

By: Representative Currie

To: Accountability,  
Efficiency, Transparency

HOUSE BILL NO. 1373

1 AN ACT TO AMEND SECTION 25-53-5, MISSISSIPPI CODE OF 1972, TO  
2 PROVIDE A PROCEDURE FOR THE DEPARTMENT OF INFORMATION TECHNOLOGY  
3 SERVICES TO AUTHORIZE EMERGENCY PURCHASES OF TELECOMMUNICATIONS  
4 EQUIPMENT OR SERVICES BY STATE AGENCIES AND LOCAL GOVERNING  
5 AUTHORITIES; TO PROVIDE THAT ANY CONTRACTS AWARDED UNDER THE  
6 EMERGENCY PURCHASING PROCEDURE SHALL NOT EXCEED A TERM OF ONE  
7 YEAR; TO REQUIRE THE DEPARTMENT TO JOINTLY STUDY THE STATE'S  
8 PURCHASING LAWS WITH THE PUBLIC PROCUREMENT REVIEW BOARD ON A  
9 BIENNIAL BASIS; TO AMEND SECTION 27-104-7, MISSISSIPPI CODE OF  
10 1972, TO PROVIDE A PROCEDURE FOR THE PUBLIC PROCUREMENT REVIEW  
11 BOARD TO AUTHORIZE EMERGENCY PURCHASES OF PERSONAL OR PROFESSIONAL  
12 SERVICES BY STATE AGENCIES AND LOCAL GOVERNING AUTHORITIES; TO  
13 PROVIDE THAT ANY CONTRACTS AWARDED UNDER THE EMERGENCY PURCHASING  
14 PROCEDURE SHALL NOT EXCEED A TERM OF ONE YEAR; TO REQUIRE THE  
15 BOARD TO JOINTLY STUDY THE STATE'S PURCHASING LAWS WITH THE  
16 DEPARTMENT OF INFORMATION TECHNOLOGY SERVICES ON A BIENNIAL BASIS;  
17 TO AMEND SECTION 33-15-14, MISSISSIPPI CODE OF 1972, TO PROVIDE  
18 FOR THE ADOPTION OF EMERGENCY PROCUREMENT RULES AS PART OF THE  
19 STATE'S EMERGENCY MANAGEMENT PLAN, AND PROVIDE THAT SUCH RULES  
20 SHALL NOT BE SUSPENDED BY ANY EMERGENCY DECLARATIONS; TO BRING  
21 FORWARD SECTION 33-15-11, MISSISSIPPI CODE OF 1972, WHICH PROVIDES  
22 FOR THE EMERGENCY MANAGEMENT POWERS OF THE GOVERNOR, FOR THE  
23 PURPOSES OF POSSIBLE AMENDMENT; TO REPEAL SECTION 5-3-72,  
24 MISSISSIPPI CODE OF 1972, WHICH REQUIRES THE PEER COMMITTEE TO  
25 BIENNIALY REVIEW THE STATE'S PURCHASING LAWS; AND FOR RELATED  
26 PURPOSES.

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

28 **SECTION 1.** Section 25-53-5, Mississippi Code of 1972, is  
29 amended as follows:



30           25-53-5. The authority shall have the following powers,  
31 duties, and responsibilities:

32           (a) (i) The authority shall provide for the  
33 development of plans for the efficient acquisition and utilization  
34 of computer equipment and services by all agencies of state  
35 government, and provide for their implementation. In so doing,  
36 the authority may use the MDITS' staff, at the discretion of the  
37 executive director of the authority, or the authority may contract  
38 for the services of qualified consulting firms in the field of  
39 information technology and utilize the service of such consultants  
40 as may be necessary for such purposes. Pursuant to Section  
41 25-53-1, the provisions of this section shall not apply to the  
42 Department of Human Services for a period of three (3) years  
43 beginning on July 1, 2017. Pursuant to Section 25-53-1, the  
44 provisions of this section shall not apply to the Department of  
45 Child Protection Services for a period of three (3) years  
46 beginning July 1, 2017.

47           (ii) [Repealed]

48           (b) The authority shall immediately institute  
49 procedures for carrying out the purposes of this chapter and  
50 supervise the efficient execution of the powers and duties of the  
51 office of executive director of the authority. In the execution  
52 of its functions under this chapter, the authority shall maintain  
53 as a paramount consideration the successful internal organization  
54 and operation of the several agencies so that efficiency existing



55 therein shall not be adversely affected or impaired. In executing  
56 its functions in relation to the institutions of higher learning  
57 and junior colleges in the state, the authority shall take into  
58 consideration the special needs of such institutions in relation  
59 to the fields of teaching and scientific research.

60 (c) Title of whatever nature of all computer equipment  
61 now vested in any agency of the State of Mississippi is hereby  
62 vested in the authority, and no such equipment shall be disposed  
63 of in any manner except in accordance with the direction of the  
64 authority or under the provisions of such rules and regulations as  
65 may hereafter be adopted by the authority in relation thereto.

66 (d) (i) The authority shall adopt rules, regulations,  
67 and procedures governing the acquisition of computer and  
68 telecommunications equipment and services which shall, to the  
69 fullest extent practicable, insure the maximum of competition  
70 between all manufacturers of supplies or equipment or services.  
71 In the writing of specifications, in the making of contracts  
72 relating to the acquisition of such equipment and services, and in  
73 the performance of its other duties the authority shall provide  
74 for the maximum compatibility of all information systems hereafter  
75 installed or utilized by all state agencies and may require the  
76 use of common computer languages where necessary to accomplish the  
77 purposes of this chapter. The authority may establish by  
78 regulation and charge reasonable fees on a nondiscriminatory basis



79 for the furnishing to bidders of copies of bid specifications and  
80 other documents issued by the authority.

81 (ii) If the governing board or the executive head,  
82 or his or her designee, of any agency determines that an emergency  
83 exists with regard to the purchase of any computer or  
84 telecommunications equipment or services, so that the delay that  
85 would result from giving an opportunity for competitive bidding  
86 would be detrimental to the interests of the state, then the head  
87 of such agency, or his or her designee, shall file with the  
88 Department of Information Technology Services:

89 1. A statement explaining the conditions and  
90 circumstances of the emergency, which shall include a detailed  
91 description of the events leading up to the emergency situation  
92 and the negative impact to the agency if the purchase is made  
93 following any rules or policies of the department that mandate  
94 competitive purchasing; and

95 2. A certified copy of the appropriate  
96 minutes of the board of such agency requesting the emergency  
97 purchase, if applicable.

98 Upon receipt of the statement and applicable board  
99 certification, the Executive Director of the Department of  
100 Information Technology Services, or his or her designee, may, in  
101 writing, authorize the purchase without having to comply with  
102 competitive bidding requirements.



103                   (iii) If the governing board or the executive  
104 head, or his or her designee, of any agency determines that an  
105 emergency exists with regard to the purchase of any computer or  
106 telecommunications equipment or services, so that the delay that  
107 would result from giving an opportunity for competitive bidding  
108 would threaten the health or safety of any person or the  
109 preservation or protection of property, then the provisions of any  
110 rules or policies of the Department of Information Technology  
111 Services that mandate competitive bidding shall not apply to the  
112 purchase, and any officer or agent of the agency having general or  
113 specific authority for making the purchase or contract may approve  
114 the bill presented for payment, and he or she shall certify in  
115 writing from whom the purchase was made or with whom the contract  
116 was made.

117                   (iv) Total purchases made under subparagraphs (ii)  
118 and (iii) of this paragraph (d) shall only be for the purpose of  
119 meeting the needs created by the emergency situation. After the  
120 emergency purchase is made, documentation of the purchase,  
121 including a description of the purchase, the purchase price  
122 thereof and the nature of the emergency, shall be filed with the  
123 Department of Information Technology Services. Any contract  
124 awarded under the authority of subparagraph (ii) or (iii) of this  
125 paragraph shall not exceed a term of one (1) year.

126                   (e) The authority shall adopt rules and regulations  
127 governing the sharing with, or the sale or lease of information



128 technology services to any nonstate agency or person. Such  
129 regulations shall provide that any such sharing, sale or lease  
130 shall be restricted in that same shall be accomplished only where  
131 such services are not readily available otherwise within the  
132 state, and then only at a charge to the user not less than the  
133 prevailing rate of charge for similar services by private  
134 enterprise within this state.

135 (f) The authority may, in its discretion, establish a  
136 special technical advisory committee or committees to study and  
137 make recommendations on technology matters within the competence  
138 of the authority as the authority may see fit. Persons serving on  
139 the Information Resource Council, its task forces, or any such  
140 technical advisory committees shall be entitled to receive their  
141 actual and necessary expenses actually incurred in the performance  
142 of such duties, together with mileage as provided by law for state  
143 employees, provided the same has been authorized by a resolution  
144 duly adopted by the authority and entered on its minutes prior to  
145 the performance of such duties.

146 (g) The authority may provide for the development and  
147 require the adoption of standardized computer programs and may  
148 provide for the dissemination of information to and the  
149 establishment of training programs for the personnel of the  
150 various information technology centers of state agencies and  
151 personnel of the agencies utilizing the services thereof.



152           (h) The authority shall adopt reasonable rules and  
153 regulations requiring the reporting to the authority through the  
154 office of executive director of such information as may be  
155 required for carrying out the purposes of this chapter and may  
156 also establish such reasonable procedures to be followed in the  
157 presentation of bills for payment under the terms of all contracts  
158 for the acquisition of computer equipment and services now or  
159 hereafter in force as may be required by the authority or by the  
160 executive director in the execution of their powers and duties.

161           (i) The authority shall require such adequate  
162 documentation of information technology procedures utilized by the  
163 various state agencies and may require the establishment of such  
164 organizational structures within state agencies relating to  
165 information technology operations as may be necessary to  
166 effectuate the purposes of this chapter.

167           (j) The authority may adopt such further reasonable  
168 rules and regulations as may be necessary to fully implement the  
169 purposes of this chapter. All rules and regulations adopted by  
170 the authority shall be published and disseminated in readily  
171 accessible form to all affected state agencies, and to all current  
172 suppliers of computer equipment and services to the state, and to  
173 all prospective suppliers requesting the same. Such rules and  
174 regulations shall be kept current, be periodically revised, and  
175 copies thereof shall be available at all times for inspection by  
176 the public at reasonable hours in the offices of the authority.



177 Whenever possible no rule, regulation or any proposed amendment to  
178 such rules and regulations shall be finally adopted or enforced  
179 until copies of the proposed rules and regulations have been  
180 furnished to all interested parties for their comment and  
181 suggestions.

182 (k) The authority shall establish rules and regulations  
183 which shall provide for the submission of all contracts proposed  
184 to be executed by the executive director for computer equipment or  
185 services to the authority for approval before final execution, and  
186 the authority may provide that such contracts involving the  
187 expenditure of less than such specified amount as may be  
188 established by the authority may be finally executed by the  
189 executive director without first obtaining such approval by the  
190 authority.

191 (l) The authority is authorized to purchase, lease, or  
192 rent computer equipment or services and to operate that equipment  
193 and use those services in providing services to one or more state  
194 agencies when in its opinion such operation will provide maximum  
195 efficiency and economy in the functions of any such agency or  
196 agencies.

197 (m) Upon the request of the governing body of a  
198 political subdivision or instrumentality, the authority shall  
199 assist the political subdivision or instrumentality in its  
200 development of plans for the efficient acquisition and utilization  
201 of computer equipment and services. An appropriate fee shall be





202 charged the political subdivision by the authority for such  
203 assistance.

204 (n) The authority shall adopt rules and regulations  
205 governing the protest procedures to be followed by any actual or  
206 prospective bidder, offerer or contractor who is aggrieved in  
207 connection with the solicitation or award of a contract for the  
208 acquisition of computer equipment or services. Such rules and  
209 regulations shall prescribe the manner, time and procedure for  
210 making protests and may provide that a protest not timely filed  
211 shall be summarily denied. The authority may require the  
212 protesting party, at the time of filing the protest, to post a  
213 bond, payable to the state, in an amount that the authority  
214 determines sufficient to cover any expense or loss incurred by the  
215 state, the authority or any state agency as a result of the  
216 protest if the protest subsequently is determined by a court of  
217 competent jurisdiction to have been filed without any substantial  
218 basis or reasonable expectation to believe that the protest was  
219 meritorious; however, in no event may the amount of the bond  
220 required exceed a reasonable estimate of the total project cost.  
221 The authority, in its discretion, also may prohibit any  
222 prospective bidder, offerer or contractor who is a party to any  
223 litigation involving any such contract with the state, the  
224 authority or any agency of the state to participate in any other  
225 such bid, offer or contract, or to be awarded any such contract,  
226 during the pendency of the litigation.



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

231           All acquisitions of computer equipment and services involving  
232 the expenditure of funds in excess of the dollar amount  
233 established in Section 31-7-13(c), or rentals or leases in excess  
234 of the dollar amount established in Section 31-7-13(c) for the  
235 term of the contract, shall be based upon competitive and open  
236 specifications, and contracts therefor shall be entered into only  
237 after advertisements for bids are published in one or more daily  
238 newspapers having a general circulation in the state not less than  
239 fourteen (14) days prior to receiving sealed bids therefor. The  
240 authority may reserve the right to reject any or all bids, and if  
241 all bids are rejected, the authority may negotiate a contract  
242 within the limitations of the specifications so long as the terms  
243 of any such negotiated contract are equal to or better than the  
244 comparable terms submitted by the lowest and best bidder, and so  
245 long as the total cost to the State of Mississippi does not exceed  
246 the lowest bid. If the authority accepts one (1) of such bids, it  
247 shall be that which is the lowest and best.

248           (p) When applicable, the authority may procure  
249 equipment, systems and related services in accordance with the law  
250 or regulations, or both, which govern the Bureau of Purchasing of  
251 the Office of General Services or which govern the Mississippi



252 Department of Information Technology Services procurement of  
253 telecommunications equipment, software and services.

254 (q) The authority is authorized to purchase, lease, or  
255 rent information technology and services for the purpose of  
256 establishing pilot projects to investigate emerging technologies.  
257 These acquisitions shall be limited to new technologies and shall  
258 be limited to an amount set by annual appropriation of the  
259 Legislature. These acquisitions shall be exempt from the  
260 advertising and bidding requirement.

261 (r) All fees collected by the Mississippi Department of  
262 Information Technology Services shall be deposited into the  
263 Mississippi Department of Information Technology Services  
264 Revolving Fund unless otherwise specified by the Legislature.

265 (s) The authority shall work closely with the council  
266 to bring about effective coordination of policies, standards and  
267 procedures relating to procurement of remote sensing and  
268 geographic information systems (GIS) resources. In addition, the  
269 authority is responsible for development, operation and  
270 maintenance of a delivery system infrastructure for geographic  
271 information systems data. The authority shall provide a warehouse  
272 for Mississippi's geographic information systems data.

273 (t) The authority shall manage one or more State Data  
274 Centers to provide information technology services on a  
275 cost-sharing basis. In determining the appropriate services to be



276 provided through the State Data Center, the authority should  
277 consider those services that:

278 (i) Result in savings to the state as a whole;

279 (ii) Improve and enhance the security and  
280 reliability of the state's information and business systems; and

281 (iii) Optimize the efficient use of the state's  
282 information technology assets, including, but not limited to,  
283 promoting partnerships with the state institutions of higher  
284 learning and community colleges to capitalize on advanced  
285 information technology resources.

286 (u) The authority shall increase federal participation  
287 in the cost of the State Data Center to the extent provided by law  
288 and its shared technology infrastructure through providing such  
289 shared services to agencies that receive federal funds. With  
290 regard to state institutions of higher learning and community  
291 colleges, the authority may provide shared services when mutually  
292 agreeable, following a determination by both the authority and the  
293 Board of Trustees of State Institutions of Higher Learning or the  
294 Mississippi Community College Board, as the case may be, that the  
295 sharing of services is mutually beneficial.

296 (v) The authority, in its discretion, may require new  
297 or replacement agency business applications to be hosted at the  
298 State Data Center. With regard to state institutions of higher  
299 learning and community colleges, the authority and the Board of  
300 Trustees of State Institutions of Higher Learning or the



301 Mississippi Community College Board, as the case may be, may agree  
302 that institutions of higher learning or community colleges may  
303 utilize business applications that are hosted at the State Data  
304 Center, following a determination by both the authority and the  
305 applicable board that the hosting of those applications is  
306 mutually beneficial. In addition, the authority may establish  
307 partnerships to capitalize on the advanced technology resources of  
308 the Board of Trustees of State Institutions of Higher Learning or  
309 the Mississippi Community College Board, following a determination  
310 by both the authority and the applicable board that such a  
311 partnership is mutually beneficial.

312 (w) The authority shall provide a periodic update  
313 regarding reform-based information technology initiatives to the  
314 Chairmen of the House and Senate Accountability, Efficiency and  
315 Transparency Committees.

316 (x) On a biennial basis, beginning in calendar year  
317 2023, the Department of Information Technology Services in  
318 conjunction with the Public Procurement Review Board shall jointly  
319 produce a report to the Legislature on the state's procurement  
320 laws and regulations, including any recommendations that both  
321 entities consider to be necessary to make procurement by agencies  
322 and governing authorities more efficient and effective. Such  
323 review shall be delivered to the Legislature by December 1 of any  
324 year in which the review is required.



325 From and after July 1, 2018, the expenses of this agency  
326 shall be defrayed by appropriation from the State General Fund.  
327 In addition, in order to receive the maximum use and benefit from  
328 information technology and services, expenses for the provision of  
329 statewide shared services that facilitate cost-effective  
330 information processing and telecommunication solutions shall be  
331 defrayed by pass-through funding and shall be deposited into the  
332 Mississippi Department of Information Technology Services  
333 Revolving Fund unless otherwise specified by the Legislature.  
334 These funds shall only be utilized to pay the actual costs  
335 incurred by the Mississippi Department of Information Technology  
336 Services for providing these shared services to state agencies.  
337 Furthermore, state agencies shall work in full cooperation with  
338 the Board of the Mississippi Department of Information Technology  
339 Services to identify computer equipment or services to minimize  
340 duplication, reduce costs, and improve the efficiency of providing  
341 common technology services across agency boundaries.

342 **SECTION 2.** Section 27-104-7, Mississippi Code of 1972, is  
343 amended as follows:

344 27-104-7. (1) (a) There is created the Public Procurement  
345 Review Board, which shall be reconstituted on January 1, 2018, and  
346 shall be composed of the following members:

347 (i) Three (3) individuals appointed by the  
348 Governor with the advice and consent of the Senate;



349 (ii) Two (2) individuals appointed by the  
350 Lieutenant Governor with the advice and consent of the Senate; and  
351 (iii) The Executive Director of the Department of  
352 Finance and Administration, serving as an ex officio and nonvoting  
353 member.

354 (b) The initial terms of each appointee shall be as  
355 follows:

356 (i) One (1) member appointed by the Governor to  
357 serve for a term ending on June 30, 2019;

358 (ii) One (1) member appointed by the Governor to  
359 serve for a term ending on June 30, 2020;

360 (iii) One (1) member appointed by the Governor to  
361 serve for a term ending on June 30, 2021;

362 (iv) One (1) member appointed by the Lieutenant  
363 Governor to serve for a term ending on June 30, 2019; and

364 (v) One (1) member appointed by the Lieutenant  
365 Governor to serve for a term ending on June 30, 2020.

366 After the expiration of the initial terms, all appointed  
367 members' terms shall be for a period of four (4) years from the  
368 expiration date of the previous term, and until such time as the  
369 member's successor is duly appointed and qualified.

370 (c) When appointing members to the Public Procurement  
371 Review Board, the Governor and Lieutenant Governor shall take into  
372 consideration persons who possess at least five (5) years of  
373 management experience in general business, health care or finance



374 for an organization, corporation or other public or private  
375 entity. Any person, or any employee or owner of a company, who  
376 receives any grants, procurements or contracts that are subject to  
377 approval under this section shall not be appointed to the Public  
378 Procurement Review Board. Any person, or any employee or owner of  
379 a company, who is a principal of the source providing a personal  
380 or professional service shall not be appointed to the Public  
381 Procurement Review Board if the principal owns or controls a  
382 greater than five percent (5%) interest or has an ownership value  
383 of One Million Dollars (\$1,000,000.00) in the source's business,  
384 whichever is smaller. No member shall be an officer or employee  
385 of the State of Mississippi while serving as a voting member on  
386 the Public Procurement Review Board.

387 (d) Members of the Public Procurement Review Board  
388 shall be entitled to per diem as authorized by Section 25-3-69 and  
389 travel reimbursement as authorized by Section 25-3-41.

390 (e) The members of the Public Procurement Review Board  
391 shall elect a chair from among the membership, and he or she shall  
392 preside over the meetings of the board. The board shall annually  
393 elect a vice chair, who shall serve in the absence of the chair.  
394 No business shall be transacted, including adoption of rules of  
395 procedure, without the presence of a quorum of the board. Three  
396 (3) members shall be a quorum. No action shall be valid unless  
397 approved by a majority of the members present and voting, entered  
398 upon the minutes of the board and signed by the chair. Necessary





399 clerical and administrative support for the board shall be  
400 provided by the Department of Finance and Administration. Minutes  
401 shall be kept of the proceedings of each meeting, copies of which  
402 shall be filed on a monthly basis with the chairs of the  
403 Accountability, Efficiency and Transparency Committees of the  
404 Senate and House of Representatives and the chairs of the  
405 Appropriations Committees of the Senate and House of  
406 Representatives.

407 (2) The Public Procurement Review Board shall have the  
408 following powers and responsibilities:

409 (a) Approve all purchasing regulations governing the  
410 purchase or lease by any agency, as defined in Section 31-7-1, of  
411 commodities and equipment, except computer equipment acquired  
412 pursuant to Sections 25-53-1 through 25-53-29;

413 (b) Adopt regulations governing the approval of  
414 contracts let for the construction and maintenance of state  
415 buildings and other state facilities as well as related contracts  
416 for architectural and engineering services.

417 The provisions of this paragraph (b) shall not apply to such  
418 contracts involving buildings and other facilities of state  
419 institutions of higher learning which are self-administered as  
420 provided under this paragraph (b) or Section 37-101-15(m);

421 (c) Adopt regulations governing any lease or rental  
422 agreement by any state agency or department, including any state  
423 agency financed entirely by federal funds, for space outside the



424 buildings under the jurisdiction of the Department of Finance and  
425 Administration. These regulations shall require each agency  
426 requesting to lease such space to provide the following  
427 information that shall be published by the Department of Finance  
428 and Administration on its website: the agency to lease the space;  
429 the terms of the lease; the approximate square feet to be leased;  
430 the use for the space; a description of a suitable space; the  
431 general location desired for the leased space; the contact  
432 information for a person from the agency; the deadline date for  
433 the agency to have received a lease proposal; any other specific  
434 terms or conditions of the agency; and any other information  
435 deemed appropriate by the Division of Real Property Management of  
436 the Department of Finance and Administration or the Public  
437 Procurement Review Board. The information shall be provided  
438 sufficiently in advance of the time the space is needed to allow  
439 the Division of Real Property Management of the Department of  
440 Finance and Administration to review and preapprove the lease  
441 before the time for advertisement begins;

442 (d) Adopt, in its discretion, regulations to set aside  
443 at least five percent (5%) of anticipated annual expenditures for  
444 the purchase of commodities from minority businesses; however, all  
445 such set-aside purchases shall comply with all purchasing  
446 regulations promulgated by the department and shall be subject to  
447 all bid requirements. Set-aside purchases for which competitive  
448 bids are required shall be made from the lowest and best minority



449 business bidder; however, if no minority bid is available or if  
450 the minority bid is more than two percent (2%) higher than the  
451 lowest bid, then bids shall be accepted and awarded to the lowest  
452 and best bidder. However, the provisions in this paragraph shall  
453 not be construed to prohibit the rejection of a bid when only one  
454 (1) bid is received. Such rejection shall be placed in the  
455 minutes. For the purposes of this paragraph, the term "minority  
456 business" means a business which is owned by a person who is a  
457 citizen or lawful permanent resident of the United States and who  
458 is:

459 (i) Black: having origins in any of the black  
460 racial groups of Africa;

461 (ii) Hispanic: of Mexican, Puerto Rican, Cuban,  
462 Central or South American, or other Spanish or Portuguese culture  
463 or origin regardless of race;

464 (iii) Asian-American: having origins in any of  
465 the original people of the Far East, Southeast Asia, the Indian  
466 subcontinent, or the Pacific Islands;

467 (iv) American Indian or Alaskan Native: having  
468 origins in any of the original people of North America; or

469 (v) Female;

470 (e) In consultation with and approval by the Chairs of  
471 the Senate and House Public Property Committees, approve leases,  
472 for a term not to exceed eighteen (18) months, entered into by  
473 state agencies for the purpose of providing parking arrangements



474 for state employees who work in the Woolfolk Building, the Carroll  
475 Gartin Justice Building or the Walter Sillers Office Building;  
476 (f) Promulgate rules and regulations governing the  
477 solicitation and selection of contractual services personnel,  
478 including personal and professional services contracts for any  
479 form of consulting, policy analysis, public relations, marketing,  
480 public affairs, legislative advocacy services or any other  
481 contract that the board deems appropriate for oversight, with the  
482 exception of any personal service contracts entered into by any  
483 agency that employs only nonstate service employees as defined in  
484 Section 25-9-107(c), any personal service contracts entered into  
485 for computer or information technology-related services governed  
486 by the Mississippi Department of Information Technology Services,  
487 any personal service contracts entered into by the individual  
488 state institutions of higher learning, any personal service  
489 contracts entered into by the Mississippi Department of  
490 Transportation, any personal service contracts entered into by the  
491 Department of Human Services through June 30, 2019, which the  
492 Executive Director of the Department of Human Services determines  
493 would be useful in establishing and operating the Department of  
494 Child Protection Services, any personal service contracts entered  
495 into by the Department of Child Protection Services through June  
496 30, 2019, any contracts for entertainers and/or performers at the  
497 Mississippi State Fairgrounds entered into by the Mississippi Fair  
498 Commission, any contracts entered into by the Department of



499 Finance and Administration when procuring aircraft maintenance,  
500 parts, equipment and/or services, any contract entered into by the  
501 Department of Public Safety for service on specialized equipment  
502 and/or software required for the operation at such specialized  
503 equipment for use by the Office of Forensics Laboratories, and any  
504 contract for attorney, accountant, actuary auditor, architect,  
505 engineer, anatomical pathologist, utility rate expert services,  
506 and any personal service contracts approved by the Executive  
507 Director of the Department of Finance and Administration and  
508 entered into by the Coordinator of Mental Health Accessibility  
509 through June 30, 2022. Any such rules and regulations shall  
510 provide for maintaining continuous internal audit covering the  
511 activities of such agency affecting its revenue and expenditures  
512 as required under Section 7-7-3(6)(d). Any rules and regulation  
513 changes related to personal and professional services contracts  
514 that the Public Procurement Review Board may propose shall be  
515 submitted to the Chairs of the Accountability, Efficiency and  
516 Transparency Committees of the Senate and House of Representatives  
517 and the Chairs of the Appropriation Committees of the Senate and  
518 House of Representatives at least fifteen (15) days before the  
519 board votes on the proposed changes, and those rules and  
520 regulation changes, if adopted, shall be promulgated in accordance  
521 with the Mississippi Administrative Procedures Act;

522 (g) Approve all personal and professional services  
523 contracts involving the expenditures of funds in excess of



524 Seventy-five Thousand Dollars (\$75,000.00), except as provided in  
525 paragraph (f) of this subsection (2) and in subsection (8);

526           (h) Develop mandatory standards with respect to  
527 contractual services personnel that require invitations for public  
528 bid, requests for proposals, record keeping and financial  
529 responsibility of contractors. The Public Procurement Review  
530 Board shall, unless exempted under this paragraph (h) or under  
531 paragraph (i) or (o) of this subsection (2), require the agency  
532 involved to submit the procurement to a competitive procurement  
533 process, and may reserve the right to reject any or all resulting  
534 procurements;

535           (i) Prescribe certain circumstances by which agency  
536 heads may enter into contracts for personal and professional  
537 services without receiving prior approval from the Public  
538 Procurement Review Board. The Public Procurement Review Board may  
539 establish a preapproved list of providers of various personal and  
540 professional services for set prices with which state agencies may  
541 contract without bidding or prior approval from the board;

542           (i) Agency requirements may be fulfilled by  
543 procuring services performed incident to the state's own programs.  
544 The agency head shall determine in writing whether the price  
545 represents a fair market value for the services. When the  
546 procurements are made from other governmental entities, the  
547 private sector need not be solicited; however, these contracts



548 shall still be submitted for approval to the Public Procurement  
549 Review Board.

550 (ii) Contracts between two (2) state agencies,  
551 both under Public Procurement Review Board purview, shall not  
552 require Public Procurement Review Board approval. However, the  
553 contracts shall still be entered into the enterprise resource  
554 planning system;

555 (j) Provide standards for the issuance of requests for  
556 proposals, the evaluation of proposals received, consideration of  
557 costs and quality of services proposed, contract negotiations, the  
558 administrative monitoring of contract performance by the agency  
559 and successful steps in terminating a contract;

560 (k) Present recommendations for governmental  
561 privatization and to evaluate privatization proposals submitted by  
562 any state agency;

563 (l) Authorize personal and professional service  
564 contracts to be effective for more than one (1) year provided a  
565 funding condition is included in any such multiple year contract,  
566 except the State Board of Education, which shall have the  
567 authority to enter into contractual agreements for student  
568 assessment for a period up to ten (10) years. The State Board of  
569 Education shall procure these services in accordance with the  
570 Public Procurement Review Board procurement regulations;

571 (m) Request the State Auditor to conduct a performance  
572 audit on any personal or professional service contract;



573           (n) Prepare an annual report to the Legislature  
574 concerning the issuance of personal and professional services  
575 contracts during the previous year, collecting any necessary  
576 information from state agencies in making such report;

577           (o) Develop and implement the following standards and  
578 procedures for the approval of any sole source contract for  
579 personal and professional services regardless of the value of the  
580 procurement:

581                   (i) For the purposes of this paragraph (o), the  
582 term "sole source" means only one (1) source is available that can  
583 provide the required personal or professional service.

584                   (ii) An agency that has been issued a binding,  
585 valid court order mandating that a particular source or provider  
586 must be used for the required service must include a copy of the  
587 applicable court order in all future sole source contract reviews  
588 for the particular personal or professional service referenced in  
589 the court order.

590                   (iii) Any agency alleging to have a sole source  
591 for any personal or professional service, other than those  
592 exempted under paragraph (f) of this subsection (2) and subsection  
593 (8), shall publish on the procurement portal website established  
594 by Sections 25-53-151 and 27-104-165, for at least fourteen (14)  
595 days, the terms of the proposed contract for those services. In  
596 addition, the publication shall include, but is not limited to,  
597 the following information:





- 598                   1. The personal or professional service  
599 offered in the contract;
- 600                   2. An explanation of why the personal or  
601 professional service is the only one that can meet the needs of  
602 the agency;
- 603                   3. An explanation of why the source is the  
604 only person or entity that can provide the required personal or  
605 professional service;
- 606                   4. An explanation of why the amount to be  
607 expended for the personal or professional service is reasonable;  
608 and
- 609                   5. The efforts that the agency went through  
610 to obtain the best possible price for the personal or professional  
611 service.

612                   (iv) If any person or entity objects and proposes  
613 that the personal or professional service published under  
614 subparagraph (iii) of this paragraph (o) is not a sole source  
615 service and can be provided by another person or entity, then the  
616 objecting person or entity shall notify the Public Procurement  
617 Review Board and the agency that published the proposed sole  
618 source contract with a detailed explanation of why the personal or  
619 professional service is not a sole source service.

620                   (v) 1. If the agency determines after review that  
621 the personal or professional service in the proposed sole source  
622 contract can be provided by another person or entity, then the



623 agency must withdraw the sole source contract publication from the  
624 procurement portal website and submit the procurement of the  
625 personal or professional service to an advertised competitive bid  
626 or selection process.

627                   2. If the agency determines after review that  
628 there is only one (1) source for the required personal or  
629 professional service, then the agency may appeal to the Public  
630 Procurement Review Board. The agency has the burden of proving  
631 that the personal or professional service is only provided by one  
632 (1) source.

633                   3. If the Public Procurement Review Board has  
634 any reasonable doubt as to whether the personal or professional  
635 service can only be provided by one (1) source, then the agency  
636 must submit the procurement of the personal or professional  
637 service to an advertised competitive bid or selection process. No  
638 action taken by the Public Procurement Review Board in this appeal  
639 process shall be valid unless approved by a majority of the  
640 members of the Public Procurement Review Board present and voting.

641                   (vi) The Public Procurement Review Board shall  
642 prepare and submit a quarterly report to the House of  
643 Representatives and Senate Accountability, Efficiency and  
644 Transparency Committees that details the sole source contracts  
645 presented to the Public Procurement Review Board and the reasons  
646 that the Public Procurement Review Board approved or rejected each  
647 contract. These quarterly reports shall also include the



648 documentation and memoranda required in subsection (4) of this  
649 section. An agency that submitted a sole source contract shall be  
650 prepared to explain the sole source contract to each committee by  
651 December 15 of each year upon request by the committee;

652 (p) Assess any fines and administrative penalties  
653 provided for in Sections 31-7-401 through 31-7-423.

654 (3) All submissions shall be made sufficiently in advance of  
655 each monthly meeting of the Public Procurement Review Board as  
656 prescribed by the Public Procurement Review Board. If the Public  
657 Procurement Review Board rejects any contract submitted for review  
658 or approval, the Public Procurement Review Board shall clearly set  
659 out the reasons for its action, including, but not limited to, the  
660 policy that the agency has violated in its submitted contract and  
661 any corrective actions that the agency may take to amend the  
662 contract to comply with the rules and regulations of the Public  
663 Procurement Review Board.

664 (4) All sole source contracts for personal and professional  
665 services awarded by state agencies, other than those exempted  
666 under Section 27-104-7(2) (f) and (8), whether approved by an  
667 agency head or the Public Procurement Review Board, shall contain  
668 in the procurement file a written determination for the approval,  
669 using a request form furnished by the Public Procurement Review  
670 Board. The written determination shall document the basis for the  
671 determination, including any market analysis conducted in order to  
672 ensure that the service required was practicably available from



673 only one (1) source. A memorandum shall accompany the request  
674 form and address the following four (4) points:

675 (a) Explanation of why this service is the only service  
676 that can meet the needs of the purchasing agency;

677 (b) Explanation of why this vendor is the only  
678 practicably available source from which to obtain this service;

679 (c) Explanation of why the price is considered  
680 reasonable; and

681 (d) Description of the efforts that were made to  
682 conduct a noncompetitive negotiation to get the best possible  
683 price for the taxpayers.

684 (5) In conjunction with the State Personnel Board, the  
685 Public Procurement Review Board shall develop and promulgate rules  
686 and regulations to define the allowable legal relationship between  
687 contract employees and the contracting departments, agencies and  
688 institutions of state government under the jurisdiction of the  
689 State Personnel Board, in compliance with the applicable rules and  
690 regulations of the federal Internal Revenue Service (IRS) for  
691 federal employment tax purposes. Under these regulations, the  
692 usual common law rules are applicable to determine and require  
693 that such worker is an independent contractor and not an employee,  
694 requiring evidence of lawful behavioral control, lawful financial  
695 control and lawful relationship of the parties. Any state  
696 department, agency or institution shall only be authorized to



697 contract for personnel services in compliance with those  
698 regulations.

699 (6) No member of the Public Procurement Review Board shall  
700 use his or her official authority or influence to coerce, by  
701 threat of discharge from employment, or otherwise, the purchase of  
702 commodities, the contracting for personal or professional  
703 services, or the contracting for public construction under this  
704 chapter.

705 (7) Notwithstanding any other laws or rules to the contrary,  
706 the provisions of subsection (2) of this section shall not be  
707 applicable to the Mississippi State Port Authority at Gulfport.

708 (8) Nothing in this section shall impair or limit the  
709 authority of the Board of Trustees of the Public Employees'  
710 Retirement System to enter into any personal or professional  
711 services contracts directly related to their constitutional  
712 obligation to manage the trust funds, including, but not limited  
713 to, actuarial, custodial banks, cash management, investment  
714 consultant and investment management contracts.

715 (9) Notwithstanding the exemption of personal and  
716 professional services contracts entered into by the Department of  
717 Human Services and personal and professional services contracts  
718 entered into by the Department of Child Protection Services from  
719 the provisions of this section under subsection (2)(f), before the  
720 Department of Human Services or the Department of Child Protection  
721 Services may enter into a personal or professional service



722 contract, the department(s) shall give notice of the proposed  
723 personal or professional service contract to the Public  
724 Procurement Review Board for any recommendations by the board.  
725 Upon receipt of the notice, the board shall post the notice on its  
726 website and on the procurement portal website established by  
727 Sections 25-53-151 and 27-104-165. If the board does not respond  
728 to the department(s) within seven (7) calendar days after  
729 receiving the notice, the department(s) may enter the proposed  
730 personal or professional service contract. If the board responds  
731 to the department(s) within seven (7) calendar days, then the  
732 board has seven (7) calendar days from the date of its initial  
733 response to provide any additional recommendations. After the end  
734 of the second seven-day period, the department(s) may enter the  
735 proposed personal or professional service contract. The board is  
736 not authorized to disapprove any proposed personal or professional  
737 services contracts. This subsection shall stand repealed on July  
738 1, 2022.

739 (10) (a) If the governing board or the executive head, or  
740 his or her designee, of any agency of the state determines that an  
741 emergency exists with regard to the purchase of any personal or  
742 professional services, so that the delay that would result from  
743 giving an opportunity for competitive bidding would be detrimental  
744 to the interests of the state, then the head of such agency, or  
745 his or her designee, shall file with the Public Procurement Review  
746 Board:



747 (i) A statement explaining the conditions and  
748 circumstances of the emergency, which shall include a detailed  
749 description of the events leading up to the emergency situation  
750 and the negative impact to the agency if the purchase is made  
751 following any rules or policies of the Public Procurement Review  
752 Board that mandate competitive purchasing; and

753 (ii) A certified copy of the appropriate minutes  
754 of the board of such agency requesting the emergency purchase, if  
755 applicable.

756 Upon receipt of the statement and applicable board  
757 certification, the Public Procurement Review Board may, in  
758 writing, authorize the purchase without having to comply with  
759 competitive bidding requirements.

760 (b) If the governing board or the executive head, or  
761 his or her designee, of any agency of the state determines that an  
762 emergency exists with regard to the purchase of any personal or  
763 professional services, so that the delay that would result from  
764 giving an opportunity for competitive bidding would threaten the  
765 health or safety of any person or the preservation or protection  
766 of property, then the provisions of any rules or policies of the  
767 Public Procurement Review Board that mandate competitive bidding  
768 shall not apply to the purchase, and any officer or agent of the  
769 agency having general or specific authority for making the  
770 purchase or contract may approve the bill presented for payment,



771 and he or she shall certify in writing from whom the purchase was  
772 made or with whom the contract was made.

773 (c) Total purchases made under this subsection (10)  
774 shall only be for the purpose of meeting the needs created by the  
775 emergency situation. After the emergency purchase is made,  
776 documentation of the purchase, including a description of the  
777 purchase, the purchase price thereof and the nature of the  
778 emergency, shall be filed with the board. Any contract awarded  
779 under the authority of this subsection shall not exceed a term of  
780 one (1) year.

781 (11) On a biennial basis, beginning in calendar year 2023,  
782 the Public Procurement Review Board in conjunction with the  
783 Department of Information Technology Services shall jointly  
784 produce a report to the Legislature on the state's procurement  
785 laws and regulations, including any recommendations that both  
786 entities consider to be necessary to make procurement by state  
787 agencies and governing authorities more efficient and effective.  
788 Such review shall be delivered to the Legislature by December 1 of  
789 any year in which the review is required.

790 **SECTION 3.** Section 33-15-14, Mississippi Code of 1972, is  
791 amended as follows:

792 33-15-14. (1) The agency is responsible for maintaining a  
793 comprehensive statewide program of emergency management. The  
794 agency is responsible for coordination with efforts of the federal  
795 government with other departments and agencies of state





796 government, with county and municipal governments and school  
797 boards and with private agencies that have a role in emergency  
798 management.

799 (2) In performing its duties under this article, the agency  
800 shall:

801 (a) Work with the Governor, or his representative, in  
802 preparing a State Comprehensive Emergency Management Plan of this  
803 state, which shall be integrated into and coordinated with the  
804 emergency management plans of the federal government and of other  
805 states to the fullest possible extent, and to coordinate the  
806 preparation of plans and programs for emergency management by the  
807 political subdivisions of the state, such local plans to be  
808 integrated into and coordinated with the emergency plan and  
809 program of this state. The plan must contain provisions to ensure  
810 that the state is prepared for emergencies and minor, major and  
811 catastrophic disasters, and the agency shall work closely with  
812 local governments and agencies and organizations with emergency  
813 management responsibilities in preparing and maintaining the plan.  
814 The State Comprehensive Emergency Management Plan will be  
815 operations oriented and:

816 (i) Include an evacuation component that includes  
817 specific regional and interregional planning provisions and  
818 promotes intergovernmental coordination of evacuation activities.  
819 This component must, at a minimum: ensure coordination pertaining  
820 to evacuees crossing county lines; set forth procedures for



821 directing people caught on evacuation routes to safe shelter; and  
822 establish policies and strategies for emergency medical  
823 evacuations.

824           (ii) Include a shelter component that includes  
825 specific regional and interregional planning provisions and  
826 promotes coordination of shelter activities between the public,  
827 private and nonprofit sectors. This component must, at a minimum:  
828 contain strategies to ensure the availability of adequate public  
829 shelter space in each region of the state; establish strategies  
830 for refuge-of-last-resort programs; provide strategies to assist  
831 local emergency management efforts to ensure that adequate  
832 staffing plans exist for all shelters, including medical and  
833 security personnel; provide for a postdisaster communications  
834 system for public shelters; establish model shelter guidelines for  
835 operations, registration, inventory, power generation capability,  
836 information management and staffing; and set forth policy guidance  
837 for sheltering people with special needs.

838           (iii) Include a postdisaster response and recovery  
839 component that includes specific regional and interregional  
840 planning provisions and promotes intergovernmental coordination of  
841 postdisaster response and recovery activities. This component  
842 must provide for postdisaster response and recovery strategies  
843 according to whether a disaster is minor, major or catastrophic.  
844 The postdisaster response and recovery component must, at a  
845 minimum: establish the structure of the state's postdisaster



846 response and recovery organization; establish procedures for  
847 activating the state's plan; set forth policies used to guide  
848 postdisaster response and recovery activities; describe the chain  
849 of command during the postdisaster response and recovery period;  
850 describe initial and continuous postdisaster response and recovery  
851 actions; identify the roles and responsibilities of each involved  
852 agency and organization; provide for a comprehensive  
853 communications plan; establish procedures for monitoring mutual  
854 aid agreements; provide for rapid impact assessment teams; ensure  
855 the availability of an effective statewide urban search and rescue  
856 program coordinated with the fire services; ensure the existence  
857 of a comprehensive statewide medical care and relief plan  
858 administered by the State Department of Health; and establish  
859 systems for coordinating volunteers and accepting and distributing  
860 donated funds and goods.

861 (iv) Include additional provisions addressing  
862 aspects of preparedness, response and recovery, as determined  
863 necessary by the agency.

864 (v) Address the need for coordinated and  
865 expeditious deployment of state resources, including the  
866 Mississippi National Guard. In the case of an imminent major  
867 disaster, procedures should address predeployment of the  
868 Mississippi National Guard, and, in the case of an imminent  
869 catastrophic disaster, procedures should address predeployment of  
870 the Mississippi National Guard and the United States Armed Forces.



871 This subparagraph (v) does not authorize the agency to call out  
872 and deploy the Mississippi National Guard, which authority and  
873 determination rests solely with the Governor.

874 (vi) Establish a system of communications and  
875 warning to ensure that the state's population and emergency  
876 management agencies are warned of developing emergency situations  
877 and can communicate emergency response decisions.

878 (vii) Establish guidelines and schedules for  
879 annual exercises that evaluate the ability of the state and its  
880 political subdivisions to respond to minor, major and catastrophic  
881 disasters and support local emergency management agencies. Such  
882 exercises shall be coordinated with local governments and, to the  
883 extent possible, the federal government.

884 (viii) 1. Assign lead and support  
885 responsibilities to state agencies and personnel for emergency  
886 support functions and other support activities.

887 2. The agency shall prepare an interim  
888 postdisaster response and recovery component that substantially  
889 complies with the provisions of this paragraph (a). Each state  
890 agency assigned lead responsibility for an emergency support  
891 function by the State Comprehensive Emergency Management Plan  
892 shall also prepare a detailed operational plan needed to implement  
893 its responsibilities. The complete State Comprehensive Emergency  
894 Management Plan shall be submitted to the Governor no later than



895 January 1, 1996, and on January 1 of every even-numbered year  
896 thereafter.

897 (b) Adopt standards and requirements for county  
898 emergency management plans. The standards and requirements must  
899 ensure that county plans are coordinated and consistent with the  
900 State Comprehensive Emergency Management Plan. If a municipality  
901 elects to establish an emergency management program, it must adopt  
902 a city emergency management plan that complies with all standards  
903 and requirements applicable to county emergency management plans.

904 (c) Assist political subdivisions in preparing and  
905 maintaining emergency management plans.

906 (d) Review periodically political subdivision emergency  
907 management plans for consistency with the State Comprehensive  
908 Emergency Management Plan and standards and requirements adopted  
909 under this section.

910 (e) Make recommendations to the Legislature, building  
911 code organizations and political subdivisions for zoning, building  
912 and other land use controls, safety measures for securing mobile  
913 homes or other nonpermanent or semipermanent structures; and other  
914 preparedness, prevention and mitigation measures designed to  
915 eliminate emergencies or reduce their impact.

916 (f) In accordance with the State Comprehensive  
917 Emergency Management Plan and program for emergency management,  
918 ascertain the requirements of the state, its political  
919 subdivisions and the Mississippi Band of Choctaw Indians for



920 equipment and supplies of all kinds in the event of an emergency;  
921 plan for and either procure supplies, medicines, materials and  
922 equipment or enter into memoranda of agreement or open purchase  
923 orders that will ensure their availability; and use and employ  
924 from time to time any of the property, services and resources  
925 within the state in accordance with this article.

926 (g) Anticipate trends and promote innovations that will  
927 enhance the emergency management system.

928 (h) Prepare and distribute to appropriate state and  
929 local officials catalogs of federal, state and private assistance  
930 programs.

931 (i) Implement training programs to improve the ability  
932 of state and local emergency management personnel to prepare and  
933 implement emergency management plans and programs, and require all  
934 local civil defense directors or emergency management directors to  
935 complete such training as a condition to their authority to  
936 continue service in their emergency management positions.

937 (j) Review periodically emergency operating procedures  
938 of state agencies and recommend revisions as needed to ensure  
939 consistency with the State Comprehensive Emergency Management Plan  
940 and program.

941 (k) Prepare, in advance whenever possible, such  
942 executive orders, proclamations and rules for issuance by the  
943 Governor as are necessary or appropriate for coping with  
944 emergencies and disasters.



945           (1) Cooperate with the federal government and any  
946 public or private agency or entity in achieving any purpose of  
947 this article.

948           (m) Assist political subdivisions with the creation and  
949 training of urban search and rescue teams and promote the  
950 development and maintenance of a state urban search and rescue  
951 program.

952           (n) Delegate, as necessary and appropriate, authority  
953 vested in it under this article and provide for the subdelegation  
954 of such authority.

955           (o) Require each county or municipality to designate an  
956 agent for working with the agency in the event of a natural  
957 disaster. The county or municipality may designate any person as  
958 agent who has completed training programs required of emergency  
959 management directors.

960           (p) Report biennially to the Governor and the President  
961 of the Senate, and the Speaker of the House of Representatives, no  
962 later than January 1 of every odd-numbered year, the status of the  
963 emergency management capabilities of the state and its political  
964 subdivisions.

965           (q) In accordance with Section 25-43-1 et seq., create,  
966 implement, administer, promulgate, amend and rescind rules,  
967 programs and plans needed to carry out the provisions of this  
968 article with due consideration for, and in cooperating with, the  
969 plans and programs of the federal government.



970 (r) Have the sole power and discretion to enter into,  
971 sign, execute and deliver long-term or multiyear leases of real  
972 and personal property with other state and federal agencies.

973 (s) Do other things necessary, incidental or  
974 appropriate for the implementation of this article.

975 (t) In accordance with Section 33-15-15, create,  
976 implement, administer, promulgate, amend and rescind rules  
977 regarding the development of the Mississippi Disaster Reservist  
978 Program.

979 (u) Unless otherwise instructed by the Governor,  
980 sponsor and develop mutual aid plans and agreements between the  
981 political subdivisions of the state and the Mississippi Band of  
982 Choctaw Indians similar to the mutual aid arrangements with other  
983 states referenced in Section 33-15-11(b)(10).

984 (v) Develop, in conjunction with the Public Procurement  
985 Review Board and the Department of Information Technology  
986 Services, emergency procurement rules that will apply to state  
987 agencies and local governing authorities in the event that the  
988 Governor has declared a state of emergency under Section 33-15-11.  
989 Such rules shall ensure that procurements can be made efficiently  
990 and are documented. Rules adopted under this paragraph (v) shall  
991 not be suspended by any emergency declaration or any other  
992 authority exercised under this chapter.

993 **SECTION 4.** Section 33-15-11, Mississippi Code of 1972, is  
994 brought forward as follows:





995           33-15-11. (a) The Governor shall have general direction and  
996 control of the activities of the Emergency Management Agency and  
997 Council and shall be responsible for the carrying out of the  
998 provisions of this article, and in the event of a man-made,  
999 technological or natural disaster or emergency beyond local  
1000 control, may assume direct operational control over all or any  
1001 part of the emergency management functions within this state.

1002           (b) In performing his duties under this article, the  
1003 Governor is further authorized and empowered:

1004                 (1) To make, amend and rescind the necessary orders,  
1005 rules and regulations to carry out the provisions of this article  
1006 with due consideration of the plans of the federal government, and  
1007 to enter into disaster assistance grants and agreements with the  
1008 federal government under the terms as may be required by federal  
1009 law.

1010                 (2) To work with the Mississippi Emergency Management  
1011 Agency in preparing a comprehensive plan and program for the  
1012 emergency management of this state, such plan and program to be  
1013 integrated into and coordinated with the emergency management  
1014 plans of the federal government and of other states to the fullest  
1015 possible extent, and to coordinate the preparation of plans and  
1016 programs for emergency management by the political subdivisions of  
1017 this state, such local plans to be integrated into and coordinated  
1018 with the emergency management plan and program of this state to  
1019 the fullest possible extent.



1020           (3) In accordance with such plan and program for  
1021 emergency management of this state, to ascertain the requirements  
1022 of the state or the political subdivisions thereof for food or  
1023 clothing or other necessities of life in the event of attack or  
1024 natural or man-made or technological disasters and to plan for and  
1025 procure supplies, medicines, materials and equipment, and to use  
1026 and employ from time to time any of the property, services and  
1027 resources within the state, for the purposes set forth in this  
1028 article; to make surveys of the industries, resources and  
1029 facilities within the state as are necessary to carry out the  
1030 purposes of this article; to institute training programs and  
1031 public information programs, and to take all other preparatory  
1032 steps, including the partial or full mobilization of emergency  
1033 management organizations in advance of actual disaster, to insure  
1034 the furnishing of adequately trained and equipped forces of  
1035 emergency management personnel in time of need.

1036           (4) To cooperate with the President and the heads of  
1037 the Armed Forces, and the Emergency Management Agency of the  
1038 United States, and with the officers and agencies of other states  
1039 in matters pertaining to the emergency management of the state and  
1040 nation and the incidents thereof; and in connection therewith, to  
1041 take any measures which he may deem proper to carry into effect  
1042 any request of the President and the appropriate federal officers  
1043 and agencies, for any action looking to emergency management,  
1044 including the direction or control of (a) blackouts and practice



1045 blackouts, air raid drills, mobilization of emergency management  
1046 forces, and other tests and exercises, (b) warnings and signals  
1047 for drills or attacks and the mechanical devices to be used in  
1048 connection therewith, (c) the effective screening or extinguishing  
1049 of all lights and lighting devices and appliances, (d) shutting  
1050 off water mains, gas mains, electric power connections and the  
1051 suspension of all other utility services, (e) the conduct of  
1052 civilians and the movement and cessation of movement of  
1053 pedestrians and vehicular traffic during, prior and subsequent to  
1054 drills or attack, (f) public meetings or gatherings under  
1055 emergency conditions, and (g) the evacuation and reception of the  
1056 civilian population.

1057           (5) To take such action and give such directions to  
1058 state and local law enforcement officers and agencies as may be  
1059 reasonable and necessary for the purpose of securing compliance  
1060 with the provisions of this article and with the orders, rules and  
1061 regulations made pursuant thereto.

1062           (6) To employ such measures and give such directions to  
1063 the state or local boards of health as may be reasonably necessary  
1064 for the purpose of securing compliance with the provisions of this  
1065 article or with the findings or recommendations of such boards of  
1066 health by reason of conditions arising from enemy attack or the  
1067 threat of enemy attack or natural, man-made or technological  
1068 disaster.



1069           (7) To utilize the services and facilities of existing  
1070 officers and agencies of the state and of the political  
1071 subdivisions thereof; and all such officers and agencies shall  
1072 cooperate with and extend their services and facilities to the  
1073 Governor as he may request.

1074           (8) To establish agencies and offices and to appoint  
1075 executive, technical, clerical and other personnel as may be  
1076 necessary to carry out the provisions of this article including,  
1077 with due consideration to the recommendation of the local  
1078 authorities, part-time or full-time state and regional area  
1079 directors.

1080           (9) To delegate any authority vested in him under this  
1081 article, and to provide for the subdelegation of any such  
1082 authority.

1083           (10) On behalf of this state to enter into reciprocal  
1084 aid agreements or compacts with other states and the federal  
1085 government, either on a statewide basis or local political  
1086 subdivision basis or with a neighboring state or province of a  
1087 foreign country. Such mutual aid arrangements shall be limited to  
1088 the furnishings or exchange of food, clothing, medicine and other  
1089 supplies; engineering services; emergency housing; police  
1090 services; national or state guards while under the control of the  
1091 state; health, medical and related services; firefighting, rescue,  
1092 transportation and construction services and equipment; personnel  
1093 necessary to provide or conduct these services; and such other



1094 supplies, equipment, facilities, personnel and services as may be  
1095 needed; the reimbursement of costs and expenses for equipment,  
1096 supplies, personnel and similar items for mobile support units,  
1097 firefighting and police units and health units; and on such terms  
1098 and conditions as are deemed necessary.

1099           (11) To sponsor and develop mutual aid plans and  
1100 agreements between the political subdivisions of the state,  
1101 similar to the mutual aid arrangements with other states referred  
1102 to above.

1103           (12) To collect information and data for assessment of  
1104 vulnerabilities and capabilities within the borders of Mississippi  
1105 as it pertains to the nation and state's security and homeland  
1106 defense. This information shall be exempt from the Mississippi  
1107 Public Records Act, Section 25-61-1 et seq.

1108           (13) Authorize any agency or arm of the state to create  
1109 a special emergency management revolving fund, accept donations,  
1110 contributions, fees, grants, including federal funds, as may be  
1111 necessary for such agency or arm of the state to administer its  
1112 functions of this article as set forth in the Executive Order of  
1113 the Governor.

1114           (14) To authorize the Commissioner of Public Safety to  
1115 select, train, organize and equip a ready reserve of auxiliary  
1116 highway patrolmen.



1117           (15) To suspend or limit the sale, dispensing or  
1118 transportation of alcoholic beverages, firearms, explosives and  
1119 combustibles.

1120           (16) To control, restrict and regulate by rationing,  
1121 freezing, use of quotas, prohibitions on shipments, price-fixing,  
1122 allocation or other means, the use, sale or distribution of food,  
1123 feed, fuel, clothing and other commodities, materials, goods or  
1124 services.

1125           (17) To proclaim a state of emergency in an area  
1126 affected or likely to be affected thereby when he finds that the  
1127 conditions described in Section 33-15-5(g) exist, or when he is  
1128 requested to do so by the mayor of a municipality or by the  
1129 president of the board of supervisors of a county, or when he  
1130 finds that a local authority is unable to cope with the emergency.  
1131 Such proclamation shall be in writing and shall take effect  
1132 immediately upon its execution by the Governor. As soon  
1133 thereafter as possible, such proclamation shall be filed with the  
1134 Secretary of State and be given widespread notice and publicity.  
1135 The Governor, upon advice of the director, shall review the need  
1136 for continuing the state of emergency at least every thirty (30)  
1137 days until the emergency is terminated and shall proclaim a  
1138 reduction of area or the termination of the state of emergency at  
1139 the earliest possible date that conditions warrant.

1140           (18) To declare an emergency impact area when he finds  
1141 that the conditions described in Section 33-15-5(o) exist. The



1142 proclamation shall be in writing and shall take effect immediately  
1143 upon its execution by the Governor. As soon as possible, the  
1144 proclamation shall be filed with the Secretary of State and be  
1145 given widespread notice and publicity. The Governor shall review  
1146 the need for continuing the declaration of emergency impact area  
1147 at least every thirty (30) days until the emergency is terminated,  
1148 and shall proclaim the reduction of the emergency impact area or  
1149 termination of the declaration of emergency impact area at the  
1150 earliest date or dates possible.

1151 (c) In addition to the powers conferred upon the Governor in  
1152 this section, the Legislature hereby expressly delegates to the  
1153 Governor the following powers and duties in the event of an  
1154 impending enemy attack, an enemy attack, or a man-made,  
1155 technological or natural disaster where such disaster is beyond  
1156 local control:

1157 (1) To suspend the provisions of any regulatory statute  
1158 prescribing the procedures for conduct of state business, or the  
1159 orders, rules or regulations of any state agency, if strict  
1160 compliance with the provisions of any statute, order, rule or  
1161 regulation would in any way prevent, hinder or delay necessary  
1162 action in coping with a disaster or emergency.

1163 (2) To transfer the direction, personnel or functions  
1164 of state agencies, boards, commissions or units thereof for the  
1165 purpose of performing or facilitating disaster or emergency  
1166 services.



1167           (3) To commandeer or utilize any private property if  
1168 necessary to cope with a disaster or emergency, provided that such  
1169 private property so commandeered or utilized shall be paid for  
1170 under terms and conditions agreed upon by the participating  
1171 parties. The owner of said property shall immediately be given a  
1172 receipt for the said private property and said receipt shall serve  
1173 as a valid claim against the Treasury of the State of Mississippi  
1174 for the agreed upon market value of said property.

1175           (4) To perform and exercise such other functions,  
1176 powers and duties as may be necessary to promote and secure the  
1177 safety and protection of the civilian population in coping with a  
1178 disaster or emergency.

1179           (d) This section does not authorize the Governor or a  
1180 designee of the Governor to act in contravention of Section  
1181 33-7-303.

1182           **SECTION 5.** Section 5-3-72, Mississippi Code of 1972, which  
1183 requires the PEER Committee to biennially review the state's  
1184 purchasing laws, is repealed.

1185           **SECTION 6.** This act shall take effect and be in force from  
1186 and after July 1, 2022.

