HOUSE BILL NO. 158

AN ACT TO AMEND SECTIONS 31-7-9 AND 31-7-12, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT PRICES FOR COMMODITIES UNDER THE STATE CONTRACT SHALL NOT BE MORE THAN THE FAIR MARKET VALUE OF THE COMMODITIES; TO PROVIDE THAT IN ANY PURCHASE BY A STATE AGENCY FROM A STATE CONTRACT VENDOR, THE VENDOR MUST SELL THEIR COMMODITIES TO THE AGENCY AT PRICES NOT MORE THAN THE FAIR MARKET VALUE OF THE COMMODITIES; AND FOR RELATED PURPOSES.

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

SECTION 1. Section 31-7-9, Mississippi Code of 1972, is amended as follows:

31-7-9. (1) (a) The Office of Purchasing and Travel shall adopt purchasing regulations governing the purchase by any agency of any commodity or commodities and establishing standards and specifications for a commodity or commodities and the maximum fair prices of a commodity or commodities, which prices shall be not more than the fair market value of the commodities, subject to the approval of the Public Procurement Review Board. It shall have the power to amend, add to or eliminate purchasing regulations. The adoption of, amendment, addition to or elimination of purchasing regulations shall be based upon a determination by the Office of Purchasing and Travel with the approval of the Public Procurement Review Board, that such action is reasonable and practicable and advantageous to promote efficiency and economy in the purchase of commodities by the agencies of the state. Upon the adoption of any purchasing regulation, or an amendment, addition or elimination therein, copies of same shall be furnished to the State Auditor and to all agencies affected thereby. Thereafter, and except as otherwise may be provided in subsection (2) of this section, no agency of the state shall purchase any
commodities covered by existing purchasing regulations unless such commodities be in conformity with the standards and specifications set forth in the purchasing regulations and unless the price thereof does not exceed the maximum fair price established by such purchasing regulations. The Office of Purchasing and Travel shall furnish to any county or municipality or other local public agency of the state requesting same, copies of purchasing regulations adopted by the Office of Purchasing and Travel and any amendments, changes or eliminations of same that may be made from time to time.

(b) The Office of Purchasing and Travel may adopt purchasing regulations governing the use of credit cards, procurement cards and purchasing club membership cards to be used by state agencies and governing authorities of counties and municipalities. Use of the cards shall be in strict compliance with the regulations promulgated by the office. Any amounts due on the cards shall incur interest charges as set forth in Section 31-7-305 and shall not be considered debt.

(2) The Office of Purchasing and Travel shall adopt, subject to the approval of the Public Procurement Review Board, purchasing regulations governing the purchase of unmarked vehicles to be used by the Bureau of Narcotics and Department of Public Safety in official investigations pursuant to Section 25-1-87. Such regulations shall ensure that purchases of such vehicles shall be at a fair price and shall take into consideration the peculiar needs of the Bureau of Narcotics and Department of Public Safety in undercover operations.

SECTION 2. Section 31-7-12, Mississippi Code of 1972, is amended as follows:

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

(2) Governing authorities may purchase commodities approved
by the Department of Finance and Administration from the state
contract vendor, or from any source offering the identical
commodity, at a price not exceeding the state contract price
established by the Department of Finance and Administration for
such commodity, without obtaining or advertising for competitive
bids. Governing authorities that do not exercise the option to
purchase such commodities from the state contract vendor or from
another source offering the identical commodity at a price not
exceeding the state contract price established by the Department
of Finance and Administration shall make such purchases pursuant
to the provisions of Section 31-7-13 without regard to state
contract prices established by the Department of Finance and
Administration, unless such purchases are authorized to be made
under subsection (5) of this section.

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

(4) The Department of Finance and Administration shall
ensure that the prices of all commodities on the state contract
are the lowest and best prices available from any source offering
that commodity at the same level of quality or service, utilizing
the reasonable standards established therefor by the Department of
Finance and Administration. All such prices shall be not more
than the fair market value of the commodities, as determined by
the Department of Finance and Administration. If the Department
of Finance and Administration does not list an approved price for
the particular item involved, purchase shall be made according to
statutory bidding and licensing requirements. To encourage
prudent purchasing practices, the Department of Finance and
Administration shall be authorized and empowered to exempt certain
commodities from the requirement that the lowest and best price be
approved by order placed on its minutes.

(5) In any purchase by an agency from a state contract
vendor, the vendor must sell their commodities to the agency at
prices not more than the fair market value of the commodities.

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

SECTION 3. This act shall take effect and be in force from
and after July 1, 2003.