

*****Adopted***
AMENDMENT No. 1 PROPOSED TO**

Senate Bill NO. 2344

By Representative(s) Committee

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

22 **SECTION 1.** Section 19-11-27, Mississippi Code of 1972, is
23 amended as follows:
24 19-11-27. No board of supervisors of any county shall expend
25 from, or contract an obligation against, the budget estimates for
26 road and bridge construction, maintenance and equipment, made and
27 published by it during the last year of the term of office of such
28 board, between the first day of October and the first day of the
29 following January, a sum exceeding one-fourth (1/4) of such item
30 of the budget made and published by it, except in cases of
31 emergency. The clerk of any county is * * * prohibited from
32 issuing any warrant contrary to the provisions of this section.
33 No board of supervisors nor any member thereof shall buy any
34 machinery or equipment in the last six (6) months of their or his
35 term unless or until he has been elected at the general election
36 of that year. The provisions of this section shall not apply to a
37 contract, lease or lease-purchase contract executed pursuant to
38 the bidding requirements in Section 31-7-13 and approved by a
39 unanimous vote of the board. Such unanimous vote shall include a
40 statement indicating the board's proclamation that the award of
41 the contract is essential to the efficiency and economy of the

42 operation of the county government.

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

45 19-13-21. The board of supervisors of any county which owns
46 any tractor, truck, or other road machinery or equipment, or any
47 district of which owns any such machinery or equipment, may at any
48 time have the same repaired, or purchase necessary repair parts
49 therefor, where it is necessary to use the machinery or equipment
50 in constructing, reconstructing or maintaining the public roads,
51 whether or not there is then a sufficient amount in the fund out
52 of which the cost thereof must be paid to pay the same. The claim
53 for the repairs or repair parts shall be allowed in due course
54 when filed, and be paid in its proper order as other claims.
55 However, if any repairs herein permitted to be made after the
56 first day of July of the last year of the term of office of the
57 members of the board making such repairs shall exceed the sum of
58 Five Thousand Dollars (\$5,000.00), the repairs shall not be made
59 unless and until the board of supervisors, or a majority of the
60 members thereof, shall have authorized the making of the repairs
61 at a regular meeting of the board, or a special meeting called for
62 that purpose.

63 **SECTION 3.** Section 31-7-13, Mississippi Code of 1972, is
64 amended as follows:

65 31-7-13. All agencies and governing authorities shall
66 purchase their commodities and printing; contract for garbage
67 collection or disposal; contract for solid waste collection or
68 disposal; contract for sewage collection or disposal; contract for
69 public construction; and contract for rentals as herein provided.

70 (a) **Bidding procedure for purchases not over \$3,500.00.**

71 Purchases which do not involve an expenditure of more than Three
72 Thousand Five Hundred Dollars (\$3,500.00), exclusive of freight or
73 shipping charges, may be made without advertising or otherwise
74 requesting competitive bids. * * * However, * * * nothing
75 contained in this paragraph (a) shall be construed to prohibit any
76 agency or governing authority from establishing procedures which

77 require competitive bids on purchases of Three Thousand Five
78 Hundred Dollars (\$3,500.00) or less.

79 (b) **Bidding procedure for purchases over \$3,500.00 but**
80 **not over \$15,000.00.** Purchases which involve an expenditure of
81 more than Three Thousand Five Hundred Dollars (\$3,500.00) but not
82 more than Fifteen Thousand Dollars (\$15,000.00), exclusive of
83 freight and shipping charges may be made from the lowest and best
84 bidder without publishing or posting advertisement for bids,
85 provided at least two (2) competitive written bids have been
86 obtained. Any governing authority purchasing commodities pursuant
87 to this paragraph (b) may authorize its purchasing agent, or his
88 designee, with regard to governing authorities other than
89 counties, or its purchase clerk, or his designee, with regard to
90 counties, to accept the lowest and best competitive written bid.
91 Such authorization shall be made in writing by the governing
92 authority and shall be maintained on file in the primary office of
93 the agency and recorded in the official minutes of the governing
94 authority, as appropriate. The purchasing agent or the purchase
95 clerk, or their designee, as the case may be, and not the
96 governing authority, shall be liable for any penalties and/or
97 damages as may be imposed by law for any act or omission of the
98 purchasing agent or purchase clerk, or their designee,
99 constituting a violation of law in accepting any bid without
100 approval by the governing authority. The term "competitive
101 written bid" shall mean a bid submitted on a bid form furnished by
102 the buying agency or governing authority and signed by authorized
103 personnel representing the vendor, or a bid submitted on a
104 vendor's letterhead or identifiable bid form and signed by
105 authorized personnel representing the vendor. "Competitive" shall
106 mean that the bids are developed based upon comparable
107 identification of the needs and are developed independently and
108 without knowledge of other bids or prospective bids. Bids may be
109 submitted by facsimile, electronic mail or other generally
110 accepted method of information distribution. Bids submitted by
111 electronic transmission shall not require the signature of the

112 vendor's representative unless required by agencies or governing
113 authorities.

114 (c) **Bidding procedure for purchases over \$15,000.00.**

115 (i) **Publication requirement.** Purchases which
116 involve an expenditure of more than Fifteen Thousand Dollars
117 (\$15,000.00), exclusive of freight and shipping charges, may be
118 made from the lowest and best bidder after advertising for
119 competitive sealed bids once each week for two (2) consecutive
120 weeks in a regular newspaper published in the county or
121 municipality in which such agency or governing authority is
122 located. The date as published for the bid opening shall not be
123 less than seven (7) working days after the last published notice;
124 however, if the purchase involves a construction project in which
125 the estimated cost is in excess of Fifteen Thousand Dollars
126 (\$15,000.00), such bids shall not be opened in less than fifteen
127 (15) working days after the last notice is published and the
128 notice for the purchase of such construction shall be published
129 once each week for two (2) consecutive weeks. The notice of
130 intention to let contracts or purchase equipment shall state the
131 time and place at which bids shall be received, list the contracts
132 to be made or types of equipment or supplies to be purchased, and,
133 if all plans and/or specifications are not published, refer to the
134 plans and/or specifications on file. If there is no newspaper
135 published in the county or municipality, then such notice shall be
136 given by posting same at the courthouse, or for municipalities at
137 the city hall, and at two (2) other public places in the county or
138 municipality, and also by publication once each week for two (2)
139 consecutive weeks in some newspaper having a general circulation
140 in the county or municipality in the above provided manner. On
141 the same date that the notice is submitted to the newspaper for
142 publication, the agency or governing authority involved shall mail
143 written notice to, or provide electronic notification to the main
144 office of the Mississippi Contract Procurement Center that
145 contains the same information as that in the published notice.

146 (ii) **Bidding process amendment procedure.** If all

147 plans and/or specifications are published in the notification,
148 then the plans and/or specifications may not be amended. If all
149 plans and/or specifications are not published in the notification,
150 then amendments to the plans/specifications, bid opening date, bid
151 opening time and place may be made, provided that the agency or
152 governing authority maintains a list of all prospective bidders
153 who are known to have received a copy of the bid documents and all
154 such prospective bidders are sent copies of all amendments. This
155 notification of amendments may be made via mail, facsimile,
156 electronic mail or other generally accepted method of information
157 distribution. No addendum to bid specifications may be issued
158 within two (2) working days of the time established for the
159 receipt of bids unless such addendum also amends the bid opening
160 to a date not less than five (5) working days after the date of
161 the addendum.

162 (iii) **Filing requirement.** In all cases involving
163 governing authorities, before the notice shall be published or
164 posted, the plans or specifications for the construction or
165 equipment being sought shall be filed with the clerk of the board
166 of the governing authority. In addition to these requirements, a
167 bid file shall be established which shall indicate those vendors
168 to whom such solicitations and specifications were issued, and
169 such file shall also contain such information as is pertinent to
170 the bid.

171 (iv) **Specification restrictions.** Specifications
172 pertinent to such bidding shall be written so as not to exclude
173 comparable equipment of domestic manufacture. * * * However, if
174 valid justification is presented, the Department of Finance and
175 Administration or the board of a governing authority may approve a
176 request for specific equipment necessary to perform a specific
177 job. Further, such justification, when placed on the minutes of
178 the board of a governing authority, may serve as authority for
179 that governing authority to write specifications to require a
180 specific item of equipment needed to perform a specific job. In
181 addition to these requirements, from and after July 1, 1990,

182 vendors of relocatable classrooms and the specifications for the
183 purchase of such relocatable classrooms published by local school
184 boards shall meet all pertinent regulations of the State Board of
185 Education, including prior approval of such bid by the State
186 Department of Education.

187 (v) Agencies and governing authorities may
188 establish secure procedures by which bids may be submitted via
189 electronic means.

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

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

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

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

212 (e) **Lease-purchase authorization.** For the purposes of
213 this section, the term "equipment" shall mean equipment, furniture
214 and, if applicable, associated software and other applicable
215 direct costs associated with the acquisition. Any lease-purchase
216 of equipment which an agency is not required to lease-purchase

217 under the master lease-purchase program pursuant to Section
218 31-7-10 and any lease-purchase of equipment which a governing
219 authority elects to lease-purchase may be acquired by a
220 lease-purchase agreement under this paragraph (e). Lease-purchase
221 financing may also be obtained from the vendor or from a
222 third-party source after having solicited and obtained at least
223 two (2) written competitive bids, as defined in paragraph (b) of
224 this section, for such financing without advertising for such
225 bids. Solicitation for the bids for financing may occur before or
226 after acceptance of bids for the purchase of such equipment or,
227 where no such bids for purchase are required, at any time before
228 the purchase thereof. No such lease-purchase agreement shall be
229 for an annual rate of interest which is greater than the overall
230 maximum interest rate to maturity on general obligation
231 indebtedness permitted under Section 75-17-101, and the term of
232 such lease-purchase agreement shall not exceed the useful life of
233 equipment covered thereby as determined according to the upper
234 limit of the asset depreciation range (ADR) guidelines for the
235 Class Life Asset Depreciation Range System established by the
236 Internal Revenue Service pursuant to the United States Internal
237 Revenue Code and regulations thereunder as in effect on December
238 31, 1980, or comparable depreciation guidelines with respect to
239 any equipment not covered by ADR guidelines. Any lease-purchase
240 agreement entered into pursuant to this paragraph (e) may contain
241 any of the terms and conditions which a master lease-purchase
242 agreement may contain under the provisions of Section 31-7-10(5),
243 and shall contain an annual allocation dependency clause
244 substantially similar to that set forth in Section 31-7-10(8).
245 Each agency or governing authority entering into a lease-purchase
246 transaction pursuant to this paragraph (e) shall maintain with
247 respect to each such lease-purchase transaction the same
248 information as required to be maintained by the Department of
249 Finance and Administration pursuant to Section 31-7-10(13).
250 However, nothing contained in this section shall be construed to
251 permit agencies to acquire items of equipment with a total

252 acquisition cost in the aggregate of less than Ten Thousand
253 Dollars (\$10,000.00) by a single lease-purchase transaction. All
254 equipment, and the purchase thereof by any lessor, acquired by
255 lease-purchase under this paragraph and all lease-purchase
256 payments with respect thereto shall be exempt from all Mississippi
257 sales, use and ad valorem taxes. Interest paid on any
258 lease-purchase agreement under this section shall be exempt from
259 State of Mississippi income taxation.

260 (f) **Alternate bid authorization.** When necessary to
261 ensure ready availability of commodities for public works and the
262 timely completion of public projects, no more than two (2)
263 alternate bids may be accepted by a governing authority for
264 commodities. No purchases may be made through use of such
265 alternate bids procedure unless the lowest and best bidder * * *
266 cannot deliver the commodities contained in his bid. In that
267 event, purchases of such commodities may be made from one (1) of
268 the bidders whose bid was accepted as an alternate.

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

287 governing authority may limit the number, manner or frequency of
288 such emergency changes or modifications.

289 (h) **Petroleum purchase alternative.** In addition to
290 other methods of purchasing authorized in this chapter, when any
291 agency or governing authority shall have a need for gas, diesel
292 fuel, oils and/or other petroleum products in excess of the amount
293 set forth in paragraph (a) of this section, such agency or
294 governing authority may purchase the commodity after having
295 solicited and obtained at least two (2) competitive written bids,
296 as defined in paragraph (b) of this section. If two (2)
297 competitive written bids are not obtained the entity shall comply
298 with the procedures set forth in paragraph (c) of this section.
299 In the event any agency or governing authority shall have
300 advertised for bids for the purchase of gas, diesel fuel, oils and
301 other petroleum products and coal and no acceptable bids can be
302 obtained, such agency or governing authority is authorized and
303 directed to enter into any negotiations necessary to secure the
304 lowest and best contract available for the purchase of such
305 commodities.

306 (i) **Road construction petroleum products price**
307 **adjustment clause authorization.** Any agency or governing
308 authority authorized to enter into contracts for the construction,
309 maintenance, surfacing or repair of highways, roads or streets,
310 may include in its bid proposal and contract documents a price
311 adjustment clause with relation to the cost to the contractor,
312 including taxes, based upon an industry-wide cost index, of
313 petroleum products including asphalt used in the performance or
314 execution of the contract or in the production or manufacture of
315 materials for use in such performance. Such industry-wide index
316 shall be established and published monthly by the Mississippi
317 Department of Transportation with a copy thereof to be mailed,
318 upon request, to the clerks of the governing authority of each
319 municipality and the clerks of each board of supervisors
320 throughout the state. The price adjustment clause shall be based
321 on the cost of such petroleum products only and shall not include

322 any additional profit or overhead as part of the adjustment. The
323 bid proposals or document contract shall contain the basis and
324 methods of adjusting unit prices for the change in the cost of
325 such petroleum products.

326 (j) **State agency emergency purchase procedure.** If the
327 governing board or the executive head, or his designee, of any
328 agency of the state shall determine that an emergency exists in
329 regard to the purchase of any commodities or repair contracts, so
330 that the delay incident to giving opportunity for competitive
331 bidding would be detrimental to the interests of the state, then
332 the provisions herein for competitive bidding shall not apply and
333 the head of such agency shall be authorized to make the purchase
334 or repair. Total purchases so made shall only be for the purpose
335 of meeting needs created by the emergency situation. In the event
336 such executive head is responsible to an agency board, at the
337 meeting next following the emergency purchase, documentation of
338 the purchase, including a description of the commodity purchased,
339 the purchase price thereof and the nature of the emergency shall
340 be presented to the board and placed on the minutes of the board
341 of such agency. The head of such agency, or his designee, shall,
342 at the earliest possible date following such emergency purchase,
343 file with the Department of Finance and Administration (i) a
344 statement explaining the conditions and circumstances of the
345 emergency, which shall include a detailed description of the
346 events leading up to the situation and the negative impact to the
347 entity if the purchase is made following the statutory
348 requirements set forth in paragraph (a), (b) or (c) of this
349 section, and (ii) a certified copy of the appropriate minutes of
350 the board of such agency, if applicable. On or before September 1
351 of each year, the State Auditor shall prepare and deliver to the
352 Senate Fees, Salaries and Administration Committee, the House Fees
353 and Salaries of Public Officers Committee and the Joint
354 Legislative Budget Committee a report containing a list of all
355 state agency emergency purchases and supporting documentation for
356 each emergency purchases.

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

358 If the governing authority, or the governing authority acting
359 through its designee, shall determine that an emergency exists in
360 regard to the purchase of any commodities or repair contracts, so
361 that the delay incident to giving opportunity for competitive
362 bidding would be detrimental to the interest of the governing
363 authority, then the provisions herein for competitive bidding
364 shall not apply and any officer or agent of such governing
365 authority having general or special authority therefor in making
366 such purchase or repair shall approve the bill presented therefor,
367 and he shall certify in writing thereon from whom such purchase
368 was made, or with whom such a repair contract was made. At the
369 board meeting next following the emergency purchase or repair
370 contract, documentation of the purchase or repair contract,
371 including a description of the commodity purchased, the price
372 thereof and the nature of the emergency shall be presented to the
373 board and shall be placed on the minutes of the board of such
374 governing authority.

375 (l) **Hospital purchase, lease-purchase and lease**
376 **authorization.**

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

382 (ii) In addition to the authority granted in
383 subparagraph (i) of this paragraph (l), the commissioners or board
384 of trustees is authorized to enter into contracts for the lease of
385 equipment or services, or both, which it considers necessary for
386 the proper care of patients if, in its opinion, it is not
387 financially feasible to purchase the necessary equipment or
388 services. Any such contract for the lease of equipment or
389 services executed by the commissioners or board shall not exceed a
390 maximum of five (5) years' duration and shall include a
391 cancellation clause based on unavailability of funds. If such

392 cancellation clause is exercised, there shall be no further
393 liability on the part of the lessee. Any such contract for the
394 lease of equipment or services executed on behalf of the
395 commissioners or board that complies with the provisions of this
396 subparagraph (ii) shall be excepted from the bid requirements set
397 forth in this section.

398 (m) **Exceptions from bidding requirements.** Excepted
399 from bid requirements are:

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

401 Purchasing agreements, contracts and maximum price regulations
402 executed or approved by the Department of Finance and
403 Administration.

404 (ii) **Outside equipment repairs.** Repairs to
405 equipment, when such repairs are made by repair facilities in the
406 private sector; however, engines, transmissions, rear axles and/or
407 other such components shall not be included in this exemption when
408 replaced as a complete unit instead of being repaired and the need
409 for such total component replacement is known before disassembly
410 of the component; * * * however, * * * invoices identifying the
411 equipment, specific repairs made, parts identified by number and
412 name, supplies used in such repairs, and the number of hours of
413 labor and costs therefor shall be required for the payment for
414 such repairs.

415 (iii) **In-house equipment repairs.** Purchases of
416 parts for repairs to equipment, when such repairs are made by
417 personnel of the agency or governing authority; however, entire
418 assemblies, such as engines or transmissions, shall not be
419 included in this exemption when the entire assembly is being
420 replaced instead of being repaired.

421 (iv) **Raw gravel or dirt.** Raw unprocessed deposits
422 of gravel or fill dirt which are to be removed and transported by
423 the purchaser.

424 (v) **Governmental equipment auctions.** Motor
425 vehicles or other equipment purchased from a federal agency or
426 authority, another governing authority or state agency of the

427 State of Mississippi, or any governing authority or state agency
428 of another state at a public auction held for the purpose of
429 disposing of such vehicles or other equipment. Any purchase by a
430 governing authority under the exemption authorized by this
431 subparagraph (v) shall require advance authorization spread upon
432 the minutes of the governing authority to include the listing of
433 the item or items authorized to be purchased and the maximum bid
434 authorized to be paid for each item or items.

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

455 (vii) **Perishable supplies or food.** Perishable
456 supplies or foods purchased for use in connection with hospitals,
457 the school lunch programs, homemaking programs and for the feeding
458 of county or municipal prisoners.

459 (viii) **Single source items.** Noncompetitive items
460 available from one (1) source only. In connection with the
461 purchase of noncompetitive items only available from one (1)

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

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

473 (ix) **Waste disposal facility construction**

474 **contracts.** Construction of incinerators and other facilities for
475 disposal of solid wastes in which products either generated
476 therein, such as steam, or recovered therefrom, such as materials
477 for recycling, are to be sold or otherwise disposed of; * * *
478 however, in constructing such facilities, a governing authority or
479 agency shall publicly issue requests for proposals, advertised for
480 in the same manner as provided herein for seeking bids for public
481 construction projects, concerning the design, construction,
482 ownership, operation and/or maintenance of such facilities,
483 wherein such requests for proposals when issued shall contain
484 terms and conditions relating to price, financial responsibility,
485 technology, environmental compatibility, legal responsibilities
486 and such other matters as are determined by the governing
487 authority or agency to be appropriate for inclusion; and after
488 responses to the request for proposals have been duly received,
489 the governing authority or agency may select the most qualified
490 proposal or proposals on the basis of price, technology and other
491 relevant factors and from such proposals, but not limited to the
492 terms thereof, negotiate and enter contracts with one or more of
493 the persons or firms submitting proposals.

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

497 (xi) **Information technology products.** Purchases
498 of information technology products made by governing authorities
499 under the provisions of purchase schedules, or contracts executed
500 or approved by the Mississippi Department of Information
501 Technology Services and designated for use by governing
502 authorities.

503 (xii) **Energy efficiency services and equipment.**
504 Energy efficiency services and equipment acquired by school
505 districts, community and junior colleges, institutions of higher
506 learning and state agencies or other applicable governmental
507 entities on a shared-savings, lease or lease-purchase basis
508 pursuant to Section 31-7-14.

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

513 (xiv) **Library books and other reference materials.**
514 Purchases by libraries or for libraries of books and periodicals;
515 processed film, video cassette tapes, filmstrips and slides;
516 recorded audio tapes, cassettes and diskettes; and any such items
517 as would be used for teaching, research or other information
518 distribution; however, equipment such as projectors, recorders,
519 audio or video equipment, and monitor televisions are not exempt
520 under this subparagraph.

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

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

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

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

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

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

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

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

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

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

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

554 Contracts for garbage collection or disposal, contracts for solid
555 waste collection or disposal and contracts for sewage collection
556 or disposal.

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

558 **contracts.** Professional maintenance program contracts for the
559 repair or maintenance of municipal water tanks, which provide
560 professional services needed to maintain municipal water storage
561 tanks for a fixed annual fee for a duration of two (2) or more
562 years.

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

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

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

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

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

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

572 (xxvii) **Used heavy or specialized machinery or**
573 **equipment for installation of soil and water conservation**

574 **practices purchased at auction.** Used heavy or specialized
575 machinery or equipment used for the installation and

576 implementation of soil and water conservation practices or
577 measures purchased subject to the restrictions provided in

578 Sections 69-27-331 through 69-27-341. Any purchase by the State
579 Soil and Water Conservation Commission under the exemption

580 authorized by this subparagraph shall require advance

581 authorization spread upon the minutes of the commission to include
582 the listing of the item or items authorized to be purchased and

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

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

585 Leases by hospitals of equipment or services if the leases are in
586 compliance with subparagraph (1)(ii).

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

588 **purchasing agreements.** Purchases made by agencies or governing

589 authorities under cooperative purchasing agreements established by

590 or for any municipality, county, parish or state government or the

591 federal government, provided that the notification to potential

592 contractors includes a clause that sets forth the availability of

593 the cooperative purchasing agreement to other governmental

594 entities. Such purchases shall only be made if the use of the

595 cooperative purchasing agreements is determined to be in the best

596 interest of the government entity.

597 (n) **Term contract authorization.** All contracts for the
598 purchase of:

599 (i) All contracts for the purchase of commodities,
600 equipment and public construction (including, but not limited to,
601 repair and maintenance), may be let for periods of not more than

602 sixty (60) months in advance, subject to applicable statutory
603 provisions prohibiting the letting of contracts during specified
604 periods near the end of terms of office. Term contracts for a
605 period exceeding twenty-four (24) months shall also be subject to
606 ratification or cancellation by governing authority boards taking
607 office subsequent to the governing authority board entering the
608 contract.

609 (ii) Bid proposals and contracts may include price
610 adjustment clauses with relation to the cost to the contractor
611 based upon a nationally published industry-wide or nationally
612 published and recognized cost index. The cost index used in a
613 price adjustment clause shall be determined by the Department of
614 Finance and Administration for the state agencies and by the
615 governing board for governing authorities. The bid proposal and
616 contract documents utilizing a price adjustment clause shall
617 contain the basis and method of adjusting unit prices for the
618 change in the cost of such commodities, equipment and public
619 construction.

620 (o) **Purchase law violation prohibition and vendor**
621 **penalty.** No contract or purchase as herein authorized shall be
622 made for the purpose of circumventing the provisions of this
623 section requiring competitive bids, nor shall it be lawful for any
624 person or concern to submit individual invoices for amounts within
625 those authorized for a contract or purchase where the actual value
626 of the contract or commodity purchased exceeds the authorized
627 amount and the invoices therefor are split so as to appear to be
628 authorized as purchases for which competitive bids are not
629 required. Submission of such invoices shall constitute a
630 misdemeanor punishable by a fine of not less than Five Hundred
631 Dollars (\$500.00) nor more than One Thousand Dollars (\$1,000.00),
632 or by imprisonment for thirty (30) days in the county jail, or
633 both such fine and imprisonment. In addition, the claim or claims
634 submitted shall be forfeited.

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

637 therefor, no bid firm as to price is submitted to an electric
638 utility for power transformers, distribution transformers, power
639 breakers, reclosers or other articles containing a petroleum
640 product, the electric utility may accept the lowest and best bid
641 therefor although the price is not firm.

642 (q) **Fuel management system bidding procedure.** Any
643 governing authority or agency of the state shall, before
644 contracting for the services and products of a fuel management or
645 fuel access system, enter into negotiations with not fewer than
646 two (2) sellers of fuel management or fuel access systems for
647 competitive written bids to provide the services and products for
648 the systems. In the event that the governing authority or agency
649 cannot locate two (2) sellers of such systems or cannot obtain
650 bids from two (2) sellers of such systems, it shall show proof
651 that it made a diligent, good-faith effort to locate and negotiate
652 with two (2) sellers of such systems. Such proof shall include,
653 but not be limited to, publications of a request for proposals and
654 letters soliciting negotiations and bids. For purposes of this
655 paragraph (q), a fuel management or fuel access system is an
656 automated system of acquiring fuel for vehicles as well as
657 management reports detailing fuel use by vehicles and drivers, and
658 the term "competitive written bid" shall have the meaning as
659 defined in paragraph (b) of this section. Governing authorities
660 and agencies shall be exempt from this process when contracting
661 for the services and products of a fuel management or fuel access
662 systems under the terms of a state contract established by the
663 Office of Purchasing and Travel.

664 (r) **Solid waste contract proposal procedure.** Before
665 entering into any contract for garbage collection or disposal,
666 contract for solid waste collection or disposal or contract for
667 sewage collection or disposal, which involves an expenditure of
668 more than Fifty Thousand Dollars (\$50,000.00), a governing
669 authority or agency shall issue publicly a request for proposals
670 concerning the specifications for such services which shall be
671 advertised for in the same manner as provided in this section for

672 seeking bids for purchases which involve an expenditure of more
673 than the amount provided in paragraph (c) of this section. Any
674 request for proposals when issued shall contain terms and
675 conditions relating to price, financial responsibility,
676 technology, legal responsibilities and other relevant factors as
677 are determined by the governing authority or agency to be
678 appropriate for inclusion; all factors determined relevant by the
679 governing authority or agency or required by this paragraph (r)
680 shall be duly included in the advertisement to elicit proposals.
681 After responses to the request for proposals have been duly
682 received, the governing authority or agency shall select the most
683 qualified proposal or proposals on the basis of price, technology
684 and other relevant factors and from such proposals, but not
685 limited to the terms thereof, negotiate and enter contracts with
686 one or more of the persons or firms submitting proposals. If the
687 governing authority or agency deems none of the proposals to be
688 qualified or otherwise acceptable, the request for proposals
689 process may be reinitiated. Notwithstanding any other provisions
690 of this paragraph, where a county with at least thirty-five
691 thousand (35,000) nor more than forty thousand (40,000)
692 population, according to the 1990 federal decennial census, owns
693 or operates a solid waste landfill, the governing authorities of
694 any other county or municipality may contract with the governing
695 authorities of the county owning or operating the landfill,
696 pursuant to a resolution duly adopted and spread upon the minutes
697 of each governing authority involved, for garbage or solid waste
698 collection or disposal services through contract negotiations.

699 (s) **Minority set aside authorization.** Notwithstanding
700 any provision of this section to the contrary, any agency or
701 governing authority, by order placed on its minutes, may, in its
702 discretion, set aside not more than twenty percent (20%) of its
703 anticipated annual expenditures for the purchase of commodities
704 from minority businesses; however, all such set-aside purchases
705 shall comply with all purchasing regulations promulgated by the
706 Department of Finance and Administration and shall be subject to

707 bid requirements under this section. Set-aside purchases for
708 which competitive bids are required shall be made from the lowest
709 and best minority business bidder. For the purposes of this
710 paragraph, the term "minority business" means a business which is
711 owned by a majority of persons who are United States citizens or
712 permanent resident aliens (as defined by the Immigration and
713 Naturalization Service) of the United States, and who are Asian,
714 Black, Hispanic or Native American, according to the following
715 definitions:

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

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

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

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

727 (t) **Construction punch list restriction.** The
728 architect, engineer or other representative designated by the
729 agency or governing authority that is contracting for public
730 construction or renovation may prepare and submit to the
731 contractor only one (1) preliminary punch list of items that do
732 not meet the contract requirements at the time of substantial
733 completion and one (1) final list immediately before final
734 completion and final payment.

735 (u) **Purchase authorization clarification.** Nothing in
736 this section shall be construed as authorizing any purchase not
737 authorized by law.

738 **SECTION 4.** Section 37-41-31, Mississippi Code of 1972, is
739 amended as follows:

740 37-41-31. In each case where pupils are transported to and
741 from the public schools in this state in privately owned vehicles,

742 the contract for such transportation shall be let to the lowest
743 responsible bidder who is able to furnish a solvent bond for the
744 faithful performance of his contract. This shall be done after
745 each route over which such pupils are to be transported has been
746 laid out and established as provided in this chapter. Such
747 contracts shall be awarded upon receipt of sealed bids or
748 proposals after the time and place of letting such contracts and
749 the manner of bidding * * * have been duly advertised in some
750 newspaper published in the county in accordance with the
751 procedures provided in Section 31-7-13(c). If no newspaper is
752 published in the county, then the advertisement shall be made by
753 publication for the required time in some newspaper having a
754 general circulation therein, and, in addition, by posting a copy
755 thereof for that time in at least three (3) public places in the
756 county, one (1) of which shall be at the county courthouse in each
757 judicial district of the county. The awarding of all such
758 contracts shall, however, in all respects be subject to the
759 provisions of Section 37-41-29.

760 Private contracts for the transportation of exceptional
761 children, as defined in Section 37-23-3, may be negotiated by the
762 local school board without the necessity of the advertising for or
763 taking of bids. The same may apply under extraordinary
764 circumstances where regular transportation is considered to be
765 impractical, with prior approval of the State Department of
766 Education. The local school board may negotiate and contract for
767 the transportation described in this paragraph so long as the
768 local school board complies with the school transportation
769 regulations promulgated by the State Board of Education.

770 Contracts shall be made for four (4) years, at the discretion
771 of the local school board. Any and all bids may be rejected. At
772 the expiration of any transportation contract, if the school board
773 believes a route should remain substantially as established and
774 finds that the carrier thereon has rendered efficient and
775 satisfactory services it may, with the approval of the State Board
776 of Education, extend the contract for not more than four (4)

777 years, subject, however, to the provisions of Section 37-41-29.

778 **SECTION 5.** This act shall take effect and be in force from
779 and after July 1, 2003.

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

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 31-7-13, MISSISSIPPI CODE OF 1972, TO DEFINE THE TERM
8 "COMPETITIVE" AS IT RELATES TO BIDDING PROCEDURE FOR PURCHASES
9 OVER \$3,500.00 BUT NOT OVER \$15,000.00; TO ALLOW AGENCIES AND
10 GOVERNING AUTHORITIES TO ESTABLISH PROCEDURES BY WHICH BIDS MAY BE
11 SUBMITTED VIA ELECTRONIC MEANS; TO REVISE THE STATE AGENCY
12 EMERGENCY PURCHASE PROCEDURE; TO EXEMPT FROM THE PUBLIC PURCHASING
13 LAWS PURCHASES AT GOVERNMENTAL EQUIPMENT AUCTIONS IN OTHER STATES;
14 TO EXEMPT FROM THE PUBLIC PURCHASING LAWS INTERGOVERNMENTAL SALES
15 AND TRANSFERS WITH GOVERNMENT ENTITIES IN OTHER STATES; TO EXEMPT
16 FROM THE PUBLIC PURCHASING LAWS PURCHASES MADE UNDER COOPERATIVE
17 PURCHASING AGREEMENTS; TO AMEND SECTION 37-41-31, MISSISSIPPI CODE
18 OF 1972, TO PROVIDE THAT SCHOOL TRANSPORTATION CONTRACTS SHALL BE
19 ADVERTISED IN ACCORDANCE WITH THE PUBLIC PURCHASING LAWS; AND FOR
20 RELATED PURPOSES.