

By: Senator(s) Blackwell, Younger,  
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To: Technology;  
Accountability, Efficiency,  
Transparency

SENATE BILL NO. 2807

1 AN ACT TO AMEND SECTION 25-53-5, MISSISSIPPI CODE OF 1972, TO  
2 ALLOW THE DEPARTMENT OF INFORMATION TECHNOLOGY SERVICES TO  
3 AUTHORIZE CERTAIN EMERGENCY CONTRACTS AND PURCHASES, TO REQUIRE  
4 ADOPTION OF A ONE-YEAR LIMIT FOR EMERGENCY PROCUREMENT CONTRACTS,  
5 AND TO JOINTLY STUDY THE STATE'S PURCHASING LAWS WITH THE PUBLIC  
6 PROCUREMENT REVIEW BOARD ON A BIENNIAL BASIS; TO AMEND SECTION  
7 33-15-14, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR THE ADOPTION OF  
8 EMERGENCY PROCUREMENT RULES AS PART OF THE STATE'S EMERGENCY  
9 MANAGEMENT PLAN AND TO PROHIBIT EMERGENCY DECLARATIONS FROM  
10 SUSPENDING SUCH RULES; TO AMEND SECTION 27-104-7, MISSISSIPPI CODE  
11 OF 1972, TO REQUIRE THAT THE PUBLIC PROCUREMENT BOARD LIMIT  
12 EMERGENCY CONTRACTS APPROVED TO A TERM OF ONE YEAR, AND TO JOINTLY  
13 STUDY WITH THE DEPARTMENT OF INFORMATION TECHNOLOGY SERVICES THE  
14 STATE'S PURCHASING LAWS ON A BIENNIAL BASIS; TO REPEAL SECTION  
15 5-3-72, MISSISSIPPI CODE OF 1972, WHICH REQUIRES THE PEER  
16 COMMITTEE TO BIENNIALLY REVIEW THE STATE'S PURCHASING LAWS AND TO  
17 REPORT TO THE LEGISLATURE ON THE REVIEW; AND FOR RELATED PURPOSES.

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

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

21 25-53-5. The authority shall have the following powers,  
22 duties, and responsibilities:

23 (a) (i) The authority shall provide for the  
24 development of plans for the efficient acquisition and utilization  
25 of computer equipment and services by all agencies of state



26 government, and provide for their implementation. In so doing,  
27 the authority may use the MDITS' staff, at the discretion of the  
28 executive director of the authority, or the authority may contract  
29 for the services of qualified consulting firms in the field of  
30 information technology and utilize the service of such consultants  
31 as may be necessary for such purposes. Pursuant to Section  
32 25-53-1, the provisions of this section shall not apply to the  
33 Department of Human Services for a period of three (3) years  
34 beginning on July 1, 2017. Pursuant to Section 25-53-1, the  
35 provisions of this section shall not apply to the Department of  
36 Child Protection Services for a period of three (3) years  
37 beginning July 1, 2017.

38 (ii) [Repealed]

39 (b) The authority shall immediately institute  
40 procedures for carrying out the purposes of this chapter and  
41 supervise the efficient execution of the powers and duties of the  
42 office of executive director of the authority. In the execution  
43 of its functions under this chapter, the authority shall maintain  
44 as a paramount consideration the successful internal organization  
45 and operation of the several agencies so that efficiency existing  
46 therein shall not be adversely affected or impaired. In executing  
47 its functions in relation to the institutions of higher learning  
48 and junior colleges in the state, the authority shall take into  
49 consideration the special needs of such institutions in relation  
50 to the fields of teaching and scientific research.



51 (c) Title of whatever nature of all computer equipment  
52 now vested in any agency of the State of Mississippi is hereby  
53 vested in the authority, and no such equipment shall be disposed  
54 of in any manner except in accordance with the direction of the  
55 authority or under the provisions of such rules and regulations as  
56 may hereafter be adopted by the authority in relation thereto.

57 (d) (i) The authority shall adopt rules, regulations,  
58 and procedures governing the acquisition of computer and  
59 telecommunications equipment and services which shall, to the  
60 fullest extent practicable, insure the maximum of competition  
61 between all manufacturers of supplies or equipment or services.  
62 In the writing of specifications, in the making of contracts  
63 relating to the acquisition of such equipment and services, and in  
64 the performance of its other duties the authority shall provide  
65 for the maximum compatibility of all information systems hereafter  
66 installed or utilized by all state agencies and may require the  
67 use of common computer languages where necessary to accomplish the  
68 purposes of this chapter. The authority may establish by  
69 regulation and charge reasonable fees on a nondiscriminatory basis  
70 for the furnishing to bidders of copies of bid specifications and  
71 other documents issued by the authority.

72 (ii) If the governing board or the executive head,  
73 or his designees, of any agency determine that an emergency exists  
74 in regard to the purchase of any computer or telecommunications  
75 equipment or services, so that the delay incident to giving



76 opportunity for competitive bidding would be detrimental to the  
77 interests of the state, then the head of the agency, or his  
78 designees, must file with MDITS:

79 1. A statement explaining the conditions and  
80 circumstances of the emergency, which must include a detailed  
81 description of the events leading up to the situation and the  
82 negative impact to the entity if the purchase is made after  
83 following any rules or policies of the MDITS that would mandate  
84 competitive procurement; and

85 2. A certified copy of the appropriate  
86 minutes of the board of the agency requesting the emergency  
87 purchase, if applicable. Upon receipt of the statement and  
88 applicable board certification, the Executive Director of the  
89 Department of Information Technology Services, or his designees,  
90 may authorize in writing the purchase to be made without having to  
91 comply with competitive bidding requirements.

92 If the governing board or the executive head, or his  
93 designees, of any agency determine that an emergency exists in  
94 regard to the purchase of any computer or telecommunications  
95 equipment or services, so that the delay incident to giving  
96 opportunity for competitive bidding would threaten the health or  
97 safety of any person, or the preservation or protection of  
98 property, then the provisions of any rules or policies adopted by  
99 MDITS for competitive bidding shall not apply, and any officer or  
100 agent of the agency having general or specific authority for



101 making the purchase or contract shall approve the bill presented  
102 for payment, and he shall certify in writing from whom the  
103 purchase was made, or with whom the contract was made.

104 Total purchases made under this subparagraph (ii) shall only  
105 be for the purpose of meeting needs created by the emergency  
106 situation. Following the emergency purchase, documentation of the  
107 purchase, including a description of the purchase, the purchase  
108 price thereof, and the nature of the emergency must be filed with  
109 MDITS. The term of a contract awarded under this subparagraph  
110 (ii) shall not exceed one (1) year.

111 (e) The authority shall adopt rules and regulations  
112 governing the sharing with, or the sale or lease of information  
113 technology services to any nonstate agency or person. Such  
114 regulations shall provide that any such sharing, sale or lease  
115 shall be restricted in that same shall be accomplished only where  
116 such services are not readily available otherwise within the  
117 state, and then only at a charge to the user not less than the  
118 prevailing rate of charge for similar services by private  
119 enterprise within this state.

120 (f) The authority may, in its discretion, establish a  
121 special technical advisory committee or committees to study and  
122 make recommendations on technology matters within the competence  
123 of the authority as the authority may see fit. Persons serving on  
124 the Information Resource Council, its task forces, or any such  
125 technical advisory committees shall be entitled to receive their



126 actual and necessary expenses actually incurred in the performance  
127 of such duties, together with mileage as provided by law for state  
128 employees, provided the same has been authorized by a resolution  
129 duly adopted by the authority and entered on its minutes prior to  
130 the performance of such duties.

131 (g) The authority may provide for the development and  
132 require the adoption of standardized computer programs and may  
133 provide for the dissemination of information to and the  
134 establishment of training programs for the personnel of the  
135 various information technology centers of state agencies and  
136 personnel of the agencies utilizing the services thereof.

137 (h) The authority shall adopt reasonable rules and  
138 regulations requiring the reporting to the authority through the  
139 office of executive director of such information as may be  
140 required for carrying out the purposes of this chapter and may  
141 also establish such reasonable procedures to be followed in the  
142 presentation of bills for payment under the terms of all contracts  
143 for the acquisition of computer equipment and services now or  
144 hereafter in force as may be required by the authority or by the  
145 executive director in the execution of their powers and duties.

146 (i) The authority shall require such adequate  
147 documentation of information technology procedures utilized by the  
148 various state agencies and may require the establishment of such  
149 organizational structures within state agencies relating to



150 information technology operations as may be necessary to  
151 effectuate the purposes of this chapter.

152 (j) The authority may adopt such further reasonable  
153 rules and regulations as may be necessary to fully implement the  
154 purposes of this chapter. All rules and regulations adopted by  
155 the authority shall be published and disseminated in readily  
156 accessible form to all affected state agencies, and to all current  
157 suppliers of computer equipment and services to the state, and to  
158 all prospective suppliers requesting the same. Such rules and  
159 regulations shall be kept current, be periodically revised, and  
160 copies thereof shall be available at all times for inspection by  
161 the public at reasonable hours in the offices of the authority.  
162 Whenever possible no rule, regulation or any proposed amendment to  
163 such rules and regulations shall be finally adopted or enforced  
164 until copies of the proposed rules and regulations have been  
165 furnished to all interested parties for their comment and  
166 suggestions.

167 (k) The authority shall establish rules and regulations  
168 which shall provide for the submission of all contracts proposed  
169 to be executed by the executive director for computer equipment or  
170 services to the authority for approval before final execution, and  
171 the authority may provide that such contracts involving the  
172 expenditure of less than such specified amount as may be  
173 established by the authority may be finally executed by the



174 executive director without first obtaining such approval by the  
175 authority.

176 (l) The authority is authorized to purchase, lease, or  
177 rent computer equipment or services and to operate that equipment  
178 and use those services in providing services to one or more state  
179 agencies when in its opinion such operation will provide maximum  
180 efficiency and economy in the functions of any such agency or  
181 agencies.

182 (m) Upon the request of the governing body of a  
183 political subdivision or instrumentality, the authority shall  
184 assist the political subdivision or instrumentality in its  
185 development of plans for the efficient acquisition and utilization  
186 of computer equipment and services. An appropriate fee shall be  
187 charged the political subdivision by the authority for such  
188 assistance.

189 (n) The authority shall adopt rules and regulations  
190 governing the protest procedures to be followed by any actual or  
191 prospective bidder, \* \* \* offeror or contractor who is aggrieved  
192 in connection with the solicitation or award of a contract for the  
193 acquisition of computer equipment or services. Such rules and  
194 regulations shall prescribe the manner, time and procedure for  
195 making protests and may provide that a protest not timely filed  
196 shall be summarily denied. The authority may require the  
197 protesting party, at the time of filing the protest, to post a  
198 bond, payable to the state, in an amount that the authority





199 determines sufficient to cover any expense or loss incurred by the  
200 state, the authority or any state agency as a result of the  
201 protest if the protest subsequently is determined by a court of  
202 competent jurisdiction to have been filed without any substantial  
203 basis or reasonable expectation to believe that the protest was  
204 meritorious; however, in no event may the amount of the bond  
205 required exceed a reasonable estimate of the total project cost.  
206 The authority, in its discretion, also may prohibit any  
207 prospective bidder, \* \* \* offeror or contractor who is a party to  
208 any litigation involving any such contract with the state, the  
209 authority or any agency of the state to participate in any other  
210 such bid, offer or contract, or to be awarded any such contract,  
211 during the pendency of the litigation.

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

216 All acquisitions of computer equipment and services involving  
217 the expenditure of funds in excess of the dollar amount  
218 established in Section 31-7-13(c), or rentals or leases in excess  
219 of the dollar amount established in Section 31-7-13(c) for the  
220 term of the contract, shall be based upon competitive and open  
221 specifications, and contracts therefor shall be entered into only  
222 after advertisements for bids are published in one or more daily  
223 newspapers having a general circulation in the state not less than



224 fourteen (14) days prior to receiving sealed bids therefor. The  
225 authority may reserve the right to reject any or all bids, and if  
226 all bids are rejected, the authority may negotiate a contract  
227 within the limitations of the specifications so long as the terms  
228 of any such negotiated contract are equal to or better than the  
229 comparable terms submitted by the lowest and best bidder, and so  
230 long as the total cost to the State of Mississippi does not exceed  
231 the lowest bid. If the authority accepts one (1) of such bids, it  
232 shall be that which is the lowest and best.

233 (p) When applicable, the authority may procure  
234 equipment, systems and related services in accordance with the law  
235 or regulations, or both, which govern the Bureau of Purchasing of  
236 the Office of General Services or which govern the Mississippi  
237 Department of Information Technology Services procurement of  
238 telecommunications equipment, software and services.

239 (q) The authority is authorized to purchase, lease, or  
240 rent information technology and services for the purpose of  
241 establishing pilot projects to investigate emerging technologies.  
242 These acquisitions shall be limited to new technologies and shall  
243 be limited to an amount set by annual appropriation of the  
244 Legislature. These acquisitions shall be exempt from the  
245 advertising and bidding requirement.

246 (r) All fees collected by the Mississippi Department of  
247 Information Technology Services shall be deposited into the



248 Mississippi Department of Information Technology Services  
249 Revolving Fund unless otherwise specified by the Legislature.

250 (s) The authority shall work closely with the council  
251 to bring about effective coordination of policies, standards and  
252 procedures relating to procurement of remote sensing and  
253 geographic information systems (GIS) resources. In addition, the  
254 authority is responsible for development, operation and  
255 maintenance of a delivery system infrastructure for geographic  
256 information systems data. The authority shall provide a warehouse  
257 for Mississippi's geographic information systems data.

258 (t) The authority shall manage one or more State Data  
259 Centers to provide information technology services on a  
260 cost-sharing basis. In determining the appropriate services to be  
261 provided through the State Data Center, the authority should  
262 consider those services that:

263 (i) Result in savings to the state as a whole;  
264 (ii) Improve and enhance the security and  
265 reliability of the state's information and business systems; and  
266 (iii) Optimize the efficient use of the state's  
267 information technology assets, including, but not limited to,  
268 promoting partnerships with the state institutions of higher  
269 learning and community colleges to capitalize on advanced  
270 information technology resources.

271 (u) The authority shall increase federal participation  
272 in the cost of the State Data Center to the extent provided by law



273 and its shared technology infrastructure through providing such  
274 shared services to agencies that receive federal funds. With  
275 regard to state institutions of higher learning and community  
276 colleges, the authority may provide shared services when mutually  
277 agreeable, following a determination by both the authority and the  
278 Board of Trustees of State Institutions of Higher Learning or the  
279 Mississippi Community College Board, as the case may be, that the  
280 sharing of services is mutually beneficial.

281 (v) The authority, in its discretion, may require new  
282 or replacement agency business applications to be hosted at the  
283 State Data Center. With regard to state institutions of higher  
284 learning and community colleges, the authority and the Board of  
285 Trustees of State Institutions of Higher Learning or the  
286 Mississippi Community College Board, as the case may be, may agree  
287 that institutions of higher learning or community colleges may  
288 utilize business applications that are hosted at the State Data  
289 Center, following a determination by both the authority and the  
290 applicable board that the hosting of those applications is  
291 mutually beneficial. In addition, the authority may establish  
292 partnerships to capitalize on the advanced technology resources of  
293 the Board of Trustees of State Institutions of Higher Learning or  
294 the Mississippi Community College Board, following a determination  
295 by both the authority and the applicable board that such a  
296 partnership is mutually beneficial.



297 (w) The authority shall provide a periodic update  
298 regarding reform-based information technology initiatives to the  
299 Chairmen of the House and Senate Accountability, Efficiency and  
300 Transparency Committees.

301 From and after July 1, 2018, the expenses of this agency  
302 shall be defrayed by appropriation from the State General Fund.  
303 In addition, in order to receive the maximum use and benefit from  
304 information technology and services, expenses for the provision of  
305 statewide shared services that facilitate cost-effective  
306 information processing and telecommunication solutions shall be  
307 defrayed by pass-through funding and shall be deposited into the  
308 Mississippi Department of Information Technology Services  
309 Revolving Fund unless otherwise specified by the Legislature.  
310 These funds shall only be utilized to pay the actual costs  
311 incurred by the Mississippi Department of Information Technology  
312 Services for providing these shared services to state agencies.  
313 Furthermore, state agencies shall work in full cooperation with  
314 the Board of the Mississippi Department of Information Technology  
315 Services to identify computer equipment or services to minimize  
316 duplication, reduce costs, and improve the efficiency of providing  
317 common technology services across agency boundaries.

318 (x) On a biennial basis, beginning in 2023, the  
319 Department of Information Technology Services, in conjunction with  
320 the Public Procurement Review Board, must jointly produce a report  
321 to the Legislature on the state's procurement laws and



322 regulations, including any recommendations both entities consider  
323 to be necessary to make procurement by state agencies and  
324 governing authorities more efficient and effective. The review  
325 must be delivered to the Legislature by December 1 of any year in  
326 which the review is required.

327       **SECTION 2.** Section 33-15-14, Mississippi Code of 1972, is  
328 amended as follows:

329       33-15-14. (1) The agency is responsible for maintaining a  
330 comprehensive statewide program of emergency management. The  
331 agency is responsible for coordination with efforts of the federal  
332 government with other departments and agencies of state  
333 government, with county and municipal governments and school  
334 boards and with private agencies that have a role in emergency  
335 management.

336       (2) In performing its duties under this article, the agency  
337 shall:

338       (a) Work with the Governor, or his representative, in  
339 preparing a State Comprehensive Emergency Management Plan of this  
340 state, which shall be integrated into and coordinated with the  
341 emergency management plans of the federal government and of other  
342 states to the fullest possible extent, and to coordinate the  
343 preparation of plans and programs for emergency management by the  
344 political subdivisions of the state, such local plans to be  
345 integrated into and coordinated with the emergency plan and  
346 program of this state. The plan must contain provisions to ensure



347 that the state is prepared for emergencies and minor, major and  
348 catastrophic disasters, and the agency shall work closely with  
349 local governments and agencies and organizations with emergency  
350 management responsibilities in preparing and maintaining the plan.  
351 The State Comprehensive Emergency Management Plan will be  
352 operations oriented and:

353 (i) Include an evacuation component that includes  
354 specific regional and interregional planning provisions and  
355 promotes intergovernmental coordination of evacuation activities.  
356 This component must, at a minimum: ensure coordination pertaining  
357 to evacuees crossing county lines; set forth procedures for  
358 directing people caught on evacuation routes to safe shelter; and  
359 establish policies and strategies for emergency medical  
360 evacuations.

361 (ii) Include a shelter component that includes  
362 specific regional and interregional planning provisions and  
363 promotes coordination of shelter activities between the public,  
364 private and nonprofit sectors. This component must, at a minimum:  
365 contain strategies to ensure the availability of adequate public  
366 shelter space in each region of the state; establish strategies  
367 for refuge-of-last-resort programs; provide strategies to assist  
368 local emergency management efforts to ensure that adequate  
369 staffing plans exist for all shelters, including medical and  
370 security personnel; provide for a postdisaster communications  
371 system for public shelters; establish model shelter guidelines for



372 operations, registration, inventory, power generation capability,  
373 information management and staffing; and set forth policy guidance  
374 for sheltering people with special needs.

375 (iii) Include a postdisaster response and recovery  
376 component that includes specific regional and interregional  
377 planning provisions and promotes intergovernmental coordination of  
378 postdisaster response and recovery activities. This component  
379 must provide for postdisaster response and recovery strategies  
380 according to whether a disaster is minor, major or catastrophic.  
381 The postdisaster response and recovery component must, at a  
382 minimum: establish the structure of the state's postdisaster  
383 response and recovery organization; establish procedures for  
384 activating the state's plan; set forth policies used to guide  
385 postdisaster response and recovery activities; describe the chain  
386 of command during the postdisaster response and recovery period;  
387 describe initial and continuous postdisaster response and recovery  
388 actions; identify the roles and responsibilities of each involved  
389 agency and organization; provide for a comprehensive  
390 communications plan; establish procedures for monitoring mutual  
391 aid agreements; provide for rapid impact assessment teams; ensure  
392 the availability of an effective statewide urban search and rescue  
393 program coordinated with the fire services; ensure the existence  
394 of a comprehensive statewide medical care and relief plan  
395 administered by the State Department of Health; and establish





396 systems for coordinating volunteers and accepting and distributing  
397 donated funds and goods.

398 (iv) Include additional provisions addressing  
399 aspects of preparedness, response and recovery, as determined  
400 necessary by the agency.

401 (v) Address the need for coordinated and  
402 expeditious deployment of state resources, including the  
403 Mississippi National Guard. In the case of an imminent major  
404 disaster, procedures should address predeployment of the  
405 Mississippi National Guard, and, in the case of an imminent  
406 catastrophic disaster, procedures should address predeployment of  
407 the Mississippi National Guard and the United States Armed Forces.  
408 This subparagraph (v) does not authorize the agency to call out  
409 and deploy the Mississippi National Guard, which authority and  
410 determination rests solely with the Governor.

411 (vi) Establish a system of communications and  
412 warning to ensure that the state's population and emergency  
413 management agencies are warned of developing emergency situations  
414 and can communicate emergency response decisions.

415 (vii) Establish guidelines and schedules for  
416 annual exercises that evaluate the ability of the state and its  
417 political subdivisions to respond to minor, major and catastrophic  
418 disasters and support local emergency management agencies. Such  
419 exercises shall be coordinated with local governments and, to the  
420 extent possible, the federal government.



421 (viii) 1. Assign lead and support  
422 responsibilities to state agencies and personnel for emergency  
423 support functions and other support activities.

424 2. The agency shall prepare an interim  
425 postdisaster response and recovery component that substantially  
426 complies with the provisions of this paragraph (a). Each state  
427 agency assigned lead responsibility for an emergency support  
428 function by the State Comprehensive Emergency Management Plan  
429 shall also prepare a detailed operational plan needed to implement  
430 its responsibilities. The complete State Comprehensive Emergency  
431 Management Plan shall be submitted to the Governor no later than  
432 January 1, 1996, and on January 1 of every even-numbered year  
433 thereafter.

434 (b) Adopt standards and requirements for county  
435 emergency management plans. The standards and requirements must  
436 ensure that county plans are coordinated and consistent with the  
437 State Comprehensive Emergency Management Plan. If a municipality  
438 elects to establish an emergency management program, it must adopt  
439 a city emergency management plan that complies with all standards  
440 and requirements applicable to county emergency management plans.

441 (c) Assist political subdivisions in preparing and  
442 maintaining emergency management plans.

443 (d) Review periodically political subdivision emergency  
444 management plans for consistency with the State Comprehensive



445 Emergency Management Plan and standards and requirements adopted  
446 under this section.

447 (e) Make recommendations to the Legislature, building  
448 code organizations and political subdivisions for zoning, building  
449 and other land use controls, safety measures for securing mobile  
450 homes or other nonpermanent or semipermanent structures; and other  
451 preparedness, prevention and mitigation measures designed to  
452 eliminate emergencies or reduce their impact.

453 (f) In accordance with the State Comprehensive  
454 Emergency Management Plan and program for emergency management,  
455 ascertain the requirements of the state, its political  
456 subdivisions and the Mississippi Band of Choctaw Indians for  
457 equipment and supplies of all kinds in the event of an emergency;  
458 plan for and either procure supplies, medicines, materials and  
459 equipment or enter into memoranda of agreement or open purchase  
460 orders that will ensure their availability; and use and employ  
461 from time to time any of the property, services and resources  
462 within the state in accordance with this article.

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

465 (h) Prepare and distribute to appropriate state and  
466 local officials catalogs of federal, state and private assistance  
467 programs.

468 (i) Implement training programs to improve the ability  
469 of state and local emergency management personnel to prepare and



470 implement emergency management plans and programs, and require all  
471 local civil defense directors or emergency management directors to  
472 complete such training as a condition to their authority to  
473 continue service in their emergency management positions.

474 (j) Review periodically emergency operating procedures  
475 of state agencies and recommend revisions as needed to ensure  
476 consistency with the State Comprehensive Emergency Management Plan  
477 and program.

478 (k) Prepare, in advance whenever possible, such  
479 executive orders, proclamations and rules for issuance by the  
480 Governor as are necessary or appropriate for coping with  
481 emergencies and disasters.

482 (l) Cooperate with the federal government and any  
483 public or private agency or entity in achieving any purpose of  
484 this article.

485 (m) Assist political subdivisions with the creation and  
486 training of urban search and rescue teams and promote the  
487 development and maintenance of a state urban search and rescue  
488 program.

489 (n) Delegate, as necessary and appropriate, authority  
490 vested in it under this article and provide for the subdelegation  
491 of such authority.

492 (o) Require each county or municipality to designate an  
493 agent for working with the agency in the event of a natural  
494 disaster. The county or municipality may designate any person as



495 agent who has completed training programs required of emergency  
496 management directors.

497 (p) Report biennially to the Governor and the President  
498 of the Senate, and the Speaker of the House of Representatives, no  
499 later than January 1 of every odd-numbered year, the status of the  
500 emergency management capabilities of the state and its political  
501 subdivisions.

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

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

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

512 (t) In accordance with Section 33-15-15, create,  
513 implement, administer, promulgate, amend and rescind rules  
514 regarding the development of the Mississippi Disaster Reservist  
515 Program.

516 (u) Unless otherwise instructed by the Governor,  
517 sponsor and develop mutual aid plans and agreements between the  
518 political subdivisions of the state and the Mississippi Band of



519 Choctaw Indians similar to the mutual aid arrangements with other  
520 states referenced in Section 33-15-11(b) (10).

521 (v) Develop, in conjunction with the Public Procurement  
522 Review Board and the Department of Information Technology  
523 Services, emergency procurement rules that will apply to state  
524 agencies and governing authorities if the Governor declares a  
525 state of emergency under Section 33-15-11. Such rules shall  
526 ensure that procurements can be made efficiently and are  
527 documented. Rules adopted pursuant to this paragraph (v) shall  
528 not be suspended by any authority of any provision of this  
529 chapter.

530 **SECTION 3.** Section 27-104-7, Mississippi Code of 1972, is  
531 amended as follows:

532 27-104-7. (1) (a) There is created the Public Procurement  
533 Review Board, which shall be reconstituted on January 1, 2018, and  
534 shall be composed of the following members:

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

537 (ii) Two (2) individuals appointed by the  
538 Lieutenant Governor with the advice and consent of the Senate; and

539 (iii) The Executive Director of the Department of  
540 Finance and Administration, serving as an ex officio and nonvoting  
541 member.

542 (b) The initial terms of each appointee shall be as  
543 follows:



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

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

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

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

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

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

558 (c) When appointing members to the Public Procurement  
559 Review Board, the Governor and Lieutenant Governor shall take into  
560 consideration persons who possess at least five (5) years of  
561 management experience in general business, health care or finance  
562 for an organization, corporation or other public or private  
563 entity. Any person, or any employee or owner of a company, who  
564 receives any grants, procurements or contracts that are subject to  
565 approval under this section shall not be appointed to the Public  
566 Procurement Review Board. Any person, or any employee or owner of  
567 a company, who is a principal of the source providing a personal  
568 or professional service shall not be appointed to the Public



569 Procurement Review Board if the principal owns or controls a  
570 greater than five percent (5%) interest or has an ownership value  
571 of One Million Dollars (\$1,000,000.00) in the source's business,  
572 whichever is smaller. No member shall be an officer or employee  
573 of the State of Mississippi while serving as a voting member on  
574 the Public Procurement Review Board.

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

578 (e) The members of the Public Procurement Review Board  
579 shall elect a chair from among the membership, and he or she shall  
580 preside over the meetings of the board. The board shall annually  
581 elect a vice chair, who shall serve in the absence of the chair.  
582 No business shall be transacted, including adoption of rules of  
583 procedure, without the presence of a quorum of the board. Three  
584 (3) members shall be a quorum. No action shall be valid unless  
585 approved by a majority of the members present and voting, entered  
586 upon the minutes of the board and signed by the chair. Necessary  
587 clerical and administrative support for the board shall be  
588 provided by the Department of Finance and Administration. Minutes  
589 shall be kept of the proceedings of each meeting, copies of which  
590 shall be filed on a monthly basis with the chairs of the  
591 Accountability, Efficiency and Transparency Committees of the  
592 Senate and House of Representatives and the chairs of the





593 Appropriations Committees of the Senate and House of  
594 Representatives.

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

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

601 (b) Adopt regulations governing the approval of  
602 contracts let for the construction and maintenance of state  
603 buildings and other state facilities as well as related contracts  
604 for architectural and engineering services.

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

609 (c) Adopt regulations governing any lease or rental  
610 agreement by any state agency or department, including any state  
611 agency financed entirely by federal funds, for space outside the  
612 buildings under the jurisdiction of the Department of Finance and  
613 Administration. These regulations shall require each agency  
614 requesting to lease such space to provide the following  
615 information that shall be published by the Department of Finance  
616 and Administration on its website: the agency to lease the space;  
617 the terms of the lease; the approximate square feet to be leased;



618 the use for the space; a description of a suitable space; the  
619 general location desired for the leased space; the contact  
620 information for a person from the agency; the deadline date for  
621 the agency to have received a lease proposal; any other specific  
622 terms or conditions of the agency; and any other information  
623 deemed appropriate by the Division of Real Property Management of  
624 the Department of Finance and Administration or the Public  
625 Procurement Review Board. The information shall be provided  
626 sufficiently in advance of the time the space is needed to allow  
627 the Division of Real Property Management of the Department of  
628 Finance and Administration to review and preapprove the lease  
629 before the time for advertisement begins;

630 (d) Adopt, in its discretion, regulations to set aside  
631 at least five percent (5%) of anticipated annual expenditures for  
632 the purchase of commodities from minority businesses; however, all  
633 such set-aside purchases shall comply with all purchasing  
634 regulations promulgated by the department and shall be subject to  
635 all bid requirements. Set-aside purchases for which competitive  
636 bids are required shall be made from the lowest and best minority  
637 business bidder; however, if no minority bid is available or if  
638 the minority bid is more than two percent (2%) higher than the  
639 lowest bid, then bids shall be accepted and awarded to the lowest  
640 and best bidder. However, the provisions in this paragraph shall  
641 not be construed to prohibit the rejection of a bid when only one  
642 (1) bid is received. Such rejection shall be placed in the



643 minutes. For the purposes of this paragraph, the term "minority  
644 business" means a business which is owned by a person who is a  
645 citizen or lawful permanent resident of the United States and who  
646 is:

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

649 (ii) Hispanic: of Mexican, Puerto Rican, Cuban,  
650 Central or South American, or other Spanish or Portuguese culture  
651 or origin regardless of race;

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

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

657 (v) Female;

658 (e) In consultation with and approval by the Chairs of  
659 the Senate and House Public Property Committees, approve leases,  
660 for a term not to exceed eighteen (18) months, entered into by  
661 state agencies for the purpose of providing parking arrangements  
662 for state employees who work in the Woolfolk Building, the Carroll  
663 Gartin Justice Building or the Walter Sillers Office Building;

664 (f) Promulgate rules and regulations governing the  
665 solicitation and selection of contractual services personnel,  
666 including personal and professional services contracts for any  
667 form of consulting, policy analysis, public relations, marketing,



668 public affairs, legislative advocacy services or any other  
669 contract that the board deems appropriate for oversight, with the  
670 exception of any personal service contracts entered into by any  
671 agency that employs only nonstate service employees as defined in  
672 Section 25-9-107(c), any personal service contracts entered into  
673 for computer or information technology-related services governed  
674 by the Mississippi Department of Information Technology Services,  
675 any personal service contracts entered into by the individual  
676 state institutions of higher learning, any personal service  
677 contracts entered into by the Mississippi Department of  
678 Transportation, any personal service contracts entered into by the  
679 Department of Human Services through June 30, 2019, which the  
680 Executive Director of the Department of Human Services determines  
681 would be useful in establishing and operating the Department of  
682 Child Protection Services, any personal service contracts entered  
683 into by the Department of Child Protection Services through June  
684 30, 2019, any contracts for entertainers and/or performers at the  
685 Mississippi State Fairgrounds entered into by the Mississippi Fair  
686 Commission, any contracts entered into by the Department of  
687 Finance and Administration when procuring aircraft maintenance,  
688 parts, equipment and/or services, any contract entered into by the  
689 Department of Public Safety for service on specialized equipment  
690 and/or software required for the operation at such specialized  
691 equipment for use by the Office of Forensics Laboratories, and any  
692 contract for attorney, accountant, actuary auditor, architect,



693 engineer, anatomical pathologist, utility rate expert services,  
694 and any personal service contracts approved by the Executive  
695 Director of the Department of Finance and Administration and  
696 entered into by the Coordinator of Mental Health Accessibility  
697 through June 30, 2022. Any such rules and regulations shall  
698 provide for maintaining continuous internal audit covering the  
699 activities of such agency affecting its revenue and expenditures  
700 as required under Section 7-7-3(6)(d). Any rules and regulation  
701 changes related to personal and professional services contracts  
702 that the Public Procurement Review Board may propose shall be  
703 submitted to the Chairs of the Accountability, Efficiency and  
704 Transparency Committees of the Senate and House of Representatives  
705 and the Chairs of the Appropriation Committees of the Senate and  
706 House of Representatives at least fifteen (15) days before the  
707 board votes on the proposed changes, and those rules and  
708 regulation changes, if adopted, shall be promulgated in accordance  
709 with the Mississippi Administrative Procedures Act;

710 (g) Approve all personal and professional services  
711 contracts involving the expenditures of funds in excess of  
712 Seventy-five Thousand Dollars (\$75,000.00), except as provided in  
713 paragraph (f) of this subsection (2) and in subsection (8);

714 (h) Develop mandatory standards with respect to  
715 contractual services personnel that require invitations for public  
716 bid, requests for proposals, record keeping and financial  
717 responsibility of contractors. The Public Procurement Review



718 Board shall, unless exempted under this paragraph (h) or under  
719 paragraph (i) or (o) of this subsection (2), require the agency  
720 involved to submit the procurement to a competitive procurement  
721 process, and may reserve the right to reject any or all resulting  
722 procurements;

723 (i) Prescribe certain circumstances by which agency  
724 heads may enter into contracts for personal and professional  
725 services without receiving prior approval from the Public  
726 Procurement Review Board. The Public Procurement Review Board may  
727 establish a preapproved list of providers of various personal and  
728 professional services for set prices with which state agencies may  
729 contract without bidding or prior approval from the board;

730 (i) Agency requirements may be fulfilled by  
731 procuring services performed incident to the state's own programs.  
732 The agency head shall determine in writing whether the price  
733 represents a fair market value for the services. When the  
734 procurements are made from other governmental entities, the  
735 private sector need not be solicited; however, these contracts  
736 shall still be submitted for approval to the Public Procurement  
737 Review Board.

738 (ii) Contracts between two (2) state agencies,  
739 both under Public Procurement Review Board purview, shall not  
740 require Public Procurement Review Board approval. However, the  
741 contracts shall still be entered into the enterprise resource  
742 planning system;



743 (j) Provide standards for the issuance of requests for  
744 proposals, the evaluation of proposals received, consideration of  
745 costs and quality of services proposed, contract negotiations, the  
746 administrative monitoring of contract performance by the agency  
747 and successful steps in terminating a contract;

748 (k) Present recommendations for governmental  
749 privatization and to evaluate privatization proposals submitted by  
750 any state agency;

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

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

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

765 (o) Develop and implement the following standards and  
766 procedures for the approval of any sole source contract for



767 personal and professional services regardless of the value of the  
768 procurement:

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

772 (ii) An agency that has been issued a binding,  
773 valid court order mandating that a particular source or provider  
774 must be used for the required service must include a copy of the  
775 applicable court order in all future sole source contract reviews  
776 for the particular personal or professional service referenced in  
777 the court order.

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

786 1. The personal or professional service  
787 offered in the contract;

788 2. An explanation of why the personal or  
789 professional service is the only one that can meet the needs of  
790 the agency;





791                   3. An explanation of why the source is the  
792 only person or entity that can provide the required personal or  
793 professional service;

794                   4. An explanation of why the amount to be  
795 expended for the personal or professional service is reasonable;  
796 and

797                   5. The efforts that the agency went through  
798 to obtain the best possible price for the personal or professional  
799 service.

800                   (iv) If any person or entity objects and proposes  
801 that the personal or professional service published under  
802 subparagraph (iii) of this paragraph (o) is not a sole source  
803 service and can be provided by another person or entity, then the  
804 objecting person or entity shall notify the Public Procurement  
805 Review Board and the agency that published the proposed sole  
806 source contract with a detailed explanation of why the personal or  
807 professional service is not a sole source service.

808                   (v) 1. If the agency determines after review that  
809 the personal or professional service in the proposed sole source  
810 contract can be provided by another person or entity, then the  
811 agency must withdraw the sole source contract publication from the  
812 procurement portal website and submit the procurement of the  
813 personal or professional service to an advertised competitive bid  
814 or selection process.



815                   2. If the agency determines after review that  
816 there is only one (1) source for the required personal or  
817 professional service, then the agency may appeal to the Public  
818 Procurement Review Board. The agency has the burden of proving  
819 that the personal or professional service is only provided by one  
820 (1) source.

821                   3. If the Public Procurement Review Board has  
822 any reasonable doubt as to whether the personal or professional  
823 service can only be provided by one (1) source, then the agency  
824 must submit the procurement of the personal or professional  
825 service to an advertised competitive bid or selection process. No  
826 action taken by the Public Procurement Review Board in this appeal  
827 process shall be valid unless approved by a majority of the  
828 members of the Public Procurement Review Board present and voting.

829                   (vi) The Public Procurement Review Board shall  
830 prepare and submit a quarterly report to the House of  
831 Representatives and Senate Accountability, Efficiency and  
832 Transparency Committees that details the sole source contracts  
833 presented to the Public Procurement Review Board and the reasons  
834 that the Public Procurement Review Board approved or rejected each  
835 contract. These quarterly reports shall also include the  
836 documentation and memoranda required in subsection (4) of this  
837 section. An agency that submitted a sole source contract shall be  
838 prepared to explain the sole source contract to each committee by  
839 December 15 of each year upon request by the committee;



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

842 (3) All submissions shall be made sufficiently in advance of  
843 each monthly meeting of the Public Procurement Review Board as  
844 prescribed by the Public Procurement Review Board. If the Public  
845 Procurement Review Board rejects any contract submitted for review  
846 or approval, the Public Procurement Review Board shall clearly set  
847 out the reasons for its action, including, but not limited to, the  
848 policy that the agency has violated in its submitted contract and  
849 any corrective actions that the agency may take to amend the  
850 contract to comply with the rules and regulations of the Public  
851 Procurement Review Board.

852 (4) All sole source contracts for personal and professional  
853 services awarded by state agencies, other than those exempted  
854 under Section 27-104-7(2)(f) and (8), whether approved by an  
855 agency head or the Public Procurement Review Board, shall contain  
856 in the procurement file a written determination for the approval,  
857 using a request form furnished by the Public Procurement Review  
858 Board. The written determination shall document the basis for the  
859 determination, including any market analysis conducted in order to  
860 ensure that the service required was practicably available from  
861 only one (1) source. A memorandum shall accompany the request  
862 form and address the following four (4) points:

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



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

867 (c) Explanation of why the price is considered  
868 reasonable; and

869 (d) Description of the efforts that were made to  
870 conduct a noncompetitive negotiation to get the best possible  
871 price for the taxpayers.

872 (5) In conjunction with the State Personnel Board, the  
873 Public Procurement Review Board shall develop and promulgate rules  
874 and regulations to define the allowable legal relationship between  
875 contract employees and the contracting departments, agencies and  
876 institutions of state government under the jurisdiction of the  
877 State Personnel Board, in compliance with the applicable rules and  
878 regulations of the federal Internal Revenue Service (IRS) for  
879 federal employment tax purposes. Under these regulations, the  
880 usual common law rules are applicable to determine and require  
881 that such worker is an independent contractor and not an employee,  
882 requiring evidence of lawful behavioral control, lawful financial  
883 control and lawful relationship of the parties. Any state  
884 department, agency or institution shall only be authorized to  
885 contract for personnel services in compliance with those  
886 regulations.

887 (6) No member of the Public Procurement Review Board shall  
888 use his or her official authority or influence to coerce, by  
889 threat of discharge from employment, or otherwise, the purchase of



890 commodities, the contracting for personal or professional  
891 services, or the contracting for public construction under this  
892 chapter.

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

896 (8) Nothing in this section shall impair or limit the  
897 authority of the Board of Trustees of the Public Employees'  
898 Retirement System to enter into any personal or professional  
899 services contracts directly related to their constitutional  
900 obligation to manage the trust funds, including, but not limited  
901 to, actuarial, custodial banks, cash management, investment  
902 consultant and investment management contracts.

903 (9) Notwithstanding the exemption of personal and  
904 professional services contracts entered into by the Department of  
905 Human Services and personal and professional services contracts  
906 entered into by the Department of Child Protection Services from  
907 the provisions of this section under subsection (2)(f), before the  
908 Department of Human Services or the Department of Child Protection  
909 Services may enter into a personal or professional service  
910 contract, the department(s) shall give notice of the proposed  
911 personal or professional service contract to the Public  
912 Procurement Review Board for any recommendations by the board.  
913 Upon receipt of the notice, the board shall post the notice on its  
914 website and on the procurement portal website established by



915 Sections 25-53-151 and 27-104-165. If the board does not respond  
916 to the department(s) within seven (7) calendar days after  
917 receiving the notice, the department(s) may enter the proposed  
918 personal or professional service contract. If the board responds  
919 to the department(s) within seven (7) calendar days, then the  
920 board has seven (7) calendar days from the date of its initial  
921 response to provide any additional recommendations. After the end  
922 of the second seven-day period, the department(s) may enter the  
923 proposed personal or professional service contract. The board is  
924 not authorized to disapprove any proposed personal or professional  
925 services contracts. This subsection shall stand repealed on July  
926 1, 2022.

927 (10) If the governing board or the executive head, or his  
928 designees, of any agency determine that an emergency exists in  
929 regard to the purchase of any computer or telecommunications  
930 equipment or services, so that the delay incident to giving  
931 opportunity for competitive bidding would be detrimental to the  
932 interests of the state, then the head of the agency, or his  
933 designees, must file with the MDITS:

934 (a) A statement explaining the conditions and  
935 circumstances of the emergency, which must include a detailed  
936 description of the events leading up to the situation and the  
937 negative impact to the entity if the purchase is made after  
938 following any rules or policies of MDITS that would mandate  
939 competitive procurement; and



940           (b) A certified copy of the appropriate minutes of the  
941 board of the agency requesting the emergency purchase, if  
942 applicable. Upon receipt of the statement and applicable board  
943 certification, the Executive Director of the Department of  
944 Information Technology Services, or his designees, may authorize  
945 in writing the purchase to be made without having to comply with  
946 competitive bidding requirements.

947           If the governing board or the executive head, or his  
948 designees, of any agency determine that an emergency exists in  
949 regard to the purchase of any computer or telecommunications  
950 equipment or services, so that the delay incident to giving  
951 opportunity for competitive bidding would threaten the health or  
952 safety of any person, or the preservation or protection of  
953 property, then the provisions of any rules or policies adopted by  
954 MDITS for competitive bidding shall not apply, and any officer or  
955 agent of the agency having general or specific authority for  
956 making the purchase or contract shall approve the bill presented  
957 for payment, and he shall certify in writing from whom the  
958 purchase was made, or with whom the contract was made.

959           Total purchases made under this subsection (10) shall only be  
960 for the purpose of meeting needs created by the emergency  
961 situation. Following the emergency purchase, documentation of the  
962 purchase, including a description of the purchase, the purchase  
963 price thereof, and the nature of the emergency must be filed with



964 MDITS. The term of a contract awarded under this subsection (10)  
965 shall not exceed one (1) year.

966 (11) On a biennial basis, beginning in 2023, the Public  
967 Procurement Review Board, in conjunction with the Department of  
968 Information Technology Services, must jointly produce a report to  
969 the Legislature on the state's procurement laws and regulations,  
970 including any recommendations both entities consider to be  
971 necessary to make procurement by state agencies and governing  
972 authorities to be more efficient and effective. The review must  
973 be delivered to the Legislature by December 1 of any year in which  
974 the review is required.

975 **SECTION 4.** Section 5-3-72, Mississippi Code of 1972, which  
976 requires that the Joint Legislative Committee on Performance  
977 Evaluation and Expenditure Review perform a biennial review of the  
978 state's purchasing law and deliver a report of the review to the  
979 Legislature, is repealed.

980 **SECTION 5.** This act shall take effect and be in force from  
981 and after July 1, 2022.

