

By: Representative Fleming

To: Appropriations

## HOUSE BILL NO. 265

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

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

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

11 31-7-9. (1) (a) The Office of Purchasing and Travel shall  
12 adopt purchasing regulations governing the purchase by any agency  
13 of any commodity or commodities and establishing standards and  
14 specifications for a commodity or commodities and the maximum fair  
15 prices of a commodity or commodities, which prices shall be not  
16 more than the fair market value of the commodities, subject to the  
17 approval of the Public Procurement Review Board. It shall have  
18 the power to amend, add to or eliminate purchasing regulations.  
19 The adoption of, amendment, addition to or elimination of  
20 purchasing regulations shall be based upon a determination by the  
21 Office of Purchasing and Travel with the approval of the Public  
22 Procurement Review Board, that such action is reasonable and  
23 practicable and advantageous to promote efficiency and economy in  
24 the purchase of commodities by the agencies of the state. Upon  
25 the adoption of any purchasing regulation, or an amendment,  
26 addition or elimination therein, copies of same shall be furnished  
27 to the State Auditor and to all agencies affected thereby.  
28 Thereafter, and except as otherwise may be provided in subsection  
29 (2) of this section, no agency of the state shall purchase any

30 commodities covered by existing purchasing regulations unless such  
31 commodities be in conformity with the standards and specifications  
32 set forth in the purchasing regulations and unless the price  
33 thereof does not exceed the maximum fair price established by such  
34 purchasing regulations. The \* \* \* Office of Purchasing and Travel  
35 shall furnish to any county or municipality or other local public  
36 agency of the state requesting same, copies of purchasing  
37 regulations adopted by the Office of Purchasing and Travel and any  
38 amendments, changes or eliminations of same that may be made from  
39 time to time.

40 (b) The Office of Purchasing and Travel may adopt  
41 purchasing regulations governing the use of credit cards,  
42 procurement cards and purchasing club membership cards to be used  
43 by state agencies and governing authorities of counties and  
44 municipalities. Use of the cards shall be in strict compliance  
45 with the regulations promulgated by the office. Any amounts due  
46 on the cards shall incur interest charges as set forth in Section  
47 31-7-305 and shall not be considered debt.

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

57 (3) The Office of Purchasing and Travel shall adopt, subject  
58 to the approval of the Public Procurement Review Board,  
59 regulations governing the certification process for certified  
60 purchasing offices. Such regulations shall require entities  
61 desiring to be classified as certified purchasing offices to  
62 submit applications and applicable documents on an annual basis,

63 at which time the Office of Purchasing and Travel may provide the  
64 governing entity with a certification valid for one (1) year from  
65 the date of issuance.

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

68 31-7-12. (1) Except in regard to purchases of unmarked  
69 vehicles made in accordance with purchasing regulations adopted by  
70 the Department of Finance and Administration pursuant to Section  
71 31-7-9(2), all agencies shall purchase commodities at the state  
72 contract price from the approved source, unless approval is  
73 granted by the Department of Finance and Administration to solicit  
74 purchases outside the terms of the contracts. However, prices  
75 accepted by an agency shall be less than the prices set by the  
76 state contract. Prices accepted by an agency shall be obtained in  
77 compliance with paragraph (a), (b) or (c) of Section 31-7-13. It  
78 shall be the responsibility of the Department of Finance and  
79 Administration to ascertain that the resulting prices shall  
80 provide a cost effective alternative to the established state  
81 contract.

82 (2) Governing authorities may purchase commodities approved  
83 by the Department of Finance and Administration from the state  
84 contract vendor, or from any source offering the identical  
85 commodity, at a price not exceeding the state contract price  
86 established by the Department of Finance and Administration for  
87 such commodity, without obtaining or advertising for competitive  
88 bids. Governing authorities that do not exercise the option to  
89 purchase such commodities from the state contract vendor or from  
90 another source offering the identical commodity at a price not  
91 exceeding the state contract price established by the Department  
92 of Finance and Administration shall make such purchases pursuant  
93 to the provisions of Section 31-7-13 without regard to state  
94 contract prices established by the Department of Finance and

95 Administration, unless such purchases are authorized to be made  
96 under subsection (5) of this section.

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

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

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

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

128 commodities are to be made by the levying authority of the school  
129 district under the contract with the vendor.

130         **SECTION 3.** This act shall take effect and be in force from  
131 and after July 1, 2004.