

By: Senator(s) Fillingane

To: Education;
Appropriations

SENATE BILL NO. 2941

1 AN ACT TO PROVIDE THAT THE DEPARTMENT OF FINANCE AND
2 ADMINISTRATION SHALL BE THE PURCHASING AGENT FOR ALL PUBLIC SCHOOL
3 DISTRICTS IN THE STATE; TO PROVIDE THAT ALL PUBLIC SCHOOL
4 DISTRICTS SHALL PURCHASE PERISHABLES, COMMODITIES, EQUIPMENT,
5 SUPPLIES AND SCHOOL BUSES THROUGH THE DEPARTMENT OF FINANCE AND
6 ADMINISTRATION; TO ESTABLISH AN OFFICE OF SCHOOL PURCHASING OF THE
7 DEPARTMENT OF FINANCE AND ADMINISTRATION; TO PROVIDE THAT THE
8 SAVINGS RESULTING FROM THE CONSOLIDATION OF ALL PURCHASING
9 FUNCTIONS TO A CENTRAL DEPARTMENT SHALL BE CERTIFIED TO THE
10 LEGISLATIVE BUDGET OFFICE AND SHALL BE APPROPRIATED BY THE
11 LEGISLATURE FOR THE SUPPORT OF THE VARIOUS STATE FUNDED
12 SCHOLARSHIP PROGRAMS AT THE STATE INSTITUTIONS OF HIGHER LEARNING;
13 TO AMEND SECTIONS 31-7-12, 37-39-1, 37-39-5, 37-39-15, 37-39-17,
14 37-39-21, 37-39-23, 37-39-25, 37-41-101 AND 37-41-103, MISSISSIPPI
15 CODE OF 1972, IN CONFORMITY THERETO; AND FOR RELATED PURPOSES.

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

17 **SECTION 1.** (1) The Department of Finance and Administration
18 shall be the purchasing agent for all public school districts in
19 the State of Mississippi. The purchases of all perishables,
20 commodities, supplies, equipment and school buses for the use of
21 public school districts shall be made by the Department of Finance
22 and Administration. The Department of Finance and Administration
23 may establish an Office of School Purchasing and employ a
24 competent person as Director of the Office of School Purchasing
25 who shall be a member of the state service and shall receive a
26 salary as determined by the Executive Director of the Department
27 of Finance and Administration with the approval of the State
28 Personnel Board. It shall be the duty of each local school board
29 to make or cause to be made a list of perishables, commodities,
30 supplies, equipment and school buses, including quality
31 specifications when applicable, regularly used in the schools
32 under its supervision, and to maintain such a list in the Office
33 of School Purchasing of the Department of Finance and

34 Administration. Such list shall be used by the Office of School
35 Purchasing in obtaining competitive bids for perishables,
36 commodities, supplies, equipment and school buses to be purchased
37 for each school district, and shall be available to any interested
38 person. Purchases made by school districts from the petty cash
39 fund of One Hundred Dollars (\$100.00) shall be exempt from Office
40 of School Purchasing disbursement and competitive bid.

41 (2) The Executive Director of the State Department of
42 Finance and Administration shall, on an annual basis, determine
43 the savings in state and local funds which has accrued as a result
44 of the consolidation of the purchasing function of school
45 districts to a central state agency, and shall include this amount
46 in its annual budget request as a separate line item which shall
47 be appropriated by the Legislature for the support of the various
48 scholarship programs at the state institutions of higher learning.

49 **SECTION 2.** Section 31-7-12, Mississippi Code of 1972, is
50 amended as follows:

51 31-7-12. (1) Except in regard to purchases of unmarked
52 vehicles made in accordance with purchasing regulations adopted by
53 the Department of Finance and Administration pursuant to Section
54 31-7-9(2), all agencies shall purchase commodities at the state
55 contract price from the approved source, unless approval is
56 granted by the Department of Finance and Administration to solicit
57 purchases outside the terms of the contracts. However, prices
58 accepted by an agency shall be less than the prices set by the
59 state contract. Prices accepted by an agency shall be obtained in
60 compliance with paragraph (a), (b) or (c) of Section 31-7-13. It
61 shall be the responsibility of the Department of Finance and
62 Administration to ascertain that the resulting prices shall
63 provide a cost effective alternative to the established state
64 contract.

65 (2) Governing authorities may purchase commodities approved
66 by the Department of Finance and Administration from the state

67 contract vendor, or from any source offering the identical
68 commodity, at a price not exceeding the state contract price
69 established by the Department of Finance and Administration for
70 such commodity, without obtaining or advertising for competitive
71 bids. Governing authorities that do not exercise the option to
72 purchase such commodities from the state contract vendor or from
73 another source offering the identical commodity at a price not
74 exceeding the state contract price established by the Department
75 of Finance and Administration shall make such purchases pursuant
76 to the provisions of Section 31-7-13 without regard to state
77 contract prices established by the Department of Finance and
78 Administration, unless such purchases are authorized to be made
79 under subsection (5) of this section.

80 (3) Nothing in this section shall prohibit governing
81 authorities from purchasing, pursuant to subsection (2) of this
82 section, commodities approved by the Department of Finance and
83 Administration at a price not exceeding the state contract price
84 established by the Department of Finance and Administration.

85 (4) The Department of Finance and Administration shall
86 ensure that the prices of all commodities on the state contract
87 are the lowest and best prices available from any source offering
88 that commodity at the same level of quality or service, utilizing
89 the reasonable standards established therefor by the Department of
90 Finance and Administration. If the Department of Finance and
91 Administration does not list an approved price for the particular
92 item involved, purchase shall be made according to statutory
93 bidding and licensing requirements. To encourage prudent
94 purchasing practices, the Department of Finance and Administration
95 shall be authorized and empowered to exempt certain commodities
96 from the requirement that the lowest and best price be approved by
97 order placed on its minutes.

98 (5) All school districts shall purchase perishables,
99 commodities, supplies, equipment and school buses from vendors

100 with which the Office of School Purchasing of the Department of
101 Finance and Administration has contracted through competitive
102 bidding procedures pursuant to Section 31-7-13 for purchases of
103 the same perishables, commodities, supplies, equipment and school
104 buses. * * *

105 **SECTION 3.** Section 37-39-1, Mississippi Code of 1972, is
106 amended as follows:

107 37-39-1. The following words and phrases, when used in this
108 chapter, shall, for the purpose of this chapter, have the meanings
109 respectively ascribed to them in this section:

110 (a) "Perishables" shall mean items which have a
111 variable market price on which vendors are unable to submit a
112 long-range price such as fruits and vegetables;

113 (b) "Purchasing agent" shall mean the Office of School
114 Purchasing of the Department of Finance and Administration * * *;

115 (c) "School boards" shall mean the local governing
116 boards of all school districts in the state, whether they act
117 jointly or separately;

118 (d) "Services" shall mean maintenance, operational and
119 scholastic services utilized within and for the school district or
120 school districts.

121 **SECTION 4.** Section 37-39-5, Mississippi Code of 1972, is
122 amended as follows:

123 37-39-5. It shall be the duty of each school board to make
124 or cause to be made, a list of supplies, equipment, perishables,
125 commodities and school buses, including quality specifications
126 when applicable, regularly used in the schools under its
127 supervision, and to maintain such a list in the Office of School
128 Purchasing of the Department of Finance and Administration. Such
129 list shall be used by the Office of School Purchasing in obtaining
130 competitive bids for supplies, equipment, perishables, commodities
131 and school buses to be purchased, and shall be available to any
132 interested persons.

133 **SECTION 5.** Section 37-39-15, Mississippi Code of 1972, is
134 amended as follows:

135 37-39-15. * * * In connection with the purchase of necessary
136 supplies, equipment, perishables, commodities and school buses for
137 the conduct of regular school operations, school boards
138 shall * * * designate as their purchasing agent or agents the
139 Office of School Purchasing of the Department of Finance and
140 Administration to make such purchases * * * subject to competitive
141 bid requirements in Sections 31-7-1 et seq., Mississippi Code of
142 1972.

143 * * *

144 **SECTION 6.** Section 37-39-17, Mississippi Code of 1972, is
145 amended as follows:

146 37-39-17. Purchases of items regularly used in connection
147 with school operation * * * made from the petty cash fund in small
148 quantities of One Hundred Dollars (\$100.00) or less may be made
149 without the necessity of requiring competitive bids or quotations,
150 but shall be purchased by contract whenever feasible. School
151 boards shall have the authority, however, to award such small
152 purchases to different points in the school district or
153 county, * * * when the best interests of the district or county
154 warrant such action. * * *

155 **SECTION 7.** Section 37-39-21, Mississippi Code of 1972, is
156 amended as follows:

157 37-39-21. The purchasing agent of the Office of School
158 Purchasing of the Department of Finance and Administration, before
159 entering upon his official duties in such capacity, shall furnish
160 a good and sufficient surety bond in the penal sum of Fifty
161 Thousand Dollars (\$50,000.00), with sufficient surety. Such bonds
162 shall be payable, conditioned and approved in the manner provided
163 by law, and shall be filed and recorded in the Office of the Clerk
164 of the Chancery Court of Hinds County, Mississippi. The premium

165 on said bond shall be paid out of the Mississippi Adequate
166 Education Funds.

167 **SECTION 8.** Section 37-39-23, Mississippi Code of 1972, is
168 amended as follows:

169 37-39-23. * * * It is the purpose of Section 37-39-1 et seq.
170 to enable the school systems to achieve economies of scale through
171 increased purchasing power to the end that the education tax
172 revenues be utilized efficiently.

173 **SECTION 9.** Section 37-39-25, Mississippi Code of 1972, is
174 amended as follows:

175 37-39-25. (1) * * * The school board shall appoint the
176 Office of School Purchasing of the Department of Finance and
177 Administration as purchasing agent who shall be responsible * * *
178 for all purchases of competitively priced services, materials and
179 supplies. * * * The purchasing agent shall serve all of the
180 school districts acting jointly. There shall not be a separate
181 purchasing agent for the separate school districts * * *.

182 (2) The Office of School Purchasing of the Department of
183 Finance and Administration shall arrange for purchase, storage and
184 distribution of supplies, materials, perishables, commodities,
185 equipment and school buses purchased for school districts. The
186 costs involved in purchase, transportation, storage,
187 administration and any other activity regarding * * * purchases by
188 the Office of School Purchasing shall be shared among the school
189 districts on a pro rata basis.

190 **SECTION 10.** Section 37-41-101, Mississippi Code of 1972, is
191 amended as follows:

192 37-41-101. (1) The Office of School Purchasing of the
193 Department of Finance and Administration is hereby authorized,
194 empowered and directed to advertise for and receive sealed bids
195 and proposals for sale of school bus bodies and school buses sold
196 as complete units to the school boards of school districts in this
197 state. The Office of School Purchasing shall approve persons,

198 firms, corporations or associations authorized to sell school bus
199 bodies and school buses sold as complete units, and shall
200 establish prices relative thereto based upon the lowest and best
201 bids, which school districts may not exceed in purchasing such
202 equipment. In determining the lowest and best bids received for
203 such equipment, there shall be included as part of the total cost
204 thereof any transportation or freight charges which will be
205 incurred. The Office of School Purchasing may permit all such
206 bidders to sell said equipment provided that the bidders agree to
207 sell the equipment at prices established based upon the lowest and
208 best bid and in compliance with rules and regulations relative
209 thereto promulgated by the state board. Persons, firms,
210 corporations or associations permitted to sell school bus bodies
211 and school buses sold as complete units shall be limited to those
212 actually submitting bids for consideration by the Office of School
213 Purchasing. The Office of School Purchasing shall reserve the
214 right to reject any and all bids submitted.

215 (2) The Office of School Purchasing of the Department of
216 Finance and Administration may purchase school bus bodies and
217 school buses sold as complete units without additional
218 advertisement for bids, provided that the prices for such
219 equipment do not exceed the maximum allowable prices established
220 under the provisions of subsection (1) of this section, and that
221 said purchases are in compliance with the conditions specified
222 therein. All such purchases shall be subject to the approval of
223 the Office of School Purchasing which shall verify compliance with
224 the applicable specifications, rules and regulations * * *.

225 (3) In addition to the method of purchasing authorized under
226 this section, the Office of School Purchasing of the Department of
227 Finance and Administration is hereby authorized to advertise for
228 and accept the lowest and best bid received for the purchase of
229 school bus chassis and/or pupil transportation service vehicles.
230 Provided, however, that the Office of School Purchasing may

231 purchase school bus chassis and/or pupil transportation service
232 vehicles from any motor vehicle dealer domiciled within the county
233 of such school district, whose bid does not exceed a sum equal to
234 three percent (3%) greater than the price or cost which the dealer
235 pays the manufacturer, as evidenced by the factory invoice for
236 such vehicles. In the event said county does not have an
237 authorized motor vehicle dealer, said Office of School Purchasing
238 may, in like manner, receive and accept bids from motor vehicle
239 dealers in any adjoining county. No purchase of school bus chassis
240 or service vehicles under the provisions of this subsection shall
241 be valid unless the purchase is made according to statutory
242 bidding and licensing requirements. All purchases under
243 provisions of this subsection shall be subject to the approval of
244 the Office of School Purchasing, which shall verify compliance
245 with the applicable specifications, rules and regulations. * * *

246 (4) * * * The Office of School Purchasing of the Department
247 of Finance and Administration is hereby authorized to purchase
248 used school buses and used pupil transportation service vehicles,
249 provided that said vehicles meet applicable specifications and the
250 purchase price does not exceed their fair market value. Said fair
251 market value shall be determined by an appraisal by three (3)
252 experienced and impartial citizens, the selection of whom shall be
253 mutually agreed upon by the parties thereto. Said appraisers may
254 be subject to approval by the Office of School Purchasing.
255 Maximum regard for pupil safety and adequate protection of health
256 shall be primary requirements which shall be observed by the
257 Office of School Purchasing in purchasing used school buses. The
258 Office of School Purchasing may inspect or have inspected any used
259 school bus prior to purchase to determine whether said bus meets
260 requirements of law and regulations of the Office of School
261 Purchasing.

262 (5) In the event the school board shall have determined that
263 school buses or pupil transportation service vehicles are no

264 longer needed for the transportation of pupils in such school
265 district, such equipment may be sold to another school district
266 without the necessity of advertising for bids. The school
267 district proposing to sell the buses or service vehicles and the
268 school district proposing to purchase such equipment shall agree
269 upon a fair and reasonable price therefor. The agreement shall be
270 spread upon the minutes of the boards of the respective school
271 districts and shall be subject to the prior approval of the Office
272 of School Purchasing, which shall verify compliance with
273 applicable specifications, rules and regulations * * *.

274 **SECTION 11.** Section 37-41-103, Mississippi Code of 1972, is
275 amended as follows:

276 37-41-103. For the further purpose of carrying out the
277 provisions of Sections 37-41-81 through 37-41-101, the Office of
278 School Purchasing of the Department of Finance and Administration
279 is further authorized and empowered to adopt and promulgate
280 reasonable rules and regulations not inconsistent with the law for
281 such purpose. Said Office of School Purchasing shall have, in
282 addition, all power and authority conferred upon it by the
283 provisions of Sections 37-41-1 through 37-41-53 or any other
284 statute.

285 **SECTION 12.** This act shall take effect and be in force from
286 and after July 1, 2007.