

**Adopted
COMMITTEE AMENDMENT NO 1 PROPOSED TO**

Senate Bill No. 2486

BY: Committee

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

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

20 31-11-3. (1) The Department of Finance and Administration,
21 for the purposes of carrying out the provisions of this chapter,
22 in addition to all other rights and powers granted by law, shall
23 have full power and authority to employ and compensate architects
24 or other employees necessary for the purpose of making
25 inspections, preparing plans and specifications, supervising the
26 erection of any buildings, and making any repairs or additions as
27 may be determined by the Department of Finance and Administration
28 to be necessary, pursuant to the rules and regulations of the
29 State Personnel Board. The department shall have entire control
30 and supervision of, and determine what, if any, buildings,
31 additions, repairs or improvements are to be made under the
32 provisions of this chapter, subject to the approval of the Public
33 Procurement Review Board.

34 (2) The department shall have full power to erect buildings,
35 make repairs, additions or improvements, and buy materials,
36 supplies and equipment for any of the institutions or departments

37 of the state subject to the approval of the Public Procurement
38 Review Board. In addition to other powers conferred, the
39 department shall have full power and authority as directed by the
40 Legislature, or when funds have been appropriated for its use for
41 these purposes, to:

42 (a) Build a state office building;

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

47 (c) Provide state aid for the construction of school
48 buildings;

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

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

60 (f) Build and equip additional buildings and wards at
61 the Boswell Retardation Center;

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

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

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

71 (j) Build and equip a gymnasium at Columbia Training
72 School;

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

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

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

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

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

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

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

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

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

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

122 (c) Design manuals;

123 (d) Applicable federal guidelines;

124 (e) Current literature in the field;

125 (f) Applicable safety standards; and

126 (g) Any applicable environmental impact statements.

127 (4) The department shall observe the provisions of Section
128 31-5-23, in letting contracts and shall use Mississippi products,
129 including paint, varnish and lacquer which contain as vehicles
130 tung oil and either ester gum or modified resin (with rosin as the
131 principal base of constituents), and turpentine shall be used as a
132 solvent or thinner, where these products are available at a cost

133 not to exceed the cost of products grown, produced, prepared, made
134 or manufactured outside of the State of Mississippi.

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

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

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

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

162 (9) (a) As an alternative to other methods of awarding
163 contracts as prescribed by law, the department may use the
164 design-build method or the design-build bridging method of

165 contracting for new capital construction projects to be used as a
166 pilot program for the following projects:

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

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

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

176 (b) As used in this subsection:

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

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

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

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

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

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

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

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

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

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

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

231 27-104-7. (1) There is hereby created within the Department
232 of Finance and Administration the Public Procurement Review Board,
233 which shall be composed of the Executive Director of the
234 Department of Finance and Administration, the head of the Office
235 of Budget and Policy Development and an employee of the Office of
236 General Services who is familiar with the purchasing laws of this
237 state. The Executive Director of the Department of Finance and
238 Administration shall be chairman and shall preside over the
239 meetings of the board. The board shall annually elect a vice
240 chairman, who shall serve in the absence of the chairman. No
241 business shall be transacted, including adoption of rules of
242 procedure, without the presence of a quorum of the board. Two (2)
243 members shall be a quorum. No action shall be valid unless
244 approved by the chairman and one (1) other of those members
245 present and voting, entered upon the minutes of the board and
246 signed by the chairman. The board shall meet on a monthly basis
247 and at any other time when notified by the chairman. Necessary
248 clerical and administrative support for the board shall be
249 provided by the Department of Finance and Administration. Minutes
250 shall be kept of the proceedings of each meeting, copies of which
251 shall be filed on a monthly basis with the Legislative Budget
252 Office.

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

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

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

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

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

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

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

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

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

294 (v) Female;

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

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

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

306 29-5-2. The duties of the Department of Finance and
307 Administration shall be as follows:

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

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

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

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

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

352 (c) To approve or disapprove with the concurrence of
353 the Public Procurement Review Board, any lease or rental
354 agreements by any state agency or department, including any state
355 agency financed entirely by federal and special funds, for space
356 outside the buildings under the jurisdiction of the Department of
357 Finance and Administration, including space necessary for parking
358 to be used by state employees who work in the Carroll Gartin
359 Justice Building or the Walter Sillers Office Building. In no
360 event shall any employee, officer, department, federally funded
361 agency or bureau of the state be authorized to enter a lease or
362 rental agreement without prior approval of the Department of
363 Finance and Administration and the Public Procurement Review
364 Board.

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

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

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

378 29-5-77. The Department of Finance and Administration shall
379 have jurisdiction relative to the enforcement of all laws of the
380 State of Mississippi on the properties set forth in Section
381 29-5-2, the Court of Appeals Building, the Mississippi Department
382 of Transportation Building and the Public Employees' Retirement
383 System Building. The Department of Finance and Administration

384 shall, through any person or persons appointed by the Department
385 of Finance and Administration, or through the Department of Public
386 Safety when requested by the Department of Finance and
387 Administration, make arrests for any violation of any law of the
388 State of Mississippi on those grounds of or within those
389 properties. The Department of Finance and Administration shall
390 enforce the provisions of Sections 29-5-57 through 29-5-67,
391 29-5-71 through 29-5-77, and 29-5-81 through 29-5-95, and
392 prescribe such rules and regulations as are necessary therefor.

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

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

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

414 31-7-13. All agencies and governing authorities shall
415 purchase their commodities and printing; contract for garbage

416 collection or disposal; contract for solid waste collection or
417 disposal; contract for sewage collection or disposal; contract for
418 public construction; and contract for rentals as herein provided.

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

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

428 (b) **Bidding procedure for purchases over \$3,500.00 but**

429 **not over \$15,000.00.** Purchases which involve an expenditure of
430 more than Three Thousand Five Hundred Dollars (\$3,500.00) but not
431 more than Fifteen Thousand Dollars (\$15,000.00), exclusive of
432 freight and shipping charges may be made from the lowest and best
433 bidder without publishing or posting advertisement for bids,
434 provided at least two (2) competitive written bids have been
435 obtained. Any governing authority purchasing commodities pursuant
436 to this paragraph (b) may authorize its purchasing agent, or his
437 designee, with regard to governing authorities other than
438 counties, or its purchase clerk, or his designee, with regard to
439 counties, to accept the lowest and best competitive written bid.
440 Such authorization shall be made in writing by the governing
441 authority and shall be maintained on file in the primary office of
442 the agency and recorded in the official minutes of the governing
443 authority, as appropriate. The purchasing agent or the purchase
444 clerk, or their designee, as the case may be, and not the
445 governing authority, shall be liable for any penalties and/or
446 damages as may be imposed by law for any act or omission of the
447 purchasing agent or purchase clerk, or their designee,

448 constituting a violation of law in accepting any bid without
449 approval by the governing authority. The term "competitive
450 written bid" shall mean a bid submitted on a bid form furnished by
451 the buying agency or governing authority and signed by authorized
452 personnel representing the vendor, or a bid submitted on a
453 vendor's letterhead or identifiable bid form and signed by
454 authorized personnel representing the vendor. "Competitive" shall
455 mean that the bids are developed based upon comparable
456 identification of the needs and are developed independently and
457 without knowledge of other bids or prospective bids. Bids may be
458 submitted by facsimile, electronic mail or other generally
459 accepted method of information distribution. Bids submitted by
460 electronic transmission shall not require the signature of the
461 vendor's representative unless required by agencies or governing
462 authorities.

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

464 (i) **Publication requirement.** Purchases which
465 involve an expenditure of more than Fifteen Thousand Dollars
466 (\$15,000.00), exclusive of freight and shipping charges, may be
467 made from the lowest and best bidder after advertising for
468 competitive sealed bids once each week for two (2) consecutive
469 weeks in a regular newspaper published in the county or
470 municipality in which such agency or governing authority is
471 located. The date as published for the bid opening shall not be
472 less than seven (7) working days after the last published notice;
473 however, if the purchase involves a construction project in which
474 the estimated cost is in excess of Fifteen Thousand Dollars
475 (\$15,000.00), such bids shall not be opened in less than fifteen
476 (15) working days after the last notice is published and the
477 notice for the purchase of such construction shall be published
478 once each week for two (2) consecutive weeks. The notice of
479 intention to let contracts or purchase equipment shall state the

480 time and place at which bids shall be received, list the contracts
481 to be made or types of equipment or supplies to be purchased, and,
482 if all plans and/or specifications are not published, refer to the
483 plans and/or specifications on file. If there is no newspaper
484 published in the county or municipality, then such notice shall be
485 given by posting same at the courthouse, or for municipalities at
486 the city hall, and at two (2) other public places in the county or
487 municipality, and also by publication once each week for two (2)
488 consecutive weeks in some newspaper having a general circulation
489 in the county or municipality in the above provided manner. On
490 the same date that the notice is submitted to the newspaper for
491 publication, the agency or governing authority involved shall mail
492 written notice to, or provide electronic notification to the main
493 office of the Mississippi Contract Procurement Center that
494 contains the same information as that in the published notice.

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

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

520 (iv) **Specification restrictions.**

521 1. Specifications pertinent to such bidding
522 shall be written so as not to exclude comparable equipment of
523 domestic manufacture. However, if valid justification is
524 presented, the Department of Finance and Administration or the
525 board of a governing authority may approve a request for specific
526 equipment necessary to perform a specific job. Further, such
527 justification, when placed on the minutes of the board of a
528 governing authority, may serve as authority for that governing
529 authority to write specifications to require a specific item of
530 equipment needed to perform a specific job. In addition to these
531 requirements, from and after July 1, 1990, vendors of relocatable
532 classrooms and the specifications for the purchase of such
533 relocatable classrooms published by local school boards shall meet
534 all pertinent regulations of the State Board of Education,
535 including prior approval of such bid by the State Department of
536 Education.

537 2. Specifications for construction projects
538 may include an allowance for commodities, equipment, furniture,
539 construction materials or systems in which prospective bidders are
540 instructed to include in their bids specified amounts for such
541 items so long as the allowance items are acquired by the vendor in
542 a commercially reasonable manner and approved by the

543 agency/governing authority. Such acquisitions shall not be made
544 to circumvent the public purchasing laws.

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

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

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

564 (ii) **Decision procedure for Certified Purchasing**
565 **Offices.** In addition to the decision procedure set forth in
566 paragraph (d)(i), Certified Purchasing Offices may also use the
567 following procedure: Purchases may be made from the bidder
568 offering the best value. In determining the best value bid,
569 freight and shipping charges shall be included. Life-cycle
570 costing, total cost bids, warranties, guaranteed buy-back
571 provisions, documented previous experience, training costs and
572 other relevant provisions may be included in the best value
573 calculation. This provision shall authorize Certified Purchasing
574 Offices to utilize a Request For Proposals (RFP) process when

575 purchasing commodities. All best value procedures for state
576 agencies must be in compliance with regulations established by the
577 Department of Finance and Administration. No agency or governing
578 authority shall accept a bid based on items or criteria not
579 included in the specifications.

580 (iii) **Construction project negotiations authority.**

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

586 (e) **Lease-purchase authorization.** For the purposes of
587 this section, the term "equipment" shall mean equipment, furniture
588 and, if applicable, associated software and other applicable
589 direct costs associated with the acquisition. Any lease-purchase
590 of equipment which an agency is not required to lease-purchase
591 under the master lease-purchase program pursuant to Section
592 31-7-10 and any lease-purchase of equipment which a governing
593 authority elects to lease-purchase may be acquired by a
594 lease-purchase agreement under this paragraph (e). Lease-purchase
595 financing may also be obtained from the vendor or from a
596 third-party source after having solicited and obtained at least
597 two (2) written competitive bids, as defined in paragraph (b) of
598 this section, for such financing without advertising for such
599 bids. Solicitation for the bids for financing may occur before or
600 after acceptance of bids for the purchase of such equipment or,
601 where no such bids for purchase are required, at any time before
602 the purchase thereof. No such lease-purchase agreement shall be
603 for an annual rate of interest which is greater than the overall
604 maximum interest rate to maturity on general obligation
605 indebtedness permitted under Section 75-17-101, and the term of
606 such lease-purchase agreement shall not exceed the useful life of

607 equipment covered thereby as determined according to the upper
608 limit of the asset depreciation range (ADR) guidelines for the
609 Class Life Asset Depreciation Range System established by the
610 Internal Revenue Service pursuant to the United States Internal
611 Revenue Code and regulations thereunder as in effect on December
612 31, 1980, or comparable depreciation guidelines with respect to
613 any equipment not covered by ADR guidelines. Any lease-purchase
614 agreement entered into pursuant to this paragraph (e) may contain
615 any of the terms and conditions which a master lease-purchase
616 agreement may contain under the provisions of Section 31-7-10(5),
617 and shall contain an annual allocation dependency clause
618 substantially similar to that set forth in Section 31-7-10(8).
619 Each agency or governing authority entering into a lease-purchase
620 transaction pursuant to this paragraph (e) shall maintain with
621 respect to each such lease-purchase transaction the same
622 information as required to be maintained by the Department of
623 Finance and Administration pursuant to Section 31-7-10(13).
624 However, nothing contained in this section shall be construed to
625 permit agencies to acquire items of equipment with a total
626 acquisition cost in the aggregate of less than Ten Thousand
627 Dollars (\$10,000.00) by a single lease-purchase transaction. All
628 equipment, and the purchase thereof by any lessor, acquired by
629 lease-purchase under this paragraph and all lease-purchase
630 payments with respect thereto shall be exempt from all Mississippi
631 sales, use and ad valorem taxes. Interest paid on any
632 lease-purchase agreement under this section shall be exempt from
633 State of Mississippi income taxation.

634 (f) **Alternate bid authorization.** When necessary to
635 ensure ready availability of commodities for public works and the
636 timely completion of public projects, no more than two (2)
637 alternate bids may be accepted by a governing authority for
638 commodities. No purchases may be made through use of such

639 alternate bids procedure unless the lowest and best bidder cannot
640 deliver the commodities contained in his bid. In that event,
641 purchases of such commodities may be made from one (1) of the
642 bidders whose bid was accepted as an alternate.

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

663 (h) **Petroleum purchase alternative.** In addition to
664 other methods of purchasing authorized in this chapter, when any
665 agency or governing authority shall have a need for gas, diesel
666 fuel, oils and/or other petroleum products in excess of the amount
667 set forth in paragraph (a) of this section, such agency or
668 governing authority may purchase the commodity after having
669 solicited and obtained at least two (2) competitive written bids,
670 as defined in paragraph (b) of this section. If two (2)

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

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

700 (j) **State agency emergency purchase procedure.** If the
701 governing board or the executive head, or his designee, of any
702 agency of the state shall determine that an emergency exists in

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

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

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

735 that the delay incident to giving opportunity for competitive
736 bidding would be detrimental to the interest of the governing
737 authority, then the provisions herein for competitive bidding
738 shall not apply and any officer or agent of such governing
739 authority having general or special authority therefor in making
740 such purchase or repair shall approve the bill presented therefor,
741 and he shall certify in writing thereon from whom such purchase
742 was made, or with whom such a repair contract was made. At the
743 board meeting next following the emergency purchase or repair
744 contract, documentation of the purchase or repair contract,
745 including a description of the commodity purchased, the price
746 thereof and the nature of the emergency shall be presented to the
747 board and shall be placed on the minutes of the board of such
748 governing authority.

749 (1) **Hospital purchase, lease-purchase and lease**
750 **authorization.**

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

756 (ii) In addition to the authority granted in
757 subparagraph (i) of this paragraph (1), the commissioners or board
758 of trustees is authorized to enter into contracts for the lease of
759 equipment or services, or both, which it considers necessary for
760 the proper care of patients if, in its opinion, it is not
761 financially feasible to purchase the necessary equipment or
762 services. Any such contract for the lease of equipment or
763 services executed by the commissioners or board shall not exceed a
764 maximum of five (5) years' duration and shall include a
765 cancellation clause based on unavailability of funds. If such
766 cancellation clause is exercised, there shall be no further

767 liability on the part of the lessee. Any such contract for the
768 lease of equipment or services executed on behalf of the
769 commissioners or board that complies with the provisions of this
770 subparagraph (ii) shall be excepted from the bid requirements set
771 forth in this section.

772 (m) **Exceptions from bidding requirements.** Excepted
773 from bid requirements are:

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

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

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

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

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

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

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

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

833 (viii) **Single source items.** Noncompetitive items
834 available from one (1) source only. In connection with the
835 purchase of noncompetitive items only available from one (1)
836 source, a certification of the conditions and circumstances
837 requiring the purchase shall be filed by the agency with the
838 Department of Finance and Administration and by the governing
839 authority with the board of the governing authority. Upon receipt
840 of that certification the Department of Finance and Administration
841 or the board of the governing authority, as the case may be, may,
842 in writing, authorize the purchase, which authority shall be noted
843 on the minutes of the body at the next regular meeting thereafter.
844 In those situations, a governing authority is not required to
845 obtain the approval of the Department of Finance and
846 Administration.

847 (ix) **Waste disposal facility construction**
848 **contracts.** Construction of incinerators and other facilities for
849 disposal of solid wastes in which products either generated
850 therein, such as steam, or recovered therefrom, such as materials
851 for recycling, are to be sold or otherwise disposed of; however,
852 in constructing such facilities, a governing authority or agency
853 shall publicly issue requests for proposals, advertised for in the
854 same manner as provided herein for seeking bids for public
855 construction projects, concerning the design, construction,
856 ownership, operation and/or maintenance of such facilities,
857 wherein such requests for proposals when issued shall contain
858 terms and conditions relating to price, financial responsibility,
859 technology, environmental compatibility, legal responsibilities
860 and such other matters as are determined by the governing

861 authority or agency to be appropriate for inclusion; and after
862 responses to the request for proposals have been duly received,
863 the governing authority or agency may select the most qualified
864 proposal or proposals on the basis of price, technology and other
865 relevant factors and from such proposals, but not limited to the
866 terms thereof, negotiate and enter contracts with one or more of
867 the persons or firms submitting proposals.

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

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

877 (xii) **Energy efficiency services and equipment.**
878 Energy efficiency services and equipment acquired by school
879 districts, community and junior colleges, institutions of higher
880 learning and state agencies or other applicable governmental
881 entities on a shared-savings, lease or lease-purchase basis
882 pursuant to Section 31-7-14.

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

887 (xiv) **Library books and other reference materials.**
888 Purchases by libraries or for libraries of books and periodicals;
889 processed film, video cassette tapes, filmstrips and slides;
890 recorded audio tapes, cassettes and diskettes; and any such items
891 as would be used for teaching, research or other information
892 distribution; however, equipment such as projectors, recorders,

893 audio or video equipment, and monitor televisions are not exempt
894 under this subparagraph.

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

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

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

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

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

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

922 (xxi) **Certain school district purchases.**
923 Purchases of commodities made by school districts from vendors
924 with which any levying authority of the school district, as

925 defined in Section 37-57-1, has contracted through competitive
926 bidding procedures for purchases of the same commodities.

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

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

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

941 (xxv) **Purchases of state-adopted textbooks.**
942 Purchases of state-adopted textbooks by public school districts.

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

946 (xxvii) **Used heavy or specialized machinery or**
947 **equipment for installation of soil and water conservation**
948 **practices purchased at auction.** Used heavy or specialized
949 machinery or equipment used for the installation and
950 implementation of soil and water conservation practices or
951 measures purchased subject to the restrictions provided in
952 Sections 69-27-331 through 69-27-341. Any purchase by the State
953 Soil and Water Conservation Commission under the exemption
954 authorized by this subparagraph shall require advance
955 authorization spread upon the minutes of the commission to include

956 the listing of the item or items authorized to be purchased and
957 the maximum bid authorized to be paid for each item or items.

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

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

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

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

982 (n) **Term contract authorization.** All contracts for the
983 purchase of:

984 (i) All contracts for the purchase of commodities,
985 equipment and public construction (including, but not limited to,
986 repair and maintenance), may be let for periods of not more than
987 sixty (60) months in advance, subject to applicable statutory

988 provisions prohibiting the letting of contracts during specified
989 periods near the end of terms of office. Term contracts for a
990 period exceeding twenty-four (24) months shall also be subject to
991 ratification or cancellation by governing authority boards taking
992 office subsequent to the governing authority board entering the
993 contract.

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

1005 (o) **Purchase law violation prohibition and vendor**
1006 **penalty.** No contract or purchase as herein authorized shall be
1007 made for the purpose of circumventing the provisions of this
1008 section requiring competitive bids, nor shall it be lawful for any
1009 person or concern to submit individual invoices for amounts within
1010 those authorized for a contract or purchase where the actual value
1011 of the contract or commodity purchased exceeds the authorized
1012 amount and the invoices therefor are split so as to appear to be
1013 authorized as purchases for which competitive bids are not
1014 required. Submission of such invoices shall constitute a
1015 misdemeanor punishable by a fine of not less than Five Hundred
1016 Dollars (\$500.00) nor more than One Thousand Dollars (\$1,000.00),
1017 or by imprisonment for thirty (30) days in the county jail, or
1018 both such fine and imprisonment. In addition, the claim or claims
1019 submitted shall be forfeited.

1020 (p) **Electrical utility petroleum-based equipment**
1021 **purchase procedure.** When in response to a proper advertisement
1022 therefor, no bid firm as to price is submitted to an electric
1023 utility for power transformers, distribution transformers, power
1024 breakers, reclosers or other articles containing a petroleum
1025 product, the electric utility may accept the lowest and best bid
1026 therefor although the price is not firm.

1027 (q) **Fuel management system bidding procedure.** Any
1028 governing authority or agency of the state shall, before
1029 contracting for the services and products of a fuel management or
1030 fuel access system, enter into negotiations with not fewer than
1031 two (2) sellers of fuel management or fuel access systems for
1032 competitive written bids to provide the services and products for
1033 the systems. In the event that the governing authority or agency
1034 cannot locate two (2) sellers of such systems or cannot obtain
1035 bids from two (2) sellers of such systems, it shall show proof
1036 that it made a diligent, good-faith effort to locate and negotiate
1037 with two (2) sellers of such systems. Such proof shall include,
1038 but not be limited to, publications of a request for proposals and
1039 letters soliciting negotiations and bids. For purposes of this
1040 paragraph (q), a fuel management or fuel access system is an
1041 automated system of acquiring fuel for vehicles as well as
1042 management reports detailing fuel use by vehicles and drivers, and
1043 the term "competitive written bid" shall have the meaning as
1044 defined in paragraph (b) of this section. Governing authorities
1045 and agencies shall be exempt from this process when contracting
1046 for the services and products of a fuel management or fuel access
1047 systems under the terms of a state contract established by the
1048 Office of Purchasing and Travel.

1049 (r) **Solid waste contract proposal procedure.** Before
1050 entering into any contract for garbage collection or disposal,
1051 contract for solid waste collection or disposal or contract for

1052 sewage collection or disposal, which involves an expenditure of
1053 more than Fifty Thousand Dollars (\$50,000.00), a governing
1054 authority or agency shall issue publicly a request for proposals
1055 concerning the specifications for such services which shall be
1056 advertised for in the same manner as provided in this section for
1057 seeking bids for purchases which involve an expenditure of more
1058 than the amount provided in paragraph (c) of this section. Any
1059 request for proposals when issued shall contain terms and
1060 conditions relating to price, financial responsibility,
1061 technology, legal responsibilities and other relevant factors as
1062 are determined by the governing authority or agency to be
1063 appropriate for inclusion; all factors determined relevant by the
1064 governing authority or agency or required by this paragraph (r)
1065 shall be duly included in the advertisement to elicit proposals.
1066 After responses to the request for proposals have been duly
1067 received, the governing authority or agency shall select the most
1068 qualified proposal or proposals on the basis of price, technology
1069 and other relevant factors and from such proposals, but not
1070 limited to the terms thereof, negotiate and enter contracts with
1071 one or more of the persons or firms submitting proposals. If the
1072 governing authority or agency deems none of the proposals to be
1073 qualified or otherwise acceptable, the request for proposals
1074 process may be reinitiated. Notwithstanding any other provisions
1075 of this paragraph, where a county with at least thirty-five
1076 thousand (35,000) nor more than forty thousand (40,000)
1077 population, according to the 1990 federal decennial census, owns
1078 or operates a solid waste landfill, the governing authorities of
1079 any other county or municipality may contract with the governing
1080 authorities of the county owning or operating the landfill,
1081 pursuant to a resolution duly adopted and spread upon the minutes
1082 of each governing authority involved, for garbage or solid waste
1083 collection or disposal services through contract negotiations.

1084 (s) **Minority set-aside authorization.** Notwithstanding
1085 any provision of this section to the contrary, any agency or
1086 governing authority, by order placed on its minutes, may, in its
1087 discretion, set aside not more than twenty percent (20%) of its
1088 anticipated annual expenditures for the purchase of commodities
1089 from minority businesses; however, all such set-aside purchases
1090 shall comply with all purchasing regulations promulgated by the
1091 Department of Finance and Administration and shall be subject to
1092 bid requirements under this section. Set-aside purchases for
1093 which competitive bids are required shall be made from the lowest
1094 and best minority business bidder. For the purposes of this
1095 paragraph, the term "minority business" means a business which is
1096 owned by a majority of persons who are United States citizens or
1097 permanent resident aliens (as defined by the Immigration and
1098 Naturalization Service) of the United States, and who are Asian,
1099 Black, Hispanic or Native American, according to the following
1100 definitions:

1101 (i) "Asian" means persons having origins in any of
1102 the original people of the Far East, Southeast Asia, the Indian
1103 subcontinent, or the Pacific Islands.

1104 (ii) "Black" means persons having origins in any
1105 black racial group of Africa.

1106 (iii) "Hispanic" means persons of Spanish or
1107 Portuguese culture with origins in Mexico, South or Central
1108 America, or the Caribbean Islands, regardless of race.

1109 (iv) "Native American" means persons having
1110 origins in any of the original people of North America, including
1111 American Indians, Eskimos and Aleuts.

1112 (t) **Construction punch list restriction.** The
1113 architect, engineer or other representative designated by the
1114 agency or governing authority that is contracting for public
1115 construction or renovation may prepare and submit to the

1116 contractor only one (1) preliminary punch list of items that do
1117 not meet the contract requirements at the time of substantial
1118 completion and one (1) final list immediately before final
1119 completion and final payment.

1120 (u) **Purchase authorization clarification.** Nothing in
1121 this section shall be construed as authorizing any purchase not
1122 authorized by law.

1123 **SECTION 6.** This act shall take effect and be in force from
1124 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; AND FOR RELATED
16 PURPOSES.