

**\*\*\*Adopted\*\*\***

**AMENDMENT No. 1 PROPOSED TO**

**House Bill NO. 295**

**By Representative(s) Davis, Fillingane, Frierson, Lott,  
Moak, Pierce, Reynolds, Stringer, Warren**

1           **AMEND** by inserting the following language after line 492:

2                            (xxvii) Procurement of design and construction  
3 service by the University of Southern Mississippi for parking  
4 structures. This section does not restrict the right of the Board  
5 of Trustees of State Institutions of Higher Learning to award  
6 privately financed contracts for the design and construction of  
7 parking structures on the campus of the university as provided in  
8 Section 32-101-44.

9           **AMEND further** by inserting the following language after line  
10 633 and renumbering the succeeding section:

11           SECTION 2. The following shall be codified as Section  
12 37-101-44, Mississippi Code of 1972:

13           37-101-44. (1) In lieu of exercising the authority set  
14 forth in Section 37-101-43 and before entering into or awarding  
15 any lease under Section 37-101-41, the Board of Trustees of State  
16 Institutions of Higher Learning may award contracts to a single  
17 entity for privately financed design and construction of parking  
18 structures, provided that the entities receiving the contract or  
19 contracts and those entities to which work or services are  
20 subcontracted are duly licensed and qualified in the state to

21 perform the contract or contracts. State General Fund  
22 appropriations or bonds backed by the state may not be used to  
23 finance the construction or maintenance of any such parking  
24 structures.

25 (2) Such a design-build delivery system may be authorized  
26 only when the Board of Trustees of State Institutions of Higher  
27 Learning makes a determination, entered on its minutes, with  
28 specific findings for the project demonstrating how it is in the  
29 best interest of the public to enter into a design-build contract.

30 (3) All facilities that are governed by this section shall  
31 be designed and constructed to equal or exceed the Southern  
32 Building Code Standards in force at the time of contracting. In  
33 addition, all private contractors or private entities contracting  
34 or performing under this section must comply at all times with all  
35 applicable laws, codes and other legal requirements pertaining to  
36 the project.

37 (4) (a) A public official or employee of a state agency who  
38 has duties or responsibilities related to the contracting,  
39 constructing, leasing, acquiring or operating of a facility under  
40 this section may not become an employee, consultant or contract  
41 vendor to a private entity providing such facility or services to  
42 the state for a period of one (1) year after the date of  
43 termination of his service or employment.

44 (b) Any person violating this subsection shall be  
45 guilty of a misdemeanor and punished by a fine of not less than  
46 Five Hundred Dollars (\$500.00) nor more than One Thousand Dollars  
47 (\$1,000.00).

48 SECTION 3. Section 37-101-43, Mississippi Code of 1972, is  
49 amended as follows:

50 37-101-43. Except as otherwise authorized under Section

51 37-101-44, before entering into or awarding any such lease  
52 contract under the provisions of Section 37-101-41, the Board of  
53 Trustees of State Institutions of Higher Learning, in its  
54 discretion, may cause the interested state-supported institution  
55 upon which a facility is proposed to be constructed to select and  
56 submit three (3) architects to the board. Thereupon, the board  
57 may approve and employ an architect, who shall be paid by the  
58 interested institution from any funds available to the interested  
59 institution. The architect, under the direction of the interested  
60 institution, shall prepare complete plans and specifications for  
61 the facility desired to be constructed on the leased property.

62       Upon completion of the plans and specifications and the  
63 approval thereof by the board, and before entering into any lease  
64 contract, the board shall cause to be published once a week for at  
65 least three (3) consecutive weeks and not less than twenty-one  
66 (21) days in at least one (1) newspaper having a general  
67 circulation in the county in which the interested institution is  
68 located and in one (1) newspaper with a general statewide  
69 circulation, a notice inviting bids or proposals for the leasing,  
70 construction and leasing back of the land and constructed  
71 facility, which facility must be constructed in accordance with  
72 the plans and specifications. The notice shall distinctly state  
73 the thing to be done, and invite sealed proposals, to be filed  
74 with the board, to do the thing to be done. The notice shall  
75 contain the following specific provisions, together with such  
76 others as the board, in its discretion, deems appropriate, to wit:  
77 bids shall be accompanied by a bid security evidenced by a  
78 certified or cashier's check or bid-bond payable to the board in a  
79 sum of not less than five percent (5%) of the gross construction  
80 cost of the facility to be constructed, as estimated by the board,

81 and the bids shall contain proof satisfactory to the board of  
82 interim and permanent financing. The board shall state in the  
83 notice when construction shall commence. The bid shall contain  
84 the proposed contractor's certificate of responsibility number and  
85 bidder's license. In all cases, before the notice shall be  
86 published, the plans and specifications shall be filed with the  
87 board and also in the office of the president of the interested  
88 institution, there to remain.

89 The board shall award the lease contract to the lowest and  
90 best bidder, who will comply with the terms imposed by the  
91 contract documents. At the time of the awarding of the lease  
92 contract, the successful bidder shall enter into bond with  
93 sufficient sureties, to be approved by the board, in such penalty  
94 as may be fixed by the board, but in no case to be less than the  
95 estimated gross construction cost of the facility to be  
96 constructed as estimated by the board, conditioned for the prompt,  
97 proper and efficient performance of the contract. The bond shall  
98 be made by an authorized corporate surety bonding company.

99 The \* \* \* bid security herein provided for shall be forfeited if  
100 the successful bidder fails to enter into lease contract and  
101 commence construction within the time limitation set forth in the  
102 notice. At such time, and simultaneously with the signing of the  
103 contract, the successful bidder shall deposit a sum of money, in  
104 cash or certified or cashier's check, not less than the bid  
105 security previously deposited as bid security to reimburse the  
106 interested institution for all sums expended by it for  
107 architectural services and other expenditures of the board and  
108 interested institution connected with the bidded lease contract,  
109 of which such other anticipated expenditures notice is to be given  
110 to bidder in the notice. The bid security posted by an

111 unsuccessful bidder shall be refunded to him.

112 SECTION 4. Section 37-101-41, Mississippi Code of 1972, is  
113 amended as follows:

114 37-101-41. The Board of Trustees of State Institutions of  
115 Higher Learning is \* \* \* authorized and empowered to lease to  
116 private individuals or corporations, for a term not exceeding  
117 thirty-one (31) years, any land at any of the following  
118 state-supported institutions: the University of Mississippi,  
119 Mississippi State University of Agriculture and Applied Science,  
120 Jackson State University, Mississippi Valley State University,  
121 Alcorn State University, University of Southern Mississippi,  
122 Mississippi University for Women and Delta State University, for  
123 the purpose of erecting parking structures thereon for active  
124 faculty and students. The parking structures shall be constructed  
125 thereon by private financing, and shall be leased back to the  
126 board for use by the concerned state-supported institution of  
127 higher learning. The lease shall contain a provision permitting  
128 the board to purchase the parking structure located thereon for  
129 the sum of One Dollar (\$1.00) after payment by the board of all  
130 sums of money due under said lease.

131 **AMEND further** the title on line 3 by inserting the following  
132 after the word "BIDS" and before the semicolon:

133 "AND TO EXEMPT FROM STATE BID REQUIREMENTS CONTRACTS FOR THE  
134 DESIGN AND CONSTRUCTION OF PARKING STRUCTURES ENTERED INTO WITH A  
135 SINGLE ENTITY BY THE BOARD OF TRUSTEES OF STATE INSTITUTIONS OF  
136 HIGHER LEARNING; TO CREATE A NEW SECTION 37-101-44, MISSISSIPPI  
137 CODE OF 1972, TO AUTHORIZE THE BOARD OF TRUSTEES TO CONTRACT WITH  
138 A SINGLE ENTITY FOR THE DESIGN AND CONSTRUCTION OF PARKING  
139 STRUCTURES; TO AMEND SECTION 37-101-43, MISSISSIPPI CODE OF 1972,  
140 IN CONFORMITY THERETO; TO AMEND SECTION 37-101-41, MISSISSIPPI

141 CODE OF 1972, TO AUTHORIZE THE BOARD OF TRUSTEES TO LEASE LAND AT  
142 CERTAIN INSTITUTIONS FOR THE CONSTRUCTION OF PARKING STRUCTURES BY  
143 PRIVATE FINANCING"