided into the following program budgets: (a)
667 administration and other expenses, (b) construction, (c)
668 maintenance, and (d) debt service. In making its annual
669 appropriation to the Department of Transportation from the State
670 Highway Fund, the Legislature shall separate the appropriation

671 bill into the four (4) program budget areas herein specified. For
672 the purposes of this paragraph, "administration and other
673 expenses" shall be construed to mean those expenses incurred due
674 to departmental support activities which cannot be assigned to a
675 specific construction or maintenance project, and shall be
676 construed to include expenses incurred for office machines,
677 furniture, fixtures, automobiles, station wagons, truck and other
678 vehicles, road machinery, farm equipment and other working
679 equipment, data processing and computer equipment, all other
680 equipment, and replacements for equipment. "Construction" shall
681 be construed to mean those expenses associated with the creation
682 and development of the state highway system and its related
683 facilities; "maintenance" shall be construed to mean those
684 expenses incurred due to activities associated with preservation
685 of safe and aesthetically acceptable highways in an attempt to
686 maintain them in as close to the original condition as possible;
687 and "debt service" shall be construed to mean amounts needed to
688 pay bonds and interest coming due, bank service charges, and bond
689 debt service.

690 SECTION 8. Section 27-103-129, Mississippi Code of 1972, is
691 amended as follows:

692 27-103-129. To enable the Legislative Budget Office to
693 prepare such budget, it shall have full and plenary power and
694 authority to require all general-fund and special-fund agencies
695 and the Mississippi Department of Transportation and the Office of
696 State Aid Road Construction of the Mississippi Department of
697 Transportation to file a budget request with such information and
698 in such form and in such detail as it may deem necessary and

699 advisable, and it shall have the further power and authority to
700 reduce or eliminate any item or items of requested appropriation
701 by any state agency in the Legislative Budget Office's recommended
702 budget to the Legislature. However, where any item of requested
703 appropriation shall be so reduced or eliminated, the head of the
704 agency involved shall have the right to appear before the
705 appropriate legislative committee to urge a revision of the budget
706 to restore the item reduced or eliminated. Beginning with the
707 1996 fiscal year, the budget requests shall include a definition
708 of the mission of the agency, a description of the duties and
709 responsibilities of the agency, financial data relative to the
710 various programs operated by the agency and performance measures
711 associated with each program of the agency. The performance
712 measures to be contained within the agency budget request shall be
713 developed by cooperative efforts of the Legislative Budget Office,
714 the Department of Finance and Administration and the agency itself
715 and shall be approved jointly by the Legislative Budget Office and
716 the Department of Finance and Administration prior to inclusion
717 within the agency budget request. Beginning with the 1996 fiscal
718 year, the budget requests shall also include in an addendum format
719 a five-year strategic plan for the agency which shall include, but
720 not be limited to, the following items of information: (a) a
721 comprehensive mission statement, (b) performance effectiveness
722 objectives for each program of the agency for each of the five (5)
723 years covered by the plan, (c) a description of significant
724 external factors which may affect the projected levels of
725 performance, (d) a description of the agency's internal management
726 system utilized to evaluate its performance achievements in

727 relationship to the targeted performance levels, (e) an evaluation
728 by the agency of the agency's performance achievements in
729 relationship to the targeted performance levels for the two (2)
730 preceding fiscal years for which accounting records have been
731 finalized.

732 The Mississippi Home Corporation is not required to submit a
733 request for funds to pay principal and interest associated with
734 bonds issued under Section 43-33-729, and is not required to
735 submit a request for funds to pay costs set forth in the bond
736 indenture, but shall submit a request for all other items.

737 SECTION 9. Section 27-104-1, Mississippi Code of 1972, is
738 amended as follows:

739 27-104-1. The Department of Finance and Administration shall
740 be the Fiscal Management Board and shall retain all powers and
741 duties granted by law to the Fiscal Management Board. Wherever
742 the term "Fiscal Management Board" appears in any law the same
743 shall mean the Department of Finance and Administration. The
744 Executive Director of the Department of Finance and Administration
745 may assign to the appropriate division or divisions such powers
746 and duties as deemed appropriate to carry out the department's
747 lawful functions.

748 All General Fund agencies shall file a monthly report of
749 receipts, disbursements, assets, liabilities, encumbrances, and
750 fund balances with the Department of Finance and Administration on
751 or before the fifteenth day of the succeeding month. The reports
752 must contain such information and in such form as shall be
753 required by the department. Special fund agencies may be required
754 to file monthly operating statements or reports, or such agencies

755 may be required to file quarterly or annual reports. The
756 determination of the type of reports and the periods to be covered
757 by such reports shall be determined by the Department of Finance
758 and Administration.

759 The Department of Finance and Administration shall make
760 continuous and careful study of all state agencies and departments
761 and it may make recommendations to the State Legislature for
762 abolition or consolidation or creation of state agencies and
763 departments.

764 Except as otherwise provided by law, Sections 27-104-1
765 through 27-104-29 shall apply to the Mississippi Home Corporation
766 as if it were a state agency.

767 SECTION 10. Section 27-104-11, Mississippi Code of 1972, is
768 amended as follows:

769 27-104-11. No general or special funds received under state
770 law, except those for the Legislature, or those made available for
771 a special or particular purpose with the intention that they shall
772 or may be expended immediately, shall be available for expenditure
773 by the agency entitled thereto until estimates of the amount
774 required for the agency shall have been submitted to and approved
775 by the State Fiscal Officer, with copies of such estimates to be
776 furnished to the Legislative Budget Office.

777 This section does not apply to funds used by the Mississippi
778 Home Corporation to retire bonds issued in accordance with Section
779 43-33-729.

780 SECTION 11. Section 31-7-1, Mississippi Code of 1972, is
781 amended as follows:

782 31-7-1. The following terms are defined for the

783 purposes of this chapter to have the following meanings:

784 (a) "Agency" shall mean any state board, commission,
785 committee, council, university, department or unit thereof created
786 by the Constitution or statutes if such board, commission,
787 committee, council, university, department, unit or the head
788 thereof is authorized to appoint subordinate staff by the
789 Constitution or statute, except a legislative or judicial board,
790 commission, committee, council, department or unit thereof. The
791 term agency also means the Mississippi Home Corporation.

792 (b) "Governing authority" shall mean boards of
793 supervisors, governing boards of all school districts, all boards
794 of directors of public water supply districts, boards of directors
795 of master public water supply districts, municipal public utility
796 commissions, governing authorities of all municipalities, port
797 authorities, commissioners and boards of trustees of any public
798 hospitals, boards of trustees of public library systems, district
799 attorneys, school attendance officers and any political
800 subdivision of the state supported wholly or in part by public
801 funds of the state or political subdivisions thereof, including
802 commissions, boards and agencies created or operated under the
803 authority of any county or municipality of this state. The term
804 "governing authority" shall not include economic development
805 authorities supported in part by private funds, or commissions
806 appointed to hold title to and oversee the development and
807 management of lands and buildings which are donated by private
808 individuals to the public for the use and benefit of the community
809 and which are supported in part by private funds.

810 (c) "Purchasing agent" shall mean any administrator,

811 superintendent, purchase clerk or other chief officer so
812 designated having general or special authority to negotiate for
813 and make private contract for or purchase for any governing
814 authority.

815 (d) "Public funds" shall mean and include any
816 appropriated funds, special funds, fees or any other emoluments
817 received by an agency or governing authority.

818 (e) "Commodities" shall mean and include the various
819 commodities, goods, merchandise, furniture, equipment, automotive
820 equipment of every kind, and other personal property purchased by
821 the agencies of the state and governing authorities, but not
822 commodities purchased for resale or raw materials converted into
823 products for resale.

824 (f) "Office of General Services" shall mean the
825 Department of Finance and Administration. Provided that when
826 purchases are made for the Legislature or functions under its
827 jurisdiction, it shall mean the Legislative Budget Office.

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

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

836 (i) "Emergency" shall mean any circumstances caused by
837 fire, flood, explosion, storm, earthquake, epidemic, riot,
838 insurrection or caused by any inherent defect due to defective

839 construction, or when the immediate preservation of order or of
840 public health is necessary by reason of unforeseen emergency, or
841 when the immediate restoration of a condition of usefulness of any
842 public building, equipment, road or bridge appears advisable, or
843 in the case of a public utility when there is a failure of any
844 machine or other thing used and useful in the generation,
845 production or distribution of electricity, water or natural gas,
846 or in the transportation or treatment of sewage; or when the delay
847 incident to obtaining competitive bids could cause adverse impact
848 upon the governing authorities or agency, its employees or its
849 citizens; or in the case of a public airport, when the delay
850 incident to publishing an advertisement for competitive bids would
851 endanger public safety in a specific (not general) manner, result
852 in or perpetuate a specific breach of airport security, or prevent
853 the airport from providing specific air transportation services.

854 SECTION 12. This act shall take effect and be in force from
855 and after July 1, 2000.