

House Amendments to Senate Bill No. 2486

TO THE SECRETARY OF THE SENATE:

THIS IS TO INFORM YOU THAT THE HOUSE HAS ADOPTED THE AMENDMENTS SET OUT BELOW:

AMENDMENT NO. 1

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

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

22 31-11-3. (1) The Department of Finance and Administration,
23 for the purposes of carrying out the provisions of this chapter,
24 in addition to all other rights and powers granted by law, shall
25 have full power and authority to employ and compensate architects
26 or other employees necessary for the purpose of making
27 inspections, preparing plans and specifications, supervising the
28 erection of any buildings, and making any repairs or additions as
29 may be determined by the Department of Finance and Administration
30 to be necessary, pursuant to the rules and regulations of the
31 State Personnel Board. The department shall have entire control
32 and supervision of, and determine what, if any, buildings,
33 additions, repairs or improvements are to be made under the
34 provisions of this chapter, subject to the approval of the Public
35 Procurement Review Board.

36 (2) The department shall have full power to erect buildings,
37 make repairs, additions or improvements, and buy materials,
38 supplies and equipment for any of the institutions or departments
39 of the state subject to the approval of the Public Procurement
40 Review Board. In addition to other powers conferred, the
41 department shall have full power and authority as directed by the
42 Legislature, or when funds have been appropriated for its use for
43 these purposes, to:

44 (a) Build a state office building;

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

49 (c) Provide state aid for the construction of school
50 buildings;

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

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

62 (f) Build and equip additional buildings and wards at
63 the Boswell Retardation Center;

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

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

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

73 (j) Build and equip a gymnasium at Columbia Training
74 School;

75 (k) Approve or disapprove the expenditure of any money
76 appropriated by the Legislature when authorized by the bill making
77 the appropriation;

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

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

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

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

99 (p) Obtain business property insurance with a
100 deductible of not less than One Hundred Thousand Dollars
101 (\$100,000.00) on state-owned buildings under the management and
102 control of the department; and

103 (q) Enter into contracts for the purpose of providing
104 parking spaces for state employees who work in the Carroll Gartin
105 Justice Building or the Walter Sillers Office Building.

106 (3) The department shall survey state-owned and
107 state-utilized buildings to establish an estimate of the costs of
108 architectural alterations, pursuant to the Americans With
109 Disabilities Act of 1990, 42 USCS, Section 12111 et seq. The
110 department shall establish priorities for making the identified
111 architectural alterations and shall make known to the Legislative
112 Budget Office and to the Legislature the required cost to
113 effectuate such alterations. To meet the requirements of this
114 section, the department shall use standards of accessibility that

115 are at least as stringent as any applicable federal requirements
116 and may consider:

117 (a) Federal minimum guidelines and requirements issued
118 by the United States Architectural and Transportation Barriers
119 Compliance Board and standards issued by other federal agencies;

120 (b) The criteria contained in the American Standard
121 Specifications for Making Buildings Accessible and Usable by the
122 Physically Handicapped and any amendments thereto as approved by
123 the American Standards Association, Incorporated (ANSI Standards);

124 (c) Design manuals;

125 (d) Applicable federal guidelines;

126 (e) Current literature in the field;

127 (f) Applicable safety standards; and

128 (g) Any applicable environmental impact statements.

129 (4) The department shall observe the provisions of Section
130 31-5-23, in letting contracts and shall use Mississippi products,
131 including paint, varnish and lacquer which contain as vehicles
132 tung oil and either ester gum or modified resin (with rosin as the
133 principal base of constituents), and turpentine shall be used as a
134 solvent or thinner, where these products are available at a cost
135 not to exceed the cost of products grown, produced, prepared, made
136 or manufactured outside of the State of Mississippi.

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

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

144 (7) The department shall review and preapprove all
145 architectural or engineering service contracts entered into by any
146 state agency, institution, commission, board or authority
147 regardless of the source of funding used to defray the costs of
148 the construction or renovation project for which services are to
149 be obtained. The provisions of this subsection (7) shall not

150 apply to any architectural or engineering contract paid for by
151 self-generated funds of any of the state institutions of higher
152 learning, nor shall they apply to community college projects that
153 are funded from local funds or other nonstate sources which are
154 outside the Department of Finance and Administration's
155 appropriations or as directed by the Legislature. The provisions
156 of this subsection (7) shall not apply to any construction or
157 design projects of the State Military Department that are funded
158 from federal funds or other nonstate sources.

159 (8) The department shall have the authority to obtain
160 annually from the state institutions of higher learning
161 information on all building, construction and renovation projects
162 including duties, responsibilities and costs of any architect or
163 engineer hired by any such institutions.

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

169 (i) Projects for the Mississippi Development
170 Authority pursuant to agreements between both governmental
171 entities;

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

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

178 (b) As used in this subsection:

179 (i) "Design-build method of contracting" means a
180 contract that combines the design and construction phases of a
181 project into a single contract and the contractor is required to
182 satisfactorily perform, at a minimum, both the design and
183 construction of the project.

184 (ii) "Design-build bridging method of contracting"
185 means a contract that requires design through the design
186 development phase by a professional designer, after which a
187 request for qualifications for design completion and construction
188 is required for the completion of the project from a single
189 contractor that combines the balance of design and construction
190 phases of a project into a single contract. The contractor is
191 required to satisfactorily perform, at a minimum, both the balance
192 of design and construction of the project.

193 (c) The department shall establish detailed criteria
194 for the selection of the successful design-build/design-build
195 bridging contractor in each request for design-build/design-build
196 bridging proposals. The request for qualifications evaluation of
197 the selection committee is a public record and shall be maintained
198 for a minimum of three (3) years after project completion.

199 (d) The department shall maintain detailed records on
200 projects separate and apart from its regular record keeping. The
201 department shall file a report to the Legislature evaluating the
202 design-build/design-build bridging method of contracting by
203 comparing it to the low-bid method of contracting. At a minimum,
204 the report must include:

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

207 (ii) A complete description of the components of
208 the design-build/design-build bridging management system,
209 including a description of the system the department put into
210 place on all projects managed under the system to insure that it
211 has the complete information on building segment costs and to
212 insure proper analysis of any proposal the department receives
213 from a contractor;

214 (iii) The accountability systems the department
215 established to monitor any design-build/design-build bridging
216 project's compliance with specific goals and objectives for the
217 project;

218 (iv) The outcome of any project or any interim
219 report on an ongoing project let under a design-build/design-build
220 bridging management system showing compliance with the goals,
221 objectives, policies and procedures the department set for the
222 project; and

223 (v) The method used by the department to select
224 projects to be let under the design-build/design-build bridging
225 system of management and all other systems, policies and
226 procedures that the department considered as necessary components
227 to a design-build/design-build bridging management system.

228 (e) All contracts let under the provisions of this
229 subsection shall be subject to oversight and review by the State
230 Auditor.

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

233 27-104-7. (1) There is hereby created within the Department
234 of Finance and Administration the Public Procurement Review Board,
235 which shall be composed of the Executive Director of the
236 Department of Finance and Administration, the head of the Office
237 of Budget and Policy Development and an employee of the Office of
238 General Services who is familiar with the purchasing laws of this
239 state. The Executive Director of the Department of Finance and
240 Administration shall be chairman and shall preside over the
241 meetings of the board. The board shall annually elect a vice
242 chairman, who shall serve in the absence of the chairman. No
243 business shall be transacted, including adoption of rules of
244 procedure, without the presence of a quorum of the board. Two (2)
245 members shall be a quorum. No action shall be valid unless
246 approved by the chairman and one (1) other of those members
247 present and voting, entered upon the minutes of the board and
248 signed by the chairman. The board shall meet on a monthly basis
249 and at any other time when notified by the chairman. Necessary
250 clerical and administrative support for the board shall be
251 provided by the Department of Finance and Administration. Minutes
252 shall be kept of the proceedings of each meeting, copies of which

253 shall be filed on a monthly basis with the Legislative Budget
254 Office.

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

257 (a) Approve all purchasing regulations governing the
258 purchase or lease by any agency, as defined in Section 31-7-1, of
259 commodities and equipment, except computer equipment acquired
260 pursuant to Sections 25-53-1 through 25-53-29;

261 (b) Adopt regulations governing the approval of
262 contracts let for the construction and maintenance of state
263 buildings and other state facilities;

264 (c) Adopt regulations governing any lease or rental
265 agreement by any state agency or department, including any state
266 agency financed entirely by federal funds, for space outside the
267 buildings under the jurisdiction of the Department of Finance and
268 Administration; * * *

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

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

288 (ii) Hispanic: of Mexican, Puerto Rican, Cuban,
289 Central or South American, or other Spanish or Portuguese culture
290 or origin regardless of race.

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

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

296 (v) Female;

297 (e) Approve leases entered into by state agencies for
298 the purpose of providing parking arrangements for state employees
299 who work in the Carroll Gartin Justice Building or the Walter
300 Sillers Office Building.

301 (3) No member of the Public Procurement Review Board shall
302 use his official authority or influence to coerce, by threat of
303 discharge from employment, or otherwise, the purchase of
304 commodities or the contracting for public construction under this
305 chapter.

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

308 29-5-2. The duties of the Department of Finance and
309 Administration shall be as follows:

310 (a) (i) To exercise general supervision and care over
311 and keep in good condition the following state property located in
312 the City of Jackson: the New State Capitol Building, the Woolfolk
313 State Office Building, the Carroll Gartin Justice Building, the
314 Walter Sillers Office Building, the War Veterans' Memorial
315 Building, the Charlotte Capers Building, the William F. Winter
316 Archives and History Building, the Ike Sanford Veterans Affairs
317 Building, the Old State Capitol Building, the Governor's Mansion,
318 the Heber Ladner Building, the Burroughs Building, the Robert E.
319 Lee Office Building, the Robert E. Lee Parking Garage, the Manship
320 House Restoration and Visitor Center, the State Records Center,
321 the Robert G. Clark, Jr., Building, and all other properties
322 acquired in the same transaction at the time of the purchase of

323 the Robert E. Lee Hotel property from the First Federal Savings
324 and Loan Association of Jackson, Mississippi, which properties are
325 more particularly described in a warranty deed heretofore executed
326 and delivered on April 22, 1969, and filed for record in the
327 office of the Chancery Clerk of the First Judicial District of
328 Hinds County, Mississippi, located in Jackson, Mississippi, on
329 April 25, 1969, at 9:00 a.m., and recorded in Deed Book No. 1822,
330 page 136 et seq., and the Central High Building and 101 Capitol
331 Centre.

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

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

339 (b) To assign suitable office space for the various
340 state departments, officers and employees who are provided with an
341 office in any of the buildings under the jurisdiction or control
342 of the Department of Finance and Administration. However, the
343 assignment of space in the New Capitol Building shall be
344 designated by duly passed resolution of the combined Senate Rules
345 Committee and the House Management Committee, meeting as a joint
346 committee, approved by the Lieutenant Governor and Speaker of the
347 House of Representatives. A majority vote of the members of the
348 Senate Rules Committee and a majority vote of the members of the
349 House Management Committee shall be required on all actions taken,
350 resolutions or reports adopted, and all other matters considered
351 by the full combined committee on occasions when the Senate Rules
352 Committee and the House Management Committee shall meet as a full
353 combined committee.

354 (c) To approve or disapprove with the concurrence of
355 the Public Procurement Review Board, any lease or rental
356 agreements by any state agency or department, including any state
357 agency financed entirely by federal and special funds, for space

358 outside the buildings under the jurisdiction of the Department of
359 Finance and Administration, including space necessary for parking
360 to be used by state employees who work in the Carroll Gartin
361 Justice Building or the Walter Sillers Office Building. In no
362 event shall any employee, officer, department, federally funded
363 agency or bureau of the state be authorized to enter a lease or
364 rental agreement without prior approval of the Department of
365 Finance and Administration and the Public Procurement Review
366 Board.

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

371 (d) To acquire by lease, lease-purchase agreement, or
372 otherwise, as provided in Section 27-104-107, and to assign
373 through the Office of General Services, by lease or sublease
374 agreement from the office, and with the concurrence of the Public
375 Procurement Review Board, to any state agency or department,
376 including any state agency financed entirely by federal and
377 special funds, appropriate office space in the buildings acquired.

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

380 29-5-77. The Department of Finance and Administration shall
381 have jurisdiction relative to the enforcement of all laws of the
382 State of Mississippi on the properties set forth in Section
383 29-5-2, the Court of Appeals Building, the Mississippi Department
384 of Transportation Building and the Public Employees' Retirement
385 System Building. The Department of Finance and Administration
386 shall, through any person or persons appointed by the Department
387 of Finance and Administration, or through the Department of Public
388 Safety when requested by the Department of Finance and
389 Administration, make arrests for any violation of any law of the
390 State of Mississippi on those grounds of or within those
391 properties. The Department of Finance and Administration shall
392 enforce the provisions of Sections 29-5-57 through 29-5-67,

393 29-5-71 through 29-5-77, and 29-5-81 through 29-5-95, and
394 prescribe such rules and regulations as are necessary therefor.

395 When in the opinion of the Governor or, in his absence, the
396 Lieutenant Governor, it is readily apparent that an emergency
397 exists that the persons appointed by the Department of Finance and
398 Administration are unable to control in the accomplishment of the
399 provisions of Sections 29-5-57 through 29-5-67, 29-5-71 through
400 29-5-77, and 29-5-81 through 29-5-95 in regard to law enforcement,
401 then the Governor, or in his absence, the Lieutenant Governor, may
402 call upon the Department of Public Safety, members of which shall
403 have power to arrest and detain any persons violating the
404 provisions of those sections of law, until the person can be
405 brought before the proper authorities for trial.

406 Subject to the approval of the Board of Trustees of State
407 Institutions of Higher Learning, the Board of Trustees and the
408 Department of Finance and Administration shall be authorized to
409 enter into a contract for the Department of Finance and
410 Administration to supply the security personnel with jurisdiction
411 to enforce all laws of the State of Mississippi on the property of
412 the Board of Trustees located at the corner of Ridgewood Road and
413 Lakeland Drive in the City of Jackson.

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

416 31-7-13. All agencies and governing authorities shall
417 purchase their commodities and printing; contract for garbage
418 collection or disposal; contract for solid waste collection or
419 disposal; contract for sewage collection or disposal; contract for
420 public construction; and contract for rentals as herein provided.

421 (a) **Bidding procedure for purchases not over \$3,500.00.**
422 Purchases which do not involve an expenditure of more than Three
423 Thousand Five Hundred Dollars (\$3,500.00), exclusive of freight or
424 shipping charges, may be made without advertising or otherwise
425 requesting competitive bids. However, nothing contained in this
426 paragraph (a) shall be construed to prohibit any agency or
427 governing authority from establishing procedures which require

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

430 (b) **Bidding procedure for purchases over \$3,500.00 but**
431 **not over \$15,000.00.** Purchases which involve an expenditure of
432 more than Three Thousand Five Hundred Dollars (\$3,500.00) but not
433 more than Fifteen Thousand Dollars (\$15,000.00), exclusive of
434 freight and shipping charges may be made from the lowest and best
435 bidder without publishing or posting advertisement for bids,
436 provided at least two (2) competitive written bids have been
437 obtained. Any governing authority purchasing commodities pursuant
438 to this paragraph (b) may authorize its purchasing agent, or his
439 designee, with regard to governing authorities other than
440 counties, or its purchase clerk, or his designee, with regard to
441 counties, to accept the lowest and best competitive written bid.
442 Such authorization shall be made in writing by the governing
443 authority and shall be maintained on file in the primary office of
444 the agency and recorded in the official minutes of the governing
445 authority, as appropriate. The purchasing agent or the purchase
446 clerk, or their designee, as the case may be, and not the
447 governing authority, shall be liable for any penalties and/or
448 damages as may be imposed by law for any act or omission of the
449 purchasing agent or purchase clerk, or their designee,
450 constituting a violation of law in accepting any bid without
451 approval by the governing authority. The term "competitive
452 written bid" shall mean a bid submitted on a bid form furnished by
453 the buying agency or governing authority and signed by authorized
454 personnel representing the vendor, or a bid submitted on a
455 vendor's letterhead or identifiable bid form and signed by
456 authorized personnel representing the vendor. "Competitive" shall
457 mean that the bids are developed based upon comparable
458 identification of the needs and are developed independently and
459 without knowledge of other bids or prospective bids. Bids may be
460 submitted by facsimile, electronic mail or other generally
461 accepted method of information distribution. Bids submitted by
462 electronic transmission shall not require the signature of the

463 vendor's representative unless required by agencies or governing
464 authorities.

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

466 (i) **Publication requirement.** Purchases which
467 involve an expenditure of more than Fifteen Thousand Dollars
468 (\$15,000.00), exclusive of freight and shipping charges, may be
469 made from the lowest and best bidder after advertising for
470 competitive sealed bids once each week for two (2) consecutive
471 weeks in a regular newspaper published in the county or
472 municipality in which such agency or governing authority is
473 located. The date as published for the bid opening shall not be
474 less than seven (7) working days after the last published notice;
475 however, if the purchase involves a construction project in which
476 the estimated cost is in excess of Fifteen Thousand Dollars
477 (\$15,000.00), such bids shall not be opened in less than fifteen
478 (15) working days after the last notice is published and the
479 notice for the purchase of such construction shall be published
480 once each week for two (2) consecutive weeks. The notice of
481 intention to let contracts or purchase equipment shall state the
482 time and place at which bids shall be received, list the contracts
483 to be made or types of equipment or supplies to be purchased, and,
484 if all plans and/or specifications are not published, refer to the
485 plans and/or specifications on file. If there is no newspaper
486 published in the county or municipality, then such notice shall be
487 given by posting same at the courthouse, or for municipalities at
488 the city hall, and at two (2) other public places in the county or
489 municipality, and also by publication once each week for two (2)
490 consecutive weeks in some newspaper having a general circulation
491 in the county or municipality in the above provided manner. On
492 the same date that the notice is submitted to the newspaper for
493 publication, the agency or governing authority involved shall mail
494 written notice to, or provide electronic notification to the main
495 office of the Mississippi Contract Procurement Center that
496 contains the same information as that in the published notice.

497 (ii) **Bidding process amendment procedure.** If all
498 plans and/or specifications are published in the notification,
499 then the plans and/or specifications may not be amended. If all
500 plans and/or specifications are not published in the notification,
501 then amendments to the plans/specifications, bid opening date, bid
502 opening time and place may be made, provided that the agency or
503 governing authority maintains a list of all prospective bidders
504 who are known to have received a copy of the bid documents and all
505 such prospective bidders are sent copies of all amendments. This
506 notification of amendments may be made via mail, facsimile,
507 electronic mail or other generally accepted method of information
508 distribution. No addendum to bid specifications may be issued
509 within two (2) working days of the time established for the
510 receipt of bids unless such addendum also amends the bid opening
511 to a date not less than five (5) working days after the date of
512 the addendum.

513 (iii) **Filing requirement.** In all cases involving
514 governing authorities, before the notice shall be published or
515 posted, the plans or specifications for the construction or
516 equipment being sought shall be filed with the clerk of the board
517 of the governing authority. In addition to these requirements, a
518 bid file shall be established which shall indicate those vendors
519 to whom such solicitations and specifications were issued, and
520 such file shall also contain such information as is pertinent to
521 the bid.

522 (iv) **Specification restrictions.**

523 1. Specifications pertinent to such bidding
524 shall be written so as not to exclude comparable equipment of
525 domestic manufacture. However, if valid justification is
526 presented, the Department of Finance and Administration or the
527 board of a governing authority may approve a request for specific
528 equipment necessary to perform a specific job. Further, such
529 justification, when placed on the minutes of the board of a
530 governing authority, may serve as authority for that governing
531 authority to write specifications to require a specific item of

532 equipment needed to perform a specific job. In addition to these
533 requirements, from and after July 1, 1990, vendors of relocatable
534 classrooms and the specifications for the purchase of such
535 relocatable classrooms published by local school boards shall meet
536 all pertinent regulations of the State Board of Education,
537 including prior approval of such bid by the State Department of
538 Education.

539 2. Specifications for construction projects
540 may include an allowance for commodities, equipment, furniture,
541 construction materials or systems in which prospective bidders are
542 instructed to include in their bids specified amounts for such
543 items so long as the allowance items are acquired by the vendor in
544 a commercially reasonable manner and approved by the
545 agency/governing authority. Such acquisitions shall not be made
546 to circumvent the public purchasing laws.

547 (v) Agencies and governing authorities may
548 establish secure procedures by which bids may be submitted via
549 electronic means.

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

551 (i) **Decision procedure.** Purchases may be made
552 from the lowest and best bidder. In determining the lowest and
553 best bid, freight and shipping charges shall be included.
554 Life-cycle costing, total cost bids, warranties, guaranteed
555 buy-back provisions and other relevant provisions may be included
556 in the best bid calculation. All best bid procedures for state
557 agencies must be in compliance with regulations established by the
558 Department of Finance and Administration. If any governing
559 authority accepts a bid other than the lowest bid actually
560 submitted, it shall place on its minutes detailed calculations and
561 narrative summary showing that the accepted bid was determined to
562 be the lowest and best bid, including the dollar amount of the
563 accepted bid and the dollar amount of the lowest bid. No agency
564 or governing authority shall accept a bid based on items not
565 included in the specifications.

566 (ii) **Decision procedure for Certified Purchasing**
567 **Offices.** In addition to the decision procedure set forth in
568 paragraph (d)(i), Certified Purchasing Offices may also use the
569 following procedure: Purchases may be made from the bidder
570 offering the best value. In determining the best value bid,
571 freight and shipping charges shall be included. Life-cycle
572 costing, total cost bids, warranties, guaranteed buy-back
573 provisions, documented previous experience, training costs and
574 other relevant provisions may be included in the best value
575 calculation. This provision shall authorize Certified Purchasing
576 Offices to utilize a Request For Proposals (RFP) process when
577 purchasing commodities. All best value procedures for state
578 agencies must be in compliance with regulations established by the
579 Department of Finance and Administration. No agency or governing
580 authority shall accept a bid based on items or criteria not
581 included in the specifications.

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

588 (e) **Lease-purchase authorization.** For the purposes of
589 this section, the term "equipment" shall mean equipment, furniture
590 and, if applicable, associated software and other applicable
591 direct costs associated with the acquisition. Any lease-purchase
592 of equipment which an agency is not required to lease-purchase
593 under the master lease-purchase program pursuant to Section
594 31-7-10 and any lease-purchase of equipment which a governing
595 authority elects to lease-purchase may be acquired by a
596 lease-purchase agreement under this paragraph (e). Lease-purchase
597 financing may also be obtained from the vendor or from a
598 third-party source after having solicited and obtained at least
599 two (2) written competitive bids, as defined in paragraph (b) of
600 this section, for such financing without advertising for such

601 bids. Solicitation for the bids for financing may occur before or
602 after acceptance of bids for the purchase of such equipment or,
603 where no such bids for purchase are required, at any time before
604 the purchase thereof. No such lease-purchase agreement shall be
605 for an annual rate of interest which is greater than the overall
606 maximum interest rate to maturity on general obligation
607 indebtedness permitted under Section 75-17-101, and the term of
608 such lease-purchase agreement shall not exceed the useful life of
609 equipment covered thereby as determined according to the upper
610 limit of the asset depreciation range (ADR) guidelines for the
611 Class Life Asset Depreciation Range System established by the
612 Internal Revenue Service pursuant to the United States Internal
613 Revenue Code and regulations thereunder as in effect on December
614 31, 1980, or comparable depreciation guidelines with respect to
615 any equipment not covered by ADR guidelines. Any lease-purchase
616 agreement entered into pursuant to this paragraph (e) may contain
617 any of the terms and conditions which a master lease-purchase
618 agreement may contain under the provisions of Section 31-7-10(5),
619 and shall contain an annual allocation dependency clause
620 substantially similar to that set forth in Section 31-7-10(8).
621 Each agency or governing authority entering into a lease-purchase
622 transaction pursuant to this paragraph (e) shall maintain with
623 respect to each such lease-purchase transaction the same
624 information as required to be maintained by the Department of
625 Finance and Administration pursuant to Section 31-7-10(13).
626 However, nothing contained in this section shall be construed to
627 permit agencies to acquire items of equipment with a total
628 acquisition cost in the aggregate of less than Ten Thousand
629 Dollars (\$10,000.00) by a single lease-purchase transaction. All
630 equipment, and the purchase thereof by any lessor, acquired by
631 lease-purchase under this paragraph and all lease-purchase
632 payments with respect thereto shall be exempt from all Mississippi
633 sales, use and ad valorem taxes. Interest paid on any
634 lease-purchase agreement under this section shall be exempt from
635 State of Mississippi income taxation.

636 (f) **Alternate bid authorization.** When necessary to
637 ensure ready availability of commodities for public works and the
638 timely completion of public projects, no more than two (2)
639 alternate bids may be accepted by a governing authority for
640 commodities. No purchases may be made through use of such
641 alternate bids procedure unless the lowest and best bidder cannot
642 deliver the commodities contained in his bid. In that event,
643 purchases of such commodities may be made from one (1) of the
644 bidders whose bid was accepted as an alternate.

645 (g) **Construction contract change authorization.** In the
646 event a determination is made by an agency or governing authority
647 after a construction contract is let that changes or modifications
648 to the original contract are necessary or would better serve the
649 purpose of the agency or the governing authority, such agency or
650 governing authority may, in its discretion, order such changes
651 pertaining to the construction that are necessary under the
652 circumstances without the necessity of further public bids;
653 provided that such change shall be made in a commercially
654 reasonable manner and shall not be made to circumvent the public
655 purchasing statutes. In addition to any other authorized person,
656 the architect or engineer hired by an agency or governing
657 authority with respect to any public construction contract shall
658 have the authority, when granted by an agency or governing
659 authority, to authorize changes or modifications to the original
660 contract without the necessity of prior approval of the agency or
661 governing authority when any such change or modification is less
662 than one percent (1%) of the total contract amount. The agency or
663 governing authority may limit the number, manner or frequency of
664 such emergency changes or modifications.

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

671 solicited and obtained at least two (2) competitive written bids,
672 as defined in paragraph (b) of this section. If two (2)
673 competitive written bids are not obtained, the entity shall comply
674 with the procedures set forth in paragraph (c) of this section.
675 In the event any agency or governing authority shall have
676 advertised for bids for the purchase of gas, diesel fuel, oils and
677 other petroleum products and coal and no acceptable bids can be
678 obtained, such agency or governing authority is authorized and
679 directed to enter into any negotiations necessary to secure the
680 lowest and best contract available for the purchase of such
681 commodities.

682 (i) **Road construction petroleum products price**
683 **adjustment clause authorization.** Any agency or governing
684 authority authorized to enter into contracts for the construction,
685 maintenance, surfacing or repair of highways, roads or streets,
686 may include in its bid proposal and contract documents a price
687 adjustment clause with relation to the cost to the contractor,
688 including taxes, based upon an industry-wide cost index, of
689 petroleum products including asphalt used in the performance or
690 execution of the contract or in the production or manufacture of
691 materials for use in such performance. Such industry-wide index
692 shall be established and published monthly by the Mississippi
693 Department of Transportation with a copy thereof to be mailed,
694 upon request, to the clerks of the governing authority of each
695 municipality and the clerks of each board of supervisors
696 throughout the state. The price adjustment clause shall be based
697 on the cost of such petroleum products only and shall not include
698 any additional profit or overhead as part of the adjustment. The
699 bid proposals or document contract shall contain the basis and
700 methods of adjusting unit prices for the change in the cost of
701 such petroleum products.

702 (j) **State agency emergency purchase procedure.** If the
703 governing board or the executive head, or his designee, of any
704 agency of the state shall determine that an emergency exists in
705 regard to the purchase of any commodities or repair contracts, so

706 that the delay incident to giving opportunity for competitive
707 bidding would be detrimental to the interests of the state, then
708 the provisions herein for competitive bidding shall not apply and
709 the head of such agency shall be authorized to make the purchase
710 or repair. Total purchases so made shall only be for the purpose
711 of meeting needs created by the emergency situation. In the event
712 such executive head is responsible to an agency board, at the
713 meeting next following the emergency purchase, documentation of
714 the purchase, including a description of the commodity purchased,
715 the purchase price thereof and the nature of the emergency shall
716 be presented to the board and placed on the minutes of the board
717 of such agency. The head of such agency, or his designee, shall,
718 at the earliest possible date following such emergency purchase,
719 file with the Department of Finance and Administration (i) a
720 statement explaining the conditions and circumstances of the
721 emergency, which shall include a detailed description of the
722 events leading up to the situation and the negative impact to the
723 entity if the purchase is made following the statutory
724 requirements set forth in paragraph (a), (b) or (c) of this
725 section, and (ii) a certified copy of the appropriate minutes of
726 the board of such agency, if applicable. On or before September 1
727 of each year, the State Auditor shall prepare and deliver to the
728 Senate Fees, Salaries and Administration Committee, the House Fees
729 and Salaries of Public Officers Committee and the Joint
730 Legislative Budget Committee a report containing a list of all
731 state agency emergency purchases and supporting documentation for
732 each emergency purchase.

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

734 If the governing authority, or the governing authority acting
735 through its designee, shall determine that an emergency exists in
736 regard to the purchase of any commodities or repair contracts, so
737 that the delay incident to giving opportunity for competitive
738 bidding would be detrimental to the interest of the governing
739 authority, then the provisions herein for competitive bidding
740 shall not apply and any officer or agent of such governing

741 authority having general or special authority therefor in making
742 such purchase or repair shall approve the bill presented therefor,
743 and he shall certify in writing thereon from whom such purchase
744 was made, or with whom such a repair contract was made. At the
745 board meeting next following the emergency purchase or repair
746 contract, documentation of the purchase or repair contract,
747 including a description of the commodity purchased, the price
748 thereof and the nature of the emergency shall be presented to the
749 board and shall be placed on the minutes of the board of such
750 governing authority.

751 (1) **Hospital purchase, lease-purchase and lease**
752 **authorization.**

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

758 (ii) In addition to the authority granted in
759 subparagraph (i) of this paragraph (1), the commissioners or board
760 of trustees is authorized to enter into contracts for the lease of
761 equipment or services, or both, which it considers necessary for
762 the proper care of patients if, in its opinion, it is not
763 financially feasible to purchase the necessary equipment or
764 services. Any such contract for the lease of equipment or
765 services executed by the commissioners or board shall not exceed a
766 maximum of five (5) years' duration and shall include a
767 cancellation clause based on unavailability of funds. If such
768 cancellation clause is exercised, there shall be no further
769 liability on the part of the lessee. Any such contract for the
770 lease of equipment or services executed on behalf of the
771 commissioners or board that complies with the provisions of this
772 subparagraph (ii) shall be excepted from the bid requirements set
773 forth in this section.

774 (m) **Exceptions from bidding requirements.** Excepted
775 from bid requirements are:

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

777 Purchasing agreements, contracts and maximum price regulations
778 executed or approved by the Department of Finance and
779 Administration.

780 (ii) **Outside equipment repairs.** Repairs to
781 equipment, when such repairs are made by repair facilities in the
782 private sector; however, engines, transmissions, rear axles and/or
783 other such components shall not be included in this exemption when
784 replaced as a complete unit instead of being repaired and the need
785 for such total component replacement is known before disassembly
786 of the component; however, invoices identifying the equipment,
787 specific repairs made, parts identified by number and name,
788 supplies used in such repairs, and the number of hours of labor
789 and costs therefor shall be required for the payment for such
790 repairs.

791 (iii) **In-house equipment repairs.** Purchases of
792 parts for repairs to equipment, when such repairs are made by
793 personnel of the agency or governing authority; however, entire
794 assemblies, such as engines or transmissions, shall not be
795 included in this exemption when the entire assembly is being
796 replaced instead of being repaired.

797 (iv) **Raw gravel or dirt.** Raw unprocessed deposits
798 of gravel or fill dirt which are to be removed and transported by
799 the purchaser.

800 (v) **Governmental equipment auctions.** Motor
801 vehicles or other equipment purchased from a federal agency or
802 authority, another governing authority or state agency of the
803 State of Mississippi, or any governing authority or state agency
804 of another state at a public auction held for the purpose of
805 disposing of such vehicles or other equipment. Any purchase by a
806 governing authority under the exemption authorized by this
807 subparagraph (v) shall require advance authorization spread upon
808 the minutes of the governing authority to include the listing of
809 the item or items authorized to be purchased and the maximum bid
810 authorized to be paid for each item or items.

811 (vi) **Intergovernmental sales and transfers.**
812 Purchases, sales, transfers or trades by governing authorities or
813 state agencies when such purchases, sales, transfers or trades are
814 made by a private treaty agreement or through means of
815 negotiation, from any federal agency or authority, another
816 governing authority or state agency of the State of Mississippi,
817 or any state agency or governing authority of another state.
818 Nothing in this section shall permit such purchases through public
819 auction except as provided for in subparagraph (v) of this
820 section. It is the intent of this section to allow governmental
821 entities to dispose of and/or purchase commodities from other
822 governmental entities at a price that is agreed to by both
823 parties. This shall allow for purchases and/or sales at prices
824 which may be determined to be below the market value if the
825 selling entity determines that the sale at below market value is
826 in the best interest of the taxpayers of the state. Governing
827 authorities shall place the terms of the agreement and any
828 justification on the minutes, and state agencies shall obtain
829 approval from the Department of Finance and Administration, prior
830 to releasing or taking possession of the commodities.

831 (vii) **Perishable supplies or food.** Perishable
832 supplies or foods purchased for use in connection with hospitals,
833 the school lunch programs, homemaking programs and for the feeding
834 of county or municipal prisoners.

835 (viii) **Single source items.** Noncompetitive items
836 available from one (1) source only. In connection with the
837 purchase of noncompetitive items only available from one (1)
838 source, a certification of the conditions and circumstances
839 requiring the purchase shall be filed by the agency with the
840 Department of Finance and Administration and by the governing
841 authority with the board of the governing authority. Upon receipt
842 of that certification the Department of Finance and Administration
843 or the board of the governing authority, as the case may be, may,
844 in writing, authorize the purchase, which authority shall be noted
845 on the minutes of the body at the next regular meeting thereafter.

846 In those situations, a governing authority is not required to
847 obtain the approval of the Department of Finance and
848 Administration.

849 (ix) **Waste disposal facility construction**
850 **contracts.** Construction of incinerators and other facilities for
851 disposal of solid wastes in which products either generated
852 therein, such as steam, or recovered therefrom, such as materials
853 for recycling, are to be sold or otherwise disposed of; however,
854 in constructing such facilities, a governing authority or agency
855 shall publicly issue requests for proposals, advertised for in the
856 same manner as provided herein for seeking bids for public
857 construction projects, concerning the design, construction,
858 ownership, operation and/or maintenance of such facilities,
859 wherein such requests for proposals when issued shall contain
860 terms and conditions relating to price, financial responsibility,
861 technology, environmental compatibility, legal responsibilities
862 and such other matters as are determined by the governing
863 authority or agency to be appropriate for inclusion; and after
864 responses to the request for proposals have been duly received,
865 the governing authority or agency may select the most qualified
866 proposal or proposals on the basis of price, technology and other
867 relevant factors and from such proposals, but not limited to the
868 terms thereof, negotiate and enter contracts with one or more of
869 the persons or firms submitting proposals.

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

873 (xi) **Information technology products.** Purchases
874 of information technology products made by governing authorities
875 under the provisions of purchase schedules, or contracts executed
876 or approved by the Mississippi Department of Information
877 Technology Services and designated for use by governing
878 authorities.

879 (xii) **Energy efficiency services and equipment.**
880 Energy efficiency services and equipment acquired by school

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

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

889 (xiv) **Library books and other reference materials.**
890 Purchases by libraries or for libraries of books and periodicals;
891 processed film, video cassette tapes, filmstrips and slides;
892 recorded audio tapes, cassettes and diskettes; and any such items
893 as would be used for teaching, research or other information
894 distribution; however, equipment such as projectors, recorders,
895 audio or video equipment, and monitor televisions are not exempt
896 under this subparagraph.

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

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

903 (xvii) **Multichannel interactive video systems.**
904 From and after July 1, 1990, contracts by Mississippi Authority
905 for Educational Television with any private educational
906 institution or private nonprofit organization whose purposes are
907 educational in regard to the construction, purchase, lease or
908 lease-purchase of facilities and equipment and the employment of
909 personnel for providing multichannel interactive video systems
910 (ITSF) in the school districts of this state.

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

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

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

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

929 (xxii) **Garbage, solid waste and sewage contracts.**
930 Contracts for garbage collection or disposal, contracts for solid
931 waste collection or disposal and contracts for sewage collection
932 or disposal.

933 (xxiii) **Municipal water tank maintenance**
934 **contracts.** Professional maintenance program contracts for the
935 repair or maintenance of municipal water tanks, which provide
936 professional services needed to maintain municipal water storage
937 tanks for a fixed annual fee for a duration of two (2) or more
938 years.

939 (xxiv) **Purchases of Mississippi Industries for the**
940 **Blind products.** Purchases made by state agencies or governing
941 authorities involving any item that is manufactured, processed or
942 produced by the Mississippi Industries for the Blind.

943 (xxv) **Purchases of state-adopted textbooks.**
944 Purchases of state-adopted textbooks by public school districts.

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

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

950 **practices purchased at auction.** Used heavy or specialized
951 machinery or equipment used for the installation and
952 implementation of soil and water conservation practices or
953 measures purchased subject to the restrictions provided in
954 Sections 69-27-331 through 69-27-341. Any purchase by the State
955 Soil and Water Conservation Commission under the exemption
956 authorized by this subparagraph shall require advance
957 authorization spread upon the minutes of the commission to include
958 the listing of the item or items authorized to be purchased and
959 the maximum bid authorized to be paid for each item or items.

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

963 (xxix) **Purchases made pursuant to qualified**
964 **cooperative purchasing agreements.** Purchases made by certified
965 purchasing offices of state agencies or governing authorities
966 under cooperative purchasing agreements previously approved by the
967 Office of Purchasing and Travel and established by or for any
968 municipality, county, parish or state government or the federal
969 government, provided that the notification to potential
970 contractors includes a clause that sets forth the availability of
971 the cooperative purchasing agreement to other governmental
972 entities. Such purchases shall only be made if the use of the
973 cooperative purchasing agreements is determined to be in the best
974 interest of the government entity.

975 (xxx) **School yearbooks.** Purchases of school
976 yearbooks by state agencies or governing authorities; provided,
977 however, that state agencies and governing authorities shall use
978 for these purchases the RFP process as set forth in the
979 Mississippi Procurement Manual adopted by the Office of Purchasing
980 and Travel.

981 (xxxii) **Design-build method or the design-build**
982 **bridging method of contracting.** Contracts entered into the
983 provisions of Section 31-11-3(9).

984 (n) **Term contract authorization.** All contracts for the
985 purchase of:

986 (i) All contracts for the purchase of commodities,
987 equipment and public construction (including, but not limited to,
988 repair and maintenance), may be let for periods of not more than
989 sixty (60) months in advance, subject to applicable statutory
990 provisions prohibiting the letting of contracts during specified
991 periods near the end of terms of office. Term contracts for a
992 period exceeding twenty-four (24) months shall also be subject to
993 ratification or cancellation by governing authority boards taking
994 office subsequent to the governing authority board entering the
995 contract.

996 (ii) Bid proposals and contracts may include price
997 adjustment clauses with relation to the cost to the contractor
998 based upon a nationally published industry-wide or nationally
999 published and recognized cost index. The cost index used in a
1000 price adjustment clause shall be determined by the Department of
1001 Finance and Administration for the state agencies and by the
1002 governing board for governing authorities. The bid proposal and
1003 contract documents utilizing a price adjustment clause shall
1004 contain the basis and method of adjusting unit prices for the
1005 change in the cost of such commodities, equipment and public
1006 construction.

1007 (o) **Purchase law violation prohibition and vendor**
1008 **penalty.** No contract or purchase as herein authorized shall be
1009 made for the purpose of circumventing the provisions of this
1010 section requiring competitive bids, nor shall it be lawful for any
1011 person or concern to submit individual invoices for amounts within
1012 those authorized for a contract or purchase where the actual value
1013 of the contract or commodity purchased exceeds the authorized
1014 amount and the invoices therefor are split so as to appear to be
1015 authorized as purchases for which competitive bids are not
1016 required. Submission of such invoices shall constitute a
1017 misdemeanor punishable by a fine of not less than Five Hundred
1018 Dollars (\$500.00) nor more than One Thousand Dollars (\$1,000.00),

1019 or by imprisonment for thirty (30) days in the county jail, or
1020 both such fine and imprisonment. In addition, the claim or claims
1021 submitted shall be forfeited.

1022 (p) **Electrical utility petroleum-based equipment**
1023 **purchase procedure.** When in response to a proper advertisement
1024 therefor, no bid firm as to price is submitted to an electric
1025 utility for power transformers, distribution transformers, power
1026 breakers, reclosers or other articles containing a petroleum
1027 product, the electric utility may accept the lowest and best bid
1028 therefor although the price is not firm.

1029 (q) **Fuel management system bidding procedure.** Any
1030 governing authority or agency of the state shall, before
1031 contracting for the services and products of a fuel management or
1032 fuel access system, enter into negotiations with not fewer than
1033 two (2) sellers of fuel management or fuel access systems for
1034 competitive written bids to provide the services and products for
1035 the systems. In the event that the governing authority or agency
1036 cannot locate two (2) sellers of such systems or cannot obtain
1037 bids from two (2) sellers of such systems, it shall show proof
1038 that it made a diligent, good-faith effort to locate and negotiate
1039 with two (2) sellers of such systems. Such proof shall include,
1040 but not be limited to, publications of a request for proposals and
1041 letters soliciting negotiations and bids. For purposes of this
1042 paragraph (q), a fuel management or fuel access system is an
1043 automated system of acquiring fuel for vehicles as well as
1044 management reports detailing fuel use by vehicles and drivers, and
1045 the term "competitive written bid" shall have the meaning as
1046 defined in paragraph (b) of this section. Governing authorities
1047 and agencies shall be exempt from this process when contracting
1048 for the services and products of a fuel management or fuel access
1049 systems under the terms of a state contract established by the
1050 Office of Purchasing and Travel.

1051 (r) **Solid waste contract proposal procedure.** Before
1052 entering into any contract for garbage collection or disposal,
1053 contract for solid waste collection or disposal or contract for

1054 sewage collection or disposal, which involves an expenditure of
1055 more than Fifty Thousand Dollars (\$50,000.00), a governing
1056 authority or agency shall issue publicly a request for proposals
1057 concerning the specifications for such services which shall be
1058 advertised for in the same manner as provided in this section for
1059 seeking bids for purchases which involve an expenditure of more
1060 than the amount provided in paragraph (c) of this section. Any
1061 request for proposals when issued shall contain terms and
1062 conditions relating to price, financial responsibility,
1063 technology, legal responsibilities and other relevant factors as
1064 are determined by the governing authority or agency to be
1065 appropriate for inclusion; all factors determined relevant by the
1066 governing authority or agency or required by this paragraph (r)
1067 shall be duly included in the advertisement to elicit proposals.
1068 After responses to the request for proposals have been duly
1069 received, the governing authority or agency shall select the most
1070 qualified proposal or proposals on the basis of price, technology
1071 and other relevant factors and from such proposals, but not
1072 limited to the terms thereof, negotiate and enter contracts with
1073 one or more of the persons or firms submitting proposals. If the
1074 governing authority or agency deems none of the proposals to be
1075 qualified or otherwise acceptable, the request for proposals
1076 process may be reinitiated. Notwithstanding any other provisions
1077 of this paragraph, where a county with at least thirty-five
1078 thousand (35,000) nor more than forty thousand (40,000)
1079 population, according to the 1990 federal decennial census, owns
1080 or operates a solid waste landfill, the governing authorities of
1081 any other county or municipality may contract with the governing
1082 authorities of the county owning or operating the landfill,
1083 pursuant to a resolution duly adopted and spread upon the minutes
1084 of each governing authority involved, for garbage or solid waste
1085 collection or disposal services through contract negotiations.

1086 (s) **Minority set-aside authorization.** Notwithstanding
1087 any provision of this section to the contrary, any agency or
1088 governing authority, by order placed on its minutes, may, in its

1089 discretion, set aside not more than twenty percent (20%) of its
1090 anticipated annual expenditures for the purchase of commodities
1091 from minority businesses; however, all such set-aside purchases
1092 shall comply with all purchasing regulations promulgated by the
1093 Department of Finance and Administration and shall be subject to
1094 bid requirements under this section. Set-aside purchases for
1095 which competitive bids are required shall be made from the lowest
1096 and best minority business bidder. For the purposes of this
1097 paragraph, the term "minority business" means a business which is
1098 owned by a majority of persons who are United States citizens or
1099 permanent resident aliens (as defined by the Immigration and
1100 Naturalization Service) of the United States, and who are Asian,
1101 Black, Hispanic or Native American, according to the following
1102 definitions:

1103 (i) "Asian" means persons having origins in any of
1104 the original people of the Far East, Southeast Asia, the Indian
1105 subcontinent, or the Pacific Islands.

1106 (ii) "Black" means persons having origins in any
1107 black racial group of Africa.

1108 (iii) "Hispanic" means persons of Spanish or
1109 Portuguese culture with origins in Mexico, South or Central
1110 America, or the Caribbean Islands, regardless of race.

1111 (iv) "Native American" means persons having
1112 origins in any of the original people of North America, including
1113 American Indians, Eskimos and Aleuts.

1114 (t) **Construction punch list restriction.** The
1115 architect, engineer or other representative designated by the
1116 agency or governing authority that is contracting for public
1117 construction or renovation may prepare and submit to the
1118 contractor only one (1) preliminary punch list of items that do
1119 not meet the contract requirements at the time of substantial
1120 completion and one (1) final list immediately before final
1121 completion and final payment.

1122 (u) **Purchase authorization clarification.** Nothing in
1123 this section shall be construed as authorizing any purchase not
1124 authorized by law.

1125 **SECTION 6.** (1) "In God We Trust" and the Ten Commandments
1126 shall be displayed in all public buildings at the discretion of
1127 the governing authorities.

1128 (2) The Beatitudes and the Ten Commandments may be displayed
1129 on any government property in Mississippi.

1130 **SECTION 7.** This act shall take effect and be in force from
1131 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 CARROLL GARTIN JUSTICE BUILDING OR THE WALTER
5 SILLERS OFFICE BUILDING; TO AMEND SECTIONS 27-104-7 AND 29-5-2,
6 MISSISSIPPI CODE OF 1972, TO REVISE THE DUTIES OF THE DEPARTMENT
7 OF FINANCE AND ADMINISTRATION RELATING TO PARKING FOR STATE
8 EMPLOYEES WHO WORK IN THE CARROLL GARTIN JUSTICE BUILDING OR THE
9 WALTER SILLERS OFFICE BUILDING; TO AMEND SECTION 29-5-77,
10 MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE DEPARTMENT OF FINANCE
11 AND ADMINISTRATION TO ENFORCE LAWS ON CERTAIN PROPERTY OF THE
12 BOARD OF TRUSTEES OF STATE INSTITUTIONS OF HIGHER LEARNING; TO
13 AMEND SECTION 31-7-13, MISSISSIPPI CODE OF 1972, TO CLARIFY THAT
14 PUBLIC CONSTRUCTION CONTRACTS MAY ONLY INCLUDE ALLOWANCES FOR
15 CERTAIN LIMITED AND SPECIFIED ITEMS AND AMOUNTS; TO AUTHORIZE THE
16 DISPLAY OF "IN GOD WE TRUST," THE TEN COMMANDMENTS AND THE
17 BEATITUDES AT PUBLIC BUILDINGS AND PROPERTY IN MISSISSIPPI; AND
18 FOR RELATED PURPOSES.

HR03\SB2486PH.J

Don Richardson
Clerk of the House of Representatives