

By: Representative Morris

To: Ways and Means

HOUSE BILL NO. 1268

1 AN ACT TO AMEND SECTION 57-75-9, MISSISSIPPI CODE OF 1972, TO
2 EXEMPT CONTRACTS ENTERED INTO UNDER THE MISSISSIPPI MAJOR ECONOMIC
3 IMPACT ACT FROM CERTAIN PROCUREMENT LAWS IF CERTAIN CONDITIONS ARE
4 MET; TO AMEND SECTIONS 29-5-2, 25-9-120, 25-53-5 AND 31-11-3,
5 MISSISSIPPI CODE OF 1972, IN CONFORMITY THERETO; AND FOR RELATED
6 PURPOSES.

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

8 **SECTION 1.** Section 57-75-9, Mississippi Code of 1972, is
9 amended as follows:

10 57-75-9. (1) The authority is hereby designated and
11 empowered to act on behalf of the state in submitting a siting
12 proposal for any project eligible for assistance under this act.
13 The authority is empowered to take all steps appropriate or
14 necessary to effect the siting, development, and operation of the
15 project within the state, including the negotiation of a
16 fee-in-lieu. If the state is selected as the preferred site for
17 the project, the authority is hereby designated and empowered to
18 act on behalf of the state and to represent the state in the
19 planning, financing, development, construction and operation of
20 the project or any facility related to the project, with the
21 concurrence of the affected public agency. The authority may take
22 affirmative steps to coordinate fully all aspects of the
23 submission of a siting proposal for the project and, if the state
24 is selected as the preferred site, to coordinate fully, with the
25 concurrence of the affected public agency, the development of the
26 project or any facility related to the project with private
27 business, the United States government and other public agencies.
28 All public agencies are encouraged to cooperate to the fullest
29 extent possible to effectuate the duties of the authority;



30 however, the development of the project or any facility related to
31 the project by the authority may be done only with the concurrence
32 of the affected public agency.

33 (2) (a) Contracts, by the authority or a public agency,
34 including, but not limited to, design and construction contracts,
35 for the acquisition, purchase, construction or installation of a
36 project * * * or any facility related to the project shall be
37 exempt from the provisions of Sections 25-9-120, 25-53-5, 29-5-2,
38 31-7-13 and 31-11-3 if:

39 (i) The authority finds and records such finding
40 on its minutes, that because of availability or the particular
41 nature of a project, it would not be in the public interest or
42 would less effectively achieve the purposes of this chapter to
43 enter into such contracts on the basis of Section 31-7-13; and

44 (ii) The enterprise that is involved in the
45 project concurs in such finding.

46 (b) When the requirements of paragraph (a) of this
47 subsection are met:

48 (i) The requirements of Section 31-7-13 shall not
49 apply to such contracts; and

50 (ii) The contracts may be entered into on the
51 basis of negotiation.

52 (c) The enterprise involved with the project may, upon
53 approval of the authority, negotiate such contracts in the name of
54 the authority.

55 (d) The provisions of this subsection (2) shall not
56 apply to contracts by the authority for excavation, fill dirt and
57 compaction for the preparation of the site of a project as defined
58 in Section 57-75-5(f)(iv)1 and such contracts may be entered into
59 pursuant to subsection (3) of this section.

60 (3) Contracts by the authority for excavation, fill dirt and
61 compaction for the preparation of the site of a project defined in
62 Section 57-75-5(f)(iv)1 shall be exempt from the provisions of



63 Section 31-7-13 and the following procedure shall be followed in
64 the award of such contracts:

65 (a) The authority shall advertise for a period of time
66 to be set by the authority, but in no event less than one (1)
67 business day, the date, time and place of a meeting with the
68 authority to receive specifications on a request for proposals on
69 excavation, fill dirt and compaction for the preparation of the
70 site of the project defined in Section 57-75-5(f)(iv)1.

71 (b) The authority shall set the minimum qualifications
72 necessary to be considered for award of the contract and the
73 advertisement shall set forth such minimum qualifications.

74 (c) Following the meeting the authority shall, in its
75 discretion, select one or more of the qualified contractors with
76 whom to negotiate or award the contract. The decision of the
77 authority concerning the selection of the contractor shall be
78 final.

79 **SECTION 2.** Section 29-5-2, Mississippi Code of 1972, is
80 amended as follows:

81 29-5-2. The duties of the Department of Finance and
82 Administration shall be as follows:

83 (a) (i) To exercise general supervision and care over
84 and keep in good condition the following state property located in
85 the City of Jackson: the New State Capitol Building, the Woolfolk
86 State Office Building, the Carroll Gartin Justice Building, the
87 Walter Sillers Office Building, the War Veterans' Memorial
88 Building, the Charlotte Capers Building, the William F. Winter
89 Archives and History Building, the Ike Sanford Veterans Affairs
90 Building, the Old State Capitol Building, the Governor's Mansion,
91 the Heber Ladner Building, the Burroughs Building, the Robert E.
92 Lee Office Building, the Robert E. Lee Parking Garage, the Manship
93 House Restoration and Visitor Center, the State Records Center,
94 the 301 Lamar Street Building, and all other properties acquired
95 in the same transaction at the time of the purchase of the Robert



96 E. Lee Hotel property from the First Federal Savings and Loan
97 Association of Jackson, Mississippi, which properties are more
98 particularly described in a warranty deed heretofore executed and
99 delivered on April 22, 1969, and filed for record in the office of
100 the Chancery Clerk of the First Judicial District of Hinds County,
101 Mississippi, located in Jackson, Mississippi, on April 25, 1969,
102 at 9:00 a.m., and recorded in Deed Book No. 1822, page 136 et
103 seq., and the Central High Building and 101 Capitol Centre.

104 (ii) To exercise general supervision and care over
105 and keep in good condition the Dr. Eldon Langston Bolton Building
106 located in Biloxi, Mississippi.

107 (iii) To exercise general supervision and care
108 over and keep in good condition the State Service Center, located
109 at the intersection of State Highway 49 and John Merl Tatum
110 Industrial Drive in Hattiesburg, Mississippi.

111 (b) To assign suitable office space for the various
112 state departments, officers and employees who are provided with an
113 office in any of the buildings under the jurisdiction or control
114 of the Department of Finance and Administration. However, the
115 assignment of space in the New Capitol Building shall be
116 designated by duly passed resolution of the combined Senate Rules
117 Committee and the House Management Committee, meeting as a joint
118 committee, approved by the Lieutenant Governor and Speaker of the
119 House of Representatives. A majority vote of the members of the
120 Senate Rules Committee and a majority vote of the members of the
121 House Management Committee shall be required on all actions taken,
122 resolutions or reports adopted, and all other matters considered
123 by the full combined committee on occasions when the Senate Rules
124 Committee and the House Management Committee shall meet as a full
125 combined committee.

126 (c) To approve or disapprove with the concurrence of
127 the Public Procurement Review Board, any lease or rental
128 agreements by any state agency or department, including any state



129 agency financed entirely by federal and special funds, for space
130 outside the buildings under the jurisdiction of the Department of
131 Finance and Administration.

132 * * * No * * * employee, officer, department, federally
133 funded agency or bureau of the state shall enter a lease or rental
134 agreement without prior approval of the Department of Finance and
135 Administration and the Public Procurement Review Board; however,
136 this provision shall not apply to leases or rental agreements
137 entered into pursuant to Section 57-75-9(2).

138 The Department of Finance and Administration is authorized to
139 use architects, engineers, building inspectors and other personnel
140 for the purpose of making inspections as may be deemed necessary
141 in carrying out its duties and maintaining the facilities.

142 (d) To acquire by lease, lease-purchase agreement, or
143 otherwise, as provided in Section 27-104-107, and to assign
144 through the Office of General Services, by lease or sublease
145 agreement from the office, and with the concurrence of the Public
146 Procurement Review Board, to any state agency or department,
147 including any state agency financed entirely by federal and
148 special funds, appropriate office space in the buildings acquired.

149 **SECTION 3.** Section 25-9-120, Mississippi Code of 1972, is
150 amended as follows:

151 25-9-120. (1) Contract personnel, whether classified as
152 contract workers or independent contractors shall not be deemed
153 state service or nonstate service employees of the State of
154 Mississippi, and shall not be eligible to participate in the
155 Public Employees' Retirement System, or the state employee health
156 plan, nor be allowed credit for personal and sick leave and other
157 leave benefits as employees of the State of Mississippi,
158 notwithstanding Sections 25-3-91 through 25-3-101; 25-9-101
159 through 25-9-151; 25-11-1 through 25-11-126; 25-11-128 through
160 25-11-131; 25-15-1 through 25-15-23 and for the purpose set forth
161 herein. Contract workers, i.e., contract personnel who do not



162 meet the criteria of independent contractors, shall be subject to
163 the provisions of Section 25-11-127.

164 (2) There is hereby created the Personal Service Contract
165 Review Board, which shall be composed of the State Personnel
166 Director, the Executive Director of the Department of Finance and
167 Administration, or his designee, the Commissioner of Corrections,
168 or his designee, the Executive Director of the Mississippi
169 Department of Wildlife and Fisheries, or his designee, and the
170 Executive Director of the Department of Environmental Quality, or
171 his designee. The State Personnel Director shall be chairman and
172 shall preside over the meetings of the board. The board shall
173 annually elect a vice chairman, who shall serve in the absence of
174 the chairman. No business shall be transacted, including adoption
175 of rules of procedure, without the presence of a quorum of the
176 board. Three (3) members shall be a quorum. No action shall be
177 valid unless approved by the chairman and two (2) other of those
178 members present and voting, entered upon the minutes of the board
179 and signed by the chairman. Necessary clerical and administrative
180 support for the board shall be provided by the State Personnel
181 Board. Minutes shall be kept of the proceedings of each meeting,
182 copies of which shall be filed on a monthly basis with the
183 Legislative Budget Office.

184 (3) The Personal Service Contract Review Board shall have
185 the following powers and responsibilities:

186 (a) Promulgate rules and regulations governing the
187 solicitation and selection of contractual services personnel
188 including personal and professional services contracts for any
189 form of consulting, policy analysis, public relations, marketing,
190 public affairs, legislative advocacy services or any other
191 contract that the board deems appropriate for oversight, with the
192 exception of any personal service contracts entered into for
193 computer or information technology-related services governed by
194 the Mississippi Department of Information Technology Services, any



195 personal service contracts entered into by the Mississippi
196 Department of Transportation, and any contract for attorney,
197 accountant, auditor, physician, dentist, architect, engineer,
198 veterinarian and utility rate expert services. Any such rules and
199 regulations shall provide for maintaining continuous internal
200 audit covering the activities of such agency affecting its revenue
201 and expenditures as required under Section 7-7-3(6)(d),
202 Mississippi Code of 1972;

203 (b) Approve all personal and professional services
204 contracts involving the expenditures of funds in excess of One
205 Hundred Thousand Dollars (\$100,000.00);

206 (c) Develop standards with respect to contractual
207 services personnel which require invitations for public bid,
208 requests for proposals, record keeping and financial
209 responsibility of contractors. The Personal Service Contract
210 Review Board may, in its discretion, require the agency involved
211 to advertise such contract for public bid, and may reserve the
212 right to reject any or all bids;

213 (d) Prescribe certain circumstances whereby agency
214 heads may enter into contracts for personal and professional
215 services without receiving prior approval from the Personal
216 Service Contract Review Board. The Personal Service Contract
217 Review Board may establish a pre-approved list of providers of
218 various personal and professional services for set prices with
219 which state agencies may contract without bidding or prior
220 approval from the board;

221 (e) To provide standards for the issuance of requests
222 for proposals, the evaluation of proposals received, consideration
223 of costs and quality of services proposed, contract negotiations,
224 the administrative monitoring of contract performance by the
225 agency and successful steps in terminating a contract;



226 (f) To present recommendations for governmental
227 privatization and to evaluate privatization proposals submitted by
228 any state agency;

229 (g) To authorize personal and professional service
230 contracts to be effective for more than one (1) year provided a
231 funding condition is included in any such multiple year contract,
232 except the State Board of Education, which shall have the
233 authority to enter into contractual agreements for student
234 assessment for a period up to ten (10) years. The State Board of
235 Education shall procure these services in accordance with the
236 Personal Service Contract Review Board procurement regulations;

237 (h) To request the State Auditor to conduct a
238 performance audit on any personal or professional service
239 contract;

240 (i) Prepare an annual report to the Legislature
241 concerning the issuance of personal service contracts during the
242 previous year, collecting any necessary information from state
243 agencies in making such report.

244 (4) No member of the Personal Service Contract Review Board
245 shall use his official authority or influence to coerce, by threat
246 of discharge from employment, or otherwise, the purchase of
247 commodities or the contracting for personal or professional
248 services under this section.

249 (5) The provisions of subsection (3) of this section shall
250 not apply to contracts for personal and professional services
251 entered into pursuant to Section 57-75-9(2).

252 **SECTION 4.** Section 25-53-5, Mississippi Code of 1972, is
253 amended as follows:

254 25-53-5. (1) The authority shall have the following powers,
255 duties, and responsibilities:

256 (a) The authority shall provide for the development of
257 plans for the efficient acquisition and utilization of computer
258 equipment and services by all agencies of state government, and



259 provide for their implementation. In so doing, the authority may
260 use the MDITS staff, at the discretion of the executive director
261 of the authority, or the authority may contract for the services
262 of qualified consulting firms in the field of information
263 technology and utilize the service of such consultants as may be
264 necessary for such purposes.

265 (b) The authority shall immediately institute
266 procedures for carrying out the purposes of this chapter and
267 supervise the efficient execution of the powers and duties of the
268 office of executive director of the authority. In the execution
269 of its functions under this chapter, the authority shall maintain
270 as a paramount consideration the successful internal organization
271 and operation of the several agencies so that efficiency existing
272 therein shall not be adversely affected or impaired. In executing
273 its functions in relation to the institutions of higher learning
274 and junior colleges in the state, the authority shall take into
275 consideration the special needs of such institutions in relation
276 to the fields of teaching and scientific research.

277 (c) Title of whatever nature of all computer equipment
278 now vested in any agency of the State of Mississippi is hereby
279 vested in the authority, and no such equipment shall be disposed
280 of in any manner except in accordance with the direction of the
281 authority or under the provisions of such rules and regulations as
282 may hereafter be adopted by the authority in relation thereto.

283 (d) The authority shall adopt rules, regulations, and
284 procedures governing the acquisition of computer and
285 telecommunications equipment and services which shall, to the
286 fullest extent practicable, insure the maximum of competition
287 between all manufacturers of supplies or equipment or services.
288 In the writing of specifications, in the making of contracts
289 relating to the acquisition of such equipment and services, and in
290 the performance of its other duties the authority shall provide
291 for the maximum compatibility of all information systems hereafter



292 installed or utilized by all state agencies and may require the
293 use of common computer languages where necessary to accomplish the
294 purposes of this chapter. The authority may establish by
295 regulation and charge reasonable fees on a nondiscriminatory basis
296 for the furnishing to bidders of copies of bid specifications and
297 other documents issued by the authority.

298 (e) The authority shall adopt rules and regulations
299 governing the sharing with, or the sale or lease of information
300 technology services to any nonstate agency or person. Such
301 regulations shall provide that any such sharing, sale, or lease
302 shall be restricted in that same shall be accomplished only where
303 such services are not readily available otherwise within the
304 state, and then only at a charge to the user not less than the
305 prevailing rate of charge for similar services by private
306 enterprise within this state.

307 (f) The authority may, in its discretion, establish a
308 special technical advisory committee or committees to study and
309 make recommendations on technology matters within the competence
310 of the authority as the authority may see fit. Persons serving on
311 the Information Resource Council, its task forces, or any such
312 technical advisory committees shall be entitled to receive their
313 actual and necessary expenses actually incurred in the performance
314 of such duties, together with mileage as provided by law for state
315 employees, provided the same has been authorized by a resolution
316 duly adopted by the authority and entered on its minutes prior to
317 the performance of such duties.

318 (g) The authority may provide for the development and
319 require the adoption of standardized computer programs and may
320 provide for the dissemination of information to and the
321 establishment of training programs for the personnel of the
322 various information technology centers of state agencies and
323 personnel of the agencies utilizing the services thereof.



324 (h) The authority shall adopt reasonable rules and
325 regulations requiring the reporting to the authority through the
326 office of executive director of such information as may be
327 required for carrying out the purposes of this chapter and may
328 also establish such reasonable procedures to be followed in the
329 presentation of bills for payment under the terms of all contracts
330 for the acquisition of computer equipment and services now or
331 hereafter in force as may be required by the authority or by the
332 executive director in the execution of their powers and duties.

333 (i) The authority shall require such adequate
334 documentation of information technology procedures utilized by the
335 various state agencies and may require the establishment of such
336 organizational structures within state agencies relating to
337 information technology operations as may be necessary to
338 effectuate the purposes of this chapter.

339 (j) The authority may adopt such further reasonable
340 rules and regulations as may be necessary to fully implement the
341 purposes of this chapter. All rules and regulations adopted by
342 the authority shall be published and disseminated in readily
343 accessible form to all affected state agencies, and to all current
344 suppliers of computer equipment and services to the state, and to
345 all prospective suppliers requesting the same. Such rules and
346 regulations shall be kept current, be periodically revised, and
347 copies thereof shall be available at all times for inspection by
348 the public at reasonable hours in the offices of the authority.
349 Whenever possible no rule, regulation or any proposed amendment to
350 such rules and regulations shall be finally adopted or enforced
351 until copies of said proposed rules and regulations have been
352 furnished to all interested parties for their comment and
353 suggestions.

354 (k) The authority shall establish rules and regulations
355 which shall provide for the submission of all contracts proposed
356 to be executed by the executive director for computer equipment or



357 services to the authority for approval before final execution, and
358 the authority may provide that such contracts involving the
359 expenditure of less than such specified amount as may be
360 established by the authority may be finally executed by the
361 executive director without first obtaining such approval by the
362 authority.

363 (l) The authority is authorized to purchase, lease, or
364 rent computer equipment or services and to operate said equipment
365 and utilize said services in providing services to one or more
366 state agencies when in its opinion such operation will provide
367 maximum efficiency and economy in the functions of any such agency
368 or agencies.

369 (m) The authority shall assist political subdivisions
370 and instrumentalities in their development of plans for the
371 efficient acquisition and utilization of computer equipment and
372 services. An appropriate fee shall be charged the political
373 subdivision by the authority for such assistance.

374 (n) The authority shall adopt rules and regulations
375 governing the protest procedures to be followed by any actual or
376 prospective bidder, offerer or contractor who is aggrieved in
377 connection with the solicitation or award of a contract for the
378 acquisition of computer equipment or services. Such rules and
379 regulations shall prescribe the manner, time and procedure for
380 making protests and may provide that a protest not timely filed
381 shall be summarily denied. The authority may require the
382 protesting party, at the time of filing the protest, to post a
383 bond, payable to the state, in an amount that the authority
384 determines sufficient to cover any expense or loss incurred by the
385 state, the authority or any state agency as a result of the
386 protest if the protest subsequently is determined by a court of
387 competent jurisdiction to have been filed without any substantial
388 basis or reasonable expectation to believe that the protest was
389 meritorious; however, in no event may the amount of the bond



390 required exceed a reasonable estimate of the total project cost.
391 The authority, in its discretion, also may prohibit any
392 prospective bidder, offerer or contractor who is a party to any
393 litigation involving any such contract with the state, the
394 authority or any agency of the state to participate in any other
395 such bid, offer or contract, or to be awarded any such contract,
396 during the pendency of the litigation.

397 (o) The authority shall make a report in writing to the
398 Legislature each year in the month of January. Such report shall
399 contain a full and detailed account of the work of the authority
400 for the preceding year as specified in Section 25-53-29(3).

401 All acquisitions of computer equipment and services involving
402 the expenditure of funds in excess of the dollar amount
403 established in Section 31-7-13(c), or rentals or leases in excess
404 of the dollar amount established in Section 31-7-13(c) for the
405 term of the contract, shall be based upon competitive and open
406 specifications, and contracts therefor shall be entered into only
407 after advertisements for bids are published in one or more daily
408 newspapers having a general circulation in the state not less than
409 fourteen (14) days prior to receiving sealed bids therefor. The
410 authority may reserve the right to reject any or all bids, and if
411 all bids are rejected, the authority may negotiate a contract
412 within the limitations of the specifications so long as the terms
413 of any such negotiated contract are equal to or better than the
414 comparable terms submitted by the lowest and best bidder, and so
415 long as the total cost to the State of Mississippi does not exceed
416 the lowest bid. If the authority accepts one (1) of such bids, it
417 shall be that which is the lowest and best.

418 (p) When applicable, the authority may procure
419 equipment, systems and related services in accordance with the law
420 or regulations, or both, which govern the Bureau of Purchasing of
421 the Office of General Services or which govern the Mississippi



422 Department of Information Technology Services procurement of
423 telecommunications equipment, software and services.

424 (q) The authority is authorized to purchase, lease, or
425 rent information technology and services for the purpose of
426 establishing pilot projects to investigate emerging technologies.
427 These acquisitions shall be limited to new technologies and shall
428 be limited to an amount set by annual appropriation of the
429 Legislature. These acquisitions shall be exempt from the
430 advertising and bidding requirement.

431 (r) All fees collected by the Mississippi Department of
432 Information Technology Services shall be deposited into the
433 Mississippi Department of Information Technology Services
434 Revolving Fund unless otherwise specified by the Legislature.

435 (2) The provisions of this section shall not apply to
436 contracts for purchases and acquisitions entered into pursuant to
437 the provision of Section 57-75-9(2).

438 **SECTION 5.** Section 31-11-3, Mississippi Code of 1972, is
439 amended as follows:

440 31-11-3. (1) The Department of Finance and Administration,
441 for the purposes of carrying out the provisions of this chapter,
442 in addition to all other rights and powers granted by law, shall
443 have full power and authority to employ and compensate architects
444 or other employees necessary for the purpose of making
445 inspections, preparing plans and specifications, supervising the
446 erection of any buildings, and making any repairs or additions as
447 may be determined by the Department of Finance and Administration
448 to be necessary, pursuant to the rules and regulations of the
449 State Personnel Board. The department shall have entire control
450 and supervision of, and determine what, if any, buildings,
451 additions, repairs or improvements are to be made under the
452 provisions of this chapter, subject to the approval of the Public
453 Procurement Review Board.



454 (2) The department shall have full power to erect buildings,
455 make repairs, additions or improvements, and buy materials,
456 supplies and equipment for any of the institutions or departments
457 of the state subject to the approval of the Public Procurement
458 Review Board. In addition to other powers conferred, the
459 department shall have full power and authority as directed by the
460 Legislature, or when funds have been appropriated for its use for
461 these purposes, to:

462 (a) Build a state office building;

463 (b) Build suitable plants or buildings for the use and
464 housing of any state schools or institutions, including the
465 building of plants or buildings for new state schools or
466 institutions, as provided for by the Legislature;

467 (c) Provide state aid for the construction of school
468 buildings;

469 (d) Promote and develop the training of returned
470 veterans of the United States in all sorts of educational and
471 vocational learning to be supplied by the proper educational
472 institution of the State of Mississippi, and in so doing allocate
473 monies appropriated to it for these purposes to the Governor for
474 use by him in setting up, maintaining and operating an office and
475 employing a state director of on-the-job training for veterans and
476 the personnel necessary in carrying out Public Law No. 346 of the
477 United States;

478 (e) Build and equip a hospital and administration
479 building at the Mississippi State Penitentiary;

480 (f) Build and equip additional buildings and wards at
481 the Boswell Retardation Center;

482 (g) Construct a sewage disposal and treatment plant at
483 the state insane hospital, and in so doing acquire additional land
484 as may be necessary, and to exercise the right of eminent domain
485 in the acquisition of this land;



486 (h) Build and equip the Mississippi central market and
487 purchase or acquire by eminent domain, if necessary, any lands
488 needed for this purpose;

489 (i) Build and equip suitable facilities for a training
490 and employing center for the blind;

491 (j) Build and equip a gymnasium at Columbia Training
492 School;

493 (k) Approve or disapprove the expenditure of any money
494 appropriated by the Legislature when authorized by the bill making
495 the appropriation;

496 (l) Expend monies appropriated to it in paying the
497 state's part of the cost of any street paving;

498 (m) Sell and convey state lands when authorized by the
499 Legislature, cause said lands to be properly surveyed and platted,
500 execute all deeds or other legal instruments, and do any and all
501 other things required to effectively carry out the purpose and
502 intent of the Legislature. Any transaction which involves state
503 lands under the provisions of this paragraph shall be done in a
504 manner consistent with the provisions of Section 29-1-1;

505 (n) Collect and receive from educational institutions
506 of the State of Mississippi monies required to be paid by these
507 institutions to the state in carrying out any veterans'
508 educational programs; and

509 (o) Purchase lands for building sites, or as additions
510 to building sites, for the erection of buildings and other
511 facilities which the department is authorized to erect, and
512 demolish and dispose of old buildings, when necessary for the
513 proper construction of new buildings. Any transaction which
514 involves state lands under the provisions of this paragraph shall
515 be done in a manner consistent with the provisions of Section
516 29-1-1.

517 (3) The department shall survey state-owned and
518 state-utilized buildings to establish an estimate of the costs of



519 architectural alterations, pursuant to the Americans with
520 Disabilities Act of 1990, 42 USCS Section 12111 et seq. The
521 department shall establish priorities for making the identified
522 architectural alterations and shall make known to the Legislative
523 Budget Office and to the Legislature the required cost to
524 effectuate such alterations. To meet the requirements of this
525 section, the department shall use standards of accessibility that
526 are at least as stringent as any applicable federal requirements
527 and may consider:

528 (a) Federal minimum guidelines and requirements issued
529 by the United States Architectural and Transportation Barriers
530 Compliance Board and standards issued by other federal agencies;

531 (b) The criteria contained in the American Standard
532 Specifications for Making Buildings Accessible and Usable by the
533 Physically Handicapped and any amendments thereto as approved by
534 the American Standards Association, Incorporated (ANSI Standards);

535 (c) Design manuals;

536 (d) Applicable federal guidelines;

537 (e) Current literature in the field;

538 (f) Applicable safety standards; and

539 (g) Any applicable environmental impact statements.

540 (4) The department shall observe the provisions of Section
541 31-5-23, in letting contracts and shall use Mississippi products,
542 including paint, varnish and lacquer which contain as vehicles
543 tung oil and either ester gum or modified resin (with rosin as the
544 principal base of constituents), and turpentine shall be used as a
545 solvent or thinner, where these products are available at a cost
546 not to exceed the cost of products grown, produced, prepared, made
547 or manufactured outside of the State of Mississippi.

548 (5) The department shall have authority to accept grants,
549 loans or donations from the United States government or from any
550 other sources for the purpose of matching funds in carrying out
551 the provisions of this chapter.



552 (6) The department shall build a wheelchair ramp at the War
553 Memorial Building which complies with all applicable federal laws,
554 regulations and specifications regarding wheelchair ramps.

555 (7) The department shall review and preapprove all
556 architectural or engineering service contracts entered into by any
557 state agency, institution, commission, board or authority
558 regardless of the source of funding used to defray the costs of
559 the construction or renovation project for which services are to
560 be obtained. The provisions of this subsection (7) shall not
561 apply to:

562 (a) Any architectural or engineering contract paid for
563 by self-generated funds of any of the state institutions of higher
564 learning;

565 (b) Community college projects that are funded from
566 local funds or other nonstate sources which are outside the
567 Department of Finance and Administration's appropriations or as
568 directed by the Legislature;

569 (c) Any construction or design projects of the State
570 Military Department that are funded from federal funds or other
571 nonstate sources; or

572 (d) Any architectural or engineering contract entered
573 into pursuant to Section 57-75-9(2).

574 (8) The department shall have the authority to obtain
575 annually from the state institutions of higher learning
576 information on all building, construction and renovation projects
577 including duties, responsibilities and costs of any architect or
578 engineer hired by any such institutions.

579 (9) Contracts let or approved by the State Prison Emergency
580 Construction and Management Board when it exercises its emergency
581 powers to remove two thousand (2,000) inmates from county jails
582 are exempt from this section; however, this exemption does not
583 apply to contracts for the construction of private correctional
584 facilities and additional facilities at the South Mississippi



585 Correctional Institution and the Central Mississippi Correctional
586 Facility. This subsection shall stand repealed from and after
587 July 1, 1996.

588 **SECTION 6.** This act shall take effect and be in force from
589 and after July 1, 2003.

