

By: Senator(s) White, Flowers

To: Fees, Salaries and
Administration

SENATE BILL NO. 2565

1 AN ACT TO AMEND SECTION 7-7-211, MISSISSIPPI CODE OF 1972, TO
 2 AUTHORIZE THE DEPARTMENT OF AUDIT TO INCLUDE IN CONTRACTS FOR
 3 AUDITING SERVICES A PROVISION TO IMPOSE LATE FEES AGAINST
 4 ACCOUNTING FIRMS FOR FAILING TO TIMELY DELIVER FINAL AUDIT
 5 REPORTS; TO AMEND SECTION 7-7-213, MISSISSIPPI CODE OF 1972, TO
 6 AUTHORIZE THE DEPARTMENT OF AUDIT TO CHARGE ACTUAL COSTS FOR
 7 AUDITS PERFORMED; TO AMEND SECTION 17-13-11, MISSISSIPPI CODE OF
 8 1972, TO DELETE THE REQUIREMENT THAT COPIES OF INTERLOCAL
 9 AGREEMENTS BE FILED WITH THE STATE AUDITOR; TO AMEND SECTION
 10 21-33-47, MISSISSIPPI CODE OF 1972, TO DELETE THE REQUIREMENT THAT
 11 MUNICIPALITIES PROVIDE THE STATE AUDITOR COPIES OF CERTAIN
 12 MUNICIPAL LEVIES; TO AMEND SECTION 25-1-77, MISSISSIPPI CODE OF
 13 1972, TO DELETE THE REQUIREMENT THAT THE STATE AUDITOR REVIEW
 14 STATE MOTOR VEHICLE PURCHASES; TO AMEND SECTION 25-1-87,
 15 MISSISSIPPI CODE OF 1972, TO REQUIRE THAT CERTAIN STATE VEHICLE
 16 AND LOCAL INVENTORY REVIEWS BE CONDUCTED BY THE STATE AUDITOR WHEN
 17 CONDUCTING ANNUAL PROPERTY AUDITS OF STATE AGENCIES AND ANNUAL
 18 FINANCIAL AUDITS OF LOCAL GOVERNMENTS; TO AMEND SECTION 31-7-13,
 19 MISSISSIPPI CODE OF 1972, TO DELETE THE REQUIREMENT THAT THE STATE
 20 AUDITOR PREPARE CERTAIN REPORTS ON STATE AGENCY EMERGENCY
 21 PURCHASES; TO AMEND SECTION 27-1-37, 27-31-31, 27-31-109,
 22 27-45-1, 27-51-11, 41-73-71, 45-3-25, 47-5-30, 49-2-29, 51-29-97,
 23 57-64-23, 63-9-21, 65-18-17, 65-9-25, 69-21-119 AND 77-5-253,
 24 MISSISSIPPI CODE OF 1972, TO DELETE REQUIREMENTS THAT CERTAIN
 25 REPORTS BE FILED WITH THE STATE AUDITOR; TO REPEAL SECTION
 26 77-15-3, MISSISSIPPI CODE OF 1972, WHICH REQUIRES NATURAL GAS
 27 DISTRICTS TO FILE ANNUAL FINANCIAL STATEMENTS WITH THE STATE
 28 AUDITOR; AND FOR RELATED PURPOSES.

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

30 **SECTION 1.** Section 7-7-211, Mississippi Code of 1972, is
 31 amended as follows:

32 7-7-211. The department shall have the power and it shall be
 33 its duty:

34 (a) To identify and define for all public offices of
 35 the state and its subdivisions generally accepted accounting
 36 principles as promulgated by nationally recognized professional
 37 organizations and to consult with the State Fiscal Officer in the
 38 prescription and implementation of accounting rules and
 39 regulations;

40 (b) To prescribe, for all public offices of regional
41 and local subdivisions of the state, systems of accounting,
42 budgeting and reporting financial facts relating to said offices
43 in conformity with legal requirements and with generally accepted
44 accounting principles as promulgated by nationally recognized
45 professional organizations; to assist such subdivisions in need of
46 assistance in the installation of such systems; to revise such
47 systems when deemed necessary, and to report to the Legislature at
48 periodic times the extent to which each office is maintaining such
49 systems, along with such recommendations to the Legislature for
50 improvement as seem desirable;

51 (c) To study and analyze existing managerial policies,
52 methods, procedures, duties and services of the various state
53 departments and institutions upon written request of the Governor,
54 the Legislature or any committee or other body empowered by the
55 Legislature to make such request to determine whether and where
56 operations can be eliminated, combined, simplified and improved;

57 (d) To postaudit each year and, when deemed necessary,
58 preaudit and investigate the financial affairs of the departments,
59 institutions, boards, commissions or other agencies of state
60 government, as part of the publication of a comprehensive annual
61 financial report for the State of Mississippi. In complying with
62 the requirements of this subsection, the department shall have the
63 authority to conduct all necessary audit procedures on an interim
64 and year-end basis;

65 (e) To postaudit and, when deemed necessary, preaudit
66 and investigate separately the financial affairs of (i) the
67 offices, boards and commissions of county governments and any
68 departments and institutions thereof and therein; (ii) public
69 school districts, departments of education and junior college
70 districts; and (iii) any other local offices or agencies which
71 share revenues derived from taxes or fees imposed by the State
72 Legislature or receive grants from revenues collected by

73 governmental divisions of the state; the cost of such audits,
74 investigations or other services to be paid as follows: Such part
75 shall be paid by the state from appropriations made by the
76 Legislature for the operation of the State Department of Audit as
77 may exceed the sum of One Hundred Dollars (\$100.00) per day for
78 the services of each staff person engaged in performing the audit
79 or other service, which sum shall be paid by the county, district,
80 department, institution or other agency audited out of its general
81 fund or any other available funds from which such payment is not
82 prohibited by law;

83 (f) To postaudit and, when deemed necessary, preaudit
84 and investigate the financial affairs of the levee boards;
85 agencies created by the Legislature or by executive order of the
86 Governor; profit or nonprofit business entities administering
87 programs financed by funds flowing through the State Treasury or
88 through any of the agencies of the state, or its subdivisions; and
89 all other public bodies supported by funds derived in part or
90 wholly from public funds, except municipalities which annually
91 submit an audit prepared by a qualified certified public
92 accountant using methods and procedures prescribed by the
93 department;

94 (g) To make written demand, when necessary, for the
95 recovery of any amounts representing public funds improperly
96 withheld, misappropriated and/or otherwise illegally expended by
97 an officer, employee or administrative body of any state, county
98 or other public office, and/or for the recovery of the value of
99 any public property disposed of in an unlawful manner by a public
100 officer, employee or administrative body, such demands to be made
101 (i) upon the person or persons liable for such amounts and upon
102 the surety on official bond thereof, and/or (ii) upon any
103 individual, partnership, corporation or association to whom the
104 illegal expenditure was made or with whom the unlawful disposition
105 of public property was made, if such individual, partnership,

106 corporation or association knew or had reason to know through the
107 exercising of reasonable diligence that the expenditure was
108 illegal or the disposition unlawful. Such demand shall be
109 premised on competent evidence, which shall include at least one
110 (1) of the following: (i) sworn statements, (ii) written
111 documentation, (iii) physical evidence, or (iv) reports and
112 findings of government or other law enforcement agencies. Other
113 provisions notwithstanding, a demand letter issued pursuant to
114 this subsection shall remain confidential by the State Auditor
115 until the individual against whom the demand letter is being filed
116 has been served with a copy of such demand letter. If, however,
117 such individual cannot be notified within fifteen (15) days using
118 reasonable means and due diligence, such notification shall be
119 made to the individual's bonding company, if he or she is bonded.
120 Each such demand shall be paid into the proper treasury of the
121 state, county or other public body through the office of the
122 department in the amount demanded within thirty (30) days from the
123 date thereof, together with interest thereon in the sum of one
124 percent (1%) per month from the date such amount or amounts were
125 improperly withheld, misappropriated and/or otherwise illegally
126 expended. In the event, however, such person or persons or such
127 surety shall refuse, neglect or otherwise fail to pay the amount
128 demanded and the interest due thereon within the allotted thirty
129 (30) days, the State Auditor shall have the authority and it shall
130 be his duty to institute suit, and the Attorney General shall
131 prosecute the same in any court of the state to the end that there
132 shall be recovered the total of such amounts from the person or
133 persons and surety on official bond named therein; and the amounts
134 so recovered shall be paid into the proper treasury of the state,
135 county or other public body through the State Auditor. In any
136 case where written demand is issued to a surety on the official
137 bond of such person or persons and the surety refuses, neglects or
138 otherwise fails within one hundred twenty (120) days to either pay

139 the amount demanded and the interest due thereon or to give the
140 State Auditor a written response with specific reasons for
141 nonpayment, then the surety shall be subject to a civil penalty in
142 an amount of twelve percent (12%) of the bond, not to exceed Ten
143 Thousand Dollars (\$10,000.00), to be deposited into the State
144 General Fund;

145 (h) To investigate any alleged or suspected violation
146 of the laws of the state by any officer or employee of the state,
147 county or other public office in the purchase, sale or the use of
148 any supplies, services, equipment or other property belonging
149 thereto; and in such investigation to do any and all things
150 necessary to procure evidence sufficient either to prove or
151 disprove the existence of such alleged or suspected violations.
152 The Department of Investigation of the State Department of Audit
153 may investigate, for the purpose of prosecution, any suspected
154 criminal violation of the provisions of this chapter. For the
155 purpose of administration and enforcement of this chapter, the
156 enforcement employees of the Department of Investigation of the
157 State Department of Audit have the powers of a law enforcement
158 officer of this state, and shall be empowered to make arrests and
159 to serve and execute search warrants and other valid legal process
160 anywhere within the State of Mississippi. All enforcement
161 employees of the Department of Investigation of the State
162 Department of Audit hired on or after July 1, 1993, shall be
163 required to complete the Law Enforcement Officers Training Program
164 and shall meet the standards of the program;

165 (i) To issue subpoenas, with the approval of, and
166 returnable to, a judge of a chancery or circuit court, in termtime
167 or in vacation, to examine the records, documents or other
168 evidence of persons, firms, corporations or any other entities
169 insofar as such records, documents or other evidence relate to
170 dealings with any state, county or other public entity. The
171 circuit or chancery judge must serve the county in which the

172 records, documents or other evidence is located; or where all or
173 part of the transaction or transactions occurred which are the
174 subject of the subpoena;

175 (j) In any instances in which the State Auditor is or
176 shall be authorized or required to examine or audit, whether
177 preaudit or postaudit, any books, ledgers, accounts or other
178 records of the affairs of any public hospital owned or owned and
179 operated by one or more political subdivisions or parts thereof or
180 any combination thereof, or any school district, including
181 activity funds thereof, it shall be sufficient compliance
182 therewith, in the discretion of the State Auditor, that such
183 examination or audit be made from the report of any audit or other
184 examination certified by a certified public accountant and
185 prepared by or under the supervision of such certified public
186 accountant. Such audits shall be made in accordance with
187 generally accepted standards of auditing, with the use of an audit
188 program prepared by the State Auditor, and final reports of such
189 audits shall conform to the format prescribed by the State
190 Auditor. All files, working papers, notes, correspondence and all
191 other data compiled during the course of the audit shall be
192 available, without cost, to the State Auditor for examination and
193 abstracting during the normal business hours of any business day.
194 The expense of such certified reports shall be borne by the
195 respective hospital, or any available school district funds other
196 than minimum program funds, subject to examination or audit. The
197 State Auditor shall not be bound by such certified reports and
198 may, in his or their discretion, conduct such examination or audit
199 from the books, ledgers, accounts or other records involved as may
200 be appropriate and authorized by law;

201 (k) The State Auditor shall have the authority to
202 contract with qualified public accounting firms to perform
203 selected audits required in subsections (d), (e) and (f) of this
204 section, if funds are made available for such contracts by the

205 Legislature, or if funds are available from the governmental
206 entity covered by subsections (d), (e) and (f). Such audits shall
207 be made in accordance with generally accepted standards of
208 auditing, with the use of an audit program prepared by the State
209 Auditor, and final reports of such audits shall conform to the
210 format prescribed by the State Auditor. All files, working
211 papers, notes, correspondence and all other data compiled during
212 the course of the audit shall be available, without cost, to the
213 State Auditor for examination and abstracting during the normal
214 business hours of any business day;

215 (1) The State Auditor shall have the authority to
216 establish training courses and programs for the personnel of the
217 various state and local governmental entities under the
218 jurisdiction of the Office of the State Auditor. The training
219 courses and programs shall include, but not be limited to, topics
220 on internal control of funds, property and equipment control and
221 inventory, governmental accounting and financial reporting, and
222 internal auditing. The State Auditor is authorized to charge a
223 fee from the participants of these courses and programs, which fee
224 shall be deposited into the Department of Audit Special Fund.
225 State and local governmental entities are authorized to pay such
226 fee and any travel expenses out of their general funds or any
227 other available funds from which such payment is not prohibited by
228 law;

229 (m) Upon written request by the Governor or any member
230 of the State Legislature, the State Auditor may audit any state
231 funds and/or state and federal funds received by any nonprofit
232 corporation incorporated under the laws of this state;

233 (n) To conduct performance audits of personal or
234 professional service contracts by state agencies on a random
235 sampling basis, or upon request of the State Personal Service
236 Contract Review Board under Section 25-9-120(3);

237 (o) To annually postaudit the Chickasawhay Natural Gas
238 District. The Department of Audit shall charge the Chickasawhay
239 Natural Gas District, audited by the authority of this paragraph,
240 the sum of Thirty Dollars (\$30.00) per hour for each hour of staff
241 time devoted to the auditing of the district. The Chickasawhay
242 Natural Gas District shall pay for the audit fees from any sums
243 available to the district for its general operations;

244 (p) To include in any contract for auditing services
245 between the Department of Audit and an accounting firm a provision
246 assessing late fees against the accounting firm upon failure to
247 deliver final audit reports at the time specified in the contract;

248 (q) To review any contract between a local governing
249 authority and an accounting firm for auditing services required by
250 paragraph (e) of this section and to require that the contract
251 contain a standard provision developed by the Department of Audit
252 assessing late fees against accounting firms that fail to deliver
253 final reports at the time specified in the contract. Any such
254 contract that does not contain the standard provision on late fees
255 shall be void. No legal government agency shall have the
256 authority to waive the late fees without the consent of the
257 Department of Audit. The Department of Audit may take action to
258 enforce the late fees and may also establish policy by which no
259 firm that has failed to deliver reports on a timely basis shall be
260 eligible to enter into any service contract for audits required
261 under paragraph (e) of this section.

262 **SECTION 2.** Section 7-7-213, Mississippi Code of 1972, is
263 amended as follows:

264 7-7-213. The costs of audits and other services required by
265 Sections 7-7-201 through 7-7-215, except for those audits and
266 services authorized by Section 7-7-211(k) which shall be funded by
267 appropriations made by the Legislature from such funds as it deems
268 appropriate, shall be paid from a special fund hereby created in
269 the State Treasury, to be known as the State Department of Audit

270 Fund, into which will be paid each year the amounts received for
271 performing audits required by law. Except as provided in Section
272 7-7-211(d) and any municipality required under this chapter to be
273 audited by the State Auditor, the amounts to be charged for
274 performing audits and other services shall be the actual
275 cost * * *. In the event of failure by any unit of government to
276 pay the charges authorized herein, the Department of Audit shall
277 notify the State Fiscal Officer, and upon a determination that the
278 charges are substantially correct, the State Fiscal Officer shall
279 notify the defaulting unit of his determination. If payment is
280 not made within thirty (30) days after such notification, the
281 State Fiscal Officer shall notify the State Treasurer and
282 Department of Public Accounts that no further warrants are to be
283 issued to the defaulting unit until the deficiency is paid.

284 The cost of any service by the department not required of it
285 under the provisions of the cited sections but made necessary by
286 the willful fault or negligence of an officer or employee of any
287 public office of the state shall be recovered (i) from such
288 officer or employee and/or surety on official bond thereof and/or
289 (ii) from the individual, partnership, corporation or association
290 involved, in the same manner and under the same terms, when
291 necessary, as provided the department for recovering public funds
292 in Section 7-7-211.

293 The State Auditor shall deliver a copy of any audit of the
294 fiscal and financial affairs of a county to the chancery clerk of
295 such county and shall deliver a notice stating that a copy of such
296 audit is on file in the chancery clerk's office to some newspaper
297 published in the county to be published. If no newspaper is
298 published in the county, a copy of such notice shall be delivered
299 to a newspaper having a general circulation therein.

300 **SECTION 3.** Section 17-13-11, Mississippi Code of 1972, is
301 amended as follows:

302 17-13-11. (1) Every agreement made by a local governmental
303 unit hereunder shall, prior to and as a condition precedent to its
304 entry into force, be submitted to the attorney general of this
305 state who shall determine whether the agreement is in proper form
306 and compatible with the laws of this state. No agreement may be
307 considered that does not cite the specific authority under which
308 each of the local governing units involved may exercise the powers
309 necessary to fulfill the terms of the joint agreement. The
310 attorney general shall approve any such agreement submitted to him
311 hereunder unless he shall find that it does not meet the
312 conditions set forth herein and elsewhere in the laws of this
313 state and shall detail in writing addressed to the governing
314 bodies of the units concerned the specific respects in which the
315 proposed agreement fails to meet the requirements of law.

316 Failure to disapprove an agreement submitted hereunder within
317 sixty (60) days of its submission shall constitute approval
318 thereof.

319 (2) In the event that an agreement made pursuant to this
320 chapter shall deal in whole or in part with the provision of
321 services or facilities with regard to which an officer, unit or
322 agency of the state government has constitutional or statutory
323 powers of control, the agreement shall, as a condition precedent
324 to its being in force, be submitted to the state officer, unit or
325 agency having such power of control and shall be approved or
326 disapproved by him or it as to all matters within his or its
327 jurisdiction in the same manner and subject to the same
328 requirements governing action of the attorney general pursuant to
329 subsection (1) of this section.

330 (3) Prior to its being in force, an agreement made pursuant
331 to this chapter shall be filed with the chancery clerk of each of
332 the counties wherein a participating local governmental unit is
333 located and with the secretary of state. The chancery clerk and
334 the secretary of state shall preserve such agreements as public

335 records and index and docket the same separate and apart from all
336 other records in his office.

337 * * *

338 **SECTION 4.** Section 21-33-47, Mississippi Code of 1972, is
339 amended as follows:

340 21-33-47. When the governing authorities of any municipality
341 shall have made the levy of municipal taxes by resolution, or for
342 any other taxing district of which the said municipality is a part
343 by resolution, the clerk of the municipality shall thereupon
344 immediately certify the same to the tax collector of the
345 municipality, or such other taxing district of which the
346 municipality may be a part * * *.

347 When a resolution levying ad valorem taxes has been finally
348 adopted by the governing authorities of any municipality
349 embracing, in whole or in part, any other taxing district of which
350 such municipality is a part, the clerk of such municipality shall
351 immediately certify a copy of such resolution to the State Tax
352 Commission, as the law directs. The clerk shall have the
353 resolution of the governing authorities making the levy printed
354 within two (2) weeks after it is entered on the minutes of such
355 governing authorities, and he shall furnish any taxpayer with a
356 copy thereof, upon request. If a newspaper is published within
357 such municipality, then such resolution shall be published in its
358 entirety, at least one (1) time, within ten (10) days after its
359 adoption. Instead of publishing the resolution in its entirety,
360 the publication of the resolution may be made as provided in
361 Section 21-17-19. If no newspaper be published within such
362 municipality, then a copy of such resolution, in its entirety,
363 shall be posted by such municipal clerk in at least three (3)
364 public places in such municipality, within ten (10) days after its
365 adoption.

366 The clerk shall be liable on his bond for any damages
367 sustained by his failure to comply with the requirements of this

368 section. However, failure to thus publish or post the same shall
369 not affect the validity of the levy.

370 **SECTION 5.** Section 25-1-77, Mississippi Code of 1972, is
371 amended as follows:

372 25-1-77. (1) There is hereby created the Bureau of Fleet
373 Management within the Office of Purchasing, Travel and Fleet
374 Management, Department of Finance and Administration, for the
375 purposes of coordinating and promoting efficiency and economy in
376 the purchase, lease, rental, acquisition, use, maintenance and
377 disposal of vehicles by state agencies. The Executive Director of
378 the Department of Finance and Administration may employ a Fleet
379 Management Officer to manage the bureau and carry out its
380 purposes. The bureau may employ other suitable and competent
381 personnel as necessary. The bureau shall encourage the use of
382 fuel efficient or hybrid vehicles appropriate for the state
383 agency's intended purpose and, when feasible, the use of
384 alternative fuels, including, but not limited to, ethanol or
385 biodiesel.

386 (2) The Bureau of Fleet Management shall perform the
387 following duties:

388 (a) To hold title in the name of the State of
389 Mississippi to all vehicles currently in possession of state
390 agencies as defined in Section 25-9-107(d) and to assign vehicles
391 to such agencies for use; however, the bureau shall exempt any
392 agency or agency vehicles from the provisions of this paragraph
393 (a) if it determines that state or federal law requires that title
394 be vested only in the agency;

395 (b) To establish rules and regulations for state agency
396 use of vehicles;

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

399 (d) To acquire fleet management software and require
400 agencies to provide necessary information for the bureau to

401 properly monitor the size, use, maintenance and disposal of the
402 state's fleet of vehicles; the bureau shall communicate regularly
403 with the fleet managers of each state agency to determine
404 strengths and weaknesses of the various fleet operations; the
405 bureau shall disseminate information to the agencies so that each
406 can take advantage of any beneficial practices being incorporated
407 at other entities; the bureau shall promulgate rules and
408 regulations concerning the mileage reimbursement practices of each
409 state agency;

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

412 (f) To reassign vehicles in the possession of any state
413 agency if the bureau believes that another state agency can make
414 more efficient use of a vehicle; provided, however, that the state
415 agency receiving the reassigned vehicle shall pay to the previous
416 agency's special fund, or if no special fund exists to the State
417 General Fund, the National Automobile Dealers Association (NADA)
418 wholesale value for the vehicle or the estimated amount for which
419 the vehicle would have sold at auction, as shall be determined by
420 the bureau, whichever is less;

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

423 (h) To require each agency to submit to the bureau a
424 vehicle acquisition/use/disposal plan on an annual basis. From
425 the plans received, the bureau shall evaluate the proposed plans
426 and shall submit a recommendation to the Legislature prior to
427 January 1 of each year.

428 (3) No state department, institution or agency shall
429 purchase, rent, lease or acquire any motor vehicle, regardless of
430 the source of funds from which the motor vehicle is to be
431 purchased, except under authority granted by the Department of
432 Finance and Administration. The Bureau of Fleet Management,
433 Department of Finance and Administration, shall promulgate rules

434 and regulations governing the purchase, rental, lease or
435 acquisition of any motor vehicle by a state department,
436 institution or agency with regard to the appropriateness of the
437 vehicle to its intended use. The Bureau of Fleet Management,
438 Department of Finance and Administration, shall only grant
439 authority to purchase, rent, lease or acquire a motor vehicle
440 which is the lowest cost vehicle to carry out its intended use.
441 Before the disposal or sale of any vehicle, the Bureau of Fleet
442 Management shall make a determination that the lifetime use and
443 mileage of the vehicle has been maximized and that it would not be
444 feasible for another state agency to use the vehicle.

445 (4) The department, institution or agency shall maintain
446 proper documentation which provides the intended use of the
447 vehicle and the basis for choosing the vehicle. Such
448 documentation shall show that the department, institution or
449 agency made diligent efforts to purchase, rent, lease or acquire a
450 vehicle that is the lowest cost vehicle for its intended use.
451 Such documentation shall be updated as needed when the intended
452 use of the vehicle or any other facts concerning the vehicle are
453 changed. All such documentation shall be approved by the State
454 Fleet Officer prior to purchase, rental, lease or acquisition or
455 change in use of any vehicle and shall be maintained and made
456 available for review by the State Auditor, any other reviewing
457 agency and the Legislature.

458 (5) The State Auditor shall make on-site visits and conduct
459 audits necessary to ensure compliance with the provisions of this
460 section and all rules and regulations adopted hereunder. * * *

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

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

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

474 **SECTION 6.** Section 25-1-87, Mississippi Code of 1972, is
475 amended as follows:

476 25-1-87. (1) All motor vehicles owned or leased by the
477 State of Mississippi or any agency, department or political
478 subdivision thereof, which shall include counties and
479 municipalities, when such agency or department or political
480 subdivision, which shall include counties and municipalities, is
481 supported wholly or in part by public taxes or by appropriations
482 from public funds, shall have painted on both sides in letters at
483 least three (3) inches in height, and on the rear in letters not
484 less than one and one-half (1-1/2) inches in height, the name of
485 the state agency or department, or political subdivision, which
486 shall include counties and municipalities, in a color which is in
487 contrast with the color of the vehicle; provided, however, that a
488 permanent decal may be used in lieu of paint, and provided
489 further, that any municipality may affix a permanent decal or
490 design at least twelve (12) inches in height and twelve (12)
491 inches in width on both sides of the vehicle with the name of the
492 municipality within or across the permanent decal or design, and
493 the permanent design or decal shall be in a color or colors which
494 are in contrast with the color of the vehicle. No privilege
495 license tag shall be issued for such vehicle until the name has
496 been painted thereon or a permanent design or decal affixed
497 thereto as required by this section. A permanent decal may be
498 used in lieu of paint. The provisions of this paragraph shall not

499 apply to vehicles used by the Chief Executive of the State of
500 Mississippi, to vehicles owned or leased by the Department of
501 Economic and Community Development, to vehicles owned or leased by
502 the Office of the Attorney General, to not more than one (1)
503 vehicle owned or leased by the Department of Finance and
504 Administration for use by the Capitol Police, to vehicles owned or
505 leased by the Mississippi State Board of Medical Licensure and
506 used only by the Investigative Division of the board, to one (1)
507 vehicle owned or leased by the Executive Director of the
508 Department of Mental Health, to not more than one (1) vehicle
509 owned or leased by the Mississippi Division of Medicaid, to one
510 (1) vehicle owned or leased by the State Department of
511 Rehabilitation Services, to one (1) vehicle owned or leased by the
512 Mississippi Department of Transportation, to one (1) vehicle owned
513 or leased by the Commissioner of the Mississippi Department of
514 Corrections, to not more than three (3) vehicles owned or leased
515 by the Department of Corrections and used only by Community
516 Services Division officers, to not more than one (1) vehicle owned
517 or leased by the Mississippi Department of Transportation and used
518 only by an investigator employed by the Mississippi Department of
519 Transportation, to not more than two (2) vehicles owned or leased
520 by the Mississippi Department of Marine Resources, or to not more
521 than one (1) vehicle owned or leased by the Mississippi State Tax
522 Commission; and upon receipt of a written request from the State
523 Adjutant General, the Commissioner of Public Safety, the Director
524 of the Alcoholic Beverage Control Division of the Mississippi
525 State Tax Commission, the Executive Director of the Mississippi
526 Department of Wildlife, Fisheries and Parks, the Director of the
527 Bureau of Narcotics, the Executive Officer of the Board of
528 Pharmacy, the Executive Director of the Mississippi Gaming
529 Commission, the State Auditor or a president or chancellor of a
530 state institution of higher learning, the Governor may authorize
531 the use of specified unmarked vehicles only in instances where

532 such identifying marks will hinder official investigations, and
533 the governing authorities of any municipality may authorize the
534 use of specified, unmarked police vehicles when identifying marks
535 would hinder official criminal investigations by the police. The
536 written request or the order or resolution authorizing such shall
537 contain the manufacturer's serial number, the state inventory
538 number, where applicable, and shall set forth why the vehicle
539 should be exempt from the provisions of this paragraph. In the
540 event the request is granted, the Governor shall furnish the State
541 Department of Audit with a copy of his written authority for the
542 use of the unmarked vehicles, or the governing authority, as the
543 case may be, shall enter its order or resolution on the minutes
544 and shall furnish the State Department of Audit with a certified
545 copy of its order or resolution for the use of the unmarked police
546 vehicle. The state property auditors of the State Department of
547 Audit shall personally examine vehicles owned or leased by the
548 State of Mississippi or any agency, department or commission
549 thereof and report violations of the provisions of this paragraph
550 to the State Auditor and the Chairman of the Joint Legislative
551 Committee on Performance Evaluation and Expenditure Review. Any
552 vehicle found to be in violation of this paragraph shall be
553 reported immediately to the department head charged with such
554 vehicle, and five (5) days shall be given for compliance; and if
555 not complied with, such vehicles shall be impounded by the State
556 Auditor until properly marked or exempted.

557 (2) The Department of Audit shall annually check for state
558 agency compliance with the requirements of this section when
559 conducting annual fixed asset inventories. The Department of
560 Audit shall require that audit programs for annual financial
561 audits of local governing authorities shall include a review for
562 compliance with the requirements of this section. The Department
563 of Audit shall require that all local governing authorities,
564 including school districts, file a statement sworn and attested

565 with the State Tax Commission that details the local governing
566 authority's compliance with the requirements of this section. The
567 statement shall include a complete inventory of vehicles in the
568 governing authority's possession in the same manner as maintained
569 by the Department of Audit for state agency vehicles in the state
570 master inventory.

571 (3) Upon notification to the State Tax Commission by the
572 State Auditor that any municipality or political subdivision is
573 not in compliance with this section, the State Tax Commission
574 shall withhold any sales tax due for distribution to any such
575 municipality and any excise tax on gasoline, diesel fuel, kerosene
576 and oil due any such county and for any months thereafter, and
577 shall continue to withhold such funds until compliance with this
578 section is certified to the State Tax Commission by the State
579 Department of Audit.

580 (4) County-owned motor vehicles operated by the sheriff's
581 department shall not be subject to the provisions of this section,
582 but shall be subject to the provisions of Section 19-25-15.
583 County-owned motor vehicles operated by a family court established
584 pursuant to Section 43-23-1 et seq., shall not be subject to the
585 provisions of this section.

586 (5) State-owned or leased motor vehicles operated by the
587 Department of Mental Health or by facilities operated by the
588 Department of Mental Health and used for transporting patients
589 living in group homes or alternative living arrangements shall not
590 be subject to the provisions of this section.

591 (6) Up to four (4) passenger automobiles owned or leased by
592 economic development districts or economic development authorities
593 shall not be subject to the provisions of this section.

594 (7) State-owned or leased motor vehicles operated by the
595 Agricultural and Livestock Theft Bureau of the Department of
596 Agriculture and Commerce and used to investigate livestock theft
597 shall not be subject to the provisions of this section.

598 (8) Up to three (3) motor vehicles owned or leased by the
599 Pascagoula Municipal Separate School District for use by district
600 security officers shall not be subject to the provisions of this
601 section.

602 (9) Up to three (3) motor vehicles owned or leased by the
603 Department of Human Services for use only by the Program Integrity
604 Division and the executive director shall not be subject to the
605 provisions of this section.

606 (10) Up to three (3) motor vehicles owned or leased by the
607 Department of Insurance for use by the State Fire Marshal's Office
608 shall not be subject to the provisions of this section.

609 (11) The motor vehicles of a public airport shall not be
610 subject to the provisions of this section upon a finding by the
611 governing authority of such airport that marking a motor vehicle
612 as required in this section will compromise security at such
613 airport.

614 **SECTION 7.** Section 31-7-13, Mississippi Code of 1972, is
615 amended as follows:

616 31-7-13. All agencies and governing authorities shall
617 purchase their commodities and printing; contract for garbage
618 collection or disposal; contract for solid waste collection or
619 disposal; contract for sewage collection or disposal; contract for
620 public construction; and contract for rentals as herein provided.

621 (a) **Bidding procedure for purchases not over \$3,500.00.**
622 Purchases which do not involve an expenditure of more than Three
623 Thousand Five Hundred Dollars (\$3,500.00), exclusive of freight or
624 shipping charges, may be made without advertising or otherwise
625 requesting competitive bids. However, nothing contained in this
626 paragraph (a) shall be construed to prohibit any agency or
627 governing authority from establishing procedures which require
628 competitive bids on purchases of Three Thousand Five Hundred
629 Dollars (\$3,500.00) or less.

630 (b) **Bidding procedure for purchases over \$3,500.00 but**
631 **not over \$15,000.00.** Purchases which involve an expenditure of
632 more than Three Thousand Five Hundred Dollars (\$3,500.00) but not
633 more than Fifteen Thousand Dollars (\$15,000.00), exclusive of
634 freight and shipping charges may be made from the lowest and best
635 bidder without publishing or posting advertisement for bids,
636 provided at least two (2) competitive written bids have been
637 obtained. Any governing authority purchasing commodities pursuant
638 to this paragraph (b) may authorize its purchasing agent, or his
639 designee, with regard to governing authorities other than
640 counties, or its purchase clerk, or his designee, with regard to
641 counties, to accept the lowest and best competitive written bid.
642 Such authorization shall be made in writing by the governing
643 authority and shall be maintained on file in the primary office of
644 the agency and recorded in the official minutes of the governing
645 authority, as appropriate. The purchasing agent or the purchase
646 clerk, or their designee, as the case may be, and not the
647 governing authority, shall be liable for any penalties and/or
648 damages as may be imposed by law for any act or omission of the
649 purchasing agent or purchase clerk, or their designee,
650 constituting a violation of law in accepting any bid without
651 approval by the governing authority. The term "competitive
652 written bid" shall mean a bid submitted on a bid form furnished by
653 the buying agency or governing authority and signed by authorized
654 personnel representing the vendor, or a bid submitted on a
655 vendor's letterhead or identifiable bid form and signed by
656 authorized personnel representing the vendor. "Competitive" shall
657 mean that the bids are developed based upon comparable
658 identification of the needs and are developed independently and
659 without knowledge of other bids or prospective bids. Bids may be
660 submitted by facsimile, electronic mail or other generally
661 accepted method of information distribution. Bids submitted by
662 electronic transmission shall not require the signature of the

663 vendor's representative unless required by agencies or governing
664 authorities.

665 (c) **Bidding procedure for purchases over \$15,000.00.**

666 (i) **Publication requirement.**

667 1. Purchases which involve an expenditure of
668 more than Fifteen Thousand Dollars (\$15,000.00), exclusive of
669 freight and shipping charges, may be made from the lowest and best
670 bidder after advertising for competitive bids once each week for
671 two (2) consecutive weeks in a regular newspaper published in the
672 county or municipality in which such agency or governing authority
673 is located.

674 2. The purchasing entity may designate the
675 method by which the bids will be received, including, but not
676 limited to, bids sealed in an envelope, bids received
677 electronically in a secure system, bids received via a reverse
678 auction, or bids received by any other method that promotes open
679 competition and has been approved by the Office of Purchasing and
680 Travel. The provisions of this part 2 of subparagraph (i) shall
681 be repealed on July 1, 2008.

682 3. The date as published for the bid opening
683 shall not be less than seven (7) working days after the last
684 published notice; however, if the purchase involves a construction
685 project in which the estimated cost is in excess of Fifteen
686 Thousand Dollars (\$15,000.00), such bids shall not be opened in
687 less than fifteen (15) working days after the last notice is
688 published and the notice for the purchase of such construction
689 shall be published once each week for two (2) consecutive weeks.
690 The notice of intention to let contracts or purchase equipment
691 shall state the time and place at which bids shall be received,
692 list the contracts to be made or types of equipment or supplies to
693 be purchased, and, if all plans and/or specifications are not
694 published, refer to the plans and/or specifications on file. If
695 there is no newspaper published in the county or municipality,

696 then such notice shall be given by posting same at the courthouse,
697 or for municipalities at the city hall, and at two (2) other
698 public places in the county or municipality, and also by
699 publication once each week for two (2) consecutive weeks in some
700 newspaper having a general circulation in the county or
701 municipality in the above provided manner. On the same date that
702 the notice is submitted to the newspaper for publication, the
703 agency or governing authority involved shall mail written notice
704 to, or provide electronic notification to the main office of the
705 Mississippi Contract Procurement Center that contains the same
706 information as that in the published notice.

707 (ii) **Bidding process amendment procedure.** If all
708 plans and/or specifications are published in the notification,
709 then the plans and/or specifications may not be amended. If all
710 plans and/or specifications are not published in the notification,
711 then amendments to the plans/specifications, bid opening date, bid
712 opening time and place may be made, provided that the agency or
713 governing authority maintains a list of all prospective bidders
714 who are known to have received a copy of the bid documents and all
715 such prospective bidders are sent copies of all amendments. This
716 notification of amendments may be made via mail, facsimile,
717 electronic mail or other generally accepted method of information
718 distribution. No addendum to bid specifications may be issued
719 within two (2) working days of the time established for the
720 receipt of bids unless such addendum also amends the bid opening
721 to a date not less than five (5) working days after the date of
722 the addendum.

723 (iii) **Filing requirement.** In all cases involving
724 governing authorities, before the notice shall be published or
725 posted, the plans or specifications for the construction or
726 equipment being sought shall be filed with the clerk of the board
727 of the governing authority. In addition to these requirements, a
728 bid file shall be established which shall indicate those vendors

729 to whom such solicitations and specifications were issued, and
730 such file shall also contain such information as is pertinent to
731 the bid.

732 (iv) **Specification restrictions.**

733 1. Specifications pertinent to such bidding
734 shall be written so as not to exclude comparable equipment of
735 domestic manufacture. However, if valid justification is
736 presented, the Department of Finance and Administration or the
737 board of a governing authority may approve a request for specific
738 equipment necessary to perform a specific job. Further, such
739 justification, when placed on the minutes of the board of a
740 governing authority, may serve as authority for that governing
741 authority to write specifications to require a specific item of
742 equipment needed to perform a specific job. In addition to these
743 requirements, from and after July 1, 1990, vendors of relocatable
744 classrooms and the specifications for the purchase of such
745 relocatable classrooms published by local school boards shall meet
746 all pertinent regulations of the State Board of Education,
747 including prior approval of such bid by the State Department of
748 Education.

749 2. Specifications for construction projects
750 may include an allowance for commodities, equipment, furniture,
751 construction materials or systems in which prospective bidders are
752 instructed to include in their bids specified amounts for such
753 items so long as the allowance items are acquired by the vendor in
754 a commercially reasonable manner and approved by the
755 agency/governing authority. Such acquisitions shall not be made
756 to circumvent the public purchasing laws.

757 (v) Agencies and governing authorities may
758 establish secure procedures by which bids may be submitted via
759 electronic means.

760 (d) **Lowest and best bid decision procedure.**

761 (i) **Decision procedure.** Purchases may be made
762 from the lowest and best bidder. In determining the lowest and
763 best bid, freight and shipping charges shall be included.
764 Life-cycle costing, total cost bids, warranties, guaranteed
765 buy-back provisions and other relevant provisions may be included
766 in the best bid calculation. All best bid procedures for state
767 agencies must be in compliance with regulations established by the
768 Department of Finance and Administration. If any governing
769 authority accepts a bid other than the lowest bid actually
770 submitted, it shall place on its minutes detailed calculations and
771 narrative summary showing that the accepted bid was determined to
772 be the lowest and best bid, including the dollar amount of the
773 accepted bid and the dollar amount of the lowest bid. No agency
774 or governing authority shall accept a bid based on items not
775 included in the specifications.

776 (ii) **Decision procedure for Certified Purchasing**
777 **Offices.** In addition to the decision procedure set forth in
778 paragraph (d)(i), Certified Purchasing Offices may also use the
779 following procedure: Purchases may be made from the bidder
780 offering the best value. In determining the best value bid,
781 freight and shipping charges shall be included. Life-cycle
782 costing, total cost bids, warranties, guaranteed buy-back
783 provisions, documented previous experience, training costs and
784 other relevant provisions may be included in the best value
785 calculation. This provision shall authorize Certified Purchasing
786 Offices to utilize a Request For Proposals (RFP) process when
787 purchasing commodities. All best value procedures for state
788 agencies must be in compliance with regulations established by the
789 Department of Finance and Administration. No agency or governing
790 authority shall accept a bid based on items or criteria not
791 included in the specifications.

792 (iii) **Construction project negotiations authority.**
793 If the lowest and best bid is not more than ten percent (10%)

794 above the amount of funds allocated for a public construction or
795 renovation project, then the agency or governing authority shall
796 be permitted to negotiate with the lowest bidder in order to enter
797 into a contract for an amount not to exceed the funds allocated.

798 (e) **Lease-purchase authorization.** For the purposes of
799 this section, the term "equipment" shall mean equipment, furniture
800 and, if applicable, associated software and other applicable
801 direct costs associated with the acquisition. Any lease-purchase
802 of equipment which an agency is not required to lease-purchase
803 under the master lease-purchase program pursuant to Section
804 31-7-10 and any lease-purchase of equipment which a governing
805 authority elects to lease-purchase may be acquired by a
806 lease-purchase agreement under this paragraph (e). Lease-purchase
807 financing may also be obtained from the vendor or from a
808 third-party source after having solicited and obtained at least
809 two (2) written competitive bids, as defined in paragraph (b) of
810 this section, for such financing without advertising for such
811 bids. Solicitation for the bids for financing may occur before or
812 after acceptance of bids for the purchase of such equipment or,
813 where no such bids for purchase are required, at any time before
814 the purchase thereof. No such lease-purchase agreement shall be
815 for an annual rate of interest which is greater than the overall
816 maximum interest rate to maturity on general obligation
817 indebtedness permitted under Section 75-17-101, and the term of
818 such lease-purchase agreement shall not exceed the useful life of
819 equipment covered thereby as determined according to the upper
820 limit of the asset depreciation range (ADR) guidelines for the
821 Class Life Asset Depreciation Range System established by the
822 Internal Revenue Service pursuant to the United States Internal
823 Revenue Code and regulations thereunder as in effect on December
824 31, 1980, or comparable depreciation guidelines with respect to
825 any equipment not covered by ADR guidelines. Any lease-purchase
826 agreement entered into pursuant to this paragraph (e) may contain

827 any of the terms and conditions which a master lease-purchase
828 agreement may contain under the provisions of Section 31-7-10(5),
829 and shall contain an annual allocation dependency clause
830 substantially similar to that set forth in Section 31-7-10(8).
831 Each agency or governing authority entering into a lease-purchase
832 transaction pursuant to this paragraph (e) shall maintain with
833 respect to each such lease-purchase transaction the same
834 information as required to be maintained by the Department of
835 Finance and Administration pursuant to Section 31-7-10(13).
836 However, nothing contained in this section shall be construed to
837 permit agencies to acquire items of equipment with a total
838 acquisition cost in the aggregate of less than Ten Thousand
839 Dollars (\$10,000.00) by a single lease-purchase transaction. All
840 equipment, and the purchase thereof by any lessor, acquired by
841 lease-purchase under this paragraph and all lease-purchase
842 payments with respect thereto shall be exempt from all Mississippi
843 sales, use and ad valorem taxes. Interest paid on any
844 lease-purchase agreement under this section shall be exempt from
845 State of Mississippi income taxation.

846 (f) **Alternate bid authorization.** When necessary to
847 ensure ready availability of commodities for public works and the
848 timely completion of public projects, no more than two (2)
849 alternate bids may be accepted by a governing authority for
850 commodities. No purchases may be made through use of such
851 alternate bids procedure unless the lowest and best bidder cannot
852 deliver the commodities contained in his bid. In that event,
853 purchases of such commodities may be made from one (1) of the
854 bidders whose bid was accepted as an alternate.

855 (g) **Construction contract change authorization.** In the
856 event a determination is made by an agency or governing authority
857 after a construction contract is let that changes or modifications
858 to the original contract are necessary or would better serve the
859 purpose of the agency or the governing authority, such agency or

860 governing authority may, in its discretion, order such changes
861 pertaining to the construction that are necessary under the
862 circumstances without the necessity of further public bids;
863 provided that such change shall be made in a commercially
864 reasonable manner and shall not be made to circumvent the public
865 purchasing statutes. In addition to any other authorized person,
866 the architect or engineer hired by an agency or governing
867 authority with respect to any public construction contract shall
868 have the authority, when granted by an agency or governing
869 authority, to authorize changes or modifications to the original
870 contract without the necessity of prior approval of the agency or
871 governing authority when any such change or modification is less
872 than one percent (1%) of the total contract amount. The agency or
873 governing authority may limit the number, manner or frequency of
874 such emergency changes or modifications.

875 (h) **Petroleum purchase alternative.** In addition to
876 other methods of purchasing authorized in this chapter, when any
877 agency or governing authority shall have a need for gas, diesel
878 fuel, oils and/or other petroleum products in excess of the amount
879 set forth in paragraph (a) of this section, such agency or
880 governing authority may purchase the commodity after having
881 solicited and obtained at least two (2) competitive written bids,
882 as defined in paragraph (b) of this section. If two (2)
883 competitive written bids are not obtained, the entity shall comply
884 with the procedures set forth in paragraph (c) of this section.
885 In the event any agency or governing authority shall have
886 advertised for bids for the purchase of gas, diesel fuel, oils and
887 other petroleum products and coal and no acceptable bids can be
888 obtained, such agency or governing authority is authorized and
889 directed to enter into any negotiations necessary to secure the
890 lowest and best contract available for the purchase of such
891 commodities.

892 (i) **Road construction petroleum products price**
893 **adjustment clause authorization.** Any agency or governing
894 authority authorized to enter into contracts for the construction,
895 maintenance, surfacing or repair of highways, roads or streets,
896 may include in its bid proposal and contract documents a price
897 adjustment clause with relation to the cost to the contractor,
898 including taxes, based upon an industry-wide cost index, of
899 petroleum products including asphalt used in the performance or
900 execution of the contract or in the production or manufacture of
901 materials for use in such performance. Such industry-wide index
902 shall be established and published monthly by the Mississippi
903 Department of Transportation with a copy thereof to be mailed,
904 upon request, to the clerks of the governing authority of each
905 municipality and the clerks of each board of supervisors
906 throughout the state. The price adjustment clause shall be based
907 on the cost of such petroleum products only and shall not include
908 any additional profit or overhead as part of the adjustment. The
909 bid proposals or document contract shall contain the basis and
910 methods of adjusting unit prices for the change in the cost of
911 such petroleum products.

912 (j) **State agency emergency purchase procedure.** If the
913 governing board or the executive head, or his designee, of any
914 agency of the state shall determine that an emergency exists in
915 regard to the purchase of any commodities or repair contracts, so
916 that the delay incident to giving opportunity for competitive
917 bidding would be detrimental to the interests of the state, then
918 the provisions herein for competitive bidding shall not apply and
919 the head of such agency shall be authorized to make the purchase
920 or repair. Total purchases so made shall only be for the purpose
921 of meeting needs created by the emergency situation. In the event
922 such executive head is responsible to an agency board, at the
923 meeting next following the emergency purchase, documentation of
924 the purchase, including a description of the commodity purchased,

925 the purchase price thereof and the nature of the emergency shall
926 be presented to the board and placed on the minutes of the board
927 of such agency. The head of such agency, or his designee, shall,
928 at the earliest possible date following such emergency purchase,
929 file with the Department of Finance and Administration (i) a
930 statement explaining the conditions and circumstances of the
931 emergency, which shall include a detailed description of the
932 events leading up to the situation and the negative impact to the
933 entity if the purchase is made following the statutory
934 requirements set forth in paragraph (a), (b) or (c) of this
935 section, and (ii) a certified copy of the appropriate minutes of
936 the board of such agency, if applicable. * * *

937 (k) **Governing authority emergency purchase procedure.**

938 If the governing authority, or the governing authority acting
939 through its designee, shall determine that an emergency exists in
940 regard to the purchase of any commodities or repair contracts, so
941 that the delay incident to giving opportunity for competitive
942 bidding would be detrimental to the interest of the governing
943 authority, then the provisions herein for competitive bidding
944 shall not apply and any officer or agent of such governing
945 authority having general or special authority therefor in making
946 such purchase or repair shall approve the bill presented therefor,
947 and he shall certify in writing thereon from whom such purchase
948 was made, or with whom such a repair contract was made. At the
949 board meeting next following the emergency purchase or repair
950 contract, documentation of the purchase or repair contract,
951 including a description of the commodity purchased, the price
952 thereof and the nature of the emergency shall be presented to the
953 board and shall be placed on the minutes of the board of such
954 governing authority.

955 (l) **Hospital purchase, lease-purchase and lease**
956 **authorization.**

957 (i) The commissioners or board of trustees of any
958 public hospital may contract with such lowest and best bidder for
959 the purchase or lease-purchase of any commodity under a contract
960 of purchase or lease-purchase agreement whose obligatory payment
961 terms do not exceed five (5) years.

962 (ii) In addition to the authority granted in
963 subparagraph (i) of this paragraph (1), the commissioners or board
964 of trustees is authorized to enter into contracts for the lease of
965 equipment or services, or both, which it considers necessary for
966 the proper care of patients if, in its opinion, it is not
967 financially feasible to purchase the necessary equipment or
968 services. Any such contract for the lease of equipment or
969 services executed by the commissioners or board shall not exceed a
970 maximum of five (5) years' duration and shall include a
971 cancellation clause based on unavailability of funds. If such
972 cancellation clause is exercised, there shall be no further
973 liability on the part of the lessee. Any such contract for the
974 lease of equipment or services executed on behalf of the
975 commissioners or board that complies with the provisions of this
976 subparagraph (ii) shall be excepted from the bid requirements set
977 forth in this section.

978 (m) **Exceptions from bidding requirements.** Excepted
979 from bid requirements are:

980 (i) **Purchasing agreements approved by department.**
981 Purchasing agreements, contracts and maximum price regulations
982 executed or approved by the Department of Finance and
983 Administration.

984 (ii) **Outside equipment repairs.** Repairs to
985 equipment, when such repairs are made by repair facilities in the
986 private sector; however, engines, transmissions, rear axles and/or
987 other such components shall not be included in this exemption when
988 replaced as a complete unit instead of being repaired and the need
989 for such total component replacement is known before disassembly

990 of the component; however, invoices identifying the equipment,
991 specific repairs made, parts identified by number and name,
992 supplies used in such repairs, and the number of hours of labor
993 and costs therefor shall be required for the payment for such
994 repairs.

995 (iii) **In-house equipment repairs.** Purchases of
996 parts for repairs to equipment, when such repairs are made by
997 personnel of the agency or governing authority; however, entire
998 assemblies, such as engines or transmissions, shall not be
999 included in this exemption when the entire assembly is being
1000 replaced instead of being repaired.

1001 (iv) **Raw gravel or dirt.** Raw unprocessed deposits
1002 of gravel or fill dirt which are to be removed and transported by
1003 the purchaser.

1004 (v) **Governmental equipment auctions.** Motor
1005 vehicles or other equipment purchased from a federal agency or
1006 authority, another governing authority or state agency of the
1007 State of Mississippi, or any governing authority or state agency
1008 of another state at a public auction held for the purpose of
1009 disposing of such vehicles or other equipment. Any purchase by a
1010 governing authority under the exemption authorized by this
1011 subparagraph (v) shall require advance authorization spread upon
1012 the minutes of the governing authority to include the listing of
1013 the item or items authorized to be purchased and the maximum bid
1014 authorized to be paid for each item or items.

1015 (vi) **Intergovernmental sales and transfers.**
1016 Purchases, sales, transfers or trades by governing authorities or
1017 state agencies when such purchases, sales, transfers or trades are
1018 made by a private treaty agreement or through means of
1019 negotiation, from any federal agency or authority, another
1020 governing authority or state agency of the State of Mississippi,
1021 or any state agency or governing authority of another state.

1022 Nothing in this section shall permit such purchases through public

1023 auction except as provided for in subparagraph (v) of this
1024 section. It is the intent of this section to allow governmental
1025 entities to dispose of and/or purchase commodities from other
1026 governmental entities at a price that is agreed to by both
1027 parties. This shall allow for purchases and/or sales at prices
1028 which may be determined to be below the market value if the
1029 selling entity determines that the sale at below market value is
1030 in the best interest of the taxpayers of the state. Governing
1031 authorities shall place the terms of the agreement and any
1032 justification on the minutes, and state agencies shall obtain
1033 approval from the Department of Finance and Administration, prior
1034 to releasing or taking possession of the commodities.

1035 (vii) **Perishable supplies or food.** Perishable
1036 supplies or food purchased for use in connection with hospitals,
1037 the school lunch programs, homemaking programs and for the feeding
1038 of county or municipal prisoners.

1039 (viii) **Single source items.** Noncompetitive items
1040 available from one (1) source only. In connection with the
1041 purchase of noncompetitive items only available from one (1)
1042 source, a certification of the conditions and circumstances
1043 requiring the purchase shall be filed by the agency with the
1044 Department of Finance and Administration and by the governing
1045 authority with the board of the governing authority. Upon receipt
1046 of that certification the Department of Finance and Administration
1047 or the board of the governing authority, as the case may be, may,
1048 in writing, authorize the purchase, which authority shall be noted
1049 on the minutes of the body at the next regular meeting thereafter.
1050 In those situations, a governing authority is not required to
1051 obtain the approval of the Department of Finance and
1052 Administration.

1053 (ix) **Waste disposal facility construction**
1054 **contracts.** Construction of incinerators and other facilities for
1055 disposal of solid wastes in which products either generated

1056 therein, such as steam, or recovered therefrom, such as materials
1057 for recycling, are to be sold or otherwise disposed of; however,
1058 in constructing such facilities, a governing authority or agency
1059 shall publicly issue requests for proposals, advertised for in the
1060 same manner as provided herein for seeking bids for public
1061 construction projects, concerning the design, construction,
1062 ownership, operation and/or maintenance of such facilities,
1063 wherein such requests for proposals when issued shall contain
1064 terms and conditions relating to price, financial responsibility,
1065 technology, environmental compatibility, legal responsibilities
1066 and such other matters as are determined by the governing
1067 authority or agency to be appropriate for inclusion; and after
1068 responses to the request for proposals have been duly received,
1069 the governing authority or agency may select the most qualified
1070 proposal or proposals on the basis of price, technology and other
1071 relevant factors and from such proposals, but not limited to the
1072 terms thereof, negotiate and enter contracts with one or more of
1073 the persons or firms submitting proposals.

1074 (x) **Hospital group purchase contracts.** Supplies,
1075 commodities and equipment purchased by hospitals through group
1076 purchase programs pursuant to Section 31-7-38.

1077 (xi) **Information technology products.** Purchases
1078 of information technology products made by governing authorities
1079 under the provisions of purchase schedules, or contracts executed
1080 or approved by the Mississippi Department of Information
1081 Technology Services and designated for use by governing
1082 authorities.

1083 (xii) **Energy efficiency services and equipment.**
1084 Energy efficiency services and equipment acquired by school
1085 districts, community and junior colleges, institutions of higher
1086 learning and state agencies or other applicable governmental
1087 entities on a shared-savings, lease or lease-purchase basis
1088 pursuant to Section 31-7-14.

1089 (xiii) **Municipal electrical utility system fuel.**

1090 Purchases of coal and/or natural gas by municipally-owned electric
1091 power generating systems that have the capacity to use both coal
1092 and natural gas for the generation of electric power.

1093 (xiv) **Library books and other reference materials.**

1094 Purchases by libraries or for libraries of books and periodicals;
1095 processed film, video cassette tapes, filmstrips and slides;
1096 recorded audio tapes, cassettes and diskettes; and any such items
1097 as would be used for teaching, research or other information
1098 distribution; however, equipment such as projectors, recorders,
1099 audio or video equipment, and monitor televisions are not exempt
1100 under this subparagraph.

1101 (xv) **Unmarked vehicles.** Purchases of unmarked
1102 vehicles when such purchases are made in accordance with
1103 purchasing regulations adopted by the Department of Finance and
1104 Administration pursuant to Section 31-7-9(2).

1105 (xvi) **Election ballots.** Purchases of ballots
1106 printed pursuant to Section 23-15-351.

1107 (xvii) **Multichannel interactive video systems.**

1108 From and after July 1, 1990, contracts by Mississippi Authority
1109 for Educational Television with any private educational
1110 institution or private nonprofit organization whose purposes are
1111 educational in regard to the construction, purchase, lease or
1112 lease-purchase of facilities and equipment and the employment of
1113 personnel for providing multichannel interactive video systems
1114 (ITSF) in the school districts of this state.

1115 (xviii) **Purchases of prison industry products.**

1116 From and after January 1, 1991, purchases made by state agencies
1117 or governing authorities involving any item that is manufactured,
1118 processed, grown or produced from the state's prison industries.

1119 (xix) **Undercover operations equipment.** Purchases

1120 of surveillance equipment or any other high-tech equipment to be
1121 used by law enforcement agents in undercover operations, provided

1122 that any such purchase shall be in compliance with regulations
1123 established by the Department of Finance and Administration.

1124 (xx) **Junior college books for rent.** Purchases by
1125 community or junior colleges of textbooks which are obtained for
1126 the purpose of renting such books to students as part of a book
1127 service system.

1128 (xxi) **Certain school district purchases.**
1129 Purchases of commodities made by school districts from vendors
1130 with which any levying authority of the school district, as
1131 defined in Section 37-57-1, has contracted through competitive
1132 bidding procedures for purchases of the same commodities.

1133 (xxii) **Garbage, solid waste and sewage contracts.**
1134 Contracts for garbage collection or disposal, contracts for solid
1135 waste collection or disposal and contracts for sewage collection
1136 or disposal.

1137 (xxiii) **Municipal water tank maintenance**
1138 **contracts.** Professional maintenance program contracts for the
1139 repair or maintenance of municipal water tanks, which provide
1140 professional services needed to maintain municipal water storage
1141 tanks for a fixed annual fee for a duration of two (2) or more
1142 years.

1143 (xxiv) **Purchases of Mississippi Industries for the**
1144 **Blind products.** Purchases made by state agencies or governing
1145 authorities involving any item that is manufactured, processed or
1146 produced by the Mississippi Industries for the Blind.

1147 (xxv) **Purchases of state-adopted textbooks.**
1148 Purchases of state-adopted textbooks by public school districts.

1149 (xxvi) **Certain purchases under the Mississippi**
1150 **Major Economic Impact Act.** Contracts entered into pursuant to the
1151 provisions of Section 57-75-9(2) and (3).

1152 (xxvii) **Used heavy or specialized machinery or**
1153 **equipment for installation of soil and water conservation**
1154 **practices purchased at auction.** Used heavy or specialized

1155 machinery or equipment used for the installation and
1156 implementation of soil and water conservation practices or
1157 measures purchased subject to the restrictions provided in
1158 Sections 69-27-331 through 69-27-341. Any purchase by the State
1159 Soil and Water Conservation Commission under the exemption
1160 authorized by this subparagraph shall require advance
1161 authorization spread upon the minutes of the commission to include
1162 the listing of the item or items authorized to be purchased and
1163 the maximum bid authorized to be paid for each item or items.

1164 (xxviii) **Hospital lease of equipment or services.**
1165 Leases by hospitals of equipment or services if the leases are in
1166 compliance with paragraph (1)(ii).

1167 (xxix) **Purchases made pursuant to qualified**
1168 **cooperative purchasing agreements.** Purchases made by certified
1169 purchasing offices of state agencies or governing authorities
1170 under cooperative purchasing agreements previously approved by the
1171 Office of Purchasing and Travel and established by or for any
1172 municipality, county, parish or state government or the federal
1173 government, provided that the notification to potential
1174 contractors includes a clause that sets forth the availability of
1175 the cooperative purchasing agreement to other governmental
1176 entities. Such purchases shall only be made if the use of the
1177 cooperative purchasing agreements is determined to be in the best
1178 interest of the governmental entity.

1179 (xxx) **School yearbooks.** Purchases of school
1180 yearbooks by state agencies or governing authorities; provided,
1181 however, that state agencies and governing authorities shall use
1182 for these purchases the RFP process as set forth in the
1183 Mississippi Procurement Manual adopted by the Office of Purchasing
1184 and Travel.

1185 (xxxi) **Design-build method or the design-build**
1186 **bridging method of contracting.** Contracts entered into under the
1187 provisions of Section 31-11-3(9).

1188 (n) **Term contract authorization.** All contracts for the
1189 purchase of:

1190 (i) All contracts for the purchase of commodities,
1191 equipment and public construction (including, but not limited to,
1192 repair and maintenance), may be let for periods of not more than
1193 sixty (60) months in advance, subject to applicable statutory
1194 provisions prohibiting the letting of contracts during specified
1195 periods near the end of terms of office. Term contracts for a
1196 period exceeding twenty-four (24) months shall also be subject to
1197 ratification or cancellation by governing authority boards taking
1198 office subsequent to the governing authority board entering the
1199 contract.

1200 (ii) Bid proposals and contracts may include price
1201 adjustment clauses with relation to the cost to the contractor
1202 based upon a nationally published industry-wide or nationally
1203 published and recognized cost index. The cost index used in a
1204 price adjustment clause shall be determined by the Department of
1205 Finance and Administration for the state agencies and by the
1206 governing board for governing authorities. The bid proposal and
1207 contract documents utilizing a price adjustment clause shall
1208 contain the basis and method of adjusting unit prices for the
1209 change in the cost of such commodities, equipment and public
1210 construction.

1211 (o) **Purchase law violation prohibition and vendor**
1212 **penalty.** No contract or purchase as herein authorized shall be
1213 made for the purpose of circumventing the provisions of this
1214 section requiring competitive bids, nor shall it be lawful for any
1215 person or concern to submit individual invoices for amounts within
1216 those authorized for a contract or purchase where the actual value
1217 of the contract or commodity purchased exceeds the authorized
1218 amount and the invoices therefor are split so as to appear to be
1219 authorized as purchases for which competitive bids are not
1220 required. Submission of such invoices shall constitute a

1221 misdemeanor punishable by a fine of not less than Five Hundred
1222 Dollars (\$500.00) nor more than One Thousand Dollars (\$1,000.00),
1223 or by imprisonment for thirty (30) days in the county jail, or
1224 both such fine and imprisonment. In addition, the claim or claims
1225 submitted shall be forfeited.

1226 (p) **Electrical utility petroleum-based equipment**
1227 **purchase procedure.** When in response to a proper advertisement
1228 therefor, no bid firm as to price is submitted to an electric
1229 utility for power transformers, distribution transformers, power
1230 breakers, reclosers or other articles containing a petroleum
1231 product, the electric utility may accept the lowest and best bid
1232 therefor although the price is not firm.

1233 (q) **Fuel management system bidding procedure.** Any
1234 governing authority or agency of the state shall, before
1235 contracting for the services and products of a fuel management or
1236 fuel access system, enter into negotiations with not fewer than
1237 two (2) sellers of fuel management or fuel access systems for
1238 competitive written bids to provide the services and products for
1239 the systems. In the event that the governing authority or agency
1240 cannot locate two (2) sellers of such systems or cannot obtain
1241 bids from two (2) sellers of such systems, it shall show proof
1242 that it made a diligent, good-faith effort to locate and negotiate
1243 with two (2) sellers of such systems. Such proof shall include,
1244 but not be limited to, publications of a request for proposals and
1245 letters soliciting negotiations and bids. For purposes of this
1246 paragraph (q), a fuel management or fuel access system is an
1247 automated system of acquiring fuel for vehicles as well as
1248 management reports detailing fuel use by vehicles and drivers, and
1249 the term "competitive written bid" shall have the meaning as
1250 defined in paragraph (b) of this section. Governing authorities
1251 and agencies shall be exempt from this process when contracting
1252 for the services and products of a fuel management or fuel access

1253 systems under the terms of a state contract established by the
1254 Office of Purchasing and Travel.

1255 (r) **Solid waste contract proposal procedure.** Before
1256 entering into any contract for garbage collection or disposal,
1257 contract for solid waste collection or disposal or contract for
1258 sewage collection or disposal, which involves an expenditure of
1259 more than Fifty Thousand Dollars (\$50,000.00), a governing
1260 authority or agency shall issue publicly a request for proposals
1261 concerning the specifications for such services which shall be
1262 advertised for in the same manner as provided in this section for
1263 seeking bids for purchases which involve an expenditure of more
1264 than the amount provided in paragraph (c) of this section. Any
1265 request for proposals when issued shall contain terms and
1266 conditions relating to price, financial responsibility,
1267 technology, legal responsibilities and other relevant factors as
1268 are determined by the governing authority or agency to be
1269 appropriate for inclusion; all factors determined relevant by the
1270 governing authority or agency or required by this paragraph (r)
1271 shall be duly included in the advertisement to elicit proposals.
1272 After responses to the request for proposals have been duly
1273 received, the governing authority or agency shall select the most
1274 qualified proposal or proposals on the basis of price, technology
1275 and other relevant factors and from such proposals, but not
1276 limited to the terms thereof, negotiate and enter contracts with
1277 one or more of the persons or firms submitting proposals. If the
1278 governing authority or agency deems none of the proposals to be
1279 qualified or otherwise acceptable, the request for proposals
1280 process may be reinitiated. Notwithstanding any other provisions
1281 of this paragraph, where a county with at least thirty-five
1282 thousand (35,000) nor more than forty thousand (40,000)
1283 population, according to the 1990 federal decennial census, owns
1284 or operates a solid waste landfill, the governing authorities of
1285 any other county or municipality may contract with the governing

1286 authorities of the county owning or operating the landfill,
1287 pursuant to a resolution duly adopted and spread upon the minutes
1288 of each governing authority involved, for garbage or solid waste
1289 collection or disposal services through contract negotiations.

1290 (s) **Minority set-aside authorization.** Notwithstanding
1291 any provision of this section to the contrary, any agency or
1292 governing authority, by order placed on its minutes, may, in its
1293 discretion, set aside not more than twenty percent (20%) of its
1294 anticipated annual expenditures for the purchase of commodities
1295 from minority businesses; however, all such set-aside purchases
1296 shall comply with all purchasing regulations promulgated by the
1297 Department of Finance and Administration and shall be subject to
1298 bid requirements under this section. Set-aside purchases for
1299 which competitive bids are required shall be made from the lowest
1300 and best minority business bidder. For the purposes of this
1301 paragraph, the term "minority business" means a business which is
1302 owned by a majority of persons who are United States citizens or
1303 permanent resident aliens (as defined by the Immigration and
1304 Naturalization Service) of the United States, and who are Asian,
1305 Black, Hispanic or Native American, according to the following
1306 definitions:

1307 (i) "Asian" means persons having origins in any of
1308 the original people of the Far East, Southeast Asia, the Indian
1309 subcontinent, or the Pacific Islands.

1310 (ii) "Black" means persons having origins in any
1311 black racial group of Africa.

1312 (iii) "Hispanic" means persons of Spanish or
1313 Portuguese culture with origins in Mexico, South or Central
1314 America, or the Caribbean Islands, regardless of race.

1315 (iv) "Native American" means persons having
1316 origins in any of the original people of North America, including
1317 American Indians, Eskimos and Aleuts.

1318 (t) **Construction punch list restriction.** The
1319 architect, engineer or other representative designated by the
1320 agency or governing authority that is contracting for public
1321 construction or renovation may prepare and submit to the
1322 contractor only one (1) preliminary punch list of items that do
1323 not meet the contract requirements at the time of substantial
1324 completion and one (1) final list immediately before final
1325 completion and final payment.

1326 (u) **Purchase authorization clarification.** Nothing in
1327 this section shall be construed as authorizing any purchase not
1328 authorized by law.

1329 **SECTION 8.** Section 27-1-37, Mississippi Code of 1972, is
1330 amended as follows:

1331 27-1-37. Blanks for the enumeration shall be prepared by the
1332 State Auditor * * * who shall furnish same to each county assessor
1333 in the state and the assessors of the several counties shall make
1334 the enumeration and for the * * * enumeration they shall receive
1335 as compensation in addition to any * * * other pay the sum of One
1336 Dollar (\$1.00) for each person enumerated and entitled to receive
1337 a pension, not to exceed One Hundred Dollars (\$100.00) per year,
1338 and the board of supervisors shall pay the same from the general
1339 fund of the county; and the chancery clerk shall file a copy of
1340 the report in his office * * *.

1341 **SECTION 9.** Section 27-31-31, Mississippi Code of 1972, is
1342 amended as follows:

1343 27-31-31. (1) The governing authority of any municipality
1344 is authorized, in its discretion, to grant exemptions from ad
1345 valorem taxation, except ad valorem taxation for school district
1346 purposes, for new structures or improvements to or renovations of
1347 existing structures located in the designated central business
1348 district of the municipality, for a period not to exceed ten (10)
1349 years from the date of the completion of the new structure or the

1350 improvement to or renovation of the existing structure for which
1351 the exemption is granted.

1352 (2) Any person, firm or corporation desiring to obtain the
1353 exemption authorized in this section shall first file a written
1354 application therefor with the governing authorities of the
1355 municipality, providing full information about the property for
1356 which the exemption is requested, including the true value of all
1357 such property, and the date from which the exemption is to begin.
1358 Any application for an exemption under this section must be made
1359 within twelve (12) months from the date of the completion of the
1360 new structure or the improvement to or renovation of the existing
1361 structure for which the exemption is requested. The governing
1362 authorities of the municipality may, by order spread on their
1363 minutes, approve such application for all or any part of the
1364 property for which the exemption is requested and for all or any
1365 part of the authorized period of exemption. The order shall
1366 specify the property to be exempted and the dates when such
1367 exemption begins and expires. The municipal clerk shall record
1368 the application and the order approving the same in a book kept in
1369 his office for that purpose, and shall file one (1) copy of the
1370 application and the order with the Chairman of the State Tax
1371 Commission * * *.

1372 (3) Any exemption granted under this section shall be in
1373 lieu of ad valorem tax exemptions authorized under any other
1374 provision of law.

1375 **SECTION 10.** Section 27-31-109, Mississippi Code of 1972, is
1376 amended as follows:

1377 27-31-109. At its next meeting after receipt of
1378 certification from the State Tax Commission, the governing
1379 authorities of the municipality or the county board of
1380 supervisors, as the case may be, may enter an order on its minutes
1381 declaring that such property is exempted, and the date when such
1382 exemption begins and expires, and the chancery clerk or city clerk

1383 shall record such application, together with the order approving
1384 same, in a book kept in his office for that purpose, and shall
1385 file * * * one (1) copy with the State Tax Commission.

1386 **SECTION 11.** Section 27-45-1, Mississippi Code of 1972, is
1387 amended as follows:

1388 27-45-1. Redemption of land sold for taxes shall be made
1389 through the chancery clerks of the respective counties. Where the
1390 land was sold to the state, the clerk, out of the amount necessary
1391 to redeem, shall first pay to the officers entitled thereto the
1392 costs, fees and damages which are allowed said officers by law in
1393 cases of lands sold to individuals; second, he shall pay the state
1394 the amount of state taxes with the interest and additional charges
1395 thereon allowed by law to the state; and, third, he shall pay to
1396 the county the sums computed in like manner which belong to the
1397 county and the various taxing districts thereof. Where the land
1398 was sold to an individual, the clerk shall pay:

1399 (a) First, to the state the amount of state taxes with
1400 the interest and additional charges thereon allowed by law, unless
1401 same has been paid previously by the tax purchaser or some other
1402 person;

1403 (b) Second, to the county the sums computed in like
1404 manner which belong to the county and the various taxing districts
1405 thereof, unless same has been paid previously by the tax purchaser
1406 or some other person;

1407 (c) Third, to the county the five percent (5%) damages
1408 on the amount of the taxes for which the land was sold; and

1409 (d) Fourth, the balance to the purchaser.

1410 The clerk shall make his redemption settlements within twenty
1411 (20) days after the end of each month and shall make a complete
1412 report thereof to the board of supervisors * * *. For a failure
1413 so to report or to pay over the sums to the parties entitled
1414 thereto as herein required, he shall be liable on his official
1415 bond to a penalty of one percent (1%) per month on the amount

1416 withheld. The chancery clerk shall also note each redemption on
1417 the public record of delinquent tax lands, on the day payment of
1418 taxes is made, with the date, name and the amount of redemption
1419 money paid.

1420 **SECTION 12.** Section 27-51-11, Mississippi Code of 1972, is
1421 amended as follows:

1422 27-51-11. In cases where the road and bridge privilege tax
1423 license is issued by the administrator of the road and bridge
1424 privilege tax law, before he shall issue such license he shall
1425 require that a tax receipt, made out on the prescribed form and
1426 properly issued, be presented to him showing that all ad valorem
1427 taxes due on such motor vehicle have been paid according to the
1428 situs of the subject motor vehicle as shown by the written
1429 application for such privilege license. If the application for
1430 such privilege license reveals that the situs of the subject motor
1431 vehicle is in a municipality, then the administrator of the road
1432 and bridge privilege tax law, before issuing said privilege
1433 license, shall require that a tax receipt made out on the
1434 prescribed form and properly issued be presented to him showing
1435 that such ad valorem taxes due have also been paid. The
1436 administrator of the road and bridge privilege tax law shall
1437 secure a rubber stamp to be used in stamping each such ad valorem
1438 tax receipt so presented to him. This stamp shall show the date
1439 of issuance and the receipt number of the privilege license issued
1440 for each corresponding ad valorem tax receipt, date and license
1441 receipt number to be filled in with ink, or with indelible pencil,
1442 by and in the name of the administrator of the road and bridge
1443 privilege tax law and countersigned by the issuing deputy or
1444 clerk. The number of the corresponding ad valorem tax receipt
1445 presented shall be written by him on the privilege license
1446 receipt. In cases where a separate municipal ad valorem tax
1447 receipt for motor vehicles is necessary, the same procedure as

1448 outlined herein shall be followed with reference to the municipal
1449 tax receipt.

1450 The administrator of the road and bridge privilege tax law,
1451 his deputies or clerks violating the provisions of this section
1452 shall be liable on their official bonds in double the amount of
1453 the ad valorem taxes due on each such motor vehicle.

1454 Twice each fiscal year, the administrator of the road and
1455 bridge privilege tax law shall prepare and retain a report * * *
1456 showing the privilege license receipt number, the corresponding ad
1457 valorem tax receipt number or numbers, and the name under which
1458 such license receipt was issued, for each such license receipt
1459 issued by him. A separate report shall be made for each county
1460 involved, and a duplicate copy of such report shall be furnished
1461 the respective tax collector of each county involved, and the tax
1462 collector of each municipality in said county. One (1) of these
1463 reports shall be made on or before May 15 covering all such
1464 license receipts issued by him for the then current fiscal year,
1465 including those issued through the month of April. Another such
1466 report shall be made on or before November 15 covering all such
1467 license receipts issued by him for the remaining portion of the
1468 immediately prior fiscal year.

1469 The aforesaid reports shall be made available to the State
1470 Auditor upon request, and, in auditing the tax collector for the
1471 corresponding fiscal year, such tax receipts indicated on these
1472 reports shall be reconciled with the corresponding ad valorem tax
1473 receipt number in the office of the tax collector.

1474 **SECTION 13.** Section 41-73-71, Mississippi Code of 1972, is
1475 amended as follows:

1476 41-73-71. The authority shall, following the close of each
1477 fiscal year, submit an annual report of its activities for the
1478 preceding year to the Governor * * * and both houses of the
1479 Legislature * * * within thirty (30) days of the receipt thereof
1480 by the authority, a copy of the report of every external

1481 examination of the books and accounts of the authority. Each
1482 member of the Legislature shall receive a copy of any such reports
1483 by making a request for it to the chairman of the authority.

1484 **SECTION 14.** Section 45-3-25, Mississippi Code of 1972, is
1485 amended as follows:

1486 45-3-25. Whenever any patrolman shall prefer any traffic
1487 charge whatsoever against any person in any court, it shall be the
1488 duty of the patrolman, upon the termination of such proceeding, to
1489 mail two (2) copies of the abstract of the court record
1490 immediately to the Commissioner of Public Safety at Jackson,
1491 Mississippi, showing the nature of the charge preferred, the date
1492 of the trial upon such charge, the disposition of the matter by
1493 the court and the sentence, if any, imposed by the court. Such
1494 abstract shall be signed by the presiding judge of the court in
1495 which the charge was preferred. Upon receipt of the abstracts, it
1496 shall be the duty of the commissioner to retain a copy for the use
1497 of, and inspection by, the State Auditor * * *.

1498 **SECTION 15.** Section 47-5-30, Mississippi Code of 1972, is
1499 amended as follows:

1500 47-5-30. (1) The Commissioner of Corrections shall develop
1501 a strategic plan for its operation of the state correctional
1502 system. The strategic plan shall cover a five-year period. The
1503 plan shall include, at a minimum, the following:

1504 (a) A clearly-defined comprehensive statement of the
1505 mission, goals and objectives of the agency;

1506 (b) Performance effectiveness objectives for each
1507 facility under the jurisdiction of the department;

1508 (c) A description of the department's internal
1509 management system used to evaluate its performance in relation to
1510 projected levels;

1511 (d) Detailed plans and strategies for meeting current
1512 and future needs and achieving goals and objectives established
1513 for the state correctional system;

1514 (e) A detailed analysis of the use of current agency
1515 resources in meeting current needs and expected future needs, and
1516 additional resources that may be necessary to meet future needs;

1517 (f) An analysis of factors affecting projected prison
1518 populations including impact of juveniles on prison populations
1519 and how populations are expected to change within the period of
1520 the plan;

1521 (g) A plan to remove inmates from county jails.

1522 (2) The department shall revise the plan annually.

1523 (3) Upon completion of the initial plan and each revision,
1524 the department shall provide copies to the Governor, the
1525 Lieutenant Governor, the Speaker of the House of Representatives,
1526 the Chairman of the Senate Corrections Committee, the Chairman of
1527 the House Penitentiary Committee, * * * the Legislative Budget
1528 Office, the Performance Evaluation and Expenditure Review
1529 Committee, the Executive Director of the Department of Finance and
1530 Administration and the Legislative Reference Bureau.

1531 (4) The commissioner shall develop the strategic plan before
1532 September 23, 1994.

1533 **SECTION 16.** Section 49-2-29, Mississippi Code of 1972, is
1534 amended as follows:

1535 49-2-29. (1) The Department of Environmental Quality shall
1536 develop a strategic plan for its operations. The strategic plan
1537 shall cover a five-year period. The plan shall include, at a
1538 minimum, the following:

1539 (a) A clearly-defined comprehensive statement of the
1540 mission, goals and objectives of the agency;

1541 (b) Performance effectiveness objectives (measurable
1542 indicators of output and outcome) for each program in the
1543 department;

1544 (c) A description of the department's internal
1545 management system used to evaluate its performance in relation to
1546 projected levels;

1547 (d) Detailed plans and strategies for meeting current
1548 and future needs and achieving goals and objectives established
1549 for the department;

1550 (e) A description of significant external factors which
1551 may affect any projected levels of performance, including an
1552 identification of priority and other service populations, or other
1553 service measures, under current law and how those populations are
1554 expected to change within the period of the plan;

1555 (f) A detailed analysis of the use of current agency
1556 resources in meeting current needs and expected future needs, and
1557 additional resources that may be necessary to meet future needs;

1558 (g) An analysis and estimate of the economic impact on
1559 the regulated community of regulations adopted by the Commission
1560 on Environmental Quality; and

1561 (h) An analysis of any likely or expected changes in
1562 the services provided by the department due to changes in state or
1563 federal law.

1564 (2) The department shall revise the plan biennially.

1565 (3) Upon completion of the initial plan and each revision,
1566 the department shall provide copies to the Governor, the
1567 Lieutenant Governor, the Speaker of the House of Representatives,
1568 the Chairman of the Senate Environmental Protection, Conservation
1569 and Water Resources Committee, the Chairman of the House
1570 Conservation and Water Resources Committee, * * * the Legislative
1571 Budget Office, the Performance Evaluation and Expenditure Review
1572 Committee, the Executive Director of the Department of Finance and
1573 Administration and the Legislative Reference Bureau.

1574 (4) Except as otherwise provided in this subsection, the
1575 department shall develop the strategic plan before July 1, 1995.
1576 However, if the comparative risk assessment required under Section
1577 49-2-31 is initiated before September 1, 1994, the department
1578 shall develop the strategic plan before July 1, 1996.

1579 **SECTION 17.** Section 51-29-97, Mississippi Code of 1972, is
1580 amended as follows:

1581 51-29-97. Within sixty (60) days after the end of the fiscal
1582 year following the organization of said drainage district, and
1583 annually thereafter, the commissioners shall prepare and retain a
1584 copy of a sworn statement of the financial condition of the
1585 district to cover the preceding fiscal year. The report shall
1586 contain, among other things, a statement of the cash on hand the
1587 first of the year for which the report is made, together with all
1588 other assets of the district; the total receipts of the preceding
1589 year; the disbursement for administration, for construction, for
1590 maintenance, for bonds redeemed, and for interest due on
1591 outstanding bonds, together with all other indebtedness of the
1592 district. The commissioners are further authorized and empowered
1593 to do any and all things incident to the management and affairs
1594 and business of the district.

1595 The State Auditor of Public Accounts or his assistant may
1596 annually audit the books, financial report and expenditures of the
1597 commission in the same manner that such officer audits other
1598 boards and commissions; and the same powers and duties which such
1599 officer exercises or enjoys with respect to other boards and
1600 commissions shall be exercised and performed in the same manner in
1601 his audit of drainage district commissions. A fee of not
1602 exceeding One Hundred Dollars (\$100.00) per day for the time
1603 required to conduct each audit shall be paid by each drainage
1604 district audited under this section. All such fees shall be paid
1605 into the State Department of Audit Fund. Upon the recommendation
1606 of the Director of the State Department of Audit, the State
1607 Auditor shall appoint auditors on a temporary or permanent status
1608 to perform drainage district audits. The State Auditor shall not
1609 audit dormant districts which have no income or disbursements
1610 during any year.

1611 **SECTION 18.** Section 57-64-23, Mississippi Code of 1972, is
1612 amended as follows:

1613 57-64-23. (1) In the event that an agreement made pursuant
1614 to this chapter shall deal in whole or in part with the provision
1615 of services or facilities with regard to which an officer, unit or
1616 agency of the state government has constitutional or statutory
1617 powers of control, the agreement shall, as a condition precedent
1618 to its being in force, be submitted to the state officer, unit or
1619 agency having such power of control and shall be approved or
1620 disapproved by him or it as to all matters within his or its
1621 jurisdiction in the same manner and subject to the same
1622 requirements governing action of the Attorney General pursuant to
1623 subsection (2) of this section.

1624 (2) Every agreement made by a local government unit under
1625 this chapter shall, prior to and as a condition precedent to its
1626 entry into force, be submitted to the Attorney General of this
1627 state who shall determine whether the agreement is in proper form
1628 and compatible with the laws of this state. The Attorney General
1629 shall approve any such agreement submitted to him hereunder unless
1630 he shall find that it does not meet the conditions set forth
1631 herein and elsewhere in the laws of this state and shall detail in
1632 writing addressed to the governing bodies of the units concerned
1633 the specific respects in which the proposed agreement fails to
1634 meet the requirements of law.

1635 Failure to disapprove an agreement submitted hereunder within
1636 sixty (60) days of its submission shall constitute approval
1637 thereof.

1638 (3) Prior to its being in force, an agreement made pursuant
1639 to this chapter shall be filed with the chancery clerk of each of
1640 the counties wherein a participating local government unit is
1641 located and with the Secretary of State. The chancery clerk and
1642 the Secretary of State shall preserve such agreements as public

1643 records and index and docket the same separate and apart from all
1644 other records in his office.

1645 * * *

1646 **SECTION 19.** Section 63-9-21, Mississippi Code of 1972, is
1647 amended as follows:

1648 63-9-21. (1) This section shall be known as the Uniform
1649 Traffic Ticket Law.

1650 (2) All traffic tickets, except traffic tickets filed
1651 electronically as provided under subsection (8) of this section,
1652 shall be printed in the original and at least two (2) copies and
1653 such other copies as may be prescribed by the State Auditor. All
1654 traffic tickets shall be uniform as prescribed by the State
1655 Auditor and the Attorney General, except as otherwise provided in
1656 subsection (3)(b) and except that such state officers may alter
1657 the form and content of traffic tickets to meet the varying
1658 requirements of the different law enforcement agencies. The State
1659 Auditor and the Attorney General shall prescribe a separate
1660 traffic ticket, consistent with the provisions of subsection
1661 (3)(b) of this section, to be used exclusively for violations of
1662 the Mississippi Implied Consent Law.

1663 (3) (a) Except as otherwise provided in paragraph (b) of
1664 this subsection, every traffic ticket issued by any sheriff,
1665 deputy sheriff, constable, county patrol officer, municipal police
1666 officer or State Highway Patrol officer for any violation of
1667 traffic or motor vehicle laws shall be issued on the uniform
1668 traffic ticket consisting of an original and at least two (2)
1669 copies and such other copies as may be prescribed by the State
1670 Auditor.

1671 (b) The traffic ticket, citation or affidavit which is
1672 issued to a person arrested for a violation of the Mississippi
1673 Implied Consent Law shall be uniform throughout all jurisdictions
1674 in the State of Mississippi. It shall contain a place for the
1675 trial judge hearing the case or accepting the guilty plea, as the

1676 case may be, to sign, stating that the person arrested either
1677 employed an attorney or waived his right to an attorney after
1678 having been properly advised of his right to have an attorney. If
1679 the person arrested employed an attorney, the name, address and
1680 telephone number of the attorney shall be written on the ticket,
1681 citation or affidavit.

1682 (c) Every traffic ticket shall show, among other
1683 necessary information, the name of the issuing officer, the name
1684 of the court in which the cause is to be heard, and the date and
1685 time such person is to appear to answer the charge. The ticket
1686 shall include information which will constitute a complaint
1687 charging the offense for which the ticket was issued, and when
1688 duly sworn to and filed with a court of competent jurisdiction,
1689 prosecution may proceed thereunder.

1690 (4) All traffic tickets, except traffic tickets filed
1691 electronically under subsection (8) of this section, shall be
1692 bound in book form, shall be consecutively numbered and each
1693 traffic ticket shall be accounted for to the officer issuing such
1694 book. Said traffic ticket books shall be issued to sheriffs,
1695 deputy sheriffs, constables and county patrol officers by the
1696 chancery clerk of their respective counties, to each municipal
1697 police officer by the clerk of the municipal court, and to each
1698 State Highway Patrol officer by the Commissioner of Public Safety.

1699 (5) The chancery clerk, clerk of the municipal court and the
1700 Commissioner of Public Safety shall keep a record of all traffic
1701 ticket books issued and to whom issued, accounting for all books
1702 printed and issued.

1703 (6) The original traffic ticket, unless the traffic ticket
1704 is filed electronically as provided under subsection (8) of this
1705 section, shall be delivered by the officer issuing the traffic
1706 ticket to the clerk of the court to which it is returnable to be
1707 retained in that court's records and the number noted on the
1708 docket. The officer issuing the traffic ticket shall also give

1709 the accused a copy of the traffic ticket. * * * Other copies that
1710 are prescribed by the State Auditor pursuant to this section shall
1711 be filed or retained as may be designated by the State Auditor.
1712 All copies shall be retained for at least two (2) years.

1713 (7) Failure to comply with the provisions of this section
1714 shall constitute a misdemeanor and, upon conviction, shall be
1715 punishable by a fine of not less than Ten Dollars (\$10.00) nor
1716 more than One Hundred Dollars (\$100.00).

1717 (8) (a) Law enforcement officers and agencies may file
1718 traffic tickets by computer or electronic means if the ticket
1719 conforms in all substantive respects, including layout and
1720 content, as provided under subsection (2) of this section. The
1721 provisions of subsection (4) of this section requiring tickets
1722 bound in book form do not apply to a ticket that is produced by
1723 computer or electronic means. Information concerning tickets
1724 produced by computer or electronic means shall be available for
1725 public inspection in substantially the same manner as provided for
1726 the uniform tickets described in subsection (2) of this section.

1727 (b) The defendant shall be provided with a paper copy
1728 of the ticket. A law enforcement officer who files a ticket
1729 electronically shall be considered to have certified the ticket
1730 and has the same rights, responsibilities and liabilities as with
1731 all other tickets issued pursuant to this section.

1732 (c) The provisions of this subsection (8) do not apply
1733 to tickets issued for a violation of the Mississippi Implied
1734 Consent Law.

1735 **SECTION 20.** Section 65-18-17, Mississippi Code of 1972, is
1736 amended as follows:

1737 65-18-17. It shall be the duty of the several boards of
1738 supervisors to properly maintain all local system roads in their
1739 respective counties after construction of any such roads under
1740 this chapter. It shall be the duty of the State Aid Engineer and
1741 his assistants to make annual maintenance inspections of completed

1742 projects, and such other periodic maintenance inspections as the
1743 State Aid Engineer shall deem necessary. If essential maintenance
1744 is not properly and regularly carried on, in the opinion of the
1745 State Aid Engineer, then notice thereof shall be given in writing
1746 to the board in default, and if such maintenance is not done and
1747 continued within sixty (60) days from date of such notice, then,
1748 and in such event, the State Aid Engineer may proceed to have done
1749 the necessary maintenance and repair work on such road and charge
1750 the same to any funds allocated to such county under the
1751 provisions of the Local System Road Program. If such failure to
1752 maintain continues, then such county shall be no longer eligible
1753 for monies under the Local System Road Program until proper
1754 maintenance is resumed by it, and notice of such withdrawal of
1755 local system road funds shall be duly given the * * * State
1756 Treasurer; however, such ineligibility shall not affect payment
1757 under the Local System Road Program of progress or final estimates
1758 on contracts awarded before notice of such ineligibility.

1759 Local system roads that have been hard surfaced through the
1760 use of local system road funds shall be eligible for local system
1761 road funds to provide one or more seal courses, as required.
1762 Local system roads in which the grading and drainage structures
1763 were constructed under the Local System Road Program and which
1764 have been subsequently hard surfaced by the county through the use
1765 of county funds under the supervision of the county engineer shall
1766 likewise be eligible for local system road funds to provide one or
1767 more seal courses as required, provided that the hard surfacing
1768 and underlying base were constructed in accordance with the then
1769 prevailing local system road standards and specifications. The
1770 county shall furnish the State Aid Engineer with sufficient
1771 engineering data, including borings and tests, if necessary, to
1772 substantiate the required thickness and quality of the base and
1773 surfacing. The correction of base defects and pavement breaks may

1774 be made part of the plans and contract documents for each sealing
1775 project.

1776 Local system roads that were constructed in accordance with
1777 the then prevailing local system road standards and specifications
1778 shall be eligible for local system road funds for maintenance,
1779 repair and reconstruction, subject to the prior written approval
1780 of such work by the State Aid Engineer and subject to the work
1781 being completed in accordance with the prior written approval.

1782 **SECTION 21.** Section 65-9-25, Mississippi Code of 1972, is
1783 amended as follows:

1784 65-9-25. It shall be the duty of the several boards of
1785 supervisors to properly maintain all state aid roads in their
1786 respective counties after construction of any such roads with
1787 state aid monies. It shall be the duty of the State Aid Engineer
1788 and his assistants to make annual maintenance inspections of
1789 completed projects, and such other periodic maintenance
1790 inspections as the State Aid Engineer shall deem necessary. If
1791 essential maintenance is not properly and regularly carried on, in
1792 the opinion of the State Aid Engineer, then notice thereof shall
1793 be given in writing to the board in default, and if such
1794 maintenance is not done and continued within sixty (60) days from
1795 date of such notice, then, and in such event, the State Aid
1796 Engineer may proceed to have done the necessary maintenance and
1797 repair work on such road and charge the same to any funds in the
1798 State Aid Road Fund in the State Treasury allocated to such
1799 county. If such failure to maintain continues, then such county
1800 shall be no longer eligible for state aid until proper maintenance
1801 is resumed by it, and notice of such withdrawal of state aid shall
1802 be duly given the * * * State Treasurer; however, such
1803 ineligibility shall not affect payment from the State Aid Road
1804 Fund of progress or final estimates on contracts awarded prior to
1805 notice of such ineligibility, nor shall said ineligibility in any

1806 way affect the payment of principal and interest on state aid road
1807 bonds issued by any such county.

1808 State aid roads which have been hard surfaced through the use
1809 of state aid funds or federal aid funds shall be eligible for
1810 state aid funds to provide one or more seal courses, as required.
1811 State aid roads in which the grading and drainage structures were
1812 constructed under state aid projects and which have been
1813 subsequently hard surfaced by the county through the use of county
1814 funds under the supervision of the county engineer shall likewise
1815 be eligible for state aid funds to provide one or more seal
1816 courses as required, provided that the hard surfacing and
1817 underlying base were constructed in accordance with the then
1818 prevailing state aid standards and specifications. The county
1819 shall furnish the State Aid Engineer with sufficient engineering
1820 data, including borings and tests, if necessary, to substantiate
1821 the required thickness and quality of the base and surfacing. The
1822 correction of base defects and pavement breaks may be made part of
1823 the plans and contract documents for each sealing project.

1824 State aid roads which were constructed in accordance with the
1825 then prevailing state aid standards and specifications shall be
1826 eligible for state aid funds for maintenance, repair and
1827 reconstruction, subject to the prior written approval of such work
1828 by the State Aid Engineer and subject to the work being completed
1829 in accordance with the prior written approval.

1830 **SECTION 22.** Section 69-21-119, Mississippi Code of 1972, is
1831 amended as follows:

1832 69-21-119. (1) A fee of not more than Five Hundred Dollars
1833 (\$500.00) for each aircraft owned, operated, used and employed in
1834 aerial application by an applicator shall be paid to the board for
1835 the issuance or required annual renewal of a license for an
1836 applicator. Each aircraft shall be identified at all times by a
1837 device supplied to the registered applicator by the board.

1838 (2) A fee of not more than Two Hundred Fifty Dollars
1839 (\$250.00) for each pilot engaged in aerial application shall be
1840 paid to the board for the issuance or required annual renewal of a
1841 license for a pilot. Each pilot shall have in his possession at
1842 all times an identification card supplied by the board.

1843 (3) All funds collected under the provisions of this article
1844 shall be kept in the Treasury of the State of Mississippi and
1845 disbursed upon requisitions signed by the chairman of the board.
1846 Such funds shall be subject to audit by the Auditor of the State
1847 of Mississippi. The board shall prepare and retain a copy of its
1848 financial statement and a copy of any proposed license fee
1849 adjustments for use by the State Auditor no later than sixty (60)
1850 days after the end of each fiscal year. Such financial statement
1851 shall reflect all funds collected and all disbursements made under
1852 the provisions of this article.

1853 **SECTION 23.** Section 77-5-253, Mississippi Code of 1972, is
1854 amended as follows:

1855 77-5-253. All corporations created under this chapter shall
1856 submit annual financial and compliance audits to * * * the Public
1857 Service Commission for review and archiving.

1858 **SECTION 24.** Section 77-15-3, Mississippi Code of 1972, which
1859 requires natural gas districts to file annual financial statements
1860 with the state auditor, is hereby repealed.

1861 **SECTION 25.** This act shall take effect and be in force from
1862 and after July 1, 2007.