

## REPORT OF CONFERENCE COMMITTEE

**MADAM PRESIDENT AND MR. SPEAKER:**

We, the undersigned conferees, have had under consideration the amendments to the following entitled BILL:

S. B. No. 2486: State agency leasing authority, contracts for parking spaces, capital improvement preplanning; define authority of DFA.

We, therefore, respectfully submit the following report and recommendation:

1. That the House recede from its Amendment No. 1.
2. That the Senate and House adopt the following amendment:

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

23           **SECTION 1.** Section 31-11-3, Mississippi Code of 1972, is  
24 amended as follows:

25           31-11-3. (1) The Department of Finance and Administration,  
26 for the purposes of carrying out the provisions of this chapter,  
27 in addition to all other rights and powers granted by law, shall  
28 have full power and authority to employ and compensate architects  
29 or other employees necessary for the purpose of making  
30 inspections, preparing plans and specifications, supervising the  
31 erection of any buildings, and making any repairs or additions as  
32 may be determined by the Department of Finance and Administration  
33 to be necessary, pursuant to the rules and regulations of the  
34 State Personnel Board. The department shall have entire control  
35 and supervision of, and determine what, if any, buildings,  
36 additions, repairs or improvements are to be made under the  
37 provisions of this chapter, subject to the approval of the Public  
38 Procurement Review Board.

39           (2) The department shall have full power to erect buildings,  
40 make repairs, additions or improvements, and buy materials,  
41 supplies and equipment for any of the institutions or departments  
42 of the state subject to the approval of the Public Procurement  
43 Review Board. In addition to other powers conferred, the

44 department shall have full power and authority as directed by the  
45 Legislature, or when funds have been appropriated for its use for  
46 these purposes, to:

47 (a) Build a state office building;

48 (b) Build suitable plants or buildings for the use and  
49 housing of any state schools or institutions, including the  
50 building of plants or buildings for new state schools or  
51 institutions, as provided for by the Legislature;

52 (c) Provide state aid for the construction of school  
53 buildings;

54 (d) Promote and develop the training of returned  
55 veterans of the United States in all sorts of educational and  
56 vocational learning to be supplied by the proper educational  
57 institution of the State of Mississippi, and in so doing allocate  
58 monies appropriated to it for these purposes to the Governor for  
59 use by him in setting up, maintaining and operating an office and  
60 employing a state director of on-the-job training for veterans and  
61 the personnel necessary in carrying out Public Law No. 346 of the  
62 United States;

63 (e) Build and equip a hospital and administration  
64 building at the Mississippi State Penitentiary;

65 (f) Build and equip additional buildings and wards at  
66 the Boswell Retardation Center;

67 (g) Construct a sewage disposal and treatment plant at  
68 the state insane hospital, and in so doing acquire additional land  
69 as may be necessary, and to exercise the right of eminent domain  
70 in the acquisition of this land;

71 (h) Build and equip the Mississippi central market and  
72 purchase or acquire by eminent domain, if necessary, any lands  
73 needed for this purpose;

74 (i) Build and equip suitable facilities for a training  
75 and employing center for the blind;

76 (j) Build and equip a gymnasium at Columbia Training  
77 School;

78 (k) Approve or disapprove the expenditure of any money  
79 appropriated by the Legislature when authorized by the bill making  
80 the appropriation;

81 (l) Expend monies appropriated to it in paying the  
82 state's part of the cost of any street paving;

83 (m) Sell and convey state lands when authorized by the  
84 Legislature, cause said lands to be properly surveyed and platted,  
85 execute all deeds or other legal instruments, and do any and all  
86 other things required to effectively carry out the purpose and  
87 intent of the Legislature. Any transaction which involves state  
88 lands under the provisions of this paragraph shall be done in a  
89 manner consistent with the provisions of Section 29-1-1;

90 (n) Collect and receive from educational institutions  
91 of the State of Mississippi monies required to be paid by these  
92 institutions to the state in carrying out any veterans'  
93 educational programs;

94 (o) Purchase lands for building sites, or as additions  
95 to building sites, for the erection of buildings and other  
96 facilities which the department is authorized to erect, and  
97 demolish and dispose of old buildings, when necessary for the  
98 proper construction of new buildings. Any transaction which  
99 involves state lands under the provisions of this paragraph shall  
100 be done in a manner consistent with the provisions of Section  
101 29-1-1; \* \* \*

102 (p) Obtain business property insurance with a  
103 deductible of not less than One Hundred Thousand Dollars  
104 (\$100,000.00) on state-owned buildings under the management and  
105 control of the department; and

106 (q) In consultation with and approval by the Chairmen  
107 of the Public Property Committees of the Senate and the House of

108 Representatives, enter into contracts for the purpose of providing  
109 parking spaces for state employees who work in the Woolfolk  
110 Building, the Carroll Gartin Justice Building or the Walter  
111 Sillers Office Building. The provisions of this paragraph (q)  
112 shall stand repealed on July 1, 2006.

113 (3) The department shall survey state-owned and  
114 state-utilized buildings to establish an estimate of the costs of  
115 architectural alterations, pursuant to the Americans With  
116 Disabilities Act of 1990, 42 USCS, Section 12111 et seq. The  
117 department shall establish priorities for making the identified  
118 architectural alterations and shall make known to the Legislative  
119 Budget Office and to the Legislature the required cost to  
120 effectuate such alterations. To meet the requirements of this  
121 section, the department shall use standards of accessibility that  
122 are at least as stringent as any applicable federal requirements  
123 and may consider:

124 (a) Federal minimum guidelines and requirements issued  
125 by the United States Architectural and Transportation Barriers  
126 Compliance Board and standards issued by other federal agencies;

127 (b) The criteria contained in the American Standard  
128 Specifications for Making Buildings Accessible and Usable by the  
129 Physically Handicapped and any amendments thereto as approved by  
130 the American Standards Association, Incorporated (ANSI Standards);

131 (c) Design manuals;

132 (d) Applicable federal guidelines;

133 (e) Current literature in the field;

134 (f) Applicable safety standards; and

135 (g) Any applicable environmental impact statements.

136 (4) The department shall observe the provisions of Section  
137 31-5-23, in letting contracts and shall use Mississippi products,  
138 including paint, varnish and lacquer which contain as vehicles  
139 tung oil and either ester gum or modified resin (with rosin as the

140 principal base of constituents), and turpentine shall be used as a  
141 solvent or thinner, where these products are available at a cost  
142 not to exceed the cost of products grown, produced, prepared, made  
143 or manufactured outside of the State of Mississippi.

144 (5) The department shall have authority to accept grants,  
145 loans or donations from the United States government or from any  
146 other sources for the purpose of matching funds in carrying out  
147 the provisions of this chapter.

148 (6) The department shall build a wheelchair ramp at the War  
149 Memorial Building which complies with all applicable federal laws,  
150 regulations and specifications regarding wheelchair ramps.

151 (7) The department shall review and preapprove all  
152 architectural or engineering service contracts entered into by any  
153 state agency, institution, commission, board or authority  
154 regardless of the source of funding used to defray the costs of  
155 the construction or renovation project for which services are to  
156 be obtained. The provisions of this subsection (7) shall not  
157 apply to any architectural or engineering contract paid for by  
158 self-generated funds of any of the state institutions of higher  
159 learning, nor shall they apply to community college projects that  
160 are funded from local funds or other nonstate sources which are  
161 outside the Department of Finance and Administration's  
162 appropriations or as directed by the Legislature. The provisions  
163 of this subsection (7) shall not apply to any construction or  
164 design projects of the State Military Department that are funded  
165 from federal funds or other nonstate sources.

166 (8) The department shall have the authority to obtain  
167 annually from the state institutions of higher learning  
168 information on all building, construction and renovation projects  
169 including duties, responsibilities and costs of any architect or  
170 engineer hired by any such institutions.

171 (9) (a) As an alternative to other methods of awarding  
172 contracts as prescribed by law, the department may use the  
173 design-build method or the design-build bridging method of  
174 contracting for new capital construction projects to be used as a  
175 pilot program for the following projects:

176 (i) Projects for the Mississippi Development  
177 Authority pursuant to agreements between both governmental  
178 entities;

179 (ii) Any project with an estimated cost of not  
180 more than Ten Million Dollars (\$10,000,000.00), not to exceed two  
181 (2) projects per fiscal year; and

182 (iii) Any project which has an estimated cost of  
183 more than Fifty Million Dollars (\$50,000,000.00), not to exceed  
184 one (1) project per fiscal year.

185 (b) As used in this subsection:

186 (i) "Design-build method of contracting" means a  
187 contract that combines the design and construction phases of a  
188 project into a single contract and the contractor is required to  
189 satisfactorily perform, at a minimum, both the design and  
190 construction of the project.

191 (ii) "Design-build bridging method of contracting"  
192 means a contract that requires design through the design  
193 development phase by a professional designer, after which a  
194 request for qualifications for design completion and construction  
195 is required for the completion of the project from a single  
196 contractor that combines the balance of design and construction  
197 phases of a project into a single contract. The contractor is  
198 required to satisfactorily perform, at a minimum, both the balance  
199 of design and construction of the project.

200 (c) The department shall establish detailed criteria  
201 for the selection of the successful design-build/design-build  
202 bridging contractor in each request for design-build/design-build

203 bridging proposals. The request for qualifications evaluation of  
204 the selection committee is a public record and shall be maintained  
205 for a minimum of three (3) years after project completion.

206 (d) The department shall maintain detailed records on  
207 projects separate and apart from its regular record keeping. The  
208 department shall file a report to the Legislature evaluating the  
209 design-build/design-build bridging method of contracting by  
210 comparing it to the low-bid method of contracting. At a minimum,  
211 the report must include:

212 (i) The management goals and objectives for the  
213 design-build/design-build bridging system of management;

214 (ii) A complete description of the components of  
215 the design-build/design-build bridging management system,  
216 including a description of the system the department put into  
217 place on all projects managed under the system to insure that it  
218 has the complete information on building segment costs and to  
219 insure proper analysis of any proposal the department receives  
220 from a contractor;

221 (iii) The accountability systems the department  
222 established to monitor any design-build/design-build bridging  
223 project's compliance with specific goals and objectives for the  
224 project;

225 (iv) The outcome of any project or any interim  
226 report on an ongoing project let under a design-build/design-build  
227 bridging management system showing compliance with the goals,  
228 objectives, policies and procedures the department set for the  
229 project; and

230 (v) The method used by the department to select  
231 projects to be let under the design-build/design-build bridging  
232 system of management and all other systems, policies and  
233 procedures that the department considered as necessary components  
234 to a design-build/design-build bridging management system.

235 (e) All contracts let under the provisions of this  
236 subsection shall be subject to oversight and review by the State  
237 Auditor.

238 **SECTION 2.** Section 27-104-7, Mississippi Code of 1972, is  
239 amended as follows:

240 27-104-7. (1) There is hereby created within the Department  
241 of Finance and Administration the Public Procurement Review Board,  
242 which shall be composed of the Executive Director of the  
243 Department of Finance and Administration, the head of the Office  
244 of Budget and Policy Development and an employee of the Office of  
245 General Services who is familiar with the purchasing laws of this  
246 state. The Executive Director of the Department of Finance and  
247 Administration shall be chairman and shall preside over the  
248 meetings of the board. The board shall annually elect a vice  
249 chairman, who shall serve in the absence of the chairman. No  
250 business shall be transacted, including adoption of rules of  
251 procedure, without the presence of a quorum of the board. Two (2)  
252 members shall be a quorum. No action shall be valid unless  
253 approved by the chairman and one (1) other of those members  
254 present and voting, entered upon the minutes of the board and  
255 signed by the chairman. The board shall meet on a monthly basis  
256 and at any other time when notified by the chairman. Necessary  
257 clerical and administrative support for the board shall be  
258 provided by the Department of Finance and Administration. Minutes  
259 shall be kept of the proceedings of each meeting, copies of which  
260 shall be filed on a monthly basis with the Legislative Budget  
261 Office.

262 (2) The Public Procurement Review Board shall have the  
263 following powers and responsibilities:

264 (a) Approve all purchasing regulations governing the  
265 purchase or lease by any agency, as defined in Section 31-7-1, of



266 commodities and equipment, except computer equipment acquired  
267 pursuant to Sections 25-53-1 through 25-53-29;

268 (b) Adopt regulations governing the approval of  
269 contracts let for the construction and maintenance of state  
270 buildings and other state facilities;

271 (c) Adopt regulations governing any lease or rental  
272 agreement by any state agency or department, including any state  
273 agency financed entirely by federal funds, for space outside the  
274 buildings under the jurisdiction of the Department of Finance and  
275 Administration; \* \* \*

276 (d) Adopt, in its discretion, regulations to set aside  
277 at least five percent (5%) of anticipated annual expenditures for  
278 the purchase of commodities from minority businesses; however, all  
279 such set-aside purchases shall comply with all purchasing  
280 regulations promulgated by the department and shall be subject to  
281 all bid requirements. Set-aside purchases for which competitive  
282 bids are required shall be made from the lowest and best minority  
283 business bidder; however, if no minority bid is available or if  
284 the minority bid is more than two percent (2%) higher than the  
285 lowest bid, then bids shall be accepted and awarded to the lowest  
286 and best bidder. Provided, however, that the provisions herein  
287 shall not be construed to prohibit the rejection of a bid when  
288 only one (1) bid is received. Such rejection shall be placed in  
289 the minutes. For the purposes of this paragraph, the term  
290 "minority business" means a business which is owned by a person  
291 who is a citizen or lawful permanent resident of the United States  
292 and who is:

293 (i) Black: having origins in any of the black  
294 racial groups of Africa.

295 (ii) Hispanic: of Mexican, Puerto Rican, Cuban,  
296 Central or South American, or other Spanish or Portuguese culture  
297 or origin regardless of race.

298 (iii) Asian American: having origins in any of  
299 the original peoples of the Far East, Southeast Asia, the Indian  
300 subcontinent, or the Pacific Islands.

301 (iv) American Indian or Alaskan Native: having  
302 origins in any of the original peoples of North America.

303 (v) Female;

304 (e) In consultation with and approval by the Chairmen  
305 of the Senate and House Public Property Committees, approve  
306 leases, for a term not to exceed eighteen (18) months, entered  
307 into by state agencies for the purpose of providing parking  
308 arrangements for state employees who work in the Woolfolk  
309 Building, the Carroll Gartin Justice Building or the Walter  
310 Sillers Office Building. The provisions of this paragraph (e)  
311 shall stand repealed on July 1, 2006.

312 (3) No member of the Public Procurement Review Board shall  
313 use his official authority or influence to coerce, by threat of  
314 discharge from employment, or otherwise, the purchase of  
315 commodities or the contracting for public construction under this  
316 chapter.

317 **SECTION 3.** Section 29-5-2, Mississippi Code of 1972, is  
318 amended as follows:

319 29-5-2. The duties of the Department of Finance and  
320 Administration shall be as follows:

321 (a) (i) To exercise general supervision and care over  
322 and keep in good condition the following state property located in  
323 the City of Jackson: the New State Capitol Building, the Woolfolk  
324 State Office Building, the Carroll Gartin Justice Building, the  
325 Walter Sillers Office Building, the War Veterans' Memorial  
326 Building, the Charlotte Capers Building, the William F. Winter  
327 Archives and History Building, the Ike Sanford Veterans Affairs  
328 Building, the Old State Capitol Building, the Governor's Mansion,  
329 the Heber Ladner Building, the Burroughs Building, the Robert E.

330 Lee Office Building, the Robert E. Lee Parking Garage, the Manship  
331 House Restoration and Visitor Center, the State Records Center,  
332 the Robert G. Clark, Jr., Building, and all other properties  
333 acquired in the same transaction at the time of the purchase of  
334 the Robert E. Lee Hotel property from the First Federal Savings  
335 and Loan Association of Jackson, Mississippi, which properties are  
336 more particularly described in a warranty deed heretofore executed  
337 and delivered on April 22, 1969, and filed for record in the  
338 office of the Chancery Clerk of the First Judicial District of  
339 Hinds County, Mississippi, located in Jackson, Mississippi, on  
340 April 25, 1969, at 9:00 a.m., and recorded in Deed Book No. 1822,  
341 page 136 et seq., and the Central High Building and 101 Capitol  
342 Centre.

343                   (ii) To exercise general supervision and care over  
344 and keep in good condition the Dr. Eldon Langston Bolton Building  
345 located in Biloxi, Mississippi.

346                   (iii) To exercise general supervision and care  
347 over and keep in good condition the State Service Center, located  
348 at the intersection of State Highway 49 and John Merl Tatum  
349 Industrial Drive in Hattiesburg, Mississippi.

350                   (b) To assign suitable office space for the various  
351 state departments, officers and employees who are provided with an  
352 office in any of the buildings under the jurisdiction or control  
353 of the Department of Finance and Administration. However, the  
354 assignment of space in the New Capitol Building shall be  
355 designated by duly passed resolution of the combined Senate Rules  
356 Committee and the House Management Committee, meeting as a joint  
357 committee, approved by the Lieutenant Governor and Speaker of the  
358 House of Representatives. A majority vote of the members of the  
359 Senate Rules Committee and a majority vote of the members of the  
360 House Management Committee shall be required on all actions taken,  
361 resolutions or reports adopted, and all other matters considered

362 by the full combined committee on occasions when the Senate Rules  
363 Committee and the House Management Committee shall meet as a full  
364 combined committee.

365 (c) To approve or disapprove with the concurrence of  
366 the Public Procurement Review Board, any lease or rental  
367 agreements by any state agency or department, including any state  
368 agency financed entirely by federal and special funds, for space  
369 outside the buildings under the jurisdiction of the Department of  
370 Finance and Administration, including space necessary for parking  
371 to be used by state employees who work in the Woolfolk Building,  
372 the Carroll Gartin Justice Building or the Walter Sillers Office  
373 Building. In no event shall any employee, officer, department,  
374 federally funded agency or bureau of the state be authorized to  
375 enter a lease or rental agreement without prior approval of the  
376 Department of Finance and Administration and the Public  
377 Procurement Review Board.

378 The Department of Finance and Administration is authorized to  
379 use architects, engineers, building inspectors and other personnel  
380 for the purpose of making inspections as may be deemed necessary  
381 in carrying out its duties and maintaining the facilities.

382 The provisions of this paragraph (c) shall stand repealed on  
383 July 1, 2006.

384 (d) To acquire by lease, lease-purchase agreement, or  
385 otherwise, as provided in Section 27-104-107, and to assign  
386 through the Office of General Services, by lease or sublease  
387 agreement from the office, and with the concurrence of the Public  
388 Procurement Review Board, to any state agency or department,  
389 including any state agency financed entirely by federal and  
390 special funds, appropriate office space in the buildings acquired.

391 **SECTION 4.** Section 29-5-77, Mississippi Code of 1972, is  
392 amended as follows:

393           29-5-77. The Department of Finance and Administration shall  
394 have jurisdiction relative to the enforcement of all laws of the  
395 State of Mississippi on the properties set forth in Section  
396 29-5-2, the Court of Appeals Building, the Mississippi Department  
397 of Transportation Building and the Public Employees' Retirement  
398 System Building. The Department of Finance and Administration  
399 shall, through any person or persons appointed by the Department  
400 of Finance and Administration, or through the Department of Public  
401 Safety when requested by the Department of Finance and  
402 Administration, make arrests for any violation of any law of the  
403 State of Mississippi on those grounds of or within those  
404 properties. The Department of Finance and Administration shall  
405 enforce the provisions of Sections 29-5-57 through 29-5-67,  
406 29-5-71 through 29-5-77, and 29-5-81 through 29-5-95, and  
407 prescribe such rules and regulations as are necessary therefor.

408           When in the opinion of the Governor or, in his absence, the  
409 Lieutenant Governor, it is readily apparent that an emergency  
410 exists that the persons appointed by the Department of Finance and  
411 Administration are unable to control in the accomplishment of the  
412 provisions of Sections 29-5-57 through 29-5-67, 29-5-71 through  
413 29-5-77, and 29-5-81 through 29-5-95 in regard to law enforcement,  
414 then the Governor, or in his absence, the Lieutenant Governor, may  
415 call upon the Department of Public Safety, members of which shall  
416 have power to arrest and detain any persons violating the  
417 provisions of those sections of law, until the person can be  
418 brought before the proper authorities for trial.

419           Subject to the approval of the Board of Trustees of State  
420 Institutions of Higher Learning, the Board of Trustees and the  
421 Department of Finance and Administration shall be authorized to  
422 enter into a contract for the Department of Finance and  
423 Administration to supply the security personnel with jurisdiction  
424 to enforce all laws of the State of Mississippi on the property of

425 the Board of Trustees located at the corner of Ridgewood Road and  
426 Lakeland Drive in the City of Jackson.

427 The Department of Finance and Administration and the  
428 Department of Agriculture are authorized to enter into a contract  
429 for the Department of Finance and Administration to have  
430 jurisdiction and enforce all laws of the State of Mississippi on  
431 the property of the Department of Agriculture located at 121 North  
432 Jefferson Street and the new Farmer's Market Building located at  
433 the corner of High and Jefferson Streets in the City of Jackson,  
434 Hinds County, Mississippi. It is the intent of the Legislature  
435 that the Department of Finance and Administration will not post  
436 any security personnel at such buildings, but will provide regular  
437 vehicle patrols and responses to security system alarms.

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

440 31-7-13. All agencies and governing authorities shall  
441 purchase their commodities and printing; contract for garbage  
442 collection or disposal; contract for solid waste collection or  
443 disposal; contract for sewage collection or disposal; contract for  
444 public construction; and contract for rentals as herein provided.

445 (a) **Bidding procedure for purchases not over \$3,500.00.**  
446 Purchases which do not involve an expenditure of more than Three  
447 Thousand Five Hundred Dollars (\$3,500.00), exclusive of freight or  
448 shipping charges, may be made without advertising or otherwise  
449 requesting competitive bids. However, nothing contained in this  
450 paragraph (a) shall be construed to prohibit any agency or  
451 governing authority from establishing procedures which require  
452 competitive bids on purchases of Three Thousand Five Hundred  
453 Dollars (\$3,500.00) or less.

454 (b) **Bidding procedure for purchases over \$3,500.00 but**  
455 **not over \$15,000.00.** Purchases which involve an expenditure of  
456 more than Three Thousand Five Hundred Dollars (\$3,500.00) but not

457 more than Fifteen Thousand Dollars (\$15,000.00), exclusive of  
458 freight and shipping charges may be made from the lowest and best  
459 bidder without publishing or posting advertisement for bids,  
460 provided at least two (2) competitive written bids have been  
461 obtained. Any governing authority purchasing commodities pursuant  
462 to this paragraph (b) may authorize its purchasing agent, or his  
463 designee, with regard to governing authorities other than  
464 counties, or its purchase clerk, or his designee, with regard to  
465 counties, to accept the lowest and best competitive written bid.  
466 Such authorization shall be made in writing by the governing  
467 authority and shall be maintained on file in the primary office of  
468 the agency and recorded in the official minutes of the governing  
469 authority, as appropriate. The purchasing agent or the purchase  
470 clerk, or their designee, as the case may be, and not the  
471 governing authority, shall be liable for any penalties and/or  
472 damages as may be imposed by law for any act or omission of the  
473 purchasing agent or purchase clerk, or their designee,  
474 constituting a violation of law in accepting any bid without  
475 approval by the governing authority. The term "competitive  
476 written bid" shall mean a bid submitted on a bid form furnished by  
477 the buying agency or governing authority and signed by authorized  
478 personnel representing the vendor, or a bid submitted on a  
479 vendor's letterhead or identifiable bid form and signed by  
480 authorized personnel representing the vendor. "Competitive" shall  
481 mean that the bids are developed based upon comparable  
482 identification of the needs and are developed independently and  
483 without knowledge of other bids or prospective bids. Bids may be  
484 submitted by facsimile, electronic mail or other generally  
485 accepted method of information distribution. Bids submitted by  
486 electronic transmission shall not require the signature of the  
487 vendor's representative unless required by agencies or governing  
488 authorities.

489                   (c) **Bidding procedure for purchases over \$15,000.00.**  
490                   (i) **Publication requirement.** Purchases which  
491 involve an expenditure of more than Fifteen Thousand Dollars  
492 (\$15,000.00), exclusive of freight and shipping charges, may be  
493 made from the lowest and best bidder after advertising for  
494 competitive sealed bids once each week for two (2) consecutive  
495 weeks in a regular newspaper published in the county or  
496 municipality in which such agency or governing authority is  
497 located. The date as published for the bid opening shall not be  
498 less than seven (7) working days after the last published notice;  
499 however, if the purchase involves a construction project in which  
500 the estimated cost is in excess of Fifteen Thousand Dollars  
501 (\$15,000.00), such bids shall not be opened in less than fifteen  
502 (15) working days after the last notice is published and the  
503 notice for the purchase of such construction shall be published  
504 once each week for two (2) consecutive weeks. The notice of  
505 intention to let contracts or purchase equipment shall state the  
506 time and place at which bids shall be received, list the contracts  
507 to be made or types of equipment or supplies to be purchased, and,  
508 if all plans and/or specifications are not published, refer to the  
509 plans and/or specifications on file. If there is no newspaper  
510 published in the county or municipality, then such notice shall be  
511 given by posting same at the courthouse, or for municipalities at  
512 the city hall, and at two (2) other public places in the county or  
513 municipality, and also by publication once each week for two (2)  
514 consecutive weeks in some newspaper having a general circulation  
515 in the county or municipality in the above provided manner. On  
516 the same date that the notice is submitted to the newspaper for  
517 publication, the agency or governing authority involved shall mail  
518 written notice to, or provide electronic notification to the main  
519 office of the Mississippi Contract Procurement Center that  
520 contains the same information as that in the published notice.



521                   (ii) **Bidding process amendment procedure.** If all  
522 plans and/or specifications are published in the notification,  
523 then the plans and/or specifications may not be amended. If all  
524 plans and/or specifications are not published in the notification,  
525 then amendments to the plans/specifications, bid opening date, bid  
526 opening time and place may be made, provided that the agency or  
527 governing authority maintains a list of all prospective bidders  
528 who are known to have received a copy of the bid documents and all  
529 such prospective bidders are sent copies of all amendments. This  
530 notification of amendments may be made via mail, facsimile,  
531 electronic mail or other generally accepted method of information  
532 distribution. No addendum to bid specifications may be issued  
533 within two (2) working days of the time established for the  
534 receipt of bids unless such addendum also amends the bid opening  
535 to a date not less than five (5) working days after the date of  
536 the addendum.

537                   (iii) **Filing requirement.** In all cases involving  
538 governing authorities, before the notice shall be published or  
539 posted, the plans or specifications for the construction or  
540 equipment being sought shall be filed with the clerk of the board  
541 of the governing authority. In addition to these requirements, a  
542 bid file shall be established which shall indicate those vendors  
543 to whom such solicitations and specifications were issued, and  
544 such file shall also contain such information as is pertinent to  
545 the bid.

546                   (iv) **Specification restrictions.**

547                   1. Specifications pertinent to such bidding  
548 shall be written so as not to exclude comparable equipment of  
549 domestic manufacture. However, if valid justification is  
550 presented, the Department of Finance and Administration or the  
551 board of a governing authority may approve a request for specific  
552 equipment necessary to perform a specific job. Further, such

553 justification, when placed on the minutes of the board of a  
554 governing authority, may serve as authority for that governing  
555 authority to write specifications to require a specific item of  
556 equipment needed to perform a specific job. In addition to these  
557 requirements, from and after July 1, 1990, vendors of relocatable  
558 classrooms and the specifications for the purchase of such  
559 relocatable classrooms published by local school boards shall meet  
560 all pertinent regulations of the State Board of Education,  
561 including prior approval of such bid by the State Department of  
562 Education.

563 2. Specifications for construction projects  
564 may include an allowance for commodities, equipment, furniture,  
565 construction materials or systems in which prospective bidders are  
566 instructed to include in their bids specified amounts for such  
567 items so long as the allowance items are acquired by the vendor in  
568 a commercially reasonable manner and approved by the  
569 agency/governing authority. Such acquisitions shall not be made  
570 to circumvent the public purchasing laws.

571 (v) Agencies and governing authorities may  
572 establish secure procedures by which bids may be submitted via  
573 electronic means.

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

575 (i) **Decision procedure.** Purchases may be made  
576 from the lowest and best bidder. In determining the lowest and  
577 best bid, freight and shipping charges shall be included.  
578 Life-cycle costing, total cost bids, warranties, guaranteed  
579 buy-back provisions and other relevant provisions may be included  
580 in the best bid calculation. All best bid procedures for state  
581 agencies must be in compliance with regulations established by the  
582 Department of Finance and Administration. If any governing  
583 authority accepts a bid other than the lowest bid actually  
584 submitted, it shall place on its minutes detailed calculations and

585 narrative summary showing that the accepted bid was determined to  
586 be the lowest and best bid, including the dollar amount of the  
587 accepted bid and the dollar amount of the lowest bid. No agency  
588 or governing authority shall accept a bid based on items not  
589 included in the specifications.

590           (ii) **Decision procedure for Certified Purchasing**  
591 **Offices.** In addition to the decision procedure set forth in  
592 paragraph (d)(i), Certified Purchasing Offices may also use the  
593 following procedure: Purchases may be made from the bidder  
594 offering the best value. In determining the best value bid,  
595 freight and shipping charges shall be included. Life-cycle  
596 costing, total cost bids, warranties, guaranteed buy-back  
597 provisions, documented previous experience, training costs and  
598 other relevant provisions may be included in the best value  
599 calculation. This provision shall authorize Certified Purchasing  
600 Offices to utilize a Request For Proposals (RFP) process when  
601 purchasing commodities. All best value procedures for state  
602 agencies must be in compliance with regulations established by the  
603 Department of Finance and Administration. No agency or governing  
604 authority shall accept a bid based on items or criteria not  
605 included in the specifications.

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

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

617 under the master lease-purchase program pursuant to Section  
618 31-7-10 and any lease-purchase of equipment which a governing  
619 authority elects to lease-purchase may be acquired by a  
620 lease-purchase agreement under this paragraph (e). Lease-purchase  
621 financing may also be obtained from the vendor or from a  
622 third-party source after having solicited and obtained at least  
623 two (2) written competitive bids, as defined in paragraph (b) of  
624 this section, for such financing without advertising for such  
625 bids. Solicitation for the bids for financing may occur before or  
626 after acceptance of bids for the purchase of such equipment or,  
627 where no such bids for purchase are required, at any time before  
628 the purchase thereof. No such lease-purchase agreement shall be  
629 for an annual rate of interest which is greater than the overall  
630 maximum interest rate to maturity on general obligation  
631 indebtedness permitted under Section 75-17-101, and the term of  
632 such lease-purchase agreement shall not exceed the useful life of  
633 equipment covered thereby as determined according to the upper  
634 limit of the asset depreciation range (ADR) guidelines for the  
635 Class Life Asset Depreciation Range System established by the  
636 Internal Revenue Service pursuant to the United States Internal  
637 Revenue Code and regulations thereunder as in effect on December  
638 31, 1980, or comparable depreciation guidelines with respect to  
639 any equipment not covered by ADR guidelines. Any lease-purchase  
640 agreement entered into pursuant to this paragraph (e) may contain  
641 any of the terms and conditions which a master lease-purchase  
642 agreement may contain under the provisions of Section 31-7-10(5),  
643 and shall contain an annual allocation dependency clause  
644 substantially similar to that set forth in Section 31-7-10(8).  
645 Each agency or governing authority entering into a lease-purchase  
646 transaction pursuant to this paragraph (e) shall maintain with  
647 respect to each such lease-purchase transaction the same  
648 information as required to be maintained by the Department of

649 Finance and Administration pursuant to Section 31-7-10(13).  
650 However, nothing contained in this section shall be construed to  
651 permit agencies to acquire items of equipment with a total  
652 acquisition cost in the aggregate of less than Ten Thousand  
653 Dollars (\$10,000.00) by a single lease-purchase transaction. All  
654 equipment, and the purchase thereof by any lessor, acquired by  
655 lease-purchase under this paragraph and all lease-purchase  
656 payments with respect thereto shall be exempt from all Mississippi  
657 sales, use and ad valorem taxes. Interest paid on any  
658 lease-purchase agreement under this section shall be exempt from  
659 State of Mississippi income taxation.

660 (f) **Alternate bid authorization.** When necessary to  
661 ensure ready availability of commodities for public works and the  
662 timely completion of public projects, no more than two (2)  
663 alternate bids may be accepted by a governing authority for  
664 commodities. No purchases may be made through use of such  
665 alternate bids procedure unless the lowest and best bidder cannot  
666 deliver the commodities contained in his bid. In that event,  
667 purchases of such commodities may be made from one (1) of the  
668 bidders whose bid was accepted as an alternate.

669 (g) **Construction contract change authorization.** In the  
670 event a determination is made by an agency or governing authority  
671 after a construction contract is let that changes or modifications  
672 to the original contract are necessary or would better serve the  
673 purpose of the agency or the governing authority, such agency or  
674 governing authority may, in its discretion, order such changes  
675 pertaining to the construction that are necessary under the  
676 circumstances without the necessity of further public bids;  
677 provided that such change shall be made in a commercially  
678 reasonable manner and shall not be made to circumvent the public  
679 purchasing statutes. In addition to any other authorized person,  
680 the architect or engineer hired by an agency or governing

681 authority with respect to any public construction contract shall  
682 have the authority, when granted by an agency or governing  
683 authority, to authorize changes or modifications to the original  
684 contract without the necessity of prior approval of the agency or  
685 governing authority when any such change or modification is less  
686 than one percent (1%) of the total contract amount. The agency or  
687 governing authority may limit the number, manner or frequency of  
688 such emergency changes or modifications.

689           (h) **Petroleum purchase alternative.** In addition to  
690 other methods of purchasing authorized in this chapter, when any  
691 agency or governing authority shall have a need for gas, diesel  
692 fuel, oils and/or other petroleum products in excess of the amount  
693 set forth in paragraph (a) of this section, such agency or  
694 governing authority may purchase the commodity after having  
695 solicited and obtained at least two (2) competitive written bids,  
696 as defined in paragraph (b) of this section. If two (2)  
697 competitive written bids are not obtained, the entity shall comply  
698 with the procedures set forth in paragraph (c) of this section.  
699 In the event any agency or governing authority shall have  
700 advertised for bids for the purchase of gas, diesel fuel, oils and  
701 other petroleum products and coal and no acceptable bids can be  
702 obtained, such agency or governing authority is authorized and  
703 directed to enter into any negotiations necessary to secure the  
704 lowest and best contract available for the purchase of such  
705 commodities.

706           (i) **Road construction petroleum products price**  
707 **adjustment clause authorization.** Any agency or governing  
708 authority authorized to enter into contracts for the construction,  
709 maintenance, surfacing or repair of highways, roads or streets,  
710 may include in its bid proposal and contract documents a price  
711 adjustment clause with relation to the cost to the contractor,  
712 including taxes, based upon an industry-wide cost index, of

713 petroleum products including asphalt used in the performance or  
714 execution of the contract or in the production or manufacture of  
715 materials for use in such performance. Such industry-wide index  
716 shall be established and published monthly by the Mississippi  
717 Department of Transportation with a copy thereof to be mailed,  
718 upon request, to the clerks of the governing authority of each  
719 municipality and the clerks of each board of supervisors  
720 throughout the state. The price adjustment clause shall be based  
721 on the cost of such petroleum products only and shall not include  
722 any additional profit or overhead as part of the adjustment. The  
723 bid proposals or document contract shall contain the basis and  
724 methods of adjusting unit prices for the change in the cost of  
725 such petroleum products.

726           (j) **State agency emergency purchase procedure.** If the  
727 governing board or the executive head, or his designee, of any  
728 agency of the state shall determine that an emergency exists in  
729 regard to the purchase of any commodities or repair contracts, so  
730 that the delay incident to giving opportunity for competitive  
731 bidding would be detrimental to the interests of the state, then  
732 the provisions herein for competitive bidding shall not apply and  
733 the head of such agency shall be authorized to make the purchase  
734 or repair. Total purchases so made shall only be for the purpose  
735 of meeting needs created by the emergency situation. In the event  
736 such executive head is responsible to an agency board, at the  
737 meeting next following the emergency purchase, documentation of  
738 the purchase, including a description of the commodity purchased,  
739 the purchase price thereof and the nature of the emergency shall  
740 be presented to the board and placed on the minutes of the board  
741 of such agency. The head of such agency, or his designee, shall,  
742 at the earliest possible date following such emergency purchase,  
743 file with the Department of Finance and Administration (i) a  
744 statement explaining the conditions and circumstances of the

745 emergency, which shall include a detailed description of the  
746 events leading up to the situation and the negative impact to the  
747 entity if the purchase is made following the statutory  
748 requirements set forth in paragraph (a), (b) or (c) of this  
749 section, and (ii) a certified copy of the appropriate minutes of  
750 the board of such agency, if applicable. On or before September 1  
751 of each year, the State Auditor shall prepare and deliver to the  
752 Senate Fees, Salaries and Administration Committee, the House Fees  
753 and Salaries of Public Officers Committee and the Joint  
754 Legislative Budget Committee a report containing a list of all  
755 state agency emergency purchases and supporting documentation for  
756 each emergency purchase.

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

758 If the governing authority, or the governing authority acting  
759 through its designee, shall determine that an emergency exists in  
760 regard to the purchase of any commodities or repair contracts, so  
761 that the delay incident to giving opportunity for competitive  
762 bidding would be detrimental to the interest of the governing  
763 authority, then the provisions herein for competitive bidding  
764 shall not apply and any officer or agent of such governing  
765 authority having general or special authority therefor in making  
766 such purchase or repair shall approve the bill presented therefor,  
767 and he shall certify in writing thereon from whom such purchase  
768 was made, or with whom such a repair contract was made. At the  
769 board meeting next following the emergency purchase or repair  
770 contract, documentation of the purchase or repair contract,  
771 including a description of the commodity purchased, the price  
772 thereof and the nature of the emergency shall be presented to the  
773 board and shall be placed on the minutes of the board of such  
774 governing authority.

775 (l) **Hospital purchase, lease-purchase and lease**  
776 **authorization.**



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

782 (ii) In addition to the authority granted in  
783 subparagraph (i) of this paragraph (1), the commissioners or board  
784 of trustees is authorized to enter into contracts for the lease of  
785 equipment or services, or both, which it considers necessary for  
786 the proper care of patients if, in its opinion, it is not  
787 financially feasible to purchase the necessary equipment or  
788 services. Any such contract for the lease of equipment or  
789 services executed by the commissioners or board shall not exceed a  
790 maximum of five (5) years' duration and shall include a  
791 cancellation clause based on unavailability of funds. If such  
792 cancellation clause is exercised, there shall be no further  
793 liability on the part of the lessee. Any such contract for the  
794 lease of equipment or services executed on behalf of the  
795 commissioners or board that complies with the provisions of this  
796 subparagraph (ii) shall be excepted from the bid requirements set  
797 forth in this section.

798 (m) **Exceptions from bidding requirements.** Excepted  
799 from bid requirements are:

800 (i) **Purchasing agreements approved by department.**  
801 Purchasing agreements, contracts and maximum price regulations  
802 executed or approved by the Department of Finance and  
803 Administration.

804 (ii) **Outside equipment repairs.** Repairs to  
805 equipment, when such repairs are made by repair facilities in the  
806 private sector; however, engines, transmissions, rear axles and/or  
807 other such components shall not be included in this exemption when  
808 replaced as a complete unit instead of being repaired and the need

809 for such total component replacement is known before disassembly  
810 of the component; however, invoices identifying the equipment,  
811 specific repairs made, parts identified by number and name,  
812 supplies used in such repairs, and the number of hours of labor  
813 and costs therefor shall be required for the payment for such  
814 repairs.

815           (iii) **In-house equipment repairs.** Purchases of  
816 parts for repairs to equipment, when such repairs are made by  
817 personnel of the agency or governing authority; however, entire  
818 assemblies, such as engines or transmissions, shall not be  
819 included in this exemption when the entire assembly is being  
820 replaced instead of being repaired.

821           (iv) **Raw gravel or dirt.** Raw unprocessed deposits  
822 of gravel or fill dirt which are to be removed and transported by  
823 the purchaser.

824           (v) **Governmental equipment auctions.** Motor  
825 vehicles or other equipment purchased from a federal agency or  
826 authority, another governing authority or state agency of the  
827 State of Mississippi, or any governing authority or state agency  
828 of another state at a public auction held for the purpose of  
829 disposing of such vehicles or other equipment. Any purchase by a  
830 governing authority under the exemption authorized by this  
831 subparagraph (v) shall require advance authorization spread upon  
832 the minutes of the governing authority to include the listing of  
833 the item or items authorized to be purchased and the maximum bid  
834 authorized to be paid for each item or items.

835           (vi) **Intergovernmental sales and transfers.**  
836 Purchases, sales, transfers or trades by governing authorities or  
837 state agencies when such purchases, sales, transfers or trades are  
838 made by a private treaty agreement or through means of  
839 negotiation, from any federal agency or authority, another  
840 governing authority or state agency of the State of Mississippi,

841 or any state agency or governing authority of another state.  
842 Nothing in this section shall permit such purchases through public  
843 auction except as provided for in subparagraph (v) of this  
844 section. It is the intent of this section to allow governmental  
845 entities to dispose of and/or purchase commodities from other  
846 governmental entities at a price that is agreed to by both  
847 parties. This shall allow for purchases and/or sales at prices  
848 which may be determined to be below the market value if the  
849 selling entity determines that the sale at below market value is  
850 in the best interest of the taxpayers of the state. Governing  
851 authorities shall place the terms of the agreement and any  
852 justification on the minutes, and state agencies shall obtain  
853 approval from the Department of Finance and Administration, prior  
854 to releasing or taking possession of the commodities.

855 (vii) **Perishable supplies or food.** Perishable  
856 supplies or foods purchased for use in connection with hospitals,  
857 the school lunch programs, homemaking programs and for the feeding  
858 of county or municipal prisoners.

859 (viii) **Single source items.** Noncompetitive items  
860 available from one (1) source only. In connection with the  
861 purchase of noncompetitive items only available from one (1)  
862 source, a certification of the conditions and circumstances  
863 requiring the purchase shall be filed by the agency with the  
864 Department of Finance and Administration and by the governing  
865 authority with the board of the governing authority. Upon receipt  
866 of that certification the Department of Finance and Administration  
867 or the board of the governing authority, as the case may be, may,  
868 in writing, authorize the purchase, which authority shall be noted  
869 on the minutes of the body at the next regular meeting thereafter.  
870 In those situations, a governing authority is not required to  
871 obtain the approval of the Department of Finance and  
872 Administration.

873                   (ix) **Waste disposal facility construction**  
874 **contracts.** Construction of incinerators and other facilities for  
875 disposal of solid wastes in which products either generated  
876 therein, such as steam, or recovered therefrom, such as materials  
877 for recycling, are to be sold or otherwise disposed of; however,  
878 in constructing such facilities, a governing authority or agency  
879 shall publicly issue requests for proposals, advertised for in the  
880 same manner as provided herein for seeking bids for public  
881 construction projects, concerning the design, construction,  
882 ownership, operation and/or maintenance of such facilities,  
883 wherein such requests for proposals when issued shall contain  
884 terms and conditions relating to price, financial responsibility,  
885 technology, environmental compatibility, legal responsibilities  
886 and such other matters as are determined by the governing  
887 authority or agency to be appropriate for inclusion; and after  
888 responses to the request for proposals have been duly received,  
889 the governing authority or agency may select the most qualified  
890 proposal or proposals on the basis of price, technology and other  
891 relevant factors and from such proposals, but not limited to the  
892 terms thereof, negotiate and enter contracts with one or more of  
893 the persons or firms submitting proposals.

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

897                   (xi) **Information technology products.** Purchases  
898 of information technology products made by governing authorities  
899 under the provisions of purchase schedules, or contracts executed  
900 or approved by the Mississippi Department of Information  
901 Technology Services and designated for use by governing  
902 authorities.

903                   (xii) **Energy efficiency services and equipment.**  
904 Energy efficiency services and equipment acquired by school

905 districts, community and junior colleges, institutions of higher  
906 learning and state agencies or other applicable governmental  
907 entities on a shared-savings, lease or lease-purchase basis  
908 pursuant to Section 31-7-14.

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

913                   (xiv) **Library books and other reference materials.**  
914 Purchases by libraries or for libraries of books and periodicals;  
915 processed film, video cassette tapes, filmstrips and slides;  
916 recorded audio tapes, cassettes and diskettes; and any such items  
917 as would be used for teaching, research or other information  
918 distribution; however, equipment such as projectors, recorders,  
919 audio or video equipment, and monitor televisions are not exempt  
920 under this subparagraph.

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

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

927                   (xvii) **Multichannel interactive video systems.**  
928 From and after July 1, 1990, contracts by Mississippi Authority  
929 for Educational Television with any private educational  
930 institution or private nonprofit organization whose purposes are  
931 educational in regard to the construction, purchase, lease or  
932 lease-purchase of facilities and equipment and the employment of  
933 personnel for providing multichannel interactive video systems  
934 (ITSF) in the school districts of this state.

935                   (xviii) **Purchases of prison industry products.**  
936 From and after January 1, 1991, purchases made by state agencies

937 or governing authorities involving any item that is manufactured,  
938 processed, grown or produced from the state's prison industries.

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

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

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

953                   (xxii) **Garbage, solid waste and sewage contracts.**  
954 Contracts for garbage collection or disposal, contracts for solid  
955 waste collection or disposal and contracts for sewage collection  
956 or disposal.

957                   (xxiii) **Municipal water tank maintenance**  
958 **contracts.** Professional maintenance program contracts for the  
959 repair or maintenance of municipal water tanks, which provide  
960 professional services needed to maintain municipal water storage  
961 tanks for a fixed annual fee for a duration of two (2) or more  
962 years.

963                   (xxiv) **Purchases of Mississippi Industries for the**  
964 **Blind products.** Purchases made by state agencies or governing  
965 authorities involving any item that is manufactured, processed or  
966 produced by the Mississippi Industries for the Blind.

967                   (xxv) **Purchases of state-adopted textbooks.**  
968 Purchases of state-adopted textbooks by public school districts.

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

972                    (xxvii) **Used heavy or specialized machinery or**  
973 **equipment for installation of soil and water conservation**  
974 **practices purchased at auction.** Used heavy or specialized  
975 machinery or equipment used for the installation and  
976 implementation of soil and water conservation practices or  
977 measures purchased subject to the restrictions provided in  
978 Sections 69-27-331 through 69-27-341. Any purchase by the State  
979 Soil and Water Conservation Commission under the exemption  
980 authorized by this subparagraph shall require advance  
981 authorization spread upon the minutes of the commission to include  
982 the listing of the item or items authorized to be purchased and  
983 the maximum bid authorized to be paid for each item or items.

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

987                    (xxix) **Purchases made pursuant to qualified**  
988 **cooperative purchasing agreements.** Purchases made by certified  
989 purchasing offices of state agencies or governing authorities  
990 under cooperative purchasing agreements previously approved by the  
991 Office of Purchasing and Travel and established by or for any  
992 municipality, county, parish or state government or the federal  
993 government, provided that the notification to potential  
994 contractors includes a clause that sets forth the availability of  
995 the cooperative purchasing agreement to other governmental  
996 entities. Such purchases shall only be made if the use of the  
997 cooperative purchasing agreements is determined to be in the best  
998 interest of the government entity.

999                    (xxx) **School yearbooks.** Purchases of school  
1000 yearbooks by state agencies or governing authorities; provided,

1001 however, that state agencies and governing authorities shall use  
1002 for these purchases the RFP process as set forth in the  
1003 Mississippi Procurement Manual adopted by the Office of Purchasing  
1004 and Travel.

1005 (xxxi) **Design-build method or the design-build**  
1006 **bridging method of contracting.** Contracts entered into the  
1007 provisions of Section 31-11-3(9).

1008 (n) **Term contract authorization.** All contracts for the  
1009 purchase of:

1010 (i) All contracts for the purchase of commodities,  
1011 equipment and public construction (including, but not limited to,  
1012 repair and maintenance), may be let for periods of not more than  
1013 sixty (60) months in advance, subject to applicable statutory  
1014 provisions prohibiting the letting of contracts during specified  
1015 periods near the end of terms of office. Term contracts for a  
1016 period exceeding twenty-four (24) months shall also be subject to  
1017 ratification or cancellation by governing authority boards taking  
1018 office subsequent to the governing authority board entering the  
1019 contract.

1020 (ii) Bid proposals and contracts may include price  
1021 adjustment clauses with relation to the cost to the contractor  
1022 based upon a nationally published industry-wide or nationally  
1023 published and recognized cost index. The cost index used in a  
1024 price adjustment clause shall be determined by the Department of  
1025 Finance and Administration for the state agencies and by the  
1026 governing board for governing authorities. The bid proposal and  
1027 contract documents utilizing a price adjustment clause shall  
1028 contain the basis and method of adjusting unit prices for the  
1029 change in the cost of such commodities, equipment and public  
1030 construction.

1031 (o) **Purchase law violation prohibition and vendor**  
1032 **penalty.** No contract or purchase as herein authorized shall be



1033 made for the purpose of circumventing the provisions of this  
1034 section requiring competitive bids, nor shall it be lawful for any  
1035 person or concern to submit individual invoices for amounts within  
1036 those authorized for a contract or purchase where the actual value  
1037 of the contract or commodity purchased exceeds the authorized  
1038 amount and the invoices therefor are split so as to appear to be  
1039 authorized as purchases for which competitive bids are not  
1040 required. Submission of such invoices shall constitute a  
1041 misdemeanor punishable by a fine of not less than Five Hundred  
1042 Dollars (\$500.00) nor more than One Thousand Dollars (\$1,000.00),  
1043 or by imprisonment for thirty (30) days in the county jail, or  
1044 both such fine and imprisonment. In addition, the claim or claims  
1045 submitted shall be forfeited.

1046           (p) **Electrical utility petroleum-based equipment**  
1047 **purchase procedure.** When in response to a proper advertisement  
1048 therefor, no bid firm as to price is submitted to an electric  
1049 utility for power transformers, distribution transformers, power  
1050 breakers, reclosers or other articles containing a petroleum  
1051 product, the electric utility may accept the lowest and best bid  
1052 therefor although the price is not firm.

1053           (q) **Fuel management system bidding procedure.** Any  
1054 governing authority or agency of the state shall, before  
1055 contracting for the services and products of a fuel management or  
1056 fuel access system, enter into negotiations with not fewer than  
1057 two (2) sellers of fuel management or fuel access systems for  
1058 competitive written bids to provide the services and products for  
1059 the systems. In the event that the governing authority or agency  
1060 cannot locate two (2) sellers of such systems or cannot obtain  
1061 bids from two (2) sellers of such systems, it shall show proof  
1062 that it made a diligent, good-faith effort to locate and negotiate  
1063 with two (2) sellers of such systems. Such proof shall include,  
1064 but not be limited to, publications of a request for proposals and

1065 letters soliciting negotiations and bids. For purposes of this  
1066 paragraph (q), a fuel management or fuel access system is an  
1067 automated system of acquiring fuel for vehicles as well as  
1068 management reports detailing fuel use by vehicles and drivers, and  
1069 the term "competitive written bid" shall have the meaning as  
1070 defined in paragraph (b) of this section. Governing authorities  
1071 and agencies shall be exempt from this process when contracting  
1072 for the services and products of a fuel management or fuel access  
1073 systems under the terms of a state contract established by the  
1074 Office of Purchasing and Travel.

1075           (r) **Solid waste contract proposal procedure.** Before  
1076 entering into any contract for garbage collection or disposal,  
1077 contract for solid waste collection or disposal or contract for  
1078 sewage collection or disposal, which involves an expenditure of  
1079 more than Fifty Thousand Dollars (\$50,000.00), a governing  
1080 authority or agency shall issue publicly a request for proposals  
1081 concerning the specifications for such services which shall be  
1082 advertised for in the same manner as provided in this section for  
1083 seeking bids for purchases which involve an expenditure of more  
1084 than the amount provided in paragraph (c) of this section. Any  
1085 request for proposals when issued shall contain terms and  
1086 conditions relating to price, financial responsibility,  
1087 technology, legal responsibilities and other relevant factors as  
1088 are determined by the governing authority or agency to be  
1089 appropriate for inclusion; all factors determined relevant by the  
1090 governing authority or agency or required by this paragraph (r)  
1091 shall be duly included in the advertisement to elicit proposals.  
1092 After responses to the request for proposals have been duly  
1093 received, the governing authority or agency shall select the most  
1094 qualified proposal or proposals on the basis of price, technology  
1095 and other relevant factors and from such proposals, but not  
1096 limited to the terms thereof, negotiate and enter contracts with

1097 one or more of the persons or firms submitting proposals. If the  
1098 governing authority or agency deems none of the proposals to be  
1099 qualified or otherwise acceptable, the request for proposals  
1100 process may be reinitiated. Notwithstanding any other provisions  
1101 of this paragraph, where a county with at least thirty-five  
1102 thousand (35,000) nor more than forty thousand (40,000)  
1103 population, according to the 1990 federal decennial census, owns  
1104 or operates a solid waste landfill, the governing authorities of  
1105 any other county or municipality may contract with the governing  
1106 authorities of the county owning or operating the landfill,  
1107 pursuant to a resolution duly adopted and spread upon the minutes  
1108 of each governing authority involved, for garbage or solid waste  
1109 collection or disposal services through contract negotiations.

1110 (s) **Minority set-aside authorization.** Notwithstanding  
1111 any provision of this section to the contrary, any agency or  
1112 governing authority, by order placed on its minutes, may, in its  
1113 discretion, set aside not more than twenty percent (20%) of its  
1114 anticipated annual expenditures for the purchase of commodities  
1115 from minority businesses; however, all such set-aside purchases  
1116 shall comply with all purchasing regulations promulgated by the  
1117 Department of Finance and Administration and shall be subject to  
1118 bid requirements under this section. Set-aside purchases for  
1119 which competitive bids are required shall be made from the lowest  
1120 and best minority business bidder. For the purposes of this  
1121 paragraph, the term "minority business" means a business which is  
1122 owned by a majority of persons who are United States citizens or  
1123 permanent resident aliens (as defined by the Immigration and  
1124 Naturalization Service) of the United States, and who are Asian,  
1125 Black, Hispanic or Native American, according to the following  
1126 definitions:

1127 (i) "Asian" means persons having origins in any of  
1128 the original people of the Far East, Southeast Asia, the Indian  
1129 subcontinent, or the Pacific Islands.

1130 (ii) "Black" means persons having origins in any  
1131 black racial group of Africa.

1132 (iii) "Hispanic" means persons of Spanish or  
1133 Portuguese culture with origins in Mexico, South or Central  
1134 America, or the Caribbean Islands, regardless of race.

1135 (iv) "Native American" means persons having  
1136 origins in any of the original people of North America, including  
1137 American Indians, Eskimos and Aleuts.

1138 (t) **Construction punch list restriction.** The  
1139 architect, engineer or other representative designated by the  
1140 agency or governing authority that is contracting for public  
1141 construction or renovation may prepare and submit to the  
1142 contractor only one (1) preliminary punch list of items that do  
1143 not meet the contract requirements at the time of substantial  
1144 completion and one (1) final list immediately before final  
1145 completion and final payment.

1146 (u) **Purchase authorization clarification.** Nothing in  
1147 this section shall be construed as authorizing any purchase not  
1148 authorized by law.

1149 **SECTION 6.** (1) "In God We Trust" and the Ten Commandments  
1150 may be displayed in all public buildings at the discretion of the  
1151 governing authorities.

1152 (2) The Beatitudes and the Ten Commandments may be displayed  
1153 on any government property in Mississippi.

1154 **SECTION 7.** The Department of Finance and Administration  
1155 shall continue to lease to vendors until January 1, 2006, the  
1156 property at the old Farmer's Market located at the corner of  
1157 Woodrow Wilson Drive and West Street.

1158           **SECTION 8.** This act shall take effect and be in force from  
1159 and after its passage.

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

1           AN ACT TO AMEND SECTION 31-11-3, MISSISSIPPI CODE OF 1972, TO  
2 ASSIGN ADDITIONAL POWERS AND DUTIES TO THE DEPARTMENT OF FINANCE  
3 AND ADMINISTRATION RELATING TO PARKING SPACES FOR STATE EMPLOYEES  
4 WHO WORK IN THE WOOLFOLK BUILDING, THE CARROLL GARTIN JUSTICE  
5 BUILDING OR THE WALTER SILLERS OFFICE BUILDING; TO AMEND SECTIONS  
6 27-104-7 AND 29-5-2, MISSISSIPPI CODE OF 1972, TO REVISE THE  
7 DUTIES OF THE DEPARTMENT OF FINANCE AND ADMINISTRATION RELATING TO  
8 PARKING FOR STATE EMPLOYEES WHO WORK IN THE WOOLFOLK BUILDING, THE  
9 CARROLL GARTIN JUSTICE BUILDING OR THE WALTER SILLERS OFFICE  
10 BUILDING; TO AMEND SECTION 29-5-77, MISSISSIPPI CODE OF 1972, TO  
11 AUTHORIZE THE DEPARTMENT OF FINANCE AND ADMINISTRATION TO ENFORCE  
12 LAWS ON CERTAIN PROPERTY OF THE BOARD OF TRUSTEES OF STATE  
13 INSTITUTIONS OF HIGHER LEARNING AND THE DEPARTMENT OF AGRICULTURE;  
14 TO AMEND SECTION 31-7-13, MISSISSIPPI CODE OF 1972, TO CLARIFY  
15 THAT PUBLIC CONSTRUCTION CONTRACTS MAY ONLY INCLUDE ALLOWANCES FOR  
16 CERTAIN LIMITED AND SPECIFIED ITEMS AND AMOUNTS; TO AUTHORIZE THE  
17 DISPLAY OF "IN GOD WE TRUST," THE TEN COMMANDMENTS AND THE  
18 BEATITUDES AT PUBLIC BUILDINGS AND PROPERTY IN MISSISSIPPI; TO  
19 REQUIRE THE DEPARTMENT OF FINANCE AND ADMINISTRATION TO LEASE TO  
20 VENDORS UNTIL JANUARY 1, 2006, THE PROPERTY AT THE OLD FARMER'S  
21 MARKET; AND FOR RELATED PURPOSES.

CONFEREES FOR THE SENATE

CONFEREES FOR THE HOUSE

X (SIGNED)  
Jackson (32nd)

X (SIGNED)  
Weathersby

X (SIGNED)  
Mettetal

X (SIGNED)  
Martinson

X (SIGNED)  
Browning

X (SIGNED)  
Gadd