

**Adopted
COMMITTEE AMENDMENT NO 1 PROPOSED TO**

Senate Bill No. 2398

BY: Committee

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

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

28 25-1-77. (1) There is hereby created the Bureau of Fleet
29 Management within the Office of Purchasing, Travel and Fleet
30 Management, Department of Finance and Administration, for the
31 purposes of coordinating and promoting efficiency and economy in
32 the purchase, lease, rental, acquisition, use, maintenance and
33 disposal of vehicles by state agencies. The Executive Director of
34 the Department of Finance and Administration may employ a Fleet
35 Management Officer to manage the bureau and carry out its
36 purposes. The bureau may employ other suitable and competent
37 personnel as necessary.

38 (2) The Bureau of Fleet Management shall perform the
39 following duties:

40 (a) To hold title in the name of the State of
41 Mississippi to all vehicles currently in possession of state
42 agencies as defined in Section 25-9-107(d) and to assign vehicles
43 to such agencies for use; however, the bureau shall exempt any
44 agency or agency vehicles from the provisions of this paragraph

45 (a) if it determines that state or federal law requires that title
46 be vested only in the agency;

47 (b) To establish rules and regulations for state agency
48 use of vehicles;

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

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

62 (e) To carry out responsibilities relative to budget
63 recommendations as provided in Section 4 of Senate Bill No. 2398,
64 2006 Regular Session;

65 (f) To reassign vehicles in the possession of any state
66 agency if the bureau believes that another state agency can make
67 more efficient use of a vehicle; provided, however, that the state
68 agency receiving the reassigned vehicle shall pay to the previous
69 agency's special fund, or if no special fund exists, to the State
70 General Fund, the National Automobile Dealers Association (NADA)
71 wholesale value for the vehicle or the estimated amount for which
72 the vehicle would have sold at auction, as shall be determined by
73 the bureau, whichever is less;

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

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

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

99 (4) * * * The department, institution or agency shall
100 maintain proper documentation * * * which provides the intended
101 use of the vehicle and the basis for choosing the vehicle. Such
102 documentation shall show that the department, institution or
103 agency made diligent efforts to purchase, rent, lease or acquire a
104 vehicle that is economical and appropriate for its intended use.
105 Such documentation shall be updated as needed when the intended
106 use of the vehicle or any other facts concerning the vehicle are
107 changed. All such documentation shall be approved by the State

108 Fleet Officer prior to purchase, rental, lease or acquisition or
109 change in use of any vehicle and shall be maintained and made
110 available for review by the State Auditor, any other reviewing
111 agency and the Legislature.

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

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

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

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

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

144 27-103-129. (1) To enable the Legislative Budget Office to
145 prepare such budget, it shall have full and plenary power and
146 authority to require all general-fund and special-fund agencies
147 and the Mississippi Department of Transportation and the Division
148 of State Aid Road Construction of the Mississippi Department of
149 Transportation to file a budget request with such information and
150 in such form and in such detail as it may deem necessary and
151 advisable, and it shall have the further power and authority to
152 reduce or eliminate any item or items of requested appropriation
153 by any state agency in the Legislative Budget Office's recommended
154 budget to the Legislature. However, where any item of requested
155 appropriation shall be so reduced or eliminated, the head of the
156 agency involved shall have the right to appear before the
157 appropriate legislative committee to urge a revision of the budget
158 to restore the item reduced or eliminated. Beginning with the
159 1996 fiscal year, the budget requests shall include a definition
160 of the mission of the agency, a description of the duties and
161 responsibilities of the agency, financial data relative to the
162 various programs operated by the agency and performance measures
163 associated with each program of the agency. The performance
164 measures to be contained within the agency budget request shall be
165 developed by cooperative efforts of the Legislative Budget Office,
166 the Department of Finance and Administration and the agency itself
167 and shall be approved jointly by the Legislative Budget Office and
168 the Department of Finance and Administration prior to inclusion
169 within the agency budget request. Beginning with the 1996 fiscal
170 year, the budget requests shall also include in an addendum format
171 a five-year strategic plan for the agency which shall include, but

172 not be limited to, the following items of information: (a) a
173 comprehensive mission statement, (b) performance effectiveness
174 objectives for each program of the agency for each of the five (5)
175 years covered by the plan, (c) a description of significant
176 external factors which may affect the projected levels of
177 performance, (d) a description of the agency's internal management
178 system utilized to evaluate its performance achievements in
179 relationship to the targeted performance levels, (e) an evaluation
180 by the agency of the agency's performance achievements in
181 relationship to the targeted performance levels for the two (2)
182 preceding fiscal years for which accounting records have been
183 finalized.

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

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

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

198 (iii) Whether the vehicle is a work vehicle or
199 passenger vehicle; and

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

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

215 (c) If an agency determines that an urgent need exists
216 for a vehicle when it is not feasible to obtain prior legislative
217 approval, the agency may make an emergency request to the Bureau
218 of Fleet Management. Any emergency determination shall be made
219 only upon the existence of extraordinary circumstances. The
220 Bureau of Fleet Management shall make a recommendation to the
221 Executive Director of the Department of Finance and Administration
222 and shall give notification of such recommendation to the
223 Lieutenant Governor, the Speaker of the House and the Chairmen of
224 the Senate and House of Representatives Appropriations Committees.
225 The Executive Director of the Department of Finance and
226 Administration shall have the final authority to approve or
227 disapprove the emergency request. The executive director must set
228 forth specific versions for approval which shall be a public
229 record. If approved and if adequate funding is available, the
230 agency may purchase a specific vehicle to meet its specific
231 emergency needs. The Bureau of Fleet Management shall report any
232 emergency purchase to the Legislative Budget Office. Any such
233 vehicle shall be subject to the same rules and regulations as
234 provided for nonemergency vehicles. Notwithstanding any other

235 provisions of this subsection to the contrary, the office of the
236 Governor may procure not more than three (3) passenger vehicles of
237 any kind.

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

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

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

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

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

257 25-1-81. The Department of Finance and Administration shall
258 refuse to issue warrants upon requisitions drawn in violation of
259 the provisions hereof, and where any expense account is allowed
260 and paid in violation of the provisions of Sections 25-1-77
261 through 25-1-93, it shall be the duty of the Department of Finance
262 and Administration to withhold the payment of any further expense
263 accounts for the department, agency or institution involved until
264 the amount of the account or accounts illegally paid shall be
265 refunded and repaid to the State of Mississippi by the person
266 receiving or approving same. It is further provided that the

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

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

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

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

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

318 (4) In addition to the foregoing, a public officer or
319 employee shall be reimbursed for other actual expenses such as
320 meals, lodging and other necessary expenses incurred in the course
321 of the travel, subject to limitations placed on meals for
322 intrastate and interstate official travel by the Department of
323 Finance and Administration, provided, that the Legislative Budget
324 Office shall place any limitations for expenditures made on
325 matters under the jurisdiction of the Legislature. The Department
326 of Finance and Administration shall set a maximum daily
327 expenditure annually for such meals and shall notify officers and
328 employees of changes to these allowances immediately upon approval
329 of the changes. Travel by airline shall be at the tourist rate

330 unless that space was unavailable. The officer or employee shall
331 certify that tourist accommodations were not available if travel
332 is performed in first class airline accommodations. Itemized
333 expense accounts shall be submitted by those officers or employees
334 in such number as the department, agency or institution may
335 require; but in any case one (1) copy shall be furnished by state
336 departments, agencies or institutions to the Department of Finance
337 and Administration for preaudit or postaudit. The Department of
338 Finance and Administration shall promulgate and adopt reasonable
339 rules and regulations which it deems necessary and requisite to
340 effectuate economies for all expenses authorized and paid pursuant
341 to this section. Requisitions shall be made on the State Fiscal
342 Officer who shall issue his warrant on the State Treasurer.
343 Provided, however, that the provisions of this section shall not
344 include agencies financed entirely by federal funds and audited by
345 federal auditors.

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

361 (6) No state or federal funds received from any source by
362 any arm or agency of the state shall be expended in traveling
363 outside of the continental limits of the United States until the
364 governing body or head of the agency makes a finding and
365 determination that the travel would be extremely beneficial to the
366 state agency and obtains a written concurrence thereof from the
367 Governor, or his designee, and the Department of Finance and
368 Administration.

369 (7) Where any officer or employee of the State of
370 Mississippi, or any department, agency or institution thereof, or
371 of any county or municipality, or of any agency, board or
372 commission thereof, is authorized to receive travel reimbursement
373 under any other provision of law, the reimbursement may be paid
374 under the provisions of this section or the other section, but not
375 under both.

376 (8) When the Governor, Lieutenant Governor or Speaker of the
377 House of Representatives appoints a person to a board, commission
378 or other position that requires confirmation by the Senate, the
379 person may receive reimbursement for mileage and other actual
380 expenses incurred in the performance of official duties before the
381 appointment is confirmed by the Senate, as reimbursement for those
382 expenses is authorized under this section.

383 (9) (a) The Department of Finance and Administration may
384 contract with one or more commercial travel agencies, after
385 receiving competitive bids or proposals therefor, for that travel
386 agency or agencies to provide necessary travel services for state
387 officers and employees. Municipal and county officers and
388 municipal and county employees may also participate in the state
389 travel agency contract and utilize these travel services for
390 official municipal or county travel. However, the administrative
391 head of each state institution of higher learning may, in his
392 discretion, contract with a commercial travel agency to provide

393 necessary travel services for all academic officials and staff of
394 the university in lieu of participation in the state travel agency
395 contract. Any such decision by a university to contract with a
396 separate travel agency shall be approved by the Board of Trustees
397 of State Institutions of Higher Learning and the Executive
398 Director of the Department of Finance and Administration.

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

417 (c) Whenever any state officer or employee travels in
418 the performance of his official duties by airline or other public
419 carrier, he may have his travel arrangements handled by that
420 travel agency or agencies. The amount paid for airline
421 transportation for any state officer or employee, whether the
422 travel was arranged by that travel agency or agencies or was
423 arranged otherwise, shall not exceed the amount specified in the
424 state contract established by the Department of Finance and

425 Administration, Office of Purchasing, Travel and Fleet Management,
426 unless prior approval is obtained from the office.

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

429 31-7-5. The Department of Finance and Administration shall
430 prescribe rules and regulations governing the manner in which the
431 authority and duties granted to it by law may be carried out. It
432 shall employ suitable and competent personnel, necessary to carry
433 out its purposes. The Department of Finance and Administration
434 may establish an Office of Purchasing, Travel and Fleet Management
435 and employ a competent person as Director of the Office of
436 Purchasing, Travel and Fleet Management who shall be a member of
437 the state service.

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

440 31-7-9. (1) (a) The Office of Purchasing, Travel and Fleet
441 Management shall adopt purchasing regulations governing the
442 purchase by any agency of any commodity or commodities and
443 establishing standards and specifications for a commodity or
444 commodities and the maximum fair prices of a commodity or
445 commodities, subject to the approval of the Public Procurement
446 Review Board. It shall have the power to amend, add to or
447 eliminate purchasing regulations. The adoption of, amendment,
448 addition to or elimination of purchasing regulations shall be
449 based upon a determination by the Office of Purchasing, Travel and
450 Fleet Management with the approval of the Public Procurement
451 Review Board, that such action is reasonable and practicable and
452 advantageous to promote efficiency and economy in the purchase of
453 commodities by the agencies of the state. Upon the adoption of
454 any purchasing regulation, or an amendment, addition or
455 elimination therein, copies of same shall be furnished to the
456 State Auditor and to all agencies affected thereby. Thereafter,

457 and except as otherwise may be provided in subsection (2) of this
458 section, no agency of the state shall purchase any commodities
459 covered by existing purchasing regulations unless such commodities
460 be in conformity with the standards and specifications set forth
461 in the purchasing regulations and unless the price thereof does
462 not exceed the maximum fair price established by such purchasing
463 regulations. The said Office of Purchasing, Travel and Fleet
464 Management shall furnish to any county or municipality or other
465 local public agency of the state requesting same, copies of
466 purchasing regulations adopted by the Office of Purchasing, Travel
467 and Fleet Management and any amendments, changes or eliminations
468 of same that may be made from time to time.

469 (b) The Office of Purchasing, Travel and Fleet
470 Management may adopt purchasing regulations governing the use of
471 credit cards, procurement cards and purchasing club membership
472 cards to be used by state agencies, governing authorities of
473 counties and municipalities and the Chickasawhay Natural Gas
474 District. Use of the cards shall be in strict compliance with the
475 regulations promulgated by the office. Any amounts due on the
476 cards shall incur interest charges as set forth in Section
477 31-7-305 and shall not be considered debt.

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

487 (3) The Office of Purchasing, Travel and Fleet Management
488 shall adopt, subject to the approval of the Public Procurement

489 Review Board, regulations governing the certification process for
490 certified purchasing offices. Such regulations shall require
491 entities desiring to be classified as certified purchasing offices
492 to submit applications and applicable documents on an annual
493 basis, at which time the Office of Purchasing, Travel and Fleet
494 Management may provide the governing entity with a certification
495 valid for one (1) year from the date of issuance.

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

498 31-7-10. (1) For the purposes of this section, the term
499 "equipment" shall mean equipment, furniture, and if applicable,
500 associated software and other applicable direct costs associated
501 with the acquisition. In addition to its other powers and duties,
502 the Department of Finance and Administration shall have the
503 authority to develop a master lease-purchase program and, pursuant
504 to that program, shall have the authority to execute on behalf of
505 the state master lease-purchase agreements for equipment to be
506 used by an agency, as provided in this section. Each agency
507 electing to acquire equipment by a lease-purchase agreement shall
508 participate in the Department of Finance and Administration's
509 master lease-purchase program, unless the Department of Finance
510 and Administration makes a determination that such equipment
511 cannot be obtained under the program or unless the equipment can
512 be obtained elsewhere at an overall cost lower than that for which
513 the equipment can be obtained under the program. Such
514 lease-purchase agreements may include the refinancing or
515 consolidation, or both, of any state agency lease-purchase
516 agreements entered into after June 30, 1990.

517 (2) All funds designated by agencies for procurement of
518 equipment and financing thereof under the master lease-purchase
519 program shall be paid into a special fund created in the State
520 Treasury known as the "Master Lease-Purchase Program Fund," which

521 shall be used by the Department of Finance and Administration for
522 payment to the lessors for equipment acquired under master
523 lease-purchase agreements.

524 (3) Upon final approval of an appropriation bill, each
525 agency shall submit to the Public Procurement Review Board a
526 schedule of proposed equipment acquisitions for the master
527 lease-purchase program. Upon approval of an equipment schedule by
528 the Public Procurement Review Board with the advice of the
529 Department of Information Technology Services, the Office of
530 Purchasing, Travel and Fleet Management, and the Division of
531 Energy and Transportation of the Mississippi Development Authority
532 as it pertains to energy efficient climate control systems, the
533 Public Procurement Review Board shall forward a copy of the
534 equipment schedule to the Department of Finance and
535 Administration.

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

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

549 (5) Each master lease-purchase agreement, and any subsequent
550 amendments, shall include such terms and conditions as the State
551 Bond Commission shall determine to be appropriate and in the
552 public interest, and may include any covenants deemed necessary or

553 desirable to protect the interests of the lessor, including, but
554 not limited to, provisions setting forth the interest rate (or
555 method for computing interest rates) for financing pursuant to
556 such agreement, covenants concerning application of payments and
557 funds held in the Master Lease-Purchase Program Fund, covenants to
558 maintain casualty insurance with respect to equipment subject to
559 the master lease-purchase agreement (and all state agencies are
560 specifically authorized to purchase any insurance required by a
561 master lease-purchase agreement) and covenants precluding or
562 limiting the right of the lessee or user to acquire equipment
563 within a specified time (not to exceed five (5) years) after
564 cancellation on the basis of a failure to appropriate funds for
565 payment of amounts due under a lease-purchase agreement covering
566 comparable equipment. The State Bond Commission shall transmit
567 copies of each such master lease-purchase agreement and each such
568 amendment to the Joint Legislative Budget Committee. To the
569 extent provided in any master lease-purchase agreement, title to
570 equipment leased pursuant thereto shall be deemed to be vested in
571 the state or the user of the equipment (as specified in such
572 master lease-purchase agreement), subject to default under or
573 termination of such master lease-purchase agreement.

574 A master lease-purchase agreement may provide for payment by
575 the lessor to the lessee of the purchase price of the equipment to
576 be acquired pursuant thereto prior to the date on which payment is
577 due to the vendor for such equipment and that the lease payments
578 by the lessee shall commence as though the equipment had been
579 provided on the date of payment. If the lessee, or lessee's
580 escrow agent, has sufficient funds for payment of equipment
581 purchases prior to payment due date to vendor of equipment, such
582 funds shall be held or utilized on an as-needed basis for payment
583 of equipment purchases either by the State Treasurer (in which
584 event the master lease-purchase agreement may include provisions

585 concerning the holding of such funds, the creation of a security
586 interest for the benefit of the lessor in such funds until
587 disbursed and other appropriate provisions approved by the Bond
588 Commission) or by a corporate trustee selected by the Department
589 of Finance and Administration (in which event the Department of
590 Finance and Administration shall have the authority to enter into
591 an agreement with such a corporate trustee containing terms and
592 conditions approved by the Bond Commission). Earnings on any
593 amount paid by the lessor prior to the acquisition of the
594 equipment may be used to make lease payments under the master
595 lease-purchase agreement or applied to pay costs and expenses
596 incurred in connection with such lease-purchase agreement. In
597 such event, the equipment use agreements with the user agency may
598 provide for lease payments to commence upon the date of payment by
599 the lessor and may also provide for a credit against such payments
600 to the extent that investment receipts from investment of the
601 purchase price are to be used to make lease-purchase payments.

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

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

617 appropriated for the use of the agency which has failed to make
618 the payment as agreed.

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

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

649 maturity of all principal payments to be made under such master
650 lease-purchase agreement and all schedules thereto.

651 (10) Interest paid on any master lease-purchase agreement
652 under this section shall be exempt from State of Mississippi
653 income taxation. All equipment, and the purchase thereof by any
654 lessor, acquired under the master lease-purchase program and all
655 lease-purchase payments with respect thereto shall be exempt from
656 all Mississippi sales, use and ad valorem taxes.

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

662 (12) Any master lease-purchase agreement reciting in
663 substance that such agreement has been entered into pursuant to
664 this section shall be conclusively deemed to have been entered
665 into in accordance with all of the provisions and conditions set
666 forth in this section. Any defect or irregularity arising with
667 respect to procedures applicable to the acquisition of any
668 equipment shall not invalidate or otherwise limit the obligation
669 of the Department of Finance and Administration, or the state or
670 any agency of the state, under any master lease-purchase agreement
671 or any equipment-use agreement.

672 (13) There shall be maintained by the Department of Finance
673 and Administration, with respect to each master lease-purchase
674 agreement, an itemized statement of the cash price, interest
675 rates, interest costs, commissions, debt service schedules and all
676 other costs and expenses paid by the state incident to the
677 lease-purchase of equipment under such agreement.

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

681 specific statutory authority other than pursuant to Section
682 31-7-13(e) to acquire equipment by lease-purchase shall not be
683 made pursuant to the master lease-purchase program under this
684 section, unless the Board of Trustees of State Institutions of
685 Higher Learning or such other agency elects to participate as to
686 part or all of its lease-purchase acquisitions in the master
687 lease-purchase program pursuant to this section.

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

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

713 equal to the amount due under the program from any funds allocated
714 for that community or junior college district in the state
715 appropriations for the use and support of the community and junior
716 colleges.

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

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

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

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

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

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

738 (4) Every governmental entity that, at the expense of the
739 governmental entity, assigns, issues or makes available to any of
740 its officers or employees a wireless communication device shall
741 obtain and maintain detailed billing for every wireless
742 communication device account. A list of approved vendors for the
743 procurement of wireless communication devices and the delivery of
744 wireless communication device services shall be developed for all

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

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

777 **SECTION 10.** This act shall take effect and be in force from
778 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; AND FOR RELATED PURPOSES.