

By: Senator(s) Thames, Gordon, Clarke, Albritton, Brown, Butler, Chaney, Cuevas, Davis, Dawkins, Doxey, Harden, Horhn, Jackson (15th), Jackson (11th), Jackson (32nd), Jordan, King, Lee (35th), Lee (47th), Michel, Morgan, Nunnelee, Pickering, Ross, Walley, Walls, White, Wilemon

To: Fees, Salaries and Administration; Appropriations

SENATE BILL NO. 2398
(As Passed the Senate)

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; however, the bureau shall exempt any
32 agency or agency vehicles from the provisions of this paragraph

33 (a) if it determines that state or federal law would require that
34 title be vested in the agency;

35 (b) To establish rules and regulations for state agency
36 use of vehicles;

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

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

50 (e) To carry out responsibilities relative to budget
51 recommendations as provided in Section 4 of Senate Bill No. 2398,
52 2006 Regular Session;

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

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

63 (h) To require each agency to submit to the bureau a
64 vehicle acquisition/use/disposal plan on an annual basis. From
65 the plans received, the bureau shall evaluate the proposed plans

66 and shall submit a recommendation to the Legislature prior to
67 January 1 of each year.

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

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

99 (5) The State Auditor shall make on-site visits and conduct
100 audits necessary to ensure compliance with the provisions of this
101 section and all rules and regulations adopted hereunder. On or
102 before September 1 of each year, the State Auditor shall prepare
103 and deliver to the Senate and House Fees, Salaries and
104 Administration Committees and the Joint Legislative Budget
105 Committee a report containing any irregularities that he finds
106 concerning purchases of state-owned vehicles.

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

115 (7) The Bureau of Fleet Management, upon request, shall
116 grant an exemption from the provisions of this section for any
117 vehicle in the possession of any agency when the bureau determines
118 that compliance could jeopardize the life, health or safety of an
119 employee or agent of the State of Mississippi, or any member of
120 the public.

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

123 25-1-79. It shall be unlawful for any officer, employee or
124 other person whatsoever to use or permit or authorize the use of
125 any automobile or any other motor vehicle owned by the State of
126 Mississippi or any department, agency or institution thereof for
127 any purpose other than upon the official business of the State of
128 Mississippi or any agency, department or institution thereof.
129 Further, it shall be unlawful for any such officer or employee to
130 be paid or to receive any sums whatsoever for travel expense until
131 the expenses for which payment is made, and each item thereof,

132 have been actually incurred by such officer or employee, and then
133 only upon the presentation of an itemized expense account which
134 shall be approved in writing by the head of the department,
135 agency, or institution on whose behalf such travel is performed.
136 However, it is expressly provided that any such officer or
137 employee traveling * * * on business for and in behalf of the
138 State of Mississippi may, strictly in the discretion of an agency,
139 institution or department head, receive in advance from state
140 funds for the purpose of such travel expense a sum to be specified
141 by such aforementioned superior. Further, strict account of any
142 sum so advanced must be kept in accord with Section 25-1-81.

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

145 27-103-129. (1) To enable the Legislative Budget Office to
146 prepare such budget, it shall have full and plenary power and
147 authority to require all general-fund and special-fund agencies
148 and the Mississippi Department of Transportation and the Division
149 of State Aid Road Construction of the Mississippi Department of
150 Transportation to file a budget request with such information and
151 in such form and in such detail as it may deem necessary and
152 advisable, and it shall have the further power and authority to
153 reduce or eliminate any item or items of requested appropriation
154 by any state agency in the Legislative Budget Office's recommended
155 budget to the Legislature. However, where any item of requested
156 appropriation shall be so reduced or eliminated, the head of the
157 agency involved shall have the right to appear before the
158 appropriate legislative committee to urge a revision of the budget
159 to restore the item reduced or eliminated. Beginning with the
160 1996 fiscal year, the budget requests shall include a definition
161 of the mission of the agency, a description of the duties and
162 responsibilities of the agency, financial data relative to the
163 various programs operated by the agency and performance measures
164 associated with each program of the agency. The performance

165 measures to be contained within the agency budget request shall be
166 developed by cooperative efforts of the Legislative Budget Office,
167 the Department of Finance and Administration and the agency itself
168 and shall be approved jointly by the Legislative Budget Office and
169 the Department of Finance and Administration prior to inclusion
170 within the agency budget request. Beginning with the 1996 fiscal
171 year, the budget requests shall also include in an addendum format
172 a five-year strategic plan for the agency which shall include, but
173 not be limited to, the following items of information: (a) a
174 comprehensive mission statement, (b) performance effectiveness
175 objectives for each program of the agency for each of the five (5)
176 years covered by the plan, (c) a description of significant
177 external factors which may affect the projected levels of
178 performance, (d) a description of the agency's internal management
179 system utilized to evaluate its performance achievements in
180 relationship to the targeted performance levels, (e) an evaluation
181 by the agency of the agency's performance achievements in
182 relationship to the targeted performance levels for the two (2)
183 preceding fiscal years for which accounting records have been
184 finalized.

185 (2) (a) In addition to any other information required by
186 law, each state agency, general-fund agency and special-fund
187 agency as defined in Section 27-103-103 that wishes to purchase
188 passenger vehicles or work vehicles as defined by this section
189 shall submit as part of its budget request to the Legislative
190 Budget Office and the Department of Finance and Administration a
191 detailed justification for the proposed purchase. The Legislative
192 Budget Office and the Department of Finance and Administration
193 shall jointly prescribe the forms and formats to be used by
194 agencies making the requests. Such forms shall require, at
195 minimum, the following information:

196 (i) The type of vehicle to be purchased;

197 (ii) The person to whom the vehicle is assigned
198 and the working responsibilities of that person which necessitates
199 a vehicle;

200 (iii) Whether the vehicle is a work vehicle or
201 passenger vehicle; and

202 (iv) If the vehicle is assigned to a pool and not
203 an individual, the purposes for which the pool vehicle is assigned
204 and the anticipated users of the pool vehicle.

205 (b) The Legislative Budget Office and the Department of
206 Finance and Administration shall offer a recommendation to the
207 Joint Legislative Budget Committee on all agency requests for
208 vehicles. In making the recommendations, the Legislative Budget
209 Office and the Department of Finance and Administration may
210 consider break-even analysis for the type of vehicle requested,
211 the travel patterns of the person for whom the vehicle is to be
212 acquired, and the possibility that surplus vehicles in the
213 possession of other agencies could be used as a substitute for a
214 new vehicle. The purchase of vehicles by an agency shall be a
215 specific line item in the agency's appropriation bill.

216 (c) If an agency determines an urgent need for a
217 vehicle when it is not feasible to obtain legislative approval,
218 the agency may make an emergency request to the Bureau of Fleet
219 Management. The emergency may be caused by the loss of a vehicle
220 from an accident or other extraordinary circumstances. The Bureau
221 of Fleet Management shall make a recommendation to the Executive
222 Director of the Department of Finance and Administration who shall
223 then have the authority to approve or disapprove the request. If
224 approved and if adequate funding is available, the agency may
225 purchase a specific vehicle to meet its specific needs. The
226 Bureau of Fleet Management shall report any emergency purchase to
227 the Legislative Budget Office.

228 (d) For purposes of this subsection, the term
229 "passenger vehicle" shall mean a vehicle used primarily in

230 transporting agency personnel and their equipment from one
231 location to another.

232 (e) For purposes of this subsection, the term "work
233 vehicle" shall mean a vehicle used primarily to perform a work
234 assignment or task while incidentally transporting agency
235 personnel and their equipment from one location to another.

236 (3) All state agencies, special-fund agencies and
237 general-fund agencies making budget requests under the authority
238 of this section shall include with their budget requests a report
239 of all passenger and work vehicles in their possession. Such
240 report shall detail the persons to whom the vehicles are assigned
241 and the purposes for the vehicles.

242 (4) The Bureau of Fleet Management, upon request, shall
243 grant an exemption from the provisions of subsections (2) and (3)
244 of this section for any vehicle in the possession of any agency
245 when the bureau determines that compliance could jeopardize the
246 life, health or safety of an employee or agent of the State of
247 Mississippi, or any member of the public.

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

250 25-1-81. The Department of Finance and Administration shall
251 refuse to issue warrants upon requisitions drawn in violation of
252 the provisions hereof, and where any expense account is allowed
253 and paid in violation of the provisions of Sections 25-1-77
254 through 25-1-93, it shall be the duty of the Department of Finance
255 and Administration to withhold the payment of any further expense
256 accounts for the department, agency or institution involved until
257 the amount of the account or accounts illegally paid shall be
258 refunded and repaid to the State of Mississippi by the person
259 receiving or approving same. It is further provided that the
260 Department of Finance and Administration shall prescribe and
261 deliver to each agency, department or institution a uniform system
262 of expense accounts herein allowed, including a uniform system of

263 depreciation allowance. All expense accounts for lodging shall be
264 supported by receipted bills showing the payment thereof by such
265 officer or employee. It is incumbent upon each agency, department
266 or institution to abide by and utilize the method of uniform
267 system of expense accounts so prescribed and delivered by the
268 Department of Finance and Administration. Each agency, department
269 or institution, in rendering its annual report to the Bureau of
270 Fleet Management and the Legislature, shall show the number of
271 state-owned automobiles purchased and operated during the year,
272 the number purchased and operated out of funds appropriated by the
273 Legislature, the number purchased and operated out of any other
274 public funds, the miles traveled per automobile, the total miles
275 traveled, the average cost per mile, and depreciation estimate on
276 each automobile. The report shall also show the cost per mile and
277 total number of miles traveled in privately-owned automobiles for
278 which reimbursement is made out of state funds and any other
279 information requested by the Bureau of Fleet Management.

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

282 25-3-41. (1) When any officer or employee of the State of
283 Mississippi, or any department, agency or institution thereof,
284 after first being duly authorized, is required to travel in the
285 performance of his official duties, the officer or employee shall
286 receive as expenses for each mile actually and necessarily
287 traveled, when the travel is done by a privately owned automobile
288 or other privately owned motor vehicle, the mileage reimbursement
289 rate allowable to federal employees for the use of a privately
290 owned vehicle while on official travel.

291 (2) When any officer or employee of any county or
292 municipality, or of any agency, board or commission thereof, after
293 first being duly authorized, is required to travel in the
294 performance of his official duties, the officer or employee shall
295 receive as expenses Twenty Cents (20¢) for each mile actually and

296 necessarily traveled, when the travel is done by a privately owned
297 motor vehicle; provided, however, that the governing authorities
298 of a county or municipality may, in their discretion, authorize an
299 increase in the mileage reimbursement of officers and employees of
300 the county or municipality, or of any agency, board or commission
301 thereof, in an amount not to exceed the mileage reimbursement rate
302 authorized for officers and employees of the State of Mississippi
303 in subsection (1) of this section.

304 (3) Where two (2) or more officers or employees travel in
305 one (1) privately owned motor vehicle, only one (1) travel expense
306 allowance at the authorized rate per mile shall be allowed for any
307 one (1) trip. When the travel is done by means of a public
308 carrier or other means not involving a privately owned motor
309 vehicle, then the officer or employee shall receive as travel
310 expense the actual fare or other expenses incurred in such travel.

311 (4) In addition to the foregoing, a public officer or
312 employee shall be reimbursed for other actual expenses such as
313 meals, lodging and other necessary expenses incurred in the course
314 of the travel, subject to limitations placed on meals for
315 intrastate and interstate official travel by the Department of
316 Finance and Administration, provided, that the Legislative Budget
317 Office shall place any limitations for expenditures made on
318 matters under the jurisdiction of the Legislature. The Department
319 of Finance and Administration shall set a maximum daily
320 expenditure annually for such meals and shall notify officers and
321 employees of changes to these allowances immediately upon approval
322 of the changes. Travel by airline shall be at the tourist rate
323 unless that space was unavailable. The officer or employee shall
324 certify that tourist accommodations were not available if travel
325 is performed in first class airline accommodations. Itemized
326 expense accounts shall be submitted by those officers or employees
327 in such number as the department, agency or institution may
328 require; but in any case one (1) copy shall be furnished by state

329 departments, agencies or institutions to the Department of Finance
330 and Administration for preaudit or postaudit. The Department of
331 Finance and Administration shall promulgate and adopt reasonable
332 rules and regulations which it deems necessary and requisite to
333 effectuate economies for all expenses authorized and paid pursuant
334 to this section. Requisitions shall be made on the State Fiscal
335 Officer who shall issue his warrant on the State Treasurer.
336 Provided, however, that the provisions of this section shall not
337 include agencies financed entirely by federal funds and audited by
338 federal auditors.

339 (5) Any officer or employee of a county or municipality, or
340 any department, board or commission thereof, who is required to
341 travel in the performance of his official duties, may receive
342 funds before the travel, in the discretion of the administrative
343 head of the county or municipal department, board or commission
344 involved, for the purpose of paying necessary expenses incurred
345 during the travel. Upon return from the travel, the officer or
346 employee shall provide receipts of transportation, lodging, meals,
347 fees and any other expenses incurred during the travel. Any
348 portion of the funds advanced which is not expended during the
349 travel shall be returned by the officer or employee. The
350 Department of Audit shall adopt rules and regulations regarding
351 advance payment of travel expenses and submission of receipts to
352 ensure proper control and strict accountability for those payments
353 and expenses.

354 (6) No state or federal funds received from any source by
355 any arm or agency of the state shall be expended in traveling
356 outside of the continental limits of the United States until the
357 governing body or head of the agency makes a finding and
358 determination that the travel would be extremely beneficial to the
359 state agency and obtains a written concurrence thereof from the
360 Governor, or his designee, and the Department of Finance and
361 Administration.

362 (7) Where any officer or employee of the State of
363 Mississippi, or any department, agency or institution thereof, or
364 of any county or municipality, or of any agency, board or
365 commission thereof, is authorized to receive travel reimbursement
366 under any other provision of law, the reimbursement may be paid
367 under the provisions of this section or the other section, but not
368 under both.

369 (8) When the Governor, Lieutenant Governor or Speaker of the
370 House of Representatives appoints a person to a board, commission
371 or other position that requires confirmation by the Senate, the
372 person may receive reimbursement for mileage and other actual
373 expenses incurred in the performance of official duties before the
374 appointment is confirmed by the Senate, as reimbursement for those
375 expenses is authorized under this section.

376 (9) (a) The Department of Finance and Administration may
377 contract with one or more commercial travel agencies, after
378 receiving competitive bids or proposals therefor, for that travel
379 agency or agencies to provide necessary travel services for state
380 officers and employees. Municipal and county officers and
381 municipal and county employees may also participate in the state
382 travel agency contract and utilize these travel services for
383 official municipal or county travel. However, the administrative
384 head of each state institution of higher learning may, in his
385 discretion, contract with a commercial travel agency to provide
386 necessary travel services for all academic officials and staff of
387 the university in lieu of participation in the state travel agency
388 contract. Any such decision by a university to contract with a
389 separate travel agency shall be approved by the Board of Trustees
390 of State Institutions of Higher Learning and the Executive
391 Director of the Department of Finance and Administration.

392 (b) Before executing a contract with one or more travel
393 agencies, the Department of Finance and Administration shall
394 advertise for competitive bids or proposals once a week for two

395 (2) consecutive weeks in a regular newspaper having a general
396 circulation throughout the State of Mississippi. If the
397 department determines that it should not contract with any of the
398 bidders initially submitting proposals, the department may reject
399 all those bids, advertise as provided in this paragraph and
400 receive new proposals before executing the contract or contracts.
401 The contract or contracts may be for a period not greater than
402 three (3) years, with an option for the travel agency or agencies
403 to renew the contract or contracts on a one-year basis on the same
404 terms as the original contract or contracts, for a maximum of two
405 (2) renewals. After the travel agency or agencies have renewed
406 the contract twice or have declined to renew the contract for the
407 maximum number of times, the Department of Finance and
408 Administration shall advertise for bids in the manner required by
409 this paragraph and execute a new contract or contracts.

410 (c) Whenever any state officer or employee travels in
411 the performance of his official duties by airline or other public
412 carrier, he may have his travel arrangements handled by that
413 travel agency or agencies. The amount paid for airline
414 transportation for any state officer or employee, whether the
415 travel was arranged by that travel agency or agencies or was
416 arranged otherwise, shall not exceed the amount specified in the
417 state contract established by the Department of Finance and
418 Administration, Office of Purchasing, Travel and Fleet Management,
419 unless prior approval is obtained from the office.

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

422 31-7-5. The Department of Finance and Administration shall
423 prescribe rules and regulations governing the manner in which the
424 authority and duties granted to it by law may be carried out. It
425 shall employ suitable and competent personnel, necessary to carry
426 out its purposes. The Department of Finance and Administration
427 may establish an Office of Purchasing, Travel and Fleet Management

428 and employ a competent person as Director of the Office of
429 Purchasing, Travel and Fleet Management who shall be a member of
430 the state service.

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

433 31-7-9. (1) (a) The Office of Purchasing, Travel and Fleet
434 Management shall adopt purchasing regulations governing the
435 purchase by any agency of any commodity or commodities and
436 establishing standards and specifications for a commodity or
437 commodities and the maximum fair prices of a commodity or
438 commodities, subject to the approval of the Public Procurement
439 Review Board. It shall have the power to amend, add to or
440 eliminate purchasing regulations. The adoption of, amendment,
441 addition to or elimination of purchasing regulations shall be
442 based upon a determination by the Office of Purchasing, Travel and
443 Fleet Management with the approval of the Public Procurement
444 Review Board, that such action is reasonable and practicable and
445 advantageous to promote efficiency and economy in the purchase of
446 commodities by the agencies of the state. Upon the adoption of
447 any purchasing regulation, or an amendment, addition or
448 elimination therein, copies of same shall be furnished to the
449 State Auditor and to all agencies affected thereby. Thereafter,
450 and except as otherwise may be provided in subsection (2) of this
451 section, no agency of the state shall purchase any commodities
452 covered by existing purchasing regulations unless such commodities
453 be in conformity with the standards and specifications set forth
454 in the purchasing regulations and unless the price thereof does
455 not exceed the maximum fair price established by such purchasing
456 regulations. The said Office of Purchasing, Travel and Fleet
457 Management shall furnish to any county or municipality or other
458 local public agency of the state requesting same, copies of
459 purchasing regulations adopted by the Office of Purchasing, Travel

460 and Fleet Management and any amendments, changes or eliminations
461 of same that may be made from time to time.

462 (b) The Office of Purchasing, Travel and Fleet
463 Management may adopt purchasing regulations governing the use of
464 credit cards, procurement cards and purchasing club membership
465 cards to be used by state agencies, governing authorities of
466 counties and municipalities and the Chickasawhay Natural Gas
467 District. Use of the cards shall be in strict compliance with the
468 regulations promulgated by the office. Any amounts due on the
469 cards shall incur interest charges as set forth in Section
470 31-7-305 and shall not be considered debt.

471 (2) The Office of Purchasing, Travel and Fleet Management
472 shall adopt, subject to the approval of the Public Procurement
473 Review Board, purchasing regulations governing the purchase of
474 unmarked vehicles to be used by the Bureau of Narcotics and
475 Department of Public Safety in official investigations pursuant to
476 Section 25-1-87. Such regulations shall ensure that purchases of
477 such vehicles shall be at a fair price and shall take into
478 consideration the peculiar needs of the Bureau of Narcotics and
479 Department of Public Safety in undercover operations.

480 (3) The Office of Purchasing, Travel and Fleet Management
481 shall adopt, subject to the approval of the Public Procurement
482 Review Board, regulations governing the certification process for
483 certified purchasing offices. Such regulations shall require
484 entities desiring to be classified as certified purchasing offices
485 to submit applications and applicable documents on an annual
486 basis, at which time the Office of Purchasing, Travel and Fleet
487 Management may provide the governing entity with a certification
488 valid for one (1) year from the date of issuance.

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

491 31-7-10. (1) For the purposes of this section, the term
492 "equipment" shall mean equipment, furniture, and if applicable,

493 associated software and other applicable direct costs associated
494 with the acquisition. In addition to its other powers and duties,
495 the Department of Finance and Administration shall have the
496 authority to develop a master lease-purchase program and, pursuant
497 to that program, shall have the authority to execute on behalf of
498 the state master lease-purchase agreements for equipment to be
499 used by an agency, as provided in this section. Each agency
500 electing to acquire equipment by a lease-purchase agreement shall
501 participate in the Department of Finance and Administration's
502 master lease-purchase program, unless the Department of Finance
503 and Administration makes a determination that such equipment
504 cannot be obtained under the program or unless the equipment can
505 be obtained elsewhere at an overall cost lower than that for which
506 the equipment can be obtained under the program. Such
507 lease-purchase agreements may include the refinancing or
508 consolidation, or both, of any state agency lease-purchase
509 agreements entered into after June 30, 1990.

510 (2) All funds designated by agencies for procurement of
511 equipment and financing thereof under the master lease-purchase
512 program shall be paid into a special fund created in the State
513 Treasury known as the "Master Lease-Purchase Program Fund," which
514 shall be used by the Department of Finance and Administration for
515 payment to the lessors for equipment acquired under master
516 lease-purchase agreements.

517 (3) Upon final approval of an appropriation bill, each
518 agency shall submit to the Public Procurement Review Board a
519 schedule of proposed equipment acquisitions for the master
520 lease-purchase program. Upon approval of an equipment schedule by
521 the Public Procurement Review Board with the advice of the
522 Department of Information Technology Services, the Office of
523 Purchasing, Travel and Fleet Management, and the Division of
524 Energy and Transportation of the Mississippi Development Authority
525 as it pertains to energy efficient climate control systems, the

526 Public Procurement Review Board shall forward a copy of the
527 equipment schedule to the Department of Finance and
528 Administration.

529 (4) The level of lease-purchase debt recommended by the
530 Department of Finance and Administration shall be subject to
531 approval by the State Bond Commission. After such approval, the
532 Department of Finance and Administration shall be authorized to
533 advertise and solicit written competitive proposals for a lessor,
534 who will purchase the equipment pursuant to bid awards made by the
535 using agency under a given category and then transfer the
536 equipment to the Department of Finance and Administration as
537 lessee, pursuant to a master lease-purchase agreement.

538 The Department of Finance and Administration shall select the
539 successful proposer for the financing of equipment under the
540 master lease-purchase program with the approval of the State Bond
541 Commission.

542 (5) Each master lease-purchase agreement, and any subsequent
543 amendments, shall include such terms and conditions as the State
544 Bond Commission shall determine to be appropriate and in the
545 public interest, and may include any covenants deemed necessary or
546 desirable to protect the interests of the lessor, including, but
547 not limited to, provisions setting forth the interest rate (or
548 method for computing interest rates) for financing pursuant to
549 such agreement, covenants concerning application of payments and
550 funds held in the Master Lease-Purchase Program Fund, covenants to
551 maintain casualty insurance with respect to equipment subject to
552 the master lease-purchase agreement (and all state agencies are
553 specifically authorized to purchase any insurance required by a
554 master lease-purchase agreement) and covenants precluding or
555 limiting the right of the lessee or user to acquire equipment
556 within a specified time (not to exceed five (5) years) after
557 cancellation on the basis of a failure to appropriate funds for
558 payment of amounts due under a lease-purchase agreement covering

559 comparable equipment. The State Bond Commission shall transmit
560 copies of each such master lease-purchase agreement and each such
561 amendment to the Joint Legislative Budget Committee. To the
562 extent provided in any master lease-purchase agreement, title to
563 equipment leased pursuant thereto shall be deemed to be vested in
564 the state or the user of the equipment (as specified in such
565 master lease-purchase agreement), subject to default under or
566 termination of such master lease-purchase agreement.

567 A master lease-purchase agreement may provide for payment by
568 the lessor to the lessee of the purchase price of the equipment to
569 be acquired pursuant thereto prior to the date on which payment is
570 due to the vendor for such equipment and that the lease payments
571 by the lessee shall commence as though the equipment had been
572 provided on the date of payment. If the lessee, or lessee's
573 escrow agent, has sufficient funds for payment of equipment
574 purchases prior to payment due date to vendor of equipment, such
575 funds shall be held or utilized on an as-needed basis for payment
576 of equipment purchases either by the State Treasurer (in which
577 event the master lease-purchase agreement may include provisions
578 concerning the holding of such funds, the creation of a security
579 interest for the benefit of the lessor in such funds until
580 disbursed and other appropriate provisions approved by the Bond
581 Commission) or by a corporate trustee selected by the Department
582 of Finance and Administration (in which event the Department of
583 Finance and Administration shall have the authority to enter into
584 an agreement with such a corporate trustee containing terms and
585 conditions approved by the Bond Commission). Earnings on any
586 amount paid by the lessor prior to the acquisition of the
587 equipment may be used to make lease payments under the master
588 lease-purchase agreement or applied to pay costs and expenses
589 incurred in connection with such lease-purchase agreement. In
590 such event, the equipment use agreements with the user agency may
591 provide for lease payments to commence upon the date of payment by

592 the lessor and may also provide for a credit against such payments
593 to the extent that investment receipts from investment of the
594 purchase price are to be used to make lease-purchase payments.

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

599 (7) The Department of Finance and Administration shall
600 furnish the equipment to the various agencies, also known as the
601 user, pursuant to an equipment-use agreement developed by the
602 Department of Finance and Administration. Such agreements shall
603 require that all monthly payments due from such agency be paid,
604 transferred or allocated into the Master Lease-Purchase Program
605 Fund pursuant to a schedule established by the Department of
606 Finance and Administration. In the event such sums are not paid
607 by the defined payment period, the Executive Director of the
608 Department of Finance and Administration shall issue a requisition
609 for a warrant to draw such amount as may be due from any funds
610 appropriated for the use of the agency which has failed to make
611 the payment as agreed.

612 (8) All master lease-purchase agreements executed under the
613 authority of this section shall contain the following annual
614 allocation dependency clause or an annual allocation dependency
615 clause which is substantially equivalent thereto: "The
616 continuation of each equipment schedule to this agreement is
617 contingent in whole or in part upon the appropriation of funds by
618 the Legislature to make the lease-purchase payments required under
619 such equipment schedule. If the Legislature fails to appropriate
620 sufficient funds to provide for the continuation of the
621 lease-purchase payments under any such equipment schedule, then
622 the obligations of the lessee and of the agency to make such
623 lease-purchase payments and the corresponding provisions of any

624 such equipment schedule to this agreement shall terminate on the
625 last day of the fiscal year for which appropriations were made."

626 (9) The maximum lease term for any equipment acquired under
627 the master lease-purchase program shall not exceed the useful life
628 of such equipment as determined according to the upper limit of
629 the asset depreciation range (ADR) guidelines for the Class Life
630 Asset Depreciation Range System established by the Internal
631 Revenue Service pursuant to the United States Internal Revenue
632 Code and Regulations thereunder as in effect on December 31, 1980,
633 or comparable depreciation guidelines with respect to any
634 equipment not covered by ADR guidelines. The Department of
635 Finance and Administration shall be deemed to have met the
636 requirements of this subsection if the term of a master
637 lease-purchase agreement does not exceed the weighted average
638 useful life of all equipment covered by such agreement and the
639 schedules thereto as determined by the Department of Finance and
640 Administration. For purposes of this subsection, the "term of a
641 master lease-purchase agreement" shall be the weighted average
642 maturity of all principal payments to be made under such master
643 lease-purchase agreement and all schedules thereto.

644 (10) Interest paid on any master lease-purchase agreement
645 under this section shall be exempt from State of Mississippi
646 income taxation. All equipment, and the purchase thereof by any
647 lessor, acquired under the master lease-purchase program and all
648 lease-purchase payments with respect thereto shall be exempt from
649 all Mississippi sales, use and ad valorem taxes.

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

655 (12) Any master lease-purchase agreement reciting in
656 substance that such agreement has been entered into pursuant to

657 this section shall be conclusively deemed to have been entered
658 into in accordance with all of the provisions and conditions set
659 forth in this section. Any defect or irregularity arising with
660 respect to procedures applicable to the acquisition of any
661 equipment shall not invalidate or otherwise limit the obligation
662 of the Department of Finance and Administration, or the state or
663 any agency of the state, under any master lease-purchase agreement
664 or any equipment-use agreement.

665 (13) There shall be maintained by the Department of Finance
666 and Administration, with respect to each master lease-purchase
667 agreement, an itemized statement of the cash price, interest
668 rates, interest costs, commissions, debt service schedules and all
669 other costs and expenses paid by the state incident to the
670 lease-purchase of equipment under such agreement.

671 (14) Lease-purchase agreements entered into by the Board of
672 Trustees of State Institutions of Higher Learning pursuant to the
673 authority of Section 37-101-413 or by any other agency which has
674 specific statutory authority other than pursuant to Section
675 31-7-13(e) to acquire equipment by lease-purchase shall not be
676 made pursuant to the master lease-purchase program under this
677 section, unless the Board of Trustees of State Institutions of
678 Higher Learning or such other agency elects to participate as to
679 part or all of its lease-purchase acquisitions in the master
680 lease-purchase program pursuant to this section.

681 (15) The Department of Finance and Administration may
682 develop a master lease-purchase program for school districts and,
683 pursuant to that program, may execute on behalf of the school
684 districts master lease-purchase agreements for equipment to be
685 used by the school districts. The form and structure of this
686 program shall be substantially the same as set forth in this
687 section for the master lease-purchase program for state agencies.
688 If sums due from a school district under the master lease-purchase
689 program are not paid by the expiration of the defined payment

690 period, the Executive Director of the Department of Finance and
691 Administration may withhold such amount that is due from the
692 school district's minimum education or adequate education program
693 fund allotments.

694 (16) The Department of Finance and Administration may
695 develop a master lease-purchase program for community and junior
696 college districts and, pursuant to that program, may execute on
697 behalf of the community and junior college districts master
698 lease-purchase agreements for equipment to be used by the
699 community and junior college districts. The form and structure of
700 this program must be substantially the same as set forth in this
701 section for the master lease-purchase program for state agencies.
702 If sums due from a community or junior college district under the
703 master lease-purchase program are not paid by the expiration of
704 the defined payment period, the Executive Director of the
705 Department of Finance and Administration may withhold an amount
706 equal to the amount due under the program from any funds allocated
707 for that community or junior college district in the state
708 appropriations for the use and support of the community and junior
709 colleges.

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