

By: Senator(s) Burton

To: Fees, Salaries and Administration

SENATE BILL NO. 2344

1 AN ACT TO AMEND SECTION 19-11-27, MISSISSIPPI CODE OF 1972,  
2 TO ALLOW COUNTY BOARDS OF SUPERVISORS TO MAKE PURCHASES IN THE  
3 LAST SIX MONTHS OF THEIR TERM UNDER CERTAIN CONDITIONS; TO AMEND  
4 SECTION 19-13-21, MISSISSIPPI CODE OF 1972, TO INCREASE THE  
5 MAXIMUM ALLOWANCE FOR PROMPT REPAIRS OF ROAD EQUIPMENT DURING THE  
6 LAST MONTHS OF THE COUNTY BOARDS OF SUPERVISORS TERM; TO AMEND  
7 SECTION 31-7-1, MISSISSIPPI CODE OF 1972, TO DEFINE THE TERM  
8 "CERTIFIED PURCHASING OFFICE" AS IT RELATES TO THE PUBLIC  
9 PURCHASING LAWS; TO AMEND SECTION 31-7-9, MISSISSIPPI CODE OF  
10 1972, TO REQUIRE THE OFFICE OF PURCHASING AND TRAVEL TO ADOPT  
11 REGULATIONS GOVERNING THE CERTIFICATION PROCESS FOR CERTIFIED  
12 PURCHASING OFFICES; TO AMEND SECTION 31-7-13, MISSISSIPPI CODE OF  
13 1972, TO DEFINE THE TERM "COMPETITIVE" AS IT RELATES TO BIDDING  
14 PROCEDURE FOR PURCHASES OVER \$3,500.00 BUT NOT OVER \$15,000.00; TO  
15 PROVIDE PUBLICATION REQUIREMENTS FOR PURCHASES BY CERTIFIED  
16 PURCHASING OFFICES; TO ALLOW AGENCIES AND GOVERNING AUTHORITIES TO  
17 ESTABLISH PROCEDURES WHEREBY BIDS MAY BE SUBMITTED VIA ELECTRONIC  
18 MEANS; TO AUTHORIZE CERTIFIED PURCHASING OFFICES TO PURCHASE FROM  
19 A BIDDER OFFERING THE BEST VALUE AND TO UTILIZE A REQUEST FOR  
20 PROPOSALS PROCESS; TO REVISE THE STATE AGENCY EMERGENCY PURCHASE  
21 PROCEDURE; TO EXEMPT FROM THE PUBLIC PURCHASING LAWS PURCHASES AT  
22 GOVERNMENTAL EQUIPMENT AUCTIONS IN OTHER STATES; TO EXEMPT FROM  
23 THE PUBLIC PURCHASING LAWS INTERGOVERNMENTAL SALES AND TRANSFERS  
24 WITH GOVERNMENT ENTITIES IN OTHER STATES; TO EXEMPT FROM THE  
25 PUBLIC PURCHASING LAWS PURCHASES MADE BY CERTIFIED PURCHASING  
26 OFFICES PURSUANT TO COOPERATIVE PURCHASING AGREEMENTS; TO AMEND  
27 SECTION 37-41-31, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT SCHOOL  
28 TRANSPORTATION CONTRACTS SHALL BE ADVERTISED IN ACCORDANCE WITH  
29 THE PUBLIC PURCHASING LAWS; AND FOR RELATED PURPOSES.

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

31 **SECTION 1.** Section 19-11-27, Mississippi Code of 1972, is  
32 amended as follows:

33 19-11-27. No board of supervisors of any county shall expend  
34 from, or contract an obligation against, the budget estimates for  
35 road and bridge construction, maintenance and equipment, made and  
36 published by it during the last year of the term of office of such  
37 board, between the first day of October and the first day of the  
38 following January, a sum exceeding one-fourth (1/4) of such item  
39 of the budget made and published by it, except in cases of  
40 emergency. The clerk of any county is hereby prohibited from



41 issuing any warrant contrary to the provisions of this section.  
42 No board of supervisors nor any member thereof shall buy any  
43 machinery or equipment in the last six (6) months of their or his  
44 term unless or until he has been elected at the general election  
45 of that year. The provisions of this section shall not apply to a  
46 contract, lease or lease-purchase contract executed pursuant to  
47 the bidding requirements in Section 31-7-13 and approved by a  
48 unanimous vote of the board. Such unanimous vote shall include a  
49 statement indicating the board's proclamation that the award of  
50 the contract is essential to the efficiency and economy of the  
51 operation of the county government.

52 **SECTION 2.** Section 19-13-21, Mississippi Code of 1972, is  
53 amended as follows:

54 19-13-21. The board of supervisors of any county which owns  
55 any tractor, truck, or other road machinery or equipment, or any  
56 district of which owns any such machinery or equipment, may at any  
57 time have the same repaired, or purchase necessary repair parts  
58 therefor, where it is necessary to use the machinery or equipment  
59 in constructing, reconstructing or maintaining the public roads,  
60 whether or not there is then a sufficient amount in the fund out  
61 of which the cost thereof must be paid to pay the same. The claim  
62 for the repairs or repair parts shall be allowed in due course  
63 when filed, and be paid in its proper order as other claims.  
64 However, if any repairs herein permitted to be made after the  
65 first day of July of the last year of the term of office of the  
66 members of the board making such repairs shall exceed the sum of  
67 Five Thousand Dollars (\$5,000.00), the repairs shall not be made  
68 unless and until the board of supervisors, or a majority of the  
69 members thereof, shall have authorized the making of the repairs  
70 at a regular meeting of the board, or a special meeting called for  
71 that purpose.

72 **SECTION 3.** Section 31-7-1, Mississippi Code of 1972, is  
73 amended as follows:



74           31-7-1. The following terms are defined for the purposes of  
75 this chapter to have the following meanings:

76           (a) "Agency" shall mean any state board, commission,  
77 committee, council, university, department or unit thereof created  
78 by the Constitution or statutes if such board, commission,  
79 committee, council, university, department, unit or the head  
80 thereof is authorized to appoint subordinate staff by the  
81 Constitution or statute, except a legislative or judicial board,  
82 commission, committee, council, department or unit thereof.

83           (b) "Governing authority" shall mean boards of  
84 supervisors, governing boards of all school districts, all boards  
85 of directors of public water supply districts, boards of directors  
86 of master public water supply districts, municipal public utility  
87 commissions, governing authorities of all municipalities, port  
88 authorities, commissioners and boards of trustees of any public  
89 hospitals, boards of trustees of public library systems, district  
90 attorneys, school attendance officers and any political  
91 subdivision of the state supported wholly or in part by public  
92 funds of the state or political subdivisions thereof, including  
93 commissions, boards and agencies created or operated under the  
94 authority of any county or municipality of this state. The term  
95 "governing authority" shall not include economic development  
96 authorities supported in part by private funds, or commissions  
97 appointed to hold title to and oversee the development and  
98 management of lands and buildings which are donated by private  
99 individuals to the public for the use and benefit of the community  
100 and which are supported in part by private funds.

101           (c) "Purchasing agent" shall mean any administrator,  
102 superintendent, purchase clerk or other chief officer so  
103 designated having general or special authority to negotiate for  
104 and make private contract for or purchase for any governing  
105 authority.



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

109           (e) "Commodities" shall mean and include the various  
110 commodities, goods, merchandise, furniture, equipment, automotive  
111 equipment of every kind, and other personal property purchased by  
112 the agencies of the state and governing authorities, but not  
113 commodities purchased for resale or raw materials converted into  
114 products for resale.

115           (i) "Equipment" shall be construed to include:  
116 automobiles, trucks, tractors, office appliances and all other  
117 equipment of every kind and description.

118           (ii) "Furniture" shall be construed to include:  
119 desks, chairs, tables, seats, filing cabinets, bookcases and all  
120 other items of a similar nature as well as dormitory furniture,  
121 appliances, carpets and all other items of personal property  
122 generally referred to as home, office or school furniture.

123           (f) "Emergency" shall mean any circumstances caused by  
124 fire, flood, explosion, storm, earthquake, epidemic, riot,  
125 insurrection or caused by any inherent defect due to defective  
126 construction, or when the immediate preservation of order or of  
127 public health is necessary by reason of unforeseen emergency, or  
128 when the immediate restoration of a condition of usefulness of any  
129 public building, equipment, road or bridge appears advisable, or  
130 in the case of a public utility when there is a failure of any  
131 machine or other thing used and useful in the generation,  
132 production or distribution of electricity, water or natural gas,  
133 or in the transportation or treatment of sewage; or when the delay  
134 incident to obtaining competitive bids could cause adverse impact  
135 upon the governing authorities or agency, its employees or its  
136 citizens; or in the case of a public airport, when the delay  
137 incident to publishing an advertisement for competitive bids would  
138 endanger public safety in a specific (not general) manner, result



139 in or perpetuate a specific breach of airport security, or prevent  
140 the airport from providing specific air transportation services.

141 (g) "Construction" shall mean the process of building,  
142 altering, improving, renovating or demolishing a public structure,  
143 public building, or other public real property. It does not  
144 include routine operation, routine repair or regularly scheduled  
145 maintenance of existing public structures, public buildings or  
146 other public real property.

147 (h) "Purchase" shall mean buying, renting, leasing or  
148 otherwise acquiring.

149 (i) "Certified purchasing office" shall mean any  
150 purchasing office wherein fifty percent (50%) or more of the  
151 purchasing agents hold a certification from the Universal Public  
152 Purchasing Certification Council or other nationally recognized  
153 purchasing certification or have ten (10) or more years of public  
154 purchasing experience as of July 1, 2004.

155 **SECTION 4.** Section 31-7-9, Mississippi Code of 1972, is  
156 amended as follows:

157 31-7-9. (1) (a) The Office of Purchasing and Travel shall  
158 adopt purchasing regulations governing the purchase by any agency  
159 of any commodity or commodities and establishing standards and  
160 specifications for a commodity or commodities and the maximum fair  
161 prices of a commodity or commodities, subject to the approval of  
162 the Public Procurement Review Board. It shall have the power to  
163 amend, add to or eliminate purchasing regulations. The adoption  
164 of, amendment, addition to or elimination of purchasing  
165 regulations shall be based upon a determination by the Office of  
166 Purchasing and Travel with the approval of the Public Procurement  
167 Review Board, that such action is reasonable and practicable and  
168 advantageous to promote efficiency and economy in the purchase of  
169 commodities by the agencies of the state. Upon the adoption of  
170 any purchasing regulation, or an amendment, addition or  
171 elimination therein, copies of same shall be furnished to the



172 State Auditor and to all agencies affected thereby. Thereafter,  
173 and except as otherwise may be provided in subsection (2) of this  
174 section, no agency of the state shall purchase any commodities  
175 covered by existing purchasing regulations unless such commodities  
176 be in conformity with the standards and specifications set forth  
177 in the purchasing regulations and unless the price thereof does  
178 not exceed the maximum fair price established by such purchasing  
179 regulations. The said Office of Purchasing and Travel shall  
180 furnish to any county or municipality or other local public agency  
181 of the state requesting same, copies of purchasing regulations  
182 adopted by the Office of Purchasing and Travel and any amendments,  
183 changes or eliminations of same that may be made from time to  
184 time.

185 (b) The Office of Purchasing and Travel may adopt  
186 purchasing regulations governing the use of credit cards,  
187 procurement cards and purchasing club membership cards to be used  
188 by state agencies and governing authorities of counties and  
189 municipalities. Use of the cards shall be in strict compliance  
190 with the regulations promulgated by the office. Any amounts due  
191 on the cards shall incur interest charges as set forth in Section  
192 31-7-305 and shall not be considered debt.

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

202 (3) The Office of Purchasing and Travel shall adopt, subject  
203 to the approval of the Public Procurement Review Board,  
204 regulations governing the certification process for certified



205 purchasing offices. Such regulations shall require entities  
206 desiring to be classified as certified purchasing offices to  
207 submit applications and applicable documents on an annual basis,  
208 at which time the Office of Purchasing and Travel may provide the  
209 governing entity with a certification valid for one (1) year from  
210 the date of issuance.

211 **SECTION 5.** Section 31-7-13, Mississippi Code of 1972, is  
212 amended as follows:

213 31-7-13. All agencies and governing authorities shall  
214 purchase their commodities and printing; contract for garbage  
215 collection or disposal; contract for solid waste collection or  
216 disposal; contract for sewage collection or disposal; contract for  
217 public construction; and contract for rentals as herein provided.

218 (a) **Bidding procedure for purchases not over \$3,500.00.**  
219 Purchases which do not involve an expenditure of more than Three  
220 Thousand Five Hundred Dollars (\$3,500.00), exclusive of freight or  
221 shipping charges, may be made without advertising or otherwise  
222 requesting competitive bids. Provided, however, that nothing  
223 contained in this paragraph (a) shall be construed to prohibit any  
224 agency or governing authority from establishing procedures which  
225 require competitive bids on purchases of Three Thousand Five  
226 Hundred Dollars (\$3,500.00) or less.

227 (b) **Bidding procedure for purchases over \$3,500.00 but**  
228 **not over \$15,000.00.** Purchases which involve an expenditure of  
229 more than Three Thousand Five Hundred Dollars (\$3,500.00) but not  
230 more than Fifteen Thousand Dollars (\$15,000.00), exclusive of  
231 freight and shipping charges may be made from the lowest and best  
232 bidder without publishing or posting advertisement for bids,  
233 provided at least two (2) competitive written bids have been  
234 obtained. Any governing authority purchasing commodities pursuant  
235 to this paragraph (b) may authorize its purchasing agent, or his  
236 designee, with regard to governing authorities other than  
237 counties, or its purchase clerk, or his designee, with regard to



238 counties, to accept the lowest and best competitive written bid.  
239 Such authorization shall be made in writing by the governing  
240 authority and shall be maintained on file in the primary office of  
241 the agency and recorded in the official minutes of the governing  
242 authority, as appropriate. The purchasing agent or the purchase  
243 clerk, or their designee, as the case may be, and not the  
244 governing authority, shall be liable for any penalties and/or  
245 damages as may be imposed by law for any act or omission of the  
246 purchasing agent or purchase clerk, or their designee,  
247 constituting a violation of law in accepting any bid without  
248 approval by the governing authority. The term "competitive  
249 written bid" shall mean a bid submitted on a bid form furnished by  
250 the buying agency or governing authority and signed by authorized  
251 personnel representing the vendor, or a bid submitted on a  
252 vendor's letterhead or identifiable bid form and signed by  
253 authorized personnel representing the vendor. "Competitive" shall  
254 mean that the bids are developed based upon comparable  
255 identification of the needs and are developed independently and  
256 without knowledge of other bids or prospective bids. Bids may be  
257 submitted by facsimile, electronic mail or other generally  
258 accepted method of information distribution. Bids submitted by  
259 electronic transmission shall not require the signature of the  
260 vendor's representative unless required by agencies or governing  
261 authorities.

262 (c) **Bidding procedure for purchases over \$15,000.00, or**  
263 **\$20,000.00 for certified purchasing offices.**

264 (i) **Publication requirement.** Purchases which  
265 involve an expenditure of more than Fifteen Thousand Dollars  
266 (\$15,000.00) for noncertified purchasing offices or Twenty  
267 Thousand Dollars (\$20,000.00) for certified purchasing offices,  
268 exclusive of freight and shipping charges, may be made from the  
269 lowest and best bidder after advertising for competitive sealed  
270 bids once each week for two (2) consecutive weeks in a regular



271 newspaper published in the county or municipality in which such  
272 agency or governing authority is located. The date as published  
273 for the bid opening shall not be less than seven (7) working days  
274 after the last published notice; however, if the purchase involves  
275 a construction project in which the estimated cost is in excess of  
276 Fifteen Thousand Dollars (\$15,000.00) for noncertified purchasing  
277 offices or Twenty Thousand Dollars (\$20,000.00) for certified  
278 purchasing offices, such bids shall not be opened in less than  
279 fifteen (15) working days after the last notice is published and  
280 the notice for the purchase of such construction shall be  
281 published once each week for two (2) consecutive weeks. The  
282 notice of intention to let contracts or purchase equipment shall  
283 state the time and place at which bids shall be received, list the  
284 contracts to be made or types of equipment or supplies to be  
285 purchased, and, if all plans and/or specifications are not  
286 published, refer to the plans and/or specifications on file. If  
287 there is no newspaper published in the county or municipality,  
288 then such notice shall be given by posting same at the courthouse,  
289 or for municipalities at the city hall, and at two (2) other  
290 public places in the county or municipality, and also by  
291 publication once each week for two (2) consecutive weeks in some  
292 newspaper having a general circulation in the county or  
293 municipality in the above provided manner. On the same date that  
294 the notice is submitted to the newspaper for publication, the  
295 agency or governing authority involved shall mail written notice  
296 to, or provide electronic notification to the main office of the  
297 Mississippi Contract Procurement Center that contains the same  
298 information as that in the published notice.

299 (ii) **Bidding process amendment procedure.** If all  
300 plans and/or specifications are published in the notification,  
301 then the plans and/or specifications may not be amended. If all  
302 plans and/or specifications are not published in the notification,  
303 then amendments to the plans/specifications, bid opening date, bid



304 opening time and place may be made, provided that the agency or  
305 governing authority maintains a list of all prospective bidders  
306 who are known to have received a copy of the bid documents and all  
307 such prospective bidders are sent copies of all amendments. This  
308 notification of amendments may be made via mail, facsimile,  
309 electronic mail or other generally accepted method of information  
310 distribution. No addendum to bid specifications may be issued  
311 within two (2) working days of the time established for the  
312 receipt of bids unless such addendum also amends the bid opening  
313 to a date not less than five (5) working days after the date of  
314 the addendum.

315                   (iii) **Filing requirement.** In all cases involving  
316 governing authorities, before the notice shall be published or  
317 posted, the plans or specifications for the construction or  
318 equipment being sought shall be filed with the clerk of the board  
319 of the governing authority. In addition to these requirements, a  
320 bid file shall be established which shall indicate those vendors  
321 to whom such solicitations and specifications were issued, and  
322 such file shall also contain such information as is pertinent to  
323 the bid.

324                   (iv) **Specification restrictions.** Specifications  
325 pertinent to such bidding shall be written so as not to exclude  
326 comparable equipment of domestic manufacture. Provided, however,  
327 that should valid justification be presented, the Department of  
328 Finance and Administration or the board of a governing authority  
329 may approve a request for specific equipment necessary to perform  
330 a specific job. Further, such justification, when placed on the  
331 minutes of the board of a governing authority, may serve as  
332 authority for that governing authority to write specifications to  
333 require a specific item of equipment needed to perform a specific  
334 job. In addition to these requirements, from and after July 1,  
335 1990, vendors of relocatable classrooms and the specifications for  
336 the purchase of such relocatable classrooms published by local



337 school boards shall meet all pertinent regulations of the State  
338 Board of Education, including prior approval of such bid by the  
339 State Department of Education.

340 (v) Agencies and governing authorities may  
341 establish secure procedures whereby bids may be submitted via  
342 electronic means.

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

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

359 (ii) **Decision procedure for certified purchasing**  
360 **offices.** Purchases may be made from the bidder offering the best  
361 value. In determining the best value bid, freight and shipping  
362 charges shall be included. Life-cycle costing, total cost bids,  
363 warranties, guaranteed buy-back provisions, documented previous  
364 experience, training costs and other relevant provisions may be  
365 included in the best value calculation. This provision shall  
366 allow certified purchasing offices to utilize a Request For  
367 Proposals process when purchasing commodities. All best value  
368 procedures for state agencies shall be in compliance with  
369 regulations established by the Department of Finance and



370 Administration. No agency or governing authority shall accept a  
371 bid based on items or criteria not included in the specifications.

372 (iii) Construction project negotiations authority.

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

378 (e) **Lease-purchase authorization.** For the purposes of  
379 this section, the term "equipment" shall mean equipment, furniture  
380 and, if applicable, associated software and other applicable  
381 direct costs associated with the acquisition. Any lease-purchase  
382 of equipment which an agency is not required to lease-purchase  
383 under the master lease-purchase program pursuant to Section  
384 31-7-10 and any lease-purchase of equipment which a governing  
385 authority elects to lease-purchase may be acquired by a  
386 lease-purchase agreement under this paragraph (e). Lease-purchase  
387 financing may also be obtained from the vendor or from a  
388 third-party source after having solicited and obtained at least  
389 two (2) written competitive bids, as defined in paragraph (b) of  
390 this section, for such financing without advertising for such  
391 bids. Solicitation for the bids for financing may occur before or  
392 after acceptance of bids for the purchase of such equipment or,  
393 where no such bids for purchase are required, at any time before  
394 the purchase thereof. No such lease-purchase agreement shall be  
395 for an annual rate of interest which is greater than the overall  
396 maximum interest rate to maturity on general obligation  
397 indebtedness permitted under Section 75-17-101, and the term of  
398 such lease-purchase agreement shall not exceed the useful life of  
399 equipment covered thereby as determined according to the upper  
400 limit of the asset depreciation range (ADR) guidelines for the  
401 Class Life Asset Depreciation Range System established by the  
402 Internal Revenue Service pursuant to the United States Internal



403 Revenue Code and regulations thereunder as in effect on December  
404 31, 1980, or comparable depreciation guidelines with respect to  
405 any equipment not covered by ADR guidelines. Any lease-purchase  
406 agreement entered into pursuant to this paragraph (e) may contain  
407 any of the terms and conditions which a master lease-purchase  
408 agreement may contain under the provisions of Section 31-7-10(5),  
409 and shall contain an annual allocation dependency clause  
410 substantially similar to that set forth in Section 31-7-10(8).  
411 Each agency or governing authority entering into a lease-purchase  
412 transaction pursuant to this paragraph (e) shall maintain with  
413 respect to each such lease-purchase transaction the same  
414 information as required to be maintained by the Department of  
415 Finance and Administration pursuant to Section 31-7-10(13).  
416 However, nothing contained in this section shall be construed to  
417 permit agencies to acquire items of equipment with a total  
418 acquisition cost in the aggregate of less than Ten Thousand  
419 Dollars (\$10,000.00) by a single lease-purchase transaction. All  
420 equipment, and the purchase thereof by any lessor, acquired by  
421 lease-purchase under this paragraph and all lease-purchase  
422 payments with respect thereto shall be exempt from all Mississippi  
423 sales, use and ad valorem taxes. Interest paid on any  
424 lease-purchase agreement under this section shall be exempt from  
425 State of Mississippi income taxation.

426           (f) **Alternate bid authorization.** When necessary to  
427 ensure ready availability of commodities for public works and the  
428 timely completion of public projects, no more than two (2)  
429 alternate bids may be accepted by a governing authority for  
430 commodities. No purchases may be made through use of such  
431 alternate bids procedure unless the lowest and best bidder \* \* \*  
432 cannot deliver the commodities contained in his bid. In that  
433 event, purchases of such commodities may be made from one (1) of  
434 the bidders whose bid was accepted as an alternate.



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

455           (h) **Petroleum purchase alternative.** In addition to  
456 other methods of purchasing authorized in this chapter, when any  
457 agency or governing authority shall have a need for gas, diesel  
458 fuel, oils and/or other petroleum products in excess of the amount  
459 set forth in paragraph (a) of this section, such agency or  
460 governing authority may purchase the commodity after having  
461 solicited and obtained at least two (2) competitive written bids,  
462 as defined in paragraph (b) of this section. If two (2)  
463 competitive written bids are not obtained the entity shall comply  
464 with the procedures set forth in paragraph (c) of this section.  
465 In the event any agency or governing authority shall have  
466 advertised for bids for the purchase of gas, diesel fuel, oils and  
467 other petroleum products and coal and no acceptable bids can be



468 obtained, such agency or governing authority is authorized and  
469 directed to enter into any negotiations necessary to secure the  
470 lowest and best contract available for the purchase of such  
471 commodities.

472           (i) **Road construction petroleum products price**  
473 **adjustment clause authorization.** Any agency or governing  
474 authority authorized to enter into contracts for the construction,  
475 maintenance, surfacing or repair of highways, roads or streets,  
476 may include in its bid proposal and contract documents a price  
477 adjustment clause with relation to the cost to the contractor,  
478 including taxes, based upon an industry-wide cost index, of  
479 petroleum products including asphalt used in the performance or  
480 execution of the contract or in the production or manufacture of  
481 materials for use in such performance. Such industry-wide index  
482 shall be established and published monthly by the Mississippi  
483 Department of Transportation with a copy thereof to be mailed,  
484 upon request, to the clerks of the governing authority of each  
485 municipality and the clerks of each board of supervisors  
486 throughout the state. The price adjustment clause shall be based  
487 on the cost of such petroleum products only and shall not include  
488 any additional profit or overhead as part of the adjustment. The  
489 bid proposals or document contract shall contain the basis and  
490 methods of adjusting unit prices for the change in the cost of  
491 such petroleum products.

492           (j) **State agency emergency purchase procedure.** If the  
493 governing board or the executive head, or his designee, of any  
494 agency of the state shall determine that an emergency exists in  
495 regard to the purchase of any commodities or repair contracts, so  
496 that the delay incident to giving opportunity for competitive  
497 bidding would be detrimental to the interests of the state, then  
498 the provisions herein for competitive bidding shall not apply and  
499 the head of such agency shall be authorized to make the purchase  
500 or repair. Total purchases so made shall only be for the purpose



501 of meeting needs created by the emergency situation. In the event  
502 such executive head is responsible to an agency board, at the  
503 meeting next following the emergency purchase, documentation of  
504 the purchase, including a description of the commodity purchased,  
505 the purchase price thereof and the nature of the emergency shall  
506 be presented to the board and placed on the minutes of the board  
507 of such agency. The head of such agency, or his designee, shall,  
508 at the earliest possible date following such emergency purchase,  
509 file with the Department of Finance and Administration (i) a  
510 statement explaining the conditions and circumstances of the  
511 emergency which shall include a detailed description of the events  
512 leading up to the situation and the negative impact to the entity  
513 if the purchase is made following the statutory requirements set  
514 forth in paragraph (a), (b) or (c) of this section, and (ii) a  
515 certified copy of the appropriate minutes of the board of such  
516 agency, if applicable. On or before September 1 of each year, the  
517 State Auditor shall prepare and deliver to the Senate Fees,  
518 Salaries and Administration Committee, the House Fees and Salaries  
519 of Public Officers Committee and the Joint Legislative Budget  
520 Committee a report containing a list of all state agency emergency  
521 purchases and supporting documentation for each emergency  
522 purchases.

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

524 If the governing authority, or the governing authority acting  
525 through its designee, shall determine that an emergency exists in  
526 regard to the purchase of any commodities or repair contracts, so  
527 that the delay incident to giving opportunity for competitive  
528 bidding would be detrimental to the interest of the governing  
529 authority, then the provisions herein for competitive bidding  
530 shall not apply and any officer or agent of such governing  
531 authority having general or special authority therefor in making  
532 such purchase or repair shall approve the bill presented therefor,  
533 and he shall certify in writing thereon from whom such purchase



534 was made, or with whom such a repair contract was made. At the  
535 board meeting next following the emergency purchase or repair  
536 contract, documentation of the purchase or repair contract,  
537 including a description of the commodity purchased, the price  
538 thereof and the nature of the emergency shall be presented to the  
539 board and shall be placed on the minutes of the board of such  
540 governing authority.

541 (1) **Hospital purchase, lease-purchase and lease**  
542 **authorization.**

543 (i) The commissioners or board of trustees of any  
544 public hospital may contract with such lowest and best bidder for  
545 the purchase or lease-purchase of any commodity under a contract  
546 of purchase or lease-purchase agreement whose obligatory payment  
547 terms do not exceed five (5) years.

548 (ii) In addition to the authority granted in  
549 subparagraph (i) of this paragraph (1), the commissioners or board  
550 of trustees is authorized to enter into contracts for the lease of  
551 equipment or services, or both, which it considers necessary for  
552 the proper care of patients if, in its opinion, it is not  
553 financially feasible to purchase the necessary equipment or  
554 services. Any such contract for the lease of equipment or  
555 services executed by the commissioners or board shall not exceed a  
556 maximum of five (5) years' duration and shall include a  
557 cancellation clause based on unavailability of funds. If such  
558 cancellation clause is exercised, there shall be no further  
559 liability on the part of the lessee. Any such contract for the  
560 lease of equipment or services executed on behalf of the  
561 commissioners or board that complies with the provisions of this  
562 subparagraph (ii) shall be excepted from the bid requirements set  
563 forth in this section.

564 (m) **Exceptions from bidding requirements.** Excepted  
565 from bid requirements are:



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

567 Purchasing agreements, contracts and maximum price regulations  
568 executed or approved by the Department of Finance and  
569 Administration.

570 (ii) **Outside equipment repairs.** Repairs to  
571 equipment, when such repairs are made by repair facilities in the  
572 private sector; however, engines, transmissions, rear axles and/or  
573 other such components shall not be included in this exemption when  
574 replaced as a complete unit instead of being repaired and the need  
575 for such total component replacement is known before disassembly  
576 of the component; provided, however, that invoices identifying the  
577 equipment, specific repairs made, parts identified by number and  
578 name, supplies used in such repairs, and the number of hours of  
579 labor and costs therefor shall be required for the payment for  
580 such repairs.

581 (iii) **In-house equipment repairs.** Purchases of  
582 parts for repairs to equipment, when such repairs are made by  
583 personnel of the agency or governing authority; however, entire  
584 assemblies, such as engines or transmissions, shall not be  
585 included in this exemption when the entire assembly is being  
586 replaced instead of being repaired.

587 (iv) **Raw gravel or dirt.** Raw unprocessed deposits  
588 of gravel or fill dirt which are to be removed and transported by  
589 the purchaser.

590 (v) **Governmental equipment auctions.** Motor  
591 vehicles or other equipment purchased from a federal agency or  
592 authority, another governing authority or state agency of the  
593 State of Mississippi, or any governing authority or state agency  
594 of another state at a public auction held for the purpose of  
595 disposing of such vehicles or other equipment. Any purchase by a  
596 governing authority under the exemption authorized by this  
597 subparagraph (v) shall require advance authorization spread upon  
598 the minutes of the governing authority to include the listing of



599 the item or items authorized to be purchased and the maximum bid  
600 authorized to be paid for each item or items.

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

602 Purchases, sales, transfers or trades by governing authorities or  
603 state agencies when such purchases, sales, transfers or trades are  
604 made by a private treaty agreement or through means of  
605 negotiation, from any federal agency or authority, another  
606 governing authority or state agency of the State of Mississippi,  
607 or any state agency or governing authority of another state.

608 Nothing in this section shall permit such purchases through public  
609 auction except as provided for in subparagraph (v) of this  
610 section. It is the intent of this section to allow governmental  
611 entities to dispose of and/or purchase commodities from other  
612 governmental entities at a price that is agreed to by both  
613 parties. This shall allow for purchases and/or sales at prices  
614 which may be determined to be below the market value if the  
615 selling entity determines that the sale at below market value is  
616 in the best interest of the taxpayers of the state. Governing  
617 authorities shall place the terms of the agreement and any  
618 justification on the minutes, and state agencies shall obtain  
619 approval from the Department of Finance and Administration, prior  
620 to releasing or taking possession of the commodities.

621 (vii) **Perishable supplies or food.** Perishable  
622 supplies or foods purchased for use in connection with hospitals,  
623 the school lunch programs, homemaking programs and for the feeding  
624 of county or municipal prisoners.

625 (viii) **Single source items.** Noncompetitive items  
626 available from one (1) source only. In connection with the  
627 purchase of noncompetitive items only available from one (1)  
628 source, a certification of the conditions and circumstances  
629 requiring the purchase shall be filed by the agency with the  
630 Department of Finance and Administration and by the governing  
631 authority with the board of the governing authority. Upon receipt



632 of that certification the Department of Finance and Administration  
633 or the board of the governing authority, as the case may be, may,  
634 in writing, authorize the purchase, which authority shall be noted  
635 on the minutes of the body at the next regular meeting thereafter.  
636 In those situations, a governing authority is not required to  
637 obtain the approval of the Department of Finance and  
638 Administration.

639                   (ix) **Waste disposal facility construction**  
640 **contracts.** Construction of incinerators and other facilities for  
641 disposal of solid wastes in which products either generated  
642 therein, such as steam, or recovered therefrom, such as materials  
643 for recycling, are to be sold or otherwise disposed of; provided,  
644 however, in constructing such facilities a governing authority or  
645 agency shall publicly issue requests for proposals, advertised for  
646 in the same manner as provided herein for seeking bids for public  
647 construction projects, concerning the design, construction,  
648 ownership, operation and/or maintenance of such facilities,  
649 wherein such requests for proposals when issued shall contain  
650 terms and conditions relating to price, financial responsibility,  
651 technology, environmental compatibility, legal responsibilities  
652 and such other matters as are determined by the governing  
653 authority or agency to be appropriate for inclusion; and after  
654 responses to the request for proposals have been duly received,  
655 the governing authority or agency may select the most qualified  
656 proposal or proposals on the basis of price, technology and other  
657 relevant factors and from such proposals, but not limited to the  
658 terms thereof, negotiate and enter contracts with one or more of  
659 the persons or firms submitting proposals.

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

663                   (xi) **Information technology products.** Purchases  
664 of information technology products made by governing authorities



665 under the provisions of purchase schedules, or contracts executed  
666 or approved by the Mississippi Department of Information  
667 Technology Services and designated for use by governing  
668 authorities.

669                   (xii) **Energy efficiency services and equipment.**  
670 Energy efficiency services and equipment acquired by school  
671 districts, community and junior colleges, institutions of higher  
672 learning and state agencies or other applicable governmental  
673 entities on a shared-savings, lease or lease-purchase basis  
674 pursuant to Section 31-7-14.

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

679                   (xiv) **Library books and other reference materials.**  
680 Purchases by libraries or for libraries of books and periodicals;  
681 processed film, video cassette tapes, filmstrips and slides;  
682 recorded audio tapes, cassettes and diskettes; and any such items  
683 as would be used for teaching, research or other information  
684 distribution; however, equipment such as projectors, recorders,  
685 audio or video equipment, and monitor televisions are not exempt  
686 under this subparagraph.

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

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

693                   (xvii) **Multichannel interactive video systems.**  
694 From and after July 1, 1990, contracts by Mississippi Authority  
695 for Educational Television with any private educational  
696 institution or private nonprofit organization whose purposes are  
697 educational in regard to the construction, purchase, lease or



698 lease-purchase of facilities and equipment and the employment of  
699 personnel for providing multichannel interactive video systems  
700 (ITSF) in the school districts of this state.

701 (xviii) **Purchases of prison industry products.**

702 From and after January 1, 1991, purchases made by state agencies  
703 or governing authorities involving any item that is manufactured,  
704 processed, grown or produced from the state's prison industries.

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

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

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

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

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

720 Contracts for garbage collection or disposal, contracts for solid  
721 waste collection or disposal and contracts for sewage collection  
722 or disposal.

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

724 **contracts.** Professional maintenance program contracts for the  
725 repair or maintenance of municipal water tanks, which provide  
726 professional services needed to maintain municipal water storage  
727 tanks for a fixed annual fee for a duration of two (2) or more  
728 years.

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

730 **Blind products.** Purchases made by state agencies or governing



731 authorities involving any item that is manufactured, processed or  
732 produced by the Mississippi Industries for the Blind.

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

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

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

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

738 (xxvii) **Used heavy or specialized machinery or**

739 **equipment for installation of soil and water conservation**

740 **practices purchased at auction.** Used heavy or specialized

741 machinery or equipment used for the installation and

742 implementation of soil and water conservation practices or

743 measures purchased subject to the restrictions provided in

744 Sections 69-27-331 through 69-27-341. Any purchase by the State

745 Soil and Water Conservation Commission under the exemption

746 authorized by this subparagraph shall require advance

747 authorization spread upon the minutes of the commission to include

748 the listing of the item or items authorized to be purchased and

749 the maximum bid authorized to be paid for each item or items.

750 (xxviii) **Hospital lease of equipment or services.**

751 Leases by hospitals of equipment or services if the leases are in

752 compliance with subparagraph (1)(ii).

753 (xxix) **Purchases made pursuant to cooperative**

754 **purchasing agreements.** Purchases made by certified purchasing

755 offices of state agencies or governing authorities pursuant to

756 cooperative purchasing agreements established by or for any city,

757 county, parish or state government or the federal government;

758 provided, however, that the notification to potential contractors

759 includes a clause which sets forth the availability of the

760 cooperative purchasing agreement to other governmental entities.

761 Such purchases shall only be made if the use of the cooperative

762 purchasing agreements is determined to be in the best interest of

763 the government entity.



764 (n) **Term contract authorization.** All contracts for the  
765 purchase of:

766 (i) All contracts for the purchase of commodities,  
767 equipment and public construction (including, but not limited to,  
768 repair and maintenance), may be let for periods of not more than  
769 sixty (60) months in advance, subject to applicable statutory  
770 provisions prohibiting the letting of contracts during specified  
771 periods near the end of terms of office. Term contracts for a  
772 period exceeding twenty-four (24) months shall also be subject to  
773 ratification or cancellation by governing authority boards taking  
774 office subsequent to the governing authority board entering the  
775 contract.

776 (ii) Bid proposals and contracts may include price  
777 adjustment clauses with relation to the cost to the contractor  
778 based upon a nationally published industry-wide or nationally  
779 published and recognized cost index. The cost index used in a  
780 price adjustment clause shall be determined by the Department of  
781 Finance and Administration for the state agencies and by the  
782 governing board for governing authorities. The bid proposal and  
783 contract documents utilizing a price adjustment clause shall  
784 contain the basis and method of adjusting unit prices for the  
785 change in the cost of such commodities, equipment and public  
786 construction.

787 (o) **Purchase law violation prohibition and vendor**  
788 **penalty.** No contract or purchase as herein authorized shall be  
789 made for the purpose of circumventing the provisions of this  
790 section requiring competitive bids, nor shall it be lawful for any  
791 person or concern to submit individual invoices for amounts within  
792 those authorized for a contract or purchase where the actual value  
793 of the contract or commodity purchased exceeds the authorized  
794 amount and the invoices therefor are split so as to appear to be  
795 authorized as purchases for which competitive bids are not  
796 required. Submission of such invoices shall constitute a



797 misdemeanor punishable by a fine of not less than Five Hundred  
798 Dollars (\$500.00) nor more than One Thousand Dollars (\$1,000.00),  
799 or by imprisonment for thirty (30) days in the county jail, or  
800 both such fine and imprisonment. In addition, the claim or claims  
801 submitted shall be forfeited.

802 (p) **Electrical utility petroleum-based equipment**  
803 **purchase procedure.** When in response to a proper advertisement  
804 therefor, no bid firm as to price is submitted to an electric  
805 utility for power transformers, distribution transformers, power  
806 breakers, reclosers or other articles containing a petroleum  
807 product, the electric utility may accept the lowest and best bid  
808 therefor although the price is not firm.

809 (q) **Fuel management system bidding procedure.** Any  
810 governing authority or agency of the state shall, before  
811 contracting for the services and products of a fuel management or  
812 fuel access system, enter into negotiations with not fewer than  
813 two (2) sellers of fuel management or fuel access systems for  
814 competitive written bids to provide the services and products for  
815 the systems. In the event that the governing authority or agency  
816 cannot locate two (2) sellers of such systems or cannot obtain  
817 bids from two (2) sellers of such systems, it shall show proof  
818 that it made a diligent, good-faith effort to locate and negotiate  
819 with two (2) sellers of such systems. Such proof shall include,  
820 but not be limited to, publications of a request for proposals and  
821 letters soliciting negotiations and bids. For purposes of this  
822 paragraph (q), a fuel management or fuel access system is an  
823 automated system of acquiring fuel for vehicles as well as  
824 management reports detailing fuel use by vehicles and drivers, and  
825 the term "competitive written bid" shall have the meaning as  
826 defined in paragraph (b) of this section. Governing authorities  
827 and agencies shall be exempt from this process when contracting  
828 for the services and products of a fuel management or fuel access



829 systems under the terms of a state contract established by the  
830 Office of Purchasing and Travel.

831 (r) **Solid waste contract proposal procedure.** Before  
832 entering into any contract for garbage collection or disposal,  
833 contract for solid waste collection or disposal or contract for  
834 sewage collection or disposal, which involves an expenditure of  
835 more than Fifty Thousand Dollars (\$50,000.00), a governing  
836 authority or agency shall issue publicly a request for proposals  
837 concerning the specifications for such services which shall be  
838 advertised for in the same manner as provided in this section for  
839 seeking bids for purchases which involve an expenditure of more  
840 than the amount provided in paragraph (c) of this section. Any  
841 request for proposals when issued shall contain terms and  
842 conditions relating to price, financial responsibility,  
843 technology, legal responsibilities and other relevant factors as  
844 are determined by the governing authority or agency to be  
845 appropriate for inclusion; all factors determined relevant by the  
846 governing authority or agency or required by this paragraph (r)  
847 shall be duly included in the advertisement to elicit proposals.  
848 After responses to the request for proposals have been duly  
849 received, the governing authority or agency shall select the most  
850 qualified proposal or proposals on the basis of price, technology  
851 and other relevant factors and from such proposals, but not  
852 limited to the terms thereof, negotiate and enter contracts with  
853 one or more of the persons or firms submitting proposals. If the  
854 governing authority or agency deems none of the proposals to be  
855 qualified or otherwise acceptable, the request for proposals  
856 process may be reinitiated. Notwithstanding any other provisions  
857 of this paragraph, where a county with at least thirty-five  
858 thousand (35,000) nor more than forty thousand (40,000)  
859 population, according to the 1990 federal decennial census, owns  
860 or operates a solid waste landfill, the governing authorities of  
861 any other county or municipality may contract with the governing



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

866 (s) **Minority set aside authorization.** Notwithstanding  
867 any provision of this section to the contrary, any agency or  
868 governing authority, by order placed on its minutes, may, in its  
869 discretion, set aside not more than twenty percent (20%) of its  
870 anticipated annual expenditures for the purchase of commodities  
871 from minority businesses; however, all such set-aside purchases  
872 shall comply with all purchasing regulations promulgated by the  
873 Department of Finance and Administration and shall be subject to  
874 bid requirements under this section. Set-aside purchases for  
875 which competitive bids are required shall be made from the lowest  
876 and best minority business bidder. For the purposes of this  
877 paragraph, the term "minority business" means a business which is  
878 owned by a majority of persons who are United States citizens or  
879 permanent resident aliens (as defined by the Immigration and  
880 Naturalization Service) of the United States, and who are Asian,  
881 Black, Hispanic or Native American, according to the following  
882 definitions:

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

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

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

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



894                   (t) **Construction punch list restriction.** The  
895 architect, engineer or other representative designated by the  
896 agency or governing authority that is contracting for public  
897 construction or renovation may prepare and submit to the  
898 contractor only one (1) preliminary punch list of items that do  
899 not meet the contract requirements at the time of substantial  
900 completion and one (1) final list immediately before final  
901 completion and final payment.

902                   (u) **Purchase authorization clarification.** Nothing in  
903 this section shall be construed as authorizing any purchase not  
904 authorized by law.

905                   **SECTION 6.** Section 37-41-31, Mississippi Code of 1972, is  
906 amended as follows:

907                   37-41-31. In each case where pupils are transported to and  
908 from the public schools in this state in privately owned vehicles,  
909 the contract for such transportation shall be let to the lowest  
910 responsible bidder who is able to furnish a solvent bond for the  
911 faithful performance of his contract. This shall be done after  
912 each route over which such pupils are to be transported has been  
913 laid out and established as provided in this chapter. Such  
914 contracts shall be awarded upon receipt of sealed bids or  
915 proposals after the time and place of letting such contracts and  
916 the manner of bidding shall have been duly advertised in some  
917 newspaper published in said county in accordance with the  
918 procedures provided in Section 31-7-13(c). If no newspaper be  
919 published in such county, then said advertisement shall be made by  
920 publication for the required time in some newspaper having a  
921 general circulation therein, and, in addition, by posting a copy  
922 thereof for said time in at least three (3) public places in said  
923 county, one (1) of which shall be at the county courthouse in each  
924 judicial district of the county. The awarding of all such  
925 contracts shall, however, in all respects be subject to the  
926 provisions of Section 37-41-29.



927 Private contracts for the transportation of exceptional  
928 children, as defined in Section 37-23-3, may be negotiated by the  
929 local school board without the necessity of the advertising for or  
930 taking of bids. The same may apply under extraordinary  
931 circumstances where regular transportation is considered to be  
932 impractical, with prior approval of the State Department of  
933 Education. The local school board may negotiate and contract for  
934 the transportation described in this paragraph so long as the  
935 local school board complies with the school transportation  
936 regulations promulgated by the State Board of Education.

937 Contracts shall be made for four (4) years, at the discretion  
938 of the local school board. Any and all bids may be rejected. At  
939 the expiration of any transportation contract, if the school board  
940 believes a route should remain substantially as established and  
941 finds that the carrier thereon has rendered efficient and  
942 satisfactory services it may, with the approval of the State Board  
943 of Education, extend the contract for not more than four (4)  
944 years, subject, however, to the provisions of Section 37-41-29.

945 **SECTION 7.** This act shall take effect and be in force from  
946 and after July 1, 2003.

