

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 Sent to Governor)

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, AS AMENDED BY SENATE BILL NO. 2581, 2006 REGULAR
8 SESSION, TO REQUIRE AGENCIES TO SUBMIT A DETAILED JUSTIFICATION
9 FOR VEHICLE PURCHASES AS PART OF THEIR BUDGET REQUESTS TO THE
10 DEPARTMENT OF FINANCE AND ADMINISTRATION AND THE LEGISLATIVE
11 BUDGET OFFICE; TO AMEND SECTION 25-3-41, MISSISSIPPI CODE OF 1972,
12 AS AMENDED BY SENATE BILL NO. 2178, 2006 REGULAR SESSION, TO
13 CONFORM; TO AMEND SECTIONS 25-1-81, 31-7-5, 31-7-9 AND 31-7-10,
14 MISSISSIPPI CODE OF 1972, TO CONFORM; TO PROHIBIT ANY OFFICER OR
15 EMPLOYEE OF ANY STATE AGENCY WHO HAS BEEN ASSIGNED OR ISSUED A
16 WIRELESS COMMUNICATION DEVICE PAID FOR BY PUBLIC FUNDS FROM USING
17 SUCH DEVICE FOR PERSONAL PURPOSES; TO PROHIBIT ANY SUCH OFFICER OR
18 EMPLOYEE FROM BEING REIMBURSED FOR USE OF HIS OR HER PERSONAL
19 WIRELESS COMMUNICATION DEVICE; TO REQUIRE STATE AGENCIES TO SELECT
20 WIRELESS COMMUNICATION DEVICE VENDORS FROM A STATE-APPROVED LIST;
21 TO REQUIRE THE MISSISSIPPI DEPARTMENT OF INFORMATION TECHNOLOGY
22 SERVICES TO ESTABLISH A MODEL POLICY REGULATING PERSONAL USE OF
23 WIRELESS COMMUNICATION DEVICES OWNED BY STATE AGENCIES AND TO
24 REQUIRE STATE AGENCIES TO ADOPT THE MODEL POLICY, OR A POLICY
25 EQUALLY STRINGENT; AND FOR RELATED PURPOSES.

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

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

29 25-1-77. (1) There is hereby created the Bureau of Fleet
30 Management within the Office of Purchasing, Travel and Fleet
31 Management, Department of Finance and Administration, for the
32 purposes of coordinating and promoting efficiency and economy in
33 the purchase, lease, rental, acquisition, use, maintenance and
34 disposal of vehicles by state agencies. The Executive Director of
35 the Department of Finance and Administration may employ a Fleet
36 Management Officer to manage the bureau and carry out its
37 purposes. The bureau may employ other suitable and competent
38 personnel as necessary. The bureau shall encourage the use of

39 fuel efficient or hybrid vehicles appropriate for the state
40 agency's intended purpose and, when feasible, the use of
41 alternative fuels, including, but not limited to, ethanol or
42 biodiesel.

43 (2) The Bureau of Fleet Management shall perform the
44 following duties:

45 (a) To hold title in the name of the State of
46 Mississippi to all vehicles currently in possession of state
47 agencies as defined in Section 25-9-107(d) and to assign vehicles
48 to such agencies for use; however, the bureau shall exempt any
49 agency or agency vehicles from the provisions of this paragraph
50 (a) if it determines that state or federal law requires that title
51 be vested only in the agency;

52 (b) To establish rules and regulations for state agency
53 use of vehicles;

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

56 (d) To acquire fleet management software and require
57 agencies to provide necessary information for the bureau to
58 properly monitor the size, use, maintenance and disposal of the
59 state's fleet of vehicles; the bureau shall communicate regularly
60 with the fleet managers of each state agency to determine
61 strengths and weaknesses of the various fleet operations; the
62 bureau shall disseminate information to the agencies so that each
63 can take advantage of any beneficial practices being incorporated
64 at other entities; the bureau shall promulgate rules and
65 regulations concerning the mileage reimbursement practices of each
66 state agency;

67 (e) To carry out responsibilities relative to budget
68 recommendations as provided in Section 27-103-129;

69 (f) To reassign vehicles in the possession of any state
70 agency if the bureau believes that another state agency can make
71 more efficient use of a vehicle; provided, however, that the state

72 agency receiving the reassigned vehicle shall pay to the previous
73 agency's special fund, or if no special fund exists to the State
74 General Fund, the National Automobile Dealers Association (NADA)
75 wholesale value for the vehicle or the estimated amount for which
76 the vehicle would have sold at auction, as shall be determined by
77 the bureau, whichever is less;

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

80 (h) To require each agency to submit to the bureau a
81 vehicle acquisition/use/disposal plan on an annual basis. From
82 the plans received, the bureau shall evaluate the proposed plans
83 and shall submit a recommendation to the Legislature prior to
84 January 1 of each year.

85 (3) No state department, institution or agency shall
86 purchase, rent, lease or acquire any motor vehicle, regardless of
87 the source of funds from which the motor vehicle is to be
88 purchased, except under authority granted by the Department of
89 Finance and Administration. The Bureau of Fleet Management,
90 Department of Finance and Administration, shall promulgate rules
91 and regulations governing the purchase, rental, lease or
92 acquisition of any motor vehicle by a state department,
93 institution or agency with regard to the appropriateness of the
94 vehicle to its intended use. The Bureau of Fleet Management,
95 Department of Finance and Administration, shall only grant
96 authority to purchase, rent, lease or acquire a motor vehicle
97 which is * * * the lowest cost vehicle to carry out its intended
98 use * * *. Before the disposal or sale of any vehicle, the Bureau
99 of Fleet Management shall make a determination that the lifetime
100 use and mileage of the vehicle has been maximized and that it
101 would not be feasible for another state agency to use the vehicle.

102 (4) * * * The department, institution or agency shall
103 maintain proper documentation * * * which provides the intended
104 use of the vehicle and the basis for choosing the vehicle. Such

105 documentation shall show that the department, institution or
106 agency made diligent efforts to purchase, rent, lease or acquire a
107 vehicle that is the lowest cost vehicle for its intended use.
108 Such documentation shall be updated as needed when the intended
109 use of the vehicle or any other facts concerning the vehicle are
110 changed. All such documentation shall be approved by the State
111 Fleet Officer prior to purchase, rental, lease or acquisition or
112 change in use of any vehicle and shall be maintained and made
113 available for review by the State Auditor, any other reviewing
114 agency and the Legislature.

115 (5) The State Auditor shall make on-site visits and conduct
116 audits necessary to ensure compliance with the provisions of this
117 section and all rules and regulations adopted hereunder. On or
118 before September 1 of each year, the State Auditor shall prepare
119 and deliver to the Senate and House Appropriations Committees and
120 the Joint Legislative Budget Committee a report containing any
121 irregularities that he finds concerning purchases of state-owned
122 vehicles.

123 (6) The Department of Public Safety and the Department of
124 Wildlife, Fisheries and Parks may retain any vehicle seized
125 pursuant to the forfeiture laws of this state, and the total
126 number of vehicles assigned to each such agency shall not be
127 reduced by the number of seized vehicles which the agency retains.

128 (7) The Bureau of Fleet Management, upon request, shall
129 grant an exemption from the provisions of this section for only
130 any vehicle assigned to a sworn officer of the Department of
131 Public Safety and used in undercover operations when the bureau
132 determines that compliance could jeopardize the life, health or
133 safety of the sworn officer.

134 (8) The provisions of this section shall not apply to any
135 state institution of higher learning.

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

138 25-1-79. It shall be unlawful for any officer, employee or
139 other person whatsoever to use or permit or authorize the use of
140 any automobile or any other motor vehicle owned by the State of
141 Mississippi or any department, agency or institution thereof for
142 any purpose other than upon the official business of the State of
143 Mississippi or any agency, department or institution thereof.
144 Further, it shall be unlawful for any such officer or employee to
145 be paid or to receive any sums whatsoever for travel expense until
146 the expenses for which payment is made, and each item thereof,
147 have been actually incurred by such officer or employee, and then
148 only upon the presentation of an itemized expense account which
149 shall be approved in writing by the head of the department, agency
150 or institution on whose behalf such travel is performed. However,
151 it is expressly provided that any such officer or employee
152 traveling * * * on business for and in behalf of the State of
153 Mississippi may, strictly in the discretion of an agency,
154 institution or department head, receive in advance from state
155 funds for the purpose of such travel expense a sum to be specified
156 by such aforementioned superior. Further, strict account of any
157 sum so advanced must be kept in accord with Section 25-1-81.

158 **SECTION 3.** Section 27-103-129, Mississippi Code of 1972, as
159 amended by Senate Bill No. 2581, 2006 Regular Session, is amended
160 as follows:

161 27-103-129. (1) To enable the Legislative Budget Office to
162 prepare such budget, it shall have full and plenary power and
163 authority to require all general-fund and special-fund agencies
164 and the Mississippi Department of Transportation and the Division
165 of State Aid Road Construction of the Mississippi Department of
166 Transportation to file a budget request with such information and
167 in such form and in such detail as it may deem necessary and
168 advisable, and it shall have the further power and authority to
169 reduce or eliminate any item or items of requested appropriation
170 by any state agency in the Legislative Budget Office's recommended

171 budget to the Legislature. However, where any item of requested
172 appropriation shall be so reduced or eliminated, the head of the
173 agency involved shall have the right to appear before the
174 appropriate legislative committee to urge a revision of the budget
175 to restore the item reduced or eliminated. Beginning with the
176 1996 fiscal year, the budget requests shall include a definition
177 of the mission of the agency, a description of the duties and
178 responsibilities of the agency, financial data relative to the
179 various programs operated by the agency and performance measures
180 associated with each program of the agency. The performance
181 measures to be contained within the agency budget request shall be
182 developed by cooperative efforts of the Legislative Budget Office,
183 the Department of Finance and Administration and the agency itself
184 and shall be approved jointly by the Legislative Budget Office and
185 the Department of Finance and Administration prior to inclusion
186 within the agency budget request. Beginning with the 1996 fiscal
187 year, the budget requests shall also include in an addendum format
188 a five-year strategic plan for the agency which shall include, but
189 not be limited to, the following items of information:

- 190 (a) A comprehensive mission statement,
191 (b) Performance effectiveness objectives for each
192 program of the agency for each of the five (5) years covered by
193 the plan,
194 (c) A description of significant external factors which
195 may affect the projected levels of performance,
196 (d) A description of the agency's internal management
197 system utilized to evaluate its performance achievements in
198 relationship to the targeted performance levels,
199 (e) An evaluation by the agency of the agency's
200 performance achievements in relationship to the targeted
201 performance levels for the two (2) preceding fiscal years for
202 which accounting records have been finalized.

203 (2) All agencies enumerated in subsection (1) of this
204 section shall include in their budget requests the following
205 information regarding contract workers for the most recently
206 completed fiscal year:

207 (a) The name of each worker;

208 (b) The specific type of services provided;

209 (c) Hourly rate of compensation, or the basis for
210 compensation if a rate other than the hourly rate is used;

211 (d) Total gross salary or wages paid; and

212 (e) Whether the worker is a retired member of the
213 Public Employees' Retirement System.

214 (3) (a) In addition to any other information required by
215 law, each state agency, general-fund agency and special-fund
216 agency, as defined in Section 27-103-103, desiring to purchase any
217 vehicle as defined by this section shall submit as part of its
218 budget request to the Legislative Budget Office and the Department
219 of Finance and Administration a detailed justification for the
220 proposed purchase. The Legislative Budget Office and the
221 Department of Finance and Administration shall jointly prescribe
222 the forms and formats to be used by agencies making the requests.
223 Such forms shall require, at minimum, the following information:

224 (i) The kind of vehicle to be purchased;

225 (ii) The person to whom the vehicle will be
226 assigned and the employment responsibilities of that person which
227 necessitate a state-owned vehicle;

228 (iii) Whether the vehicle is a work vehicle or
229 passenger vehicle; and

230 (iv) If the vehicle is assigned to a pool and not
231 an individual, the purposes for which the pool vehicle is assigned
232 and the names of the anticipated users of the pool vehicle.

233 (b) The Legislative Budget Office and the Department of
234 Finance and Administration shall offer a recommendation to the
235 Joint Legislative Budget Committee on all agency requests for

236 vehicles. In making the recommendation, the Legislative Budget
237 Office and the Department of Finance and Administration may
238 consider break-even analyses for the kind of vehicle requested,
239 the travel patterns of the person for whom the vehicle shall be
240 acquired, and shall determine if there exists surplus vehicles in
241 the possession of other agencies that could be used as a
242 substitute for a new vehicle and why such vehicle should not be
243 used. Beginning July 1, 2007, the purchase of vehicles by an
244 agency shall be a specific line item in the agency's appropriation
245 bill.

246 (c) If an agency determines that an urgent need exists
247 for a vehicle when it is not feasible to obtain prior legislative
248 approval, the agency may make an emergency request to the Bureau
249 of Fleet Management. Any emergency determination shall be made
250 only upon the existence of extraordinary circumstances. The
251 Bureau of Fleet Management shall make a recommendation to the
252 Executive Director of the Department of Finance and Administration
253 and shall give notification of such recommendation to the
254 Lieutenant Governor, the Speaker of the House and the Chairmen of
255 the Senate and House of Representatives Appropriations Committees.
256 The Executive Director of the Department of Finance and
257 Administration shall have the final authority to approve or
258 disapprove the emergency request. The executive director must set
259 forth specific reasons for approval which shall be a public
260 record. If approved and if adequate funding is available, the
261 agency may purchase a specific vehicle to meet its specific
262 emergency needs. The Bureau of Fleet Management shall report any
263 emergency purchase to the Legislative Budget Office. Any such
264 vehicle shall be subject to the same rules and regulations as
265 provided for nonemergency vehicles.

266 (d) For purposes of subsections (3) and (4) of this
267 section, the term "passenger vehicle" shall mean a vehicle used
268 primarily in transporting agency personnel and the agency's

269 equipment from one location to another. This term shall include
270 only those vehicles for which a license plate or tag is required
271 under Chapter 19, Title 27, Mississippi Code of 1972.

272 (e) For purposes of subsections (3) and (4) of this
273 section, the term "work vehicle" shall mean a vehicle used
274 primarily to perform a work assignment or task while incidentally
275 transporting agency personnel and agency equipment from one
276 location to another. This term shall include only those vehicles
277 for which a license plate or tag is required under Chapter 19,
278 Title 27, Mississippi Code of 1972.

279 (4) All state agencies, special-fund agencies and
280 general-fund agencies making budget requests under the authority
281 of this section shall include with their budget requests a report
282 of all passenger and work vehicles in their possession. Such
283 report shall detail the persons to whom the vehicles are assigned
284 and the purposes for the vehicles.

285 (5) Subsections (3) and (4) of this section shall not apply
286 to any vehicle assigned to a sworn officer of the Department of
287 Public Safety and used in undercover operations.

288 (6) The provisions of subsections (3) and (4) of this
289 section shall not apply to any state institution of higher
290 learning.

291 (7) Beginning July 1, 2007, the purchase of wireless
292 communication devices as defined in Section 9 of Senate Bill No.
293 2398, 2006 Regular Session, by any state agency, special-fund
294 agency or general-fund agency making budget requests under the
295 authority of this section shall be a specific line item in the
296 agency's appropriation bill.

297 **SECTION 4.** Section 25-3-41, Mississippi Code of 1972, as
298 amended by Senate Bill No. 2178, 2006 Regular Session, is amended
299 as follows:

300 25-3-41. (1) When any officer or employee of the State of
301 Mississippi, or any department, agency or institution thereof,

302 after first being duly authorized, is required to travel in the
303 performance of his official duties, the officer or employee shall
304 receive as expenses for each mile actually and necessarily
305 traveled, when the travel is done by a privately-owned automobile
306 or other privately-owned motor vehicle, the mileage reimbursement
307 rate allowable to federal employees for the use of a
308 privately-owned vehicle while on official travel.

309 (2) When any officer or employee of any county or
310 municipality, or of any agency, board or commission thereof, after
311 first being duly authorized, is required to travel in the
312 performance of his official duties, the officer or employee shall
313 receive as expenses Twenty Cents (20¢) for each mile actually and
314 necessarily traveled, when the travel is done by a privately-owned
315 motor vehicle; provided, however, that the governing authorities
316 of a county or municipality may, in their discretion, authorize an
317 increase in the mileage reimbursement of officers and employees of
318 the county or municipality, or of any agency, board or commission
319 thereof, in an amount not to exceed the mileage reimbursement rate
320 authorized for officers and employees of the State of Mississippi
321 in subsection (1) of this section.

322 (3) Where two (2) or more officers or employees travel in
323 one (1) privately-owned motor vehicle, only one (1) travel expense
324 allowance at the authorized rate per mile shall be allowed for any
325 one (1) trip. When the travel is done by means of a public
326 carrier or other means not involving a privately-owned motor
327 vehicle, then the officer or employee shall receive as travel
328 expense the actual fare or other expenses incurred in such travel.

329 (4) In addition to the foregoing, a public officer or
330 employee shall be reimbursed for other actual expenses such as
331 meals, lodging and other necessary expenses incurred in the course
332 of the travel, subject to limitations placed on meals for
333 intrastate and interstate official travel by the Department of
334 Finance and Administration, provided, that the Legislative Budget

335 Office shall place any limitations for expenditures made on
336 matters under the jurisdiction of the Legislature. The Department
337 of Finance and Administration shall set a maximum daily
338 expenditure annually for such meals and shall notify officers and
339 employees of changes to these allowances immediately upon approval
340 of the changes. Travel by airline shall be at the tourist rate
341 unless that space was unavailable. The officer or employee shall
342 certify that tourist accommodations were not available if travel
343 is performed in first-class airline accommodations. Itemized
344 expense accounts shall be submitted by those officers or employees
345 in such number as the department, agency or institution may
346 require; but in any case one (1) copy shall be furnished by state
347 departments, agencies or institutions to the Department of Finance
348 and Administration for preaudit or postaudit. The Department of
349 Finance and Administration shall promulgate and adopt reasonable
350 rules and regulations which it deems necessary and requisite to
351 effectuate economies for all expenses authorized and paid pursuant
352 to this section. Requisitions shall be made on the State Fiscal
353 Officer who shall issue his warrant on the State Treasurer.
354 Provided, however, that the provisions of this section shall not
355 include agencies financed entirely by federal funds and audited by
356 federal auditors.

357 (5) Any officer or employee of a county or municipality, or
358 any department, board or commission thereof, who is required to
359 travel in the performance of his official duties, may receive
360 funds before the travel, in the discretion of the administrative
361 head of the county or municipal department, board or commission
362 involved, for the purpose of paying necessary expenses incurred
363 during the travel. Upon return from the travel, the officer or
364 employee shall provide receipts of transportation, lodging, meals,
365 fees and any other expenses incurred during the travel. Any
366 portion of the funds advanced which is not expended during the
367 travel shall be returned by the officer or employee. The

368 Department of Audit shall adopt rules and regulations regarding
369 advance payment of travel expenses and submission of receipts to
370 ensure proper control and strict accountability for those payments
371 and expenses.

372 (6) No state or federal funds received from any source by
373 any arm or agency of the state shall be expended in traveling
374 outside of the continental limits of the United States until the
375 governing body or head of the agency makes a finding and
376 determination that the travel would be extremely beneficial to the
377 state agency and obtains a written concurrence thereof from the
378 Governor, or his designee, and the Department of Finance and
379 Administration. However, employees of state institutions of
380 higher learning may expend funds for travel outside of the
381 continental limits of the United States upon a written finding by
382 the president or head of the institution that the travel would be
383 extremely beneficial to the institution.

384 (7) Where any officer or employee of the State of
385 Mississippi, or any department, agency or institution thereof, or
386 of any county or municipality, or of any agency, board or
387 commission thereof, is authorized to receive travel reimbursement
388 under any other provision of law, the reimbursement may be paid
389 under the provisions of this section or the other section, but not
390 under both.

391 (8) When the Governor, Lieutenant Governor or Speaker of the
392 House of Representatives appoints a person to a board, commission
393 or other position that requires confirmation by the Senate, the
394 person may receive reimbursement for mileage and other actual
395 expenses incurred in the performance of official duties before the
396 appointment is confirmed by the Senate, as reimbursement for those
397 expenses is authorized under this section.

398 (9) (a) The Department of Finance and Administration may
399 contract with one or more commercial travel agencies, after
400 receiving competitive bids or proposals therefor, for that travel

401 agency or agencies to provide necessary travel services for state
402 officers and employees. Municipal and county officers and
403 municipal and county employees may also participate in the state
404 travel agency contract and utilize these travel services for
405 official municipal or county travel. However, the administrative
406 head of each state institution of higher learning may, in his
407 discretion, contract with a commercial travel agency to provide
408 necessary travel services for all academic officials and staff of
409 the university in lieu of participation in the state travel agency
410 contract. Any such decision by a university to contract with a
411 separate travel agency shall be approved by the Board of Trustees
412 of State Institutions of Higher Learning and the Executive
413 Director of the Department of Finance and Administration.

414 (b) Before executing a contract with one or more travel
415 agencies, the Department of Finance and Administration shall
416 advertise for competitive bids or proposals once a week for two
417 (2) consecutive weeks in a regular newspaper having a general
418 circulation throughout the State of Mississippi. If the
419 department determines that it should not contract with any of the
420 bidders initially submitting proposals, the department may reject
421 all those bids, advertise as provided in this paragraph and
422 receive new proposals before executing the contract or contracts.
423 The contract or contracts may be for a period not greater than
424 three (3) years, with an option for the travel agency or agencies
425 to renew the contract or contracts on a one-year basis on the same
426 terms as the original contract or contracts, for a maximum of two
427 (2) renewals. After the travel agency or agencies have renewed
428 the contract twice or have declined to renew the contract for the
429 maximum number of times, the Department of Finance and
430 Administration shall advertise for bids in the manner required by
431 this paragraph and execute a new contract or contracts.

432 (c) Whenever any state officer or employee travels in
433 the performance of his official duties by airline or other public

434 carrier, he may have his travel arrangements handled by that
435 travel agency or agencies. The amount paid for airline
436 transportation for any state officer or employee, whether the
437 travel was arranged by that travel agency or agencies or was
438 arranged otherwise, shall not exceed the amount specified in the
439 state contract established by the Department of Finance and
440 Administration, Office of Purchasing, Travel and Fleet Management,
441 unless prior approval is obtained from the office.

442 **SECTION 5.** Section 25-1-81, Mississippi Code of 1972, is
443 amended as follows:

444 25-1-81. The Department of Finance and Administration shall
445 refuse to issue warrants upon requisitions drawn in violation of
446 the provisions hereof, and where any expense account is allowed
447 and paid in violation of the provisions of Sections 25-1-77
448 through 25-1-93, it shall be the duty of the Department of Finance
449 and Administration to withhold the payment of any further expense
450 accounts for the department, agency or institution involved until
451 the amount of the account or accounts illegally paid shall be
452 refunded and repaid to the State of Mississippi by the person
453 receiving or approving same. It is further provided that the
454 Department of Finance and Administration shall prescribe and
455 deliver to each agency, department or institution a uniform system
456 of expense accounts herein allowed, including a uniform system of
457 depreciation allowance. All expense accounts for lodging shall be
458 supported by receipted bills showing the payment thereof by such
459 officer or employee. It is incumbent upon each agency, department
460 or institution to abide by and utilize the method of uniform
461 system of expense accounts so prescribed and delivered by the
462 Department of Finance and Administration. Each agency, department
463 or institution, in rendering its annual report to the Bureau of
464 Fleet Management and the Legislature, shall show the number of
465 state-owned automobiles purchased and operated during the year,
466 the number purchased and operated out of funds appropriated by the

467 Legislature, the number purchased and operated out of any other
468 public funds, the miles traveled per automobile, the total miles
469 traveled, the average cost per mile, and depreciation estimate on
470 each automobile. The report shall also show the cost per mile and
471 total number of miles traveled in privately-owned automobiles for
472 which reimbursement is made out of state funds and any other
473 information requested by the Bureau of Fleet Management.

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

476 31-7-5. The Department of Finance and Administration shall
477 prescribe rules and regulations governing the manner in which the
478 authority and duties granted to it by law may be carried out. It
479 shall employ suitable and competent personnel, necessary to carry
480 out its purposes. The Department of Finance and Administration
481 may establish an Office of Purchasing, Travel and Fleet Management
482 and employ a competent person as Director of the Office of
483 Purchasing, Travel and Fleet Management who shall be a member of
484 the state service in a job classification and salary as determined
485 by the Executive Director of the Department of Finance and
486 Administration with the approval of the State Personnel Board.

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

489 31-7-9. (1) (a) The Office of Purchasing, Travel and Fleet
490 Management shall adopt purchasing regulations governing the
491 purchase by any agency of any commodity or commodities and
492 establishing standards and specifications for a commodity or
493 commodities and the maximum fair prices of a commodity or
494 commodities, subject to the approval of the Public Procurement
495 Review Board. It shall have the power to amend, add to or
496 eliminate purchasing regulations. The adoption of, amendment,
497 addition to or elimination of purchasing regulations shall be
498 based upon a determination by the Office of Purchasing, Travel and
499 Fleet Management with the approval of the Public Procurement

500 Review Board, that such action is reasonable and practicable and
501 advantageous to promote efficiency and economy in the purchase of
502 commodities by the agencies of the state. Upon the adoption of
503 any purchasing regulation, or an amendment, addition or
504 elimination therein, copies of same shall be furnished to the
505 State Auditor and to all agencies affected thereby. Thereafter,
506 and except as otherwise may be provided in subsection (2) of this
507 section, no agency of the state shall purchase any commodities
508 covered by existing purchasing regulations unless such commodities
509 be in conformity with the standards and specifications set forth
510 in the purchasing regulations and unless the price thereof does
511 not exceed the maximum fair price established by such purchasing
512 regulations. The said Office of Purchasing, Travel and Fleet
513 Management shall furnish to any county or municipality or other
514 local public agency of the state requesting same, copies of
515 purchasing regulations adopted by the Office of Purchasing, Travel
516 and Fleet Management and any amendments, changes or eliminations
517 of same that may be made from time to time.

518 (b) The Office of Purchasing, Travel and Fleet
519 Management may adopt purchasing regulations governing the use of
520 credit cards, procurement cards and purchasing club membership
521 cards to be used by state agencies, governing authorities of
522 counties and municipalities and the Chickasawhay Natural Gas
523 District. Use of the cards shall be in strict compliance with the
524 regulations promulgated by the office. Any amounts due on the
525 cards shall incur interest charges as set forth in Section
526 31-7-305 and shall not be considered debt.

527 (2) The Office of Purchasing, Travel and Fleet Management
528 shall adopt, subject to the approval of the Public Procurement
529 Review Board, purchasing regulations governing the purchase of
530 unmarked vehicles to be used by the Bureau of Narcotics and
531 Department of Public Safety in official investigations pursuant to
532 Section 25-1-87. Such regulations shall ensure that purchases of

533 such vehicles shall be at a fair price and shall take into
534 consideration the peculiar needs of the Bureau of Narcotics and
535 Department of Public Safety in undercover operations.

536 (3) The Office of Purchasing, Travel and Fleet Management
537 shall adopt, subject to the approval of the Public Procurement
538 Review Board, regulations governing the certification process for
539 certified purchasing offices. Such regulations shall require
540 entities desiring to be classified as certified purchasing offices
541 to submit applications and applicable documents on an annual
542 basis, at which time the Office of Purchasing, Travel and Fleet
543 Management may provide the governing entity with a certification
544 valid for one (1) year from the date of issuance.

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

547 31-7-10. (1) For the purposes of this section, the term
548 "equipment" shall mean equipment, furniture, and if applicable,
549 associated software and other applicable direct costs associated
550 with the acquisition. In addition to its other powers and duties,
551 the Department of Finance and Administration shall have the
552 authority to develop a master lease-purchase program and, pursuant
553 to that program, shall have the authority to execute on behalf of
554 the state master lease-purchase agreements for equipment to be
555 used by an agency, as provided in this section. Each agency
556 electing to acquire equipment by a lease-purchase agreement shall
557 participate in the Department of Finance and Administration's
558 master lease-purchase program, unless the Department of Finance
559 and Administration makes a determination that such equipment
560 cannot be obtained under the program or unless the equipment can
561 be obtained elsewhere at an overall cost lower than that for which
562 the equipment can be obtained under the program. Such
563 lease-purchase agreements may include the refinancing or
564 consolidation, or both, of any state agency lease-purchase
565 agreements entered into after June 30, 1990.

566 (2) All funds designated by agencies for procurement of
567 equipment and financing thereof under the master lease-purchase
568 program shall be paid into a special fund created in the State
569 Treasury known as the "Master Lease-Purchase Program Fund," which
570 shall be used by the Department of Finance and Administration for
571 payment to the lessors for equipment acquired under master
572 lease-purchase agreements.

573 (3) Upon final approval of an appropriation bill, each
574 agency shall submit to the Public Procurement Review Board a
575 schedule of proposed equipment acquisitions for the master
576 lease-purchase program. Upon approval of an equipment schedule by
577 the Public Procurement Review Board with the advice of the
578 Department of Information Technology Services, the Office of
579 Purchasing, Travel and Fleet Management, and the Division of
580 Energy and Transportation of the Mississippi Development Authority
581 as it pertains to energy efficient climate control systems, the
582 Public Procurement Review Board shall forward a copy of the
583 equipment schedule to the Department of Finance and
584 Administration.

585 (4) The level of lease-purchase debt recommended by the
586 Department of Finance and Administration shall be subject to
587 approval by the State Bond Commission. After such approval, the
588 Department of Finance and Administration shall be authorized to
589 advertise and solicit written competitive proposals for a lessor,
590 who will purchase the equipment pursuant to bid awards made by the
591 using agency under a given category and then transfer the
592 equipment to the Department of Finance and Administration as
593 lessee, pursuant to a master lease-purchase agreement.

594 The Department of Finance and Administration shall select the
595 successful proposer for the financing of equipment under the
596 master lease-purchase program with the approval of the State Bond
597 Commission.

598 (5) Each master lease-purchase agreement, and any subsequent
599 amendments, shall include such terms and conditions as the State
600 Bond Commission shall determine to be appropriate and in the
601 public interest, and may include any covenants deemed necessary or
602 desirable to protect the interests of the lessor, including, but
603 not limited to, provisions setting forth the interest rate (or
604 method for computing interest rates) for financing pursuant to
605 such agreement, covenants concerning application of payments and
606 funds held in the Master Lease-Purchase Program Fund, covenants to
607 maintain casualty insurance with respect to equipment subject to
608 the master lease-purchase agreement (and all state agencies are
609 specifically authorized to purchase any insurance required by a
610 master lease-purchase agreement) and covenants precluding or
611 limiting the right of the lessee or user to acquire equipment
612 within a specified time (not to exceed five (5) years) after
613 cancellation on the basis of a failure to appropriate funds for
614 payment of amounts due under a lease-purchase agreement covering
615 comparable equipment. The State Bond Commission shall transmit
616 copies of each such master lease-purchase agreement and each such
617 amendment to the Joint Legislative Budget Committee. To the
618 extent provided in any master lease-purchase agreement, title to
619 equipment leased pursuant thereto shall be deemed to be vested in
620 the state or the user of the equipment (as specified in such
621 master lease-purchase agreement), subject to default under or
622 termination of such master lease-purchase agreement.

623 A master lease-purchase agreement may provide for payment by
624 the lessor to the lessee of the purchase price of the equipment to
625 be acquired pursuant thereto prior to the date on which payment is
626 due to the vendor for such equipment and that the lease payments
627 by the lessee shall commence as though the equipment had been
628 provided on the date of payment. If the lessee, or lessee's
629 escrow agent, has sufficient funds for payment of equipment
630 purchases prior to payment due date to vendor of equipment, such

631 funds shall be held or utilized on an as-needed basis for payment
632 of equipment purchases either by the State Treasurer (in which
633 event the master lease-purchase agreement may include provisions
634 concerning the holding of such funds, the creation of a security
635 interest for the benefit of the lessor in such funds until
636 disbursed and other appropriate provisions approved by the Bond
637 Commission) or by a corporate trustee selected by the Department
638 of Finance and Administration (in which event the Department of
639 Finance and Administration shall have the authority to enter into
640 an agreement with such a corporate trustee containing terms and
641 conditions approved by the Bond Commission). Earnings on any
642 amount paid by the lessor prior to the acquisition of the
643 equipment may be used to make lease payments under the master
644 lease-purchase agreement or applied to pay costs and expenses
645 incurred in connection with such lease-purchase agreement. In
646 such event, the equipment-use agreements with the user agency may
647 provide for lease payments to commence upon the date of payment by
648 the lessor and may also provide for a credit against such payments
649 to the extent that investment receipts from investment of the
650 purchase price are to be used to make lease-purchase payments.

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

655 (7) The Department of Finance and Administration shall
656 furnish the equipment to the various agencies, also known as the
657 user, pursuant to an equipment-use agreement developed by the
658 Department of Finance and Administration. Such agreements shall
659 require that all monthly payments due from such agency be paid,
660 transferred or allocated into the Master Lease-Purchase Program
661 Fund pursuant to a schedule established by the Department of
662 Finance and Administration. In the event such sums are not paid
663 by the defined payment period, the Executive Director of the

664 Department of Finance and Administration shall issue a requisition
665 for a warrant to draw such amount as may be due from any funds
666 appropriated for the use of the agency which has failed to make
667 the payment as agreed.

668 (8) All master lease-purchase agreements executed under the
669 authority of this section shall contain the following annual
670 allocation dependency clause or an annual allocation dependency
671 clause which is substantially equivalent thereto: "The
672 continuation of each equipment schedule to this agreement is
673 contingent in whole or in part upon the appropriation of funds by
674 the Legislature to make the lease-purchase payments required under
675 such equipment schedule. If the Legislature fails to appropriate
676 sufficient funds to provide for the continuation of the
677 lease-purchase payments under any such equipment schedule, then
678 the obligations of the lessee and of the agency to make such
679 lease-purchase payments and the corresponding provisions of any
680 such equipment schedule to this agreement shall terminate on the
681 last day of the fiscal year for which appropriations were made."

682 (9) The maximum lease term for any equipment acquired under
683 the master lease-purchase program shall not exceed the useful life
684 of such equipment as determined according to the upper limit of
685 the asset depreciation range (ADR) guidelines for the Class Life
686 Asset Depreciation Range System established by the Internal
687 Revenue Service pursuant to the United States Internal Revenue
688 Code and Regulations thereunder as in effect on December 31, 1980,
689 or comparable depreciation guidelines with respect to any
690 equipment not covered by ADR guidelines. The Department of
691 Finance and Administration shall be deemed to have met the
692 requirements of this subsection if the term of a master
693 lease-purchase agreement does not exceed the weighted average
694 useful life of all equipment covered by such agreement and the
695 schedules thereto as determined by the Department of Finance and
696 Administration. For purposes of this subsection, the "term of a

697 master lease-purchase agreement" shall be the weighted average
698 maturity of all principal payments to be made under such master
699 lease-purchase agreement and all schedules thereto.

700 (10) Interest paid on any master lease-purchase agreement
701 under this section shall be exempt from State of Mississippi
702 income taxation. All equipment, and the purchase thereof by any
703 lessor, acquired under the master lease-purchase program and all
704 lease-purchase payments with respect thereto shall be exempt from
705 all Mississippi sales, use and ad valorem taxes.

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

711 (12) Any master lease-purchase agreement reciting in
712 substance that such agreement has been entered into pursuant to
713 this section shall be conclusively deemed to have been entered
714 into in accordance with all of the provisions and conditions set
715 forth in this section. Any defect or irregularity arising with
716 respect to procedures applicable to the acquisition of any
717 equipment shall not invalidate or otherwise limit the obligation
718 of the Department of Finance and Administration, or the state or
719 any agency of the state, under any master lease-purchase agreement
720 or any equipment-use agreement.

721 (13) There shall be maintained by the Department of Finance
722 and Administration, with respect to each master lease-purchase
723 agreement, an itemized statement of the cash price, interest
724 rates, interest costs, commissions, debt service schedules and all
725 other costs and expenses paid by the state incident to the
726 lease-purchase of equipment under such agreement.

727 (14) Lease-purchase agreements entered into by the Board of
728 Trustees of State Institutions of Higher Learning pursuant to the
729 authority of Section 37-101-413 or by any other agency which has

730 specific statutory authority other than pursuant to Section
731 31-7-13(e) to acquire equipment by lease-purchase shall not be
732 made pursuant to the master lease-purchase program under this
733 section, unless the Board of Trustees of State Institutions of
734 Higher Learning or such other agency elects to participate as to
735 part or all of its lease-purchase acquisitions in the master
736 lease-purchase program pursuant to this section.

737 (15) The Department of Finance and Administration may
738 develop a master lease-purchase program for school districts and,
739 pursuant to that program, may execute on behalf of the school
740 districts master lease-purchase agreements for equipment to be
741 used by the school districts. The form and structure of this
742 program shall be substantially the same as set forth in this
743 section for the master lease-purchase program for state agencies.
744 If sums due from a school district under the master lease-purchase
745 program are not paid by the expiration of the defined payment
746 period, the Executive Director of the Department of Finance and
747 Administration may withhold such amount that is due from the
748 school district's minimum education or adequate education program
749 fund allotments.

750 (16) The Department of Finance and Administration may
751 develop a master lease-purchase program for community and junior
752 college districts and, pursuant to that program, may execute on
753 behalf of the community and junior college districts master
754 lease-purchase agreements for equipment to be used by the
755 community and junior college districts. The form and structure of
756 this program must be substantially the same as set forth in this
757 section for the master lease-purchase program for state agencies.
758 If sums due from a community or junior college district under the
759 master lease-purchase program are not paid by the expiration of
760 the defined payment period, the Executive Director of the
761 Department of Finance and Administration may withhold an amount
762 equal to the amount due under the program from any funds allocated

763 for that community or junior college district in the state
764 appropriations for the use and support of the community and junior
765 colleges.

766 **SECTION 9.** (1) For the purposes of this section, the
767 following terms shall have the meanings ascribed to them in this
768 section unless the context otherwise clearly requires:

769 (a) "Department" means the Mississippi Department of
770 Information Technology.

771 (b) "State agency" means any agency, department,
772 commission, board, bureau, institution or other instrumentality of
773 the state.

774 (c) "Wireless communication device" means a cellular
775 telephone, pager or a personal digital assistant device having
776 wireless communication capability.

777 (2) Before a wireless communication device may be assigned,
778 issued or made available to an agency officer or employee, the
779 agency head, or his designee, shall sign a statement certifying
780 the need or reason for issuing the device. No officer or employee
781 of any state agency, except for an officer or employee of the
782 Mississippi Emergency Management Agency, shall be assigned or
783 issued more than one (1) such wireless communication device.
784 No officer or employee of any state agency to whom has been
785 assigned, issued or made available the use of a wireless
786 communication device, the cost of which is paid through the use of
787 public funds, shall use such device for personal use.

788 (3) A state agency shall not reimburse any officer or
789 employee for use of his or her personal wireless communication
790 device.

791 (4) Every state agency that, at the expense of the state
792 agency, assigns, issues or makes available to any of its officers
793 or employees a wireless communication device shall obtain and
794 maintain detailed billing for every wireless communication device
795 account. A list of approved vendors for the procurement of

796 wireless communication devices and the delivery of wireless
797 communication device services shall be developed for all state
798 agencies by the Mississippi Department of Information Technology
799 Services in conjunction with the Wireless Communication Commission
800 created in Section 25-53-171. The department, in conjunction with
801 the Wireless Communication Commission, shall exercise the option
802 of selecting one (1) vendor from which to procure wireless
803 communication devices and to provide wireless communication device
804 services, or if it deems such to be most advantageous to the state
805 agencies, it may select multiple vendors. The department, in
806 conjunction with the Wireless Communication Commission, shall
807 select a vendor or vendors on the basis of lowest and best bid
808 proposals. A state agency may not procure a wireless
809 communication device from any vendor or contract for wireless
810 communication device services with any vendor unless the vendor
811 appears on the list approved by the department, in conjunction
812 with the Wireless Communication Commission. A contract entered
813 into in violation of this section shall be void and unenforceable.

814 (5) The department shall promulgate a model acceptable use
815 policy defining the appropriate use of all wireless communication
816 devices. The acceptable use policy should specify that these
817 resources, including both devices and services, are provided at
818 the state agency's expense as tools for accomplishing the business
819 missions of the state agency; that all those resources are for
820 business use; and that more than incidental personal use of those
821 resources is prohibited. The acceptable use policy should require
822 that each official and employee issued one (1) of the above
823 devices or authorized to access one (1) of the above services sign
824 the policy and that the signed copy be placed in the personnel
825 file of the official or employee. The acceptable use policy
826 should also require that the use of these resources be tracked,
827 verified and signed by the official or employee and the supervisor
828 of the official or employee at each billing cycle or other

829 appropriate interval. All state agencies shall adopt the model
830 policy or adopt a policy that is, at minimum, as stringent as the
831 model policy and shall provide a copy of the policy to the
832 department.

833 (6) All state agencies shall purchase or acquire only the
834 lowest cost cellular telephone, pager or personal digital
835 assistance device which will carry out its intended use.

836 (7) The State Auditor shall conduct necessary audits to
837 ensure compliance with the provisions of this section.

838 **SECTION 10.** This act shall take effect and be in force from
839 and after July 1, 2006.