

House Amendments to Senate Bill No. 2398

TO THE SECRETARY OF THE SENATE:

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

AMENDMENT NO. 1

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

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

33 25-1-77. (1) There is hereby created the Bureau of Fleet
34 Management within the Office of Purchasing, Travel and Fleet
35 Management, Department of Finance and Administration, for the
36 purposes of coordinating and promoting efficiency and economy in
37 the purchase, lease, rental, acquisition, use, maintenance and
38 disposal of vehicles by state agencies. The Executive Director of
39 the Department of Finance and Administration may employ a Fleet
40 Management Officer to manage the bureau and carry out its
41 purposes. The bureau may employ other suitable and competent
42 personnel as necessary. DFA shall mandate that each fleet shall
43 achieve twenty (20) miles per gallon or more. The Bureau of Fleet
44 Management shall utilize the technology of alternative fuels
45 including, but not limited to, ethanol, biodiesel or hybrid
46 vehicles.

47 (2) The Bureau of Fleet Management shall perform the
48 following duties:

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

56 (b) To establish rules and regulations for state agency
57 use of vehicles;

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

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

71 (e) To carry out responsibilities relative to budget
72 recommendations as provided in Section 4 of Senate Bill No. 2398,
73 2006 Regular Session;

74 (f) To reassign vehicles in the possession of any state
75 agency if the bureau believes that another state agency can make
76 more efficient use of a vehicle; provided, however, that the state
77 agency receiving the reassigned vehicle shall pay to the previous
78 agency's special fund, or if no special fund exists, to the State
79 General Fund, the National Automobile Dealers Association (NADA)
80 wholesale value for the vehicle or the estimated amount for which
81 the vehicle would have sold at auction, as shall be determined by
82 the bureau, whichever is less;

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

85 (h) To require each agency to submit to the bureau a
86 vehicle acquisition/use/disposal plan on an annual basis. From
87 the plans received, the bureau shall evaluate the proposed plans
88 and shall submit a recommendation to the Legislature prior to
89 January 1 of each year.

90 (3) No state department, institution or agency shall
91 purchase, rent, lease or acquire any motor vehicle, regardless of
92 the source of funds from which the motor vehicle is to be
93 purchased, except under authority granted by the Department of
94 Finance and Administration. The Bureau of Fleet Management,
95 Department of Finance and Administration, shall promulgate rules
96 and regulations governing the purchase, rental, lease or
97 acquisition of any motor vehicle by a state department,
98 institution or agency with regard to the appropriateness of the
99 vehicle to its intended use. The Bureau of Fleet Management,
100 Department of Finance and Administration, shall not grant
101 authority to purchase, rent, lease or acquire a motor vehicle
102 which is not the most appropriate vehicle kind for its intended
103 use unless specifically approved by the Legislature. Before the
104 disposal or sale of any vehicle, the Bureau of Fleet Management
105 shall make a determination that the lifetime use and mileage of
106 the vehicle has been maximized and that it would not be feasible
107 for another state agency to use the vehicle.

108 (4) * * * The department, institution or agency shall
109 maintain proper documentation * * * which provides the intended
110 use of the vehicle and the basis for choosing the vehicle. Such
111 documentation shall show that the department, institution or
112 agency made diligent efforts to purchase, rent, lease or acquire a
113 vehicle that is economical and appropriate for its intended use.
114 Such documentation shall be updated as needed when the intended
115 use of the vehicle or any other facts concerning the vehicle are
116 changed. All such documentation shall be approved by the State
117 Fleet Officer prior to purchase, rental, lease or acquisition or
118 change in use of any vehicle and shall be maintained and made
119 available for review by the State Auditor, any other reviewing
120 agency and the Legislature.

121 (5) The State Auditor shall make on-site visits and conduct
122 audits necessary to ensure compliance with the provisions of this
123 section and all rules and regulations adopted hereunder. On or
124 before September 1 of each year, the State Auditor shall prepare

and deliver to the Senate and House Appropriations Committees and the Joint Legislative Budget Committee a report containing any irregularities that he finds concerning purchases of state-owned vehicles.

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

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

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

27-103-129. (1) To enable the Legislative Budget Office to prepare such budget, it shall have full and plenary power and authority to require all general-fund and special-fund agencies and the Mississippi Department of Transportation and the Division of State Aid Road Construction of the Mississippi Department of Transportation to file a budget request with such information and in such form and in such detail as it may deem necessary and

advisable, and it shall have the further power and authority to reduce or eliminate any item or items of requested appropriation by any state agency in the Legislative Budget Office's recommended budget to the Legislature. However, where any item of requested appropriation shall be so reduced or eliminated, the head of the agency involved shall have the right to appear before the appropriate legislative committee to urge a revision of the budget to restore the item reduced or eliminated. Beginning with the 1996 fiscal year, the budget requests shall include a definition of the mission of the agency, a description of the duties and responsibilities of the agency, financial data relative to the various programs operated by the agency and performance measures associated with each program of the agency. The performance measures to be contained within the agency budget request shall be developed by cooperative efforts of the Legislative Budget Office, the Department of Finance and Administration and the agency itself and shall be approved jointly by the Legislative Budget Office and the Department of Finance and Administration prior to inclusion within the agency budget request. Beginning with the 1996 fiscal year, the budget requests shall also include in an addendum format a five-year strategic plan for the agency which shall include, but not be limited to, the following items of information: (a) a comprehensive mission statement, (b) performance effectiveness objectives for each program of the agency for each of the five (5) years covered by the plan, (c) a description of significant external factors which may affect the projected levels of performance, (d) a description of the agency's internal management system utilized to evaluate its performance achievements in relationship to the targeted performance levels, (e) an evaluation by the agency of the agency's performance achievements in relationship to the targeted performance levels for the two (2) preceding fiscal years for which accounting records have been finalized.

(2) (a) In addition to any other information required by law, each state agency, general-fund agency and special-fund

195 agency as defined in Section 27-103-103 desiring to purchase any
196 vehicle as defined by this section shall submit as part of its
197 budget request to the Legislative Budget Office and the Department
198 of Finance and Administration a detailed justification for the
199 proposed purchase. The Legislative Budget Office and the
200 Department of Finance and Administration shall jointly prescribe
201 the forms and formats to be used by agencies making the requests.
202 Such forms shall require, at minimum, the following information:

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

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

207 (iii) Whether the vehicle is a work vehicle or
208 passenger vehicle; and

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

212 (b) The Legislative Budget Office and the Department of
213 Finance and Administration shall offer a recommendation to the
214 Joint Legislative Budget Committee on all agency requests for
215 vehicles. In making the recommendation, the Legislative Budget
216 Office and the Department of Finance and Administration may
217 consider break-even analyses for the kind of vehicle requested,
218 the travel patterns of the person for whom the vehicle shall be
219 acquired, and shall determine if there exists surplus vehicles in
220 the possession of other agencies that could be used as a
221 substitute for a new vehicle and why such vehicle should not be
222 used. The purchase of vehicles by an agency shall be a specific
223 line item in the agency's appropriation bill.

224 (c) If an agency determines that an urgent need exists
225 for a vehicle when it is not feasible to obtain prior legislative
226 approval, the agency may make an emergency request to the Bureau
227 of Fleet Management. Any emergency determination shall be made
228 only upon the existence of extraordinary circumstances. The
229 Bureau of Fleet Management shall make a recommendation to the

Executive Director of the Department of Finance and Administration
and shall give notification of such recommendation to the
Lieutenant Governor, the Speaker of the House and the Chairmen of
the Senate and House of Representatives Appropriations Committees.
The Executive Director of the Department of Finance and
Administration shall have the final authority to approve or
disapprove the emergency request. The executive director must set
forth specific versions for approval which shall be a public
record. If approved and if adequate funding is available, the
agency may purchase a specific vehicle to meet its specific
emergency needs. The Bureau of Fleet Management shall report any
emergency purchase to the Legislative Budget Office. Any such
vehicle shall be subject to the same rules and regulations as
provided for nonemergency vehicles. Notwithstanding any other
provisions of this subsection to the contrary, the office of the
Governor may procure not more than three (3) passenger vehicles of
any kind.

(d) For purposes of this subsection, the term
"passenger vehicle" shall mean a vehicle used primarily in
transporting agency personnel and the agency's equipment from one
location to another.

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

(f) For purposes of this subsection, the terms
"passenger vehicle" and "work vehicle" shall also mean aircraft
and watercraft.

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

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

266 25-1-81. The Department of Finance and Administration shall
267 refuse to issue warrants upon requisitions drawn in violation of
268 the provisions hereof, and where any expense account is allowed
269 and paid in violation of the provisions of Sections 25-1-77
270 through 25-1-93, it shall be the duty of the Department of Finance
271 and Administration to withhold the payment of any further expense
272 accounts for the department, agency or institution involved until
273 the amount of the account or accounts illegally paid shall be
274 refunded and repaid to the State of Mississippi by the person
275 receiving or approving same. It is further provided that the
276 Department of Finance and Administration shall prescribe and
277 deliver to each agency, department or institution a uniform system
278 of expense accounts herein allowed, including a uniform system of
279 depreciation allowance. All expense accounts for lodging shall be
280 supported by receipted bills showing the payment thereof by such
281 officer or employee. It is incumbent upon each agency, department
282 or institution to abide by and utilize the method of uniform
283 system of expense accounts so prescribed and delivered by the
284 Department of Finance and Administration. Each agency, department
285 or institution, in rendering its annual report to the Bureau of
286 Fleet Management and the Legislature, shall show the number of
287 state-owned automobiles purchased and operated during the year,
288 the number purchased and operated out of funds appropriated by the
289 Legislature, the number purchased and operated out of any other
290 public funds, the miles traveled per automobile, the total miles
291 traveled, the average cost per mile, and depreciation estimate on
292 each automobile. The report shall also show the cost per mile and
293 total number of miles traveled in privately-owned automobiles for
294 which reimbursement is made out of state funds and any other
295 information requested by the Bureau of Fleet Management.

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

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

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

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

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

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

(5) Any officer or employee of a county or municipality, or any department, board or commission thereof, who is required to travel in the performance of his official duties, may receive funds before the travel, in the discretion of the administrative head of the county or municipal department, board or commission involved, for the purpose of paying necessary expenses incurred during the travel. Upon return from the travel, the officer or employee shall provide receipts of transportation, lodging, meals, fees and any other expenses incurred during the travel. Any portion of the funds advanced which is not expended during the travel shall be returned by the officer or employee. The Department of Audit shall adopt rules and regulations regarding advance payment of travel expenses and submission of receipts to

368 ensure proper control and strict accountability for those payments
369 and expenses.

370 (6) No state or federal funds received from any source by
371 any arm or agency of the state shall be expended in traveling
372 outside of the continental limits of the United States until the
373 governing body or head of the agency makes a finding and
374 determination that the travel would be extremely beneficial to the
375 state agency and obtains a written concurrence thereof from the
376 Governor, or his designee, and the Department of Finance and
377 Administration.

378 (7) Where any officer or employee of the State of
379 Mississippi, or any department, agency or institution thereof, or
380 of any county or municipality, or of any agency, board or
381 commission thereof, is authorized to receive travel reimbursement
382 under any other provision of law, the reimbursement may be paid
383 under the provisions of this section or the other section, but not
384 under both.

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

392 (9) (a) The Department of Finance and Administration may
393 contract with one or more commercial travel agencies, after
394 receiving competitive bids or proposals therefor, for that travel
395 agency or agencies to provide necessary travel services for state
396 officers and employees. Municipal and county officers and
397 municipal and county employees may also participate in the state
398 travel agency contract and utilize these travel services for
399 official municipal or county travel. However, the administrative
400 head of each state institution of higher learning may, in his
401 discretion, contract with a commercial travel agency to provide
402 necessary travel services for all academic officials and staff of

the university in lieu of participation in the state travel agency contract. Any such decision by a university to contract with a separate travel agency shall be approved by the Board of Trustees of State Institutions of Higher Learning and the Executive Director of the Department of Finance and Administration.

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

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

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

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

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

31-7-9. (1) (a) The Office of Purchasing, Travel and Fleet Management shall adopt purchasing regulations governing the purchase by any agency of any commodity or commodities and establishing standards and specifications for a commodity or commodities and the maximum fair prices of a commodity or commodities, subject to the approval of the Public Procurement Review Board. It shall have the power to amend, add to or eliminate purchasing regulations. The adoption of, amendment, addition to or elimination of purchasing regulations shall be based upon a determination by the Office of Purchasing, Travel and Fleet Management with the approval of the Public Procurement Review Board, that such action is reasonable and practicable and advantageous to promote efficiency and economy in the purchase of commodities by the agencies of the state. Upon the adoption of any purchasing regulation, or an amendment, addition or elimination therein, copies of same shall be furnished to the State Auditor and to all agencies affected thereby. Thereafter, and except as otherwise may be provided in subsection (2) of this section, no agency of the state shall purchase any commodities covered by existing purchasing regulations unless such commodities be in conformity with the standards and specifications set forth in the purchasing regulations and unless the price thereof does not exceed the maximum fair price established by such purchasing regulations. The said Office of Purchasing, Travel and Fleet

473 Management shall furnish to any county or municipality or other
474 local public agency of the state requesting same, copies of
475 purchasing regulations adopted by the Office of Purchasing, Travel
476 and Fleet Management and any amendments, changes or eliminations
477 of same that may be made from time to time.

478 (b) The Office of Purchasing, Travel and Fleet
479 Management may adopt purchasing regulations governing the use of
480 credit cards, procurement cards and purchasing club membership
481 cards to be used by state agencies, governing authorities of
482 counties and municipalities and the Chickasawhay Natural Gas
483 District. Use of the cards shall be in strict compliance with the
484 regulations promulgated by the office. Any amounts due on the
485 cards shall incur interest charges as set forth in Section
486 31-7-305 and shall not be considered debt.

487 (2) The Office of Purchasing, Travel and Fleet Management
488 shall adopt, subject to the approval of the Public Procurement
489 Review Board, purchasing regulations governing the purchase of
490 unmarked vehicles to be used by the Bureau of Narcotics and
491 Department of Public Safety in official investigations pursuant to
492 Section 25-1-87. Such regulations shall ensure that purchases of
493 such vehicles shall be at a fair price and shall take into
494 consideration the peculiar needs of the Bureau of Narcotics and
495 Department of Public Safety in undercover operations.

496 (3) The Office of Purchasing, Travel and Fleet Management
497 shall adopt, subject to the approval of the Public Procurement
498 Review Board, regulations governing the certification process for
499 certified purchasing offices. Such regulations shall require
500 entities desiring to be classified as certified purchasing offices
501 to submit applications and applicable documents on an annual
502 basis, at which time the Office of Purchasing, Travel and Fleet
503 Management may provide the governing entity with a certification
504 valid for one (1) year from the date of issuance.

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

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

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

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

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

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

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

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

577 amendment to the Joint Legislative Budget Committee. To the
578 extent provided in any master lease-purchase agreement, title to
579 equipment leased pursuant thereto shall be deemed to be vested in
580 the state or the user of the equipment (as specified in such
581 master lease-purchase agreement), subject to default under or
582 termination of such master lease-purchase agreement.

583 A master lease-purchase agreement may provide for payment by
584 the lessor to the lessee of the purchase price of the equipment to
585 be acquired pursuant thereto prior to the date on which payment is
586 due to the vendor for such equipment and that the lease payments
587 by the lessee shall commence as though the equipment had been
588 provided on the date of payment. If the lessee, or lessee's
589 escrow agent, has sufficient funds for payment of equipment
590 purchases prior to payment due date to vendor of equipment, such
591 funds shall be held or utilized on an as-needed basis for payment
592 of equipment purchases either by the State Treasurer (in which
593 event the master lease-purchase agreement may include provisions
594 concerning the holding of such funds, the creation of a security
595 interest for the benefit of the lessor in such funds until
596 disbursed and other appropriate provisions approved by the Bond
597 Commission) or by a corporate trustee selected by the Department
598 of Finance and Administration (in which event the Department of
599 Finance and Administration shall have the authority to enter into
600 an agreement with such a corporate trustee containing terms and
601 conditions approved by the Bond Commission). Earnings on any
602 amount paid by the lessor prior to the acquisition of the
603 equipment may be used to make lease payments under the master
604 lease-purchase agreement or applied to pay costs and expenses
605 incurred in connection with such lease-purchase agreement. In
606 such event, the equipment use agreements with the user agency may
607 provide for lease payments to commence upon the date of payment by
608 the lessor and may also provide for a credit against such payments
609 to the extent that investment receipts from investment of the
610 purchase price are to be used to make lease-purchase payments.

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

615 (7) The Department of Finance and Administration shall
616 furnish the equipment to the various agencies, also known as the
617 user, pursuant to an equipment-use agreement developed by the
618 Department of Finance and Administration. Such agreements shall
619 require that all monthly payments due from such agency be paid,
620 transferred or allocated into the Master Lease-Purchase Program
621 Fund pursuant to a schedule established by the Department of
622 Finance and Administration. In the event such sums are not paid
623 by the defined payment period, the Executive Director of the
624 Department of Finance and Administration shall issue a requisition
625 for a warrant to draw such amount as may be due from any funds
626 appropriated for the use of the agency which has failed to make
627 the payment as agreed.

628 (8) All master lease-purchase agreements executed under the
629 authority of this section shall contain the following annual
630 allocation dependency clause or an annual allocation dependency
631 clause which is substantially equivalent thereto: "The
632 continuation of each equipment schedule to this agreement is
633 contingent in whole or in part upon the appropriation of funds by
634 the Legislature to make the lease-purchase payments required under
635 such equipment schedule. If the Legislature fails to appropriate
636 sufficient funds to provide for the continuation of the
637 lease-purchase payments under any such equipment schedule, then
638 the obligations of the lessee and of the agency to make such
639 lease-purchase payments and the corresponding provisions of any
640 such equipment schedule to this agreement shall terminate on the
641 last day of the fiscal year for which appropriations were made."

642 (9) The maximum lease term for any equipment acquired under
643 the master lease-purchase program shall not exceed the useful life
644 of such equipment as determined according to the upper limit of
645 the asset depreciation range (ADR) guidelines for the Class Life

646 Asset Depreciation Range System established by the Internal
647 Revenue Service pursuant to the United States Internal Revenue
648 Code and Regulations thereunder as in effect on December 31, 1980,
649 or comparable depreciation guidelines with respect to any
650 equipment not covered by ADR guidelines. The Department of
651 Finance and Administration shall be deemed to have met the
652 requirements of this subsection if the term of a master
653 lease-purchase agreement does not exceed the weighted average
654 useful life of all equipment covered by such agreement and the
655 schedules thereto as determined by the Department of Finance and
656 Administration. For purposes of this subsection, the "term of a
657 master lease-purchase agreement" shall be the weighted average
658 maturity of all principal payments to be made under such master
659 lease-purchase agreement and all schedules thereto.

660 (10) Interest paid on any master lease-purchase agreement
661 under this section shall be exempt from State of Mississippi
662 income taxation. All equipment, and the purchase thereof by any
663 lessor, acquired under the master lease-purchase program and all
664 lease-purchase payments with respect thereto shall be exempt from
665 all Mississippi sales, use and ad valorem taxes.

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

671 (12) Any master lease-purchase agreement reciting in
672 substance that such agreement has been entered into pursuant to
673 this section shall be conclusively deemed to have been entered
674 into in accordance with all of the provisions and conditions set
675 forth in this section. Any defect or irregularity arising with
676 respect to procedures applicable to the acquisition of any
677 equipment shall not invalidate or otherwise limit the obligation
678 of the Department of Finance and Administration, or the state or
679 any agency of the state, under any master lease-purchase agreement
680 or any equipment-use agreement.

681 (13) There shall be maintained by the Department of Finance
682 and Administration, with respect to each master lease-purchase
683 agreement, an itemized statement of the cash price, interest
684 rates, interest costs, commissions, debt service schedules and all
685 other costs and expenses paid by the state incident to the
686 lease-purchase of equipment under such agreement.

687 (14) Lease-purchase agreements entered into by the Board of
688 Trustees of State Institutions of Higher Learning pursuant to the
689 authority of Section 37-101-413 or by any other agency which has
690 specific statutory authority other than pursuant to Section
691 31-7-13(e) to acquire equipment by lease-purchase shall not be
692 made pursuant to the master lease-purchase program under this
693 section, unless the Board of Trustees of State Institutions of
694 Higher Learning or such other agency elects to participate as to
695 part or all of its lease-purchase acquisitions in the master
696 lease-purchase program pursuant to this section.

697 (15) The Department of Finance and Administration may
698 develop a master lease-purchase program for school districts and,
699 pursuant to that program, may execute on behalf of the school
700 districts master lease-purchase agreements for equipment to be
701 used by the school districts. The form and structure of this
702 program shall be substantially the same as set forth in this
703 section for the master lease-purchase program for state agencies.
704 If sums due from a school district under the master lease-purchase
705 program are not paid by the expiration of the defined payment
706 period, the Executive Director of the Department of Finance and
707 Administration may withhold such amount that is due from the
708 school district's minimum education or adequate education program
709 fund allotments.

710 (16) The Department of Finance and Administration may
711 develop a master lease-purchase program for community and junior
712 college districts and, pursuant to that program, may execute on
713 behalf of the community and junior college districts master
714 lease-purchase agreements for equipment to be used by the
715 community and junior college districts. The form and structure of

this program must be substantially the same as set forth in this section for the master lease-purchase program for state agencies. If sums due from a community or junior college district under the master lease-purchase program are not paid by the expiration of the defined payment period, the Executive Director of the Department of Finance and Administration may withhold an amount equal to the amount due under the program from any funds allocated for that community or junior college district in the state appropriations for the use and support of the community and junior colleges.

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

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

(b) "Governmental entity" means any agency, department, commission, board, bureau, institution or other instrumentality of the state, or any county, any municipality or any political subdivision or instrumentality thereof.

(c) "Wireless communication device" means a cellular telephone or a personal digital assistant device having wireless communication capability.

(2) No officer or employee of any governmental entity to whom has been assigned, issued or made available the use of a wireless communication device, the cost of which is paid through the use of public funds, shall use such device for personal use and no such officer or employee shall be assigned or issued more than one (1) such wireless communication device.

(3) A governmental entity shall not reimburse any officer or employee for use of his or her personal wireless communication device.

(4) Every governmental entity that, at the expense of the governmental entity, assigns, issues or makes available to any of its officers or employees a wireless communication device shall obtain and maintain detailed billing for every wireless

751 communication device account. A list of approved vendors for the
752 procurement of wireless communication devices and the delivery of
753 wireless communication device services shall be developed for all
754 governmental entities by the Mississippi Department of Information
755 Technology Services. The department shall exercise the option of
756 selecting one (1) vendor from which to procure wireless
757 communication devices and to provide wireless communication device
758 services, or if it deems such to be most advantageous to the
759 state, it may select multiple vendors. The department shall
760 select a vendor or vendors on the basis of lowest and best bid
761 proposals. A governmental entity may not procure a wireless
762 communication device from any vendor or contract for wireless
763 communication device services with any vendor unless the vendor
764 appears on the list approved by the department. A contract
765 entered into in violation of this section shall be void and
766 unenforceable.

767 (5) The department shall promulgate a model acceptable use
768 policy defining the appropriate use of all wireless communication
769 devices. The acceptable use policy should specify that these
770 resources, including both devices and services, are provided at
771 the governmental entity's expense as tools for accomplishing the
772 business missions of the governmental entity; that all those
773 resources are for business use; and that more than incidental
774 personal use of those resources is prohibited. The acceptable use
775 policy should require that each official and employee issued one
776 (1) of the above devices or authorized to access one (1) of the
777 above services sign the policy and that the signed copy be placed
778 in the personnel file of the official or employee. The acceptable
779 use policy should also require that the use of these resources be
780 tracked, verified, and signed by the official or employee and the
781 supervisor of the official or employee at each billing cycle or
782 other appropriate interval. All governmental entities shall adopt
783 the model policy or adopt a policy that is, at minimum, as
784 stringent as the model policy and shall provide a copy of the
785 policy to the department.

786 **SECTION 10.** (1) Any person or entity who provides cell
787 phone services in this state shall submit a plan of action to the
788 Public Service Commission detailing how such person or entity
789 shall make cell phone services available statewide.

790 (2) The Public Service Commission is authorized to accept,
791 reject or amend any plan submitted as described in this section.
792 In addition, the Public Service Commission is authorized to make
793 all rules and regulations regarding the content and implementation
794 of such plans.

795 (3) The Public Service Commission may penalize any person or
796 entity in an amount not to exceed Fifty Thousand Dollars
797 (\$50,000.00) for any violation of this act.

798 **SECTION 11.** This act shall take effect and be in force from
799 and after July 1, 2006.

**Further, amend by striking the title in its entirety and
inserting in lieu thereof the following:**

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; TO PROHIBIT ANY OFFICER OR EMPLOYEE OF ANY STATE AGENCY,
13 COUNTY, MUNICIPALITY OR ANY OTHER POLITICAL SUBDIVISION OF THE
14 STATE WHO HAS BEEN ASSIGNED OR ISSUED A WIRELESS COMMUNICATION
15 DEVICE PAID FOR BY PUBLIC FUNDS FROM USING SUCH DEVICE FOR
16 PERSONAL PURPOSES; TO PROHIBIT ANY SUCH OFFICER OR EMPLOYEE FROM
17 BEING REIMBURSED FOR USE OF HIS OR HER PERSONAL WIRELESS
18 COMMUNICATION DEVICE; TO REQUIRE GOVERNMENTAL ENTITIES TO SELECT
19 WIRELESS COMMUNICATION DEVICE VENDORS FROM A STATE APPROVED LIST;
20 TO REQUIRE THE MISSISSIPPI DEPARTMENT OF INFORMATION TECHNOLOGY
21 SERVICES TO ESTABLISH A MODEL POLICY REGULATING PERSONAL USE OF
22 WIRELESS COMMUNICATION DEVICES OWNED BY GOVERNMENTAL ENTITIES AND
23 TO REQUIRE GOVERNMENTAL ENTITIES TO ADOPT THE MODEL POLICY, OR A
24 POLICY EQUALLY STRINGENT; TO REQUIRE CELL PHONE PROVIDERS TO MAKE
25 CELL PHONE SERVICE AVAILABLE STATEWIDE; TO REQUIRE CELL PHONE
26 PROVIDERS TO SUBMIT A PLAN DETAILING HOW SUCH PROVIDERS SHALL MAKE
27 CELL PHONE SERVICE STATEWIDE; TO AUTHORIZE THE PUBLIC SERVICE
28 COMMISSION TO MAKE RULES AND REGULATIONS REGARDING SUCH PLAN; AND
29 FOR RELATED PURPOSES.

HR03\SB2398PH.J

Don Richardson
Clerk of the House of Representatives