

April 24, 2025

TO THE MISSISSIPPI HOUSE OF REPRESENTATIVES:

GOVERNOR'S VETO MESSAGE FOR HOUSE BILL 924

I am returning House Bill 924: "AN ACT TO CREATE THE CREATING LOGIC FOR EFFICIENCY AND ACCOUNTABILITY REFORM (CLEAR) ACT; TO CREATE NEW SECTION 5-3-77, MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE PEER COMMITTEE TO ESTABLISH A PROGRAM OF REVIEWING SELECTED NEWLY ADOPTED STATE AGENCY ADMINISTRATIVE RULES; TO PROVIDE THAT SUCH REVIEWS SHALL PRODUCE A REPORT TO THE LEGISLATURE ON NEWLY ADOPTED STATE AGENCY ADMINISTRATIVE RULES AND THEIR CONFORMITY TO THE INTENT OF THE LAW AUTHORIZING THEM, AS WELL AS ANY OTHER MATTER THE COMMITTEE CONSIDERS APPROPRIATE; TO AMEND SECTION 47-5-579, MISSISSIPPI CODE OF 1972, TO CLARIFY THAT ALL PROGRAM WITHHOLDINGS FROM PARTICIPANTS OF THE PRISON INDUSTRIES CORPORATION'S WORK INITIATIVE PROGRAM SHALL BE CALCULATED BASED UPON PARTICIPANT WAGES AFTER MANDATORY DEDUCTIONS; TO REQUIRE ACCOUNTING OF ANY DEPENDENT SUPPORT PAYMENTS, FINES, RESTITUTIONS, FEES OR COSTS, AS ORDERED BY THE COURT, BE REPORTED FOR EACH WORK INITIATIVE PARTICIPANT; TO REQUIRE THAT THE REMAINING SENTENCE LENGTH OF SUCH PARTICIPANT BE COLLECTED, MAINTAINED AND REPORTED; AND TO REQUIRE THAT A FINANCIAL ACCOUNT CREATION DATE BE COLLECTED, MAINTAINED AND REPORTED FOR EACH PARTICIPANT; TO AMEND SECTION 1, CHAPTER 431, LAWS OF 2024, TO EXTEND THE OPERATION OF THE MISSISSIPPI K-12 AND POSTSECONDARY MENTAL HEALTH TASK FORCE FOR ONE ADDITIONAL YEAR; TO PROVIDE THAT THE TASK FORCE SHALL DEVELOP AND REPORT ITS FINDINGS AND RECOMMENDATIONS TO THE MISSISSIPPI LEGISLATURE ON OR BEFORE OCTOBER 1, 2025; TO DISSOLVE THE TASK FORCE UPON PRESENTATION OF THE REPORT DUE ON OR BEFORE OCTOBER 1, 2025; TO ENACT THE "MISSISSIPPI K-12 AND POSTSECONDARY MENTAL HEALTH ACT OF 2025"; TO ESTABLISH AN EXECUTIVE COMMITTEE OF THE INTERAGENCY COORDINATING COUNCIL FOR CHILDREN AND YOUTH (ICCCY); TO PROVIDE FOR THE COMPOSITION OF THE EXECUTIVE COMMITTEE; TO SPECIFY THE EXECUTIVE COMMITTEE'S COORDINATING RESPONSIBILITIES RELATED TO THE GENERAL MENTAL HEALTH AND WELL-BEING OF CHILDREN AND ADOLESCENTS; TO PROVIDE FOR THE DISSEMINATION OF RECOMMENDATIONS AND INFORMATION COMPILED BY THE EXECUTIVE COMMITTEE; TO AMEND SECTION 43-13-1, MISSISSIPPI CODE OF 1972, TO CONFORM; TO BRING FORWARD SECTIONS 43-14-3 AND 43-14-5, MISSISSIPPI CODE OF 1972, FOR THE PURPOSE OF POSSIBLE AMENDMENT; TO CREATE SECTION 5-3-70, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR CIVIL ENFORCEMENT OF PEER COMMITTEE SUBPOENAS; TO AMEND SECTION 5-3-59, MISSISSIPPI CODE OF 1972, TO PROVIDE CRIMINAL PENALTIES FOR PERSONS WHO FAIL TO COMPLY WITH SUBPOENAS FROM THE PEER COMMITTEE; TO AMEND SECTIONS 5-1-23 AND 5-1-25, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THESE PROVISIONS ARE NOT APPLICABLE TO SUBPOENAS ISSUED BY THE PEER COMMITTEE; TO AMEND SECTION 5-1-35, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE SERGEANT-AT-ARMS OF THE MISSISSIPPI STATE SENATE SHALL DELIVER TO DPS THE REQUEST TO SERVE SUBPOENAS ISSUED BY THE PEER COMMITTEE; TO AMEND SECTION 29-13-1, MISSISSIPPI CODE OF 1972, TO ALLOW FOR THE DEPARTMENT OF FINANCE AND ADMINISTRATION TO ESTABLISH A SELF-INSURANCE FUND OR SELF-INSURANCE RESERVES, OR ANY COMBINATION THEREOF, TO INSURE STATE-OWNED BUILDINGS AND CONTENTS; TO REQUIRE THE MISSISSIPPI SELF-INSURANCE TASK FORCE TO REPORT ON THE COST BENEFITS OF SELF-INSURING BEFORE FUNDS ARE EXPENDED TO SELF-INSURE; TO CREATE THE MISSISSIPPI SELF-INSURANCE TASK FORCE TO STUDY, REPORT AND MAKE RECOMMENDATIONS REGARDING A SELF-INSURANCE PLAN; TO PROVIDE CERTAIN ITEMS FOR THE TASK FORCE TO STUDY, REPORT AND MAKE RECOMMENDATIONS ON; TO PROVIDE FOR THE MEMBERSHIP AND MEETING PROCEDURE OF THE TASK FORCE; TO REQUIRE THE TASK FORCE TO MAKE A REPORT OF ITS FINDINGS AND RECOMMENDATIONS, INCLUDING ANY RECOMMENDED LEGISLATION, TO THE LIEUTENANT GOVERNOR, SPEAKER OF THE HOUSE OF REPRESENTATIVES AND THE CHAIRS OF THE INSURANCE COMMITTEES OF THE HOUSE OF REPRESENTATIVES AND SENATE ON OR BEFORE NOVEMBER 1, 2025, AT WHICH TIME THE TASK FORCE WILL BE DISSOLVED; TO AMEND SECTION 31-11-3, MISSISSIPPI CODE OF 1972, TO CONFORM; TO BRING FORWARD SECTIONS 37-29-67, 41-73-31, 37-7-303 AND 37-101-15, MISSISSIPPI CODE OF 1972, FOR THE PURPOSE OF POSSIBLE AMENDMENT; AND FOR RELATED PURPOSES."

House Bill 924 proposes a series of amendments to a number of unrelated state laws, including: (1) greatly expanding the powers of the Joint Legislative Committee on Performance Evaluation and Expenditure Review ("PEER") by giving it unbounded oversight authority over regulations adopted by executive agencies and unilateral year-round subpoena power and enforcement authority; (2) revising the formula for compensation received by inmates in a work release program and modifying the auditing requirements; (3) extending the required reporting period for the K-12 and Postsecondary School Mental Health Task Force; (4) creating a new executive committee of the Interagency Coordinating Council for Children and Youth and adding members to the

Council; and (5) authorizing DFA to establish a self-insurance fund or reserve for state property contingent on the findings of a newly created task force.

Section 2 of House Bill 924 authorizes PEER to “establish a program for reviewing selected newly adopted state agency administrative rules. . . [to determine] their conformity to the intent of the law authorizing them. . . .” (emphasis added). Such a standard is utterly meaningless and plainly violates Due Process. In the words of the late Justice Scalia, the people are “governed by laws, not by the intentions of the legislators,” and if one was to determine the “greatest defect” of legislative intent, it would surely be “its illegitimacy.” As Justice Scalia famously said, looking at legislative history and intent is the equivalent of “walking into a crowded cocktail party and looking over the heads of the guests to pick out your friends.” Relying on legislative history and intent as a method of statutory interpretation allows the reviewer to select from a wide range of potentially conflicting materials and statements to support the reviewer’s policy preferences. The plain text of the authorizing statute, not the nebulous and mysterious intent of the legislature is the constitutional North Star for executive agency action. Empowering PEER to determine whether executive action comports with legislative intent is standardless and the “equivalent of Romeo sending Mercutio on a wild goose chase—and then admitting there never was a goose while denying he even suggested a chase.” The existing required administrative procedures for adopting agency regulations, including mandatory public notice and comment, and the judicial branch are the appropriate arbiters of the legality of agency regulations. While the Legislature is free, through the normal legislative process, to amend the text of any authorizing statute to curtail executive agency action, it may not do so through the long arm of PEER.

In addition to the likely unconstitutional delegation of authority to PEER in Section 2 of House Bill 924, Sections 10 through 12 seek to give PEER unilateral year-round subpoena enforcement authority. Under existing law, if a person refuses to comply with a legislative subpoena, the chamber, by resolution entered on its journal, may commit the person for contempt, and such commitment may not extend beyond the final adjournment of the session. Such person may be arrested by the sergeant-at-arms and brought before the chamber for compliance with the subpoena. See Miss. Code § 5-1-23. Thus, under existing law, legislative subpoena and contempt power is constrained to the 90 (or 120) days that the Legislature is in session and requires any contempt citation be issued by resolution of the entire chamber. PEER, like all legislative committees, is authorized to utilize this existing subpoena enforcement mechanism. See Miss. Code § 5-3-59(a).

Section 10 of House Bill 924 seeks to give PEER unique and super subpoena enforcement authority empowering the chairman, in the name of PEER, to file a complaint before any chancery court to enforce a PEER subpoena. Section 10 goes on to mandate that the court “shall take jurisdiction of the witness and subject matter” and “shall direct the witness to respond to any lawful question and to produce all documentary evidence in possession of the witness that is lawfully demanded.” Finally, Section 10 empowers PEER to utilize the Attorney General of the State of Mississippi to pursue such subpoena enforcement. In addition, Section 11 imposes a criminal penalty of \$1,000 and imprisonment in the county jail for not more than six months for any person who willfully refuses to comply with a PEER subpoena. Such criminal contempt shall be prosecuted by the Attorney General or the appropriate county prosecuting attorney.

Setting aside any potential separation of powers issues created by mandating that the judicial branch enforce a legislative subpoena, the current law limiting legislative subpoena power to the period of time that the Legislature is in session, requiring a resolution of the chamber to enforce the subpoena and limiting enforcement power to proceedings conducted by the legislative branch are necessary and prudent checks on legislative authority. House Bill 924 seeks to greatly expand the subpoena power and enforcement authority of one single legislative committee, appointed by the Speaker and Lieutenant Governor, authorizing the committee to take enforcement action without either the knowledge or approval of a majority of the members of either legislative chamber. Again, under existing law, a majority of the members of the chamber must vote to enforce a legislative subpoena and hold a person in contempt for failing to comply. As the Mississippi Supreme Court recently affirmed, the Mississippi Legislature may act only through a majority of its members, and individual members or a small group thereof do not have standing to act on behalf of the body. This indisputable principle is almost certainly why current law requires a resolution by the chamber to authorize holding a person in contempt for failing to comply with a legislative subpoena. In short, the proposed expanded subpoena power for PEER in House Bill 924 unwisely delegates enforcement authority to a small group of legislators raising serious concerns.

Finally, Section 15 of House Bill 924 directs the Department of Finance and Administration (“DFA”) to establish “a self-insurance fund or self-insurance reserves, or any combination thereof” for all state-owned buildings, and provides “[n]o funds shall be expended for the establishment of any such self-insurance program until such time as the Mississippi Self-Insurance Task Force has completed a report and the report reflects a cost benefit to the State of Mississippi.” Section 16 sets up the Task Force, and Section 17 amends DFA’s enabling statute to “allow for the establishment of a self-insurance fund or self-insurance reserve, or any combination thereof.” While in recent years the Legislature has established dozens of task forces to study a wide variety of issues, the Legislature has not amended existing statutes in anticipation of the findings of such task forces. House Bill 924 seeks to amend DFA’s enabling statutes to authorize it to establish a self-insurance fund before the task force determines if such a self-insurance program for state buildings would be financially sound, a clear example of placing the cart before the horse. Further, as Hurricane Katrina taught us, Mississippi is susceptible to natural disasters that could result in catastrophic correlated property losses throughout the entire state. Given the potential for such devastating correlated losses, it is highly doubtful that the creation of a self-insurance risk pool for state property would be financially sound. Until such a predicate determination is made, however, it is imprudent to amend existing statutes to empower DFA to establish a self-insurance fund or reserves for state property.

In sum, while no doubt well-intentioned, many of the amendments to existing state law proposed by House Bill 924 require further study and careful reconsideration. Thus, I am vetoing House Bill 924 at this time.

Respectfully submitted,

TATE REEVES
GOVERNOR