

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

**AMENDMENT No. 1 PROPOSED TO**

**Senate Bill NO. 2799**

**By Representative(s) Committee**

**Amend by striking all after the enacting clause and inserting  
in lieu thereof the following:**

11       SECTION 1. Section 31-7-13, Mississippi Code of 1972, is  
12 amended as follows:

13       31-7-13. All agencies and governing authorities shall  
14 purchase their commodities and printing; contract for garbage  
15 collection or disposal; contract for solid waste collection or  
16 disposal; contract for sewage collection or disposal; contract for  
17 public construction; and contract for rentals as herein provided.

18           (a) **Bidding procedure for purchases not over \$1,500.00.**

19 Purchases which do not involve an expenditure of more than One  
20 Thousand Five Hundred Dollars (\$1,500.00), exclusive of freight or  
21 shipping charges, may be made without advertising or otherwise  
22 requesting competitive bids. Provided, however, that nothing  
23 contained in this paragraph (a) shall be construed to prohibit any  
24 agency or governing authority from establishing procedures which  
25 require competitive bids on purchases of One Thousand Five Hundred  
26 Dollars (\$1,500.00) or less.

27           (b) **Bidding procedure for purchases over \$1,500.00 but**

28 **not over \$10,000.00.** Purchases which involve an expenditure of  
29 more than One Thousand Five Hundred Dollars (\$1,500.00) but not  
30 more than Ten Thousand Dollars (\$10,000.00), exclusive of freight  
31 and shipping charges may be made from the lowest and best bidder  
32 without publishing or posting advertisement for bids, provided at  
33 least two (2) competitive written bids have been obtained. Any  
34 governing authority purchasing commodities pursuant to this  
35 paragraph (b) may authorize its purchasing agent, or his designee,  
36 with regard to governing authorities other than counties, or its  
37 purchase clerk, or his designee, with regard to counties, to  
38 accept the lowest and best competitive written bid. Such  
39 authorization shall be made in writing by the governing authority  
40 and shall be maintained on file in the primary office of the  
41 agency and recorded in the official minutes of the governing  
42 authority, as appropriate. The purchasing agent or the purchase  
43 clerk, or their designee, as the case may be, and not the  
44 governing authority, shall be liable for any penalties and/or  
45 damages as may be imposed by law for any act or omission of the  
46 purchasing agent or purchase clerk, or their designee,  
47 constituting a violation of law in accepting any bid without  
48 approval by the governing authority. The term "competitive  
49 written bid" shall mean a bid submitted on a bid form furnished by  
50 the buying agency or governing authority and signed by authorized  
51 personnel representing the vendor, or a bid submitted on a  
52 vendor's letterhead or identifiable bid form and signed by  
53 authorized personnel representing the vendor. Bids may be  
54 submitted by facsimile, electronic mail or other generally  
55 accepted method of information distribution. Bids submitted by  
56 electronic transmission shall not require the signature of the  
57 vendor's representative unless required by agencies or governing

authorities.

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

(i) **Publication requirement.** Purchases which

involve an expenditure of more than Ten Thousand Dollars (\$10,000.00), exclusive of freight and shipping charges may be made from the lowest and best bidder after advertising for competitive sealed bids once each week for two (2) consecutive weeks in a regular newspaper published in the county or municipality in which such agency or governing authority is located. The date as published for the bid opening shall not be less than seven (7) working days after the last published notice; however, if the purchase involves a construction project in which the estimated cost is in excess of Fifteen Thousand Dollars (\$15,000.00), such bids shall not be opened in less than fifteen (15) working days after the last notice is published and the notice for the purchase of such construction shall be published once each week for two (2) consecutive weeks. The notice of intention to let contracts or purchase equipment shall state the time and place at which bids shall be received, list the contracts to be made or types of equipment or supplies to be purchased, and, if all plans and/or specifications are not published, refer to the plans and/or specifications on file. If there is no newspaper published in the county or municipality, then such notice shall be given by posting same at the courthouse, or for municipalities at the city hall, and at two (2) other public places in the county or municipality, and also by publication once each week for two (2) consecutive weeks in some newspaper having a general circulation in the county or municipality in the above provided manner. On the same date that the notice is submitted to the newspaper for publication, the agency or governing authority involved shall mail

88 written notice to, or provide electronic notification to the main  
89 office of the Mississippi Contract Procurement Center that  
90 contains the same information as that in the published notice.

91                   (ii) **Bidding Process Amendment Procedure.** If all  
92 plans and/or specifications are published in the notification,  
93 then the plans and/or specifications may not be amended. If all  
94 plans and/or specifications are not published in the notification,  
95 then amendments to the plans/specifications, bid opening date, bid  
96 opening time and place may be made, provided that the agency or  
97 governing authority maintains a list of all prospective bidders  
98 who are known to have received a copy of the bid documents and all  
99 such prospective bidders are sent copies of all amendments. This  
100 notification of amendments may be made via mail, facsimile,  
101 electronic mail or other generally accepted method of information  
102 distribution. No addendum to bid specifications may be issued  
103 within forty-eight (48) working hours of the time established for  
104 the receipt of bids unless such addendum also amends the bid  
105 opening to a date not less than five (5) working days after the  
106 date of the addendum.

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

116                   (iv) **Specification Restrictions.** Specifications  
117 pertinent to such bidding shall be written so as not to exclude

comparable equipment of domestic manufacture. Provided, however, that should valid justification be presented, the Department of Finance and Administration or the board of a governing authority may approve a request for specific equipment necessary to perform a specific job. Further, such justification, when placed on the minutes of the board of a governing authority, may serve as authority for that governing authority to write specifications to require a specific item of equipment needed to perform a specific job. In addition to these requirements, from and after July 1, 1990, vendors of relocatable classrooms and the specifications for the purchase of such relocatable classrooms published by local school boards shall meet all pertinent regulations of the State Board of Education, including prior approval of such bid by the State Department of Education.

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

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

(ii) **Construction Project Negotiations Authority.**

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

(e) **Lease-purchase authorization.** For the purposes of

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

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

(f) **Alternate bid authorization.** When necessary to ensure ready availability of commodities for public works and the timely completion of public projects, no more than two (2) alternate bids may be accepted by a governing authority for commodities. No purchases may be made through use of such alternate bids procedure unless the lowest and best bidder, for

reasons beyond his control, cannot deliver the commodities contained in his bid. In that event, purchases of such commodities may be made from one (1) of the bidders whose bid was accepted as an alternate.

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

(h) **Petroleum purchase alternative.** In addition to other methods of purchasing authorized in this chapter, when any agency or governing authority shall have a need for gas, diesel fuel, oils and/or other petroleum products in excess of the amount set forth in paragraph (a) of this section, such agency or governing authority may purchase the commodity after having



238 solicited and obtained at least two (2) competitive written bids,  
239 as defined in paragraph (b) of this section. If two (2)  
240 competitive written bids are not obtained the entity shall comply  
241 with the procedures set forth in paragraph (c) of this section.  
242 In the event any agency or governing authority shall have  
243 advertised for bids for the purchase of gas, diesel fuel, oils and  
244 other petroleum products and coal and no acceptable bids can be  
245 obtained, such agency or governing authority is authorized and  
246 directed to enter into any negotiations necessary to secure the  
247 lowest and best contract available for the purchase of such  
248 commodities.

249           (i) **Road construction petroleum products price**  
250 **adjustment clause authorization.** Any agency or governing  
251 authority authorized to enter into contracts for the construction,  
252 maintenance, surfacing or repair of highways, roads or streets,  
253 may include in its bid proposal and contract documents a price  
254 adjustment clause with relation to the cost to the contractor,  
255 including taxes, based upon an industry-wide cost index, of  
256 petroleum products including asphalt used in the performance or  
257 execution of the contract or in the production or manufacture of  
258 materials for use in such performance. Such industry-wide index  
259 shall be established and published monthly by the Mississippi  
260 Department of Transportation with a copy thereof to be mailed,  
261 upon request, to the clerks of the governing authority of each  
262 municipality and the clerks of each board of supervisors  
263 throughout the state. The price adjustment clause shall be based  
264 on the cost of such petroleum products only and shall not include  
265 any additional profit or overhead as part of the adjustment. The  
266 bid proposals or document contract shall contain the basis and  
267 methods of adjusting unit prices for the change in the cost of

268 such petroleum products.

269           (j) **State agency emergency purchase procedure.** If the  
270 executive head of any agency of the state shall determine that an  
271 emergency exists in regard to the purchase of any commodities or  
272 repair contracts, so that the delay incident to giving opportunity  
273 for competitive bidding would be detrimental to the interests of  
274 the state, then the provisions herein for competitive bidding  
275 shall not apply and the head of such agency shall be authorized to  
276 make the purchase or repair. Total purchases so made shall only  
277 be for the purpose of meeting needs created by the emergency  
278 situation. In the event such executive head is responsible to an  
279 agency board, at the meeting next following the emergency  
280 purchase, documentation of the purchase, including a description  
281 of the commodity purchased, the purchase price thereof and the  
282 nature of the emergency shall be presented to the board and placed  
283 on the minutes of the board of such agency. The head of such  
284 agency shall, at the earliest possible date following such  
285 emergency purchase, file with the Department of Finance and  
286 Administration (i) a statement under oath certifying the  
287 conditions and circumstances of the emergency, and (ii) a  
288 certified copy of the appropriate minutes of the board of such  
289 agency, if applicable.

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

291 If the governing authority, or the governing authority acting  
292 through its designee, shall determine that an emergency exists in  
293 regard to the purchase of any commodities or repair contracts, so  
294 that the delay incident to giving opportunity for competitive  
295 bidding would be detrimental to the interest of the governing  
296 authority, then the provisions herein for competitive bidding  
297 shall not apply and any officer or agent of such governing

298 authority having general or special authority therefor in making  
299 such purchase or repair shall approve the bill presented therefor,  
300 and he shall certify in writing thereon from whom such purchase  
301 was made, or with whom such a repair contract was made. At the  
302 board meeting next following the emergency purchase or repair  
303 contract, documentation of the purchase or repair contract,  
304 including a description of the commodity purchased, the price  
305 thereof and the nature of the emergency shall be presented to the  
306 board and shall be placed on the minutes of the board of such  
307 governing authority.

308           (1) **Hospital purchase or lease authorization.** The  
309 commissioners or board of trustees of any hospital owned or owned  
310 and operated separately or jointly by one or more counties,  
311 cities, towns, supervisors districts or election districts, or  
312 combinations thereof, may contract with such lowest and best  
313 bidder for the purchase or lease of any commodity under a contract  
314 of purchase or lease-purchase agreement whose obligatory terms do  
315 not exceed five (5) years. In addition to the authority granted  
316 herein, the commissioners or board of trustees are authorized to  
317 enter into contracts for the lease of equipment or services, or  
318 both, which it considers necessary for the proper care of patients  
319 if, in its opinion, it is not financially feasible to purchase the  
320 necessary equipment or services. Any such contract for the lease  
321 of equipment or services executed by the commissioners or board  
322 shall not exceed a maximum of five (5) years' duration and shall  
323 include a cancellation clause based on unavailability of funds.  
324 If such cancellation clause is exercised, there shall be no  
325 further liability on the part of the lessee.

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

328                   (i)   **Purchasing agreements approved by department.**

329   Purchasing agreements, contracts and maximum price regulations  
330   executed or approved by the Department of Finance and  
331   Administration.

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

343                   (iii)   **In-house equipment repairs.**   Purchases of  
344   parts for repairs to equipment, when such repairs are made by  
345   personnel of the agency or governing authority; however, entire  
346   assemblies, such as engines or transmissions, shall not be  
347   included in this exemption when the entire assembly is being  
348   replaced instead of being repaired.

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

352                   (v)   **Governmental equipment auctions.**   Motor  
353   vehicles or other equipment purchased from a federal or state  
354   agency or a governing authority at a public auction held for the  
355   purpose of disposing of such vehicles or other equipment. Any  
356   purchase by a governing authority under the exemption authorized  
357   by this subparagraph (v) shall require advance authorization

spread upon the minutes of the governing authority to include the listing of the item or items authorized to be purchased and the maximum bid authorized to be paid for each item or items.

(vi) **Intergovernmental sales and transfers.**

Purchases, sales, transfers or trades by governing authorities or state agencies when such purchases, sales, transfers or trades are made by a private treaty agreement or through means of negotiation, from any federal agency or authority, another governing authority or state agency of the State of Mississippi, or any state agency of another state. Nothing in this section shall permit such purchases through public auction except as provided for in subparagraph (v) of this section. It is the intent of this section to allow governmental entities to dispose of and/or purchase commodities from other governmental entities at a price that is agreed to by both parties. This shall allow for purchases and/or sales at prices which may be determined to be below the market value if the selling entity determines that the sale at below market value is in the best interest of the taxpayers of the state. Governing authorities shall place the terms of the agreement and any justification on the minutes, and state agencies shall obtain approval from the Department of Finance and Administration, prior to releasing or taking possession of the commodities.

(vii) **Perishable supplies or food.** Perishable

supplies or foods purchased for use in connection with hospitals, the school lunch programs, homemaking programs and for the feeding of county or municipal prisoners.

(viii) **Single source items.** Noncompetitive items

available from one (1) source only. In connection with the purchase of noncompetitive items only available from one (1)

source, a certification of the conditions and circumstances requiring the purchase shall be filed by the agency with the Department of Finance and Administration and by the governing authority with the board of the governing authority. Upon receipt of that certification the Department of Finance and Administration or the board of the governing authority, as the case may be, may, in writing, authorize the purchase, which authority shall be noted on the minutes of the body at the next regular meeting thereafter.

In those situations, a governing authority is not required to obtain the approval of the Department of Finance and Administration.

(ix) **Waste disposal facility construction contracts.** Construction of incinerators and other facilities for disposal of solid wastes in which products either generated therein, such as steam, or recovered therefrom, such as materials for recycling, are to be sold or otherwise disposed of; provided, however, in constructing such facilities a governing authority or agency shall publicly issue requests for proposals, advertised for in the same manner as provided herein for seeking bids for public construction projects, concerning the design, construction, ownership, operation and/or maintenance of such facilities, wherein such requests for proposals when issued shall contain terms and conditions relating to price, financial responsibility, technology, environmental compatibility, legal responsibilities and such other matters as are determined by the governing authority or agency to be appropriate for inclusion; and after responses to the request for proposals have been duly received, the governing authority or agency may select the most qualified proposal or proposals on the basis of price, technology and other relevant factors and from such proposals, but not limited to the

418 terms thereof, negotiate and enter contracts with one or more of  
419 the persons or firms submitting proposals.

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

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

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

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

439                   (xiv) **Library books and other reference materials.**  
440 Purchases by libraries or for libraries of books and periodicals;  
441 processed film, video cassette tapes, filmstrips and slides;  
442 recorded audio tapes, cassettes and diskettes; and any such items  
443 as would be used for teaching, research or other information  
444 distribution; however, equipment such as projectors, recorders,  
445 audio or video equipment, and monitor televisions are not exempt  
446 under this subparagraph.

447                   (xv) **Unmarked vehicles.** Purchases of unmarked

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

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

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

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

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

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

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



478 bidding procedures for purchases of the same commodities.

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

480 Contracts for garbage collection or disposal, contracts for solid  
481 waste collection or disposal and contracts for sewage collection  
482 or disposal.

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

484 **contracts.** Professional maintenance program contracts for the  
485 repair or maintenance of municipal water tanks, which provide  
486 professional services needed to maintain municipal water storage  
487 tanks for a fixed annual fee for a duration of two (2) or more  
488 years.

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

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

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

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

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

496 **Major Economic Impact Act.** Purchases made pursuant to the  
497 provisions of Section 57-75-9(2).

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

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

508 office subsequent to the governing authority board entering the  
509 contract.

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

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

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

538 therefor, no bid firm as to price is submitted to an electric  
539 utility for power transformers, distribution transformers, power  
540 breakers, reclosers or other articles containing a petroleum  
541 product, the electric utility may accept the lowest and best bid  
542 therefor although the price is not firm.

543           (q) **Fuel management system bidding procedure.** Any  
544 governing authority or agency of the state shall, before  
545 contracting for the services and products of a fuel management or  
546 fuel access system, enter into negotiations with not fewer than  
547 two (2) sellers of fuel management or fuel access systems for  
548 competitive written bids to provide the services and products for  
549 the systems. In the event that the governing authority or agency  
550 cannot locate two (2) sellers of such systems or cannot obtain  
551 bids from two (2) sellers of such systems, it shall show proof  
552 that it made a diligent, good-faith effort to locate and negotiate  
553 with two (2) sellers of such systems. Such proof shall include,  
554 but not be limited to, publications of a request for proposals and  
555 letters soliciting negotiations and bids. For purposes of this  
556 paragraph (q), a fuel management or fuel access system is an  
557 automated system of acquiring fuel for vehicles as well as  
558 management reports detailing fuel use by vehicles and drivers, and  
559 the term "competitive written bid" shall have the meaning as  
560 defined in paragraph (b) of this section. Governing authorities  
561 and agencies shall be exempt from this process when contracting  
562 for the services and products of a fuel management or fuel access  
563 systems under the terms of a state contract established by the  
564 Office of Purchasing and Travel.

565           (r) **Solid waste contract proposal procedure.** Before  
566 entering into any contract for garbage collection or disposal,  
567 contract for solid waste collection or disposal or contract for

sewage collection or disposal, which involves an expenditure of more than Fifty Thousand Dollars (\$50,000.00), a governing authority or agency shall obtain at least two (2) written proposals, or if two (2) written proposals cannot be obtained, the governing authority or agency shall issue publicly a request for proposals concerning the specifications for such services which shall be advertised for in the same manner as provided in this section for seeking bids for purchases which involve an expenditure of more than Ten Thousand Dollars (\$10,000.00). Any request for proposals when issued shall contain terms and conditions relating to price, financial responsibility, technology, legal responsibilities and other relevant factors as are determined by the governing authority or agency to be appropriate for inclusion; all factors determined relevant by the governing authority or agency or required by this paragraph (r) shall be duly included in the advertisement to elicit proposals. After responses to the request for proposals have been duly received, the governing authority or agency shall select the most qualified proposal or proposals on the basis of price, technology and other relevant factors and from such proposals, but not limited to the terms thereof, negotiate and enter contracts with one or more of the persons or firms submitting proposals. If the governing authority or agency deems none of the proposals to be qualified or otherwise acceptable, the request for proposals process may be reinitiated. Notwithstanding any other provisions of this paragraph, where a county with at least thirty-five thousand (35,000) nor more than forty thousand (40,000) population, according to the 1990 federal decennial census, owns or operates a solid waste landfill, the governing authorities of any other county or municipality may contract with the governing

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

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

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

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

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

627                   (iv) "Native American" means persons having

628 origins in any of the original people of North America, including  
629 American Indians, Eskimos and Aleuts.

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

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

641       SECTION 2. This act shall take effect and be in force from  
642 and after its passage.

**Further, amend by striking the title in its entirety and  
inserting in lieu thereof the following:**

1       AN ACT TO AMEND SECTION 31-7-13, MISSISSIPPI CODE OF 1972, TO  
2 REQUIRE GOVERNING AUTHORITIES TO OBTAIN TWO WRITTEN PROPOSALS  
3 BEFORE ENTERING INTO ANY CONTRACT FOR GARBAGE COLLECTION OR  
4 DISPOSAL, CONTRACT FOR SOLID WASTE COLLECTION OR DISPOSAL OR  
5 CONTRACT FOR SEWAGE COLLECTION AND DISPOSAL WHICH INVOLVES AN  
6 EXPENDITURE OF MORE THAN \$50,000.00; TO PROVIDE THAT IF TWO  
7 WRITTEN PROPOSALS CANNOT BE OBTAINED, THE GOVERNING AUTHORITIES  
8 MUST ISSUE REQUESTS FOR PROPOSALS FOR THOSE CONTRACTS; AND FOR  
9 RELATED PURPOSES.