

By: Representative Wallace

To: Appropriations

HOUSE BILL NO. 500

1 AN ACT TO REQUIRE ENTITIES THAT ENTER CONTRACTS WITH THE  
 2 STATE OR POLITICAL SUBDIVISIONS OF THE STATE FOR MORE THAN  
 3 \$100,000.00 OF BUSINESS IN ANY FISCAL YEAR TO FILE A  
 4 SUBCONTRACTING PLAN WITH THE STATE OUTLINING HOW THE ENTITY PLANS  
 5 TO UTILIZE MINORITY-OWNED BUSINESSES IN THE BUSINESS TO BE  
 6 CONDUCTED WITH THE STATE OR POLITICAL SUBDIVISION; TO PROHIBIT THE  
 7 STATE AND POLITICAL SUBDIVISIONS FROM CONDUCTING ANY BUSINESS  
 8 UNDER ANY SUCH CONTRACT UNTIL THE ENTITY HAS FILED THE REQUIRED  
 9 PLAN; TO AMEND SECTIONS 25-53-5, 25-53-125, 31-7-12, 31-7-13 AND  
 10 31-7-38, MISSISSIPPI CODE OF 1972, IN CONFORMITY WITH THE  
 11 PRECEDING PROVISIONS; AND FOR RELATED PURPOSES.

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

13 SECTION 1. (1) Each individual, corporation, partnership,  
 14 association, organization or other entity that enters a new  
 15 contract or renews an existing contract to conduct business with  
 16 the State of Mississippi or any agency, department, institution or  
 17 political subdivision of the state, in an amount that will or is  
 18 reasonably anticipated to exceed One Hundred Thousand Dollars  
 19 (\$100,000.00) in any fiscal year of the state or the political  
 20 subdivision with which the business is to be conducted, shall file  
 21 with the Department of Finance and Administration in the case a  
 22 contract with the state or with the State Auditor in the case a  
 23 contract with a political subdivision, a subcontracting plan that  
 24 outlines the manner in which the entity plans to utilize the  
 25 services of minority-owned businesses in the business to be  
 26 conducted with the state or political subdivision, and that  
 27 includes a goal for the utilization of the services of  
 28 minority-owned businesses expressed as a percentage of the total  
 29 business to be conducted under the contract. The entity shall  
 30 file the plan required by this section before it may conduct any  
 31 business under the contract with the state or political



32 subdivision with which the entity has the contract. The state and  
33 each political subdivision of the state having a contract with an  
34 entity for which the plan required by this section must be filed  
35 shall be prohibited from conducting any business under the  
36 contract until the entity has filed the plan.

37 (2) For the purposes of this section, the term  
38 "minority-owned business" means a business that is owned by a  
39 majority of persons who are United States citizens or permanent  
40 resident aliens (as defined by the Immigration and Naturalization  
41 Service) of the United States and who are:

42 (a) Asian, which means persons having origins in any of  
43 the original people of the Far East, Southeast Asia, the Indian  
44 subcontinent, or the Pacific Islands;

45 (b) Black, which means persons having origins in any  
46 black racial group of Africa;

47 (c) Hispanic, which means persons of Spanish or  
48 Portuguese culture with origins in Mexico, South or Central  
49 America, or the Caribbean Islands, regardless of race;

50 (d) Native American, which means persons having origins  
51 in any of the original people of North America, including American  
52 Indians, Eskimos and Aleuts;

53 (e) Female; or

54 (f) Any combination of the persons listed in paragraphs  
55 (a) through (e) of this subsection.

56 SECTION 2. Section 25-53-5, Mississippi Code of 1972, is  
57 amended as follows:

58 25-53-5. The authority shall have the following powers,  
59 duties, and responsibilities:

60 (a) The authority shall provide for the development of  
61 plans for the efficient acquisition and utilization of computer  
62 equipment and services by all agencies of state government, and  
63 provide for their implementation. In so doing, the authority may  
64 use the MDITS staff, at the discretion of the executive director



65 of the authority, or the authority may contract for the services  
66 of qualified consulting firms in the field of information  
67 technology and utilize the service of such consultants as may be  
68 necessary for such purposes.

69 (b) The authority shall immediately institute  
70 procedures for carrying out the purposes of this chapter and  
71 supervise the efficient execution of the powers and duties of the  
72 office of executive director of the authority. In the execution  
73 of its functions under this chapter, the authority shall maintain  
74 as a paramount consideration the successful internal organization  
75 and operation of the several agencies so that efficiency existing  
76 therein shall not be adversely affected or impaired. In executing  
77 its functions in relation to the institutions of higher learning  
78 and junior colleges in the state, the authority shall take into  
79 consideration the special needs of such institutions in relation  
80 to the fields of teaching and scientific research.

81 (c) Title of whatever nature of all computer equipment  
82 now vested in any agency of the State of Mississippi is hereby  
83 vested in the authority, and no such equipment shall be disposed  
84 of in any manner except in accordance with the direction of the  
85 authority or under the provisions of such rules and regulations as  
86 may hereafter be adopted by the authority in relation thereto.

87 (d) The authority shall adopt rules, regulations, and  
88 procedures governing the acquisition of computer and  
89 telecommunications equipment and services which shall, to the  
90 fullest extent practicable, insure the maximum of competition  
91 between all manufacturers of supplies or equipment or services.  
92 In the writing of specifications, in the making of contracts  
93 relating to the acquisition of such equipment and services, and in  
94 the performance of its other duties the authority shall provide  
95 for the maximum compatibility of all information systems hereafter  
96 installed or utilized by all state agencies and may require the  
97 use of common computer languages where necessary to accomplish the



98 purposes of this chapter. The authority may establish by  
99 regulation and charge reasonable fees on a nondiscriminatory basis  
100 for the furnishing to bidders of copies of bid specifications and  
101 other documents issued by the authority.

102 (e) The authority shall adopt rules and regulations  
103 governing the sharing with, or the sale or lease of information  
104 technology services to any nonstate agency or person. Such  
105 regulations shall provide that any such sharing, sale, or lease  
106 shall be restricted in that same shall be accomplished only where  
107 such services are not readily available otherwise within the  
108 state, and then only at a charge to the user not less than the  
109 prevailing rate of charge for similar services by private  
110 enterprise within this state.

111 (f) The authority may, in its discretion, establish a  
112 special technical advisory committee or committees to study and  
113 make recommendations on technology matters within the competence  
114 of the authority as the authority may see fit. Persons serving on  
115 the Information Resource Council, its task forces, or any such  
116 technical advisory committees shall be entitled to receive their  
117 actual and necessary expenses actually incurred in the performance  
118 of such duties, together with mileage as provided by law for state  
119 employees, provided the same has been authorized by a resolution  
120 duly adopted by the authority and entered on its minutes prior to  
121 the performance of such duties.

122 (g) The authority may provide for the development and  
123 require the adoption of standardized computer programs and may  
124 provide for the dissemination of information to and the  
125 establishment of training programs for the personnel of the  
126 various information technology centers of state agencies and  
127 personnel of the agencies utilizing the services thereof.

128 (h) The authority shall adopt reasonable rules and  
129 regulations requiring the reporting to the authority through the  
130 office of executive director of such information as may be



131 required for carrying out the purposes of this chapter and may  
132 also establish such reasonable procedures to be followed in the  
133 presentation of bills for payment under the terms of all contracts  
134 for the acquisition of computer equipment and services now or  
135 hereafter in force as may be required by the authority or by the  
136 executive director in the execution of their powers and duties.

137 (i) The authority shall require such adequate  
138 documentation of information technology procedures utilized by the  
139 various state agencies and may require the establishment of such  
140 organizational structures within state agencies relating to  
141 information technology operations as may be necessary to  
142 effectuate the purposes of this chapter.

143 (j) The authority may adopt such further reasonable  
144 rules and regulations as may be necessary to fully implement the  
145 purposes of this chapter. All rules and regulations adopted by  
146 the authority shall be published and disseminated in readily  
147 accessible form to all affected state agencies, and to all current  
148 suppliers of computer equipment and services to the state, and to  
149 all prospective suppliers requesting the same. Such rules and  
150 regulations shall be kept current, be periodically revised, and  
151 copies thereof shall be available at all times for inspection by  
152 the public at reasonable hours in the offices of the authority.  
153 Whenever possible no rule, regulation or any proposed amendment to  
154 such rules and regulations shall be finally adopted or enforced  
155 until copies of said proposed rules and regulations have been  
156 furnished to all interested parties for their comment and  
157 suggestions.

158 (k) The authority shall establish rules and regulations  
159 which shall provide for the submission of all contracts proposed  
160 to be executed by the executive director for computer equipment or  
161 services to the authority for approval before final execution, and  
162 the authority may provide that such contracts involving the  
163 expenditure of less than such specified amount as may be



164 established by the authority may be finally executed by the  
165 executive director without first obtaining such approval by the  
166 authority.

167 (l) The authority is authorized to purchase, lease, or  
168 rent computer equipment or services and to operate said equipment  
169 and utilize said services in providing services to one or more  
170 state agencies when in its opinion such operation will provide  
171 maximum efficiency and economy in the functions of any such agency  
172 or agencies.

173 (m) The authority shall assist political subdivisions  
174 and instrumentalities in their development of plans for the  
175 efficient acquisition and utilization of computer equipment and  
176 services. An appropriate fee shall be charged the political  
177 subdivision by the authority for such assistance.

178 (n) The authority shall adopt rules and regulations  
179 governing the protest procedures to be followed by any actual or  
180 prospective bidder, offerer or contractor who is aggrieved in  
181 connection with the solicitation or award of a contract for the  
182 acquisition of computer equipment or services. Such rules and  
183 regulations shall prescribe the manner, time and procedure for  
184 making protests and may provide that a protest not timely filed  
185 shall be summarily denied. The authority may require the  
186 protesting party, at the time of filing the protest, to post a  
187 bond, payable to the state, in an amount that the authority  
188 determines sufficient to cover any expense or loss incurred by the  
189 state, the authority or any state agency as a result of the  
190 protest if the protest subsequently is determined by a court of  
191 competent jurisdiction to have been filed without any substantial  
192 basis or reasonable expectation to believe that the protest was  
193 meritorious; however, in no event may the amount of the bond  
194 required exceed a reasonable estimate of the total project cost.  
195 The authority, in its discretion, also may prohibit any  
196 prospective bidder, offerer or contractor who is a party to any



197 litigation involving any such contract with the state, the  
198 authority or any agency of the state to participate in any other  
199 such bid, offer or contract, or to be awarded any such contract,  
200 during the pendency of the litigation.

201 (o) The authority shall make a report in writing to the  
202 Legislature each year in the month of January. Such report shall  
203 contain a full and detailed account of the work of the authority  
204 for the preceding year as specified in Section 25-53-29(3).

205 All acquisitions of computer equipment and services involving  
206 the expenditure of funds in excess of the dollar amount  
207 established in Section 31-7-13(c), or rentals or leases in excess  
208 of the dollar amount established in Section 31-7-13(c) for the  
209 term of the contract, shall be based upon competitive and open  
210 specifications, and contracts therefor shall be entered into only  
211 after advertisements for bids are published in one or more daily  
212 newspapers having a general circulation in the state not less than  
213 fourteen (14) days prior to receiving sealed bids therefor. The  
214 authority may reserve the right to reject any or all bids, and if  
215 all bids are rejected, the authority may negotiate a contract  
216 within the limitations of the specifications so long as the terms  
217 of any such negotiated contract are equal to or better than the  
218 comparable terms submitted by the lowest and best bidder, and so  
219 long as the total cost to the State of Mississippi does not exceed  
220 the lowest bid. If the authority accepts one (1) of such bids, it  
221 shall be that which is the lowest and best.

222 Contracts for the acquisition of computer equipment and  
223 services shall be subject to the provisions of Section 1 of this  
224 act.

225 (p) When applicable, the authority may procure  
226 equipment, systems and related services in accordance with the law  
227 or regulations, or both, which govern the Bureau of Purchasing of  
228 the Office of General Services or which govern the Mississippi



229 Department of Information Technology Services procurement of  
230 telecommunications equipment, software and services.

231 (q) The authority is authorized to purchase, lease, or  
232 rent information technology and services for the purpose of  
233 establishing pilot projects to investigate emerging technologies.  
234 These acquisitions shall be limited to new technologies and shall  
235 be limited to an amount set by annual appropriation of the  
236 Legislature. These acquisitions shall be exempt from the  
237 advertising and bidding requirement.

238 (r) All fees collected by the Mississippi Department of  
239 Information Technology Services shall be deposited into the  
240 Mississippi Department of Information Technology Services  
241 Revolving Fund unless otherwise specified by the Legislature.

242 SECTION 3. Section 25-53-125, Mississippi Code of 1972, is  
243 amended as follows:

244 25-53-125. The following general provisions shall apply to  
245 all procurements under Sections 25-53-101 through 25-53-125:

246 (a) No contracts entered into hereunder shall have an  
247 initial effective date earlier than the date on which such  
248 contract receives approval as required herein.

249 (b) All changes, modifications and amendments to any  
250 contract hereunder shall be approved in advance by the bureau, in  
251 addition to any other approvals required by law.

252 (c) The bureau shall promulgate rules and regulations  
253 in accordance with the Administrative Procedure Act, Section  
254 25-43-1 et seq. for the establishment of contract format.

255 (d) Where written proposals or bids are submitted by  
256 vendors, the proposal or bid of the successful vendor shall be  
257 incorporated into the final contract consummated with that vendor.

258 (e) The provisions of Sections 25-53-101 through  
259 25-53-125 shall, with respect to the procurement of  
260 telecommunications equipment, systems or related services,  
261 supersede specifications of any contradictory or conflicting





262 provisions of Chapter 7, Title 31, Mississippi Code of 1972, and  
263 other laws with respect to awarding public contracts.

264 (f) Contracts for the procurement of telecommunications  
265 equipment, systems or related services shall be subject to the  
266 provisions of Section 1 of this act.

267 SECTION 4. Section 31-7-12, Mississippi Code of 1972, is  
268 amended as follows:

269 31-7-12. (1) Except in regard to purchases of unmarked  
270 vehicles made in accordance with purchasing regulations adopted by  
271 the Department of Finance and Administration pursuant to Section  
272 31-7-9(2), all agencies shall purchase commodities at the state  
273 contract price from the approved source, unless approval is  
274 granted by the Department of Finance and Administration to solicit  
275 purchases outside the terms of the contracts. However, prices  
276 accepted by an agency shall be less than the prices set by the  
277 state contract. Prices accepted by an agency shall be obtained in  
278 compliance with paragraph (a), (b) or (c) of Section 31-7-13. It  
279 shall be the responsibility of the Department of Finance and  
280 Administration to ascertain that the resulting prices shall  
281 provide a cost effective alternative to the established state  
282 contract.

283 (2) Governing authorities may purchase commodities approved  
284 by the Department of Finance and Administration from the state  
285 contract vendor, or from any source offering the identical  
286 commodity, at a price not exceeding the state contract price  
287 established by the Department of Finance and Administration for  
288 such commodity, without obtaining or advertising for competitive  
289 bids. Governing authorities that do not exercise the option to  
290 purchase such commodities from the state contract vendor or from  
291 another source offering the identical commodity at a price not  
292 exceeding the state contract price established by the Department  
293 of Finance and Administration shall make such purchases pursuant  
294 to the provisions of Section 31-7-13 without regard to state



295 contract prices established by the Department of Finance and  
296 Administration, unless such purchases are authorized to be made  
297 under subsection (5) of this section.

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

303 (4) The Department of Finance and Administration shall  
304 ensure that the prices of all commodities on the state contract  
305 are the lowest and best prices available from any source offering  
306 that commodity at the same level of quality or service, utilizing  
307 the reasonable standards established therefor by the Department of  
308 Finance and Administration. If the Department of Finance and  
309 Administration does not list an approved price for the particular  
310 item involved, purchase shall be made according to statutory  
311 bidding and licensing requirements. To encourage prudent  
312 purchasing practices, the Department of Finance and Administration  
313 shall be authorized and empowered to exempt certain commodities  
314 from the requirement that the lowest and best price be approved by  
315 order placed on its minutes. Contracts between the Department of  
316 Finance and Administration and state contract vendors shall be  
317 subject to the provisions of Section 1 of this act.

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



328 SECTION 5. Section 31-7-13, Mississippi Code of 1972, is  
329 amended as follows:

330 31-7-13. All agencies and governing authorities shall  
331 purchase their commodities and printing; contract for garbage  
332 collection or disposal; contract for solid waste collection or  
333 disposal; contract for sewage collection or disposal; contract for  
334 public construction; and contract for rentals as herein provided.

335 (a) **Bidding procedure for purchases not over \$1,500.00.**  
336 Purchases which do not involve an expenditure of more than One  
337 Thousand Five Hundred Dollars (\$1,500.00), exclusive of freight or  
338 shipping charges, may be made without advertising or otherwise  
339 requesting competitive bids. Provided, however, that nothing  
340 contained in this paragraph (a) shall be construed to prohibit any  
341 agency or governing authority from establishing procedures which  
342 require competitive bids on purchases of One Thousand Five Hundred  
343 Dollars (\$1,500.00) or less.

344 (b) **Bidding procedure for purchases over \$1,500.00 but**  
345 **not over \$10,000.00.** Purchases which involve an expenditure of  
346 more than One Thousand Five Hundred Dollars (\$1,500.00) but not  
347 more than Ten Thousand Dollars (\$10,000.00), exclusive of freight  
348 and shipping charges may be made from the lowest and best bidder  
349 without publishing or posting advertisement for bids, provided at  
350 least two (2) competitive written bids have been obtained. Any  
351 governing authority purchasing commodities pursuant to this  
352 paragraph (b) may authorize its purchasing agent, or his designee,  
353 with regard to governing authorities other than counties, or its  
354 purchase clerk, or his designee, with regard to counties, to  
355 accept the lowest and best competitive written bid. Such  
356 authorization shall be made in writing by the governing authority  
357 and shall be maintained on file in the primary office of the  
358 agency and recorded in the official minutes of the governing  
359 authority, as appropriate. The purchasing agent or the purchase  
360 clerk, or their designee, as the case may be, and not the



361 governing authority, shall be liable for any penalties and/or  
362 damages as may be imposed by law for any act or omission of the  
363 purchasing agent or purchase clerk, or their designee,  
364 constituting a violation of law in accepting any bid without  
365 approval by the governing authority. The term "competitive  
366 written bid" shall mean a bid submitted on a bid form furnished by  
367 the buying agency or governing authority and signed by authorized  
368 personnel representing the vendor, or a bid submitted on a  
369 vendor's letterhead or identifiable bid form and signed by  
370 authorized personnel representing the vendor. Bids may be  
371 submitted by facsimile, electronic mail or other generally  
372 accepted method of information distribution. Bids submitted by  
373 electronic transmission shall not require the signature of the  
374 vendor's representative unless required by agencies or governing  
375 authorities.

376 (c) **Bidding procedure for purchases over \$10,000.00.**

377 (i) **Publication requirement.** Purchases which  
378 involve an expenditure of more than Ten Thousand Dollars  
379 (\$10,000.00), exclusive of freight and shipping charges may be  
380 made from the lowest and best bidder after advertising for  
381 competitive sealed bids once each week for two (2) consecutive  
382 weeks in a regular newspaper published in the county or  
383 municipality in which such agency or governing authority is  
384 located. The date as published for the bid opening shall not be  
385 less than seven (7) working days after the last published notice;  
386 however, if the purchase involves a construction project in which  
387 the estimated cost is in excess of Fifteen Thousand Dollars  
388 (\$15,000.00), such bids shall not be opened in less than fifteen  
389 (15) working days after the last notice is published and the  
390 notice for the purchase of such construction shall be published  
391 once each week for two (2) consecutive weeks. The notice of  
392 intention to let contracts or purchase equipment shall state the  
393 time and place at which bids shall be received, list the contracts



394 to be made or types of equipment or supplies to be purchased, and,  
395 if all plans and/or specifications are not published, refer to the  
396 plans and/or specifications on file. If there is no newspaper  
397 published in the county or municipality, then such notice shall be  
398 given by posting same at the courthouse, or for municipalities at  
399 the city hall, and at two (2) other public places in the county or  
400 municipality, and also by publication once each week for two (2)  
401 consecutive weeks in some newspaper having a general circulation  
402 in the county or municipality in the above provided manner. On  
403 the same date that the notice is submitted to the newspaper for  
404 publication, the agency or governing authority involved shall mail  
405 written notice to, or provide electronic notification to the main  
406 office of the Mississippi Contract Procurement Center that  
407 contains the same information as that in the published notice.

408           (ii) **Bidding process amendment procedure.** If all  
409 plans and/or specifications are published in the notification,  
410 then the plans and/or specifications may not be amended. If all  
411 plans and/or specifications are not published in the notification,  
412 then amendments to the plans/specifications, bid opening date, bid  
413 opening time and place may be made, provided that the agency or  
414 governing authority maintains a list of all prospective bidders  
415 who are known to have received a copy of the bid documents and all  
416 such prospective bidders are sent copies of all amendments. This  
417 notification of amendments may be made via mail, facsimile,  
418 electronic mail or other generally accepted method of information  
419 distribution. No addendum to bid specifications may be issued  
420 within forty-eight (48) working hours of the time established for  
421 the receipt of bids unless such addendum also amends the bid  
422 opening to a date not less than five (5) working days after the  
423 date of the addendum.

424           (iii) **Filing requirement.** In all cases involving  
425 governing authorities, before the notice shall be published or  
426 posted, the plans or specifications for the construction or



427 equipment being sought shall be filed with the clerk of the board  
428 of the governing authority. In addition to these requirements, a  
429 bid file shall be established which shall indicate those vendors  
430 to whom such solicitations and specifications were issued, and  
431 such file shall also contain such information as is pertinent to  
432 the bid.

433                   (iv) **Specification restrictions.** Specifications  
434 pertinent to such bidding shall be written so as not to exclude  
435 comparable equipment of domestic manufacture. Provided, however,  
436 that should valid justification be presented, the Department of  
437 Finance and Administration or the board of a governing authority  
438 may approve a request for specific equipment necessary to perform  
439 a specific job. Further, such justification, when placed on the  
440 minutes of the board of a governing authority, may serve as  
441 authority for that governing authority to write specifications to  
442 require a specific item of equipment needed to perform a specific  
443 job. In addition to these requirements, from and after July 1,  
444 1990, vendors of relocatable classrooms and the specifications for  
445 the purchase of such relocatable classrooms published by local  
446 school boards shall meet all pertinent regulations of the State  
447 Board of Education, including prior approval of such bid by the  
448 State Department of Education.

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

450                   (i) **Decision procedure.** Purchases may be made  
451 from the lowest and best bidder. In determining the lowest and  
452 best bid, freight and shipping charges shall be included.  
453 Life-cycle costing, total cost bids, warranties, guaranteed  
454 buy-back provisions and other relevant provisions may be included  
455 in the best bid calculation. All best bid procedures for state  
456 agencies must be in compliance with regulations established by the  
457 Department of Finance and Administration. If any governing  
458 authority accepts a bid other than the lowest bid actually  
459 submitted, it shall place on its minutes detailed calculations and



460 narrative summary showing that the accepted bid was determined to  
461 be the lowest and best bid, including the dollar amount of the  
462 accepted bid and the dollar amount of the lowest bid. No agency  
463 or governing authority shall accept a bid based on items not  
464 included in the specifications.

465 (ii) **Construction project negotiations authority.**

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

471 (e) **Lease-purchase authorization.** For the purposes of  
472 this section, the term "equipment" shall mean equipment, furniture  
473 and, if applicable, associated software and other applicable  
474 direct costs associated with the acquisition. Any lease-purchase  
475 of equipment which an agency is not required to lease-purchase  
476 under the master lease-purchase program pursuant to Section  
477 31-7-10 and any lease-purchase of equipment which a governing  
478 authority elects to lease-purchase may be acquired by a  
479 lease-purchase agreement under this paragraph (e). Lease-purchase  
480 financing may also be obtained from the vendor or from a  
481 third-party source after having solicited and obtained at least  
482 two (2) written competitive bids, as defined in paragraph (b) of  
483 this section, for such financing without advertising for such  
484 bids. Solicitation for the bids for financing may occur before or  
485 after acceptance of bids for the purchase of such equipment or,  
486 where no such bids for purchase are required, at any time before  
487 the purchase thereof. No such lease-purchase agreement shall be  
488 for an annual rate of interest which is greater than the overall  
489 maximum interest rate to maturity on general obligation  
490 indebtedness permitted under Section 75-17-101, and the term of  
491 such lease-purchase agreement shall not exceed the useful life of  
492 equipment covered thereby as determined according to the upper



493 limit of the asset depreciation range (ADR) guidelines for the  
494 Class Life Asset Depreciation Range System established by the  
495 Internal Revenue Service pursuant to the United States Internal  
496 Revenue Code and regulations thereunder as in effect on December  
497 31, 1980, or comparable depreciation guidelines with respect to  
498 any equipment not covered by ADR guidelines. Any lease-purchase  
499 agreement entered into pursuant to this paragraph (e) may contain  
500 any of the terms and conditions which a master lease-purchase  
501 agreement may contain under the provisions of Section 31-7-10(5),  
502 and shall contain an annual allocation dependency clause  
503 substantially similar to that set forth in Section 31-7-10(8).  
504 Each agency or governing authority entering into a lease-purchase  
505 transaction pursuant to this paragraph (e) shall maintain with  
506 respect to each such lease-purchase transaction the same  
507 information as required to be maintained by the Department of  
508 Finance and Administration pursuant to Section 31-7-10(13).  
509 However, nothing contained in this section shall be construed to  
510 permit agencies to acquire items of equipment with a total  
511 acquisition cost in the aggregate of less than Ten Thousand  
512 Dollars (\$10,000.00) by a single lease-purchase transaction. All  
513 equipment, and the purchase thereof by any lessor, acquired by  
514 lease-purchase under this paragraph and all lease-purchase  
515 payments with respect thereto shall be exempt from all Mississippi  
516 sales, use and ad valorem taxes. Interest paid on any  
517 lease-purchase agreement under this section shall be exempt from  
518 State of Mississippi income taxation.

519 (f) **Alternate bid authorization.** When necessary to  
520 ensure ready availability of commodities for public works and the  
521 timely completion of public projects, no more than two (2)  
522 alternate bids may be accepted by a governing authority for  
523 commodities. No purchases may be made through use of such  
524 alternate bids procedure unless the lowest and best bidder, for  
525 reasons beyond his control, cannot deliver the commodities





526 contained in his bid. In that event, purchases of such  
527 commodities may be made from one (1) of the bidders whose bid was  
528 accepted as an alternate.

529           (g) **Construction contract change authorization.** In the  
530 event a determination is made by an agency or governing authority  
531 after a construction contract is let that changes or modifications  
532 to the original contract are necessary or would better serve the  
533 purpose of the agency or the governing authority, such agency or  
534 governing authority may, in its discretion, order such changes  
535 pertaining to the construction that are necessary under the  
536 circumstances without the necessity of further public bids;  
537 provided that such change shall be made in a commercially  
538 reasonable manner and shall not be made to circumvent the public  
539 purchasing statutes. In addition to any other authorized person,  
540 the architect or engineer hired by an agency or governing  
541 authority with respect to any public construction contract shall  
542 have the authority, when granted by an agency or governing  
543 authority, to authorize changes or modifications to the original  
544 contract without the necessity of prior approval of the agency or  
545 governing authority when any such change or modification is less  
546 than one percent (1%) of the total contract amount. The agency or  
547 governing authority may limit the number, manner or frequency of  
548 such emergency changes or modifications.

549           (h) **Petroleum purchase alternative.** In addition to  
550 other methods of purchasing authorized in this chapter, when any  
551 agency or governing authority shall have a need for gas, diesel  
552 fuel, oils and/or other petroleum products in excess of the amount  
553 set forth in paragraph (a) of this section, such agency or  
554 governing authority may purchase the commodity after having  
555 solicited and obtained at least two (2) competitive written bids,  
556 as defined in paragraph (b) of this section. If two (2)  
557 competitive written bids are not obtained the entity shall comply  
558 with the procedures set forth in paragraph (c) of this section.



559 In the event any agency or governing authority shall have  
560 advertised for bids for the purchase of gas, diesel fuel, oils and  
561 other petroleum products and coal and no acceptable bids can be  
562 obtained, such agency or governing authority is authorized and  
563 directed to enter into any negotiations necessary to secure the  
564 lowest and best contract available for the purchase of such  
565 commodities.

566           (i) **Road construction petroleum products price**  
567 **adjustment clause authorization.** Any agency or governing  
568 authority authorized to enter into contracts for the construction,  
569 maintenance, surfacing or repair of highways, roads or streets,  
570 may include in its bid proposal and contract documents a price  
571 adjustment clause with relation to the cost to the contractor,  
572 including taxes, based upon an industry-wide cost index, of  
573 petroleum products including asphalt used in the performance or  
574 execution of the contract or in the production or manufacture of  
575 materials for use in such performance. Such industry-wide index  
576 shall be established and published monthly by the Mississippi  
577 Department of Transportation with a copy thereof to be mailed,  
578 upon request, to the clerks of the governing authority of each  
579 municipality and the clerks of each board of supervisors  
580 throughout the state. The price adjustment clause shall be based  
581 on the cost of such petroleum products only and shall not include  
582 any additional profit or overhead as part of the adjustment. The  
583 bid proposals or document contract shall contain the basis and  
584 methods of adjusting unit prices for the change in the cost of  
585 such petroleum products.

586           (j) **State agency emergency purchase procedure.** If the  
587 executive head of any agency of the state shall determine that an  
588 emergency exists in regard to the purchase of any commodities or  
589 repair contracts, so that the delay incident to giving opportunity  
590 for competitive bidding would be detrimental to the interests of  
591 the state, then the provisions herein for competitive bidding



592 shall not apply and the head of such agency shall be authorized to  
593 make the purchase or repair. Total purchases so made shall only  
594 be for the purpose of meeting needs created by the emergency  
595 situation. In the event such executive head is responsible to an  
596 agency board, at the meeting next following the emergency  
597 purchase, documentation of the purchase, including a description  
598 of the commodity purchased, the purchase price thereof and the  
599 nature of the emergency shall be presented to the board and placed  
600 on the minutes of the board of such agency. The head of such  
601 agency shall, at the earliest possible date following such  
602 emergency purchase, file with the Department of Finance and  
603 Administration (i) a statement under oath certifying the  
604 conditions and circumstances of the emergency, and (ii) a  
605 certified copy of the appropriate minutes of the board of such  
606 agency, if applicable.

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

608 If the governing authority, or the governing authority acting  
609 through its designee, shall determine that an emergency exists in  
610 regard to the purchase of any commodities or repair contracts, so  
611 that the delay incident to giving opportunity for competitive  
612 bidding would be detrimental to the interest of the governing  
613 authority, then the provisions herein for competitive bidding  
614 shall not apply and any officer or agent of such governing  
615 authority having general or special authority therefor in making  
616 such purchase or repair shall approve the bill presented therefor,  
617 and he shall certify in writing thereon from whom such purchase  
618 was made, or with whom such a repair contract was made. At the  
619 board meeting next following the emergency purchase or repair  
620 contract, documentation of the purchase or repair contract,  
621 including a description of the commodity purchased, the price  
622 thereof and the nature of the emergency shall be presented to the  
623 board and shall be placed on the minutes of the board of such  
624 governing authority.



625           (1) **Hospital purchase or lease authorization.** The  
626 commissioners or board of trustees of any hospital owned or owned  
627 and operated separately or jointly by one or more counties,  
628 cities, towns, supervisors districts or election districts, or  
629 combinations thereof, may contract with such lowest and best  
630 bidder for the purchase or lease of any commodity under a contract  
631 of purchase or lease-purchase agreement whose obligatory terms do  
632 not exceed five (5) years. In addition to the authority granted  
633 herein, the commissioners or board of trustees are authorized to  
634 enter into contracts for the lease of equipment or services, or  
635 both, which it considers necessary for the proper care of patients  
636 if, in its opinion, it is not financially feasible to purchase the  
637 necessary equipment or services. Any such contract for the lease  
638 of equipment or services executed by the commissioners or board  
639 shall not exceed a maximum of five (5) years' duration and shall  
640 include a cancellation clause based on unavailability of funds.  
641 If such cancellation clause is exercised, there shall be no  
642 further liability on the part of the lessee.

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

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

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



658 labor and costs therefor shall be required for the payment for  
659 such repairs.

660 (iii) **In-house equipment repairs.** Purchases of  
661 parts for repairs to equipment, when such repairs are made by  
662 personnel of the agency or governing authority; however, entire  
663 assemblies, such as engines or transmissions, shall not be  
664 included in this exemption when the entire assembly is being  
665 replaced instead of being repaired.

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

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

678 (vi) **Intergovernmental sales and transfers.**  
679 Purchases, sales, transfers or trades by governing authorities or  
680 state agencies when such purchases, sales, transfers or trades are  
681 made by a private treaty agreement or through means of  
682 negotiation, from any federal agency or authority, another  
683 governing authority or state agency of the State of Mississippi,  
684 or any state agency of another state. Nothing in this section  
685 shall permit such purchases through public auction except as  
686 provided for in subparagraph (v) of this section. It is the  
687 intent of this section to allow governmental entities to dispose  
688 of and/or purchase commodities from other governmental entities at  
689 a price that is agreed to by both parties. This shall allow for  
690 purchases and/or sales at prices which may be determined to be



691 below the market value if the selling entity determines that the  
692 sale at below market value is in the best interest of the  
693 taxpayers of the state. Governing authorities shall place the  
694 terms of the agreement and any justification on the minutes, and  
695 state agencies shall obtain approval from the Department of  
696 Finance and Administration, prior to releasing or taking  
697 possession of the commodities.

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

702 (viii) **Single source items.** Noncompetitive items  
703 available from one (1) source only. In connection with the  
704 purchase of noncompetitive items only available from one (1)  
705 source, a certification of the conditions and circumstances  
706 requiring the purchase shall be filed by the agency with the  
707 Department of Finance and Administration and by the governing  
708 authority with the board of the governing authority. Upon receipt  
709 of that certification the Department of Finance and Administration  
710 or the board of the governing authority, as the case may be, may,  
711 in writing, authorize the purchase, which authority shall be noted  
712 on the minutes of the body at the next regular meeting thereafter.  
713 In those situations, a governing authority is not required to  
714 obtain the approval of the Department of Finance and  
715 Administration.

716 (ix) **Waste disposal facility construction**  
717 **contracts.** Construction of incinerators and other facilities for  
718 disposal of solid wastes in which products either generated  
719 therein, such as steam, or recovered therefrom, such as materials  
720 for recycling, are to be sold or otherwise disposed of; provided,  
721 however, in constructing such facilities a governing authority or  
722 agency shall publicly issue requests for proposals, advertised for  
723 in the same manner as provided herein for seeking bids for public



724 construction projects, concerning the design, construction,  
725 ownership, operation and/or maintenance of such facilities,  
726 wherein such requests for proposals when issued shall contain  
727 terms and conditions relating to price, financial responsibility,  
728 technology, environmental compatibility, legal responsibilities  
729 and such other matters as are determined by the governing  
730 authority or agency to be appropriate for inclusion; and after  
731 responses to the request for proposals have been duly received,  
732 the governing authority or agency may select the most qualified  
733 proposal or proposals on the basis of price, technology and other  
734 relevant factors and from such proposals, but not limited to the  
735 terms thereof, negotiate and enter contracts with one or more of  
736 the persons or firms submitting proposals.

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

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

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

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



756                   (xiv)   **Library books and other reference materials.**  
757 Purchases by libraries or for libraries of books and periodicals;  
758 processed film, video cassette tapes, filmstrips and slides;  
759 recorded audio tapes, cassettes and diskettes; and any such items  
760 as would be used for teaching, research or other information  
761 distribution; however, equipment such as projectors, recorders,  
762 audio or video equipment, and monitor televisions are not exempt  
763 under this subparagraph.

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

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

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

778                   (xviii)   **Purchases of prison industry products.**  
779 From and after January 1, 1991, purchases made by state agencies  
780 or governing authorities involving any item that is manufactured,  
781 processed, grown or produced from the state's prison industries.

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

787                   (xx)   **Junior college books for rent.** Purchases by  
788 community or junior colleges of textbooks which are obtained for





789 the purpose of renting such books to students as part of a book  
790 service system.

791 (xxi) **Certain school district purchases.**

792 Purchases of commodities made by school districts from vendors  
793 with which any levying authority of the school district, as  
794 defined in Section 37-57-1, has contracted through competitive  
795 bidding procedures for purchases of the same commodities.

796 (xxii) **Garbage, solid waste and sewage contracts.**

797 Contracts for garbage collection or disposal, contracts for solid  
798 waste collection or disposal and contracts for sewage collection  
799 or disposal.

800 (xxiii) **Municipal water tank maintenance**

801 **contracts.** Professional maintenance program contracts for the  
802 repair or maintenance of municipal water tanks, which provide  
803 professional services needed to maintain municipal water storage  
804 tanks for a fixed annual fee for a duration of two (2) or more  
805 years.

806 (xxiv) **Purchases of Mississippi Industries for the**

807 **Blind products.** Purchases made by state agencies or governing  
808 authorities involving any item that is manufactured, processed or  
809 produced by the Mississippi Industries for the Blind.

810 (xxv) **Purchases of state-adopted textbooks.**

811 Purchases of state-adopted textbooks by public school districts.

812 (xxvi) **Certain purchases under the Mississippi**

813 **Major Economic Impact Act.** Contracts entered into pursuant to the  
814 provisions of Section 57-75-9(2) and (3).

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

817 (i) All contracts for the purchase of commodities,  
818 equipment and public construction (including, but not limited to,  
819 repair and maintenance), may be let for periods of not more than  
820 sixty (60) months in advance, subject to applicable statutory  
821 provisions prohibiting the letting of contracts during specified



822 periods near the end of terms of office. Term contracts for a  
823 period exceeding twenty-four (24) months shall also be subject to  
824 ratification or cancellation by governing authority boards taking  
825 office subsequent to the governing authority board entering the  
826 contract.

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

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

853 (p) **Electrical utility petroleum-based equipment**  
854 **purchase procedure.** When in response to a proper advertisement



855 therefor, no bid firm as to price is submitted to an electric  
856 utility for power transformers, distribution transformers, power  
857 breakers, reclosers or other articles containing a petroleum  
858 product, the electric utility may accept the lowest and best bid  
859 therefor although the price is not firm.

860           (q) **Fuel management system bidding procedure.** Any  
861 governing authority or agency of the state shall, before  
862 contracting for the services and products of a fuel management or  
863 fuel access system, enter into negotiations with not fewer than  
864 two (2) sellers of fuel management or fuel access systems for  
865 competitive written bids to provide the services and products for  
866 the systems. In the event that the governing authority or agency  
867 cannot locate two (2) sellers of such systems or cannot obtain  
868 bids from two (2) sellers of such systems, it shall show proof  
869 that it made a diligent, good-faith effort to locate and negotiate  
870 with two (2) sellers of such systems. Such proof shall include,  
871 but not be limited to, publications of a request for proposals and  
872 letters soliciting negotiations and bids. For purposes of this  
873 paragraph (q), a fuel management or fuel access system is an  
874 automated system of acquiring fuel for vehicles as well as  
875 management reports detailing fuel use by vehicles and drivers, and  
876 the term "competitive written bid" shall have the meaning as  
877 defined in paragraph (b) of this section. Governing authorities  
878 and agencies shall be exempt from this process when contracting  
879 for the services and products of a fuel management or fuel access  
880 systems under the terms of a state contract established by the  
881 Office of Purchasing and Travel.

882           (r) **Solid waste contract proposal procedure.** Before  
883 entering into any contract for garbage collection or disposal,  
884 contract for solid waste collection or disposal or contract for  
885 sewage collection or disposal, which involves an expenditure of  
886 more than Fifty Thousand Dollars (\$50,000.00), a governing  
887 authority or agency shall issue publicly a request for proposals



888 concerning the specifications for such services which shall be  
889 advertised for in the same manner as provided in this section for  
890 seeking bids for purchases which involve an expenditure of more  
891 than Ten Thousand Dollars (\$10,000.00). Any request for proposals  
892 when issued shall contain terms and conditions relating to price,  
893 financial responsibility, technology, legal responsibilities and  
894 other relevant factors as are determined by the governing  
895 authority or agency to be appropriate for inclusion; all factors  
896 determined relevant by the governing authority or agency or  
897 required by this paragraph (r) shall be duly included in the  
898 advertisement to elicit proposals. After responses to the request  
899 for proposals have been duly received, the governing authority or  
900 agency shall select the most qualified proposal or proposals on  
901 the basis of price, technology and other relevant factors and from  
902 such proposals, but not limited to the terms thereof, negotiate  
903 and enter contracts with one or more of the persons or firms  
904 submitting proposals. If the governing authority or agency deems  
905 none of the proposals to be qualified or otherwise acceptable, the  
906 request for proposals process may be reinitiated. Notwithstanding  
907 any other provisions of this paragraph, where a county with at  
908 least thirty-five thousand (35,000) nor more than forty thousand  
909 (40,000) population, according to the 1990 federal decennial  
910 census, owns or operates a solid waste landfill, the governing  
911 authorities of any other county or municipality may contract with  
912 the governing authorities of the county owning or operating the  
913 landfill, pursuant to a resolution duly adopted and spread upon  
914 the minutes of each governing authority involved, for garbage or  
915 solid waste collection or disposal services through contract  
916 negotiations.

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



921 anticipated annual expenditures for the purchase of commodities  
922 from minority businesses; however, all such set-aside purchases  
923 shall comply with all purchasing regulations promulgated by the  
924 Department of Finance and Administration and shall be subject to  
925 bid requirements under this section. Set-aside purchases for  
926 which competitive bids are required shall be made from the lowest  
927 and best minority business bidder. For the purposes of this  
928 paragraph, the term "minority business" means a business which is  
929 owned by a majority of persons who are United States citizens or  
930 permanent resident aliens (as defined by the Immigration and  
931 Naturalization Service) of the United States, and who are Asian,  
932 Black, Hispanic or Native American, according to the following  
933 definitions:

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

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

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

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

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



953           (u) Contracts subject to Section 1 of this act.  
954 Contracts by agencies and governing authorities under this chapter  
955 shall be subject to the provisions of Section 1 of this act.

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

959           SECTION 6. Section 31-7-38, Mississippi Code of 1972, is  
960 amended as follows:

961           31-7-38. The commissioners or board of trustees of any  
962 hospital owned or owned and operated separately or jointly by one  
963 or more counties, cities, towns, supervisors districts or election  
964 districts, or combinations thereof, may authorize by resolution  
965 the organization and operation of, or the participation in, a  
966 group purchase program with other hospitals, for the purchase of  
967 supplies, commodities and equipment when it appears to the board  
968 of trustees that such a group purchase program could or would  
969 affect economy or efficiency in their operations. Purchases by  
970 hospitals participating in group purchasing programs of supplies,  
971 commodities and equipment through such programs shall be exempt  
972 from the provisions of Sections 31-7-12 and 31-7-13. However,  
973 group purchase program contracts shall be subject to the  
974 provisions of Section 1 of this act. This section shall stand  
975 repealed on July 1, 2005.

976           SECTION 7. This act shall take effect and be in force from  
977 and after July 1, 2001.

