By: Senator(s) DeLano, Barnett, Barrett, Berry, Blackmon, Blackwell, Blount, Boyd, Brumfield, Bryan, Butler, Carter, Chassaniol, Chism, DeBar, DuPree, England, Fillingane, Frazier, Gillespie Isom, Harkins, Hartness, Hickman, Hill, Hopson, Jackson, Johnson, Kirby, Ladner, McCaughn, McLendon, McMahan, Michel, Mumford, Norwood, Parks, Pope, Rhodes, Seymour, Simmons (12th), Simmons (13th), Sparks, Suber, Tate, Taylor, Thomas, Thompson, Turner-Ford, Whaley, Wiggins, Williams, Younger

To: Government Structure

SENATE BILL NO. 2632
(As Sent to Governor)

AN ACT TO ENACT THE LOCAL GOVERNMENTS DISASTER RECOVERY EMERGENCY LOAN PROGRAM ACT; TO DEFINE TERMS; TO ESTABLISH THE LOCAL GOVERNMENT DISASTER RECOVERY EMERGENCY LOAN PROGRAM TO BE ADMINISTERED BY THE MISSISSIPPI EMERGENCY MANAGEMENT AGENCY FOR THE PURPOSE OF ASSISTING LOCAL GOVERNMENTS IN RECOVERING FROM CERTAIN FEDERALLY DECLARED DISASTERS BY ISSUING LOANS TO LOCAL GOVERNMENTS; TO PROVIDE THAT NO LOAN SHALL BE ISSUED UNDER THE AUTHORITY OF THIS ACT AFTER A CERTAIN DATE; TO SET FORTH THE POWERS AND DUTIES OF THE MISSISSIPPI EMERGENCY MANAGEMENT AGENCY IN ADMINISTERING THIS ACT; TO ALLOW THE MISSISSIPPI EMERGENCY MANAGEMENT AGENCY TO AUTHORIZE AN ADMINISTRATOR TO CARRY OUT ANY OR ALL OF THE POWERS AND DUTIES ENUMERATED IN THIS ACT; TO EXEMPT THE MISSISSIPPI EMERGENCY MANAGEMENT AGENCY FROM ANY REQUIREMENT THAT THE PUBLIC PROCUREMENT REVIEW BOARD APPROVE ANY PERSONAL OR PROFESSIONAL SERVICES CONTRACTS OR PRE-APPROVE ANY SOLICITATION OF SUCH CONTRACTS FOR PURPOSES OF THIS ACT; TO CREATE A SPECIAL FUND IN THE STATE TREASURY TO BE DESIGNATED AS THE "LOCAL GOVERNMENTS DISASTER RECOVERY EMERGENCY LOAN FUND"; TO REQUIRE EACH RECIPIENT OF A LOAN UNDER THE PROGRAM TO ESTABLISH A DEDICATED SOURCE OF REVENUE FOR REPAYMENT OF THE LOAN IN THE EVENT THAT THE FEDERAL EMERGENCY MANAGEMENT AGENCY DECLINES TO REIMBURSE AN EXPENDITURE FOR WHICH LOAN PROCEEDS WERE USED; TO PROVIDE THAT THE EXECUTED LOAN AGREEMENT WILL OBLIGATE THE LOCAL GOVERNMENT TO REPAY THE PROCEEDS OF THE LOAN IMMEDIATELY UPON RECEIPT OF REIMBURSEMENTS FROM THE FEDERAL EMERGENCY MANAGEMENT AGENCY; TO PROVIDE THAT THE LOAN AGREEMENT SHALL PROVIDE FOR THE REPAYMENT OF ALL FUNDS RECEIVED FROM THE EMERGENCY FUND WITHIN NOT MORE THAN TWO YEARS FROM THE DATE THAT THE FEDERAL EMERGENCY MANAGEMENT AGENCY DECLINED TO REIMBURSE FOR AN EXPENDITURE FOR WHICH LOAN PROCEEDS WERE USED; TO REQUIRE A RECIPIENT LOCAL GOVERNMENT TO PLEDGE ITS SALES TAX REVENUE DISTRIBUTION OR ITS HOMESTEAD EXEMPTION ANNUAL TAX LOSS REIMBURSEMENT, AS THE CASE MAY BE, TO MEET THE REPAYMENT

SCHEDULE CONTAINED IN THE LOAN AGREEMENT IN THE EVENT THAT THE FEDERAL EMERGENCY MANAGEMENT AGENCY DECLINES TO REIMBURSE AN EXPENDITURE FOR WHICH LOAN PROCEEDS WERE USED; TO AMEND SECTION 27-104-7, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT ANY PERSONAL OR PROFESSIONAL SERVICE CONTRACTS ENTERED INTO BY THE MISSISSIPPI EMERGENCY MANAGEMENT AGENCY UNDER THIS ACT ARE EXEMPT FROM APPROVAL BY THE PUBLIC PROCUREMENT REVIEW BOARD; AND FOR RELATED PURPOSES.

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

SECTION 1. This act shall be known and may be cited as the "Local Governments Disaster Recovery Emergency Loan Program Act."

SECTION 2. As used in this section, the following terms shall have the meaning ascribed herein unless the context clearly requires otherwise:

(a) "Agency" means the Mississippi Emergency Management Agency.

(b) "Disaster" means the federally declared disaster Number EM-3640/DR-4899-MS, for the winter storm on January 23 through 27, 2026.

(c) "Eligible expenditure(s)" means seventy-five percent (75%) of expenses incurred by a local government that are reimbursable from the Federal Emergency Management Agency under the public assistance category A through F for that local government within the federally declared disaster area. For expenses of a local government under the public assistance category F, any expenditures for utility co-operatives shall only be incurred for government utility co-operatives. The term does not include expenses incurred for losses that are otherwise covered as insured losses or covered by donations.

(d) "Emergency fund" means the "2026 Local Governments Disaster Recovery Emergency Loan Fund" created in Section 4 of this act.

(e) "Federal disaster declaration" means the presidential declaration, EM-3640/DR-4899-MS, providing assistance in response and recovery to the disaster.

(f) "Federally declared disaster area" means those counties designated in the federal disaster declaration or added to the federal disaster declaration by amendment of the Federal Emergency Management Agency.

(g) "Loan" means a disbursement of public funds to a principal borrower under this act that is required to be repaid to the emergency fund by the borrower in accordance with the terms of an executed loan agreement.

(h) "Local government" means a county, municipality or political subdivision thereof, within the bounds of the federally declared disaster area.

(i) "Eligible borrower" means a county, municipality or political subdivision thereof, within the bounds of the federally declared disaster area that has applied for assistance through FEMA.

(j) "Program" means the 2026 Local Government Disaster Recovery Emergency Loan Program established in Section 3 of this act.

SECTION 3. (1) (a) There is established the 2026 Local Government Disaster Recovery Emergency Loan Program to be administered by the Mississippi Emergency Management Agency for the purpose of assisting local governments in recovering from the disaster by issuing loans to local governments.

(b) The agency shall act as quickly as is practicable and prudent in deciding on any loan request that it receives. Loans from the emergency fund may be made to eligible local governments, as set forth in an executed loan agreement for payment or reimbursement of the eligible expenditure(s) of the local government as determined by the agency. The agency may establish a maximum amount for any loan from the emergency fund in order to provide for broad and equitable participation in the program.

(c) Eligible borrowers may apply for a loan pursuant to the policies and processes established by the agency.

(d) No loan shall be issued under this act after July 1, 2027. The term of any loan issued under this act shall not exceed a period of five (5) years.

(2) (a) Loan proceeds may be used by the recipient local government for eligible expenditure(s).

(b) Loans issued under this act shall be at a zero percent (0%) interest rate until all federal emergency management agency reimbursements have been processed and applied to the loan

balance. After such time, a one percent (1%) fixed interest rate to cover the administrative costs to service the loan.

(3) In administering this act, the agency shall have the following powers and duties:

(a) To supervise the use of all funds and loan proceeds made available under this act for local governments to recover from the disaster;

(b) To promulgate rules and regulations, to make variances and exceptions thereto, and to establish procedures in accordance with this act for the implementation of the program;

(c) To ensure the funds made available under this act to a local government provide for a distribution of funds that ensures broad and equitable participation among the local governments affected by the disaster;

(d) To maintain in accordance with generally accepted government accounting standards an accurate record of all monies in the emergency fund made available to local governments under this act and the expenditures incurred by each recipient;

(e) To establish policies, procedures and requirements concerning viability and financial capability to repay loans that may be used in approving loans available under this section;

(f) To contract for those facilities and staff needed to administer and provide routine management for the funds and loan program;

(g) To require recipient local governments to consult with the county's emergency management agency and/or an authorized representative of the Mississippi Emergency Management Agency;

(h) To ensure the dedicated source of revenue as collateral by a borrower is sufficient to repay the loan within the loan period;

(i) Require a rigorous documentation process to ensure that state funds are utilized in a manner that maximizes eventual federal reimbursement;

(j) To file with the Legislature reports, no later than October 1 of each year and no later than February 1 of each year, detailing how monies in the emergency fund were expended during the preceding year by each participating local government by period, the number of loans approved and disbursed, the amount of expenditures incurred by each loan recipient, the current balance of any outstanding loans, the specific projects of each loan recipient with a description of the project and the recipient entities, the amounts deposited into the emergency fund under Section 5(4) of this act by loan, and the number of loans repaid under this act.

(4) For efficient and effective administration of the program and emergency fund, the agency may authorize an administrator to carry out any or all of the powers and duties enumerated above.

(5) In carrying out its responsibilities under this act, for any contract under the purview of the Public Procurement Review Board, the agency shall be exempt from any requirement that the Public Procurement Review Board approve any personal or professional services contracts or pre-approve any solicitation of such contracts.

(6) In carrying out its responsibilities under this act, for any policy, procedure, and/or regulation produced by the agency, the agency shall be exempt from all requirements under the Mississippi Administrative Procedures Law.

SECTION 4. (1) There is created a special fund in the State Treasury to be designated as the "2026 Local Governments Disaster Recovery Emergency Loan Fund." The emergency fund shall consist of any monies deposited to the credit of the emergency fund. The emergency fund may receive deposits by the State Treasurer, bond proceeds, grants, gifts, donations or funds from any source, public or private. Except as otherwise provided in this section, the emergency fund shall be credited with all repayments of principal and interest derived from loans made from the emergency fund. Unexpended amounts remaining in the emergency fund at the end of a fiscal year shall not lapse into the State General Fund. Any interest earned on amounts in the emergency fund shall be deposited to the credit of the fund.

(2) The monies in the emergency fund may only be expended subject to appropriation by the Legislature. Monies in the

emergency fund may only be disbursed for purposes authorized under this act. Except as otherwise provided in this act, all monies deposited in the emergency fund, including loan repayments and interest earned on those repayments, shall be used only for providing loans to local governments as the agency deems appropriate. Subject to the availability of funds and the disbursement limit provided in Section 3(1)(b) of this act, loan proceeds under this act may be disbursed to local governments in one or more installments or on a rolling basis, in the discretion of the agency.

(3) In addition to any other purpose authorized under this act, subject to appropriation by the Legislature, any amounts in the emergency fund may be used to defray the reasonable costs of administering the emergency fund and conducting activities under this act in an amount not to exceed one-half of one percent (0.5%) of loan proceeds.

SECTION 5. (1) (a) Each recipient of a loan under the program shall establish a dedicated source of revenue for repayment of the loan in the event that the Federal Emergency Management Agency disallows a reimbursement request for an expenditure for which loan proceeds were used. Before any local government shall receive any loan, it shall have executed with the Department of Revenue and the agency a loan agreement evidencing that loan and the dedicated source of revenue.

(b) All borrowers must agree to pay an amount not greater than twelve and one-half percent (12.5%) of the matching funds required by the Federal Emergency Management Agency for the receipt of federal grant funds.

(c) The executed loan agreement will obligate the local government to repay the proceeds of the loan to the agency receipt of any reimbursements from the Federal Emergency Management Agency.

(d) In the event that the Federal Emergency Management Agency disallows a reimbursement request for an expenditure for which loan proceeds were used, the repayment schedule in each loan agreement shall provide for (i) monthly payments, (ii) semiannual payments, or (iii) other periodic payments. The loan agreement shall provide for the repayment of all funds received from the emergency fund to the agency within not more than two (2) years from the date that the Federal Emergency Management Agency disallowed a reimbursement request for an expenditure for which loan proceeds were used. The Department of Revenue shall withhold semiannually from counties and monthly from municipalities from the amount to be remitted to the county or municipality, a sum equal to the next repayment as provided in the loan agreement in the event that the Federal Emergency Management Agency disallows a reimbursement request for an expenditure for which loan proceeds were used and the county or municipality has pledged such revenue.

(2) A county that receives a loan from the emergency fund shall pledge for repayment of the loan any part of the use tax to which it may be entitled under Chapter 67, Title 27, Mississippi Code of 1972, or any other revenue source to which it is entitled by law, as may be required to meet the repayment schedule contained in the loan agreement in the event that the Federal Emergency Management Agency disallows a reimbursement request for an expenditure for which loan proceeds were used.

(3) A municipality that received a loan from the emergency fund shall pledge for repayment of the loan any part of the sales tax revenue distribution to which it may be entitled under Section 27-65-75 or any other revenue source to which it is entitled by law, as may be required to meet the repayment schedule contained in the loan agreement in the event that the Federal Emergency Management Agency disallows a reimbursement request for an expenditure for which loan proceeds were used.

(4) Upon receipt of any funds in repayment from the borrower and the Department of Revenue to the credit of a borrower for loan obligations under this act, the agency shall immediately deposit such funds into the emergency fund.

(5) The State Auditor, upon request of the agency, shall audit the receipts and expenditures of a local government whose loan repayments appear to be in arrears, and if the Auditor finds the local government is in arrears in those repayments, the Auditor shall immediately notify the executive director of the

agency and the State Fiscal Officer, who may take any action as may be necessary to enforce the terms of the loan agreement, including liquidation and enforcement of the dedicated source of revenue given as security for repayment of the loan and the withholding of all future payments to the county of homestead exemption annual tax loss reimbursements under Section 27-33-77 and all sums allocated to the county or the municipality under Section 27-65-75 until such time as the county or the municipality is again current in its loan repayments as certified by the agency.

SECTION 6. Section 27-104-7, Mississippi Code of 1972, is amended as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Appropriations Committees of the Senate and House of Representatives.

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

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

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

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

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

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

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

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

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

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

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

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

(v) Female;

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

(f) (i) Except as otherwise provided in subparagraph (ii) of this paragraph, promulgate rules and regulations governing the solicitation and selection of contractual services personnel, including personal and professional services contracts for any

form of consulting, policy analysis, public relations, marketing, public affairs, legislative advocacy services or any other contract that the board deems appropriate for oversight, with the exception of:

1. Any personal service contracts entered into by any agency that employs only nonstate service employees as defined in Section 25-9-107(c);

2. Any personal service contracts entered into for computer or information technology-related services governed by the Mississippi Department of Information Technology Services;

3. Any personal service contracts entered into by the individual state institutions of higher learning;

4. Any personal service contracts entered into by the Mississippi Department of Transportation;

5. Any personal service contracts entered into by the Department of Human Services through June 30, 2019, which the Executive Director of the Department of Human Services determines would be useful in establishing and operating the Department of Child Protection Services;

6. Any personal service contracts entered into by the Department of Child Protection Services through June 30, 2019;

7. Any contracts for entertainers and/or performers at the Mississippi State Fairgrounds entered into by the Mississippi Fair Commission;

8. Any contracts entered into by the Department of Finance and Administration when procuring aircraft maintenance, parts, equipment and/or services;

9. Any contract entered into by the Department of Public Safety for service on specialized equipment and/or software required for the operation of such specialized equipment for use by the Office of Forensics Laboratories;

10. Any personal or professional service contract entered into by the Mississippi Department of Health or the Department of Revenue solely in connection with their respective responsibilities under the Mississippi Medical Cannabis Act from February 2, 2022, through June 30, 2026;

11. Any contract for attorney, accountant, actuary auditor, architect, engineer, anatomical pathologist, or utility rate expert services;

12. Any personal service contracts approved by the Executive Director of the Department of Finance and Administration and entered into by the Coordinator of Mental Health Accessibility through June 30, 2022;

13. Any personal or professional services contract entered into by the State Department of Health in

carrying out its responsibilities under the ARPA Rural Water Associations Infrastructure Grant Program through June 30, 2026;

14. And any personal or professional services contract entered into by the Mississippi Department of Environmental Quality in carrying out its responsibilities under the Mississippi Municipality and County Water Infrastructure Grant Program Act of 2022, through June 30, 2026;

15. Any personal or professional services contract entered into by an agency for the design, operation or maintenance of museum exhibits. An agency making a purchase under this exemption shall publicly advertise a Request for Qualifications but shall be otherwise exempt. Any contracts arising from the use of this exemption must be approved by the Public Procurement Review Board prior to execution by the agency;

16. Any personal or professional services contract entered into by the Mississippi Department of Environmental Quality in carrying out its responsibilities under Section 49-2-13(l). This item 16 shall stand repealed on July 1, 2028; *** * ***

17. Any contract entered into by the State Department of Health for service on specialized equipment and/or software required for the operation of such specialized equipment for the use by the Public Health Laboratory *** * ***; and

18. Any contract entered into by the Mississippi Emergency Management Agency for personal or

professional services under Section 3(5) of this act, as well as the fair value or financial value of any contract entered into under this paragraph (f).

Any such rules and regulations shall provide for maintaining continuous internal audit covering the activities of such agency affecting its revenue and expenditures as required under Section 7-7-3(6)(d). Any rules and regulation changes related to personal and professional services contracts that the Public Procurement Review Board may propose shall be submitted to the Chairs of the Accountability, Efficiency and Transparency Committees of the Senate and House of Representatives and the Chairs of the Appropriation Committees of the Senate and House of Representatives at least fifteen (15) days before the board votes on the proposed changes, and those rules and regulation changes, if adopted, shall be promulgated in accordance with the Mississippi Administrative Procedures Act.

(ii) From and after July 1, 2024, the Public Procurement Review Board shall promulgate rules and regulations that require the Department of Finance and Administration to conduct personal and professional services solicitations as provided in subparagraph (i) of this paragraph for those services in excess of Seventy-five Thousand Dollars ($75,000.00) for the Department of Marine Resources, the Department of Wildlife, Fisheries and Parks, the Mississippi Emergency Management Agency and the Mississippi Development Authority, with assistance to be

provided from these entities. Any powers that have been conferred upon agencies in order to comply with the provisions of this section for personal and professional services solicitations shall be conferred upon the Department of Finance and Administration to conduct personal and professional services solicitations for the Department of Marine Resources, the Department of Wildlife, Fisheries and Parks, the Mississippi Emergency Management Agency and the Mississippi Development Authority for those services in excess of Seventy-five Thousand Dollars ($75,000.00). The Department of Finance and Administration shall make any submissions that are required to be made by other agencies to the Public Procurement Review Board for the Department of Marine Resources, the Department of Wildlife, Fisheries and Parks, the Mississippi Emergency Management Agency and the Mississippi Development Authority.

The provisions of this subparagraph (ii) shall stand repealed on June 30, 2027;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(9) Through December 31, 2026, the provisions of this section related to rental agreements or leasing of real property for the purpose of conducting agency business shall not apply to the Office of Workforce Development created in Section 37-153-7.

SECTION 7. This act shall take effect and be in force from and after its passage.