

By: Senator(s) Thames

To: Fees, Salaries and
Administration;
Appropriations

SENATE BILL NO. 2484

1 AN ACT TO BRING FORWARD SECTIONS 31-7-1, 31-7-3, 31-7-5,
2 31-7-9, 31-7-10, 31-7-11, 31-7-12, 31-7-13, 31-7-15, 31-7-16,
3 31-7-21, 31-7-23, 31-7-38, 31-7-47, 31-7-49 AND 31-7-55,
4 MISSISSIPPI CODE OF 1972, WHICH RELATE TO PUBLIC PURCHASING, FOR
5 PURPOSE OF AMENDMENT; TO BRING FORWARD SECTIONS 43-3-101,
6 43-3-103, 43-3-105, 43-3-107, 43-3-109 AND 43-3-111, MISSISSIPPI
7 CODE OF 1972, WHICH RELATE TO THE MISSISSIPPI INDUSTRIES FOR THE
8 BLIND, FOR PURPOSE OF AMENDMENT; AND FOR RELATED PURPOSES.

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

10 **SECTION 1.** Section 31-7-1, Mississippi Code of 1972, is
11 brought forward as follows:

12 31-7-1. The following terms are defined for the purposes of
13 this chapter to have the following meanings:

14 (a) "Agency" shall mean any state board, commission,
15 committee, council, university, department or unit thereof created
16 by the Constitution or statutes if such board, commission,
17 committee, council, university, department, unit or the head
18 thereof is authorized to appoint subordinate staff by the
19 Constitution or statute, except a legislative or judicial board,
20 commission, committee, council, department or unit thereof.

21 (b) "Governing authority" shall mean boards of
22 supervisors, governing boards of all school districts, all boards
23 of directors of public water supply districts, boards of directors
24 of master public water supply districts, municipal public utility
25 commissions, governing authorities of all municipalities, port
26 authorities, commissioners and boards of trustees of any public
27 hospitals, boards of trustees of public library systems, district
28 attorneys, school attendance officers and any political
29 subdivision of the state supported wholly or in part by public
30 funds of the state or political subdivisions thereof, including

31 commissions, boards and agencies created or operated under the
32 authority of any county or municipality of this state. The term
33 "governing authority" shall not include economic development
34 authorities supported in part by private funds, or commissions
35 appointed to hold title to and oversee the development and
36 management of lands and buildings which are donated by private
37 individuals to the public for the use and benefit of the community
38 and which are supported in part by private funds.

39 (c) "Purchasing agent" shall mean any administrator,
40 superintendent, purchase clerk or other chief officer so
41 designated having general or special authority to negotiate for
42 and make private contract for or purchase for any governing
43 authority or agency.

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

47 (e) "Commodities" shall mean and include the various
48 commodities, goods, merchandise, furniture, equipment, automotive
49 equipment of every kind, and other personal property purchased by
50 the agencies of the state and governing authorities, but not
51 commodities purchased for resale or raw materials converted into
52 products for resale.

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

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

61 (f) "Emergency" shall mean any circumstances caused by
62 fire, flood, explosion, storm, earthquake, epidemic, riot,
63 insurrection or caused by any inherent defect due to defective

64 construction, or when the immediate preservation of order or of
65 public health is necessary by reason of unforeseen emergency, or
66 when the immediate restoration of a condition of usefulness of any
67 public building, equipment, road or bridge appears advisable, or
68 in the case of a public utility when there is a failure of any
69 machine or other thing used and useful in the generation,
70 production or distribution of electricity, water or natural gas,
71 or in the transportation or treatment of sewage; or when the delay
72 incident to obtaining competitive bids could cause adverse impact
73 upon the governing authorities or agency, its employees or its
74 citizens; or in the case of a public airport, when the delay
75 incident to publishing an advertisement for competitive bids would
76 endanger public safety in a specific (not general) manner, result
77 in or perpetuate a specific breach of airport security, or prevent
78 the airport from providing specific air transportation services.

79 (g) "Construction" shall mean the process of building,
80 altering, improving, renovating or demolishing a public structure,
81 public building, or other public real property. It does not
82 include routine operation, routine repair or regularly scheduled
83 maintenance of existing public structures, public buildings or
84 other public real property.

85 (h) "Purchase" shall mean buying, renting, leasing or
86 otherwise acquiring.

87 (i) "Certified purchasing office" shall mean any
88 purchasing office wherein fifty percent (50%) or more of the
89 purchasing agents hold a certification from the Universal Public
90 Purchasing Certification Council or other nationally recognized
91 purchasing certification.

92 **SECTION 2.** Section 31-7-3, Mississippi Code of 1972, is
93 brought forward as follows:

94 31-7-3. The Department of Finance and Administration shall
95 administer the provisions of this chapter.

96 The purposes or aims of the Department of Finance and
97 Administration in carrying out said provisions shall be to
98 coordinate and promote efficiency and economy in the purchase of
99 commodities by the agencies of the state.

100 **SECTION 3.** Section 31-7-5, Mississippi Code of 1972, is
101 brought forward as follows:

102 31-7-5. The Department of Finance and Administration shall
103 prescribe rules and regulations governing the manner in which the
104 authority and duties granted to it by law may be carried out. It
105 shall employ suitable and competent personnel, necessary to carry
106 out its purposes. The Department of Finance and Administration
107 may establish an Office of Purchasing and Travel and employ a
108 competent person as Director of the Office of Purchasing and
109 Travel.

110 **SECTION 4.** Section 31-7-9, Mississippi Code of 1972, is
111 brought forward as follows:

112 31-7-9. (1) (a) The Office of Purchasing and Travel shall
113 adopt purchasing regulations governing the purchase by any agency
114 of any commodity or commodities and establishing standards and
115 specifications for a commodity or commodities and the maximum fair
116 prices of a commodity or commodities, subject to the approval of
117 the Public Procurement Review Board. It shall have the power to
118 amend, add to or eliminate purchasing regulations. The adoption
119 of, amendment, addition to or elimination of purchasing
120 regulations shall be based upon a determination by the Office of
121 Purchasing and Travel with the approval of the Public Procurement
122 Review Board, that such action is reasonable and practicable and
123 advantageous to promote efficiency and economy in the purchase of
124 commodities by the agencies of the state. Upon the adoption of
125 any purchasing regulation, or an amendment, addition or
126 elimination therein, copies of same shall be furnished to the
127 State Auditor and to all agencies affected thereby. Thereafter,
128 and except as otherwise may be provided in subsection (2) of this

129 section, no agency of the state shall purchase any commodities
130 covered by existing purchasing regulations unless such commodities
131 be in conformity with the standards and specifications set forth
132 in the purchasing regulations and unless the price thereof does
133 not exceed the maximum fair price established by such purchasing
134 regulations. The said Office of Purchasing and Travel shall
135 furnish to any county or municipality or other local public agency
136 of the state requesting same, copies of purchasing regulations
137 adopted by the Office of Purchasing and Travel and any amendments,
138 changes or eliminations of same that may be made from time to
139 time.

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

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

158 (3) The Office of Purchasing and Travel shall adopt, subject
159 to the approval of the Public Procurement Review Board,
160 regulations governing the certification process for certified
161 purchasing offices. Such regulations shall require entities

162 desiring to be classified as certified purchasing offices to
163 submit applications and applicable documents on an annual basis,
164 at which time the Office of Purchasing and Travel may provide the
165 governing entity with a certification valid for one (1) year from
166 the date of issuance.

167 **SECTION 5.** Section 31-7-10, Mississippi Code of 1972, is
168 brought forward as follows:

169 31-7-10. (1) For the purposes of this section, the term
170 "equipment" shall mean equipment, furniture, and if applicable,
171 associated software and other applicable direct costs associated
172 with the acquisition. In addition to its other powers and duties,
173 the Department of Finance and Administration shall have the
174 authority to develop a master lease-purchase program and, pursuant
175 to that program, shall have the authority to execute on behalf of
176 the state master lease-purchase agreements for equipment to be
177 used by an agency, as provided in this section. Each agency
178 electing to acquire equipment by a lease-purchase agreement shall
179 participate in the Department of Finance and Administration's
180 master lease-purchase program, unless the Department of Finance
181 and Administration makes a determination that such equipment
182 cannot be obtained under the program or unless the equipment can
183 be obtained elsewhere at an overall cost lower than that for which
184 the equipment can be obtained under the program. Such
185 lease-purchase agreements may include the refinancing or
186 consolidation, or both, of any state agency lease-purchase
187 agreements entered into after June 30, 1990.

188 (2) All funds designated by agencies for procurement of
189 equipment and financing thereof under the master lease-purchase
190 program shall be paid into a special fund created in the State
191 Treasury known as the "Master Lease-Purchase Program Fund," which
192 shall be used by the Department of Finance and Administration for
193 payment to the lessors for equipment acquired under master
194 lease-purchase agreements.

195 (3) Upon final approval of an appropriation bill, each
196 agency shall submit to the Public Procurement Review Board a
197 schedule of proposed equipment acquisitions for the master
198 lease-purchase program. Upon approval of an equipment schedule by
199 the Public Procurement Review Board with the advice of the
200 Department of Information Technology Services, the Office of
201 Purchasing and Travel, and the Division of Energy and
202 Transportation of the Mississippi Development Authority as it
203 pertains to energy efficient climate control systems, the Public
204 Procurement Review Board shall forward a copy of the equipment
205 schedule to the Department of Finance and Administration.

206 (4) The level of lease-purchase debt recommended by the
207 Department of Finance and Administration shall be subject to
208 approval by the State Bond Commission. After such approval, the
209 Department of Finance and Administration shall be authorized to
210 advertise and solicit written competitive proposals for a lessor,
211 who will purchase the equipment pursuant to bid awards made by the
212 using agency under a given category and then transfer the
213 equipment to the Department of Finance and Administration as
214 lessee, pursuant to a master lease-purchase agreement.

215 The Department of Finance and Administration shall select the
216 successful proposer for the financing of equipment under the
217 master lease-purchase program with the approval of the State Bond
218 Commission.

219 (5) Each master lease-purchase agreement, and any subsequent
220 amendments, shall include such terms and conditions as the State
221 Bond Commission shall determine to be appropriate and in the
222 public interest, and may include any covenants deemed necessary or
223 desirable to protect the interests of the lessor, including, but
224 not limited to, provisions setting forth the interest rate (or
225 method for computing interest rates) for financing pursuant to
226 such agreement, covenants concerning application of payments and
227 funds held in the Master Lease-Purchase Program Fund, covenants to

228 maintain casualty insurance with respect to equipment subject to
229 the master lease-purchase agreement (and all state agencies are
230 specifically authorized to purchase any insurance required by a
231 master lease-purchase agreement) and covenants precluding or
232 limiting the right of the lessee or user to acquire equipment
233 within a specified time (not to exceed five (5) years) after
234 cancellation on the basis of a failure to appropriate funds for
235 payment of amounts due under a lease-purchase agreement covering
236 comparable equipment. The State Bond Commission shall transmit
237 copies of each such master lease-purchase agreement and each such
238 amendment to the Joint Legislative Budget Committee. To the
239 extent provided in any master lease-purchase agreement, title to
240 equipment leased pursuant thereto shall be deemed to be vested in
241 the state or the user of the equipment (as specified in such
242 master lease-purchase agreement), subject to default under or
243 termination of such master lease-purchase agreement.

244 A master lease-purchase agreement may provide for payment by
245 the lessor to the lessee of the purchase price of the equipment to
246 be acquired pursuant thereto prior to the date on which payment is
247 due to the vendor for such equipment and that the lease payments
248 by the lessee shall commence as though the equipment had been
249 provided on the date of payment. If the lessee, or lessee's
250 escrow agent, has sufficient funds for payment of equipment
251 purchases prior to payment due date to vendor of equipment, such
252 funds shall be held or utilized on an as-needed basis for payment
253 of equipment purchases either by the State Treasurer (in which
254 event the master lease-purchase agreement may include provisions
255 concerning the holding of such funds, the creation of a security
256 interest for the benefit of the lessor in such funds until
257 disbursed and other appropriate provisions approved by the Bond
258 Commission) or by a corporate trustee selected by the Department
259 of Finance and Administration (in which event the Department of
260 Finance and Administration shall have the authority to enter into

261 an agreement with such a corporate trustee containing terms and
262 conditions approved by the Bond Commission). Earnings on any
263 amount paid by the lessor prior to the acquisition of the
264 equipment may be used to make lease payments under the master
265 lease-purchase agreement or applied to pay costs and expenses
266 incurred in connection with such lease-purchase agreement. In
267 such event, the equipment use agreements with the user agency may
268 provide for lease payments to commence upon the date of payment by
269 the lessor and may also provide for a credit against such payments
270 to the extent that investment receipts from investment of the
271 purchase price are to be used to make lease-purchase payments.

272 (6) The annual rate of interest paid under any
273 lease-purchase agreement authorized under this section shall not
274 exceed the maximum interest rate to maturity on general obligation
275 indebtedness permitted under Section 75-17-101.

276 (7) The Department of Finance and Administration shall
277 furnish the equipment to the various agencies, also known as the
278 user, pursuant to an equipment-use agreement developed by the
279 Department of Finance and Administration. Such agreements shall
280 require that all monthly payments due from such agency be paid,
281 transferred or allocated into the Master Lease-Purchase Program
282 Fund pursuant to a schedule established by the Department of
283 Finance and Administration. In the event such sums are not paid
284 by the defined payment period, the Executive Director of the
285 Department of Finance and Administration shall issue a requisition
286 for a warrant to draw such amount as may be due from any funds
287 appropriated for the use of the agency which has failed to make
288 the payment as agreed.

289 (8) All master lease-purchase agreements executed under the
290 authority of this section shall contain the following annual
291 allocation dependency clause or an annual allocation dependency
292 clause which is substantially equivalent thereto: "The
293 continuation of each equipment schedule to this agreement is

294 contingent in whole or in part upon the appropriation of funds by
295 the Legislature to make the lease-purchase payments required under
296 such equipment schedule. If the Legislature fails to appropriate
297 sufficient funds to provide for the continuation of the
298 lease-purchase payments under any such equipment schedule, then
299 the obligations of the lessee and of the agency to make such
300 lease-purchase payments and the corresponding provisions of any
301 such equipment schedule to this agreement shall terminate on the
302 last day of the fiscal year for which appropriations were made."

303 (9) The maximum lease term for any equipment acquired under
304 the master lease-purchase program shall not exceed the useful life
305 of such equipment as determined according to the upper limit of
306 the asset depreciation range (ADR) guidelines for the Class Life
307 Asset Depreciation Range System established by the Internal
308 Revenue Service pursuant to the United States Internal Revenue
309 Code and Regulations thereunder as in effect on December 31, 1980,
310 or comparable depreciation guidelines with respect to any
311 equipment not covered by ADR guidelines. The Department of
312 Finance and Administration shall be deemed to have met the
313 requirements of this subsection if the term of a master
314 lease-purchase agreement does not exceed the weighted average
315 useful life of all equipment covered by such agreement and the
316 schedules thereto as determined by the Department of Finance and
317 Administration. For purposes of this subsection, the "term of a
318 master lease-purchase agreement" shall be the weighted average
319 maturity of all principal payments to be made under such master
320 lease-purchase agreement and all schedules thereto.

321 (10) Interest paid on any master lease-purchase agreement
322 under this section shall be exempt from State of Mississippi
323 income taxation. All equipment, and the purchase thereof by any
324 lessor, acquired under the master lease-purchase program and all
325 lease-purchase payments with respect thereto shall be exempt from
326 all Mississippi sales, use and ad valorem taxes.

327 (11) The Governor, in his annual executive budget to the
328 Legislature, shall recommend appropriations sufficient to provide
329 funds to pay all amounts due and payable during the applicable
330 fiscal year under master lease-purchase agreements entered into
331 pursuant to this section.

332 (12) Any master lease-purchase agreement reciting in
333 substance that such agreement has been entered into pursuant to
334 this section shall be conclusively deemed to have been entered
335 into in accordance with all of the provisions and conditions set
336 forth in this section. Any defect or irregularity arising with
337 respect to procedures applicable to the acquisition of any
338 equipment shall not invalidate or otherwise limit the obligation
339 of the Department of Finance and Administration, or the state or
340 any agency of the state, under any master lease-purchase agreement
341 or any equipment-use agreement.

342 (13) There shall be maintained by the Department of Finance
343 and Administration, with respect to each master lease-purchase
344 agreement, an itemized statement of the cash price, interest
345 rates, interest costs, commissions, debt service schedules and all
346 other costs and expenses paid by the state incident to the
347 lease-purchase of equipment under such agreement.

348 (14) Lease-purchase agreements entered into by the Board of
349 Trustees of State Institutions of Higher Learning pursuant to the
350 authority of Section 37-101-413 or by any other agency which has
351 specific statutory authority other than pursuant to Section
352 31-7-13(e) to acquire equipment by lease-purchase shall not be
353 made pursuant to the master lease-purchase program under this
354 section, unless the Board of Trustees of State Institutions of
355 Higher Learning or such other agency elects to participate as to
356 part or all of its lease-purchase acquisitions in the master
357 lease-purchase program pursuant to this section.

358 (15) The Department of Finance and Administration may
359 develop a master lease-purchase program for school districts and,

360 pursuant to that program, may execute on behalf of the school
361 districts master lease-purchase agreements for equipment to be
362 used by the school districts. The form and structure of this
363 program shall be substantially the same as set forth in this
364 section for the master lease-purchase program for state agencies.
365 If sums due from a school district under the master lease-purchase
366 program are not paid by the expiration of the defined payment
367 period, the Executive Director of the Department of Finance and
368 Administration may withhold such amount that is due from the
369 school district's minimum education or adequate education program
370 fund allotments.

371 (16) The Department of Finance and Administration may
372 develop a master lease-purchase program for community and junior
373 college districts and, pursuant to that program, may execute on
374 behalf of the community and junior college districts master
375 lease-purchase agreements for equipment to be used by the
376 community and junior college districts. The form and structure of
377 this program must be substantially the same as set forth in this
378 section for the master lease-purchase program for state agencies.
379 If sums due from a community or junior college district under the
380 master lease-purchase program are not paid by the expiration of
381 the defined payment period, the Executive Director of the
382 Department of Finance and Administration may withhold an amount
383 equal to the amount due under the program from any funds allocated
384 for that community or junior college district in the state
385 appropriations for the use and support of the community and junior
386 colleges.

387 **SECTION 6.** Section 31-7-11, Mississippi Code of 1972, is
388 brought forward as follows:

389 31-7-11. Each agency of the state shall furnish information
390 relative to its purchase of commodities, and as to its method of
391 purchasing such commodities, to the Department of Finance and

392 Administration annually and at such other times as the Department
393 of Finance and Administration may request.

394 The Department of Finance and Administration shall have
395 supervision over the purchasing and purchasing practices of each
396 state agency and may by regulation or order correct any practice
397 that appears contrary to the provisions of this chapter or to the
398 best interests of the state. If it shall appear that any agency
399 is not practicing economy in its purchasing or is permitting
400 favoritism or any improper purchasing practice, the Department of
401 Finance and Administration shall require that the agency
402 immediately cease such improper activity, with full and complete
403 authority in the Department of Finance and Administration to carry
404 into effect its directions in such regard.

405 All purchases, trade-ins, sales or transfer of personal
406 property made by any officer, board, agency, department or branch
407 of the state government except the Legislature shall be subject to
408 the approval of the Department of Finance and Administration.
409 Such transaction shall be made in accordance with rules and
410 regulations of the Department of Finance and Administration
411 relating to the purchase of state-owned motor vehicles and all
412 other personal property. The title of such property shall remain
413 in the name of the state.

414 **SECTION 7.** Section 31-7-12, Mississippi Code of 1972, is
415 brought forward as follows:

416 31-7-12. (1) Except in regard to purchases of unmarked
417 vehicles made in accordance with purchasing regulations adopted by
418 the Department of Finance and Administration pursuant to Section
419 31-7-9(2), all agencies shall purchase commodities at the state
420 contract price from the approved source, unless approval is
421 granted by the Department of Finance and Administration to solicit
422 purchases outside the terms of the contracts. However, prices
423 accepted by an agency shall be less than the prices set by the
424 state contract. Prices accepted by an agency shall be obtained in

425 compliance with paragraph (a), (b) or (c) of Section 31-7-13. It
426 shall be the responsibility of the Department of Finance and
427 Administration to ascertain that the resulting prices shall
428 provide a cost effective alternative to the established state
429 contract.

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

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

450 (4) The Department of Finance and Administration shall
451 ensure that the prices of all commodities on the state contract
452 are the lowest and best prices available from any source offering
453 that commodity at the same level of quality or service, utilizing
454 the reasonable standards established therefor by the Department of
455 Finance and Administration. If the Department of Finance and
456 Administration does not list an approved price for the particular
457 item involved, purchase shall be made according to statutory

458 bidding and licensing requirements. To encourage prudent
459 purchasing practices, the Department of Finance and Administration
460 shall be authorized and empowered to exempt certain commodities
461 from the requirement that the lowest and best price be approved by
462 order placed on its minutes.

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

473 **SECTION 8.** Section 31-7-13, Mississippi Code of 1972, is
474 brought forward as follows:

475 31-7-13. All agencies and governing authorities shall
476 purchase their commodities and printing; contract for garbage
477 collection or disposal; contract for solid waste collection or
478 disposal; contract for sewage collection or disposal; contract for
479 public construction; and contract for rentals as herein provided.

480 (a) **Bidding procedure for purchases not over \$3,500.00.**
481 Purchases which do not involve an expenditure of more than Three
482 Thousand Five Hundred Dollars (\$3,500.00), exclusive of freight or
483 shipping charges, may be made without advertising or otherwise
484 requesting competitive bids. However, nothing contained in this
485 paragraph (a) shall be construed to prohibit any agency or
486 governing authority from establishing procedures which require
487 competitive bids on purchases of Three Thousand Five Hundred
488 Dollars (\$3,500.00) or less.

489 (b) **Bidding procedure for purchases over \$3,500.00 but**
490 **not over \$15,000.00.** Purchases which involve an expenditure of

491 more than Three Thousand Five Hundred Dollars (\$3,500.00) but not
492 more than Fifteen Thousand Dollars (\$15,000.00), exclusive of
493 freight and shipping charges may be made from the lowest and best
494 bidder without publishing or posting advertisement for bids,
495 provided at least two (2) competitive written bids have been
496 obtained. Any governing authority purchasing commodities pursuant
497 to this paragraph (b) may authorize its purchasing agent, or his
498 designee, with regard to governing authorities other than
499 counties, or its purchase clerk, or his designee, with regard to
500 counties, to accept the lowest and best competitive written bid.
501 Such authorization shall be made in writing by the governing
502 authority and shall be maintained on file in the primary office of
503 the agency and recorded in the official minutes of the governing
504 authority, as appropriate. The purchasing agent or the purchase
505 clerk, or their designee, as the case may be, and not the
506 governing authority, shall be liable for any penalties and/or
507 damages as may be imposed by law for any act or omission of the
508 purchasing agent or purchase clerk, or their designee,
509 constituting a violation of law in accepting any bid without
510 approval by the governing authority. The term "competitive
511 written bid" shall mean a bid submitted on a bid form furnished by
512 the buying agency or governing authority and signed by authorized
513 personnel representing the vendor, or a bid submitted on a
514 vendor's letterhead or identifiable bid form and signed by
515 authorized personnel representing the vendor. "Competitive" shall
516 mean that the bids are developed based upon comparable
517 identification of the needs and are developed independently and
518 without knowledge of other bids or prospective bids. Bids may be
519 submitted by facsimile, electronic mail or other generally
520 accepted method of information distribution. Bids submitted by
521 electronic transmission shall not require the signature of the
522 vendor's representative unless required by agencies or governing
523 authorities.

524 (c) **Bidding procedure for purchases over \$15,000.00.**
525 (i) **Publication requirement.** Purchases which
526 involve an expenditure of more than Fifteen Thousand Dollars
527 (\$15,000.00), exclusive of freight and shipping charges, may be
528 made from the lowest and best bidder after advertising for
529 competitive sealed bids once each week for two (2) consecutive
530 weeks in a regular newspaper published in the county or
531 municipality in which such agency or governing authority is
532 located. The date as published for the bid opening shall not be
533 less than seven (7) working days after the last published notice;
534 however, if the purchase involves a construction project in which
535 the estimated cost is in excess of Fifteen Thousand Dollars
536 (\$15,000.00), such bids shall not be opened in less than fifteen
537 (15) working days after the last notice is published and the
538 notice for the purchase of such construction shall be published
539 once each week for two (2) consecutive weeks. The notice of
540 intention to let contracts or purchase equipment shall state the
541 time and place at which bids shall be received, list the contracts
542 to be made or types of equipment or supplies to be purchased, and,
543 if all plans and/or specifications are not published, refer to the
544 plans and/or specifications on file. If there is no newspaper
545 published in the county or municipality, then such notice shall be
546 given by posting same at the courthouse, or for municipalities at
547 the city hall, and at two (2) other public places in the county or
548 municipality, and also by publication once each week for two (2)
549 consecutive weeks in some newspaper having a general circulation
550 in the county or municipality in the above provided manner. On
551 the same date that the notice is submitted to the newspaper for
552 publication, the agency or governing authority involved shall mail
553 written notice to, or provide electronic notification to the main
554 office of the Mississippi Contract Procurement Center that
555 contains the same information as that in the published notice.

556 (ii) **Bidding process amendment procedure.** If all
557 plans and/or specifications are published in the notification,
558 then the plans and/or specifications may not be amended. If all
559 plans and/or specifications are not published in the notification,
560 then amendments to the plans/specifications, bid opening date, bid
561 opening time and place may be made, provided that the agency or
562 governing authority maintains a list of all prospective bidders
563 who are known to have received a copy of the bid documents and all
564 such prospective bidders are sent copies of all amendments. This
565 notification of amendments may be made via mail, facsimile,
566 electronic mail or other generally accepted method of information
567 distribution. No addendum to bid specifications may be issued
568 within two (2) working days of the time established for the
569 receipt of bids unless such addendum also amends the bid opening
570 to a date not less than five (5) working days after the date of
571 the addendum.

572 (iii) **Filing requirement.** In all cases involving
573 governing authorities, before the notice shall be published or
574 posted, the plans or specifications for the construction or
575 equipment being sought shall be filed with the clerk of the board
576 of the governing authority. In addition to these requirements, a
577 bid file shall be established which shall indicate those vendors
578 to whom such solicitations and specifications were issued, and
579 such file shall also contain such information as is pertinent to
580 the bid.

581 (iv) **Specification restrictions.** Specifications
582 pertinent to such bidding shall be written so as not to exclude
583 comparable equipment of domestic manufacture. However, if valid
584 justification is presented, the Department of Finance and
585 Administration or the board of a governing authority may approve a
586 request for specific equipment necessary to perform a specific
587 job. Further, such justification, when placed on the minutes of
588 the board of a governing authority, may serve as authority for

589 that governing authority to write specifications to require a
590 specific item of equipment needed to perform a specific job. In
591 addition to these requirements, from and after July 1, 1990,
592 vendors of relocatable classrooms and the specifications for the
593 purchase of such relocatable classrooms published by local school
594 boards shall meet all pertinent regulations of the State Board of
595 Education, including prior approval of such bid by the State
596 Department of Education.

597 (v) Agencies and governing authorities may
598 establish secure procedures by which bids may be submitted via
599 electronic means.

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

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

616 (ii) **Decision procedure for Certified Purchasing**
617 **Offices.** In addition to the decision procedure set forth in
618 paragraph (d)(i), Certified Purchasing Offices may also use the
619 following procedure: Purchases may be made from the bidder
620 offering the best value. In determining the best value bid,
621 freight and shipping charges shall be included. Life-cycle

622 costing, total cost bids, warranties, guaranteed buy-back
623 provisions, documented previous experience, training costs and
624 other relevant provisions may be included in the best value
625 calculation. This provision shall authorize Certified Purchasing
626 Offices to utilize a Request For Proposals (RFP) process when
627 purchasing commodities. All best value procedures for state
628 agencies must be in compliance with regulations established by the
629 Department of Finance and Administration. No agency or governing
630 authority shall accept a bid based on items or criteria not
631 included in the specifications.

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

638 (e) **Lease-purchase authorization.** For the purposes of
639 this section, the term "equipment" shall mean equipment, furniture
640 and, if applicable, associated software and other applicable
641 direct costs associated with the acquisition. Any lease-purchase
642 of equipment which an agency is not required to lease-purchase
643 under the master lease-purchase program pursuant to Section
644 31-7-10 and any lease-purchase of equipment which a governing
645 authority elects to lease-purchase may be acquired by a
646 lease-purchase agreement under this paragraph (e). Lease-purchase
647 financing may also be obtained from the vendor or from a
648 third-party source after having solicited and obtained at least
649 two (2) written competitive bids, as defined in paragraph (b) of
650 this section, for such financing without advertising for such
651 bids. Solicitation for the bids for financing may occur before or
652 after acceptance of bids for the purchase of such equipment or,
653 where no such bids for purchase are required, at any time before
654 the purchase thereof. No such lease-purchase agreement shall be

655 for an annual rate of interest which is greater than the overall
656 maximum interest rate to maturity on general obligation
657 indebtedness permitted under Section 75-17-101, and the term of
658 such lease-purchase agreement shall not exceed the useful life of
659 equipment covered thereby as determined according to the upper
660 limit of the asset depreciation range (ADR) guidelines for the
661 Class Life Asset Depreciation Range System established by the
662 Internal Revenue Service pursuant to the United States Internal
663 Revenue Code and regulations thereunder as in effect on December
664 31, 1980, or comparable depreciation guidelines with respect to
665 any equipment not covered by ADR guidelines. Any lease-purchase
666 agreement entered into pursuant to this paragraph (e) may contain
667 any of the terms and conditions which a master lease-purchase
668 agreement may contain under the provisions of Section 31-7-10(5),
669 and shall contain an annual allocation dependency clause
670 substantially similar to that set forth in Section 31-7-10(8).
671 Each agency or governing authority entering into a lease-purchase
672 transaction pursuant to this paragraph (e) shall maintain with
673 respect to each such lease-purchase transaction the same
674 information as required to be maintained by the Department of
675 Finance and Administration pursuant to Section 31-7-10(13).
676 However, nothing contained in this section shall be construed to
677 permit agencies to acquire items of equipment with a total
678 acquisition cost in the aggregate of less than Ten Thousand
679 Dollars (\$10,000.00) by a single lease-purchase transaction. All
680 equipment, and the purchase thereof by any lessor, acquired by
681 lease-purchase under this paragraph and all lease-purchase
682 payments with respect thereto shall be exempt from all Mississippi
683 sales, use and ad valorem taxes. Interest paid on any
684 lease-purchase agreement under this section shall be exempt from
685 State of Mississippi income taxation.

686 (f) **Alternate bid authorization.** When necessary to
687 ensure ready availability of commodities for public works and the

688 timely completion of public projects, no more than two (2)
689 alternate bids may be accepted by a governing authority for
690 commodities. No purchases may be made through use of such
691 alternate bids procedure unless the lowest and best bidder cannot
692 deliver the commodities contained in his bid. In that event,
693 purchases of such commodities may be made from one (1) of the
694 bidders whose bid was accepted as an alternate.

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

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

721 solicited and obtained at least two (2) competitive written bids,
722 as defined in paragraph (b) of this section. If two (2)
723 competitive written bids are not obtained, the entity shall comply
724 with the procedures set forth in paragraph (c) of this section.
725 In the event any agency or governing authority shall have
726 advertised for bids for the purchase of gas, diesel fuel, oils and
727 other petroleum products and coal and no acceptable bids can be
728 obtained, such agency or governing authority is authorized and
729 directed to enter into any negotiations necessary to secure the
730 lowest and best contract available for the purchase of such
731 commodities.

732 (i) **Road construction petroleum products price**
733 **adjustment clause authorization.** Any agency or governing
734 authority authorized to enter into contracts for the construction,
735 maintenance, surfacing or repair of highways, roads or streets,
736 may include in its bid proposal and contract documents a price
737 adjustment clause with relation to the cost to the contractor,
738 including taxes, based upon an industry-wide cost index, of
739 petroleum products including asphalt used in the performance or
740 execution of the contract or in the production or manufacture of
741 materials for use in such performance. Such industry-wide index
742 shall be established and published monthly by the Mississippi
743 Department of Transportation with a copy thereof to be mailed,
744 upon request, to the clerks of the governing authority of each
745 municipality and the clerks of each board of supervisors
746 throughout the state. The price adjustment clause shall be based
747 on the cost of such petroleum products only and shall not include
748 any additional profit or overhead as part of the adjustment. The
749 bid proposals or document contract shall contain the basis and
750 methods of adjusting unit prices for the change in the cost of
751 such petroleum products.

752 (j) **State agency emergency purchase procedure.** If the
753 governing board or the executive head, or his designee, of any

754 agency of the state shall determine that an emergency exists in
755 regard to the purchase of any commodities or repair contracts, so
756 that the delay incident to giving opportunity for competitive
757 bidding would be detrimental to the interests of the state, then
758 the provisions herein for competitive bidding shall not apply and
759 the head of such agency shall be authorized to make the purchase
760 or repair. Total purchases so made shall only be for the purpose
761 of meeting needs created by the emergency situation. In the event
762 such executive head is responsible to an agency board, at the
763 meeting next following the emergency purchase, documentation of
764 the purchase, including a description of the commodity purchased,
765 the purchase price thereof and the nature of the emergency shall
766 be presented to the board and placed on the minutes of the board
767 of such agency. The head of such agency, or his designee, shall,
768 at the earliest possible date following such emergency purchase,
769 file with the Department of Finance and Administration (i) a
770 statement explaining the conditions and circumstances of the
771 emergency, which shall include a detailed description of the
772 events leading up to the situation and the negative impact to the
773 entity if the purchase is made following the statutory
774 requirements set forth in paragraph (a), (b) or (c) of this
775 section, and (ii) a certified copy of the appropriate minutes of
776 the board of such agency, if applicable. On or before September 1
777 of each year, the State Auditor shall prepare and deliver to the
778 Senate Fees, Salaries and Administration Committee, the House Fees
779 and Salaries of Public Officers Committee and the Joint
780 Legislative Budget Committee a report containing a list of all
781 state agency emergency purchases and supporting documentation for
782 each emergency purchase.

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

784 If the governing authority, or the governing authority acting
785 through its designee, shall determine that an emergency exists in
786 regard to the purchase of any commodities or repair contracts, so

787 that the delay incident to giving opportunity for competitive
788 bidding would be detrimental to the interest of the governing
789 authority, then the provisions herein for competitive bidding
790 shall not apply and any officer or agent of such governing
791 authority having general or special authority therefor in making
792 such purchase or repair shall approve the bill presented therefor,
793 and he shall certify in writing thereon from whom such purchase
794 was made, or with whom such a repair contract was made. At the
795 board meeting next following the emergency purchase or repair
796 contract, documentation of the purchase or repair contract,
797 including a description of the commodity purchased, the price
798 thereof and the nature of the emergency shall be presented to the
799 board and shall be placed on the minutes of the board of such
800 governing authority.

801 (1) **Hospital purchase, lease-purchase and lease**
802 **authorization.**

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

808 (ii) In addition to the authority granted in
809 subparagraph (i) of this paragraph (1), the commissioners or board
810 of trustees is authorized to enter into contracts for the lease of
811 equipment or services, or both, which it considers necessary for
812 the proper care of patients if, in its opinion, it is not
813 financially feasible to purchase the necessary equipment or
814 services. Any such contract for the lease of equipment or
815 services executed by the commissioners or board shall not exceed a
816 maximum of five (5) years' duration and shall include a
817 cancellation clause based on unavailability of funds. If such
818 cancellation clause is exercised, there shall be no further
819 liability on the part of the lessee. Any such contract for the

820 lease of equipment or services executed on behalf of the
821 commissioners or board that complies with the provisions of this
822 subparagraph (ii) shall be excepted from the bid requirements set
823 forth in this section.

824 (m) **Exceptions from bidding requirements.** Excepted
825 from bid requirements are:

826 (i) **Purchasing agreements approved by department.**
827 Purchasing agreements, contracts and maximum price regulations
828 executed or approved by the Department of Finance and
829 Administration.

830 (ii) **Outside equipment repairs.** Repairs to
831 equipment, when such repairs are made by repair facilities in the
832 private sector; however, engines, transmissions, rear axles and/or
833 other such components shall not be included in this exemption when
834 replaced as a complete unit instead of being repaired and the need
835 for such total component replacement is known before disassembly
836 of the component; however, invoices identifying the equipment,
837 specific repairs made, parts identified by number and name,
838 supplies used in such repairs, and the number of hours of labor
839 and costs therefor shall be required for the payment for such
840 repairs.

841 (iii) **In-house equipment repairs.** Purchases of
842 parts for repairs to equipment, when such repairs are made by
843 personnel of the agency or governing authority; however, entire
844 assemblies, such as engines or transmissions, shall not be
845 included in this exemption when the entire assembly is being
846 replaced instead of being repaired.

847 (iv) **Raw gravel or dirt.** Raw unprocessed deposits
848 of gravel or fill dirt which are to be removed and transported by
849 the purchaser.

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

853 State of Mississippi, or any governing authority or state agency
854 of another state at a public auction held for the purpose of
855 disposing of such vehicles or other equipment. Any purchase by a
856 governing authority under the exemption authorized by this
857 subparagraph (v) shall require advance authorization spread upon
858 the minutes of the governing authority to include the listing of
859 the item or items authorized to be purchased and the maximum bid
860 authorized to be paid for each item or items.

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

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

881 (vii) **Perishable supplies or food.** Perishable
882 supplies or foods purchased for use in connection with hospitals,
883 the school lunch programs, homemaking programs and for the feeding
884 of county or municipal prisoners.

885 (viii) **Single source items.** Noncompetitive items
886 available from one (1) source only. In connection with the
887 purchase of noncompetitive items only available from one (1)
888 source, a certification of the conditions and circumstances
889 requiring the purchase shall be filed by the agency with the
890 Department of Finance and Administration and by the governing
891 authority with the board of the governing authority. Upon receipt
892 of that certification the Department of Finance and Administration
893 or the board of the governing authority, as the case may be, may,
894 in writing, authorize the purchase, which authority shall be noted
895 on the minutes of the body at the next regular meeting thereafter.
896 In those situations, a governing authority is not required to
897 obtain the approval of the Department of Finance and
898 Administration.

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

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

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

923 (xi) **Information technology products.** Purchases
924 of information technology products made by governing authorities
925 under the provisions of purchase schedules, or contracts executed
926 or approved by the Mississippi Department of Information
927 Technology Services and designated for use by governing
928 authorities.

929 (xii) **Energy efficiency services and equipment.**
930 Energy efficiency services and equipment acquired by school
931 districts, community and junior colleges, institutions of higher
932 learning and state agencies or other applicable governmental
933 entities on a shared-savings, lease or lease-purchase basis
934 pursuant to Section 31-7-14.

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

939 (xiv) **Library books and other reference materials.**
940 Purchases by libraries or for libraries of books and periodicals;
941 processed film, video cassette tapes, filmstrips and slides;
942 recorded audio tapes, cassettes and diskettes; and any such items
943 as would be used for teaching, research or other information
944 distribution; however, equipment such as projectors, recorders,
945 audio or video equipment, and monitor televisions are not exempt
946 under this subparagraph.

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

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

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

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

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

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

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

979 (xxii) **Garbage, solid waste and sewage contracts.**
980 Contracts for garbage collection or disposal, contracts for solid
981 waste collection or disposal and contracts for sewage collection
982 or disposal.

983 (xxiii) **Municipal water tank maintenance**
984 **contracts.** Professional maintenance program contracts for the
985 repair or maintenance of municipal water tanks, which provide
986 professional services needed to maintain municipal water storage
987 tanks for a fixed annual fee for a duration of two (2) or more
988 years.

989 (xxiv) **Purchases of Mississippi Industries for the**
990 **Blind products.** Purchases made by state agencies or governing
991 authorities involving any item that is manufactured, processed or
992 produced by the Mississippi Industries for the Blind.

993 (xxv) **Purchases of state-adopted textbooks.**
994 Purchases of state-adopted textbooks by public school districts.

995 (xxvi) **Certain purchases under the Mississippi**
996 **Major Economic Impact Act.** Contracts entered into pursuant to the
997 provisions of Section 57-75-9(2) and (3).

998 (xxvii) **Used heavy or specialized machinery or**
999 **equipment for installation of soil and water conservation**
1000 **practices purchased at auction.** Used heavy or specialized
1001 machinery or equipment used for the installation and
1002 implementation of soil and water conservation practices or
1003 measures purchased subject to the restrictions provided in
1004 Sections 69-27-331 through 69-27-341. Any purchase by the State
1005 Soil and Water Conservation Commission under the exemption
1006 authorized by this subparagraph shall require advance
1007 authorization spread upon the minutes of the commission to include
1008 the listing of the item or items authorized to be purchased and
1009 the maximum bid authorized to be paid for each item or items.

1010 (xxviii) **Hospital lease of equipment or services.**
1011 Leases by hospitals of equipment or services if the leases are in
1012 compliance with paragraph (1)(ii).

1013 (xxix) **Purchases made pursuant to qualified**
1014 **cooperative purchasing agreements.** Purchases made by certified
1015 purchasing offices of state agencies or governing authorities

1016 under cooperative purchasing agreements previously approved by the
1017 Office of Purchasing and Travel and established by or for any
1018 municipality, county, parish or state government or the federal
1019 government, provided that the notification to potential
1020 contractors includes a clause that sets forth the availability of
1021 the cooperative purchasing agreement to other governmental
1022 entities. Such purchases shall only be made if the use of the
1023 cooperative purchasing agreements is determined to be in the best
1024 interest of the government entity.

1025 (xxx) **School yearbooks.** Purchases of school
1026 yearbooks by state agencies or governing authorities; provided,
1027 however, that state agencies and governing authorities shall use
1028 for these purchases the RFP process as set forth in the
1029 Mississippi Procurement Manual adopted by the Office of Purchasing
1030 and Travel.

1031 (xxxi) **Design-build method or the design-build**
1032 **bridging method of contracting.** Contracts entered into the
1033 provisions of Section 31-11-3(9).

1034 (n) **Term contract authorization.** All contracts for the
1035 purchase of:

1036 (i) All contracts for the purchase of commodities,
1037 equipment and public construction (including, but not limited to,
1038 repair and maintenance), may be let for periods of not more than
1039 sixty (60) months in advance, subject to applicable statutory
1040 provisions prohibiting the letting of contracts during specified
1041 periods near the end of terms of office. Term contracts for a
1042 period exceeding twenty-four (24) months shall also be subject to
1043 ratification or cancellation by governing authority boards taking
1044 office subsequent to the governing authority board entering the
1045 contract.

1046 (ii) Bid proposals and contracts may include price
1047 adjustment clauses with relation to the cost to the contractor
1048 based upon a nationally published industry-wide or nationally

1049 published and recognized cost index. The cost index used in a
1050 price adjustment clause shall be determined by the Department of
1051 Finance and Administration for the state agencies and by the
1052 governing board for governing authorities. The bid proposal and
1053 contract documents utilizing a price adjustment clause shall
1054 contain the basis and method of adjusting unit prices for the
1055 change in the cost of such commodities, equipment and public
1056 construction.

1057 (o) **Purchase law violation prohibition and vendor**
1058 **penalty.** No contract or purchase as herein authorized shall be
1059 made for the purpose of circumventing the provisions of this
1060 section requiring competitive bids, nor shall it be lawful for any
1061 person or concern to submit individual invoices for amounts within
1062 those authorized for a contract or purchase where the actual value
1063 of the contract or commodity purchased exceeds the authorized
1064 amount and the invoices therefor are split so as to appear to be
1065 authorized as purchases for which competitive bids are not
1066 required. Submission of such invoices shall constitute a
1067 misdemeanor punishable by a fine of not less than Five Hundred
1068 Dollars (\$500.00) nor more than One Thousand Dollars (\$1,000.00),
1069 or by imprisonment for thirty (30) days in the county jail, or
1070 both such fine and imprisonment. In addition, the claim or claims
1071 submitted shall be forfeited.

1072 (p) **Electrical utility petroleum-based equipment**
1073 **purchase procedure.** When in response to a proper advertisement
1074 therefor, no bid firm as to price is submitted to an electric
1075 utility for power transformers, distribution transformers, power
1076 breakers, reclosers or other articles containing a petroleum
1077 product, the electric utility may accept the lowest and best bid
1078 therefor although the price is not firm.

1079 (q) **Fuel management system bidding procedure.** Any
1080 governing authority or agency of the state shall, before
1081 contracting for the services and products of a fuel management or

1082 fuel access system, enter into negotiations with not fewer than
1083 two (2) sellers of fuel management or fuel access systems for
1084 competitive written bids to provide the services and products for
1085 the systems. In the event that the governing authority or agency
1086 cannot locate two (2) sellers of such systems or cannot obtain
1087 bids from two (2) sellers of such systems, it shall show proof
1088 that it made a diligent, good-faith effort to locate and negotiate
1089 with two (2) sellers of such systems. Such proof shall include,
1090 but not be limited to, publications of a request for proposals and
1091 letters soliciting negotiations and bids. For purposes of this
1092 paragraph (q), a fuel management or fuel access system is an
1093 automated system of acquiring fuel for vehicles as well as
1094 management reports detailing fuel use by vehicles and drivers, and
1095 the term "competitive written bid" shall have the meaning as
1096 defined in paragraph (b) of this section. Governing authorities
1097 and agencies shall be exempt from this process when contracting
1098 for the services and products of a fuel management or fuel access
1099 systems under the terms of a state contract established by the
1100 Office of Purchasing and Travel.

1101 (r) **Solid waste contract proposal procedure.** Before
1102 entering into any contract for garbage collection or disposal,
1103 contract for solid waste collection or disposal or contract for
1104 sewage collection or disposal, which involves an expenditure of
1105 more than Fifty Thousand Dollars (\$50,000.00), a governing
1106 authority or agency shall issue publicly a request for proposals
1107 concerning the specifications for such services which shall be
1108 advertised for in the same manner as provided in this section for
1109 seeking bids for purchases which involve an expenditure of more
1110 than the amount provided in paragraph (c) of this section. Any
1111 request for proposals when issued shall contain terms and
1112 conditions relating to price, financial responsibility,
1113 technology, legal responsibilities and other relevant factors as
1114 are determined by the governing authority or agency to be

1115 appropriate for inclusion; all factors determined relevant by the
1116 governing authority or agency or required by this paragraph (r)
1117 shall be duly included in the advertisement to elicit proposals.
1118 After responses to the request for proposals have been duly
1119 received, the governing authority or agency shall select the most
1120 qualified proposal or proposals on the basis of price, technology
1121 and other relevant factors and from such proposals, but not
1122 limited to the terms thereof, negotiate and enter contracts with
1123 one or more of the persons or firms submitting proposals. If the
1124 governing authority or agency deems none of the proposals to be
1125 qualified or otherwise acceptable, the request for proposals
1126 process may be reinitiated. Notwithstanding any other provisions
1127 of this paragraph, where a county with at least thirty-five
1128 thousand (35,000) nor more than forty thousand (40,000)
1129 population, according to the 1990 federal decennial census, owns
1130 or operates a solid waste landfill, the governing authorities of
1131 any other county or municipality may contract with the governing
1132 authorities of the county owning or operating the landfill,
1133 pursuant to a resolution duly adopted and spread upon the minutes
1134 of each governing authority involved, for garbage or solid waste
1135 collection or disposal services through contract negotiations.

1136 (s) **Minority set-aside authorization.** Notwithstanding
1137 any provision of this section to the contrary, any agency or
1138 governing authority, by order placed on its minutes, may, in its
1139 discretion, set aside not more than twenty percent (20%) of its
1140 anticipated annual expenditures for the purchase of commodities
1141 from minority businesses; however, all such set-aside purchases
1142 shall comply with all purchasing regulations promulgated by the
1143 Department of Finance and Administration and shall be subject to
1144 bid requirements under this section. Set-aside purchases for
1145 which competitive bids are required shall be made from the lowest
1146 and best minority business bidder. For the purposes of this
1147 paragraph, the term "minority business" means a business which is

1148 owned by a majority of persons who are United States citizens or
1149 permanent resident aliens (as defined by the Immigration and
1150 Naturalization Service) of the United States, and who are Asian,
1151 Black, Hispanic or Native American, according to the following
1152 definitions:

1153 (i) "Asian" means persons having origins in any of
1154 the original people of the Far East, Southeast Asia, the Indian
1155 subcontinent, or the Pacific Islands.

1156 (ii) "Black" means persons having origins in any
1157 black racial group of Africa.

1158 (iii) "Hispanic" means persons of Spanish or
1159 Portuguese culture with origins in Mexico, South or Central
1160 America, or the Caribbean Islands, regardless of race.

1161 (iv) "Native American" means persons having
1162 origins in any of the original people of North America, including
1163 American Indians, Eskimos and Aleuts.

1164 (t) **Construction punch list restriction.** The
1165 architect, engineer or other representative designated by the
1166 agency or governing authority that is contracting for public
1167 construction or renovation may prepare and submit to the
1168 contractor only one (1) preliminary punch list of items that do
1169 not meet the contract requirements at the time of substantial
1170 completion and one (1) final list immediately before final
1171 completion and final payment.

1172 (u) **Purchase authorization clarification.** Nothing in
1173 this section shall be construed as authorizing any purchase not
1174 authorized by law.

1175 **SECTION 9.** Section 31-7-15, Mississippi Code of 1972, is
1176 brought forward as follows:

1177 31-7-15. (1) Whenever two (2) or more competitive bids are
1178 received, one or more of which relates to commodities grown,
1179 processed or manufactured within this state, and whenever all
1180 things stated in such received bids are equal with respect to

1181 price, quality and service, the commodities grown, processed or
1182 manufactured within this state shall be given preference. A
1183 similar preference shall be given to commodities grown, processed
1184 or manufactured within this state whenever purchases are made
1185 without competitive bids, and when practical the Department of
1186 Finance and Administration may by regulation establish reasonable
1187 preferential policies for other commodities, giving preference to
1188 resident suppliers of this state.

1189 (2) Any foreign manufacturing company with a factory in the
1190 state and with over fifty (50) employees working in the state
1191 shall have preference over any other foreign company where both
1192 price and quality are the same, regardless of where the product is
1193 manufactured.

1194 (3) On or before January 1, 1991, the Department of Finance
1195 and Administration shall adopt bid and product specifications to
1196 be utilized by all state agencies that encourage the procurement
1197 of commodities made from recovered materials. Preference in
1198 awarding contracts for commodities shall be given to commodities
1199 offered at a competitive price.

1200 (4) Each state agency is required to procure products made
1201 from recovered materials when those products are available at a
1202 competitive price. For purposes of this subsection, "competitive
1203 price" means a price not greater than ten percent (10%) above the
1204 lowest and best bidder. A decision not to procure products made
1205 from recovered materials must be based on a determination that
1206 such procurement:

1207 (a) Is not available within a reasonable period of
1208 time; or

1209 (b) Fails to meet the performance standards set forth
1210 in the applicable specifications; or

1211 (c) Is not available at a competitive price.

1212 **SECTION 10.** Section 31-7-16, Mississippi Code of 1972, is
1213 brought forward as follows:

1214 31-7-16. In the event equipment is required which is capable
1215 of being manufactured or assembled in separate units such as
1216 school bus chassis and bodies or other bodies of equipment
1217 installed upon chassis, and there is a manufacturer of such bodies
1218 located within the State of Mississippi, a public purchase may be
1219 made of such chassis and such body or equipment as separate items.

1220 **SECTION 11.** Section 31-7-21, Mississippi Code of 1972, is
1221 brought forward as follows:

1222 31-7-21. The provisions of this chapter shall neither repeal
1223 nor modify the functions of the Governor's Office of General
1224 Services as set forth in Sections 31-11-1 through 31-11-89.

1225 **SECTION 12.** Section 31-7-23, Mississippi Code of 1972, is
1226 brought forward as follows:

1227 31-7-23. Any rebates, refunds, coupons, merit points,
1228 gratuities or any article of value tendered or received by any
1229 agency or governing authority from any vendor of material,
1230 supplies, equipment or other articles shall inure to the benefit
1231 of the agency or governing authority making the purchase. The
1232 agency or governing authority may, in accordance with its best
1233 interest, either take delivery of the article of value tendered
1234 and use the same or convert it to cash by selling it for its fair
1235 and reasonable value, making use of the proceeds from such sale
1236 for the exclusive benefit of the agency or governing authority.

1237 **SECTION 13.** Section 31-7-38, Mississippi Code of 1972, is
1238 brought forward as follows:

1239 31-7-38. The board of trustees or governing board of any
1240 hospital or regional mental health center owned or owned and
1241 operated separately or jointly by the State of Mississippi or any
1242 of its branches, agencies, departments or subdivisions, or by one
1243 or more counties, cities, towns, supervisors districts or election
1244 districts, or combinations thereof, may authorize by resolution
1245 the organization and operation of, or the participation in, a
1246 group purchasing program with other hospitals or regional mental

1247 health centers, for the purchase of supplies, commodities and
1248 equipment when it appears to the board of trustees or governing
1249 board that such a group purchasing program could or would affect
1250 economy or efficiency in their operations. Purchases by hospitals
1251 or regional mental health centers participating in group
1252 purchasing programs of supplies, commodities and equipment through
1253 such programs shall be exempt from the provisions of Sections
1254 31-7-9, 31-7-10, 31-7-11, 31-7-12 and 31-7-13. The Mississippi
1255 Department of Mental health shall develop and submit to the
1256 Chairmen of the Senate and House Appropriations Committees a
1257 report analyzing the savings and economic benefits of the group
1258 purchasing program authorized under this section for state
1259 hospitals or regional mental health centers compared to the
1260 purchasing procedures authorized prior to passage of Laws, 2001,
1261 Chapter 473. This section shall stand repealed on July 1, 2005.

1262 **SECTION 14.** Section 31-7-47, Mississippi Code of 1972, is
1263 brought forward as follows:

1264 31-7-47. In the letting of public contracts, preference
1265 shall be given to resident contractors, and a nonresident bidder
1266 domiciled in a state, city, county, parish, province, nation or
1267 political subdivision having laws granting preference to local
1268 contractors shall be awarded Mississippi public contracts only on
1269 the same basis as the nonresident bidder's state, city, county,
1270 parish, province, nation or political subdivision awards contracts
1271 to Mississippi contractors bidding under similar circumstances.
1272 Resident contractors actually domiciled in Mississippi, be they
1273 corporate, individuals or partnerships, are to be granted
1274 preference over nonresidents in awarding of contracts in the same
1275 manner and to the same extent as provided by the laws of the
1276 state, city, county, parish, province, nation or political
1277 subdivision of domicile of the nonresident.

1278 **SECTION 15.** Section 31-7-49, Mississippi Code of 1972, is
1279 brought forward as follows:

1280 31-7-49. In placing orders for purchases under bids received
1281 and contracts awarded under the provisions of this chapter, the
1282 governing authority, by orders entered on its minutes, may
1283 authorize its members, or agents designated by its order, to place
1284 orders for the purchase of such supplies and materials from time
1285 to time during the period covered by the contract, as such
1286 supplies and materials are needed. Claims for such supplies so
1287 ordered by an individual board member or other duly authorized
1288 agent shall not be allowed and paid by the board until such claims
1289 shall have been approved in writing by the individual board member
1290 or agent who ordered such supplies or the successor to such member
1291 or agent.

1292 **SECTION 16.** Section 31-7-55, Mississippi Code of 1972, is
1293 brought forward as follows:

1294 31-7-55. [For penalties applicable to violations occurring
1295 between January 1, 1981, and August 15, 1988, the following
1296 provisions govern.]

1297 (1) It is hereby declared to be unlawful and a violation
1298 of public policy of the State of Mississippi for any elected or
1299 appointed public officer of the state or the executive head of a
1300 state board, commission, department, subdivision of the state
1301 government or governing authority to make any purchases without
1302 the full compliance with the provisions of this act. Any elected
1303 or appointed public officer of the state or the executive head of
1304 a state board, commission, department, subdivision of the state
1305 government or governing authority who violates the provisions of
1306 this act shall be deemed guilty of a misdemeanor and, upon
1307 conviction therefor, shall be fined not less than One Hundred
1308 Dollars (\$100.00) and not more than Five Hundred Dollars (\$500.00)
1309 for each separate offense, or sentenced to the county jail for not
1310 more than six (6) months, or both such fine and imprisonment, and
1311 shall be removed from his office or position.

1312 (2) Any person diverting the benefits of any article of
1313 value tendered or received by any agency or governing authority to
1314 his or her personal use, in violation of Section 31-7-23, shall be
1315 guilty of a misdemeanor and, upon conviction, shall be punished by
1316 a fine of not less than One Hundred Dollars (\$100.00) nor more
1317 than Five Hundred Dollars (\$500.00), or sentenced to the county
1318 jail for not more than six (6) months, or by both such fine and
1319 imprisonment, and shall be required to return the money value of
1320 the article unlawfully diverted to the agency involved.

1321 [The following provisions apply to violations which occur on
1322 or after August 16, 1988.]

1323 (1) It is hereby declared to be unlawful and a violation
1324 of public policy of the State of Mississippi for any elected or
1325 appointed public officer of an agency or a governing authority, or
1326 the executive head, any employee or agent of an agency or
1327 governing authority to make any purchases without the full
1328 compliance with the provisions of Chapter 7, Title 31, Mississippi
1329 Code of 1972.

1330 (2) Except as otherwise provided in subsection (4) of
1331 this section, any person who intentionally, willfully and
1332 knowingly violates the provisions of Chapter 7, Title 31,
1333 Mississippi Code of 1972, shall be deemed guilty of a misdemeanor
1334 and, upon conviction thereof, shall be fined not less than One
1335 Hundred Dollars (\$100.00) and not more than Five Hundred Dollars
1336 (\$500.00) for each separate offense, or sentenced to the county
1337 jail for not more than six (6) months, or both such fine and
1338 imprisonment, and shall be removed from his office or position.

1339 (3) Any person who intentionally, willfully and
1340 knowingly violates the provisions of subsection (1) of Section
1341 31-7-57 shall be guilty of a misdemeanor and, upon conviction
1342 thereof, shall be fined not less than One Hundred Dollars
1343 (\$100.00) and not more than Five Hundred Dollars (\$500.00), or
1344 sentenced to the county jail for not more than six (6) months, or

1345 both such fine and imprisonment, and shall be removed from his
1346 office or position.

1347 (4) Any person diverting the benefits of any article of
1348 value tendered or received by any agency or governing authority to
1349 his or her personal use, in violation of Section 31-7-23, if the
1350 value of such article be less than Five Hundred Dollars (\$500.00),
1351 shall be guilty of a misdemeanor and, upon conviction, shall be
1352 punished by a fine of not less than One Hundred Dollars (\$100.00)
1353 nor more than Five Hundred Dollars (\$500.00), or sentenced to the
1354 county jail for not more than six (6) months, or by both such fine
1355 and imprisonment, shall be removed from his office or position,
1356 and shall be required to return the money value of the article
1357 unlawfully diverted to the agency or governing authority involved.
1358 If the value of the article be Five Hundred Dollars (\$500.00) or
1359 more, such person shall be guilty of a felony and, upon
1360 conviction, shall be punished by a fine of not less than One
1361 Thousand Dollars (\$1,000.00) nor more than Five Thousand Dollars
1362 (\$5,000.00), or sentenced to the Department of Corrections for not
1363 less than one (1) year nor more than five (5) years, or by both
1364 such fine and imprisonment, shall be removed from his office or
1365 position, and shall be required to return the money value of the
1366 article unlawfully diverted to the agency or governing authority
1367 involved.

1368 (5) The provisions of this section are supplemental to
1369 any other criminal statutes of this state.

1370 **SECTION 17.** Section 43-3-101, Mississippi Code of 1972, is
1371 brought forward as follows:

1372 43-3-101. There is hereby created and established an agency
1373 of the State of Mississippi known as the Mississippi Industries
1374 for the Blind, hereinafter referred to as the "MIB." The MIB
1375 shall be a body politic and corporate, may acquire and hold real
1376 and personal property, may receive, hold and disperse monies
1377 appropriated to it by the Legislature of the State of Mississippi

1378 received from the federal government, received from the sale of
1379 products which it produces, and received from any other sources
1380 whatsoever, and may sue and be sued in its name.

1381 **SECTION 18.** Section 43-3-103, Mississippi Code of 1972, is
1382 brought forward as follows:

1383 43-3-103. (1) From and after July 1, 1997, the MIB shall be
1384 governed by a board of directors hereby created, to consist of
1385 four (4) persons appointed by the Governor, and three (3) by the
1386 Lieutenant Governor, with the advice and consent of the Senate,
1387 each of whom shall be a qualified elector of the State of
1388 Mississippi. The members of the board of directors appointed by
1389 the Governor shall include the following:

1390 (a) One (1) legally blind individual;

1391 (b) One (1) educator with expertise in rehabilitation
1392 or the field of blindness;

1393 (c) One (1) individual with at least five (5) years'
1394 actual experience in finance or a related field;

1395 (d) One (1) individual with at least five (5) years'
1396 actual experience in manufacturing or a related field.

1397 The members of the board of directors appointed by the
1398 Lieutenant Governor shall include the following:

1399 (a) One (1) legally blind individual;

1400 (b) One (1) individual with at least five (5) years'
1401 actual experience in marketing or a related field; and

1402 (c) One (1) individual who is a licensed practicing
1403 attorney.

1404 Initial appointments shall be made within sixty (60) days of
1405 enactment of this act. The Governor shall make initial
1406 appointments of two (2) members for two (2) years, one (1) member
1407 for three (3) years, and one (1) member for four (4) years to be
1408 designated at the time of appointment. The Lieutenant Governor
1409 shall make initial appointments of one (1) member for two (2)
1410 years, one (1) member for three (3) years, and one (1) member for

1411 four (4) years to be designated at the time of appointment.
1412 Thereafter, the terms of the members shall be for four (4) years
1413 and until their successors are appointed and qualified. In the
1414 event of a vacancy during the term of office of an incumbent, the
1415 appointing authority shall fill such vacancy, for the unexpired
1416 portion of the term, by appointing an individual having the same
1417 prerequisite qualifications as required for the vacancy being
1418 filled.

1419 (2) The board of directors shall organize by selecting
1420 annually from its members a chairman and a vice chairman, and may
1421 do all things necessary and convenient for carrying into effect
1422 the provisions of this chapter. Each member of the board shall
1423 receive a per diem as provided in Section 25-3-69, Mississippi
1424 Code of 1972, plus travel and reasonable and necessary expenses
1425 incidental to the attendance at each meeting as provided in
1426 Section 25-3-41, including mileage.

1427 (3) The Lieutenant Governor may designate the Chairman of
1428 the Senate Committee on Public Health and Welfare and another
1429 member of the Senate and the Speaker of the House of
1430 Representatives may designate the Chairman of the House Committee
1431 on Public Health and Welfare and another member of the House to
1432 attend any meeting of the Board of Directors of the MIB. The
1433 appointing authorities may designate alternate members from their
1434 respective houses to serve when the regular designees are unable
1435 to attend such meetings of the board. Such legislative designees
1436 shall have no jurisdiction or vote on any matter within the
1437 jurisdiction of the board. For attending meetings of the board,
1438 such legislators shall receive per diem and expenses which shall
1439 be paid from the contingent expense funds of their respective
1440 houses in the same amounts as provided for committee meetings when
1441 the Legislature is not in session; however, no per diem and
1442 expenses for attending meetings of the board will be paid while
1443 the Legislature is in session. No per diem and expenses will be

1444 paid except for attending meetings of the board without prior
1445 approval of the proper committee in their respective houses.

1446 (4) It shall be the duty of the Board of Directors of MIB
1447 to:

1448 (a) Appoint and employ an executive director who shall
1449 be the executive and administrative head of MIB and who shall
1450 serve at the pleasure of the board of directors. The Board of
1451 Directors of MIB shall set the compensation of the executive
1452 director, subject to the approval of the State Personnel Board.

1453 (b) Make and publish policies, rules and regulations,
1454 not inconsistent with the terms of this chapter, as may be
1455 necessary for the efficient administration and operation of MIB.

1456 (c) Adopt and publish rules and regulations, in its
1457 discretion, to establish a policy of sick leave with pay and
1458 personal leave with pay for MIB employees and to require that MIB
1459 offices be opened and staffed on legal holidays as determined
1460 necessary by the board of directors.

1461 (5) There is created a revolving fund in the State Treasury,
1462 which shall be used by the Mississippi Industries for the Blind
1463 for the purpose of taking advantage of contractual opportunities
1464 that would not be available to MIB without those funds and for the
1465 purpose of meeting the obligations of those types of contracts.
1466 The fund shall consist of monies that are specifically made
1467 available by the Legislature for the purpose of the fund. MIB
1468 shall not be authorized to expend any monies in the fund until it
1469 has received the prior written approval of the Executive Director
1470 of the Department of Finance and Administration and the State
1471 Treasurer. MIB shall repay to the fund all monies that it expends
1472 from the fund, which monies then may be used by MIB for future
1473 contractual opportunities and obligations. Monies in the fund at
1474 the end of a fiscal year shall not lapse into the State General
1475 Fund, and all interest earned on monies in the fund shall be
1476 credited to the fund.

1477 (6) There is hereby created a joint study committee of the
1478 Senate and House of Representatives which shall develop a report
1479 to the Legislature and the Governor, with recommendations relating
1480 to the creation of a nonprofit corporation for the operation of
1481 MIB and its programs, including any matter relating to the future
1482 operation of the MIB. The joint committee shall report its
1483 findings and recommendations to the Legislature and the Governor
1484 on or before January 1, 1998, and upon the presentation of such
1485 report the joint committee shall be dissolved. The committee
1486 shall consist of the Chairman of the Senate Public Health and
1487 Welfare Committee; the Chairman of the House Public Health and
1488 Welfare Committee; four (4) members of the Senate appointed by the
1489 President of the Senate, one (1) of whom shall be the member of
1490 the oversight committee appointed under subsection (3); and four
1491 (4) members of the House of Representatives appointed by the
1492 Speaker of the House, one (1) of whom shall be the member of the
1493 oversight committee appointed under subsection (3). Appointments
1494 shall be made within thirty (30) days after the enactment of this
1495 act; and, within fifteen (15) days thereafter on a day to be
1496 designated jointly by the President of the Senate and the Speaker
1497 of the House, the committee shall meet and organize by selecting
1498 from its membership a chairman and a vice chairman. The vice
1499 chairman shall also serve as secretary and shall be responsible
1500 for keeping all records of the committee. A majority of the
1501 members of the committee shall constitute a quorum. In the
1502 selection of its officers and the adoption of rules, resolutions
1503 and reports, an affirmative vote of a majority of the members of
1504 the joint committee from each house shall be required. All
1505 members shall be notified in writing of all meetings, such notices
1506 to be mailed at least five (5) days prior to the date on which a
1507 meeting is to be held. Members of the committee shall be paid
1508 from the contingent expense funds of their respective houses in
1509 the same manner as provided for committee meetings when the

1510 Legislature is not in session. The joint committee may meet with
1511 and utilize the services of the Board of Directors of MIB in
1512 developing its recommendations.

1513 **SECTION 19.** Section 43-3-105, Mississippi Code of 1972, is
1514 brought forward as follows:

1515 43-3-105. The Executive Director of the MIB shall:

1516 (a) Employ all necessary employees at MIB and dismiss
1517 them as is necessary;

1518 (b) Administer the daily operations at MIB;

1519 (c) Execute any contracts on behalf of MIB; and

1520 (d) Take any further actions which are necessary and
1521 proper toward the achievement of MIB's purposes.

1522 **SECTION 20.** Section 43-3-107, Mississippi Code of 1972, is
1523 brought forward as follows:

1524 43-3-107. The purposes of MIB are as follows:

1525 (a) To establish industries, businesses, shops and
1526 workshops primarily for the employment of blind persons and other
1527 persons;

1528 (b) To employ blind persons whose training is not
1529 otherwise provided for and to market their products; and

1530 (c) To furnish materials, tools and books for use in
1531 rehabilitating blind persons for employment, and to do any and all
1532 other things for blind persons as it deems advisable.

1533 **SECTION 21.** Section 43-3-109, Mississippi Code of 1972, is
1534 brought forward as follows:

1535 43-3-109. Notwithstanding any other law to the contrary, the
1536 Executive Director of the MIB is hereby empowered to maintain
1537 sufficient funds to cover disbursements for current operations.

1538 The executive director shall deposit any excess funds with any
1539 official depository of the state and invest such excess funds as
1540 he deems appropriate.

1541 **SECTION 22.** Section 43-3-111, Mississippi Code of 1972, is
1542 brought forward as follows:

1543 43-3-111. Any funds obtained by MIB as a result of a sale of
1544 goods manufactured by it shall be accounted for separate and apart
1545 from any funds received by MIB through appropriation from the
1546 State Legislature. All nonappropriated funds generated by MIB
1547 shall not be subject to appropriation by the State Legislature.

1548 **SECTION 23.** This act shall take effect and be in force from
1549 and after July 1, 2005.