AN ACT TO AMEND SECTION 33-15-11, MISSISSIPPI CODE OF 1972, TO CLARIFY THE AUTHORITY OF THE GOVERNOR TO DECLARE A STATE OF ALERT; TO CREATE THE OFFENSE OF A TERRORISTIC THREAT OR ACT; TO PRESCRIBE THE ELEMENTS THEREOF AND THE PENALTIES THEREFOR; TO CODIFY SECTION 97-27-10, MISSISSIPPI CODE OF 1972, TO DEFINE CERTAIN TERMS; TO AMEND SECTION 97-27-11, MISSISSIPPI CODE OF 1972, TO PROHIBIT THE INTRODUCTION OF HARMFUL BIOLOGICAL SUBSTANCES INTO MISSISSIPPI, TO PROHIBIT THE UNLAWFUL POSSESSION OF SUCH HARMFUL BIOLOGICAL SUBSTANCES, AND TO INCREASE THE PENALTIES ASSOCIATED WITH SUCH PROHIBITED ACTS; TO CODIFY SECTION 97-27-12, MISSISSIPPI CODE OF 1972, TO MAKE UNLAWFUL THE PERFORMING OF AN ACT INTENDED TO CAUSE A PERSON TO FALSELY BELIEVE THAT THE PERSON HAS BEEN EXPOSED TO A HARMFUL BIOLOGICAL, CHEMICAL OR RADIOLOGICAL SUBSTANCE OR DEVICE, TO PROVIDE CRIMINAL PENALTIES AND TO IMPOSE THE COSTS OF INDIVIDUAL AND GOVERNMENTAL RESPONSE TO SUCH UNLAWFUL ACTS; TO AMEND SECTION 97-3-19, MISSISSIPPI CODE OF 1972, TO ESTABLISH A CAPITAL OFFENSE FOR TERRORIST ACTIVITIES THAT RESULT IN LOSS OF LIFE; TO AMEND SECTION 13-1-21, MISSISSIPPI CODE OF 1972, TO PERMIT DISCLOSURE OF MEDICAL INFORMATION IN THE EVENT OF AN EMERGENCY DECLARATION BY THE GOVERNOR; TO AMEND SECTION 41-23-1, MISSISSIPPI CODE OF 1972, TO EXPAND THE CLASSIFICATION OF DISEASES, CONDITIONS OR THREATS WHICH ARE REPORTABLE, TO REQUIRE VETERINARIANS AND OTHER PERSONS WORKING IN THE ANIMAL HEALTH FIELD TO REPORT, AND TO REQUIRE PHARMACIST REPORTING OF UNUSUAL PRESCRIPTIONS OR RATES OF PRESCRIPTIONS; TO AMEND SECTION 41-23-2, MISSISSIPPI CODE OF 1972, TO REVISE THE PENALTY FOR ANY PERSON VIOLATING A LAWFUL ORDER OF THE COUNTY, DISTRICT OR STATE HEALTH OFFICER; TO AMEND SECTION 41-23-5, MISSISSIPPI CODE OF 1972, TO REVISE THE AUTHORITY OF THE STATE OFFICER TO PROTECT THE PUBLIC HEALTH; TO CREATE NEW SECTION 41-36-5, MISSISSIPPI CODE OF 1972, TO REVISE THE PROCEDURE FOR OBTAINING A JUDGMENT OF PRESUMPTION DEATH IN SITUATIONS OF MASS CASUALTY; TO AMEND SECTION 13-1-23, MISSISSIPPI CODE OF 1972, IN CONFORMITY TO THIS NEW PROCEDURE REGARDING PRESUMPTION OF DEATH; TO AMEND SECTION 9-4-3, MISSISSIPPI CODE OF 1972, TO REVISE THE JURISDICTION OF THE COURT OF APPEALS TO CONFORM; TO AMEND SECTION 41-3-15, MISSISSIPPI CODE OF 1972, TO REVISE THE AUTHORITY OF THE DEPARTMENT OF HEALTH TO INSPECT ANY PLACE RATHER THAN ONLY A PUBLIC PLACE; TO CREATE NEW MEASURES TO HANDLE LARGE NUMBERS OF CORPSES OR HUMAN REMAINS; TO AMEND SECTION 41-29-133, MISSISSIPPI CODE OF 1972, TO CREATE A CENTRAL REPORTING BUREAU FOR PHARMACISTS TO REPORT CERTAIN INFORMATION CONCERNING UNUSUAL PRESCRIPTIONS OR RATES OF PRESCRIPTIONS; TO AMEND SECTIONS 45-35-7, 63-1-43, 63-1-47 AND 63-1-82, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT DRIVERS' LICENSES, IDENTIFICATION CARDS ISSUED BY THE DEPARTMENT OF PUBLIC SAFETY AND ALL COMMERCIAL DRIVERS' LICENSES ISSUED TO PERSONS WHO ARE NOT UNITED STATES CITIZENS SHALL EXPIRE ONE YEAR AFTER DATE OF ISSUE; TO PRESCRIBE THE FEE FOR SUCH LICENSES; TO AMEND SECTION 63-9-31, MISSISSIPPI CODE OF 1972, TO REQUIRE GOVERNING AUTHORITIES OF COUNTIES AND MUNICIPALITIES TO IMPOSE A SURCHARGE ON CERTAIN TRAFFIC VIOLATION CITATIONS ISSUED BY MISSISSIPPI...
HIGHWAY SAFETY PATROL OFFICERS FOR THE PURPOSE OF FUNDING AN
INTERGOVERNMENTAL WIRELESS RADIO COMMUNICATIONS PROGRAM; TO AMEND
SECTION 11-46-9, MISSISSIPPI CODE OF 1972, TO PROVIDE GOVERNMENTAL
IMMUNITY FOR RESPONSE TO A TERRORISTIC THREAT OR ACT; TO AMEND
SECTION 65-1-8, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT WHEN THE
GOVERNOR DECLARES A STATE OF EMERGENCY OR STATE OF ALERT, THE
MISSISSIPPI TRANSPORTATION COMMISSION MAY TEMPORARILY ASSIGN ITS
WEIGHT ENFORCEMENT OFFICERS TO THE DEPARTMENT OF PUBLIC SAFETY TO
AUGMENT THE MANPOWER NEEDS OF THE DEPARTMENT OF PUBLIC SAFETY; TO
AMEND SECTION 65-1-71, MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE
DIRECTOR OF THE MISSISSIPPI DEPARTMENT OF TRANSPORTATION TO CLOSE
HIGHWAYS WHEN THE GOVERNOR HAS DECLARED A STATE OF EMERGENCY OR A
STATE OF ALERT AND THE HIGHWAY TO BE CLOSED IS A POTENTIAL
TERRORIST TARGET; TO AMEND SECTION 65-1-85, MISSISSIPPI CODE OF
1972, TO AUTHORIZE THE MISSISSIPPI DEPARTMENT OF TRANSPORTATION TO
DEViate FROM ITS NORMAL PROCEDURE WHEN CONTRACTING TO REPAIR
DAMAGE TO PUBLIC ROADS CAUSED BY A TERRORIST ATTACK; TO AMEND
AMEND THE MISSISSIPPI EMERGENCY MANAGEMENT LAW AND THE DISASTER
ASSISTANCE ACT OF 1993 TO AUTHORIZE THE CREATION AND THE
EXPENDITURE OF COSTS ASSOCIATED WITH THE ESTABLISHMENT AND
MAINTENANCE OF FIVE REGIONAL HAZARDOUS MATERIALS AND WEAPONS OF
MASS DESTRUCTION TEAMS TO BE LOCATED AND HOUSED IN APPROPRIATE
FACILITIES AT CRITICAL AND STRATEGIC AREAS THROUGHOUT THE STATE SO
AS TO PROVIDE FOR AN IMMEDIATE AND EFFECTIVE RESPONSE TO REAL,
THREATENED OR POTENTIAL EMERGENCIES OR DISASTERS RELATING TO SUCH
MATERIALS OR WEAPONS; TO AMEND SECTION 33-15-7, MISSISSIPPI CODE
OF 1972, TO PROVIDE THAT THE ANNUAL APPROPRIATION BILL FOR THE
EMERGENCY MANAGEMENT AGENCY SHALL PROVIDE FOR THE APPROPRIATION OF
LUMP SUMS OF THE TOTAL AMOUNT OF GENERAL FUNDS AND SPECIAL FUNDS
APPROPRIATED TO THE AGENCY, AND SHALL NOT CONTAIN ANY BREAKDOWN BY
MAJOR OBJECTS OF EXPENDITURE; AND FOR RELATED PURPOSES.

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

SECTION 1. Section 33-15-11, Mississippi Code of 1972, is
amended as follows:

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

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

(1) To make, amend, and rescind the necessary orders,
rules and regulations to carry out the provisions of this article
with due consideration of the plans of the federal government, and
to enter into disaster assistance grants and agreements with the

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federal government under the terms as may be required by federal law.

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

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

(4) To cooperate with the President and the heads of the Armed Forces, and the Emergency Management Agency of the United States, and with the officers and agencies of other states in matters pertaining to the emergency management of the state and nation and the incidents thereof; and in connection therewith, to
take any measures which he may deem proper to carry into effect
any request of the President and the appropriate federal officers
and agencies, for any action looking to emergency management,
including the direction or control of (a) blackouts and practice
blackouts, air raid drills, mobilization of emergency management
forces, and other tests and exercises, (b) warnings and signals
for drills or attacks and the mechanical devices to be used in
connection therewith, (c) the effective screening or extinguishing
of all lights and lighting devices and appliances, (d) shutting
off water mains, gas mains, electric power connections and the
suspension of all other utility services, (e) the conduct of
civilians and the movement and cessation of movement of
pedestrians and vehicular traffic during, prior, and subsequent to
drills or attack, (f) public meetings or gatherings under
emergency conditions, and (g) the evacuation and reception of the
civilian population.

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

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

(7) To utilize the services and facilities of existing
officers and agencies of the state and of the political
subdivisions thereof; and all such officers and agencies shall
cooperate with and extend their services and facilities to the
Governor as he may request.
(8) To establish agencies and offices and to appoint executive, technical, clerical, and other personnel as may be necessary to carry out the provisions of this article including, with due consideration to the recommendation of the local authorities, part-time or full-time state and regional area directors.

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

(10) On behalf of this state to enter into reciprocal aid agreements or compacts with other states and the federal government, either on a statewide basis or local political subdivision basis or with a neighboring state or province of a foreign country. Such mutual aid arrangements shall be limited to the furnishings or exchange of food, clothing, medicine, and other supplies; engineering services; emergency housing; police services; national or state guards while under the control of the state; health, medical and related services; fire fighting, rescue, transportation, and construction services and equipment; personnel necessary to provide or conduct these services; and such other supplies, equipment, facilities, personnel, and services as may be needed; the reimbursement of costs and expenses for equipment, supplies, personnel, and similar items for mobile support units, fire fighting, and police units and health units; and on such terms and conditions as are deemed necessary.

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

(12) Authorize any agency or arm of the state to create a special emergency management revolving fund, accept donations, contributions, fees, grants, including federal funds, as may be necessary for such agency or arm of the state to administer its
functions of this article as set forth in the executive order of
the Governor.

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

(14) To suspend or limit the sale, dispensing or
transportation of alcoholic beverages, firearms, explosives and
combustibles.

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

(16) To proclaim a state of emergency or state of alert
in an area affected or likely to be affected thereby when he finds
that the conditions described in Section 33-15-5(g) exist, or when
he is requested to do so by the mayor of a municipality or by the
president of the board of supervisors of a county, or when he
finds that a local authority is unable to cope with the emergency.

Such proclamation shall be in writing and shall take effect
immediately upon its issuance. As soon thereafter as possible,
such proclamation shall be filed with the Secretary of State and
be given widespread notice and publicity. The Governor, upon
advise of the director, shall review the need for continuing the
state of emergency at least every thirty (30) days until the
emergency is terminated and shall proclaim the termination of the
state of emergency at the earliest possible date that conditions
warrant.

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

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

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

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

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

SECTION 2. (1) A person commits the offense of a terroristic threat when he threatens to commit any crime of violence or to burn or damage property with the purpose of terrorizing another or of causing the evacuation of a building, place of assembly, or facility of public transportation or otherwise causing serious public inconvenience, or in reckless disregard of the risk of causing such terror or inconvenience. No person shall be convicted under this subsection on the uncorroborated testimony of the party to whom the threat is
communicated. A person convicted of the offense of a terroristic threat shall be guilty of a misdemeanor and shall be punished by a fine of not more than Five Thousand Dollars ($5,000.00) or by imprisonment for not more than one (1) year, or both.

(2) A person commits the offense of a terroristic act when:

(a) He uses a bomb, burning or flaming cross or other burning or flaming symbol or flambeau or other incendiary device with the intent to terrorize; or

(b) While not in the commission of a lawful act, he shoots at or throws an object at any conveyance which is being operated or which is occupied by passengers or at any occupied building with the intent to terrorize one or more occupants of the conveyance or building.

(c) A person convicted of the offense of a terroristic act shall be guilty of a felony and shall be punished by a fine of not more than Ten Thousand Dollars ($10,000.00) or by imprisonment for not more than five (5) years, or both.

SECTION 3. The following shall be codified as Section 97-27-10, Mississippi Code of 1972:

97-27-10. As used in Sections 97-27-10 through 97-27-12:

(a) "Harmful biological substance" means a bacteria, virus, or other microorganism or a toxic substance derived from or produced by an organism that can be used to cause death, injury or disease in humans, animals or plants.

(b) "Harmful biological device" means a device designed or intended to release a harmful biological substance.

(c) "Harmful chemical substance" means a solid, liquid or gas that through its chemical or physical properties, along or in combination with one or more other chemical substances, can be used to cause death, injury or disease in humans, animals or plants.
(d) "Harmful radioactive material" means material that is radioactive and that can be used to cause death, injury or disease in humans, animals or growing plants by its radioactivity.

(e) "Harmful chemical device" means a device that is designed or intended to release a harmful chemical substance.

(f) "Harmful radioactive device" means a device that is designed or intended to release a harmful radioactive material.

SECTION 4. Section 97-27-11, Mississippi Code of 1972, is amended as follows:

97-27-11. (1) It shall be unlawful for any person to willfully and knowingly import, bring or send into this state a harmful biological substance including smallpox, anthrax or any other contagious or infectious disease ***, with the design to unlawfully spread the same or assist in spreading the same with intent to cause harm to human, animal or plant life and it shall likewise be unlawful for any person to develop, manufacture or possess such harmful biological substances, except for purposes authorized by law.

(2) A person convicted of subsection (1) shall be guilty of a felony and, upon conviction, shall be fined not more than One Hundred Thousand Dollars ($100,000.00), or be imprisoned not more than twenty (20) years in the State Penitentiary, or both.

SECTION 5. The following shall be codified as Section 97-27-12, Mississippi Code of 1972:

97-27-12. (1) It shall be unlawful for any person to commit an act intended to cause another person or persons to falsely believe that said person or persons have been exposed to a harmful biological substance, harmful biological device, harmful chemical substance, harmful chemical device, harmful radioactive material or harmful radioactive device.

(2) Any person convicted of subsection (1) of this section shall be guilty of a felony, and, upon conviction, shall be punished by imprisonment in the State Penitentiary for not more
than five (5) years or shall be fined not more than Ten Thousand
Dollars ($10,000.00), or both.

(3) In addition to any such imprisonment and/or fine which
may be imposed upon a violation of subsection (1) of this section,
the court shall also order that any person convicted for such
violation shall reimburse any individual or governmental agency
for the expenses incurred as a result of the violation.

SECTION 6. Section 97-3-19, Mississippi Code of 1972, is
amended as follows:

97-3-19. (1) The killing of a human being without the
authority of law by any means or in any manner shall be murder in
the following cases:

(a) When done with deliberate design to effect the
death of the person killed, or of any human being;

(b) When done in the commission of an act eminently
dangerous to others and evincing a depraved heart, regardless of
human life, although without any premeditated design to effect the
death of any particular individual;

(c) When done without any design to effect death by any
person engaged in the commission of any felony other than rape,
kidnapping, burglary, arson, robbery, sexual battery, unnatural
intercourse with any child under the age of twelve (12), or
nonconsensual unnatural intercourse with mankind, or felonious
abuse and/or battery of a child in violation of subsection (2) of
Section 97-5-39, or in any attempt to commit such felonies.

(2) The killing of a human being without the authority of
law by any means or in any manner shall be capital murder in the
following cases:

(a) Murder which is perpetrated by killing a peace
officer or fireman while such officer or fireman is acting in his
official capacity or by reason of an act performed in his official
capacity, and with knowledge that the victim was a peace officer
or fireman. For purposes of this paragraph, the term "peace
"officer" means any state or federal law enforcement officer including but not limited to a federal park ranger, the sheriff of or police officer of a city or town, a conservation officer, a parole officer, a judge, prosecuting attorney or any other court official, an agent of the Alcoholic Beverage Control Division of the State Tax Commission, an agent of the Bureau of Narcotics, personnel of the Mississippi Highway Patrol, and the employees of the Department of Corrections who are designated as peace officers by the Commissioner of Corrections pursuant to Section 47-5-54, and the superintendent and his deputies, guards, officers and other employees of the Mississippi State Penitentiary;

(b) Murder which is perpetrated by a person who is under sentence of life imprisonment;

(c) Murder which is perpetrated by use or detonation of a bomb or explosive device;

(d) Murder which is perpetrated by any person who has been offered or has received anything of value for committing the murder, and all parties to such a murder, are guilty as principals;

(e) When done with or without any design to effect death, by any person engaged in the commission of the crime of rape, burglary, kidnapping, arson, robbery, sexual battery, unnatural intercourse with any child under the age of twelve (12), or nonconsensual unnatural intercourse with mankind, terrorist act, chemical or biological terrorism, or in any attempt to commit such felonies;

(f) When done with or without any design to effect death, by any person engaged in the commission of the crime of felonious abuse and/or battery of a child in violation of subsection (2) of Section 97-5-39, or in any attempt to commit such felony;

(g) Murder which is perpetrated on educational property as defined in Section 97-37-17;
(h) Murder which is perpetrated by the killing of any elected official of a county, municipal, state or federal government with knowledge that the victim was such public official.

SECTION 7. Section 13-1-21, Mississippi Code of 1972, is amended as follows:

13-1-21. (1) All communications made to a physician, osteopath, dentist, hospital, nurse, pharmacist, podiatrist, optometrist or chiropractor by a patient under his charge or by one seeking professional advice are hereby declared to be privileged, and such party shall not be required to disclose the same in any legal proceeding except at the instance of the patient or, in case of the death of the patient, at the instance of his personal representative or legal heirs in case there be no personal representative, or except, if the validity of the will of the decedent is in question, at the instance of the personal representative or any of the legal heirs or any contestant or proponent of the will.

(2) There shall be waiver of the medical privilege of patients regarding the release of medical information to health care personnel, the State Board of Health or local health departments, made to comply with Sections 41-3-15, 41-23-1 and 41-23-2 and related rules **. The medical privilege likewise shall be waived to allow any physician, osteopath, dentist, hospital, nurse, pharmacist, podiatrist, optometrist or chiropractor to report to the State Department of Health necessary information regarding any person afflicted with any communicable disease or infected with the causative agent thereof who neglects or refuses to comply with accepted protective measures to prevent the transmission of the communicable disease or in cases of actual, threatened or reasonably suspected chemical or biological terrorism.
(3) Willful violations of the provisions of this section shall constitute a misdemeanor and shall be punishable as provided for by law. Any physician, osteopath, dentist, hospital, nurse, pharmacist, podiatrist, optometrist, or chiropractor shall be civilly liable for damages for any willful or reckless and wanton acts or omissions constituting such violations.

(4) In any action commenced or claim made after July 1, 1983, against a physician, hospital, hospital employee, osteopath, dentist, nurse, pharmacist, podiatrist, optometrist or chiropractor for professional services rendered or which should have been rendered, the delivery of written notice of such claim or the filing of such an action shall constitute a waiver of the medical privilege and any medical information relevant to the allegation upon which the cause of action or claim is based shall be disclosed upon the request of the defendant, or his or her counsel.

(5) In any disciplinary action commencing on or after July 1, 1987, against a medical physician, an osteopathic physician or a podiatrist pursuant to the provisions of Sections 73-25-1 through 73-25-39, 73-25-51 through 73-25-67, 73-25-81 through 73-25-95 and 73-27-1 through 73-27-19, waiver of the medical privilege of a patient to the extent of any information other than that which would identify the patient shall be implied.

SECTION 8. Section 41-23-1, Mississippi Code of 1972, is amended as follows:

41-23-1. (1) The State Board of Health shall adopt rules and regulations (a) defining and classifying communicable diseases and other diseases, conditions and threats that are a danger to health based upon the characteristics of the disease, condition or threat; and (b) establishing reporting, monitoring, examination, treatment and preventive procedures for those diseases, conditions or threats.
(2) Upon the death of any person who has been diagnosed as having Human Immunodeficiency Virus/Acquired Immune Deficiency Syndrome (HIV/AIDS) or any Class 1 disease as designated by the State Board of Health, in a hospital or other health care facility, in all other cases where there is an attending physician, and in cases in which the medical examiner, as defined in Section 41-61-53(f), investigates and certifies the cause of death, the attending physician, the person in charge of the hospital or health care facility, or the medical examiner, as the case may be, shall report as soon as practicable to the Executive Officer of the State Board of Health or to other authorities the cause or contributing cause of death as required by the State Board of Health. Such reporting shall be according to procedures as required by the State Board of Health.

(3) Upon the death of any person who has been diagnosed as having Human Immunodeficiency Virus/Acquired Immune Deficiency Syndrome (HIV/AIDS), where there is not an attending physician, any family member or other person making disposition of the body who knows that such decedent had been diagnosed as having HIV/AIDS shall report this fact to the medical examiner as defined in Section 41-61-53(f), who shall report as soon as practicable to the Executive Officer of the State Board of Health or to other authorities the cause or contributing cause of death as required by the State Board of Health. Such reporting shall be according to procedures as required by the State Board of Health.

(4) Every practicing or licensed physician, or person in charge of a hospital, health care facility, insurance company which causes to be performed blood tests for underwriting purposes or laboratory, shall report immediately to the Executive Officer of the State Board of Health or to other authorities as required by the State Board of Health every case of such diseases and conditions as shall be required to be reported by the State Board of Health. Such reporting shall be according to procedures, and
shall include such information about the case, as shall be
required by the State Board of Health. Insurance companies having
such blood test results shall report immediately to the Executive
Officer of the State Board of Health or to other authorities as
required by the State Board of Health every case of such diseases
and conditions as shall be required to be reported by the State
Board of Health. The insurance company shall notify the
individual on whom the blood test was performed in writing by
certified mail of an adverse underwriting decision based upon the
results of such individual's blood test but shall not disclose the
specific results of such blood tests to the individual. The
insurance company shall also inform the individual on whom the
blood test was performed that the results of the blood test will
be sent to the physician designated by the individual at the time
of application and that such physician should be contacted for
information regarding the blood test results. If a physician was
not designated at the time of application, the insurance company
shall request that the individual name a physician to whom a copy
of the blood test can be sent.

(5) Any practicing or licensed physician, or person in
charge of a hospital or health care facility, who knows that a
patient has a medical condition specified by the Department of
Health as requiring special precautions by health care providers,
shall report this fact and the need for appropriate precautions to
any other institution or provider of health care services to whom
such patient is transferred or referred, according to regulations
established by the State Board of Health.

(6) Any practicing or licensed physician or person in charge
of a hospital, health care facility or laboratory who fails to
make the reports required under this section regarding Human
Immunodeficiency Virus/Acquired Immune Deficiency Syndrome
(HIV/AIDS) or any Class 1 disease or condition as designated by
the State Board of Health shall be reported to the Board of
Medical Licensure, in the case of a physician, or to the applicable licensing agency in the case of institutions, and such failure shall be grounds for suspension of license.

(7) Every veterinarian, livestock owner, veterinary diagnostic laboratory director or other person having the care of animals shall report animals having or suspected of having any disease that may be caused by bioterrorism, epidemic or pandemic disease, or novel and highly fatal infections agents or biological or other toxins that might pose a substantial risk of a significant number of human or animal fatalities or incidents of permanent or long-term disability.

(8) Any person other than a practicing or licensed physician, or person in charge of a hospital or health care facility, willfully failing to make the reports required under this section shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not more than Five Hundred Dollars ($500.00) or by confinement in the county jail for not more than thirty (30) days, or both.

(9) The provisions of this section are cumulative and supplemental to any other provision of law, and a conviction or penalty imposed under this section shall not preclude any other action at law, proceedings for professional discipline or other criminal proceedings.

(10) Notwithstanding any law of this state to the contrary, the State Board of Health is authorized to establish the rules by which exceptions may be made to the confidentiality provisions of the laws of this state for the notification of third parties of an individual's infection with any Class 1 or Class 2 disease, as designated by the State Board of Health, when exposure is indicated or there exists a threat to the public health and welfare. All notifications authorized by this section shall be within the rules established according to this subsection. All persons who receive notification of the infectious condition of an
individual under this subsection and the rules established under
this subsection shall hold such information in the strictest of
confidence and privilege, shall not reveal the information to
others, and shall take only those actions necessary to protect the
health of the infected person or other persons where there is a
foreseeable, real or probable risk of transmission of the disease.

(11) Each public or private correctional facility housing
state offenders, federal offenders or offenders from any other
jurisdiction shall require all offenders in the facility to be
tested for tuberculosis and Human Immunodeficiency Virus (HIV) in
conjunction with the rules and regulations of the State Department
of Health. The reporting shall be according to procedures and
shall include any information about the case that is required by
the State Board of Health. In order to carry out the provisions
of this section, the following shall apply:

(a) Any such public or private correctional facility
may contract with the Mississippi Department of Corrections, the
Mississippi State Department of Health, or other such appropriate
state, federal or local entity for the inspection, monitoring or
provision of any assistance necessary or desirable to maintain
appropriate facilities for the purpose of identification,
prevention, and treatment of communicable diseases and other
conditions considered prejudicial to public health; and

(b) Any such public or private correctional facility
shall grant representatives of the State Department of Health, in
the discharge of its duties, access to all areas of the facility
and to the offenders and staff at all times. The facility shall
reimburse the State Department of Health for all costs incurred
for the control of communicable diseases or other conditions
prejudicial to public health in the facility and for the costs
incurred for the control of communicable diseases or other
conditions prejudicial to public health spreading from the
facility, staff or inmates to other individuals or property in the county or state.

SECTION 9. Section 41-23-2, Mississippi Code of 1972, is amended as follows:

41-23-2. Any person who shall knowingly and willfully violate the lawful order of the county, district or State Health Officer where that person is afflicted with a life-threatening communicable disease or condition or the causative agent thereof, or who shall knowingly and willfully violate the lawful order of the county, district or State Health Officer where such order is intended to prevent the spread of a disease, condition or threat which poses a clear and present danger to the public health, shall be guilty of a felony and, upon conviction, shall be punished by a fine not exceeding Five Thousand Dollars ($5,000.00) or by imprisonment in the Penitentiary for not more than five (5) years, or by both.

SECTION 10. Section 41-23-5, Mississippi Code of 1972, is amended as follows:

41-23-5. (1) The State Department of Health shall have the authority to investigate and control the causes of epidemic, infectious and other disease, condition or threat affecting the public health, including the authority to establish, maintain and enforce isolation and quarantine and decontaminate buildings, and in pursuance thereof, to exercise such physical control over property and individuals as the department may find necessary for the protection of the public health.

(2) Notwithstanding any other provision of law to the contrary, following a declaration of emergency or war emergency by the Governor, the State Health Officer may exercise such authority as he deems proper and necessary to protect the public health, including investigation and certification as to the cause of death, and may appoint private physicians to conduct said investigations into and certifications of the cause of death.
SECTION 11. Section 13-1-23, Mississippi Code of 1972, is amended as follows:

13-1-23. (1) Any person who shall remain beyond the sea, or absent himself from this state, or conceal himself in this state, for seven (7) years successively without being heard of, shall be presumed to be dead in any case where his death shall come in question, unless proof be made that he was alive within that time. Any property or estate recovered in any such case shall be restored to the person evicted or deprived thereof, if, in a subsequent action, it shall be proved that the person so presumed to be dead is living.

(2) The Supreme Court by rule may establish a shorter time period for presumptive death during mass casualty events, set an evidentiary standard for proof of presumptive death, and specify the parties who must receive notice of such action. The court of original jurisdiction under the rule shall be the Court of Appeals.

SECTION 12. The following shall be codified as Section 41-36-5, Mississippi Code of 1972:

41-36-5. The state registrar may obtain a presumptive death order from the Court of Appeals pursuant to Section 13-1-23, and under that authority may issue the certificate of death.

SECTION 13. Section 9-4-3, Mississippi Code of 1972, is amended as follows:

9-4-3. (1) The Court of Appeals shall have the power to determine or otherwise dispose of any appeal or other proceeding assigned to it by the Supreme Court.

Except as otherwise provided by law, the jurisdiction of the Court of Appeals is limited to those matters which have been assigned to it by the Supreme Court.

The Supreme Court shall prescribe rules for the assignment of matters to the Court of Appeals. These rules may provide for the selective assignment of individual cases and may provide for the
assignment of cases according to subject matter or other general criteria. However, the Supreme Court shall retain appeals in cases imposing the death penalty, or cases involving utility rates, annexations, bond issues, election contests, or a statute held unconstitutional by the lower court.

(2) Decisions of the Court of Appeals are final and are not subject to review by the Supreme Court, except by writ of certiorari. The Supreme Court may grant certiorari review only by the affirmative vote of four (4) of its members. At any time before final decision by the Court of Appeals, the Supreme Court may, by order, transfer to the Supreme Court any case pending before the Court of Appeals.

(3) The Court of Appeals shall have jurisdiction to issue writs of habeas corpus, mandamus, quo warranto, certiorari, prohibition or any other process when this may be necessary in any case assigned to it by the Supreme Court.

(4) The Court of Appeals shall issue a decision in every case heard before the Court of Appeals within two hundred seventy (270) days after the final briefs have been filed with the court.

(5) The Supreme Court shall issue a decision in every case within its original jurisdiction, including all direct and post-conviction collateral relief appeals or applications in cases imposing the death penalty, within two hundred seventy (270) days after the final briefs have been filed with the court. The Supreme Court shall issue a decision in every case received on certiorari from the Court of Appeals within one hundred eighty (180) days after the final briefs have been filed with the court.

SECTION 14. Section 41-3-15, Mississippi Code of 1972, is amended as follows:

41-3-15. (1) There shall be a State Department of Health which shall be organized into such bureaus and divisions as are considered necessary by the executive officer, and shall be
assigned appropriate functions as are required of the State Board of Health by law, subject to the approval of the board.

(2) The State Board of Health shall have the authority to establish an Office of Rural Health within the department. The duties and responsibilities of this office shall include the following:

(a) To collect and evaluate data on rural health conditions and needs;
(b) To engage in policy analysis, policy development and economic impact studies with regard to rural health issues;
(c) To develop and implement plans and provide technical assistance to enable community health systems to respond to various changes in their circumstances;
(d) To plan and assist in professional recruitment and retention of medical professionals and assistants; and
(e) To establish information clearinghouses to improve access to and sharing of rural health care information.

(3) The State Board of Health shall have general supervision of the health interests of the people of the state and to exercise the rights, powers and duties of those acts which it is authorized by law to enforce.

(4) The State Board of Health shall have authority:

(a) To make investigations and inquiries with respect to the causes of disease and death, and to investigate the effect of environment, including conditions of employment and other conditions which may affect health, and to make such other investigations as it may deem necessary for the preservation and improvement of health.
(b) To make such sanitary investigations as it may, from time to time, deem necessary for the protection and improvement of health and to investigate nuisance questions which affect the security of life and health within the state.
(c) To direct and control sanitary and quarantine measures for dealing with all diseases within the state possible to suppress same and prevent their spread.

(d) To obtain, collect and preserve such information relative to mortality, morbidity, disease and health as may be useful in the discharge of its duties or may contribute to the prevention of disease or the promotion of health in this state.

(e) To enter into contracts or agreements with any other state or federal agency, or with any private person, organization or group capable of contracting, if it finds such action to be in the public interest.

(f) To charge and collect reasonable fees for health services, including immunizations, inspections and related activities, and the board shall charge fees for such services; provided, however, if it is determined that a person receiving services is unable to pay the total fee, the board shall collect any amount such person is able to pay.

(g) To accept gifts, trusts, bequests, grants, endowments or transfers of property of any kind.

(h) To receive monies coming to it by way of fees for services or by appropriations.

(i) (i) To establish standards for, issue permits and exercise control over, any cafes, restaurants, food or drink stands, sandwich manufacturing establishments, and all other establishments, other than churches, church-related and private schools, and other nonprofit or charitable organizations, where food or drink is regularly prepared, handled and served for pay; and

(ii) To require that a permit be obtained from the Department of Health before such persons begin operation.

(j) To promulgate rules and regulations and exercise control over the production and sale of milk pursuant to the provisions of Sections 75-31-41 through 75-31-49.
(k) On presentation of proper authority, to enter into or onto and inspect any place or building where the State Health Officer or his representative deems it necessary and proper to enter for the discovery and suppression of disease and for the enforcement of any health or sanitary laws and regulations in the state.

(l) To conduct investigations, inquiries and hearings, and to issue subpoenas for the attendance of witnesses and the production of books and records at any hearing when authorized and required by statute to be conducted by the State Health Officer or the State Board of Health.

(m) To employ, subject to the regulations of the State Personnel Board, qualified professional personnel in the subject matter or fields of each bureau, and such other technical and clerical staff as may be required for the operation of the department. The executive officer shall be the appointing authority for the department, and shall have the power to delegate the authority to appoint or dismiss employees to appropriate subordinates, subject to the rules and regulations of the State Personnel Board.

(n) To promulgate rules and regulations, and to collect data and information, on (i) the delivery of services through the practice of telemedicine; and (ii) the use of electronic records for the delivery of telemedicine services.

(5) (a) The State Board of Health shall have the authority, in its discretion, to establish programs to promote the public health, to be administered by the State Department of Health. Specifically, such programs may include, but shall not be limited to, programs in the following areas:

(i) Maternal and child health;
(ii) Family planning;
(iii) Pediatric services;
(iv) Services to crippled and disabled children;
(v) Control of communicable and noncommunicable disease;
(vi) Child care licensure;
(vii) Radiological health;
(viii) Dental health;
(ix) Milk sanitation;
(x) Occupational safety and health;
(xi) Food, vector control and general sanitation;
(xii) Protection of drinking water;
(xiii) Sanitation in food handling establishments open to the public;
(xiv) Registration of births and deaths and other vital events;
(xv) Such public health programs and services as may be assigned to the State Board of Health by the Legislature or by executive order.

(b) The State Board of Health and State Department of Health shall not be authorized to sell, transfer, alienate or otherwise dispose of any of the home health agencies owned and operated by the department on January 1, 1995, and shall not be authorized to sell, transfer, assign, alienate or otherwise dispose of the license of any of those home health agencies, except upon the specific authorization of the Legislature by an amendment to this section. However, this paragraph (b) shall not prevent the board or the department from closing or terminating the operation of any home health agency owned and operated by the department, or closing or terminating any office, branch office or clinic of any such home health agency, or otherwise discontinuing the providing of home health services through any such home health agency, office, branch office or clinic, if the board first demonstrates that there are other providers of home health services in the area being served by the department's home health agency, office, branch office or clinic that will be able to
provide adequate home health services to the residents of the area
if the department's home health agency, office, branch office or
clinic is closed or otherwise discontinues the providing of home
health services. This demonstration by the board that there are
other providers of adequate home health services in the area shall
be spread at length upon the minutes of the board at a regular or
special meeting of the board at least thirty (30) days before a
home health agency, office, branch office or clinic is proposed to
be closed or otherwise discontinue the providing of home health
services.

(c) The State Department of Health may undertake such
technical programs and activities as may be required for the
support and operation of such programs, including maintaining
physical, chemical, bacteriological and radiological laboratories,
and may make such diagnostic tests for diseases and tests for the
evaluation of health hazards as may be deemed necessary for the
protection of the people of the state.

(6) (a) The State Board of Health shall administer the
local governments and rural water systems improvements loan
program in accordance with the provisions of Section 41-3-16.

(b) The State Board of Health shall have authority:

(i) To enter into capitalization grant agreements
with the United States Environmental Protection Agency, or any
successor agency thereto;

(ii) To accept capitalization grant awards made
under the federal Safe Drinking Water Act, as amended;

(iii) To provide annual reports and audits to the
United States Environmental Protection Agency, as may be required
by federal capitalization grant agreements; and

(iv) To establish and collect fees to defray the
reasonable costs of administering the revolving fund or emergency
fund if the State Board of Health determines that such costs will
exceed the limitations established in the federal Safe Drinking
Water Act, as amended. The administration fees may be included in loan amounts to loan recipients for the purpose of facilitating payment to the board; however, such fees may not exceed five percent (5%) of the loan amount.

SECTION 15. The following shall be codified as Section 41-39-55, Mississippi Code of 1972:

41-39-55. The Mississippi State board of Health may exercise, for such period as a state of emergency or public health emergency exists, the following powers regarding the safe disposal of corpses:

(a) Adopt and enforce measures to provide for the safe disposal of corpses as may be reasonably necessary for emergency response. Such measures may include, but are not limited to, the embalming, burial, cremation, interment, disinterment, transportation and disposal of corpses.

(b) Take possession of or control of any corpse or other remains.

(c) Dispose of or order the disposal of any corpse or other remains of a person who has died of an infectious disease, communicable disease or other condition or threat to the public health, through burial or cremation within a period of time to be determined by the State Health Officer.

(d) Compel any business or facility authorized to embalm, bury, cremate, inter, disinter, transport or dispose of corpses to accept any corpse or provide the use of its business or facility if such actions are reasonable and necessary for emergency response. The use of the business or facility may include transferring the management and supervision of such business or facility to the State Health Officer for a limited or unlimited period of time, but shall not exceed the termination of the state of emergency or public health emergency.

(e) To procure, by condemnation or otherwise, any business or facility authorized to embalm, bury, cremate, inter,
disinter, transport and dispose of corpses as may be reasonable
and necessary for emergency response, with the right to take
immediate possession thereof.

(f) Every corpse prior to disposal shall be clearly
labeled with all available information to identify the decedent
and the circumstances of death. Any corpse of a deceased person
with an infectious disease shall have an external, clearly visible
tag indicating that the corpse is infected and, if known, the
infectious disease.

(g) Every person in charge of disposing of any corpse
shall maintain a written and photographic record of each corpse
and all available information to identify the decedent and the
circumstances of death and disposal. If a corpse cannot be
identified, prior to disposal a qualified person shall, to the
extent possible, take fingerprints and one or more photographs of
the corpse, and collect a DNA specimen. All information gathered
under this paragraph shall be forwarded to the
Department of Health.

SECTION 16. Section 41-29-133, Mississippi Code of 1972, is
amended as follows:

41-29-133. (1) Persons registered to manufacture,
distribute, or dispense controlled substances under this article
shall keep records and maintain inventories in conformance with
the record-keeping and inventory requirements of federal law and
with any additional rules the State Board of Pharmacy, the State
Board of Medical Licensure, the State Board of Dental Examiners or
the Mississippi Board of Nursing may issue.

(2) Persons registered to dispense controlled substances
under this article shall report any unusual or increased
prescription rates, unusual types of prescriptions, or unusual
trends in pharmacy visits that may be caused by bioterrorism,
epidemic or pandemic disease, or novel and highly fatal infectious
agents or biological or other toxins that might pose a substantial
risk of a significant number of human fatalities or incidents of permanent or long-term disability. Prescription-related events that require a report include, but are not limited to: an unusual increase in the number of prescriptions to treat fever, respiratory or gastrointestinal complaints; an unusual increase in the number of prescriptions for antibiotics; an unusual increase in the number of requests for information on over-the-counter pharmaceuticals to treat fever, respiratory or gastrointestinal complaints; and any prescription that treats a disease that is relatively uncommon and has bioterrorism potential. The report shall be transmitted to the State Board of Pharmacy central repository and shall include as much of the following information as possible:

(a) Recipient's name, when feasible to submit;
(b) Recipient's identification number;
(c) National Drug Code number of the substance dispensed;
(d) Date of the dispensation;
(e) Quantity of the substance dispensed;
(f) Prescriber's United States Drug Enforcement Administration registration number; and
(g) Dispenser's registration number and location.

(3) The information required by this section shall be transmitted:

(a) On an electronic device which is compatible with the receiving device of the central repository, or by computer diskette or magnetic tape, which meets the specifications provided by rules of the State Board of Pharmacy; a pharmacy universal claim form may be used if electronic submission is unavailable; and

(b) Within fifteen (15) days of the time that the substance is dispensed or the unusual rate of dispensation is noted.
(4) (a) The willful, knowing and intentional failure to transmit information as required by subsection (2) of this section shall be a misdemeanor punishable, upon conviction, by not more than one (1) year in the county jail or a fine of not more than One Thousand Dollars ($1,000.00), or both.

(b) Any second or subsequent offense under subsection (2) of this section shall be a felony punishable upon conviction by not more than three (3) years in the custody of the State Department of Corrections and a fine of not less than One Thousand Dollars ($1,000.00) nor more than Three Thousand Dollars ($3,000.00).

(5) The willful, knowing and intentional providing of incorrect information or the willful, knowing and intentional false reporting of required information shall be a felony punishable upon conviction by not more than three (3) years in the custody of the Mississippi Department of Corrections or a fine of not more than Five Thousand Dollars ($5,000.00), or both.

(6) The information collected at the central repository pursuant to subsection (2) of this section shall be confidential and shall not be open to the public. Access to the information shall be limited to:

(a) Bureau of Narcotics agents and special contract agents of the bureau pursuant to Section 41-29-112;

(b) The United States Drug Enforcement Administration Diversion Group Supervisor;

(c) The executive director or chief investigator as designated by each board, of the State Boards of Dental Examiners, Pharmacy, Medical Licensure, Nursing and Veterinary Medical Examiners, provided, however, that the executive director or chief investigator of each of these boards shall be limited to access to information relevant to licensees of his employing board; and
(d) A statewide grand jury properly convened pursuant to the Statewide Grand Jury Act, as provided by Section 13-7-1 et seq.

(7) This section shall not prevent the disclosure of investigative information to peace officers and investigative agents of federal, state, county or municipal law enforcement agencies, district attorneys and the Attorney General in furtherance of criminal investigations or prosecutions within their respective jurisdictions.

(8) Any unauthorized disclosure of any information collected at the central repository shall be a misdemeanor. Violation of the provisions of this subsection shall be deemed willful neglect of duty and shall be grounds for removal from office.

(9) All access to information in the central repository shall be controlled by and made through the State Board of Pharmacy, which shall develop criteria for the production of exception reports out of the information collected at the central repository in consultation with the State Boards of Dental Examiners, Medical Licensure, and Veterinary Medical Examiners, and Mississippi Dental Association, Mississippi Pharmaceutical Association, Mississippi State Medical Association, Mississippi Veterinary Medical Association and Bureau of Narcotics in developing these criteria.

(10) The State Board of Pharmacy shall promulgate and adopt rules to implement and enforce this section.

SECTION 17. Section 45-35-7, Mississippi Code of 1972, is amended as follows:

45-35-7. (1) Except as provided in subsection (3) of this section, each applicant for an original identification card issued pursuant to this chapter who is entitled to issuance of such a card shall be issued a four-year card. Each card shall expire at midnight on the last day of the cardholder’s birth month.
(2) Except as provided in subsection (3) of this section, all renewal identification cards shall be for four-year periods and may be renewed any time during the birth month of the cardholder upon application and payment of the required fee.

(3) (a) Any applicant who is blind, as defined in Section 43-6-1, upon payment of the fee prescribed in this section, shall be issued an original identification card which shall remain valid for a period of ten (10) years. All renewal identification cards issued to such persons shall also be valid for a period of ten (10) years.

(b) Any applicant who is not a United States citizen, upon payment of the fee prescribed in this section, shall be issued an original identification card which shall remain valid for a period of one (1) year from date of issuance. All renewal identification cards issued to such persons shall also be valid for a period of one (1) year from date of issuance when accompanied by required immigration documents.

(4) A fee of Eleven Dollars ($11.00) plus the applicable photograph fee, shall be collected for the issuance of an original or renewal identification card, except that the fee for the issuance of an original or renewal identification card to a person who is not a United States citizen shall be Three Dollars ($3.00) plus the applicable photograph fee.

The Commissioner of Public Safety, by rule or regulation, shall establish a driver's license photograph fee which shall be the actual cost of the photograph rounded off to the next highest dollar. Monies collected for the photograph fee shall be deposited into a special photograph fee account which the Department of Public Safety shall use to pay the actual cost of producing the photographs. Any monies collected in excess of the actual costs of the photography shall be deposited to the General Fund of the State of Mississippi. Such fee shall be deposited into the State General Fund.
Any person who, for medical reasons, surrenders his unexpired driver's license, and any person whose unexpired driver's license is suspended for medical reasons by the Commissioner of Public Safety under Section 63-1-53(e), may be issued an identification card without payment of a fee. The identification card shall be valid for a period of four (4) years from its date of issue. All renewals of such card shall be subject to the fee prescribed in subsection (4) of this section.

(6) The department shall maintain a record of all identification cards issued, except for those cards cancelled, surrendered or denied renewal.

SECTION 18. Section 63-1-43, Mississippi Code of 1972, is amended as follows:

63-1-43. (1) The fee for receiving the application and issuing the driver's or operator's license and the fee for renewing the license shall be:

(a) Eighteen Dollars ($18.00) plus the applicable photograph fee for each applicant for a four-year license;

(b) Three Dollars ($3.00) plus the applicable photograph fee for each applicant for a one-year license, except as provided in paragraph (c) of this subsection; and

(c) Eight Dollars ($8.00) plus the applicable photograph fee for a one-year license for each applicant who is not a United States citizen.

All originals and renewals of regular operators' licenses shall be in compliance with Section 63-1-47.

(2) The fee for receiving the application and issuing a motorcycle endorsement shall be Five Dollars ($5.00). Motorcycle endorsements shall be valid for the same period of time as the applicant's operator's license.

(3) The fee for receiving the application and issuing a restricted motorcycle operator's license and the fee for renewing such license shall be Eleven Dollars ($11.00) plus the applicable photograph fee.
photograph fee. All originals and renewals of restricted
motorcycle licenses shall be valid for a period of four (4) years,
in compliance with Section 63-1-47.

(4) From and after January 1, 1990, every person who makes
application for an original license or a renewal license to
operate a vehicle as a common carrier by motor vehicle, taxicab,
passerenger coach, dray, contract carrier or private commercial
carrier as such terms are defined in Section 27-19-3, except for
those vehicles for which a Class A, B or C license is required
under Article 2 of this chapter, shall, in lieu of the regular
driver's license above provided for, apply for and obtain a Class
D commercial driver's license. Except as otherwise provided in
subsection (5) of this section, the fee for the issuance of a
Class D commercial driver's license shall be Twenty-three Dollars
($23.00) plus the applicable photograph fee for a period of four
(4) years; however, except as required under Article 2 of
this chapter, no driver of a pickup truck shall be required to
have a commercial license regardless of the purpose for which the
pickup truck is used.

Except as otherwise provided in subsection (5) of this
section, all originals and renewals of commercial licenses issued
under this section shall be valid for a period of four (4) years,
in compliance with Section 63-1-47. Only persons who operate the
above-mentioned vehicles in the course of the regular and
customary business of the owner shall be required to obtain a
Class D commercial operator's license, and persons operating such
vehicles for private purposes or in emergencies shall not be
required to obtain such license.

(5) The original and each renewal of a commercial driver's
license issued under this section to a person who is not a United
States citizen shall be issued for a period of one (1) year for a
fee of Thirteen Dollars ($13.00) plus the applicable photograph
fee and shall expire on the date the licensee's immigration
documents expire. A person who is not a United States citizen may
renew a commercial license issued under this section within two
(2) weeks before expiration of the license.
(6) The Commissioner of Public Safety, by rule or
regulation, shall establish a driver's license photograph fee
which shall be the actual cost of the photograph rounded off to
the next highest dollar. Monies collected for the photograph fee
shall be deposited into a special photograph fee account which the
Department of Public Safety shall use to pay the actual cost of
producing the photographs. Any monies collected in excess of the
actual costs of the photography shall be deposited to the General
Fund of the State of Mississippi.

SECTION 19. Section 63-1-47, Mississippi Code of 1972, is
amended as follows:

63-1-47. (1) Except as otherwise provided in this section,
each applicant for an original license issued pursuant to this
article, who is entitled to issuance of same, and who is eighteen
(18) years of age or older, shall be issued a four-year license
which will expire at midnight on the licensee's birthday.

(a) Except as otherwise provided in this section, all
renewal licenses of operators eighteen (18) years of age or older
shall be for four-year periods and may be renewed any time within
six (6) months before the expiration of the license upon
application and payment of the required fee, unless required to be
reexamined.

(b) From and after January 1, 1990, no commercial
driver's license shall be issued under the provisions of this
article for any commercial motor vehicle, the lawful operation of
which requires the driver to obtain a Class A, B or C commercial
driver's license under Article 2 of this chapter; however, from
time to time, the holder of a commercial license may apply for a
commercial driver's license under Article 2 of this chapter; and,
if he fails to pass the required test for such license, he shall
be entitled to an extension of his license that shall be valid for
one hundred twenty (120) days or until he again is tested under
Article 2 of this chapter, whichever occurs first. The extension
shall entitle the license holder to operate all vehicles which
such license authorized him to operate prior to taking the
required test. The first extension shall be without charge;
however, a fee of Fifteen Dollars ($15.00) shall be imposed for
any subsequent extension. No extension shall be valid past March

(2) Any commercial driver's license issued under this
article before January 1, 1990, which expires after March 31,
1992, shall be void on April 1, 1992, for the operation of any
commercial vehicle requiring a commercial license to be issued
under Article 2 of this chapter; however, if the holder of any
such license applies for a commercial driver's license under
Article 2 of this chapter, passes the required tests for such
license, pays all applicable fees under Article 2 of this chapter
except the Forty Dollars ($40.00) license fee and otherwise meets
all requirements for the issuance of such license, then such
person shall be issued a license under Article 2 of this chapter
which shall expire on the expiration date of the commercial
driver's license being replaced.

(3) The fee for the issuance of an original and renewals of
a Class D commercial driver's license under this article to an
applicant who is not a United States citizen and the period for
which such license will be valid and expire shall be as prescribed
in Section 63-1-43.

(4) The Commissioner of Public Safety shall notify, by
United States mail addressed to the last known address of record
with the Department of Public Safety, all holders of a commercial
driver's license issued under this article before January 1, 1990,
and which expire after March 31, 1992, that such license will be
void on and after April 1, 1992, for the operation of any vehicle for which a commercial driver's license is required to be issued under Article 2 of this chapter.

(5) Any person holding a valid commercial driver's license issued under this article before January 1, 1990, shall continue thereafter, until expiration of such license, to be entitled to operate all vehicles which such license authorized him to operate immediately before January 1, 1990, except that from and after April 1, 1992, such license shall not entitle the licensee to operate a commercial motor vehicle the lawful operation of which requires a commercial driver's license under Article 2 of this chapter.

(6) Except as otherwise provided in this article, each applicant for an original driver's license issued pursuant to this article, who is entitled to issuance of same, being under eighteen (18) years of age, shall be issued a one-year license which will expire at midnight on the licensee's birthday. Renewal drivers' licenses of operators under the age of eighteen (18) shall be for one-year periods and may be renewed any time within two (2) months before the expiration of the license upon application and payment of the required fee, unless required to be reexamined. An intermediate license shall be valid for one (1) year from its date of issue and may be renewed any time within fourteen (14) days before expiration of the license. All applications by an operator under the age of eighteen (18) must be accompanied by documentation that the applicant is in compliance with the education requirements of Section 63-1-9(1)(g); the documentation must be dated no more than thirty (30) days prior to the date of application.

SECTION 20. Section 63-1-82, Mississippi Code of 1972, is amended as follows:

63-1-82. (1) Each commercial driver's license shall be marked "Commercial Driver's License" or "CDL," and shall, to the
maximum extent practicable, be tamper proof. Each such license shall include thereon, but not be limited to, the following information:

(a) The name and residential address of the licensee;
(b) The licensee's color photograph;
(c) A physical description of the licensee, including his sex, height, weight, eye and hair color;
(d) The licensee's date of birth;
(e) Except for a nonresident commercial driver's license, the licensee's social security number; and any other identifying information which the Commissioner of Public Safety, by rule or regulation, determines necessary and essential for the purposes of complying with the provisions of this article;
(f) The licensee's signature;
(g) The class or type of commercial motor vehicle or vehicles which the licensee is authorized to drive together with any endorsements or restrictions;
(h) The name of this state; and
(i) The dates between which the license is valid.

(2) The holder of a valid commercial driver's license may drive all vehicles in the class for which that license is issued and all lesser classes of vehicles, including any vehicle for which an operator's license or commercial driver's license issued under Article 1 of this chapter authorizes a person to drive. However, vehicles which require an endorsement may not be driven unless the proper endorsement appears on the license.

(3) Commercial drivers' licenses may be issued with the following classifications:

(a) Class A. Any combination of vehicles with a gross vehicle weight rating of twenty-six thousand one (26,001) pounds or more, provided the gross vehicle weight rating of the vehicle or vehicles being towed is in excess of ten thousand (10,000) pounds;
(b) Class B. Any single vehicle with a gross vehicle weight rating of twenty-six thousand one (26,001) pounds or more, and any such vehicle towing a vehicle not in excess of ten thousand (10,000) pounds;

c) Class C. Any single vehicle with a gross vehicle weight rating of less than twenty-six thousand one (26,001) pounds or any such vehicle towing a vehicle with a gross vehicle weight rating not in excess of ten thousand (10,000) pounds comprising:

(i) Vehicles designed to transport sixteen (16) or more passengers, including the driver; and

(ii) Vehicles used in the transportation of hazardous materials which are required to be placarded under the Hazardous Materials Transportation Act, 49 USCS Appx., Section 1801 et seq.; and

d) Class D. All other vehicles or combination of vehicles which are not included in Class A, Class B or Class C and for which a commercial license is required to be issued as provided by Section 63-1-43, Mississippi Code of 1972.

(4) Commercial drivers' licenses may be issued with the following endorsements and restrictions:

(a) "H" authorizes the driver to drive a vehicle transporting hazardous materials;

(b) "K" restricts the driver to vehicles not equipped with air brakes;

(c) "T" authorizes driving double and triple trailers;

(d) "P" authorizes driving vehicles carrying passengers;

(e) "N" authorizes driving tank vehicles; ** *

(f) "X" represents a combination of hazardous materials and tank vehicle endorsements; and

(g) "S" restricts the driver to school buses being operated for the purpose of transporting pupils to and from school
or to school-related functions and/or to all other vehicles not requiring a commercial driver's license.

(5) Before issuing a commercial driver's license, the Commissioner of Public Safety shall obtain driving record information through the Commercial Driver License Information System.

(6) Within ten (10) days after issuing a commercial driver's license, the Commissioner of Public Safety shall notify the Commercial Driver License Information System of that fact, providing all information required to ensure identification of the person.

(7) Except as provided in subsection (10) of this section, the fee charged for the issuance of each original and each renewal of a Class A, B or C commercial driver's license shall be Thirty-eight Dollars ($38.00) plus the applicable photograph fee. In addition, a fee of Five Dollars ($5.00) shall be charged for each endorsement or restriction entered on a commercial driver's license under subsection (4) of this section. However, the fee charged for each original and renewal of a commercial driver's license with an "S" restriction shall be the same as the fee for a Class D commercial driver's license in addition to all application fees.

(8) If a commercial driver instruction permit or commercial driver's license is lost or destroyed, or if the holder of a commercial driver's license changes his name, mailing address or residence, an application for a duplicate permit or license shall be made as provided by Section 63-1-37, Mississippi Code of 1972.

(9) Except as provided in subsection (10) of this section, all commercial drivers' licenses issued under the provisions of this article shall be issued for a period of not more than four (4) years and shall expire at midnight on the last day of the licensee's month of birth.
(10) The original and each renewal of a commercial driver's license issued under this section to a person who is not a United States citizen shall be issued for a period of one (1) year for a fee of Thirteen Dollars ($13.00) plus the applicable photograph fee and shall expire on the date the licensee's immigration documents expire. Such person may renew a commercial license issued under this section within two (2) weeks before expiration of the license.

(11) Every person applying for renewal of a commercial driver's license shall complete the application form required by Section 63-1-81, Mississippi Code of 1972, providing updated information and required certifications and paying the appropriate fees. If the applicant wishes to retain a hazardous materials endorsement, the written test for a hazardous materials endorsement must be taken and passed.

(12) The Commissioner of Public Safety, by rule or regulation, shall establish a driver's license photograph fee which shall be the actual cost of the photograph rounded off to the next highest dollar. Monies collected for the photograph fee shall be deposited into a special photograph fee account which the Department of Public Safety shall use to pay the actual cost of producing the photographs. Any monies collected in excess of the actual costs of the photography shall be deposited to the General Fund of the State of Mississippi.

SECTION 21. Section 63-9-31, Mississippi Code of 1972, is amended as follows:

63-9-31. (1) In addition to any other monetary penalties and other penalties imposed by law, any county or municipality which participates in an intergovernmental wireless radio communications program approved by the applicable governing authorities may assess an additional surcharge in an amount not to exceed Ten Dollars ($10.00) on each person upon whom a court imposes a fine or other penalty for each violation of Title 63,
Mississippi Code of 1972, except offenses relating to vehicular parking or registration. Governing authorities shall assess a surcharge in the amount of Ten Dollars ($10.00) on all such citations issued by Mississippi Highway Safety Patrol officers. The proceeds from the surcharge on citations issued by county and municipal law enforcement officers may be used by a county or municipality only to fund that county's or municipality's participation in the intergovernmental wireless radio communications program by funding public safety wireless communications systems and related computer and communications equipment. The proceeds from the surcharge on citations issued by Mississippi Highway Safety Patrol officers shall be used as provided in subsection (2) of this section. All proceeds from the surcharge imposed by this subsection shall be deposited into a special fund in the Department of Public Safety's Office of Public Safety Planning. The Office of Public Safety Planning shall promulgate rules and procedures relating to the administration of the special fund and the disbursement of monies in the fund to participating governmental entities. The maximum amount that a governmental entity may receive from the special fund shall be an amount equal to the deposits made into the fund by that entity, less one percent (1%) to be retained by the Office of Public Safety Planning to defray the costs of administering the special fund. Interest earned on the special fund shall remain in the fund and shall be used by the Office of Public Safety Planning to further defray the costs of administering the special fund.

(2) Deposits into the special fund resulting from citations issued by the Mississippi Highway Safety Patrol shall be utilized for the purpose of funding wireless communications and related computer equipment, subject to the approval of the Mississippi Department of Information Technology Services.
(3) Approval of an intergovernmental wireless radio communications program must be given by the applicable governing authorities when:

(a) The program includes the sharing of support facilities, including, but not limited to, towers, shelters and microwave, by participating entities; or

(b) The program includes the establishment of a mutual aid system using common radio frequency channels between participating entities; or

(c) The program sets forth a feasible methodology that utilizes the radio frequency spectrum in an efficient manner.

(4) Participating counties, municipalities and the Mississippi Highway Safety Patrol must provide notification of facilities available for interoperability to the Mississippi Department of Information Technology Services annually.

(5) Counties and municipalities participating in an intergovernmental wireless radio communications program and the Mississippi Highway Safety Patrol must comply with competitive bidding requirements prescribed in Section 31-7-13 and are encouraged to utilize an open architecture, nonproprietary system.

SECTION 22. Section 11-46-9, Mississippi Code of 1972, is amended as follows:

11-46-9. (1) A governmental entity and its employees acting within the course and scope of their employment or duties shall not be liable for any claim:

(a) Arising out of a legislative or judicial action or inaction, or administrative action or inaction of a legislative or judicial nature;

(b) Arising out of any act or omission of an employee of a governmental entity exercising ordinary care in reliance upon, or in the execution or performance of, or in the failure to execute or perform, a statute, ordinance or regulation, whether or not the statute, ordinance or regulation be valid;
(c) Arising out of any act or omission of an employee of a governmental entity engaged in the performance or execution of duties or activities relating to police or fire protection unless the employee acted in reckless disregard of the safety and well-being of any person not engaged in criminal activity at the time of injury;

(d) Based upon the exercise or performance or the failure to exercise or perform a discretionary function or duty on the part of a governmental entity or employee thereof, whether or not the discretion be abused;

(e) Arising out of an injury caused by adopting or failing to adopt a statute, ordinance or regulation;

(f) Which is limited or barred by the provisions of any other law;

(g) Arising out of the exercise of discretion in determining whether or not to seek or provide the resources necessary for the purchase of equipment, the construction or maintenance of facilities, the hiring of personnel and, in general, the provision of adequate governmental services;

(h) Arising out of the issuance, denial, suspension or revocation of, or the failure or refusal to issue, deny, suspend or revoke any privilege, ticket, pass, permit, license, certificate, approval, order or similar authorization where the governmental entity or its employee is authorized by law to determine whether or not such authorization should be issued, denied, suspended or revoked unless such issuance, denial, suspension or revocation, or failure or refusal thereof, is of a malicious or arbitrary and capricious nature;

(i) Arising out of the assessment or collection of any tax or fee;

(j) Arising out of the detention of any goods or merchandise by any law enforcement officer, unless such detention is of a malicious or arbitrary and capricious nature;
(k) Arising out of the imposition or establishment of a quarantine, whether such quarantine relates to persons or property;

(l) Of any claimant who is an employee of a governmental entity and whose injury is covered by the Workers' Compensation Law of this state by benefits furnished by the governmental entity by which he is employed;

(m) Of any claimant who at the time the claim arises is an inmate of any detention center, jail, workhouse, penal farm, penitentiary or other such institution, regardless of whether such claimant is or is not an inmate of any detention center, jail, workhouse, penal farm, penitentiary or other such institution when the claim is filed;

(n) Arising out of any work performed by a person convicted of a crime when the work is performed pursuant to any sentence or order of any court or pursuant to laws of the State of Mississippi authorizing or requiring such work;

(o) Under circumstances where liability has been or is hereafter assumed by the United States, to the extent of such assumption of liability, including but not limited to any claim based on activities of the Mississippi National Guard when such claim is cognizable under the National Guard Tort Claims Act of the United States, 32 USC 715 (32 USCS 715), or when such claim accrues as a result of active federal service or state service at the call of the Governor for quelling riots and civil disturbances;

(p) Arising out of a plan or design for construction or improvements to public property, including but not limited to, public buildings, highways, roads, streets, bridges, levees, dikes, dams, impoundments, drainage channels, diversion channels, harbors, ports, wharfs or docks, where such plan or design has been approved in advance of the construction or improvement by the legislative body or governing authority of a governmental entity.
or by some other body or administrative agency, exercising discretion by authority to give such approval, and where such plan or design is in conformity with engineering or design standards in effect at the time of preparation of the plan or design;

(q) Arising out of an injury caused solely by the effect of weather conditions on the use of streets and highways;

(r) Arising out of the lack of adequate personnel or facilities at a state hospital or state corrections facility if reasonable use of available appropriations has been made to provide such personnel or facilities;

(s) Arising out of loss, damage or destruction of property of a patient or inmate of a state institution;

(t) Arising out of any loss of benefits or compensation due under a program of public assistance or public welfare;

(u) Arising out of or resulting from riots, unlawful assemblies, unlawful public demonstrations, mob violence or civil disturbances;

(v) Arising out of an injury caused by a dangerous condition on property of the governmental entity that was not caused by the negligent or other wrongful conduct of an employee of the governmental entity or of which the governmental entity did not have notice, either actual or constructive, and adequate opportunity to protect or warn against; provided, however, that a governmental entity shall not be liable for the failure to warn of a dangerous condition which is obvious to one exercising due care;

(w) Arising out of the absence, condition, malfunction or removal by third parties of any sign, signal, warning device, illumination device, guardrail or median barrier, unless the absence, condition, malfunction or removal is not corrected by the governmental entity responsible for its maintenance within a reasonable time after actual or constructive notice; * * *

(x) Arising out of the administration of corporal punishment or the taking of any action to maintain control and
discipline of students, as defined in Section 37-11-57, by a teacher, assistant teacher, principal or assistant principal of a public school district in the state unless the teacher, assistant teacher, principal or assistant principal acted in bad faith or with malicious purpose or in a manner exhibiting a wanton and willful disregard of human rights or safety; or

(y) Arising out of a response to a terroristic threat or act.

(2) A governmental entity shall also not be liable for any claim where the governmental entity:

(a) Is inactive and dormant;

(b) Receives no revenue;

(c) Has no employees; and

(d) Owns no property.

(3) If a governmental entity exempt from liability by subsection (2) becomes active, receives income, hires employees or acquires any property, such governmental entity shall no longer be exempt from liability as provided in subsection (2) and shall be subject to the provisions of this chapter.

SECTION 23. Section 65-1-8, Mississippi Code of 1972, is amended as follows:

65-1-8. (1) The Mississippi Transportation Commission shall have the following general powers, duties and responsibilities:

(a) To coordinate and develop a comprehensive, balanced transportation policy for the State of Mississippi;

(b) To promote the coordinated and efficient use of all available and future modes of transportation;

(c) To make recommendations to the Legislature regarding alterations or modifications in any existing transportation policies;

(d) To study means of encouraging travel and transportation of goods by the combination of motor vehicle and other modes of transportation;
(e) To take such actions as are necessary and proper to discharge its duties pursuant to the provisions of Laws, 1992, Chapter 496, and any other provision of law;

(f) To receive and provide for the expenditure of any funds made available to it by the Legislature, the federal government, or any other source.

(2) In addition to the general powers, duties and responsibilities listed in subsection (1) of this section, the Mississippi Transportation Commission shall have the following specific powers:

(a) To make rules and regulations whereby the transportation department shall change or relocate any and all highways herein or hereafter fixed as constituting a part of the state highway system, as may be deemed necessary or economical in the construction or maintenance thereof; to acquire by gift, purchase, condemnation, or otherwise, land or other property whatsoever that may be necessary for a state highway system as herein provided, with full consideration to be given to the stimulation of local public and private investment when acquiring such property in the vicinity of Mississippi towns, cities and population centers;

(b) To enforce by mandamus, or other proper legal remedies, all legal rights or rights of action of the Mississippi Transportation Commission with other public bodies, corporations or persons;

(c) To make and publish rules, regulations and ordinances for the control of and the policing of the traffic on the state highways, and to prevent their abuse by any or all persons, natural or artificial, by trucks, tractors, trailers or any other heavy or destructive vehicles or machines, or by any other means whatsoever, by establishing weights of loads or of vehicles, types of tires, width of tire surfaces, length and width of vehicles, with reasonable variations to meet approximate
weather conditions, and all other proper police and protective
regulations, and to provide ample means for the enforcement of
same. The violation of any of the rules, regulations or
ordinances so prescribed by the commission shall constitute a
misdemeanor. No rule, regulation or ordinance shall be made that
conflicts with any statute now in force or which may hereafter be
enacted, or with any ordinance of municipalities. A monthly
publication giving general information to the boards of
supervisors, employees and the public may be issued under such
rules and regulations as the commission may determine;

(d) To give suitable numbers to highways and to change
the number of any highway that shall become a part of the state
highway system. However, nothing herein shall authorize the
number of any highway to be changed so as to conflict with any
designation thereof as a U.S. numbered highway. Where, by a
specific act of the Legislature, the commission has been directed
to give a certain number to a highway, the commission shall not
have the authority to change such number;

(e) To make proper and reasonable rules, regulations,
and ordinances for the placing, erection, removal or relocation of
telephone, telegraph or other poles, signboards, fences, gas,
water, sewerage, oil or other pipelines, and other obstructions
that may, in the opinion of the commission, contribute to the
hazards upon any of the state highways, or in any way interfere
with the ordinary travel upon such highways, or the construction,
reconstruction or maintenance thereof, and to make reasonable
rules and regulations for the proper control thereof. Any
violation of such rules or regulations or noncompliance with such
ordinances shall constitute a misdemeanor.

Whenever the order of the commission shall require the
removal of, or other changes in the location of telephone,
telegraph, or other poles, signboards, gas, water, sewerage, oil
or other pipelines; or other similar obstructions on the
right-of-way or such other places where removal is required by law, the owners thereof shall at their own expense move or change the same to conform to the order of the commission. Any violation of such rules or regulations or noncompliance with such orders shall constitute a misdemeanor;

(f) To regulate and abandon grade crossings on any road fixed as a part of the state highway system, and whenever the commission, in order to avoid a grade crossing with the railroad, locates or constructs said road on one side of the railroad, the commission shall have the power to abandon and close such grade crossing, and whenever an underpass or overhead bridge is substituted for a grade crossing, the commission shall have power to abandon such grade crossing and any other crossing adjacent thereto. Included in the powers herein granted shall be the power to require the railroad at grade crossings, where any road of the state highway system crosses the same, to place signal posts with lights or other warning devices at such crossings at the expense of the railroad, and to regulate and abandon underpass or overhead bridges and, where abandoned because of the construction of a new underpass or overhead bridge, to close such old underpass or overhead bridge, or, in its discretion, to return the same to the jurisdiction of the county board of supervisors;

(g) To make proper and reasonable rules and regulations to control the cutting or opening of the road surfaces for subsurface installations;

(h) To make proper and reasonable rules and regulations for the removal from the public rights-of-way of any form of obstruction, to cooperate in improving their appearance, and to prescribe minimum clearance heights for seed conveyors, pipes, passageways or other structure of private or other ownership above the highways;

(i) To establish, and have the Transportation Department maintain and operate, and to cooperate with the state...
educational institutions in establishing, enlarging, maintaining
and operating a laboratory or laboratories for testing materials
and for other proper highway purposes;

(j) To provide, under the direction and with the
approval of the Department of Finance and Administration, suitable
offices, shops and barns in the City of Jackson;

(k) To establish and have enforced set-back
regulations;

(l) To cooperate with proper state authorities in
producing limerock for highway purposes and to purchase same at
cost;

(m) To provide for the purchase of necessary equipment
and vehicles and to provide for the repair and housing of same, to
acquire by gift, purchase, condemnation or otherwise, land or
lands and buildings in fee simple, and to authorize the
Transportation Department to construct, lease or otherwise provide
necessary and proper permanent district offices for the
construction and maintenance divisions of the department, and for
the repair and housing of the equipment and vehicles of the
department; however, in each Supreme Court district only two (2)
permanent district offices shall be set up, but a permanent status
shall not be given to any such offices until so provided by act of
the Legislature and in the meantime, all shops of the department
shall be retained at their present location. As many local or
subdistrict offices, shops or barns may be provided as is
essential and proper to economical maintenance of the state
highway system;

(n) To cooperate with the Department of Archives and
History in having placed and maintained suitable historical
markers, including those which have been approved and purchased by
the State Historical Commission, along state highways, and to have
constructed and maintained roadside driveways for convenience and
safety in viewing them when necessary; however, no highway or bridge shall ever be memorialized to a man while living;

(o) To cooperate, in its discretion, with the Mississippi Department of Wildlife, Fisheries and Parks in planning and constructing roadside parks upon the right-of-way of state highways, whether constructed, under construction, or planned; said parks to utilize where practical barrow pits used in construction of state highways for use as fishing ponds. Said parks shall be named for abundant flora and fauna existing in the area or for the first flora or fauna found on the site;

(p) Unless otherwise prohibited by law, to make such contracts and execute such instruments containing such reasonable and necessary appropriate terms, provisions and conditions as in its absolute discretion it may deem necessary, proper or advisable, for the purpose of obtaining or securing financial assistance, grants or loans from the United States of America or any department or agency thereof, including contracts with several counties of the state pertaining to the expenditure of such funds;

(q) To cooperate with the Federal Highway Administration in the matter of location, construction and maintenance of the Great River Road, to expend such funds paid to the commission by the Federal Highway Administration or other federal agency, and to authorize the Transportation Department to erect suitable signs marking this highway, the cost of such signs to be paid from state highway funds other than earmarked construction funds;

(r) To cooperate, in its discretion, with the Mississippi Forestry Commission and the School of Forestry, Mississippi State University, in a forestry management program, including planting, thinning, cutting and selling, upon the right-of-way of any highway, constructed, acquired or maintained by the Transportation Department, and to sell and dispose of any and all growing timber standing, lying or being on any
right-of-way acquired by the commission for highway purposes in the future; such sale or sales to be made in accordance with the sale of personal property which has become unnecessary for public use as provided for in Section 65-1-123, Mississippi Code of 1972;

(s) To expend funds in cooperation with the Division of Plant Industry, Mississippi Department of Agriculture and Commerce, the United States government or any department or agency thereof, or with any department or agency of this state, to control, suppress or eradicate serious insect pests, rodents, plant parasites and plant diseases on the state highway rights-of-way;

(t) To provide for the placement, erection and maintenance of motorist services business signs and supports within state highway rights-of-way in accordance with current state and federal laws and regulations governing the placement of traffic control devices on state highways, and to establish and collect reasonable fees from the businesses having information on such signs;

(u) To request and to accept the use of persons convicted of an offense, whether a felony or a misdemeanor, for work on any road construction, repair or other project of the Transportation Department. The commission is also authorized to request and to accept the use of persons who have not been convicted of an offense but who are required to fulfill certain court-imposed conditions pursuant to Section 41-29-150(d)(1) or 99-15-26, Mississippi Code of 1972, or the Pretrial Intervention Act, being Sections 99-15-101 through 99-15-127, Mississippi Code of 1972. The commission is authorized to enter into any agreements with the Department of Corrections, the State Parole Board, any criminal court of this state, and any other proper official regarding the working, guarding, safekeeping, clothing and subsistence of such persons performing work for the Transportation Department. Such persons shall not be deemed
agents, employees or involuntary servants of the Transportation
Department while performing such work or while going to and from
work or other specified areas;

(v) To provide for the administration of the railroad
revitalization program pursuant to Section 57-43-1 et seq.;

(w) The Mississippi Transportation Commission is
further authorized, in its discretion, to expend funds for the
purchase of service pins for employees of the Mississippi
Transportation Department;

(x) To cooperate with the State Tax Commission by
providing for weight enforcement field personnel to collect and
assess taxes, fees and penalties and to perform all duties as
required pursuant to Section 27-55-501 et seq., Sections 27-19-1
et seq., 27-55-1 et seq., 27-59-1 et seq. and 27-61-1 et seq.,
Mississippi Code of 1972, with regard to vehicles subject to the
jurisdiction of the Office of Weight Enforcement. All collections
and assessments shall be transferred daily to the State Tax
Commission;

(y) The Mississippi Transportation Commission may
delegate the authority to enter into a supplemental agreement to a
contract previously approved by the commission if the supplemental
agreement involves an additional expenditure not to exceed One
Hundred Thousand Dollars ($100,000.00);

(z) (i) The Mississippi Transportation Commission, in
its discretion, may enter into agreements with any county,
municipality, county transportation commission, business,
corporation, partnership, association, individual or other legal
entity, for the purpose of accelerating the completion date of
scheduled highway construction projects.

(ii) Such an agreement may permit the cost of a
highway construction project to be advanced to the commission by a
county, municipality, county transportation commission, business,
corporation, partnership, association, individual or other legal
entity, and repaid to such entity by the commission when highway
construction funds become available; provided, however, that
repayment of funds advanced to the Mississippi Transportation
Commission shall be made no sooner than the commission's
identified projected revenue schedule for funding of that
particular construction project, and no other scheduled highway
construction project established by statute or by the commission
may be delayed by an advanced funding project authorized under
this paragraph (z). Repayments to an entity that advances funds
to the Mississippi Transportation Commission under this paragraph
(z) may not include interest or other fees or charges, and the
total amount repaid shall not exceed the total amount of funds
advanced to the commission by the entity.

(iii) In considering whether to enter into such an
agreement, the commission shall consider the availability of
financial resources, the effect of such agreement on other ongoing
highway construction, the urgency of the public's need for swift
completion of the project and any other relevant factors.

(iv) Such an agreement shall be executed only upon
a finding by the commission, spread upon its minutes, that the
acceleration of the scheduled project is both feasible and
beneficial. The commission shall also spread upon its minutes its
findings with regard to the factors required to be considered
pursuant to item (iii) of this paragraph (z).

(3) When the Governor declares a state of emergency or state
of alert, the commission may, in its discretion, temporarily
assign its agent and employees who are charged with the
enforcement of the weight laws and motor vehicle privilege tax
laws of this state, to the Department of Public Safety to augment
the manpower needs of the Department of Public Safety during the
state of emergency or state of alert.

SECTION 24. Section 65-1-71, Mississippi Code of 1972, is
amended as follows:
65-1-71. The director is *** authorized to close highways for construction purposes and in emergencies. The director is authorized to close highways when the Governor has declared a state of emergency or state of alert and the highway to be closed is a potential terrorist target. The director shall select, lay out, maintain, and keep in as good repair as possible suitable detours by the most practicable route, where they are necessary for the public convenience while any sections of *** highways or roads are being improved or constructed or closed. The director shall place or cause to be placed explicit directions to the traveling public during repair of said highway or road under process of construction. As far as practical roads already laid out shall be connected with and used for *** detours.

The director is *** authorized, subject to the approval of the commission, to enter into agreements, spread on the minutes of both boards, with the local road authorities of the county or counties in which construction or maintenance work is to be done, to pay all or any part of the cost of laying out or maintaining *** detours. All expenses to the state of laying out and maintaining *** detours shall be paid out of the state highway funds. The director is also authorized, subject to the approval of the commission, to make reasonable rules and regulations to keep highways under construction open to traffic where such action is deemed to be practical and desirable.

If any county-maintained road or municipally maintained street is used temporarily as a part of a state highway detour, it shall be the duty of the highway department, when the detour is abandoned ***, to place the same in as good condition as said road or street was when its use as a detour began.

SECTION 25. Section 65-1-85, Mississippi Code of 1972, is amended as follows:

65-1-85. All contracts by or on behalf of the Mississippi Transportation Commission for the purchase of materials, equipment
and supplies shall be made in compliance with Section 31-7-1 et seq. All contracts by or on behalf of the Mississippi Transportation Commission for construction, reconstruction or other public work authorized to be done under the provisions of this chapter, except maintenance, shall be made by the executive director, subject to the approval of the commission, only upon competitive bids after due advertisement as follows, to wit:

Such advertisement for bids shall be in accordance with such rules and regulations, in addition to those herein provided, as may be adopted therefor by the Mississippi Transportation Commission, and said commission is hereby authorized and empowered to make and promulgate such rules and regulations as it may deem proper, to provide and adopt standard specifications for road and bridge construction, and to amend the same from time to time.

Such advertisement shall be inserted twice, being once a week for two (2) successive weeks in a newspaper published at the seat of government in Jackson, Mississippi, having a general circulation throughout the state, and no letting shall be less than fourteen (14) days nor more than sixty (60) days after the publication of the first notice thereof, and notices of such letting may be placed in a metropolitan paper or national trade publication.

Before advertising for such work, the executive director shall cause to be prepared and filed in the Mississippi Department of Transportation detailed plans and specifications covering the work proposed to be done, copies of which plans and specifications shall be subject to inspection by any citizen during all office hours and made available to all prospective bidders upon such reasonable terms and conditions as may be required by the Mississippi Transportation Commission; provided, that there shall be a fee equal to the cost of producing a copy of any such plans and specifications. All such contracts shall be let to the lowest responsible bidder, and a record of all bids received for construction and reconstruction shall be preserved. In letting
such contracts, each bid for construction and reconstruction must be accompanied by a cashier's check, a certified check or bidders bond executed by a surety company authorized to do business in the State of Mississippi, in the principal amount of not less than five percent (5%) of the bid, guaranteeing that the bidder will give bond and enter into a contract for the faithful performance of the contract according to plans and specifications on file.

Bonds shall be required of the successful bidder in an amount equal to the contract price. The contract price shall mean the entire cost of the particular contract let. In the event change orders are made after the execution of a contract which results in increasing the total contract price, additional bond in the amount of the increased cost may be required. The surety or sureties on such bonds shall be a surety company or surety companies authorized to do business in the State of Mississippi, all bonds to be payable to the State of Mississippi and to be conditioned for the prompt, faithful and efficient performance of the contract according to plans and specifications, and for the prompt payment of all persons furnishing labor, material, equipment and supplies therefor. Such bonds shall be subject to the additional obligation that the principal and surety or sureties executing the same shall be liable to the state in a civil action instituted by the state at the instance of the Mississippi Transportation Commission or any officer of the state authorized in such cases, for double any amount in money or property the state may lose or be overcharged or otherwise defrauded of by reason of any wrongful or criminal act, if any, of the contractor, his agent or employees.

With respect to equipment used in the construction, reconstruction or other public work authorized to be done under the provisions of this chapter: the word "equipment," in addition to all equipment incorporated into or fully consumed in connection with such project, shall include the reasonable value of the use
of all equipment of every kind and character and all accessories
and attachments thereto which are reasonably necessary to be used
and which are used in carrying out the performance of the
contract, and the reasonable value of the use thereof, during the
period of time the same are used in carrying out the performance
of the contract, shall be the amount as agreed upon by the persons
furnishing the equipment and those using the same to be paid
therefor, which amount, however, shall not be in excess of the
maximum current rates and charges allowable for leasing or renting
as specified in Section 65-7-95; the word "labor" shall include
all work performed in repairing equipment used in carrying out the
performance of the contract, which repair labor is reasonably
necessary to the efficient operation of said equipment; and the
words "materials" and "supplies" shall include all repair parts
installed in or on equipment used in carrying out the performance
of the contract, which repair parts are reasonably necessary to
the efficient operation of said equipment.

The executive director, subject to the approval of the
Mississippi Transportation Commission, shall have the right to
reject any and all bids, whether such right is reserved in the
notice or not. Any contract for construction or paving of any
highway may be entered into for any cost which does not exceed the
amount of funds that may be made available therefor through bond
issues or from other sources of revenue, and the letting of
contracts for such construction or paving shall not necessarily be
delayed until the funds are actually on hand, provided
authorization for the issuance of necessary bonds has been granted
by law to supplement other anticipated revenue or when the
Mississippi Department of Transportation certifies to the
Department of Finance and Administration and the Legislative
Budget Office that projected receipts of funds by the department
will be sufficient to pay such contracts as they become due and
the Department of Finance and Administration determines that the
projections are reasonable and receipts will be sufficient to pay the contracts as they become due. The Department of Finance and Administration shall spread such determination on its minutes prior to the letting of any contracts based on projected receipts. Nothing herein shall prohibit the issuance of bonds, which have been authorized, at any time in the discretion of the State Bond Commission, nor to prevent investment of surplus funds in United States government bonds or State of Mississippi bonds as presently authorized by Section 12, Chapter 312, Laws of 1956.

All other contracts for work to be done under the provisions of this chapter and for the purchase of materials, equipment and supplies to be used as provided for in this chapter shall be made in compliance with Section 31-7-1 et seq.

The Mississippi Transportation Commission shall not empower or authorize the executive director, or any one or more of its members, or any engineer or other person to let or make contracts for the construction or repair of public roads, or building bridges, or for the purchase of material, equipment or supplies contrary to the provisions of this chapter as above set forth, except in cases of flood, damage to public roads caused by a terrorist attack or other cases of emergency where the public interest requires that the work be done or the materials, equipment or supplies be purchased without the delay incident to advertising for competitive bids. Such emergency contracts may be made without advertisement under such rules and regulations as the Mississippi Transportation Commission may prescribe.

The executive director, subject to the approval of the Mississippi Transportation Commission, is authorized to negotiate and make agreements with communities and/or civic organizations for landscaping, beautification and maintenance of highway rights-of-way; provided, however, that nothing herein shall be construed as authorization for the executive director or commission to participate in such a project to an extent greater
than the average cost for maintenance of shoulders, backslopes and
median areas with respect thereto. The executive director may
negotiate and enter into contracts with private parties for the
mowing of grass and trimming of vegetation on the rights-of-way of
state highways whenever such practice is possible and cost
effective.

amended as follows:

33-15-15. (a) The agency is authorized to provide, within
or without the state, such support from available personnel,
equipment and other resources of state agencies and the political
subdivisions of the state as may be necessary to reinforce
emergency management agencies in areas stricken by emergency.
Such support shall be rendered with due consideration of the plans
of the federal government, this state, the other states and of the
criticalness of the existing situation. Emergency management
support forces shall be called to duty upon orders of the agency
and shall perform their functions in any part of the state, or,
upon the conditions specified in this section, in other states.

(b) Personnel of emergency management support forces while
on duty, whether within or without the state, shall:

(1) If they are employees of the state, have the
powers, duties, rights, privileges and immunities and receive the
compensation incidental to their employment;

(2) If they are employees of a political subdivision of
the state, and whether serving within or without such political
subdivision, have the powers, duties, rights, privileges and
immunities and receive the compensation incidental to their
employment; and

(3) If they are not employees of the state or a
political subdivision thereof, be entitled to compensation by the
state at a rate commensurate with their duties and
responsibilities and to the same rights and immunities as are provided by law for the employees of this state.

All personnel of emergency management support forces shall, while on duty, be subject to the operational control of the authority in charge of emergency management activities in the area in which they are serving, and shall be reimbursed for all actual and necessary travel and subsistence expenses, and for death, disability or injury to such personnel while on such emergency duty as a member of an emergency management support force, the state shall pay compensation to the heirs in event of death or the individual in event of injury or disability in accordance with payment schedules contained in the Mississippi Workers' Compensation Law.

(c) The state shall reimburse a political subdivision for the actual and necessary travel, subsistence and maintenance expenses of employees of such political subdivision while serving as members of an emergency management support force, and for all payments for death, disability or injury of such employees incurred in the course of such duty, and for all losses of or damage to supplies and equipment of such political subdivision resulting from the operation of such emergency management support force.

(d) Whenever an emergency management support force of another state shall render aid in this state pursuant to the orders of the governor of its home state and upon the request of the Governor of this state, the personnel thereof shall have the powers, duties, rights, privileges and immunities of emergency management personnel serving in similar capacities in this state, except compensation, and this state shall reimburse such other state for the compensation paid and actual and necessary travel, subsistence and maintenance expenses of the personnel of such emergency management support force while rendering such aid, and for all payments for death, disability or injury of such personnel.
incurred in the course of rendering such aid, and for all losses
of or damage to supplies and equipment of such other state or a
political subdivision thereof resulting from the rendering of such
aid; provided, that the laws of such other state contain
provisions substantially similar to this section.
(e) No personnel of emergency management support forces of
this state shall be ordered by the Governor to operate in any
other state unless the laws of such other state contain provisions
substantially similar to this section.
(f) In addition to such other powers and duties as may be
exercised by the agency, the agency shall establish and maintain
five (5) regional hazardous materials and weapons of mass
destruction teams which shall be located and housed in appropriate
facilities at critical and strategic areas throughout the state so
as to provide for an immediate and effective response to real,
threatened or potential emergencies or disasters relating to such
materials or weapons.
SECTION 27. Section 33-15-307, Mississippi Code of 1972, is
amended as follows:
33-15-307. (1) The provisions of this article shall be
invoked only pursuant to a state of emergency declared by the
Governor or an emergency or major disaster declared by the
President, or pursuant to an executive order of the Governor, or
administrative order of the director, in order to provide state or
local government resources and personnel in compliance with the
provisions of the Emergency Management Assistance Compact, Section
45-18-1 et seq., or in nondeclared times for administrative and
training costs associated with state disaster response and
recovery programs. Each declaration shall cite the cause for the
declaration and define the area eligible for assistance and the
type of assistance to be provided.
(2) The Disaster Assistance Trust Fund is created as a
special fund in the State Treasury into which shall be paid any
funds appropriated by the Legislature for disaster assistance, any
funds transferred from the Working Cash-Stabilization Reserve Fund
as provided under subsection (5) of this section, any income from
investment of the funds in the trust fund, and federal
reimbursement for administrative costs for management of the
Individual and Family Grant Program, the Public Assistance
Program, the Hazard Mitigation Program and Disaster Reservist
Program.

(3) Income from investment of the funds in the trust fund,
and all other funds deposited therein pursuant to law, shall be
available for expenditure, transfer and allocation pursuant to
this article.

(4) The Disaster Assistance Trust Fund shall be used only
for the following purposes:

(a) The state's portion of the cost share for public
assistance under a major disaster declaration.
(b) The state's cost share of the Individual and Family
Grant (IFG) Program under the provisions of Section 43-41-1 et
seq.
(c) Administrative costs for managing the IFG Program.
(d) Administrative costs for managing the Public
Assistance Program.
(e) The Temporary Housing Program under provisions of
Section 43-41-301 et seq.
(f) Out-of-pocket expenses, including travel, per diem,
overtime and other similar expenses, of state or local agencies
when so tasked by the Governor or the director for emergency
response under the provisions of Section 33-15-11(b)(7) and
current executive orders. This includes actual emergency response
and recovery activities, and applies to mobilization and
deployment of state or local agencies to another state under the
provisions of the Emergency Management Assistance Compact.
(g) Costs incurred as a result of state active duty for the Mississippi National Guard when so tasked by the Governor to provide support to other agencies and local governments in a major disaster or emergency situation, or when tasked by the Governor to provide support to another state under the provisions of the Emergency Management Assistance Compact.

(h) The state's portion of the cost share for hazard mitigation under a major disaster declaration.

(i) Administrative costs of the Hazard Mitigation Program.

(j) Costs incurred as a result of the implementation of the Disaster Reservist Program under a major disaster declaration.

(k) Administrative costs of the Disaster Reservist Program.

(l) Costs incurred as a result of the implementation of public assistance, and/or individual assistance, and/or Disaster Reservist Program, and/or hazard mitigation, and/or temporary housing under a Governor's state of emergency.

(m) Costs incurred as a result of the establishment and maintenance of five (5) regional hazardous materials and weapons of mass destruction teams located and housed in appropriate facilities at critical and strategic areas throughout the state so as to provide for an immediate and effective response to real, threatened or potential emergencies or disasters relating to such materials or weapons.

(5) Whenever the director determines that funds are immediately needed in the Disaster Assistance Trust Fund to provide for disaster assistance under this article, he shall notify the Executive Director of the Department of Finance and Administration of his determination and shall requisition the amount of funds from the Working Cash-Stabilization Fund that are needed in the trust fund, which shall be subject to the limitations set forth below in this subsection. At the same time...
he makes the requisition, the director shall notify the Lieutenant Governor, the Speaker of the House of Representatives and the respective Chairman of the Senate Appropriations Committee, the Senate Finance Committee, the House Appropriations Committee and the House Ways and Means Committee of his determination of the need for the funds and the amount that he has requisitioned. Upon receipt of such a requisition from the director, the Executive Director of the Department of Finance and Administration shall ascertain if the amount requisitioned is available in the Working Cash-Stabilization Reserve Fund and is within the limitations set forth below in this subsection and, if it is, he shall transfer that amount from the Working Cash-Stabilization Reserve Fund to the trust fund. If the amount requisitioned is more than the amount available in the Working Cash-Stabilization Fund or above the limitations set forth below in this subsection, the executive director shall transfer the amount that is available within the limitations. The maximum amount that may be transferred from the Working Cash-Stabilization Reserve Fund to the trust fund for any one (1) disaster occurrence shall be Five Hundred Thousand Dollars ($500,000.00) and the maximum amount that may be transferred during any fiscal year shall be One Million Dollars ($1,000,000.00).

(6) Unexpended state funds in the Disaster Assistance Trust Fund at the end of a fiscal year shall not lapse into the State General Fund but shall remain in the trust fund for use under this article for as long as the funds are needed for the particular purpose for which they were appropriated or transferred into the trust fund. After any state funds in the trust fund are no longer needed for the particular purpose for which they were appropriated or transferred into the trust fund, the director may use those funds for any other purpose under this article for which they currently are needed and for which other funds are not available. If there is no current need for such funds for any purpose under
this article, the funds and the income earned from the investment of the funds shall be transferred back to the particular fund or funds in the State Treasury from which they were appropriated or transferred into the trust fund, upon certification of the director to the Executive Director of the Department of Finance and Administration that the funds are not currently needed.

SECTION 28. Section 33-15-7, Mississippi Code of 1972, is amended as follows:

33-15-7. (1) There is * * * created within the executive branch of the state government a department called the Mississippi Emergency Management Agency with a director of emergency management who shall be appointed by the Governor. The director shall hold office during the pleasure of the Governor, and shall be compensated as determined by any appropriation that may be made by the Legislature for that purpose.

(2) The director, with the approval of the Governor, may employ such technical, clerical, stenographic and other personnel, to be compensated as provided in any appropriation that may be made for that purpose, and may make those expenditures within the appropriation therefor, or from other funds made available to him for purposes of emergency management, as may be necessary to carry out the purposes of this article.

(3) The director and other personnel of the Emergency Management Agency shall be provided with appropriate office space, furniture, equipment, supplies, stationery and printing in the same manner as provided for other state agencies.

(4) The director, subject to the direction and control of the Governor, shall be the executive head of the Emergency Management Agency and shall be responsible to the Governor for carrying out the program for emergency management of this state. He shall coordinate the activities of all organizations for emergency management within the state, and shall maintain liaison with and cooperate with emergency management agencies and
organizations of other states and of the federal government, and shall have such additional authority, duties, and responsibilities authorized by this article as may be prescribed by the Governor.

(5) The annual appropriation bill for the Emergency Management Agency shall be provided for the appropriation of only two (2) sums, one (1) that specifies the total amount of general funds appropriated to the agency and one (1) that specifies the total amount of special funds appropriated to the agency. The bill shall not contain any breakdown of the appropriated funds by major objects of expenditure, such as personal services, contractual services, commodities, capital outlay, subsidies, loans and grants, and shall not contain the number of authorized positions for the agency.

SECTION 29. This act shall take effect and be in force from and after July 1, 2002.