

By: Representative Brown

To: Appropriations

HOUSE BILL NO. 841

1 AN ACT TO BRING FORWARD SECTIONS 31-7-1 THROUGH 31-7-14 AND
 2 SECTIONS 31-7-15 THROUGH 31-7-73, MISSISSIPPI CODE OF 1972, WHICH
 3 PROVIDE FOR THE PUBLIC PURCHASING LAWS, FOR PURPOSES OF AMENDMENT;
 4 TO AMEND SECTION 31-7-14.1, MISSISSIPPI CODE OF 1972, TO CHANGE
 5 THE NAME OF THE DEPARTMENT OF ECONOMIC AND COMMUNITY DEVELOPMENT
 6 TO THE MISSISSIPPI DEVELOPMENT AUTHORITY; TO BRING FORWARD
 7 SECTIONS 43-3-101 THROUGH 43-3-111, MISSISSIPPI CODE OF 1972,
 8 WHICH PROVIDE FOR THE MISSISSIPPI INDUSTRIES FOR THE BLIND, FOR
 9 THE PURPOSES OF AMENDMENT; AND FOR RELATED PURPOSES.

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

11 **SECTION 1.** Section 31-7-1, Mississippi Code of 1972, is
 12 brought forward as follows:

13 31-7-1. The following terms are defined for the purposes of
 14 this chapter to have the following meanings:

15 (a) "Agency" shall mean any state board, commission,
 16 committee, council, university, department or unit thereof created
 17 by the Constitution or statutes if such board, commission,
 18 committee, council, university, department, unit or the head
 19 thereof is authorized to appoint subordinate staff by the
 20 Constitution or statute, except a legislative or judicial board,
 21 commission, committee, council, department or unit thereof.

22 (b) "Governing authority" shall mean boards of
 23 supervisors, governing boards of all school districts, all boards
 24 of directors of public water supply districts, boards of directors
 25 of master public water supply districts, municipal public utility
 26 commissions, governing authorities of all municipalities, port
 27 authorities, commissioners and boards of trustees of any public
 28 hospitals, boards of trustees of public library systems, district
 29 attorneys, school attendance officers and any political
 30 subdivision of the state supported wholly or in part by public

31 funds of the state or political subdivisions thereof, including
32 commissions, boards and agencies created or operated under the
33 authority of any county or municipality of this state. The term
34 "governing authority" shall not include economic development
35 authorities supported in part by private funds, or commissions
36 appointed to hold title to and oversee the development and
37 management of lands and buildings which are donated by private
38 individuals to the public for the use and benefit of the community
39 and which are supported in part by private funds.

40 (c) "Purchasing agent" shall mean any administrator,
41 superintendent, purchase clerk or other chief officer so
42 designated having general or special authority to negotiate for
43 and make private contract for or purchase for any governing
44 authority or agency.

45 (d) "Public funds" shall mean and include any
46 appropriated funds, special funds, fees or any other emoluments
47 received by an agency or governing authority.

48 (e) "Commodities" shall mean and include the various
49 commodities, goods, merchandise, furniture, equipment, automotive
50 equipment of every kind, and other personal property purchased by
51 the agencies of the state and governing authorities, but not
52 commodities purchased for resale or raw materials converted into
53 products for resale.

54 (i) "Equipment" shall be construed to include:
55 automobiles, trucks, tractors, office appliances and all other
56 equipment of every kind and description.

57 (ii) "Furniture" shall be construed to include:
58 desks, chairs, tables, seats, filing cabinets, bookcases and all
59 other items of a similar nature as well as dormitory furniture,
60 appliances, carpets and all other items of personal property
61 generally referred to as home, office or school furniture.

62 (f) "Emergency" shall mean any circumstances caused by
63 fire, flood, explosion, storm, earthquake, epidemic, riot,

64 insurrection or caused by any inherent defect due to defective
65 construction, or when the immediate preservation of order or of
66 public health is necessary by reason of unforeseen emergency, or
67 when the immediate restoration of a condition of usefulness of any
68 public building, equipment, road or bridge appears advisable, or
69 in the case of a public utility when there is a failure of any
70 machine or other thing used and useful in the generation,
71 production or distribution of electricity, water or natural gas,
72 or in the transportation or treatment of sewage; or when the delay
73 incident to obtaining competitive bids could cause adverse impact
74 upon the governing authorities or agency, its employees or its
75 citizens; or in the case of a public airport, when the delay
76 incident to publishing an advertisement for competitive bids would
77 endanger public safety in a specific (not general) manner, result
78 in or perpetuate a specific breach of airport security, or prevent
79 the airport from providing specific air transportation services.

80 (g) "Construction" shall mean the process of building,
81 altering, improving, renovating or demolishing a public structure,
82 public building, or other public real property. It does not
83 include routine operation, routine repair or regularly scheduled
84 maintenance of existing public structures, public buildings or
85 other public real property.

86 (h) "Purchase" shall mean buying, renting, leasing or
87 otherwise acquiring.

88 (i) "Certified purchasing office" shall mean any
89 purchasing office wherein fifty percent (50%) or more of the
90 purchasing agents hold a certification from the Universal Public
91 Purchasing Certification Council or other nationally recognized
92 purchasing certification.

93 **SECTION 2.** Section 31-7-3, Mississippi Code of 1972, is
94 brought forward as follows:

95 31-7-3. The Department of Finance and Administration shall
96 administer the provisions of this chapter.

97 The purposes or aims of the Department of Finance and
98 Administration in carrying out said provisions shall be to
99 coordinate and promote efficiency and economy in the purchase of
100 commodities by the agencies of the state.

101 **SECTION 3.** Section 31-7-5, Mississippi Code of 1972, is
102 brought forward as follows:

103 31-7-5. The Department of Finance and Administration shall
104 prescribe rules and regulations governing the manner in which the
105 authority and duties granted to it by law may be carried out. It
106 shall employ suitable and competent personnel, necessary to carry
107 out its purposes. The Department of Finance and Administration
108 may establish an Office of Purchasing and Travel and employ a
109 competent person as Director of the Office of Purchasing and
110 Travel.

111 **SECTION 4.** Section 31-7-7, Mississippi Code of 1972, is
112 brought forward as follows:

113 31-7-7. Through its director and other supervisory personnel
114 and, upon its request, through the agencies of the state, the
115 Office of General Services shall supervise the performance of the
116 following duties imposed upon it by this chapter:

117 (a) A study of the purchases of commodities by the
118 agencies of the state; the compilation, exchange and coordination
119 of information concerning same; and the distribution of such
120 information to the agencies and governing authorities requesting
121 same.

122 (b) The planning and coordination of purchases in
123 volume for the agencies in order to take advantage of and secure
124 the economies possible by volume purchasing; the arrangement of
125 agreements between agencies and between governing authorities
126 whereby one may make a purchase or purchases for the other or
127 whereby an agency may make a purchase for a governing authority;
128 the arrangement of agreements whereby purchases of commodities can
129 be made between an agency and another agency or governing

130 authority at a fair price, less depreciated value; the
131 negotiations and execution of purchasing agreements and contracts
132 through and under which the Office of General Services may require
133 state agencies to purchase; and the obtaining or establishment of
134 methods for obtaining of competitive bid prices upon which any
135 agency of the state may purchase at the price approved by the
136 Office of General Services.

137 (c) The arrangement of provisions in purchase contracts
138 of the state, or any agency, providing that the same price for
139 which a commodity is available to an agency, may also, during the
140 period of time provided therein, be available to any governing
141 authority.

142 **SECTION 5.** Section 31-7-9, Mississippi Code of 1972, is
143 brought forward as follows:

144 31-7-9. (1) (a) The Office of Purchasing and Travel shall
145 adopt purchasing regulations governing the purchase by any agency
146 of any commodity or commodities and establishing standards and
147 specifications for a commodity or commodities and the maximum fair
148 prices of a commodity or commodities, subject to the approval of
149 the Public Procurement Review Board. It shall have the power to
150 amend, add to or eliminate purchasing regulations. The adoption
151 of, amendment, addition to or elimination of purchasing
152 regulations shall be based upon a determination by the Office of
153 Purchasing and Travel with the approval of the Public Procurement
154 Review Board, that such action is reasonable and practicable and
155 advantageous to promote efficiency and economy in the purchase of
156 commodities by the agencies of the state. Upon the adoption of
157 any purchasing regulation, or an amendment, addition or
158 elimination therein, copies of same shall be furnished to the
159 State Auditor and to all agencies affected thereby. Thereafter,
160 and except as otherwise may be provided in subsection (2) of this
161 section, no agency of the state shall purchase any commodities
162 covered by existing purchasing regulations unless such commodities

163 be in conformity with the standards and specifications set forth
164 in the purchasing regulations and unless the price thereof does
165 not exceed the maximum fair price established by such purchasing
166 regulations. The said Office of Purchasing and Travel shall
167 furnish to any county or municipality or other local public agency
168 of the state requesting same, copies of purchasing regulations
169 adopted by the Office of Purchasing and Travel and any amendments,
170 changes or eliminations of same that may be made from time to
171 time.

172 (b) The Office of Purchasing and Travel may adopt
173 purchasing regulations governing the use of credit cards,
174 procurement cards and purchasing club membership cards to be used
175 by state agencies, governing authorities of counties and
176 municipalities and the Chickasawhay Natural Gas District. Use of
177 the cards shall be in strict compliance with the regulations
178 promulgated by the office. Any amounts due on the cards shall
179 incur interest charges as set forth in Section 31-7-305 and shall
180 not be considered debt.

181 (2) The Office of Purchasing and Travel shall adopt, subject
182 to the approval of the Public Procurement Review Board, purchasing
183 regulations governing the purchase of unmarked vehicles to be used
184 by the Bureau of Narcotics and Department of Public Safety in
185 official investigations pursuant to Section 25-1-87. Such
186 regulations shall ensure that purchases of such vehicles shall be
187 at a fair price and shall take into consideration the peculiar
188 needs of the Bureau of Narcotics and Department of Public Safety
189 in undercover operations.

190 (3) The Office of Purchasing and Travel shall adopt, subject
191 to the approval of the Public Procurement Review Board,
192 regulations governing the certification process for certified
193 purchasing offices. Such regulations shall require entities
194 desiring to be classified as certified purchasing offices to
195 submit applications and applicable documents on an annual basis,

196 at which time the Office of Purchasing and Travel may provide the
197 governing entity with a certification valid for one (1) year from
198 the date of issuance.

199 **SECTION 6.** Section 31-7-10, Mississippi Code of 1972, is
200 brought forward as follows:

201 31-7-10. (1) For the purposes of this section, the term
202 "equipment" shall mean equipment, furniture, and if applicable,
203 associated software and other applicable direct costs associated
204 with the acquisition. In addition to its other powers and duties,
205 the Department of Finance and Administration shall have the
206 authority to develop a master lease-purchase program and, pursuant
207 to that program, shall have the authority to execute on behalf of
208 the state master lease-purchase agreements for equipment to be
209 used by an agency, as provided in this section. Each agency
210 electing to acquire equipment by a lease-purchase agreement shall
211 participate in the Department of Finance and Administration's
212 master lease-purchase program, unless the Department of Finance
213 and Administration makes a determination that such equipment
214 cannot be obtained under the program or unless the equipment can
215 be obtained elsewhere at an overall cost lower than that for which
216 the equipment can be obtained under the program. Such
217 lease-purchase agreements may include the refinancing or
218 consolidation, or both, of any state agency lease-purchase
219 agreements entered into after June 30, 1990.

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

227 (3) Upon final approval of an appropriation bill, each
228 agency shall submit to the Public Procurement Review Board a

229 schedule of proposed equipment acquisitions for the master
230 lease-purchase program. Upon approval of an equipment schedule by
231 the Public Procurement Review Board with the advice of the
232 Department of Information Technology Services, the Office of
233 Purchasing and Travel, and the Division of Energy and
234 Transportation of the Mississippi Development Authority as it
235 pertains to energy efficient climate control systems, the Public
236 Procurement Review Board shall forward a copy of the equipment
237 schedule to the Department of Finance and Administration.

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

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

251 (5) Each master lease-purchase agreement, and any subsequent
252 amendments, shall include such terms and conditions as the State
253 Bond Commission shall determine to be appropriate and in the
254 public interest, and may include any covenants deemed necessary or
255 desirable to protect the interests of the lessor, including, but
256 not limited to, provisions setting forth the interest rate (or
257 method for computing interest rates) for financing pursuant to
258 such agreement, covenants concerning application of payments and
259 funds held in the Master Lease-Purchase Program Fund, covenants to
260 maintain casualty insurance with respect to equipment subject to
261 the master lease-purchase agreement (and all state agencies are

262 specifically authorized to purchase any insurance required by a
263 master lease-purchase agreement) and covenants precluding or
264 limiting the right of the lessee or user to acquire equipment
265 within a specified time (not to exceed five (5) years) after
266 cancellation on the basis of a failure to appropriate funds for
267 payment of amounts due under a lease-purchase agreement covering
268 comparable equipment. The State Bond Commission shall transmit
269 copies of each such master lease-purchase agreement and each such
270 amendment to the Joint Legislative Budget Committee. To the
271 extent provided in any master lease-purchase agreement, title to
272 equipment leased pursuant thereto shall be deemed to be vested in
273 the state or the user of the equipment (as specified in such
274 master lease-purchase agreement), subject to default under or
275 termination of such master lease-purchase agreement.

276 A master lease-purchase agreement may provide for payment by
277 the lessor to the lessee of the purchase price of the equipment to
278 be acquired pursuant thereto prior to the date on which payment is
279 due to the vendor for such equipment and that the lease payments
280 by the lessee shall commence as though the equipment had been
281 provided on the date of payment. If the lessee, or lessee's
282 escrow agent, has sufficient funds for payment of equipment
283 purchases prior to payment due date to vendor of equipment, such
284 funds shall be held or utilized on an as-needed basis for payment
285 of equipment purchases either by the State Treasurer (in which
286 event the master lease-purchase agreement may include provisions
287 concerning the holding of such funds, the creation of a security
288 interest for the benefit of the lessor in such funds until
289 disbursed and other appropriate provisions approved by the Bond
290 Commission) or by a corporate trustee selected by the Department
291 of Finance and Administration (in which event the Department of
292 Finance and Administration shall have the authority to enter into
293 an agreement with such a corporate trustee containing terms and
294 conditions approved by the Bond Commission). Earnings on any

295 amount paid by the lessor prior to the acquisition of the
296 equipment may be used to make lease payments under the master
297 lease-purchase agreement or applied to pay costs and expenses
298 incurred in connection with such lease-purchase agreement. In
299 such event, the equipment use agreements with the user agency may
300 provide for lease payments to commence upon the date of payment by
301 the lessor and may also provide for a credit against such payments
302 to the extent that investment receipts from investment of the
303 purchase price are to be used to make lease-purchase payments.

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

308 (7) The Department of Finance and Administration shall
309 furnish the equipment to the various agencies, also known as the
310 user, pursuant to an equipment-use agreement developed by the
311 Department of Finance and Administration. Such agreements shall
312 require that all monthly payments due from such agency be paid,
313 transferred or allocated into the Master Lease-Purchase Program
314 Fund pursuant to a schedule established by the Department of
315 Finance and Administration. In the event such sums are not paid
316 by the defined payment period, the Executive Director of the
317 Department of Finance and Administration shall issue a requisition
318 for a warrant to draw such amount as may be due from any funds
319 appropriated for the use of the agency which has failed to make
320 the payment as agreed.

321 (8) All master lease-purchase agreements executed under the
322 authority of this section shall contain the following annual
323 allocation dependency clause or an annual allocation dependency
324 clause which is substantially equivalent thereto: "The
325 continuation of each equipment schedule to this agreement is
326 contingent in whole or in part upon the appropriation of funds by
327 the Legislature to make the lease-purchase payments required under

328 such equipment schedule. If the Legislature fails to appropriate
329 sufficient funds to provide for the continuation of the
330 lease-purchase payments under any such equipment schedule, then
331 the obligations of the lessee and of the agency to make such
332 lease-purchase payments and the corresponding provisions of any
333 such equipment schedule to this agreement shall terminate on the
334 last day of the fiscal year for which appropriations were made."

335 (9) The maximum lease term for any equipment acquired under
336 the master lease-purchase program shall not exceed the useful life
337 of such equipment as determined according to the upper limit of
338 the asset depreciation range (ADR) guidelines for the Class Life
339 Asset Depreciation Range System established by the Internal
340 Revenue Service pursuant to the United States Internal Revenue
341 Code and Regulations thereunder as in effect on December 31, 1980,
342 or comparable depreciation guidelines with respect to any
343 equipment not covered by ADR guidelines. The Department of
344 Finance and Administration shall be deemed to have met the
345 requirements of this subsection if the term of a master
346 lease-purchase agreement does not exceed the weighted average
347 useful life of all equipment covered by such agreement and the
348 schedules thereto as determined by the Department of Finance and
349 Administration. For purposes of this subsection, the "term of a
350 master lease-purchase agreement" shall be the weighted average
351 maturity of all principal payments to be made under such master
352 lease-purchase agreement and all schedules thereto.

353 (10) Interest paid on any master lease-purchase agreement
354 under this section shall be exempt from State of Mississippi
355 income taxation. All equipment, and the purchase thereof by any
356 lessor, acquired under the master lease-purchase program and all
357 lease-purchase payments with respect thereto shall be exempt from
358 all Mississippi sales, use and ad valorem taxes.

359 (11) The Governor, in his annual executive budget to the
360 Legislature, shall recommend appropriations sufficient to provide

361 funds to pay all amounts due and payable during the applicable
362 fiscal year under master lease-purchase agreements entered into
363 pursuant to this section.

364 (12) Any master lease-purchase agreement reciting in
365 substance that such agreement has been entered into pursuant to
366 this section shall be conclusively deemed to have been entered
367 into in accordance with all of the provisions and conditions set
368 forth in this section. Any defect or irregularity arising with
369 respect to procedures applicable to the acquisition of any
370 equipment shall not invalidate or otherwise limit the obligation
371 of the Department of Finance and Administration, or the state or
372 any agency of the state, under any master lease-purchase agreement
373 or any equipment-use agreement.

374 (13) There shall be maintained by the Department of Finance
375 and Administration, with respect to each master lease-purchase
376 agreement, an itemized statement of the cash price, interest
377 rates, interest costs, commissions, debt service schedules and all
378 other costs and expenses paid by the state incident to the
379 lease-purchase of equipment under such agreement.

380 (14) Lease-purchase agreements entered into by the Board of
381 Trustees of State Institutions of Higher Learning pursuant to the
382 authority of Section 37-101-413 or by any other agency which has
383 specific statutory authority other than pursuant to Section
384 31-7-13(e) to acquire equipment by lease-purchase shall not be
385 made pursuant to the master lease-purchase program under this
386 section, unless the Board of Trustees of State Institutions of
387 Higher Learning or such other agency elects to participate as to
388 part or all of its lease-purchase acquisitions in the master
389 lease-purchase program pursuant to this section.

390 (15) The Department of Finance and Administration may
391 develop a master lease-purchase program for school districts and,
392 pursuant to that program, may execute on behalf of the school
393 districts master lease-purchase agreements for equipment to be

394 used by the school districts. The form and structure of this
395 program shall be substantially the same as set forth in this
396 section for the master lease-purchase program for state agencies.
397 If sums due from a school district under the master lease-purchase
398 program are not paid by the expiration of the defined payment
399 period, the Executive Director of the Department of Finance and
400 Administration may withhold such amount that is due from the
401 school district's minimum education or adequate education program
402 fund allotments.

403 (16) The Department of Finance and Administration may
404 develop a master lease-purchase program for community and junior
405 college districts and, pursuant to that program, may execute on
406 behalf of the community and junior college districts master
407 lease-purchase agreements for equipment to be used by the
408 community and junior college districts. The form and structure of
409 this program must be substantially the same as set forth in this
410 section for the master lease-purchase program for state agencies.
411 If sums due from a community or junior college district under the
412 master lease-purchase program are not paid by the expiration of
413 the defined payment period, the Executive Director of the
414 Department of Finance and Administration may withhold an amount
415 equal to the amount due under the program from any funds allocated
416 for that community or junior college district in the state
417 appropriations for the use and support of the community and junior
418 colleges.

419 **SECTION 7.** Section 31-7-11, Mississippi Code of 1972, is
420 brought forward as follows:

421 31-7-11. Each agency of the state shall furnish information
422 relative to its purchase of commodities, and as to its method of
423 purchasing such commodities, to the Department of Finance and
424 Administration annually and at such other times as the Department
425 of Finance and Administration may request.

426 The Department of Finance and Administration shall have
427 supervision over the purchasing and purchasing practices of each
428 state agency and may by regulation or order correct any practice
429 that appears contrary to the provisions of this chapter or to the
430 best interests of the state. If it shall appear that any agency
431 is not practicing economy in its purchasing or is permitting
432 favoritism or any improper purchasing practice, the Department of
433 Finance and Administration shall require that the agency
434 immediately cease such improper activity, with full and complete
435 authority in the Department of Finance and Administration to carry
436 into effect its directions in such regard.

437 All purchases, trade-ins, sales or transfer of personal
438 property made by any officer, board, agency, department or branch
439 of the state government except the Legislature shall be subject to
440 the approval of the Department of Finance and Administration.
441 Such transaction shall be made in accordance with rules and
442 regulations of the Department of Finance and Administration
443 relating to the purchase of state-owned motor vehicles and all
444 other personal property. The title of such property shall remain
445 in the name of the state.

446 **SECTION 8.** Section 31-7-12, Mississippi Code of 1972, is
447 brought forward as follows:

448 31-7-12. (1) Except in regard to purchases of unmarked
449 vehicles made in accordance with purchasing regulations adopted by
450 the Department of Finance and Administration pursuant to Section
451 31-7-9(2), all agencies shall purchase commodities at the state
452 contract price from the approved source, unless approval is
453 granted by the Department of Finance and Administration to solicit
454 purchases outside the terms of the contracts. However, prices
455 accepted by an agency shall be less than the prices set by the
456 state contract. Prices accepted by an agency shall be obtained in
457 compliance with paragraph (a), (b) or (c) of Section 31-7-13. It
458 shall be the responsibility of the Department of Finance and

459 Administration to ascertain that the resulting prices shall
460 provide a cost effective alternative to the established state
461 contract.

462 (2) Governing authorities may purchase commodities approved
463 by the Department of Finance and Administration from the state
464 contract vendor, or from any source offering the identical
465 commodity, at a price not exceeding the state contract price
466 established by the Department of Finance and Administration for
467 such commodity, without obtaining or advertising for competitive
468 bids. Governing authorities that do not exercise the option to
469 purchase such commodities from the state contract vendor or from
470 another source offering the identical commodity at a price not
471 exceeding the state contract price established by the Department
472 of Finance and Administration shall make such purchases pursuant
473 to the provisions of Section 31-7-13 without regard to state
474 contract prices established by the Department of Finance and
475 Administration, unless such purchases are authorized to be made
476 under subsection (5) of this section.

477 (3) Nothing in this section shall prohibit governing
478 authorities from purchasing, pursuant to subsection (2) of this
479 section, commodities approved by the Department of Finance and
480 Administration at a price not exceeding the state contract price
481 established by the Department of Finance and Administration.

482 (4) The Department of Finance and Administration shall
483 ensure that the prices of all commodities on the state contract
484 are the lowest and best prices available from any source offering
485 that commodity at the same level of quality or service, utilizing
486 the reasonable standards established therefor by the Department of
487 Finance and Administration. If the Department of Finance and
488 Administration does not list an approved price for the particular
489 item involved, purchase shall be made according to statutory
490 bidding and licensing requirements. To encourage prudent
491 purchasing practices, the Department of Finance and Administration

492 shall be authorized and empowered to exempt certain commodities
493 from the requirement that the lowest and best price be approved by
494 order placed on its minutes.

495 (5) Any school district may purchase commodities from
496 vendors with which any levying authority of the school district,
497 as defined in Section 37-57-1, has contracted through competitive
498 bidding procedures pursuant to Section 31-7-13 for purchases of
499 the same commodities. Purchases authorized by this subsection may
500 be made by a school district without obtaining or advertising for
501 competitive bids, and such purchases shall be made at the same
502 prices and under the same conditions as purchases of the same
503 commodities are to be made by the levying authority of the school
504 district under the contract with the vendor.

505 **SECTION 9.** Section 31-7-13, Mississippi Code of 1972, is
506 brought forward as follows:

507 31-7-13. All agencies and governing authorities shall
508 purchase their commodities and printing; contract for garbage
509 collection or disposal; contract for solid waste collection or
510 disposal; contract for sewage collection or disposal; contract for
511 public construction; and contract for rentals as herein provided.

512 (a) **Bidding procedure for purchases not over \$3,500.00.**
513 Purchases which do not involve an expenditure of more than Three
514 Thousand Five Hundred Dollars (\$3,500.00), exclusive of freight or
515 shipping charges, may be made without advertising or otherwise
516 requesting competitive bids. However, nothing contained in this
517 paragraph (a) shall be construed to prohibit any agency or
518 governing authority from establishing procedures which require
519 competitive bids on purchases of Three Thousand Five Hundred
520 Dollars (\$3,500.00) or less.

521 (b) **Bidding procedure for purchases over \$3,500.00 but**
522 **not over \$15,000.00.** Purchases which involve an expenditure of
523 more than Three Thousand Five Hundred Dollars (\$3,500.00) but not
524 more than Fifteen Thousand Dollars (\$15,000.00), exclusive of

525 freight and shipping charges may be made from the lowest and best
526 bidder without publishing or posting advertisement for bids,
527 provided at least two (2) competitive written bids have been
528 obtained. Any governing authority purchasing commodities pursuant
529 to this paragraph (b) may authorize its purchasing agent, or his
530 designee, with regard to governing authorities other than
531 counties, or its purchase clerk, or his designee, with regard to
532 counties, to accept the lowest and best competitive written bid.
533 Such authorization shall be made in writing by the governing
534 authority and shall be maintained on file in the primary office of
535 the agency and recorded in the official minutes of the governing
536 authority, as appropriate. The purchasing agent or the purchase
537 clerk, or their designee, as the case may be, and not the
538 governing authority, shall be liable for any penalties and/or
539 damages as may be imposed by law for any act or omission of the
540 purchasing agent or purchase clerk, or their designee,
541 constituting a violation of law in accepting any bid without
542 approval by the governing authority. The term "competitive
543 written bid" shall mean a bid submitted on a bid form furnished by
544 the buying agency or governing authority and signed by authorized
545 personnel representing the vendor, or a bid submitted on a
546 vendor's letterhead or identifiable bid form and signed by
547 authorized personnel representing the vendor. "Competitive" shall
548 mean that the bids are developed based upon comparable
549 identification of the needs and are developed independently and
550 without knowledge of other bids or prospective bids. Bids may be
551 submitted by facsimile, electronic mail or other generally
552 accepted method of information distribution. Bids submitted by
553 electronic transmission shall not require the signature of the
554 vendor's representative unless required by agencies or governing
555 authorities.

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

557 (i) **Publication requirement.** Purchases which
558 involve an expenditure of more than Fifteen Thousand Dollars
559 (\$15,000.00), exclusive of freight and shipping charges, may be
560 made from the lowest and best bidder after advertising for
561 competitive sealed bids once each week for two (2) consecutive
562 weeks in a regular newspaper published in the county or
563 municipality in which such agency or governing authority is
564 located. The date as published for the bid opening shall not be
565 less than seven (7) working days after the last published notice;
566 however, if the purchase involves a construction project in which
567 the estimated cost is in excess of Fifteen Thousand Dollars
568 (\$15,000.00), such bids shall not be opened in less than fifteen
569 (15) working days after the last notice is published and the
570 notice for the purchase of such construction shall be published
571 once each week for two (2) consecutive weeks. The notice of
572 intention to let contracts or purchase equipment shall state the
573 time and place at which bids shall be received, list the contracts
574 to be made or types of equipment or supplies to be purchased, and,
575 if all plans and/or specifications are not published, refer to the
576 plans and/or specifications on file. If there is no newspaper
577 published in the county or municipality, then such notice shall be
578 given by posting same at the courthouse, or for municipalities at
579 the city hall, and at two (2) other public places in the county or
580 municipality, and also by publication once each week for two (2)
581 consecutive weeks in some newspaper having a general circulation
582 in the county or municipality in the above provided manner. On
583 the same date that the notice is submitted to the newspaper for
584 publication, the agency or governing authority involved shall mail
585 written notice to, or provide electronic notification to the main
586 office of the Mississippi Contract Procurement Center that
587 contains the same information as that in the published notice.

588 (ii) **Bidding process amendment procedure.** If all
589 plans and/or specifications are published in the notification,

590 then the plans and/or specifications may not be amended. If all
591 plans and/or specifications are not published in the notification,
592 then amendments to the plans/specifications, bid opening date, bid
593 opening time and place may be made, provided that the agency or
594 governing authority maintains a list of all prospective bidders
595 who are known to have received a copy of the bid documents and all
596 such prospective bidders are sent copies of all amendments. This
597 notification of amendments may be made via mail, facsimile,
598 electronic mail or other generally accepted method of information
599 distribution. No addendum to bid specifications may be issued
600 within two (2) working days of the time established for the
601 receipt of bids unless such addendum also amends the bid opening
602 to a date not less than five (5) working days after the date of
603 the addendum.

604 (iii) **Filing requirement.** In all cases involving
605 governing authorities, before the notice shall be published or
606 posted, the plans or specifications for the construction or
607 equipment being sought shall be filed with the clerk of the board
608 of the governing authority. In addition to these requirements, a
609 bid file shall be established which shall indicate those vendors
610 to whom such solicitations and specifications were issued, and
611 such file shall also contain such information as is pertinent to
612 the bid.

613 (iv) **Specification restrictions.** Specifications
614 pertinent to such bidding shall be written so as not to exclude
615 comparable equipment of domestic manufacture. However, if valid
616 justification is presented, the Department of Finance and
617 Administration or the board of a governing authority may approve a
618 request for specific equipment necessary to perform a specific
619 job. Further, such justification, when placed on the minutes of
620 the board of a governing authority, may serve as authority for
621 that governing authority to write specifications to require a
622 specific item of equipment needed to perform a specific job. In

623 addition to these requirements, from and after July 1, 1990,
624 vendors of relocatable classrooms and the specifications for the
625 purchase of such relocatable classrooms published by local school
626 boards shall meet all pertinent regulations of the State Board of
627 Education, including prior approval of such bid by the State
628 Department of Education.

629 (v) Agencies and governing authorities may
630 establish secure procedures by which bids may be submitted via
631 electronic means.

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

633 (i) **Decision procedure.** Purchases may be made
634 from the lowest and best bidder. In determining the lowest and
635 best bid, freight and shipping charges shall be included.
636 Life-cycle costing, total cost bids, warranties, guaranteed
637 buy-back provisions and other relevant provisions may be included
638 in the best bid calculation. All best bid procedures for state
639 agencies must be in compliance with regulations established by the
640 Department of Finance and Administration. If any governing
641 authority accepts a bid other than the lowest bid actually
642 submitted, it shall place on its minutes detailed calculations and
643 narrative summary showing that the accepted bid was determined to
644 be the lowest and best bid, including the dollar amount of the
645 accepted bid and the dollar amount of the lowest bid. No agency
646 or governing authority shall accept a bid based on items not
647 included in the specifications.

648 (ii) **Decision procedure for Certified Purchasing**
649 **Offices.** In addition to the decision procedure set forth in
650 paragraph (d)(i), Certified Purchasing Offices may also use the
651 following procedure: Purchases may be made from the bidder
652 offering the best value. In determining the best value bid,
653 freight and shipping charges shall be included. Life-cycle
654 costing, total cost bids, warranties, guaranteed buy-back
655 provisions, documented previous experience, training costs and

656 other relevant provisions may be included in the best value
657 calculation. This provision shall authorize Certified Purchasing
658 Offices to utilize a Request For Proposals (RFP) process when
659 purchasing commodities. All best value procedures for state
660 agencies must be in compliance with regulations established by the
661 Department of Finance and Administration. No agency or governing
662 authority shall accept a bid based on items or criteria not
663 included in the specifications.

664 (iii) **Construction project negotiations authority.**
665 If the lowest and best bid is not more than ten percent (10%)
666 above the amount of funds allocated for a public construction or
667 renovation project, then the agency or governing authority shall
668 be permitted to negotiate with the lowest bidder in order to enter
669 into a contract for an amount not to exceed the funds allocated.

670 (e) **Lease-purchase authorization.** For the purposes of
671 this section, the term "equipment" shall mean equipment, furniture
672 and, if applicable, associated software and other applicable
673 direct costs associated with the acquisition. Any lease-purchase
674 of equipment which an agency is not required to lease-purchase
675 under the master lease-purchase program pursuant to Section
676 31-7-10 and any lease-purchase of equipment which a governing
677 authority elects to lease-purchase may be acquired by a
678 lease-purchase agreement under this paragraph (e). Lease-purchase
679 financing may also be obtained from the vendor or from a
680 third-party source after having solicited and obtained at least
681 two (2) written competitive bids, as defined in paragraph (b) of
682 this section, for such financing without advertising for such
683 bids. Solicitation for the bids for financing may occur before or
684 after acceptance of bids for the purchase of such equipment or,
685 where no such bids for purchase are required, at any time before
686 the purchase thereof. No such lease-purchase agreement shall be
687 for an annual rate of interest which is greater than the overall
688 maximum interest rate to maturity on general obligation

689 indebtedness permitted under Section 75-17-101, and the term of
690 such lease-purchase agreement shall not exceed the useful life of
691 equipment covered thereby as determined according to the upper
692 limit of the asset depreciation range (ADR) guidelines for the
693 Class Life Asset Depreciation Range System established by the
694 Internal Revenue Service pursuant to the United States Internal
695 Revenue Code and regulations thereunder as in effect on December
696 31, 1980, or comparable depreciation guidelines with respect to
697 any equipment not covered by ADR guidelines. Any lease-purchase
698 agreement entered into pursuant to this paragraph (e) may contain
699 any of the terms and conditions which a master lease-purchase
700 agreement may contain under the provisions of Section 31-7-10(5),
701 and shall contain an annual allocation dependency clause
702 substantially similar to that set forth in Section 31-7-10(8).
703 Each agency or governing authority entering into a lease-purchase
704 transaction pursuant to this paragraph (e) shall maintain with
705 respect to each such lease-purchase transaction the same
706 information as required to be maintained by the Department of
707 Finance and Administration pursuant to Section 31-7-10(13).
708 However, nothing contained in this section shall be construed to
709 permit agencies to acquire items of equipment with a total
710 acquisition cost in the aggregate of less than Ten Thousand
711 Dollars (\$10,000.00) by a single lease-purchase transaction. All
712 equipment, and the purchase thereof by any lessor, acquired by
713 lease-purchase under this paragraph and all lease-purchase
714 payments with respect thereto shall be exempt from all Mississippi
715 sales, use and ad valorem taxes. Interest paid on any
716 lease-purchase agreement under this section shall be exempt from
717 State of Mississippi income taxation.

718 (f) **Alternate bid authorization.** When necessary to
719 ensure ready availability of commodities for public works and the
720 timely completion of public projects, no more than two (2)
721 alternate bids may be accepted by a governing authority for

722 commodities. No purchases may be made through use of such
723 alternate bids procedure unless the lowest and best bidder cannot
724 deliver the commodities contained in his bid. In that event,
725 purchases of such commodities may be made from one (1) of the
726 bidders whose bid was accepted as an alternate.

727 (g) **Construction contract change authorization.** In the
728 event a determination is made by an agency or governing authority
729 after a construction contract is let that changes or modifications
730 to the original contract are necessary or would better serve the
731 purpose of the agency or the governing authority, such agency or
732 governing authority may, in its discretion, order such changes
733 pertaining to the construction that are necessary under the
734 circumstances without the necessity of further public bids;
735 provided that such change shall be made in a commercially
736 reasonable manner and shall not be made to circumvent the public
737 purchasing statutes. In addition to any other authorized person,
738 the architect or engineer hired by an agency or governing
739 authority with respect to any public construction contract shall
740 have the authority, when granted by an agency or governing
741 authority, to authorize changes or modifications to the original
742 contract without the necessity of prior approval of the agency or
743 governing authority when any such change or modification is less
744 than one percent (1%) of the total contract amount. The agency or
745 governing authority may limit the number, manner or frequency of
746 such emergency changes or modifications.

747 (h) **Petroleum purchase alternative.** In addition to
748 other methods of purchasing authorized in this chapter, when any
749 agency or governing authority shall have a need for gas, diesel
750 fuel, oils and/or other petroleum products in excess of the amount
751 set forth in paragraph (a) of this section, such agency or
752 governing authority may purchase the commodity after having
753 solicited and obtained at least two (2) competitive written bids,
754 as defined in paragraph (b) of this section. If two (2)

755 competitive written bids are not obtained, the entity shall comply
756 with the procedures set forth in paragraph (c) of this section.
757 In the event any agency or governing authority shall have
758 advertised for bids for the purchase of gas, diesel fuel, oils and
759 other petroleum products and coal and no acceptable bids can be
760 obtained, such agency or governing authority is authorized and
761 directed to enter into any negotiations necessary to secure the
762 lowest and best contract available for the purchase of such
763 commodities.

764 (i) **Road construction petroleum products price**
765 **adjustment clause authorization.** Any agency or governing
766 authority authorized to enter into contracts for the construction,
767 maintenance, surfacing or repair of highways, roads or streets,
768 may include in its bid proposal and contract documents a price
769 adjustment clause with relation to the cost to the contractor,
770 including taxes, based upon an industry-wide cost index, of
771 petroleum products including asphalt used in the performance or
772 execution of the contract or in the production or manufacture of
773 materials for use in such performance. Such industry-wide index
774 shall be established and published monthly by the Mississippi
775 Department of Transportation with a copy thereof to be mailed,
776 upon request, to the clerks of the governing authority of each
777 municipality and the clerks of each board of supervisors
778 throughout the state. The price adjustment clause shall be based
779 on the cost of such petroleum products only and shall not include
780 any additional profit or overhead as part of the adjustment. The
781 bid proposals or document contract shall contain the basis and
782 methods of adjusting unit prices for the change in the cost of
783 such petroleum products.

784 (j) **State agency emergency purchase procedure.** If the
785 governing board or the executive head, or his designee, of any
786 agency of the state shall determine that an emergency exists in
787 regard to the purchase of any commodities or repair contracts, so

788 that the delay incident to giving opportunity for competitive
789 bidding would be detrimental to the interests of the state, then
790 the provisions herein for competitive bidding shall not apply and
791 the head of such agency shall be authorized to make the purchase
792 or repair. Total purchases so made shall only be for the purpose
793 of meeting needs created by the emergency situation. In the event
794 such executive head is responsible to an agency board, at the
795 meeting next following the emergency purchase, documentation of
796 the purchase, including a description of the commodity purchased,
797 the purchase price thereof and the nature of the emergency shall
798 be presented to the board and placed on the minutes of the board
799 of such agency. The head of such agency, or his designee, shall,
800 at the earliest possible date following such emergency purchase,
801 file with the Department of Finance and Administration (i) a
802 statement explaining the conditions and circumstances of the
803 emergency, which shall include a detailed description of the
804 events leading up to the situation and the negative impact to the
805 entity if the purchase is made following the statutory
806 requirements set forth in paragraph (a), (b) or (c) of this
807 section, and (ii) a certified copy of the appropriate minutes of
808 the board of such agency, if applicable. On or before September 1
809 of each year, the State Auditor shall prepare and deliver to the
810 Senate Fees, Salaries and Administration Committee, the House Fees
811 and Salaries of Public Officers Committee and the Joint
812 Legislative Budget Committee a report containing a list of all
813 state agency emergency purchases and supporting documentation for
814 each emergency purchase.

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

816 If the governing authority, or the governing authority acting
817 through its designee, shall determine that an emergency exists in
818 regard to the purchase of any commodities or repair contracts, so
819 that the delay incident to giving opportunity for competitive
820 bidding would be detrimental to the interest of the governing

821 authority, then the provisions herein for competitive bidding
822 shall not apply and any officer or agent of such governing
823 authority having general or special authority therefor in making
824 such purchase or repair shall approve the bill presented therefor,
825 and he shall certify in writing thereon from whom such purchase
826 was made, or with whom such a repair contract was made. At the
827 board meeting next following the emergency purchase or repair
828 contract, documentation of the purchase or repair contract,
829 including a description of the commodity purchased, the price
830 thereof and the nature of the emergency shall be presented to the
831 board and shall be placed on the minutes of the board of such
832 governing authority.

833 (1) **Hospital purchase, lease-purchase and lease**
834 **authorization.**

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

840 (ii) In addition to the authority granted in
841 subparagraph (i) of this paragraph (1), the commissioners or board
842 of trustees is authorized to enter into contracts for the lease of
843 equipment or services, or both, which it considers necessary for
844 the proper care of patients if, in its opinion, it is not
845 financially feasible to purchase the necessary equipment or
846 services. Any such contract for the lease of equipment or
847 services executed by the commissioners or board shall not exceed a
848 maximum of five (5) years' duration and shall include a
849 cancellation clause based on unavailability of funds. If such
850 cancellation clause is exercised, there shall be no further
851 liability on the part of the lessee. Any such contract for the
852 lease of equipment or services executed on behalf of the
853 commissioners or board that complies with the provisions of this

854 subparagraph (ii) shall be excepted from the bid requirements set
855 forth in this section.

856 (m) **Exceptions from bidding requirements.** Excepted
857 from bid requirements are:

858 (i) **Purchasing agreements approved by department.**
859 Purchasing agreements, contracts and maximum price regulations
860 executed or approved by the Department of Finance and
861 Administration.

862 (ii) **Outside equipment repairs.** Repairs to
863 equipment, when such repairs are made by repair facilities in the
864 private sector; however, engines, transmissions, rear axles and/or
865 other such components shall not be included in this exemption when
866 replaced as a complete unit instead of being repaired and the need
867 for such total component replacement is known before disassembly
868 of the component; however, invoices identifying the equipment,
869 specific repairs made, parts identified by number and name,
870 supplies used in such repairs, and the number of hours of labor
871 and costs therefor shall be required for the payment for such
872 repairs.

873 (iii) **In-house equipment repairs.** Purchases of
874 parts for repairs to equipment, when such repairs are made by
875 personnel of the agency or governing authority; however, entire
876 assemblies, such as engines or transmissions, shall not be
877 included in this exemption when the entire assembly is being
878 replaced instead of being repaired.

879 (iv) **Raw gravel or dirt.** Raw unprocessed deposits
880 of gravel or fill dirt which are to be removed and transported by
881 the purchaser.

882 (v) **Governmental equipment auctions.** Motor
883 vehicles or other equipment purchased from a federal agency or
884 authority, another governing authority or state agency of the
885 State of Mississippi, or any governing authority or state agency
886 of another state at a public auction held for the purpose of

887 disposing of such vehicles or other equipment. Any purchase by a
888 governing authority under the exemption authorized by this
889 subparagraph (v) shall require advance authorization spread upon
890 the minutes of the governing authority to include the listing of
891 the item or items authorized to be purchased and the maximum bid
892 authorized to be paid for each item or items.

893 (vi) **Intergovernmental sales and transfers.**

894 Purchases, sales, transfers or trades by governing authorities or
895 state agencies when such purchases, sales, transfers or trades are
896 made by a private treaty agreement or through means of
897 negotiation, from any federal agency or authority, another
898 governing authority or state agency of the State of Mississippi,
899 or any state agency or governing authority of another state.

900 Nothing in this section shall permit such purchases through public
901 auction except as provided for in subparagraph (v) of this
902 section. It is the intent of this section to allow governmental
903 entities to dispose of and/or purchase commodities from other
904 governmental entities at a price that is agreed to by both
905 parties. This shall allow for purchases and/or sales at prices
906 which may be determined to be below the market value if the
907 selling entity determines that the sale at below market value is
908 in the best interest of the taxpayers of the state. Governing
909 authorities shall place the terms of the agreement and any
910 justification on the minutes, and state agencies shall obtain
911 approval from the Department of Finance and Administration, prior
912 to releasing or taking possession of the commodities.

913 (vii) **Perishable supplies or food.** Perishable
914 supplies or foods purchased for use in connection with hospitals,
915 the school lunch programs, homemaking programs and for the feeding
916 of county or municipal prisoners.

917 (viii) **Single source items.** Noncompetitive items
918 available from one (1) source only. In connection with the
919 purchase of noncompetitive items only available from one (1)

920 source, a certification of the conditions and circumstances
921 requiring the purchase shall be filed by the agency with the
922 Department of Finance and Administration and by the governing
923 authority with the board of the governing authority. Upon receipt
924 of that certification the Department of Finance and Administration
925 or the board of the governing authority, as the case may be, may,
926 in writing, authorize the purchase, which authority shall be noted
927 on the minutes of the body at the next regular meeting thereafter.
928 In those situations, a governing authority is not required to
929 obtain the approval of the Department of Finance and
930 Administration.

931 (ix) **Waste disposal facility construction**
932 **contracts.** Construction of incinerators and other facilities for
933 disposal of solid wastes in which products either generated
934 therein, such as steam, or recovered therefrom, such as materials
935 for recycling, are to be sold or otherwise disposed of; however,
936 in constructing such facilities, a governing authority or agency
937 shall publicly issue requests for proposals, advertised for in the
938 same manner as provided herein for seeking bids for public
939 construction projects, concerning the design, construction,
940 ownership, operation and/or maintenance of such facilities,
941 wherein such requests for proposals when issued shall contain
942 terms and conditions relating to price, financial responsibility,
943 technology, environmental compatibility, legal responsibilities
944 and such other matters as are determined by the governing
945 authority or agency to be appropriate for inclusion; and after
946 responses to the request for proposals have been duly received,
947 the governing authority or agency may select the most qualified
948 proposal or proposals on the basis of price, technology and other
949 relevant factors and from such proposals, but not limited to the
950 terms thereof, negotiate and enter contracts with one or more of
951 the persons or firms submitting proposals.

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

955 (xi) **Information technology products.** Purchases
956 of information technology products made by governing authorities
957 under the provisions of purchase schedules, or contracts executed
958 or approved by the Mississippi Department of Information
959 Technology Services and designated for use by governing
960 authorities.

961 (xii) **Energy efficiency services and equipment.**
962 Energy efficiency services and equipment acquired by school
963 districts, community and junior colleges, institutions of higher
964 learning and state agencies or other applicable governmental
965 entities on a shared-savings, lease or lease-purchase basis
966 pursuant to Section 31-7-14.

967 (xiii) **Municipal electrical utility system fuel.**
968 Purchases of coal and/or natural gas by municipally-owned electric
969 power generating systems that have the capacity to use both coal
970 and natural gas for the generation of electric power.

971 (xiv) **Library books and other reference materials.**
972 Purchases by libraries or for libraries of books and periodicals;
973 processed film, video cassette tapes, filmstrips and slides;
974 recorded audio tapes, cassettes and diskettes; and any such items
975 as would be used for teaching, research or other information
976 distribution; however, equipment such as projectors, recorders,
977 audio or video equipment, and monitor televisions are not exempt
978 under this subparagraph.

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

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

985 (xvii) **Multichannel interactive video systems.**
986 From and after July 1, 1990, contracts by Mississippi Authority
987 for Educational Television with any private educational
988 institution or private nonprofit organization whose purposes are
989 educational in regard to the construction, purchase, lease or
990 lease-purchase of facilities and equipment and the employment of
991 personnel for providing multichannel interactive video systems
992 (ITSF) in the school districts of this state.

993 (xviii) **Purchases of prison industry products.**
994 From and after January 1, 1991, purchases made by state agencies
995 or governing authorities involving any item that is manufactured,
996 processed, grown or produced from the state's prison industries.

997 (xix) **Undercover operations equipment.** Purchases
998 of surveillance equipment or any other high-tech equipment to be
999 used by law enforcement agents in undercover operations, provided
1000 that any such purchase shall be in compliance with regulations
1001 established by the Department of Finance and Administration.

1002 (xx) **Junior college books for rent.** Purchases by
1003 community or junior colleges of textbooks which are obtained for
1004 the purpose of renting such books to students as part of a book
1005 service system.

1006 (xxi) **Certain school district purchases.**
1007 Purchases of commodities made by school districts from vendors
1008 with which any levying authority of the school district, as
1009 defined in Section 37-57-1, has contracted through competitive
1010 bidding procedures for purchases of the same commodities.

1011 (xxii) **Garbage, solid waste and sewage contracts.**
1012 Contracts for garbage collection or disposal, contracts for solid
1013 waste collection or disposal and contracts for sewage collection
1014 or disposal.

1015 (xxiii) **Municipal water tank maintenance**
1016 **contracts.** Professional maintenance program contracts for the
1017 repair or maintenance of municipal water tanks, which provide

1018 professional services needed to maintain municipal water storage
1019 tanks for a fixed annual fee for a duration of two (2) or more
1020 years.

1021 (xxiv) **Purchases of Mississippi Industries for the**
1022 **Blind products.** Purchases made by state agencies or governing
1023 authorities involving any item that is manufactured, processed or
1024 produced by the Mississippi Industries for the Blind.

1025 (xxv) **Purchases of state-adopted textbooks.**
1026 Purchases of state-adopted textbooks by public school districts.

1027 (xxvi) **Certain purchases under the Mississippi**
1028 **Major Economic Impact Act.** Contracts entered into pursuant to the
1029 provisions of Section 57-75-9(2) and (3).

1030 (xxvii) **Used heavy or specialized machinery or**
1031 **equipment for installation of soil and water conservation**
1032 **practices purchased at auction.** Used heavy or specialized
1033 machinery or equipment used for the installation and
1034 implementation of soil and water conservation practices or
1035 measures purchased subject to the restrictions provided in
1036 Sections 69-27-331 through 69-27-341. Any purchase by the State
1037 Soil and Water Conservation Commission under the exemption
1038 authorized by this subparagraph shall require advance
1039 authorization spread upon the minutes of the commission to include
1040 the listing of the item or items authorized to be purchased and
1041 the maximum bid authorized to be paid for each item or items.

1042 (xxviii) **Hospital lease of equipment or services.**
1043 Leases by hospitals of equipment or services if the leases are in
1044 compliance with paragraph (1)(ii).

1045 (xxix) **Purchases made pursuant to qualified**
1046 **cooperative purchasing agreements.** Purchases made by certified
1047 purchasing offices of state agencies or governing authorities
1048 under cooperative purchasing agreements previously approved by the
1049 Office of Purchasing and Travel and established by or for any
1050 municipality, county, parish or state government or the federal

1051 government, provided that the notification to potential
1052 contractors includes a clause that sets forth the availability of
1053 the cooperative purchasing agreement to other governmental
1054 entities. Such purchases shall only be made if the use of the
1055 cooperative purchasing agreements is determined to be in the best
1056 interest of the government entity.

1057 (xxx) **School yearbooks.** Purchases of school
1058 yearbooks by state agencies or governing authorities; provided,
1059 however, that state agencies and governing authorities shall use
1060 for these purchases the RFP process as set forth in the
1061 Mississippi Procurement Manual adopted by the Office of Purchasing
1062 and Travel.

1063 (xxxi) **Design-build method or the design-build**
1064 **bridging method of contracting.** Contracts entered into the
1065 provisions of Section 31-11-3(9).

1066 (n) **Term contract authorization.** All contracts for the
1067 purchase of:

1068 (i) All contracts for the purchase of commodities,
1069 equipment and public construction (including, but not limited to,
1070 repair and maintenance), may be let for periods of not more than
1071 sixty (60) months in advance, subject to applicable statutory
1072 provisions prohibiting the letting of contracts during specified
1073 periods near the end of terms of office. Term contracts for a
1074 period exceeding twenty-four (24) months shall also be subject to
1075 ratification or cancellation by governing authority boards taking
1076 office subsequent to the governing authority board entering the
1077 contract.

1078 (ii) Bid proposals and contracts may include price
1079 adjustment clauses with relation to the cost to the contractor
1080 based upon a nationally published industry-wide or nationally
1081 published and recognized cost index. The cost index used in a
1082 price adjustment clause shall be determined by the Department of
1083 Finance and Administration for the state agencies and by the

1084 governing board for governing authorities. The bid proposal and
1085 contract documents utilizing a price adjustment clause shall
1086 contain the basis and method of adjusting unit prices for the
1087 change in the cost of such commodities, equipment and public
1088 construction.

1089 (o) **Purchase law violation prohibition and vendor**
1090 **penalty.** No contract or purchase as herein authorized shall be
1091 made for the purpose of circumventing the provisions of this
1092 section requiring competitive bids, nor shall it be lawful for any
1093 person or concern to submit individual invoices for amounts within
1094 those authorized for a contract or purchase where the actual value
1095 of the contract or commodity purchased exceeds the authorized
1096 amount and the invoices therefor are split so as to appear to be
1097 authorized as purchases for which competitive bids are not
1098 required. Submission of such invoices shall constitute a
1099 misdemeanor punishable by a fine of not less than Five Hundred
1100 Dollars (\$500.00) nor more than One Thousand Dollars (\$1,000.00),
1101 or by imprisonment for thirty (30) days in the county jail, or
1102 both such fine and imprisonment. In addition, the claim or claims
1103 submitted shall be forfeited.

1104 (p) **Electrical utility petroleum-based equipment**
1105 **purchase procedure.** When in response to a proper advertisement
1106 therefor, no bid firm as to price is submitted to an electric
1107 utility for power transformers, distribution transformers, power
1108 breakers, reclosers or other articles containing a petroleum
1109 product, the electric utility may accept the lowest and best bid
1110 therefor although the price is not firm.

1111 (q) **Fuel management system bidding procedure.** Any
1112 governing authority or agency of the state shall, before
1113 contracting for the services and products of a fuel management or
1114 fuel access system, enter into negotiations with not fewer than
1115 two (2) sellers of fuel management or fuel access systems for
1116 competitive written bids to provide the services and products for

1117 the systems. In the event that the governing authority or agency
1118 cannot locate two (2) sellers of such systems or cannot obtain
1119 bids from two (2) sellers of such systems, it shall show proof
1120 that it made a diligent, good-faith effort to locate and negotiate
1121 with two (2) sellers of such systems. Such proof shall include,
1122 but not be limited to, publications of a request for proposals and
1123 letters soliciting negotiations and bids. For purposes of this
1124 paragraph (q), a fuel management or fuel access system is an
1125 automated system of acquiring fuel for vehicles as well as
1126 management reports detailing fuel use by vehicles and drivers, and
1127 the term "competitive written bid" shall have the meaning as
1128 defined in paragraph (b) of this section. Governing authorities
1129 and agencies shall be exempt from this process when contracting
1130 for the services and products of a fuel management or fuel access
1131 systems under the terms of a state contract established by the
1132 Office of Purchasing and Travel.

1133 (r) **Solid waste contract proposal procedure.** Before
1134 entering into any contract for garbage collection or disposal,
1135 contract for solid waste collection or disposal or contract for
1136 sewage collection or disposal, which involves an expenditure of
1137 more than Fifty Thousand Dollars (\$50,000.00), a governing
1138 authority or agency shall issue publicly a request for proposals
1139 concerning the specifications for such services which shall be
1140 advertised for in the same manner as provided in this section for
1141 seeking bids for purchases which involve an expenditure of more
1142 than the amount provided in paragraph (c) of this section. Any
1143 request for proposals when issued shall contain terms and
1144 conditions relating to price, financial responsibility,
1145 technology, legal responsibilities and other relevant factors as
1146 are determined by the governing authority or agency to be
1147 appropriate for inclusion; all factors determined relevant by the
1148 governing authority or agency or required by this paragraph (r)
1149 shall be duly included in the advertisement to elicit proposals.

1150 After responses to the request for proposals have been duly
1151 received, the governing authority or agency shall select the most
1152 qualified proposal or proposals on the basis of price, technology
1153 and other relevant factors and from such proposals, but not
1154 limited to the terms thereof, negotiate and enter contracts with
1155 one or more of the persons or firms submitting proposals. If the
1156 governing authority or agency deems none of the proposals to be
1157 qualified or otherwise acceptable, the request for proposals
1158 process may be reinitiated. Notwithstanding any other provisions
1159 of this paragraph, where a county with at least thirty-five
1160 thousand (35,000) nor more than forty thousand (40,000)
1161 population, according to the 1990 federal decennial census, owns
1162 or operates a solid waste landfill, the governing authorities of
1163 any other county or municipality may contract with the governing
1164 authorities of the county owning or operating the landfill,
1165 pursuant to a resolution duly adopted and spread upon the minutes
1166 of each governing authority involved, for garbage or solid waste
1167 collection or disposal services through contract negotiations.

1168 (s) **Minority set-aside authorization.** Notwithstanding
1169 any provision of this section to the contrary, any agency or
1170 governing authority, by order placed on its minutes, may, in its
1171 discretion, set aside not more than twenty percent (20%) of its
1172 anticipated annual expenditures for the purchase of commodities
1173 from minority businesses; however, all such set-aside purchases
1174 shall comply with all purchasing regulations promulgated by the
1175 Department of Finance and Administration and shall be subject to
1176 bid requirements under this section. Set-aside purchases for
1177 which competitive bids are required shall be made from the lowest
1178 and best minority business bidder. For the purposes of this
1179 paragraph, the term "minority business" means a business which is
1180 owned by a majority of persons who are United States citizens or
1181 permanent resident aliens (as defined by the Immigration and
1182 Naturalization Service) of the United States, and who are Asian,

1183 Black, Hispanic or Native American, according to the following
1184 definitions:

1185 (i) "Asian" means persons having origins in any of
1186 the original people of the Far East, Southeast Asia, the Indian
1187 subcontinent, or the Pacific Islands.

1188 (ii) "Black" means persons having origins in any
1189 black racial group of Africa.

1190 (iii) "Hispanic" means persons of Spanish or
1191 Portuguese culture with origins in Mexico, South or Central
1192 America, or the Caribbean Islands, regardless of race.

1193 (iv) "Native American" means persons having
1194 origins in any of the original people of North America, including
1195 American Indians, Eskimos and Aleuts.

1196 (t) **Construction punch list restriction.** The
1197 architect, engineer or other representative designated by the
1198 agency or governing authority that is contracting for public
1199 construction or renovation may prepare and submit to the
1200 contractor only one (1) preliminary punch list of items that do
1201 not meet the contract requirements at the time of substantial
1202 completion and one (1) final list immediately before final
1203 completion and final payment.

1204 (u) **Purchase authorization clarification.** Nothing in
1205 this section shall be construed as authorizing any purchase not
1206 authorized by law.

1207 **SECTION 10.** Section 31-7-14, Mississippi Code of 1972, is
1208 brought forward as follows:

1209 31-7-14. (1) (a) For purposes of this section, the
1210 following words and phrases shall have the meaning ascribed
1211 herein, unless the context clearly indicates otherwise:

1212 (i) "Division" means the Energy Division of the
1213 Mississippi Department of Economic and Community Development.

1214 (ii) "Energy efficiency equipment, services
1215 relating to the installation, operation and maintenance of

1216 equipment and improvements reasonably required to existing
1217 equipment and existing improvements" mean heating, ventilation and
1218 air conditioning systems, lighting, windows, insulation and energy
1219 management controls and other equipment, services and improvements
1220 providing energy efficiency as determined by the division.

1221 (iii) "Energy performance contract" means an
1222 agreement to provide energy services which include, but are not
1223 limited to, the design, installation, financing and maintenance or
1224 management of the energy systems or equipment in order to improve
1225 its energy efficiency. The energy savings are guaranteed by the
1226 performance contractor and can be used to repay the cost of the
1227 project.

1228 (iv) "Energy services contract" means an agreement
1229 to provide energy services which include, but are not limited to,
1230 the design, installation, financing and maintenance or management
1231 of the energy systems or equipment in order to improve its energy
1232 efficiency. Payments for the contract are not contingent upon the
1233 actual savings realized from the equipment.

1234 (v) "Entity" means the board of trustees of any
1235 public school district, junior college, institution of higher
1236 learning, publicly owned hospital, state agency or governing
1237 authority of this chapter.

1238 (vi) "Shared savings contract" means an agreement
1239 where the contractor and the entity each receive a pre-agreed
1240 percentage or dollar value of the energy cost savings over the
1241 life of the contract.

1242 (b) An entity may enter into a lease, energy services
1243 contract or lease-purchase contracts for energy efficiency
1244 equipment, services relating to the installation, operation and
1245 maintenance of equipment or improvements reasonably required to
1246 existing equipment and existing improvements and shall contract in
1247 accordance with the following provisions:

1248 (i) An entity shall publicly issue requests for
1249 proposals, advertised in the same manner as provided in Section
1250 31-7-13 for seeking competitive sealed bids, concerning the
1251 provision of energy efficiency services relating to the
1252 installation, operation and maintenance of equipment, improvements
1253 reasonably required to existing equipment and existing
1254 improvements or the design, installation, ownership, operation and
1255 maintenance of energy efficiency equipment. Those requests for
1256 proposals shall contain terms and conditions relating to
1257 submission of proposals, evaluation and selection of proposals,
1258 financial terms, legal responsibilities, and any other matters as
1259 the entity determines to be appropriate for inclusion.

1260 (ii) Upon receiving responses to the request for
1261 proposals, the entity may select the most qualified proposal or
1262 proposals on the basis of experience and qualifications of the
1263 proposers, the technical approach, the financial arrangements, the
1264 overall benefits to the entity and any other relevant factors
1265 determined to be appropriate.

1266 (iii) An entity shall negotiate and enter into
1267 contracts with the person, persons, firm or firms submitting the
1268 proposal selected as the most qualified under this section.

1269 (iv) All contracts must contain the following
1270 annual allocation dependency clause: The continuation of this
1271 contract is contingent upon the appropriation of funds to fulfill
1272 the requirements of the contract by the Legislature or other
1273 budgeting authority. If the Legislature or other budgeting
1274 authority fails to appropriate sufficient monies to provide for
1275 the continuation of the contract, the contract shall terminate on
1276 the last day of the fiscal year for which appropriations were
1277 made. The termination shall be without penalty or expense to the
1278 entity of any kind whatsoever, except as to the portions of
1279 payments for which funds were appropriated.

1280 (v) The annual rate of interest paid under any
1281 lease-purchase agreement authorized by this section shall not
1282 exceed the maximum interest rate to maturity on general obligation
1283 indebtedness permitted under Section 75-17-101.

1284 (vi) The maximum lease-purchase term for any
1285 equipment acquired under this section shall not exceed the useful
1286 life of that equipment as determined according to the upper limit
1287 of the asset depreciation range (ADR) guidelines for the Class
1288 Life Asset Depreciation Range System established by the Internal
1289 Revenue Service under the United States Internal Revenue Code and
1290 the regulations thereunder as in effect on December 31, 1980, or
1291 comparable depreciation guidelines with respect to any equipment
1292 not covered by ADR guidelines.

1293 (vii) This subsection shall, with respect to the
1294 procurement of energy efficiency services and/or equipment,
1295 supersede any contradictory or conflicting provisions of Chapter
1296 7, Title 31, Mississippi Code of 1972, and other laws with respect
1297 to awarding public contracts.

1298 (2) (a) The division may contract with a party selected
1299 under this subsection to provide financing to entities and private
1300 "nonprofit" hospitals, to purchase energy efficiency equipment,
1301 services relating to the installation, operation and maintenance
1302 of equipment or improvements reasonably required to existing
1303 equipment and existing improvements or an energy saving
1304 performance contract, energy services contract, or lease-purchase
1305 basis. Any energy efficiency lease financing contract entered
1306 into by the division before May 15, 1992, shall be valid and
1307 binding when the contract was entered into under this subsection.

1308 (b) The entities and private "nonprofit" hospitals that
1309 decide to contract for energy efficiency equipment, services
1310 relating to the installation, operation and maintenance of
1311 equipment or improvements reasonably required to existing
1312 equipment and existing improvements on a lease, energy services

1313 contract or lease-purchase basis, may request financial assistance
1314 from the division.

1315 (c) The provisions of any energy efficiency
1316 lease-purchase agreements authorized under this subsection shall
1317 comply with the requirements of subparagraphs (1)(b)(iv) and (v)
1318 of this section. The term of any energy services performance
1319 contract, energy services contract, lease or lease-purchase
1320 agreement for energy efficiency services and/or equipment entered
1321 into under this section shall not exceed fifteen (15) years.

1322 (d) Any entity or private "nonprofit" hospital having
1323 approval of the division may borrow money in anticipation of
1324 entering into a lease-purchase agreement pursuant to subsection
1325 (2)(b) of this section. Any borrowing may be upon terms and
1326 conditions as may be agreed upon by the borrowing entity and the
1327 party advancing interim funds; however, the principal on any
1328 borrowing shall be repaid within a period of time not to exceed
1329 one hundred eighty (180) days. In borrowing money under this
1330 subparagraph, it is not necessary to publish notice of intention
1331 to do so or to secure the consent of the qualified electors,
1332 either by election or otherwise. Any borrowing may be negotiated
1333 between the parties and is not required to be publicly bid, may be
1334 evidenced by negotiable notes or lease and shall not be considered
1335 when computing any limitation of indebtedness of the borrowing
1336 entity established by law. The principal, interest and costs of
1337 incurring any borrowing shall not exceed the principal amount of
1338 the final contract or agreement approved by the division, and
1339 accepted by the borrowing entity, under subsection (2)(b) of this
1340 section.

1341 (e) This subsection shall, with respect to the
1342 procurement of energy efficiency services and/or equipment,
1343 supersede the provisions of any contradictory or conflicting
1344 provisions of Chapter 7, Title 31, Mississippi Code of 1972, and
1345 other laws with respect to awarding public contracts.

1346 (3) All lease-purchase agreements authorized by this section
1347 and the income from those agreements shall be exempt from all
1348 taxation within the State of Mississippi, except gift, transfer
1349 and inheritance taxes.

1350 (4) (a) An entity may contract for energy efficiency
1351 equipment services relating to the installation, operation or
1352 maintenance of equipment or improvements reasonably required to
1353 existing equipment and existing improvements on a shared savings
1354 basis or performance basis.

1355 (b) If an entity decides to enter into a contract for
1356 energy efficiency equipment, services relating to the
1357 installation, operation or maintenance of equipment or
1358 improvements reasonably required to existing equipment and
1359 existing improvements on a shared savings basis or performance
1360 basis, the entity shall issue a request for proposals or a request
1361 for qualifications, as determined necessary by the division, in
1362 the same manner as prescribed under subsection (1)(b) of this
1363 section. The entity shall notify the division in writing. The
1364 final contract shall be approved by the division.

1365 (c) The terms of any shared savings or performance
1366 contract for efficiency services and/or equipment entered into
1367 under this section may not exceed fifteen (15) years.

1368 (d) The terms of any shared savings or performance
1369 contract entered into under this section must contain a guarantee
1370 of savings clause from the company providing energy efficiency
1371 equipment services relating to the installation, operation and
1372 maintenance of equipment or improvements reasonably required to
1373 existing equipment and existing improvements.

1374 (5) By September 1 of each year, each entity that receives
1375 financial assistance through the energy efficiency lease program
1376 shall annually report to the division its energy usage by meter in
1377 dollars and consumption by fuel type for the previous fiscal year.

1378 **SECTION 11.** Section 31-7-14.1, Mississippi Code of 1972, is
1379 amended as follows:

1380 31-7-14.1. (1) Any agency as defined in this chapter that
1381 receives state budgetary consideration and has submitted a
1382 detailed energy management plan to the Energy Division of the
1383 Mississippi Development Authority, referred to in this section as
1384 "division," as required under Section 57-39-111 shall undertake
1385 energy efficiency projects for the purpose of producing energy
1386 and/or dollar savings whereby a portion of the savings may be
1387 retained by the participating agency. The plan shall describe
1388 specific measures to be implemented to reduce the agency's energy
1389 consumption by energy unit measure or energy cost. The division
1390 shall provide assistance in preparing the detailed energy
1391 management plan according to prescribed guidelines and reporting
1392 procedures. The plan shall specify a project description of the
1393 energy efficiency measures to be undertaken, including, but not
1394 limited to, type of measure, cost, estimated savings in dollars
1395 and energy units, project and measure location, and terms and
1396 conditions of project financing.

1397 (2) (a) Utilizing data submitted under Sections 57-39-107
1398 and 57-39-109, the division shall develop and approve energy
1399 consumption baselines before project implementation, if feasible,
1400 and measure energy consumption after project implementation
1401 considering adjustments for any agency growth or reduction and
1402 seasonal variances, and calculate total energy savings. The
1403 division shall derive a baseline use allocation to be utilized and
1404 submitted in each participating agency's annual budget.

1405 (b) For purposes of this section, "net savings" and
1406 "net revenues" mean any funds remaining after payment of project
1407 capital costs, including debt service, and other payments and
1408 reserves as required by a bond resolution, loan agreement or other
1409 financing agreement and payment of project operating and
1410 maintenance expenses.

1411 (3) Net savings and net revenues generated from projects
1412 shall be apportioned as follows:

1413 (a) Any agency initiating energy savings through the
1414 implementation of an energy efficiency project may retain one-half
1415 (1/2) of all such net savings which may be used for any
1416 nonrecurring capital projects; and

1417 (b) The remaining net savings and net revenues from
1418 conservation projects shall be remitted to the State General Fund.

1419 The Energy Division shall verify the net savings and net
1420 revenues on an annual basis.

1421 (4) The use by an agency of net savings and net revenues
1422 from energy efficiency projects shall be in addition to, and shall
1423 not supplant or replace, funding from traditional sources for
1424 their normal operations and maintenance or capital budgets. It is
1425 the intent of this subsection to ensure that the agencies receive
1426 the full benefit intended by this section, and that the effect
1427 will not be diminished by budget adjustments inconsistent with
1428 this intent.

1429 **SECTION 12.** Section 31-7-15, Mississippi Code of 1972, is
1430 brought forward as follows:

1431 31-7-15. (1) Whenever two (2) or more competitive bids are
1432 received, one or more of which relates to commodities grown,
1433 processed or manufactured within this state, and whenever all
1434 things stated in such received bids are equal with respect to
1435 price, quality and service, the commodities grown, processed or
1436 manufactured within this state shall be given preference. A
1437 similar preference shall be given to commodities grown, processed
1438 or manufactured within this state whenever purchases are made
1439 without competitive bids, and when practical the Department of
1440 Finance and Administration may by regulation establish reasonable
1441 preferential policies for other commodities, giving preference to
1442 resident suppliers of this state.

1443 (2) Any foreign manufacturing company with a factory in the
1444 state and with over fifty (50) employees working in the state
1445 shall have preference over any other foreign company where both
1446 price and quality are the same, regardless of where the product is
1447 manufactured.

1448 (3) On or before January 1, 1991, the Department of Finance
1449 and Administration shall adopt bid and product specifications to
1450 be utilized by all state agencies that encourage the procurement
1451 of commodities made from recovered materials. Preference in
1452 awarding contracts for commodities shall be given to commodities
1453 offered at a competitive price.

1454 (4) Each state agency is required to procure products made
1455 from recovered materials when those products are available at a
1456 competitive price. For purposes of this subsection, "competitive
1457 price" means a price not greater than ten percent (10%) above the
1458 lowest and best bidder. A decision not to procure products made
1459 from recovered materials must be based on a determination that
1460 such procurement:

1461 (a) Is not available within a reasonable period of
1462 time; or

1463 (b) Fails to meet the performance standards set forth
1464 in the applicable specifications; or

1465 (c) Is not available at a competitive price.

1466 **SECTION 13.** Section 31-7-16, Mississippi Code of 1972, is
1467 brought forward as follows:

1468 31-7-16. In the event equipment is required which is capable
1469 of being manufactured or assembled in separate units such as
1470 school bus chassis and bodies or other bodies of equipment
1471 installed upon chassis, and there is a manufacturer of such bodies
1472 located within the State of Mississippi, a public purchase may be
1473 made of such chassis and such body or equipment as separate items.

1474 **SECTION 14.** Section 31-7-18, Mississippi Code of 1972, is
1475 brought forward as follows:

1476 31-7-18. In addition to the method of purchasing authorized
1477 in this chapter, said governing authorities are hereby authorized
1478 to accept the lowest bid received from a motor vehicle dealer
1479 domiciled within the county of the governing authority for the
1480 purchase of any motor vehicle having a gross vehicle weight rating
1481 of less than twenty-six thousand (26,000) pounds that shall not
1482 exceed a sum equal to three percent (3%) greater than the price or
1483 cost which the dealer pays the manufacturer, as evidenced by the
1484 factory invoice for the motor vehicle. In the event said county
1485 does not have an authorized motor vehicle dealer, said board or
1486 governing authority may, in like manner, receive bids from motor
1487 vehicle dealers in any adjoining county.

1488 No purchase of a motor vehicle under the provisions of this
1489 section shall be valid unless the purchase is made according to
1490 statutory bidding and licensing requirements. Provided, however,
1491 that the governing authorities may choose to purchase a motor
1492 vehicle from the authorized state contract dealer without having
1493 to advertise and receive bids therefor.

1494 No purchase shall be made in excess of the approved state
1495 contract price by any of the aforementioned governing authorities
1496 when such authorities are situated wholly or in part in the county
1497 wherein the authorized state contract dealer for a particular item
1498 is domiciled.

1499 **SECTION 15.** Section 31-7-21, Mississippi Code of 1972, is
1500 brought forward as follows:

1501 31-7-21. The provisions of this chapter shall neither repeal
1502 nor modify the functions of the Governor's Office of General
1503 Services as set forth in Sections 31-11-1 through 31-11-89.

1504 **SECTION 16.** Section 31-7-23, Mississippi Code of 1972, is
1505 brought forward as follows:

1506 31-7-23. Any rebates, refunds, coupons, merit points,
1507 gratuities or any article of value tendered or received by any
1508 agency or governing authority from any vendor of material,

1509 supplies, equipment or other articles shall inure to the benefit
1510 of the agency or governing authority making the purchase. The
1511 agency or governing authority may, in accordance with its best
1512 interest, either take delivery of the article of value tendered
1513 and use the same or convert it to cash by selling it for its fair
1514 and reasonable value, making use of the proceeds from such sale
1515 for the exclusive benefit of the agency or governing authority.

1516 **SECTION 17.** Section 31-7-38, Mississippi Code of 1972, is
1517 brought forward as follows:

1518 31-7-38. The board of trustees or governing board of any
1519 hospital or regional mental health center owned or owned and
1520 operated separately or jointly by the State of Mississippi or any
1521 of its branches, agencies, departments or subdivisions, or by one
1522 or more counties, cities, towns, supervisors districts or election
1523 districts, or combinations thereof, may authorize by resolution
1524 the organization and operation of, or the participation in, a
1525 group purchasing program with other hospitals or regional mental
1526 health centers, for the purchase of supplies, commodities and
1527 equipment when it appears to the board of trustees or governing
1528 board that such a group purchasing program could or would affect
1529 economy or efficiency in their operations. Purchases by hospitals
1530 or regional mental health centers participating in group
1531 purchasing programs of supplies, commodities and equipment through
1532 such programs shall be exempt from the provisions of Sections
1533 31-7-9, 31-7-10, 31-7-11, 31-7-12 and 31-7-13. The Mississippi
1534 Department of Mental health shall develop and submit to the
1535 Chairmen of the Senate and House Appropriations Committees a
1536 report analyzing the savings and economic benefits of the group
1537 purchasing program authorized under this section for state
1538 hospitals or regional mental health centers compared to the
1539 purchasing procedures authorized prior to passage of Laws, 2001,
1540 Chapter 473. This section shall stand repealed on July 1, 2005.

1541 **SECTION 18.** Section 31-7-47, Mississippi Code of 1972, is
1542 brought forward as follows:

1543 31-7-47. In the letting of public contracts, preference
1544 shall be given to resident contractors, and a nonresident bidder
1545 domiciled in a state, city, county, parish, province, nation or
1546 political subdivision having laws granting preference to local
1547 contractors shall be awarded Mississippi public contracts only on
1548 the same basis as the nonresident bidder's state, city, county,
1549 parish, province, nation or political subdivision awards contracts
1550 to Mississippi contractors bidding under similar circumstances.
1551 Resident contractors actually domiciled in Mississippi, be they
1552 corporate, individuals or partnerships, are to be granted
1553 preference over nonresidents in awarding of contracts in the same
1554 manner and to the same extent as provided by the laws of the
1555 state, city, county, parish, province, nation or political
1556 subdivision of domicile of the nonresident.

1557 **SECTION 19.** Section 31-7-49, Mississippi Code of 1972, is
1558 brought forward as follows:

1559 31-7-49. In placing orders for purchases under bids received
1560 and contracts awarded under the provisions of this chapter, the
1561 governing authority, by orders entered on its minutes, may
1562 authorize its members, or agents designated by its order, to place
1563 orders for the purchase of such supplies and materials from time
1564 to time during the period covered by the contract, as such
1565 supplies and materials are needed. Claims for such supplies so
1566 ordered by an individual board member or other duly authorized
1567 agent shall not be allowed and paid by the board until such claims
1568 shall have been approved in writing by the individual board member
1569 or agent who ordered such supplies or the successor to such member
1570 or agent.

1571 **SECTION 20.** Section 31-7-53, Mississippi Code of 1972, is
1572 brought forward as follows:

1573 31-7-53. In making any and all purchases of fertilizer for
1574 all state institutions and agencies, the board, officer, or
1575 employee given the authority to make such purchases shall take
1576 into consideration the chemical analysis and percentage of plant
1577 food unit value in such fertilizer in determining the lowest and
1578 best bid. No awards of contracts shall be made until the best
1579 price is determined on the basis of the chemical analysis as to
1580 the plant food unit value of the product, and the contract shall
1581 be awarded on the basis of such an analysis of the plant food unit
1582 value.

1583 This section does not apply for the purchase of material by
1584 research agencies of the state for use in experimental projects.

1585 The State Penitentiary Board, the Board of Trustees of the
1586 State Institutions of Higher Learning, and any other agency,
1587 department, or board of trustees of the State of Mississippi are
1588 hereby authorized to purchase all needed quantities of anhydrous
1589 ammonia and ammonium nitrate fertilizers available through the
1590 facilities of Mississippi State University of Agriculture and
1591 Applied Science. Such purchase may be at public or private sale,
1592 provided that such fertilizers can be obtained for not more than
1593 the price that the same are then available to such board, agency,
1594 or department from any other source.

1595 **SECTION 21.** Section 31-7-55, Mississippi Code of 1972, is
1596 brought forward as follows:

1597 31-7-55. **[For penalties applicable to violations occurring**
1598 **between January 1, 1981, and August 15, 1988, the following**
1599 **provisions govern.]**

1600 (1) It is hereby declared to be unlawful and a
1601 violation of public policy of the State of Mississippi for any
1602 elected or appointed public officer of the state or the executive
1603 head of a state board, commission, department, subdivision of the
1604 state government or governing authority to make any purchases
1605 without the full compliance with the provisions of this act. Any

1606 elected or appointed public officer of the state or the executive
1607 head of a state board, commission, department, subdivision of the
1608 state government or governing authority who violates the
1609 provisions of this act shall be deemed guilty of a misdemeanor
1610 and, upon conviction therefor, shall be fined not less than One
1611 Hundred Dollars (\$100.00) and not more than Five Hundred Dollars
1612 (\$500.00) for each separate offense, or sentenced to the county
1613 jail for not more than six (6) months, or both such fine and
1614 imprisonment, and shall be removed from his office or position.

1615 (2) Any person diverting the benefits of any article of
1616 value tendered or received by any agency or governing authority to
1617 his or her personal use, in violation of Section 31-7-23, shall be
1618 guilty of a misdemeanor and, upon conviction, shall be punished by
1619 a fine of not less than One Hundred Dollars (\$100.00) nor more
1620 than Five Hundred Dollars (\$500.00), or sentenced to the county
1621 jail for not more than six (6) months, or by both such fine and
1622 imprisonment, and shall be required to return the money value of
1623 the article unlawfully diverted to the agency involved.

1624 **[The following provisions apply to violations which occur on**
1625 **or after August 16, 1988.]**

1626 (1) It is hereby declared to be unlawful and a
1627 violation of public policy of the State of Mississippi for any
1628 elected or appointed public officer of an agency or a governing
1629 authority, or the executive head, any employee or agent of an
1630 agency or governing authority to make any purchases without the
1631 full compliance with the provisions of Chapter 7, Title 31,
1632 Mississippi Code of 1972.

1633 (2) Except as otherwise provided in subsection (4) of
1634 this section, any person who intentionally, willfully and
1635 knowingly violates the provisions of Chapter 7, Title 31,
1636 Mississippi Code of 1972, shall be deemed guilty of a misdemeanor
1637 and, upon conviction thereof, shall be fined not less than One
1638 Hundred Dollars (\$100.00) and not more than Five Hundred Dollars

1639 (\$500.00) for each separate offense, or sentenced to the county
1640 jail for not more than six (6) months, or both such fine and
1641 imprisonment, and shall be removed from his office or position.

1642 (3) Any person who intentionally, willfully and
1643 knowingly violates the provisions of subsection (1) of Section
1644 31-7-57 shall be guilty of a misdemeanor and, upon conviction
1645 thereof, shall be fined not less than One Hundred Dollars
1646 (\$100.00) and not more than Five Hundred Dollars (\$500.00), or
1647 sentenced to the county jail for not more than six (6) months, or
1648 both such fine and imprisonment, and shall be removed from his
1649 office or position.

1650 (4) Any person diverting the benefits of any article of
1651 value tendered or received by any agency or governing authority to
1652 his or her personal use, in violation of Section 31-7-23, if the
1653 value of such article be less than Five Hundred Dollars (\$500.00),
1654 shall be guilty of a misdemeanor and, upon conviction, shall be
1655 punished by a fine of not less than One Hundred Dollars (\$100.00)
1656 nor more than Five Hundred Dollars (\$500.00), or sentenced to the
1657 county jail for not more than six (6) months, or by both such fine
1658 and imprisonment, shall be removed from his office or position,
1659 and shall be required to return the money value of the article
1660 unlawfully diverted to the agency or governing authority involved.
1661 If the value of the article be Five Hundred Dollars (\$500.00) or
1662 more, such person shall be guilty of a felony and, upon
1663 conviction, shall be punished by a fine of not less than One
1664 Thousand Dollars (\$1,000.00) nor more than Five Thousand Dollars
1665 (\$5,000.00), or sentenced to the Department of Corrections for not
1666 less than one (1) year nor more than five (5) years, or by both
1667 such fine and imprisonment, shall be removed from his office or
1668 position, and shall be required to return the money value of the
1669 article unlawfully diverted to the agency or governing authority
1670 involved.

1671 (5) The provisions of this section are supplemental to
1672 any other criminal statutes of this state.

1673 **SECTION 22.** Section 31-7-57, Mississippi Code of 1972, is
1674 brought forward as follows:

1675 31-7-57. (1) Any elected or appointed public officer of an
1676 agency or a governing authority, or the executive head, any
1677 employee or agent of an agency or governing authority, who
1678 appropriates or authorizes the expenditure of any money to an
1679 object not authorized by law, shall be liable personally for up to
1680 the full amount of the appropriation or expenditure as will fully
1681 and completely compensate and repay such public funds for any
1682 actual loss caused by such appropriation or expenditure, to be
1683 recovered by suit in the name of the governmental entity involved,
1684 or in the name of any person who is a taxpayer suing for the use
1685 of the governmental entity involved, and such taxpayer shall be
1686 liable for costs in such case. In the case of a governing board
1687 of an agency or governing authority, only the individual members
1688 of the governing board who voted for the appropriation or
1689 authorization for expenditure shall be liable under this
1690 subsection.

1691 (2) No individual member, officer, employee or agent of any
1692 agency or board of a governing authority shall let contracts or
1693 purchase commodities or equipment except in the manner provided by
1694 law, including the provisions of Section 25-9-120(3), Mississippi
1695 Code of 1972, relating to personal and professional service
1696 contracts by state agencies; nor shall any such agency or board of
1697 a governing authority ratify any such contract or purchase made by
1698 any individual member, officer, employee or agent thereof, or pay
1699 for the same out of public funds unless such contract or purchase
1700 was made in the manner provided by law; provided, however, that
1701 any vendor who, in good faith, delivers commodities or printing or
1702 performs any services under a contract to or for the agency or
1703 governing authority, shall be entitled to recover the fair market

1704 value of such commodities, printing or services, notwithstanding
1705 some error or failure by the agency or governing authority to
1706 follow the law, if the contract was for an object authorized by
1707 law and the vendor had no control of, participation in, or actual
1708 knowledge of the error or failure by the agency or governing
1709 authority.

1710 (3) The individual members, officers, employees or agents of
1711 any agency or governing authority as defined in Section 31-7-1
1712 causing any public funds to be expended, any contract made or let,
1713 any payment made on any contract or any purchase made, or any
1714 payment made, in any manner whatsoever, contrary to or without
1715 complying with any statute of the State of Mississippi, regulating
1716 or prescribing the manner in which such contracts shall be let,
1717 payment on any contract made, purchase made, or any other payment
1718 or expenditure made, shall be liable, individually, and upon their
1719 official bond, for compensatory damages, in such sum up to the
1720 full amount of such contract, purchase, expenditure or payment as
1721 will fully and completely compensate and repay such public funds
1722 for any actual loss caused by such unlawful expenditure.

1723 (4) In addition to the foregoing provision, for any
1724 violation of any statute of the State of Mississippi prescribing
1725 the manner in which contracts shall be let, purchases made,
1726 expenditure or payment made, any individual member, officer,
1727 employee or agent of any agency or governing authority who shall
1728 substantially depart from the statutory method of letting
1729 contracts, making payments thereon, making purchases or expending
1730 public funds shall be liable, individually and on his official
1731 bond, for penal damages in such amount as may be assessed by any
1732 court of competent jurisdiction, up to three (3) times the amount
1733 of the contract, purchase, expenditure or payment. The person so
1734 charged may offer mitigating circumstances to be considered by the
1735 court in the assessment of any penal damages.

1736 (5) Any sum recovered under the provisions hereof shall be
1737 credited to the account from which such unlawful expenditure was
1738 made.

1739 (6) Except as otherwise provided in subsection (1) of this
1740 section, any individual member of an agency or governing authority
1741 as defined in Section 31-7-1 shall not be individually liable
1742 under this section if he voted against payment for contracts let
1743 or purchases made contrary to law and had his vote recorded in the
1744 official minutes of the board or governing authority at the time
1745 of such vote, or was absent at the time of such vote.

1746 **SECTION 23.** Section 31-7-59, Mississippi Code of 1972, is
1747 brought forward as follows:

1748 31-7-59. (1) Any municipality of over one hundred thousand
1749 (100,000) population, according to the latest decennial census and
1750 qualified to do so, is hereby empowered to purchase from the
1751 General Services Administration of the United States of America,
1752 without advertising for bids, any and all articles of supplies and
1753 equipment necessary for the operation of said municipality so long
1754 as the purchase price of such articles is below the purchase price
1755 of similar articles on a state contract accepted by the Office of
1756 General Services.

1757 (2) The aforesaid supplies and equipment may likewise
1758 be purchased from the General Services Administration without
1759 advertising for bids even though the Office of General Services
1760 does not have same listed on statewide contracts so long as the
1761 purchase price thereof is ten percent (10%) below the latest
1762 purchase price of comparable supplies and equipment.

1763 **SECTION 24.** Section 31-7-61, Mississippi Code of 1972, is
1764 brought forward as follows:

1765 31-7-61. It shall be unlawful for any person knowingly to
1766 purchase or to authorize or requisition the purchase of beef other
1767 than beef raised and produced within the United States when such
1768 purchase is to be paid by the state government or any of its

1769 political subdivisions out of public funds of any nature.

1770 However, all canned meats not available which are processed in the
1771 United States shall be exempt from Sections 31-7-61 to 31-7-65.

1772 **SECTION 25.** Section 31-7-63, Mississippi Code of 1972, is
1773 brought forward as follows:

1774 31-7-63. Any person who violates the provisions of Section
1775 31-7-61 shall be guilty of a misdemeanor and upon conviction shall
1776 be punished by imprisonment for not more than thirty (30) days or
1777 by a fine of not less than One Hundred Dollars (\$100.00) nor more
1778 than Five Hundred Dollars (\$500.00). In addition to any criminal
1779 sanction authorized herein, a civil proceeding may be brought by a
1780 district attorney or county prosecuting attorney for recovery of
1781 funds paid out in violation of this section.

1782 **SECTION 26.** Section 31-7-65, Mississippi Code of 1972, is
1783 brought forward as follows:

1784 31-7-65. The Commissioner of Agriculture and Commerce of the
1785 State of Mississippi shall notify all state agencies, political
1786 subdivisions or public institutions within the State of
1787 Mississippi as to the provisions of Sections 31-7-61 to 31-7-65.

1788 **SECTION 27.** Section 31-7-73, Mississippi Code of 1972, is
1789 brought forward as follows:

1790 31-7-73. Any state agency, as defined in Section 31-7-1,
1791 Mississippi Code of 1972, shall be authorized and empowered, in
1792 its discretion, to contract on a shared-savings, lease or
1793 lease-purchase basis, for energy efficiency services and/or
1794 equipment as provided for in Section 31-7-14, not to exceed ten
1795 (10) years.

1796 **SECTION 28.** Section 43-3-101, Mississippi Code of 1972, is
1797 brought forward as follows:

1798 43-3-101. There is hereby created and established an agency
1799 of the State of Mississippi known as the Mississippi Industries
1800 for the Blind, hereinafter referred to as the "MIB." The MIB
1801 shall be a body politic and corporate, may acquire and hold real

1802 and personal property, may receive, hold and disperse monies
1803 appropriated to it by the Legislature of the State of Mississippi
1804 received from the federal government, received from the sale of
1805 products which it produces, and received from any other sources
1806 whatsoever, and may sue and be sued in its name.

1807 **SECTION 29.** Section 43-3-103, Mississippi Code of 1972, is
1808 brought forward as follows:

1809 43-3-103. (1) From and after July 1, 1997, the MIB shall be
1810 governed by a board of directors hereby created, to consist of
1811 four (4) persons appointed by the Governor, and three (3) by the
1812 Lieutenant Governor, with the advice and consent of the Senate,
1813 each of whom shall be a qualified elector of the State of
1814 Mississippi. The members of the board of directors appointed by
1815 the Governor shall include the following:

1816 (a) One (1) legally blind individual;

1817 (b) One (1) educator with expertise in rehabilitation
1818 or the field of blindness;

1819 (c) One (1) individual with at least five (5) years'
1820 actual experience in finance or a related field;

1821 (d) One (1) individual with at least five (5) years'
1822 actual experience in manufacturing or a related field.

1823 The members of the board of directors appointed by the
1824 Lieutenant Governor shall include the following:

1825 (a) One (1) legally blind individual;

1826 (b) One (1) individual with at least five (5) years'
1827 actual experience in marketing or a related field; and

1828 (c) One (1) individual who is a licensed practicing
1829 attorney.

1830 Initial appointments shall be made within sixty (60) days of
1831 enactment of this act. The Governor shall make initial
1832 appointments of two (2) members for two (2) years, one (1) member
1833 for three (3) years, and one (1) member for four (4) years to be
1834 designated at the time of appointment. The Lieutenant Governor

1835 shall make initial appointments of one (1) member for two (2)
1836 years, one (1) member for three (3) years, and one (1) member for
1837 four (4) years to be designated at the time of appointment.
1838 Thereafter, the terms of the members shall be for four (4) years
1839 and until their successors are appointed and qualified. In the
1840 event of a vacancy during the term of office of an incumbent, the
1841 appointing authority shall fill such vacancy, for the unexpired
1842 portion of the term, by appointing an individual having the same
1843 prerequisite qualifications as required for the vacancy being
1844 filled.

1845 (2) The board of directors shall organize by selecting
1846 annually from its members a chairman and a vice chairman, and may
1847 do all things necessary and convenient for carrying into effect
1848 the provisions of this chapter. Each member of the board shall
1849 receive a per diem as provided in Section 25-3-69, Mississippi
1850 Code of 1972, plus travel and reasonable and necessary expenses
1851 incidental to the attendance at each meeting as provided in
1852 Section 25-3-41, including mileage.

1853 (3) The Lieutenant Governor may designate the Chairman of
1854 the Senate Committee on Public Health and Welfare and another
1855 member of the Senate and the Speaker of the House of
1856 Representatives may designate the Chairman of the House Committee
1857 on Public Health and Welfare and another member of the House to
1858 attend any meeting of the Board of Directors of the MIB. The
1859 appointing authorities may designate alternate members from their
1860 respective houses to serve when the regular designees are unable
1861 to attend such meetings of the board. Such legislative designees
1862 shall have no jurisdiction or vote on any matter within the
1863 jurisdiction of the board. For attending meetings of the board,
1864 such legislators shall receive per diem and expenses which shall
1865 be paid from the contingent expense funds of their respective
1866 houses in the same amounts as provided for committee meetings when
1867 the Legislature is not in session; however, no per diem and

1868 expenses for attending meetings of the board will be paid while
1869 the Legislature is in session. No per diem and expenses will be
1870 paid except for attending meetings of the board without prior
1871 approval of the proper committee in their respective houses.

1872 (4) It shall be the duty of the Board of Directors of MIB
1873 to:

1874 (a) Appoint and employ an executive director who shall
1875 be the executive and administrative head of MIB and who shall
1876 serve at the pleasure of the board of directors. The Board of
1877 Directors of MIB shall set the compensation of the executive
1878 director, subject to the approval of the State Personnel Board.

1879 (b) Make and publish policies, rules and regulations,
1880 not inconsistent with the terms of this chapter, as may be
1881 necessary for the efficient administration and operation of MIB.

1882 (c) Adopt and publish rules and regulations, in its
1883 discretion, to establish a policy of sick leave with pay and
1884 personal leave with pay for MIB employees and to require that MIB
1885 offices be opened and staffed on legal holidays as determined
1886 necessary by the board of directors.

1887 (5) There is created a revolving fund in the State Treasury,
1888 which shall be used by the Mississippi Industries for the Blind
1889 for the purpose of taking advantage of contractual opportunities
1890 that would not be available to MIB without those funds and for the
1891 purpose of meeting the obligations of those types of contracts.
1892 The fund shall consist of monies that are specifically made
1893 available by the Legislature for the purpose of the fund. MIB
1894 shall not be authorized to expend any monies in the fund until it
1895 has received the prior written approval of the Executive Director
1896 of the Department of Finance and Administration and the State
1897 Treasurer. MIB shall repay to the fund all monies that it expends
1898 from the fund, which monies then may be used by MIB for future
1899 contractual opportunities and obligations. Monies in the fund at
1900 the end of a fiscal year shall not lapse into the State General

1901 Fund, and all interest earned on monies in the fund shall be
1902 credited to the fund.

1903 (6) There is hereby created a joint study committee of the
1904 Senate and House of Representatives which shall develop a report
1905 to the Legislature and the Governor, with recommendations relating
1906 to the creation of a nonprofit corporation for the operation of
1907 MIB and its programs, including any matter relating to the future
1908 operation of the MIB. The joint committee shall report its
1909 findings and recommendations to the Legislature and the Governor
1910 on or before January 1, 1998, and upon the presentation of such
1911 report the joint committee shall be dissolved. The committee
1912 shall consist of the Chairman of the Senate Public Health and
1913 Welfare Committee; the Chairman of the House Public Health and
1914 Welfare Committee; four (4) members of the Senate appointed by the
1915 President of the Senate, one (1) of whom shall be the member of
1916 the oversight committee appointed under subsection (3); and four
1917 (4) members of the House of Representatives appointed by the
1918 Speaker of the House, one (1) of whom shall be the member of the
1919 oversight committee appointed under subsection (3). Appointments
1920 shall be made within thirty (30) days after the enactment of this
1921 act; and, within fifteen (15) days thereafter on a day to be
1922 designated jointly by the President of the Senate and the Speaker
1923 of the House, the committee shall meet and organize by selecting
1924 from its membership a chairman and a vice chairman. The vice
1925 chairman shall also serve as secretary and shall be responsible
1926 for keeping all records of the committee. A majority of the
1927 members of the committee shall constitute a quorum. In the
1928 selection of its officers and the adoption of rules, resolutions
1929 and reports, an affirmative vote of a majority of the members of
1930 the joint committee from each house shall be required. All
1931 members shall be notified in writing of all meetings, such notices
1932 to be mailed at least five (5) days prior to the date on which a
1933 meeting is to be held. Members of the committee shall be paid

1934 from the contingent expense funds of their respective houses in
1935 the same manner as provided for committee meetings when the
1936 Legislature is not in session. The joint committee may meet with
1937 and utilize the services of the Board of Directors of MIB in
1938 developing its recommendations.

1939 **SECTION 30.** Section 43-3-105, Mississippi Code of 1972, is
1940 brought forward as follows:

1941 43-3-105. The Executive Director of the MIB shall:

1942 (a) Employ all necessary employees at MIB and dismiss
1943 them as is necessary;

1944 (b) Administer the daily operations at MIB;

1945 (c) Execute any contracts on behalf of MIB; and

1946 (d) Take any further actions which are necessary and
1947 proper toward the achievement of MIB's purposes.

1948 **SECTION 31.** Section 43-3-107, Mississippi Code of 1972, is
1949 brought forward as follows:

1950 43-3-107. The purposes of MIB are as follows:

1951 (a) To establish industries, businesses, shops and
1952 workshops primarily for the employment of blind persons and other
1953 persons;

1954 (b) To employ blind persons whose training is not
1955 otherwise provided for and to market their products; and

1956 (c) To furnish materials, tools and books for use in
1957 rehabilitating blind persons for employment, and to do any and all
1958 other things for blind persons as it deems advisable.

1959 **SECTION 32.** Section 43-3-109, Mississippi Code of 1972, is
1960 brought forward as follows:

1961 43-3-109. Notwithstanding any other law to the contrary, the
1962 Executive Director of the MIB is hereby empowered to maintain
1963 sufficient funds to cover disbursements for current operations.
1964 The executive director shall deposit any excess funds with any
1965 official depository of the state and invest such excess funds as
1966 he deems appropriate.

1967 **SECTION 33.** Section 43-3-111, Mississippi Code of 1972, is
1968 brought forward as follows:

1969 43-3-111. Any funds obtained by MIB as a result of a sale of
1970 goods manufactured by it shall be accounted for separate and apart
1971 from any funds received by MIB through appropriation from the
1972 State Legislature. All nonappropriated funds generated by MIB
1973 shall not be subject to appropriation by the State Legislature.

1974 **SECTION 34.** This act shall take effect and be in force from
1975 and after July 1, 2005.