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To: Fees, Salaries and Administration; Appropriations

COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 2398

1 AN ACT TO AMEND SECTION 25-1-77, MISSISSIPPI CODE OF 1972, TO
2 CREATE A BUREAU OF FLEET MANAGEMENT WITHIN THE DEPARTMENT OF
3 FINANCE AND ADMINISTRATION AND TO PRESCRIBE ITS POWERS AND DUTIES;
4 TO AMEND SECTION 25-1-79, MISSISSIPPI CODE OF 1972, TO AUTHORIZE
5 ADVANCE FUNDS FOR WORK-RELATED TRAVEL EXPENSES INCURRED WITHIN THE
6 STATE OF MISSISSIPPI; TO AMEND SECTION 27-103-129, MISSISSIPPI
7 CODE OF 1972, TO REQUIRE AGENCIES TO SUBMIT A DETAILED
8 JUSTIFICATION FOR VEHICLE PURCHASES AS PART OF THEIR BUDGET
9 REQUESTS TO THE DEPARTMENT OF FINANCE AND ADMINISTRATION AND THE
10 LEGISLATIVE BUDGET OFFICE; TO AMEND SECTIONS 25-1-81, 25-3-41,
11 31-7-5, 31-7-9 AND 31-7-10, MISSISSIPPI CODE OF 1972, TO CONFORM
12 THERETO; AND FOR RELATED PURPOSES.

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

14 **SECTION 1.** Section 25-1-77, Mississippi Code of 1972, is
15 amended as follows:

16 25-1-77. (1) There is hereby created the Bureau of Fleet
17 Management within the Office of Purchasing, Travel and Fleet
18 Management, Department of Finance and Administration, for the
19 purposes of coordinating and promoting efficiency and economy in
20 the purchase, lease, rental, acquisition, use, maintenance and
21 disposal of vehicles by state agencies. The Executive Director of
22 the Department of Finance and Administration may employ a Fleet
23 Management Officer to manage the bureau and carry out its
24 purposes. The bureau may employ other suitable and competent
25 personnel as necessary.

26 (2) The Bureau of Fleet Management shall perform the
27 following duties:

28 (a) To hold title in the name of the State of
29 Mississippi to all vehicles currently in possession of state
30 agencies as defined in Section 25-9-107(d) and to assign vehicles
31 to such agencies for use;

32 (b) To establish rules and regulations for state agency
33 use of vehicles;

34 (c) To gather information and specify proper fleet
35 management practices for state agencies;

36 (d) To acquire fleet management software and require
37 agencies to provide necessary information for the bureau to
38 properly monitor the size, use, maintenance and disposal of the
39 state's fleet of vehicles; the bureau shall communicate regularly
40 with the fleet managers of each state agency to determine
41 strengths and weaknesses of the various fleet operations; the
42 bureau shall disseminate information to the agencies so that each
43 can take advantage of any beneficial practices being incorporated
44 at other entities; the bureau shall promulgate rules and
45 regulations concerning the mileage reimbursement practices of each
46 state agency;

47 (e) To carry out responsibilities relative to budget
48 recommendations as provided in Section 4 of Senate Bill No. 2398,
49 2006 Regular Session;

50 (f) To reassign vehicles in the possession of any state
51 agency if the bureau believes that another state agency can make
52 more efficient use of a vehicle; provided, however, that the state
53 agency receiving the reassigned vehicle shall pay to the previous
54 agency's special fund, or if no special fund exists to the State
55 General Fund, the National Automobile Dealers Association (NADA)
56 wholesale value for the vehicle or an estimated amount of what the
57 vehicle would have sold for at auction;

58 (g) To investigate at any time the vehicle usage
59 practices of any state agency; and

60 (h) To require each agency to submit to the bureau a
61 vehicle acquisition/use/disposal plan on an annual basis. From
62 the plans received, the bureau shall evaluate the proposed plans
63 and shall submit a recommendation to the Legislature prior to
64 January 1 of each year.

65 (3) No state department, institution or agency shall
66 purchase, rent, lease or acquire any motor vehicle, regardless of
67 the source of funds from which the motor vehicle is to be
68 purchased, except under authority granted by the Department of
69 Finance and Administration. The Bureau of Fleet Management,
70 Department of Finance and Administration, shall promulgate rules
71 and regulations governing the purchase, rental, lease or
72 acquisition of any motor vehicle by a state department,
73 institution or agency with regard to the appropriateness of the
74 vehicle to its intended use. The Bureau of Fleet Management,
75 Department of Finance and Administration, shall not grant
76 authority to purchase, rent, lease or acquire a motor vehicle
77 which is not the most appropriate vehicle type for its intended
78 use unless specifically approved by the Legislature. Before the
79 disposal or sale of any vehicle, the Bureau of Fleet Management
80 shall make a determination that the lifetime use and mileage of
81 the vehicle has been maximized and that it would not be feasible
82 for another state agency to use the vehicle.

83 (4) * * * The department, institution or agency shall
84 maintain proper documentation * * * which provides the intended
85 use of the vehicle and the basis for choosing the vehicle. Such
86 documentation shall show that the department, institution or
87 agency made reasonable efforts to purchase, rent, lease or acquire
88 a vehicle that is economical and appropriate for its intended use.
89 Such documentation shall be updated as needed when the intended
90 use of the vehicle or any other facts concerning the vehicle are
91 changed. All such documentation shall be approved by the State
92 Fleet Officer prior to purchase, rental, lease or acquisition or
93 change in use of any vehicle and shall be maintained and made
94 available for review by the State Auditor and any other reviewing
95 agency.

96 (5) The State Auditor shall make on-site visits and conduct
97 audits necessary to ensure compliance with the provisions of this

98 section and all rules and regulations adopted hereunder. On or
99 before September 1 of each year, the State Auditor shall prepare
100 and deliver to the Senate and House Fees, Salaries and
101 Administration Committees and the Joint Legislative Budget
102 Committee a report containing any irregularities that he finds
103 concerning purchases of state-owned vehicles.

104 (6) The provisions of this section shall not apply to any
105 vehicle seized by the Department of Public Safety pursuant to the
106 forfeiture laws of this state. Such vehicles shall be under the
107 authority of the Department of Public Safety, or other agency if
108 the department transfers any such vehicle, and shall not be
109 regulated by the Bureau of Fleet Management.

110 **SECTION 2.** Section 25-1-79, Mississippi Code of 1972, is
111 amended as follows:

112 25-1-79. It shall be unlawful for any officer, employee or
113 other person whatsoever to use or permit or authorize the use of
114 any automobile or any other motor vehicle owned by the State of
115 Mississippi or any department, agency or institution thereof for
116 any purpose other than upon the official business of the State of
117 Mississippi or any agency, department or institution thereof.
118 Further, it shall be unlawful for any such officer or employee to
119 be paid or to receive any sums whatsoever for travel expense until
120 the expenses for which payment is made, and each item thereof,
121 have been actually incurred by such officer or employee, and then
122 only upon the presentation of an itemized expense account which
123 shall be approved in writing by the head of the department,
124 agency, or institution on whose behalf such travel is performed.
125 However, it is expressly provided that any such officer or
126 employee traveling * * * on business for and in behalf of the
127 State of Mississippi may, strictly in the discretion of an agency,
128 institution or department head, receive in advance from state
129 funds for the purpose of such travel expense a sum to be specified

130 by such aforementioned superior. Further, strict account of any
131 sum so advanced must be kept in accord with Section 25-1-81.

132 **SECTION 3.** Section 27-103-129, Mississippi Code of 1972, is
133 amended as follows:

134 27-103-129. (1) To enable the Legislative Budget Office to
135 prepare such budget, it shall have full and plenary power and
136 authority to require all general-fund and special-fund agencies
137 and the Mississippi Department of Transportation and the Division
138 of State Aid Road Construction of the Mississippi Department of
139 Transportation to file a budget request with such information and
140 in such form and in such detail as it may deem necessary and
141 advisable, and it shall have the further power and authority to
142 reduce or eliminate any item or items of requested appropriation
143 by any state agency in the Legislative Budget Office's recommended
144 budget to the Legislature. However, where any item of requested
145 appropriation shall be so reduced or eliminated, the head of the
146 agency involved shall have the right to appear before the
147 appropriate legislative committee to urge a revision of the budget
148 to restore the item reduced or eliminated. Beginning with the
149 1996 fiscal year, the budget requests shall include a definition
150 of the mission of the agency, a description of the duties and
151 responsibilities of the agency, financial data relative to the
152 various programs operated by the agency and performance measures
153 associated with each program of the agency. The performance
154 measures to be contained within the agency budget request shall be
155 developed by cooperative efforts of the Legislative Budget Office,
156 the Department of Finance and Administration and the agency itself
157 and shall be approved jointly by the Legislative Budget Office and
158 the Department of Finance and Administration prior to inclusion
159 within the agency budget request. Beginning with the 1996 fiscal
160 year, the budget requests shall also include in an addendum format
161 a five-year strategic plan for the agency which shall include, but
162 not be limited to, the following items of information: (a) a

163 comprehensive mission statement, (b) performance effectiveness
164 objectives for each program of the agency for each of the five (5)
165 years covered by the plan, (c) a description of significant
166 external factors which may affect the projected levels of
167 performance, (d) a description of the agency's internal management
168 system utilized to evaluate its performance achievements in
169 relationship to the targeted performance levels, (e) an evaluation
170 by the agency of the agency's performance achievements in
171 relationship to the targeted performance levels for the two (2)
172 preceding fiscal years for which accounting records have been
173 finalized.

174 (2) (a) In addition to any other information required by
175 law, each state agency, general-fund agency and special-fund
176 agency as defined in Section 27-103-103 that wishes to purchase
177 passenger vehicles or work vehicles as defined by this section
178 shall submit as part of its budget request to the Legislative
179 Budget Office and the Department of Finance and Administration a
180 detailed justification for the proposed purchase. The Legislative
181 Budget Office and the Department of Finance and Administration
182 shall jointly prescribe the forms and formats to be used by
183 agencies making the requests. Such forms shall require, at
184 minimum, the following information:

185 (i) The type of vehicle to be purchased;
186 (ii) The person to whom the vehicle is assigned
187 and the working responsibilities of that person which necessitates
188 a vehicle;

189 (iii) Whether the vehicle is a work vehicle or
190 passenger vehicle; and

191 (iv) If the vehicle is assigned to a pool and not
192 an individual, the purposes for which the pool vehicle is assigned
193 and the anticipated users of the pool vehicle.

194 (b) The Legislative Budget Office and the Department of
195 Finance and Administration shall offer a recommendation to the

196 Joint Legislative Budget Committee on all agency requests for
197 vehicles. In making the recommendations, the Legislative Budget
198 Office and the Department of Finance and Administration may
199 consider break-even analysis for the type of vehicle requested,
200 the travel patterns of the person for whom the vehicle is to be
201 acquired, and the possibility that surplus vehicles in the
202 possession of other agencies could be used as a substitute for a
203 new vehicle. The purchase of vehicles by an agency shall be a
204 specific line item in the agency's appropriation bill.

205 (c) If an agency determines an urgent need for a
206 vehicle when it is not feasible to obtain legislative approval,
207 the agency may make an emergency request to the Bureau of Fleet
208 Management. The emergency may be caused by the loss of a vehicle
209 from an accident or other extraordinary circumstances. The Bureau
210 of Fleet Management shall make a recommendation to the Executive
211 Director of the Department of Finance and Administration who shall
212 then have the authority to approve or disapprove the request. If
213 approved and if adequate funding is available, the agency may
214 purchase a specific vehicle to meet its specific needs. The
215 Bureau of Fleet Management shall report any emergency purchase to
216 the Legislative Budget Office.

217 (d) For purposes of this subsection, the term
218 "passenger vehicle" shall mean a vehicle used primarily in
219 transporting individuals and their equipment from one location to
220 another. "Passenger vehicles" shall include, but not be limited
221 to, buses.

222 (e) For purposes of this subsection, the term "work
223 vehicle" shall mean a vehicle used primarily to perform a work
224 assignment or task while incidentally transporting individuals and
225 their equipment from one location to another. Any person whose
226 duties require the transportation of persons as a primary task or
227 assignment of work shall not be entitled to use or possess a work
228 vehicle.

229 (3) All state agencies, special-fund agencies and
230 general-fund agencies making budget requests under the authority
231 of this section shall include with their budget requests a report
232 of all passenger and work vehicles in their possession. Such
233 report shall detail the persons to whom the vehicles are assigned
234 and the purposes for the vehicles.

235 **SECTION 4.** Section 25-1-81, Mississippi Code of 1972, is
236 amended as follows:

237 25-1-81. The Department of Finance and Administration shall
238 refuse to issue warrants upon requisitions drawn in violation of
239 the provisions hereof, and where any expense account is allowed
240 and paid in violation of the provisions of Sections 25-1-77
241 through 25-1-93, it shall be the duty of the Department of Finance
242 and Administration to withhold the payment of any further expense
243 accounts for the department, agency or institution involved until
244 the amount of the account or accounts illegally paid shall be
245 refunded and repaid to the State of Mississippi by the person
246 receiving or approving same. It is further provided that the
247 Department of Finance and Administration shall prescribe and
248 deliver to each agency, department or institution a uniform system
249 of expense accounts herein allowed, including a uniform system of
250 depreciation allowance. All expense accounts for lodging shall be
251 supported by receipted bills showing the payment thereof by such
252 officer or employee. It is incumbent upon each agency, department
253 or institution to abide by and utilize the method of uniform
254 system of expense accounts so prescribed and delivered by the
255 Department of Finance and Administration. Each agency, department
256 or institution, in rendering its annual report to the Bureau of
257 Fleet Management and the Legislature, shall show the number of
258 state-owned automobiles purchased and operated during the year,
259 the number purchased and operated out of funds appropriated by the
260 Legislature, the number purchased and operated out of any other
261 public funds, the miles traveled per automobile, the total miles

262 traveled, the average cost per mile, and depreciation estimate on
263 each automobile. The report shall also show the cost per mile and
264 total number of miles traveled in privately-owned automobiles for
265 which reimbursement is made out of state funds and any other
266 information requested by the Bureau of Fleet Management.

267 **SECTION 5.** Section 25-3-41, Mississippi Code of 1972, is
268 amended as follows:

269 25-3-41. (1) When any officer or employee of the State of
270 Mississippi, or any department, agency or institution thereof,
271 after first being duly authorized, is required to travel in the
272 performance of his official duties, the officer or employee shall
273 receive as expenses for each mile actually and necessarily
274 traveled, when the travel is done by a privately owned automobile
275 or other privately owned motor vehicle, the mileage reimbursement
276 rate allowable to federal employees for the use of a privately
277 owned vehicle while on official travel.

278 (2) When any officer or employee of any county or
279 municipality, or of any agency, board or commission thereof, after
280 first being duly authorized, is required to travel in the
281 performance of his official duties, the officer or employee shall
282 receive as expenses Twenty Cents (20¢) for each mile actually and
283 necessarily traveled, when the travel is done by a privately owned
284 motor vehicle; provided, however, that the governing authorities
285 of a county or municipality may, in their discretion, authorize an
286 increase in the mileage reimbursement of officers and employees of
287 the county or municipality, or of any agency, board or commission
288 thereof, in an amount not to exceed the mileage reimbursement rate
289 authorized for officers and employees of the State of Mississippi
290 in subsection (1) of this section.

291 (3) Where two (2) or more officers or employees travel in
292 one (1) privately owned motor vehicle, only one (1) travel expense
293 allowance at the authorized rate per mile shall be allowed for any
294 one (1) trip. When the travel is done by means of a public

295 carrier or other means not involving a privately owned motor
296 vehicle, then the officer or employee shall receive as travel
297 expense the actual fare or other expenses incurred in such travel.

298 (4) In addition to the foregoing, a public officer or
299 employee shall be reimbursed for other actual expenses such as
300 meals, lodging and other necessary expenses incurred in the course
301 of the travel, subject to limitations placed on meals for
302 intrastate and interstate official travel by the Department of
303 Finance and Administration, provided, that the Legislative Budget
304 Office shall place any limitations for expenditures made on
305 matters under the jurisdiction of the Legislature. The Department
306 of Finance and Administration shall set a maximum daily
307 expenditure annually for such meals and shall notify officers and
308 employees of changes to these allowances immediately upon approval
309 of the changes. Travel by airline shall be at the tourist rate
310 unless that space was unavailable. The officer or employee shall
311 certify that tourist accommodations were not available if travel
312 is performed in first class airline accommodations. Itemized
313 expense accounts shall be submitted by those officers or employees
314 in such number as the department, agency or institution may
315 require; but in any case one (1) copy shall be furnished by state
316 departments, agencies or institutions to the Department of Finance
317 and Administration for preaudit or postaudit. The Department of
318 Finance and Administration shall promulgate and adopt reasonable
319 rules and regulations which it deems necessary and requisite to
320 effectuate economies for all expenses authorized and paid pursuant
321 to this section. Requisitions shall be made on the State Fiscal
322 Officer who shall issue his warrant on the State Treasurer.
323 Provided, however, that the provisions of this section shall not
324 include agencies financed entirely by federal funds and audited by
325 federal auditors.

326 (5) Any officer or employee of a county or municipality, or
327 any department, board or commission thereof, who is required to

328 travel in the performance of his official duties, may receive
329 funds before the travel, in the discretion of the administrative
330 head of the county or municipal department, board or commission
331 involved, for the purpose of paying necessary expenses incurred
332 during the travel. Upon return from the travel, the officer or
333 employee shall provide receipts of transportation, lodging, meals,
334 fees and any other expenses incurred during the travel. Any
335 portion of the funds advanced which is not expended during the
336 travel shall be returned by the officer or employee. The
337 Department of Audit shall adopt rules and regulations regarding
338 advance payment of travel expenses and submission of receipts to
339 ensure proper control and strict accountability for those payments
340 and expenses.

341 (6) No state or federal funds received from any source by
342 any arm or agency of the state shall be expended in traveling
343 outside of the continental limits of the United States until the
344 governing body or head of the agency makes a finding and
345 determination that the travel would be extremely beneficial to the
346 state agency and obtains a written concurrence thereof from the
347 Governor, or his designee, and the Department of Finance and
348 Administration.

349 (7) Where any officer or employee of the State of
350 Mississippi, or any department, agency or institution thereof, or
351 of any county or municipality, or of any agency, board or
352 commission thereof, is authorized to receive travel reimbursement
353 under any other provision of law, the reimbursement may be paid
354 under the provisions of this section or the other section, but not
355 under both.

356 (8) When the Governor, Lieutenant Governor or Speaker of the
357 House of Representatives appoints a person to a board, commission
358 or other position that requires confirmation by the Senate, the
359 person may receive reimbursement for mileage and other actual
360 expenses incurred in the performance of official duties before the

361 appointment is confirmed by the Senate, as reimbursement for those
362 expenses is authorized under this section.

363 (9) (a) The Department of Finance and Administration may
364 contract with one or more commercial travel agencies, after
365 receiving competitive bids or proposals therefor, for that travel
366 agency or agencies to provide necessary travel services for state
367 officers and employees. Municipal and county officers and
368 municipal and county employees may also participate in the state
369 travel agency contract and utilize these travel services for
370 official municipal or county travel. However, the administrative
371 head of each state institution of higher learning may, in his
372 discretion, contract with a commercial travel agency to provide
373 necessary travel services for all academic officials and staff of
374 the university in lieu of participation in the state travel agency
375 contract. Any such decision by a university to contract with a
376 separate travel agency shall be approved by the Board of Trustees
377 of State Institutions of Higher Learning and the Executive
378 Director of the Department of Finance and Administration.

379 (b) Before executing a contract with one or more travel
380 agencies, the Department of Finance and Administration shall
381 advertise for competitive bids or proposals once a week for two
382 (2) consecutive weeks in a regular newspaper having a general
383 circulation throughout the State of Mississippi. If the
384 department determines that it should not contract with any of the
385 bidders initially submitting proposals, the department may reject
386 all those bids, advertise as provided in this paragraph and
387 receive new proposals before executing the contract or contracts.
388 The contract or contracts may be for a period not greater than
389 three (3) years, with an option for the travel agency or agencies
390 to renew the contract or contracts on a one-year basis on the same
391 terms as the original contract or contracts, for a maximum of two
392 (2) renewals. After the travel agency or agencies have renewed
393 the contract twice or have declined to renew the contract for the

394 maximum number of times, the Department of Finance and
395 Administration shall advertise for bids in the manner required by
396 this paragraph and execute a new contract or contracts.

397 (c) Whenever any state officer or employee travels in
398 the performance of his official duties by airline or other public
399 carrier, he may have his travel arrangements handled by that
400 travel agency or agencies. The amount paid for airline
401 transportation for any state officer or employee, whether the
402 travel was arranged by that travel agency or agencies or was
403 arranged otherwise, shall not exceed the amount specified in the
404 state contract established by the Department of Finance and
405 Administration, Office of Purchasing, Travel and Fleet Management,
406 unless prior approval is obtained from the office.

407 **SECTION 6.** Section 31-7-5, Mississippi Code of 1972, is
408 amended as follows:

409 31-7-5. The Department of Finance and Administration shall
410 prescribe rules and regulations governing the manner in which the
411 authority and duties granted to it by law may be carried out. It
412 shall employ suitable and competent personnel, necessary to carry
413 out its purposes. The Department of Finance and Administration
414 may establish an Office of Purchasing, Travel and Fleet Management
415 and employ a competent person as Director of the Office of
416 Purchasing, Travel and Fleet Management who shall be a member of
417 the state service.

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

420 31-7-9. (1) (a) The Office of Purchasing, Travel and Fleet
421 Management shall adopt purchasing regulations governing the
422 purchase by any agency of any commodity or commodities and
423 establishing standards and specifications for a commodity or
424 commodities and the maximum fair prices of a commodity or
425 commodities, subject to the approval of the Public Procurement
426 Review Board. It shall have the power to amend, add to or

427 eliminate purchasing regulations. The adoption of, amendment,
428 addition to or elimination of purchasing regulations shall be
429 based upon a determination by the Office of Purchasing, Travel and
430 Fleet Management with the approval of the Public Procurement
431 Review Board, that such action is reasonable and practicable and
432 advantageous to promote efficiency and economy in the purchase of
433 commodities by the agencies of the state. Upon the adoption of
434 any purchasing regulation, or an amendment, addition or
435 elimination therein, copies of same shall be furnished to the
436 State Auditor and to all agencies affected thereby. Thereafter,
437 and except as otherwise may be provided in subsection (2) of this
438 section, no agency of the state shall purchase any commodities
439 covered by existing purchasing regulations unless such commodities
440 be in conformity with the standards and specifications set forth
441 in the purchasing regulations and unless the price thereof does
442 not exceed the maximum fair price established by such purchasing
443 regulations. The said Office of Purchasing, Travel and Fleet
444 Management shall furnish to any county or municipality or other
445 local public agency of the state requesting same, copies of
446 purchasing regulations adopted by the Office of Purchasing, Travel
447 and Fleet Management and any amendments, changes or eliminations
448 of same that may be made from time to time.

449 (b) The Office of Purchasing, Travel and Fleet
450 Management may adopt purchasing regulations governing the use of
451 credit cards, procurement cards and purchasing club membership
452 cards to be used by state agencies, governing authorities of
453 counties and municipalities and the Chickasawhay Natural Gas
454 District. Use of the cards shall be in strict compliance with the
455 regulations promulgated by the office. Any amounts due on the
456 cards shall incur interest charges as set forth in Section
457 31-7-305 and shall not be considered debt.

458 (2) The Office of Purchasing, Travel and Fleet Management
459 shall adopt, subject to the approval of the Public Procurement

460 Review Board, purchasing regulations governing the purchase of
461 unmarked vehicles to be used by the Bureau of Narcotics and
462 Department of Public Safety in official investigations pursuant to
463 Section 25-1-87. Such regulations shall ensure that purchases of
464 such vehicles shall be at a fair price and shall take into
465 consideration the peculiar needs of the Bureau of Narcotics and
466 Department of Public Safety in undercover operations.

467 (3) The Office of Purchasing, Travel and Fleet Management
468 shall adopt, subject to the approval of the Public Procurement
469 Review Board, regulations governing the certification process for
470 certified purchasing offices. Such regulations shall require
471 entities desiring to be classified as certified purchasing offices
472 to submit applications and applicable documents on an annual
473 basis, at which time the Office of Purchasing, Travel and Fleet
474 Management may provide the governing entity with a certification
475 valid for one (1) year from the date of issuance.

476 **SECTION 8.** Section 31-7-10, Mississippi Code of 1972, is
477 amended as follows:

478 31-7-10. (1) For the purposes of this section, the term
479 "equipment" shall mean equipment, furniture, and if applicable,
480 associated software and other applicable direct costs associated
481 with the acquisition. In addition to its other powers and duties,
482 the Department of Finance and Administration shall have the
483 authority to develop a master lease-purchase program and, pursuant
484 to that program, shall have the authority to execute on behalf of
485 the state master lease-purchase agreements for equipment to be
486 used by an agency, as provided in this section. Each agency
487 electing to acquire equipment by a lease-purchase agreement shall
488 participate in the Department of Finance and Administration's
489 master lease-purchase program, unless the Department of Finance
490 and Administration makes a determination that such equipment
491 cannot be obtained under the program or unless the equipment can
492 be obtained elsewhere at an overall cost lower than that for which

493 the equipment can be obtained under the program. Such
494 lease-purchase agreements may include the refinancing or
495 consolidation, or both, of any state agency lease-purchase
496 agreements entered into after June 30, 1990.

497 (2) All funds designated by agencies for procurement of
498 equipment and financing thereof under the master lease-purchase
499 program shall be paid into a special fund created in the State
500 Treasury known as the "Master Lease-Purchase Program Fund," which
501 shall be used by the Department of Finance and Administration for
502 payment to the lessors for equipment acquired under master
503 lease-purchase agreements.

504 (3) Upon final approval of an appropriation bill, each
505 agency shall submit to the Public Procurement Review Board a
506 schedule of proposed equipment acquisitions for the master
507 lease-purchase program. Upon approval of an equipment schedule by
508 the Public Procurement Review Board with the advice of the
509 Department of Information Technology Services, the Office of
510 Purchasing, Travel and Fleet Management, and the Division of
511 Energy and Transportation of the Mississippi Development Authority
512 as it pertains to energy efficient climate control systems, the
513 Public Procurement Review Board shall forward a copy of the
514 equipment schedule to the Department of Finance and
515 Administration.

516 (4) The level of lease-purchase debt recommended by the
517 Department of Finance and Administration shall be subject to
518 approval by the State Bond Commission. After such approval, the
519 Department of Finance and Administration shall be authorized to
520 advertise and solicit written competitive proposals for a lessor,
521 who will purchase the equipment pursuant to bid awards made by the
522 using agency under a given category and then transfer the
523 equipment to the Department of Finance and Administration as
524 lessee, pursuant to a master lease-purchase agreement.

525 The Department of Finance and Administration shall select the
526 successful proposer for the financing of equipment under the
527 master lease-purchase program with the approval of the State Bond
528 Commission.

529 (5) Each master lease-purchase agreement, and any subsequent
530 amendments, shall include such terms and conditions as the State
531 Bond Commission shall determine to be appropriate and in the
532 public interest, and may include any covenants deemed necessary or
533 desirable to protect the interests of the lessor, including, but
534 not limited to, provisions setting forth the interest rate (or
535 method for computing interest rates) for financing pursuant to
536 such agreement, covenants concerning application of payments and
537 funds held in the Master Lease-Purchase Program Fund, covenants to
538 maintain casualty insurance with respect to equipment subject to
539 the master lease-purchase agreement (and all state agencies are
540 specifically authorized to purchase any insurance required by a
541 master lease-purchase agreement) and covenants precluding or
542 limiting the right of the lessee or user to acquire equipment
543 within a specified time (not to exceed five (5) years) after
544 cancellation on the basis of a failure to appropriate funds for
545 payment of amounts due under a lease-purchase agreement covering
546 comparable equipment. The State Bond Commission shall transmit
547 copies of each such master lease-purchase agreement and each such
548 amendment to the Joint Legislative Budget Committee. To the
549 extent provided in any master lease-purchase agreement, title to
550 equipment leased pursuant thereto shall be deemed to be vested in
551 the state or the user of the equipment (as specified in such
552 master lease-purchase agreement), subject to default under or
553 termination of such master lease-purchase agreement.

554 A master lease-purchase agreement may provide for payment by
555 the lessor to the lessee of the purchase price of the equipment to
556 be acquired pursuant thereto prior to the date on which payment is
557 due to the vendor for such equipment and that the lease payments

558 by the lessee shall commence as though the equipment had been
559 provided on the date of payment. If the lessee, or lessee's
560 escrow agent, has sufficient funds for payment of equipment
561 purchases prior to payment due date to vendor of equipment, such
562 funds shall be held or utilized on an as-needed basis for payment
563 of equipment purchases either by the State Treasurer (in which
564 event the master lease-purchase agreement may include provisions
565 concerning the holding of such funds, the creation of a security
566 interest for the benefit of the lessor in such funds until
567 disbursed and other appropriate provisions approved by the Bond
568 Commission) or by a corporate trustee selected by the Department
569 of Finance and Administration (in which event the Department of
570 Finance and Administration shall have the authority to enter into
571 an agreement with such a corporate trustee containing terms and
572 conditions approved by the Bond Commission). Earnings on any
573 amount paid by the lessor prior to the acquisition of the
574 equipment may be used to make lease payments under the master
575 lease-purchase agreement or applied to pay costs and expenses
576 incurred in connection with such lease-purchase agreement. In
577 such event, the equipment use agreements with the user agency may
578 provide for lease payments to commence upon the date of payment by
579 the lessor and may also provide for a credit against such payments
580 to the extent that investment receipts from investment of the
581 purchase price are to be used to make lease-purchase payments.

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

586 (7) The Department of Finance and Administration shall
587 furnish the equipment to the various agencies, also known as the
588 user, pursuant to an equipment-use agreement developed by the
589 Department of Finance and Administration. Such agreements shall
590 require that all monthly payments due from such agency be paid,

591 transferred or allocated into the Master Lease-Purchase Program
592 Fund pursuant to a schedule established by the Department of
593 Finance and Administration. In the event such sums are not paid
594 by the defined payment period, the Executive Director of the
595 Department of Finance and Administration shall issue a requisition
596 for a warrant to draw such amount as may be due from any funds
597 appropriated for the use of the agency which has failed to make
598 the payment as agreed.

599 (8) All master lease-purchase agreements executed under the
600 authority of this section shall contain the following annual
601 allocation dependency clause or an annual allocation dependency
602 clause which is substantially equivalent thereto: "The
603 continuation of each equipment schedule to this agreement is
604 contingent in whole or in part upon the appropriation of funds by
605 the Legislature to make the lease-purchase payments required under
606 such equipment schedule. If the Legislature fails to appropriate
607 sufficient funds to provide for the continuation of the
608 lease-purchase payments under any such equipment schedule, then
609 the obligations of the lessee and of the agency to make such
610 lease-purchase payments and the corresponding provisions of any
611 such equipment schedule to this agreement shall terminate on the
612 last day of the fiscal year for which appropriations were made."

613 (9) The maximum lease term for any equipment acquired under
614 the master lease-purchase program shall not exceed the useful life
615 of such equipment as determined according to the upper limit of
616 the asset depreciation range (ADR) guidelines for the Class Life
617 Asset Depreciation Range System established by the Internal
618 Revenue Service pursuant to the United States Internal Revenue
619 Code and Regulations thereunder as in effect on December 31, 1980,
620 or comparable depreciation guidelines with respect to any
621 equipment not covered by ADR guidelines. The Department of
622 Finance and Administration shall be deemed to have met the
623 requirements of this subsection if the term of a master

624 lease-purchase agreement does not exceed the weighted average
625 useful life of all equipment covered by such agreement and the
626 schedules thereto as determined by the Department of Finance and
627 Administration. For purposes of this subsection, the "term of a
628 master lease-purchase agreement" shall be the weighted average
629 maturity of all principal payments to be made under such master
630 lease-purchase agreement and all schedules thereto.

631 (10) Interest paid on any master lease-purchase agreement
632 under this section shall be exempt from State of Mississippi
633 income taxation. All equipment, and the purchase thereof by any
634 lessor, acquired under the master lease-purchase program and all
635 lease-purchase payments with respect thereto shall be exempt from
636 all Mississippi sales, use and ad valorem taxes.

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

642 (12) Any master lease-purchase agreement reciting in
643 substance that such agreement has been entered into pursuant to
644 this section shall be conclusively deemed to have been entered
645 into in accordance with all of the provisions and conditions set
646 forth in this section. Any defect or irregularity arising with
647 respect to procedures applicable to the acquisition of any
648 equipment shall not invalidate or otherwise limit the obligation
649 of the Department of Finance and Administration, or the state or
650 any agency of the state, under any master lease-purchase agreement
651 or any equipment-use agreement.

652 (13) There shall be maintained by the Department of Finance
653 and Administration, with respect to each master lease-purchase
654 agreement, an itemized statement of the cash price, interest
655 rates, interest costs, commissions, debt service schedules and all

656 other costs and expenses paid by the state incident to the
657 lease-purchase of equipment under such agreement.

658 (14) Lease-purchase agreements entered into by the Board of
659 Trustees of State Institutions of Higher Learning pursuant to the
660 authority of Section 37-101-413 or by any other agency which has
661 specific statutory authority other than pursuant to Section
662 31-7-13(e) to acquire equipment by lease-purchase shall not be
663 made pursuant to the master lease-purchase program under this
664 section, unless the Board of Trustees of State Institutions of
665 Higher Learning or such other agency elects to participate as to
666 part or all of its lease-purchase acquisitions in the master
667 lease-purchase program pursuant to this section.

668 (15) The Department of Finance and Administration may
669 develop a master lease-purchase program for school districts and,
670 pursuant to that program, may execute on behalf of the school
671 districts master lease-purchase agreements for equipment to be
672 used by the school districts. The form and structure of this
673 program shall be substantially the same as set forth in this
674 section for the master lease-purchase program for state agencies.
675 If sums due from a school district under the master lease-purchase
676 program are not paid by the expiration of the defined payment
677 period, the Executive Director of the Department of Finance and
678 Administration may withhold such amount that is due from the
679 school district's minimum education or adequate education program
680 fund allotments.

681 (16) The Department of Finance and Administration may
682 develop a master lease-purchase program for community and junior
683 college districts and, pursuant to that program, may execute on
684 behalf of the community and junior college districts master
685 lease-purchase agreements for equipment to be used by the
686 community and junior college districts. The form and structure of
687 this program must be substantially the same as set forth in this
688 section for the master lease-purchase program for state agencies.

689 If sums due from a community or junior college district under the
690 master lease-purchase program are not paid by the expiration of
691 the defined payment period, the Executive Director of the
692 Department of Finance and Administration may withhold an amount
693 equal to the amount due under the program from any funds allocated
694 for that community or junior college district in the state
695 appropriations for the use and support of the community and junior
696 colleges.

697 **SECTION 9.** This act shall take effect and be in force from
698 and after July 1, 2006.