

By: Senator(s) Ross

To: Judiciary

SENATE BILL NO. 2348

1 AN ACT TO CREATE THE "MISSISSIPPI ADMINISTRATIVE PROCEDURES  
2 LAW"; TO DEFINE CERTAIN TERMS AS USED IN THE ACT; TO PRESCRIBE THE  
3 ACT'S APPLICABILITY AND RELATION TO OTHER LAWS; TO PROVIDE FOR THE  
4 SUSPENSION OF THE ACT'S PROVISIONS WHEN NECESSARY TO AVOID LOSS OF  
5 FEDERAL FUNDS OR SERVICES; TO PRESCRIBE HOW RIGHTS UNDER THE ACT  
6 MAY BE WAIVED, HOW MATTERS MAY BE SETTLED INFORMALLY UNDER THE ACT  
7 AND HOW PROCEEDINGS UNDER THE ACT MAY BE CONVERTED TO ANOTHER TYPE  
8 OF AGENCY PROCEEDING; TO PRESCRIBE THE MANNER OF SERVICE AND  
9 COMPUTATION OF TIME UNDER THE ACT; TO PROVIDE FOR THE PUBLICATION,  
10 COMPILATION, INDEXING AND PUBLIC INSPECTION OF AGENCY RULES AND  
11 ORDERS; TO ESTABLISH A RIGHT AND PRESCRIBE THE PROCEDURE FOR  
12 REQUESTING DECLARATORY OPINIONS FROM STATE AGENCIES WITH REGARD TO  
13 THE APPLICABILITY AND EFFECT OF AGENCY RULES; TO REQUIRE EVERY  
14 AGENCY TO ADOPT CERTAIN RULES RELATING TO THE AGENCY'S  
15 ORGANIZATIONAL STRUCTURE; TO REQUIRE THE SECRETARY OF STATE TO  
16 ADOPT MODEL RULES OF PROCEDURE FOR USE BY STATE AGENCIES; TO  
17 PROVIDE FOR NOTICE OF PROPOSED RULES BEFORE THEIR ADOPTION; TO  
18 ALLOW PUBLIC PARTICIPATION IN THE RULE-MAKING PROCESS; TO PROVIDE  
19 FOR A PUBLIC RULE-MAKING DOCKET; TO REQUIRE SUBMISSION OF A  
20 REGULATORY ANALYSIS OF PROPOSED RULES IN CERTAIN SITUATIONS; TO  
21 PROVIDE FOR THE TIME AND MANNER OF RULE ADOPTION; TO PROHIBIT ANY  
22 VARIANCE BETWEEN AN ADOPTED RULE AND PUBLISHED NOTICE OF THE  
23 RULE'S ADOPTION; TO EXEMPT CERTAIN RULES FROM PROCEDURES PROVIDED  
24 IN THE ACT; TO PRESCRIBE THE CONTENTS, STYLE AND FORM OF RULES; TO  
25 REQUIRE AGENCIES TO MAINTAIN A RULE-MAKING RECORD AND TO FILE  
26 RULES IN THE OFFICE OF THE SECRETARY OF STATE; TO PRESCRIBE THE  
27 METHOD FOR CONTESTING THE VALIDITY OF RULES; TO PROVIDE FOR THE  
28 EFFECTIVE DATE OF RULES; TO PROVIDE THAT THE ACT SHALL BE  
29 INAPPLICABLE TO CERTAIN CLASSES OF RULES; TO AUTHORIZE PETITIONS  
30 FOR THE ADOPTION, AMENDMENT, REPEAL OR WAIVER OF A RULE; TO  
31 REQUIRE EACH AGENCY TO PERIODICALLY REVIEW ITS RULES; TO REPEAL  
32 SECTIONS 25-43-1, 25-43-3, 25-43-5, 25-43-6, 25-43-7, 25-43-9,  
33 25-43-11, 25-43-13, 25-43-15, 25-43-17 AND 25-43-19, MISSISSIPPI  
34 CODE OF 1972, WHICH CREATE THE MISSISSIPPI ADMINISTRATIVE  
35 PROCEDURES LAW, PROVIDE DEFINITIONS FOR TERMS USED IN SUCH LAW,  
36 PRESCRIBE PROCEDURES THAT MUST BE FOLLOWED BY AGENCIES IN THE  
37 ADOPTION, AMENDMENT AND REPEAL OF AGENCY RULES, REQUIRE THE FILING  
38 OF AN ECONOMIC IMPACT STATEMENT FOR THE ADOPTION OF A RULE,  
39 REQUIRE FILING AND NOTICE BEFORE SUCH RULES MAY BECOME EFFECTIVE,  
40 REQUIRE AGENCIES TO INDEX ALL EFFECTIVE RULES ADOPTED, PROVIDE  
41 THAT REVOCATION OR SUSPENSION OF ANY LICENSE SHALL NOT BE  
42 EFFECTIVE UNLESS NOTICE OF SUCH INTENDED ACTION IS GIVEN TO THE  
43 LICENSEE, AND REQUIRE AGENCIES TO ADOPT PROCEDURES TO ASSURE THAT  
44 OPPONENTS OF PROPOSED RULES HAVE THE OPPORTUNITY TO PRESENT THEIR  
45 VIEWS AND REVIEW ADVERSE RULINGS; AND FOR RELATED PURPOSES.

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

47 **ARTICLE I**

48 **GENERAL PROVISIONS**



49           **SECTION 1.** The following shall be codified as Section  
50 25-43-1.101, Mississippi Code of 1972:

51           25-43-1.101.   **Title; Statement of Purpose.**

52           (1) This chapter may be cited as the "Mississippi  
53 Administrative Procedures Law."

54           (2) This chapter is intended to provide a minimum procedural  
55 code for the operation of all state agencies when they take action  
56 affecting the rights and duties of the public. Nothing in this  
57 chapter shall be construed as invalidating any rule or regulation  
58 adopted before July 1, 2003, if such rule or regulation was  
59 properly adopted in accordance with the law as it existed at the  
60 time of adoption. Nothing in this chapter is meant to discourage  
61 agencies from adopting procedures providing greater protections to  
62 the public or conferring additional rights upon the public; and  
63 save for express provisions of this chapter to the contrary,  
64 nothing in this chapter is meant to abrogate in whole or in part  
65 any statute prescribing procedural duties for an agency which are  
66 greater than or in addition to those provided here. This chapter  
67 is meant to apply to all rule-making that is not specifically  
68 excluded from this chapter or some portion thereof by its express  
69 terms or by the express terms of another chapter.

70           The purposes of the Mississippi Administrative Procedures Law  
71 are: to provide legislative oversight of powers and duties  
72 delegated to administrative agencies; to increase public  
73 accountability of administrative agencies; to simplify government  
74 by assuring a uniform minimum procedure to which all agencies will  
75 be held in the conduct of their most important functions; to  
76 increase public access to governmental information; to increase  
77 public participation in the formulation of administrative rules;  
78 and to simplify the process of judicial review of agency action as  
79 well as increase its ease and availability. In accomplishing its  
80 objectives, the intention of this chapter is to strike a fair  
81 balance between these purposes and the need for efficient,



82 economical and effective government administration. The chapter  
83 is not meant to alter the substantive rights of any person or  
84 agency. Its impact is limited to procedural rights with the  
85 expectation that better substantive results will be achieved in  
86 the everyday conduct of state government by improving the process  
87 by which those results are attained.

88 (3) From and after July 1, 2003, any reference to the  
89 Mississippi Administrative Procedure Act, the Mississippi  
90 Administrative Procedures Act, the Mississippi Administrative  
91 Procedure Law, or the Mississippi Administrative Procedures Law,  
92 being Section 25-43-1 et seq., Mississippi Code of 1972, shall be  
93 deemed to mean and refer to this chapter.

94 **SECTION 2.** The following shall be codified as Section  
95 25-43-1.102, Mississippi Code of 1972:

96 25-43-1.102. **Definitions.**

97 As used in this chapter the following terms shall have the  
98 meanings ascribed to them in this section unless the context  
99 otherwise requires:

100 (a) "Agency" means a board, commission, department,  
101 officer or other administrative unit of this state, including the  
102 agency head, and one or more members of the agency head or agency  
103 employees directly or indirectly purporting to act on behalf or  
104 under the authority of the agency head. The term does not include  
105 the Legislature or any of its component units, the judiciary or  
106 any of its component units or the Governor. The term does not  
107 include a political subdivision of the state or any of the  
108 administrative units of a political subdivision. To the extent it  
109 purports to exercise authority subject to any provision of this  
110 chapter, an administrative unit otherwise qualifying as an  
111 "agency" must be treated as a separate agency even if the unit is  
112 located within or subordinate to another agency.

113 (b) "Agency action" means: (i) the whole or a part of  
114 a rule, an order or a declaratory opinion; or (ii) the failure to



115 issue a rule, an order or a declaratory opinion. "Nonfinal agency  
116 action" means the whole or a part of any agency determination,  
117 investigation, proceeding, hearing, conference or other process  
118 that is preliminary, preparatory, procedural or intermediate with  
119 regard to subsequent agency action of that agency or another  
120 agency. "Final agency action" means the whole or a part of any  
121 agency action other than nonfinal agency action. Final agency  
122 action occurs when the action is reduced to writing and approved  
123 by the agency head.

124 (c) "Agency head" or "head of the agency" means an  
125 individual or body of individuals in whom the ultimate legal  
126 authority of the agency is vested by any provision of law.

127 (d) "Agency proceeding" or "proceeding" means the  
128 process by which an agency considers:

129 (i) A declaratory opinion pursuant to Section  
130 25-43-2.103, or

131 (ii) A rule pursuant to Article III of this  
132 chapter.

133 (e) "Agency record" means the official rule-making  
134 record of an agency pursuant to Section 25-43-3.112.

135 (f) "Declaratory opinion" means an agency opinion  
136 rendered in accordance with the provisions of Section 25-43-2.103.

137 (g) "Final agency action" means the whole or a part of  
138 any agency action other than nonfinal agency action. Final agency  
139 action occurs when the action is reduced to writing and approved  
140 by the agency head.

141 (h) "License" means a franchise, permit, certification,  
142 approval, registration, charter or similar form of authorization  
143 required by law. The holder of a "license" may be referred to as  
144 a "licensee," "permittee" or "franchisee."

145 (i) "Nonfinal agency action" means the whole or a part  
146 of any agency determination, investigation, proceeding, hearing,  
147 conference or other process that is preliminary, preparatory,



148 procedural or intermediate with regard to subsequent agency action  
149 of that agency or another agency.

150 (j) "Order" means an agency action of particular  
151 applicability that determines the legal rights, duties,  
152 privileges, immunities or other legal interests of one or more  
153 specific persons. An order shall be in writing signed by a person  
154 with authority to render the order, or if more than one (1) person  
155 has such authority by at least that number of such persons as  
156 jointly have the authority to render the order, or by a person  
157 authorized to render the order on behalf of all such persons. The  
158 term does not include an executive order issued by the Governor  
159 pursuant to Section 25-43-1.104, an opinion issued by the Attorney  
160 General pursuant to Section 7-5-25, an opinion issued by the  
161 Ethics Commission pursuant to Section 25-4-17, or a declaratory  
162 opinion rendered in accordance with Section 25-43-2.103.

163 (k) "Party to agency proceedings," or "party" in a  
164 context so indicating, means:

165 (i) A person to whom the agency action is  
166 specifically directed;

167 (ii) A person named as a party to an agency  
168 proceeding or allowed to intervene or participate as a party in  
169 the proceeding; or

170 (iii) The agency, except where the agency is  
171 essentially neutral regarding the outcome of the proceedings and  
172 the agency's primary interest is that the proceeding be fair,  
173 speedy and cost effective.

174 (l) "Party to judicial review or civil enforcement  
175 proceedings," or "party" in a context so indicating, means:

176 (i) A person who files a notice for judicial  
177 review or a complaint for civil enforcement;

178 (ii) A person named as a party in a proceeding for  
179 judicial review or civil enforcement or allowed to participate as  
180 a party in the proceeding; or



181 (iii) The agency in a proceeding for judicial  
182 review or civil enforcement.

183 (m) "Person" means an individual, partnership,  
184 corporation, association, governmental subdivision or unit  
185 thereof, or public or private organization or entity of any  
186 character, and includes another agency.

187 (n) "Presiding officer" means a person designated as  
188 the principal hearing officer in an adjudicative proceeding.

189 (o) "Provision of law" or "law" means the whole or a  
190 part of the federal or state Constitution, or of any federal or  
191 state (i) statute, (ii) case law or common law, (iii) rule of  
192 court, (iv) executive order, or (v) rule or order of an  
193 administrative agency.

194 (p) "Public employee" means any person engaged in  
195 "state service" as defined in Section 25-9-107(b) and excludes any  
196 person engaged in "nonstate service" as defined in Section  
197 25-9-107(c).

198 (q) "Rule" means the whole or a part of an agency  
199 regulation or other statement of general applicability that  
200 implements, interprets or prescribes:

201 (i) Law or policy, or

202 (ii) The organization, procedure or practice  
203 requirements of an agency. The term includes the amendment,  
204 repeal or suspension of an existing rule. "Rule" does not  
205 include:

206 1. A regulation or statement concerning only  
207 the internal management of an agency which does not directly and  
208 substantially affect the procedural or substantive rights or  
209 duties of any segment of the public;

210 2. A regulation or statement that establishes  
211 criteria or guidelines to be used by the staff of an agency in  
212 performing audits, investigations or inspections, settling  
213 commercial disputes, negotiating commercial arrangements or in the



214 defense, prosecution or settlement of cases, if disclosure of the  
215 criteria or guidelines would:

216 a. Enable law violators to avoid  
217 detection;

218 b. Facilitate disregard of requirements  
219 imposed by law; or

220 c. Give a clearly improper advantage to  
221 persons who are in an adverse position to the state;

222 3. A regulation or statement that only  
223 establishes specific prices to be charged for particular goods or  
224 services sold by an agency;

225 4. A regulation or statement concerning only  
226 the physical servicing, maintenance or care of agency owned or  
227 operated facilities or property;

228 5. A regulation or statement relating only to  
229 the use of a particular facility or property owned, operated or  
230 maintained by the state or any of its subdivisions, if the  
231 substance of the regulation or statement is adequately indicated  
232 by means of signs or signals to persons who use the facility or  
233 property;

234 6. A regulation or statement concerning only  
235 inmates of a correctional or detention facility, students enrolled  
236 in an educational institution or patients admitted to a hospital,  
237 if adopted by that facility, institution or hospital;

238 7. A form whose contents or substantive  
239 requirements are prescribed by rule or statute, and instructions  
240 for the execution or use of the form;

241 8. An agency budget;

242 9. A compact or agreement between an agency  
243 of this state and one or more agencies of another state or states;  
244 or

245 10. An opinion of the Attorney General  
246 pursuant to Section 7-5-25, an opinion of the Ethics Commission



247 pursuant to Section 25-4-17, or an executive order of the  
248 Governor.

249 (r) "Rule-making" means the process for formulation and  
250 adoption of a rule.

251 **SECTION 3.** The following shall be codified as Section  
252 25-43-1.103, Mississippi Code of 1972:

253 25-43-1.103. **Applicability and Relation to Other Law.**

254 (1) This chapter applies to all agencies and all proceedings  
255 not expressly exempted under this chapter.

256 (2) This chapter creates only procedural rights and imposes  
257 only procedural duties. They are in addition to those created and  
258 imposed by other statutes.

259 (3) Specific statutory provisions which govern agency  
260 proceedings and which are in conflict with any of the provisions  
261 of this chapter shall continue to be applied to all proceedings of  
262 any such agency to the extent of such conflict only.

263 (4) The provisions of this chapter shall not be construed to  
264 amend, repeal or supersede the provisions of any other law; and,  
265 to the extent that the provisions of any other law conflict or are  
266 inconsistent with the provisions of this chapter, the provisions  
267 of such other law shall govern and control.

268 (5) An agency may grant procedural rights to persons in  
269 addition to those conferred by this chapter so long as rights  
270 conferred upon other persons by any provision of law are not  
271 substantially prejudiced.

272 **SECTION 4.** The following shall be codified as Section  
273 25-43-1.104, Mississippi Code of 1972:

274 25-43-1.104. **Suspension of Chapter's Provisions when  
275 Necessary to Avoid Loss of Federal Funds or Services.**

276 (1) To the extent necessary to avoid a denial of funds or  
277 services from the United States which would otherwise be available  
278 to the state, the Governor, by executive order, may suspend, in  
279 whole or in part, one or more provisions of this chapter. The





280 Governor, by executive order, shall declare the termination of a  
281 suspension as soon as it is no longer necessary to prevent the  
282 loss of funds or services from the United States.

283 (2) If any provision of this chapter is suspended pursuant  
284 to this section, the Governor shall promptly report the suspension  
285 to the Legislature. The report may include recommendations  
286 concerning desirable legislation that may be necessary to conform  
287 this chapter to federal law, including the exemption, if  
288 appropriate, of a particular program from the provisions of this  
289 chapter.

290 **SECTION 5.** The following shall be codified as Section  
291 25-43-1.105, Mississippi Code of 1972:

292 25-43-1.105. **Waiver of Rights.**

293 Except to the extent precluded by another provision of law, a  
294 person may waive any right conferred upon that person by this  
295 chapter, or by any rule made pursuant to this chapter.

296 **SECTION 6.** The following shall be codified as Section  
297 25-43-1.106, Mississippi Code of 1972:

298 25-43-1.106. **Filings with Agency; Service; Computation of**  
299 **Time.**

300 (1) (a) Whenever a presiding officer, a party or any person  
301 is permitted or required to file with an agency any application,  
302 pleading, motion or other document, filing must be made by  
303 delivery of the document to the agency, by mailing it to the  
304 agency or by transmitting it to the agency by electronic means,  
305 including, but not limited to, facsimile transfer or e-mail.  
306 Filing by electronic means is complete when the electronic  
307 equipment being used by the agency acknowledges receipt of the  
308 material. If the equipment used by the agency does not  
309 automatically acknowledge transmission, service is not complete  
310 until the filing party obtains an acknowledgment from the agency.  
311 Filing by mail is complete upon receipt by the agency.



312 (b) The agency may implement this section by agency  
313 rule.

314 (2) (a) Whenever service is required by this chapter, and  
315 whether the service is made by a party, an agency or a presiding  
316 officer, service of orders, notices, pleadings, motions and other  
317 documents upon a party shall be made by delivering a copy to the  
318 party, by transmitting it to the party by electronic means,  
319 including, but not limited to, facsimile transfer or e-mail, or by  
320 mailing it to the party at the party's last known address.  
321 Delivery of a copy means handing it to a party, leaving it at the  
322 office of a party with a person in charge thereof, or leaving it  
323 at the dwelling house or usual place of abode of the party with  
324 some person of suitable age and discretion then residing therein.  
325 Service by electronic means is complete when the electronic  
326 equipment being used by the party being served acknowledges  
327 receipt of the material. If the equipment used by the party being  
328 served does not automatically acknowledge the transmission,  
329 service is not complete until the sending party obtains an  
330 acknowledgment from the recipient. Service by mail is complete  
331 upon mailing.

332 (b) Whenever service is required or permitted to be  
333 made upon a party who is represented by an attorney of record in  
334 the proceedings, the service shall be made upon such attorney.

335 (c) Whenever an agency or presiding officer issues an  
336 order or serves a notice or other document, the order or notice or  
337 other document shall be dated and shall be deemed to have been  
338 issued on the day it is served on the parties to the matter. If  
339 the order or notice or other document is to be served by mail, it  
340 shall be dated and shall be deemed to have been issued on the day  
341 it is mailed.

342 (3) (a) In computing any period of time prescribed or  
343 allowed by this article, by order of an agency, or by any  
344 applicable statute or agency rule, the day of the act, event or



345 default from which the designated period of time begins to run  
346 shall not be included. The last day of the period so computed  
347 shall be included, unless it is a Saturday, a Sunday or a legal  
348 holiday, as defined by statute, or any other day when the agency's  
349 office is in fact closed, whether with or without legal authority,  
350 in which event the period runs until the end of the next day which  
351 is not a Saturday, a Sunday, a legal holiday or any other day when  
352 the agency's office is closed. When the period of time prescribed  
353 or allowed is less than seven (7) days, intermediate Saturdays,  
354 Sundays and legal holidays shall be excluded in the computation.  
355 In the event any legal holiday falls on a Sunday, the next  
356 following day shall be a legal holiday.

357 (b) Whenever a party has the right or is required to do  
358 some act or take some proceedings within a prescribed period after  
359 the service of a notice, order, pleading, motion or other paper  
360 upon him and the notice or paper is served upon him by mail, three  
361 (3) days shall be added to the prescribed period.

## 362 **ARTICLE II**

### 363 **PUBLIC ACCESS TO AGENCY LAW AND POLICY**

364 **SECTION 7.** The following shall be codified as Section  
365 25-43-2.101, Mississippi Code of 1972:

366 25-43-2.101. **Publication, Compilation, Indexing and Public**  
367 **Inspection of Rules.**

368 (1) Subject to the provisions of this chapter, the Secretary  
369 of State shall prescribe a uniform numbering system, form, style  
370 and transmitting format for all proposed and adopted rules caused  
371 to be published by him and, with prior approval of each respective  
372 agency involved, may edit rules for publication and codification  
373 without changing the meaning or effect of any rule.

374 (2) The Secretary of State shall cause an administrative  
375 bulletin to be published in a format and at such regular intervals  
376 as the Secretary of State shall prescribe by rule. Upon proper  
377 filing of proposed rules, the Secretary of State shall publish



378 them in the administrative bulletin as expeditiously as possible.

379 The administrative bulletin must contain:

380 (a) Notices of proposed rule adoption prepared so that  
381 the text of the proposed rule shows the text of any existing rule  
382 proposed to be changed and the change proposed;

383 (b) Any other notices and materials designated by law  
384 for publication therein; and

385 (c) An index to its contents by subject.

386 (3) The Secretary of State shall cause an administrative  
387 bulletin to be published in a format and at such regular intervals  
388 as the Secretary of State shall prescribe by rule. Upon proper  
389 filing of newly adopted rules, the Secretary of State shall  
390 publish them as expeditiously as possible. The administrative  
391 bulletin must contain:

392 (a) Newly filed adopted rules prepared so that the text  
393 shows the text of any existing rule being changed and the change  
394 being made;

395 (b) Any other notices and materials designated by law  
396 for publication therein; and

397 (c) An index to its contents by subject.

398 (4) The Secretary of State retains the authority to reject  
399 proposed and newly adopted rules not properly filed in accordance  
400 with the Secretary of State's rules prescribing the numbering  
401 system, form, style or transmitting format for such filings. The  
402 Secretary of State shall notify the agency of its rejection of a  
403 proposed or newly adopted rule as expeditiously as possible and  
404 accompany such notification with a stated reason for the  
405 rejection. A rejected filing of a proposed or newly adopted rule  
406 does not constitute filing pursuant to Section 25-43-3.101 et seq.  
407 of this chapter.

408 (5) (a) The Secretary of State shall cause an  
409 administrative code to be compiled, indexed by subject and  
410 published in a format prescribed by the Secretary of State by



411 rule. All of the effective rules of each agency must be published  
412 and indexed in that publication. The Secretary of State shall  
413 also cause supplements to the administrative code to be published  
414 in a format and at such regular intervals as the Secretary of  
415 State shall prescribe by rule.

416 (b) The Secretary of State is hereby authorized to  
417 contract with a reputable and competent publishing company on such  
418 terms and conditions and at such prices as he may deem proper to  
419 digest, compile, annotate, index and publish the state agency  
420 rules and regulations.

421 (6) (a) Copyrights of the Mississippi Administrative Code,  
422 including, but not limited to, cross references, tables of cases,  
423 notes of decisions, tables of contents, indices, source notes,  
424 authority notes, numerical lists and codification guides, other  
425 than the actual text of rules or regulations, shall be taken by  
426 and in the name of the publishers of said compilation. Such  
427 publishers shall thereafter promptly assign the same to the State  
428 of Mississippi and said copyright shall be owned by the state.

429 (b) Any information appearing on the same leaf with the  
430 text of any rule or regulation may be incidentally reproduced in  
431 connection with the reproduction of such rule or regulation, if  
432 such reproduction is for private use and not for resale.

433 (7) The Secretary of State may omit from the administrative  
434 bulletin or code any proposed or filed adopted rule the  
435 publication in hard copy of which would be unduly cumbersome,  
436 expensive or otherwise inexpedient, if:

437 (a) Knowledge of the rule is likely to be important to  
438 only a small class of persons;

439 (b) On application to the issuing agency, the proposed  
440 or adopted rule in printed or processed form is made available at  
441 no more than its cost of reproduction; and

442 (c) The administrative bulletin or code contains a  
443 notice stating in detail the specific subject matter of the



444 omitted proposed or adopted rule and how a copy of the omitted  
445 material may be obtained.

446 (8) The administrative bulletin and administrative code with  
447 supplements must be furnished to designated officials without  
448 charge and to all subscribers at a reasonable cost to be  
449 determined by the Secretary of State. Each agency shall also make  
450 available for public inspection and copying those portions of the  
451 administrative bulletin and administrative code containing all  
452 rules adopted or used by the agency in the discharge of its  
453 functions, and the index to those rules.

454 **SECTION 8.** The following shall be codified as Section  
455 25-43-2.102, Mississippi Code of 1972:

456 25-43-2.102. **Public Inspection and Indexing of Agency**  
457 **Orders.**

458 (1) In addition to other requirements imposed by any  
459 provision of law, and subject to any confidentiality provisions  
460 established by law, each agency shall make all written final  
461 orders available for public inspection and copying and index them  
462 by name and subject.

463 (2) A written final order may not be relied on as precedent  
464 by an agency to the detriment of any person until it has been made  
465 available for public inspection and indexed in the manner  
466 described in subsection (1) of this section. This provision is  
467 inapplicable to any person who has actual, timely knowledge of the  
468 order. The burden of proving that knowledge is on the agency.

469 **SECTION 9.** The following shall be codified as Section  
470 25-43-2.103, Mississippi Code of 1972:

471 25-43-2.103. **Declaratory Opinions.**

472 (1) Any person with a substantial interest in the subject  
473 matter may make a written request of an agency for a declaratory  
474 opinion as to the applicability to specified circumstances of a  
475 statute, rule or order within the primary jurisdiction of the  
476 agency. An agency, through the agency head or its designee(s) by



477 rule, shall issue a declaratory opinion in response to a written  
478 request for that opinion unless the agency determines that  
479 issuance of the opinion under the circumstances would be contrary  
480 to a rule adopted in accordance with subsection (2) of this  
481 section.

482 (2) Each agency shall issue rules that provide for: (a) the  
483 form, contents and filing of written requests for declaratory  
484 opinions; (b) the procedural rights of persons in relation to the  
485 written requests; and (c) the disposition of the written requests.  
486 Those rules must describe the classes of circumstances in which  
487 the agency will not issue a declaratory opinion.

488 (3) Within forty-five (45) days after receipt of a written  
489 request for a declaratory opinion, an agency, in writing, shall:

490 (a) Issue an opinion declaring the applicability of the  
491 statute, rule or order in question to the specified circumstances;

492 (b) Agree to issue a declaratory opinion by a specified  
493 time but no later than ninety (90) days after receipt of the  
494 written request; or

495 (c) Decline to issue a declaratory opinion, stating the  
496 reasons for its action.

497 (4) A copy of all opinions issued in response to a written  
498 request for a declaratory opinion must be mailed promptly to the  
499 requesting party.

500 (5) (a) When any person receives a declaratory opinion from  
501 an agency and shall have stated all the facts to govern such  
502 opinion, there shall be no liability, civil or criminal, accruing  
503 to or against any such person who, in good faith, follows the  
504 direction of such opinion and acts in accordance therewith unless  
505 a court of competent jurisdiction, after a full hearing, shall  
506 judicially declare that such opinion is manifestly wrong and  
507 without any substantial support. No declaratory opinion shall be  
508 given or considered if the opinion is requested after suit is  
509 filed or prosecution begun.



510 (b) The authority of persons to request and receive  
511 agency declaratory opinions in no way affects the ability of any  
512 person authorized by Section 7-5-25 to request a legal opinion  
513 from the Attorney General.

514 (c) Each agency shall make all declaratory opinions  
515 available for public inspection and copying and shall index them  
516 by name and subject, unless information contained within such  
517 opinions is confidential by statute or exempt from public  
518 disclosure pursuant to another provision of law.

519 **SECTION 10.** The following shall be codified as Section  
520 25-43-2.104, Mississippi Code of 1972:

521 25-43-2.104. **Required Rule-Making.**

522 In addition to other rule-making requirements imposed by law,  
523 each agency shall:

524 (a) Adopt as a rule a description of the organization  
525 of the agency which states the general course and method of its  
526 operations and where and how the public may obtain information or  
527 make submissions or requests;

528 (b) Adopt rules of practice setting forth the nature  
529 and requirements of all formal and informal proceedings available  
530 to the public.

531 **SECTION 11.** The following shall be codified as Section  
532 25-43-2.105, Mississippi Code of 1972:

533 25-43-2.105. **Model Rules of Procedure.**

534 In accordance with the rule-making requirements of this  
535 chapter, the Secretary of State shall adopt model rules of  
536 procedure appropriate for use by as many agencies as possible.  
537 The model rules must deal with all general functions and duties  
538 performed in common by several agencies. Each agency may adopt as  
539 much of the model rules as is practicable under its circumstances.  
540 To the extent an agency adopts the model rules, it shall do so in  
541 accordance with the rule-making requirements of this chapter.

542 **ARTICLE III**





543 **RULE-MAKING**

544 **ADOPTION AND EFFECTIVENESS OF RULES**

545 **SECTION 12.** The following shall be codified as Section  
546 25-43-3.101, Mississippi Code of 1972:

547 25-43-3.101. **Advice on Possible Rules before Notice of**  
548 **Proposed Rule Adoption.**

549 (1) In addition to seeking information by other methods, an  
550 agency, before filing of a notice of proposed rule adoption under  
551 Section 25-43-3.103, may solicit comments from the public on a  
552 subject matter of possible rule-making under active consideration  
553 within the agency by causing notice to be filed with the Secretary  
554 of State for publication in the administrative bulletin of the  
555 subject matter and indicating where, when and how persons may  
556 comment.

557 (2) Each agency may also appoint committees to comment,  
558 before filing of a notice of proposed rule adoption under Section  
559 25-43-3.103, on the subject matter of a possible rule-making under  
560 active consideration within the agency. The membership of those  
561 committees must be filed with the Secretary of State for  
562 publication in the administrative bulletin.

563 **SECTION 13.** The following shall be codified as Section  
564 25-43-3.102, Mississippi Code of 1972:

565 25-43-3.102. **Public Rule-Making Docket.**

566 (1) Each agency shall maintain a current, public rule-making  
567 docket.

568 (2) The rule-making docket may, but need not, contain a  
569 listing of the subject matter of possible rules currently under  
570 active consideration within the agency for proposal under Section  
571 25-43-3.103 and the name and address of agency personnel with whom  
572 persons may communicate with respect to the matter.

573 (3) The rule-making docket must list each pending  
574 rule-making proceeding. A rule-making proceeding is pending from  
575 the time it is commenced, by proper filing with the Secretary of



576 State of a notice of proposed rule adoption, to the time it is  
577 terminated by the filing with the Secretary of State of a notice  
578 of termination or the rule becoming effective. For each pending  
579 rule-making proceeding, the docket must indicate:

- 580 (a) The subject matter of the proposed rule;
- 581 (b) A citation to all published notices relating to the  
582 proceeding;
- 583 (c) Where written submissions or written requests for  
584 an opportunity to make oral presentations on the proposed rule may  
585 be inspected;
- 586 (d) The time during which written submissions may be  
587 made;
- 588 (e) If applicable, where and when oral presentations  
589 may be made;
- 590 (f) Where any economic impact statement and written  
591 requests for the issuance of and other information concerning an  
592 economic impact statement of the proposed rule may be inspected;
- 593 (g) The current status of the proposed rule;
- 594 (h) The date of the rule's adoption; and
- 595 (i) When the rule will become effective.

596 **SECTION 14.** The following shall be codified as Section  
597 25-43-3.103, Mississippi Code of 1972:

598 25-43-3.103. **Notice of Proposed Rule Adoption.**

599 (1) At least twenty-five (25) days before the adoption of a  
600 rule an agency shall cause notice of its contemplated action to be  
601 properly filed with the Secretary of State for publication in the  
602 administrative bulletin. The notice of proposed rule adoption  
603 must include:

- 604 (a) A short explanation of the purpose of the proposed  
605 rule and the agency's reasons for proposing the rule;
- 606 (b) The specific legal authority authorizing the  
607 proposed rule;



608 (c) A reference to all rules repealed, amended or  
609 suspended by the proposed rule;

610 (d) Subject to Section 25-43-2.101(5), the text of the  
611 proposed rule;

612 (e) Where, when and how persons may present their views  
613 on the proposed rule; and

614 (f) Where, when and how persons may demand an oral  
615 proceeding on the proposed rule if the notice does not already  
616 provide for one.

617 (2) Within three (3) days after its proper filing with the  
618 Secretary of State for publication in the administrative bulletin,  
619 the agency shall cause a copy of the notice of proposed rule  
620 adoption to be mailed to each person who has made a timely request  
621 to the agency to be placed on the mailing list maintained by the  
622 agency of persons who have requested notices of proposed rule  
623 adoptions. An agency may charge persons a reasonable fee for such  
624 service, which fee may be in excess of the actual cost of  
625 providing persons with mailed copies.

626 **SECTION 15.** The following shall be codified as Section  
627 25-43-3.104, Mississippi Code of 1972:

628 25-43-3.104. **Public Participation.**

629 (1) For at least twenty-five (25) days after proper filing  
630 with the Secretary of State of the notice of proposed rule  
631 adoption, an agency shall afford persons the opportunity to  
632 submit, in writing, argument, data and views on the proposed rule.

633 (2) (a) An agency, in its discretion, may schedule an oral  
634 proceeding on any proposed rule. However, an agency shall  
635 schedule an oral proceeding on a proposed rule if, within twenty  
636 (20) days after the proper filing of the notice of proposed rule  
637 adoption, a written request for an oral proceeding is submitted by  
638 a political subdivision, an agency or twenty-five (25) persons.  
639 At that proceeding, persons may present oral or written argument,  
640 data and views on the proposed rule.



641 (b) An oral proceeding on a proposed rule, if required,  
642 may not be held earlier than twenty (20) days after notice of its  
643 location and time is properly filed with the Secretary of State  
644 for publication in the administrative bulletin. Within three (3)  
645 days after its proper filing with the Secretary of State for  
646 publication in the administrative bulletin, the agency shall cause  
647 a copy of the notice of the location and time of the oral  
648 proceeding to be mailed to each person who has made a timely  
649 request to the agency to be placed on the mailing list maintained  
650 by the agency of persons who have requested notices of proposed  
651 rule adoptions.

652 (c) The agency, a member of the agency, or another  
653 presiding officer designated by the agency shall preside at a  
654 required oral proceeding on a proposed rule. Oral proceedings  
655 must be open to the public and may be recorded by stenographic or  
656 other means.

657 (d) An agency may issue rules for the conduct of oral  
658 rule-making proceedings or prepare reasonable guidelines or  
659 procedures for the conduct of any such proceedings. Those rules  
660 may include, but not be limited to, provisions calculated to  
661 prevent undue repetition in the oral proceedings.

662 **SECTION 16.** The following shall be codified as Section  
663 25-43-3.105, Mississippi Code of 1972:

664 25-43-3.105. **Economic Impact Statement, Requirement and**  
665 **Conditions.**

666 (1) Prior to giving the notice required in Section  
667 25-43-3.103, each agency proposing the adoption of a rule or  
668 significant amendment of an existing rule imposing a duty,  
669 responsibility or requirement on any person shall consider the  
670 economic impact the rule will have on the citizens of our state  
671 and the benefits the rule will cause to accrue to those citizens.  
672 For purposes of this section, a "significant amendment" means any  
673 amendment to a rule for which the total aggregate cost to all



674 persons required to comply with that rule exceeds One Hundred  
675 Thousand Dollars (\$100,000.00).

676 (2) Each agency shall prepare a written report providing an  
677 economic impact statement for the adoption of a rule or  
678 significant amendment to an existing rule imposing a duty,  
679 responsibility or requirement on any person, except as provided in  
680 subsection (7) of this section. The economic impact statement  
681 shall include the following:

682 (a) A description of the need for and the benefits  
683 which will likely accrue as the result of the proposed action;

684 (b) An estimate of the cost to the agency, and to any  
685 other state or local government entities, of implementing and  
686 enforcing the proposed action, including the estimated amount of  
687 paperwork, and any anticipated effect on state or local revenues;

688 (c) An estimate of the cost or economic benefit to all  
689 persons directly affected by the proposed action;

690 (d) An analysis of the impact of the proposed rule on  
691 small business;

692 (e) A comparison of the costs and benefits of the  
693 proposed rule to the probable costs and benefits of not adopting  
694 the proposed rule or significantly amending an existing rule;

695 (f) A determination of whether less costly methods or  
696 less intrusive methods exist for achieving the purpose of the  
697 proposed rule where reasonable alternative methods exist which are  
698 not precluded by law;

699 (g) A description of reasonable alternative methods,  
700 where applicable, for achieving the purpose of the proposed action  
701 which were considered by the agency and a statement of reasons for  
702 rejecting those alternatives in favor of the proposed rule; and

703 (h) A detailed statement of the data and methodology  
704 used in making estimates required by this subsection.

705 (3) No rule or regulation shall be declared invalid based on  
706 a challenge to the economic impact statement for the rule unless



707 the issue is raised in the agency proceeding. No person shall  
708 have standing to challenge a rule, based upon the economic impact  
709 statement or lack thereof, unless that person provided the agency  
710 with information sufficient to make the agency aware of specific  
711 concerns regarding the statement in an oral proceeding or in  
712 written comments regarding the rule. The grounds for invalidation  
713 of an agency action, based upon the economic impact statement, are  
714 limited to the agency's failure to adhere to the procedure for  
715 preparation of the economic impact statement as provided in this  
716 section, or the agency's failure to consider information submitted  
717 to the agency regarding specific concerns about the statement, if  
718 that failure substantially impairs the fairness of the rule-making  
719 proceeding.

720 (4) A concise summary of the economic impact statement must  
721 be properly filed with the Secretary of State for publication in  
722 the administrative bulletin and the period during which persons  
723 may make written submissions on the proposed rule shall not expire  
724 until at least twenty (20) days after the date of such proper  
725 filing.

726 (5) The properly filed summary of the economic impact  
727 statement must also indicate where persons may obtain copies of  
728 the full text of the economic impact statement and where, when and  
729 how persons may present their views on the proposed rule and  
730 demand an oral proceeding on the proposed rule if one is not  
731 already provided.

732 (6) If the agency has made a good faith effort to comply  
733 with the requirements of subsections (1) and (2) of this section,  
734 the rule may not be invalidated on the ground that the contents of  
735 the economic impact statement are insufficient or inaccurate.

736 (7) This section does not apply to the adoption of:

737 (a) Any rule which is required by the federal  
738 government pursuant to a state/federal program delegation  
739 agreement or contract;



740 (b) Any rule which is expressly required by state law;  
741 and

742 (c) A temporary rule adopted pursuant to Section  
743 25-43-3.108.

744 **SECTION 17.** The following shall be codified as Section  
745 25-43-3.106, Mississippi Code of 1972:

746 25-43-3.106. **Time and Manner of Rule Adoption.**

747 (1) An agency may not adopt a rule until the period for  
748 making written submissions and oral presentations has expired.

749 (2) Following the proper filing with the Secretary of State  
750 of the notice of proposed rule adoption, an agency shall adopt a  
751 rule pursuant to the rule-making proceeding or terminate the  
752 proceeding by proper filing with the Secretary of State of a  
753 notice to that effect for publication in the administrative  
754 bulletin.

755 (3) Before the adoption of a rule, an agency shall consider  
756 the written submissions, oral submissions or any memorandum  
757 summarizing oral submissions, and any economic impact statement,  
758 provided for by this article.

759 (4) Within the scope of its delegated authority, an agency  
760 may use its own experience, technical competence, specialized  
761 knowledge and judgment in the adoption of a rule.

762 **SECTION 18.** The following shall be codified as Section  
763 25-43-3.107, Mississippi Code of 1972:

764 25-43-3.107. **Variance between Adopted Rule and Published  
765 Notice of Proposed Rule Adoption.**

766 (1) An agency shall not adopt a rule that differs from the  
767 rule proposed in the notice of proposed rule adoption on which the  
768 rule is based unless all of the following apply:

769 (a) The differences are within the scope of the matter  
770 announced in the notice of proposed rule adoption and are in  
771 character with the issues raised in that notice;



772 (b) The differences are a logical outgrowth of the  
773 contents of that notice of proposed rule adoption and the comments  
774 submitted in response thereto; and

775 (c) The notice of proposed rule adoption provided fair  
776 warning that the outcome of that rule-making proceeding could be  
777 the rule in question.

778 (2) In determining whether the notice of proposed rule  
779 adoption provided fair warning that the outcome of that  
780 rule-making proceeding could be the rule in question, an agency  
781 shall consider all of the following factors:

782 (a) The extent to which persons who will be affected by  
783 the rule should have understood that the rule-making proceeding on  
784 which it is based could affect their interests;

785 (b) The extent to which the subject matter of the rule  
786 or issues determined by the rule are different from the subject  
787 matter or issues contained in the notice of proposed rule  
788 adoption; and

789 (c) The extent to which the effects of the rule differ  
790 from the effects of the proposed rule contained in the notice of  
791 proposed rule adoption.

792 **SECTION 19.** The following shall be codified as Section  
793 25-43-3.108, Mississippi Code of 1972:

794 25-43-3.108. **Exemption from Public Rule-Making Procedures**  
795 **for Temporary Rules.**

796 (1) To the extent an agency for good cause finds that any  
797 requirements of Sections 25-43-3.103 through 25-43-3.107 are  
798 unnecessary, impracticable or contrary to the public interest in  
799 the process of adopting a temporary rule, those requirements do  
800 not apply. The agency shall incorporate the required finding and  
801 a brief statement of its supporting reasons in each temporary rule  
802 adopted in reliance on this subsection. The supporting reasons  
803 for the issuance of a temporary rule in accordance with this  
804 provision may include, but are not limited to, a serious and





805 unforeseen threat to the public health, safety or welfare; an  
806 impending effective date of a recent act of the Legislature of the  
807 State of Mississippi or the United States Congress that requires  
808 the issuance of implementing or conforming rules or regulations;  
809 an impending effective date of a regulation recently issued by an  
810 agency or authority of the federal government of the United States  
811 that requires the issuance of implementing or conforming rules or  
812 regulations; or a court order or other controlling judicial  
813 decision that requires the issuance of implementing or conforming  
814 rules or regulations. Unless a shorter period of time is stated  
815 in the temporary rule, a temporary rule shall expire no later than  
816 one hundred eighty (180) days after adoption. A temporary rule  
817 may not be renewed after its expiration or early termination by  
818 the agency. However, an agency may adopt a rule which is  
819 identical or similar to a temporary rule to become effective  
820 following the expiration or early termination of the temporary  
821 rule, provided that the rule is adopted in accordance with the  
822 requirements of Sections 25-43-3.103 through 25-43-3.107.

823 (2) In an action contesting a temporary rule adopted under  
824 subsection (1) of this section, the burden is upon the agency to  
825 demonstrate that any omitted requirements of Sections 25-43-3.103  
826 through 25-43-3.107 were impracticable, unnecessary or contrary to  
827 the public interest in the particular circumstances involved.

828 **SECTION 20.** The following shall be codified as Section  
829 25-43-3.109, Mississippi Code of 1972:

830 25-43-3.109. **Contents, Style and Form of Rule.**

831 (1) Each rule adopted by an agency must contain the text of  
832 the rule and:

833 (a) The date the agency adopted the rule;

834 (b) An indication of any change between the text of the  
835 proposed rule contained in the published notice of proposed rule  
836 adoption and the text of the rule as finally adopted, with the  
837 reasons for any substantive change;



838 (c) Any changes to the information contained in the  
839 notice of proposed rule adoption as required by subsection (a),  
840 (b) or (c) of Section 25-43-3.103;

841 (d) Any findings required by any provision of law as a  
842 prerequisite to adoption or effectiveness of the rule; and

843 (e) The effective date of the rule if other than that  
844 specified in Section 25-43-3.113(1).

845 (2) To the extent feasible, each rule should be written in  
846 clear and concise language understandable to persons who may be  
847 affected by it.

848 (3) An agency may incorporate, by reference in its rules and  
849 without publishing the incorporated matter in full, all or any  
850 part of a code, standard, rule or regulation that has been adopted  
851 by an agency of the United States or of this state, another state  
852 or by a nationally recognized organization or association, if  
853 incorporation of its text in agency rules would be unduly  
854 cumbersome, expensive or otherwise inexpedient. The reference in  
855 the agency rules must fully identify the incorporated matter with  
856 an appropriate citation. An agency may incorporate by reference  
857 such matter in its rules only if the agency, organization or  
858 association originally issuing that matter makes copies of it  
859 readily available to the public. The rules must state if copies  
860 of the incorporated matter are available from the agency issuing  
861 the rule or where copies of the incorporated matter are available  
862 from the agency of the United States, this state, another state or  
863 the organization or association originally issuing that matter.

864 (4) In preparing its rules pursuant to this article, each  
865 agency shall follow the uniform numbering system, form and style  
866 prescribed by the Secretary of State.

867 **SECTION 21.** The following shall be codified as Section  
868 25-43-3.110, Mississippi Code of 1972:

869 25-43-3.110. **Agency Rule-Making Record.**



870 (1) An agency shall maintain an official rule-making record  
871 for each rule it (a) proposes or (b) adopts. The agency has the  
872 exclusive authority to prepare and exclusive authority to certify  
873 the record or any part thereof, including, but not limited to, any  
874 transcript of the proceedings, and the agency's certificate shall  
875 be accepted by the court and by any other agency. The record must  
876 be available for public inspection.

877 (2) The agency rule-making record must contain:

878 (a) Copies of all notices of proposed rule-making or  
879 oral proceedings or other publications in the administrative  
880 bulletin with respect to the rule or the proceeding upon which the  
881 rule is based;

882 (b) Copies of any portions of the agency's public  
883 rule-making docket containing entries relating to the rule or the  
884 proceeding upon which the rule is based;

885 (c) All written petitions, requests, submissions and  
886 comments received by the agency and all other written materials  
887 considered by the agency in connection with the formulation,  
888 proposal or adoption of the rule or the proceeding upon which the  
889 rule is based;

890 (d) Any official transcript of oral presentations made  
891 in the proceeding upon which the rule is based or, if not  
892 transcribed, any tape recording or stenographic record of those  
893 presentations, and any memorandum prepared by a presiding official  
894 summarizing the contents of those presentations. The word  
895 "transcript" includes a written transcript, a printed transcript,  
896 an audible audiotape or videotape that is indexed and annotated so  
897 that it is readily accessible and any other means that the agency  
898 may have by rule provided for the reliable and accessible  
899 preservation of the proceeding;

900 (e) A copy of any economic impact statement prepared  
901 for the proceeding upon which the rule is based;



902 (f) A copy of the rule and related information set out  
903 in Section 25-43-3.109 as filed in the Office of the Secretary of  
904 State; and

905 (g) All petitions for exceptions to, amendments of, or  
906 repeal or suspension of, the rule.

907 (3) The agency shall have authority to engage such persons  
908 and acquire such equipment as may be reasonably necessary to  
909 record and preserve in any technically and practicably feasible  
910 manner all matters and all proceedings had at any rule-making  
911 proceeding.

912 (4) Upon judicial review, the record required by this  
913 section constitutes the official agency rule-making record with  
914 respect to a rule. Except as otherwise required by a provision of  
915 law, the agency rule-making record need not constitute the  
916 exclusive basis for agency action on that rule or for judicial  
917 review thereof.

918 **SECTION 22.** The following shall be codified as Section  
919 25-43-3.111, Mississippi Code of 1972:

920 25-43-3.111. **Invalidity of Rules not Adopted According to**  
921 **Article; Time Limitation.**

922 (1) A rule adopted after July 1, 2003, is invalid unless  
923 adopted in substantial compliance with the provisions of Sections  
924 25-43-3.102 through 25-43-3.110. Inadvertent failure to mail a  
925 notice of proposed rule adoption to any person as required by  
926 Section 25-43-3.103(2) does not invalidate a rule.

927 (2) An action to contest the validity of a rule on the  
928 grounds of its noncompliance with any provision of Sections  
929 25-43-3.102 through 25-43-3.110 must be commenced within one (1)  
930 year after the effective date of the rule.

931 **SECTION 23.** The following shall be codified as Section  
932 25-43-3.112, Mississippi Code of 1972:

933 25-43-3.112. **Filing of Rules.**



934 An agency shall file in the Office of the Secretary of State  
935 each rule it adopts and all rules existing on July 1, 2003, that  
936 have not previously been filed. The filing must be done as soon  
937 after adoption of the rule as is practicable. At the time of  
938 filing, each rule adopted after July 1, 2003, must have included  
939 in or attached to it the material set out in Section 25-43-3.109.  
940 The Secretary of State shall affix to each rule and statement a  
941 certification of the date of filing and keep a permanent register  
942 open to public inspection of all filed rules and attached  
943 material. In filing a rule, each agency shall use a standard  
944 format prescribed by the Secretary of State.

945 **SECTION 24.** The following shall be codified as Section  
946 25-43-3.113, Mississippi Code of 1972:

947 25-43-3.113. **Effective Date of Rules.**

948 (1) Except to the extent subsection (2) or (3) of this  
949 section provides otherwise, each rule adopted after July 1, 2002,  
950 becomes effective thirty (30) days after its proper filing in the  
951 Office of the Secretary of State.

952 (2) (a) A rule becomes effective on a date later than that  
953 established by subsection (1) of this section if a later date is  
954 required by another statute or specified in the rule.

955 (b) A rule may become effective immediately upon its  
956 filing or on any subsequent date earlier than that established by  
957 subsection (1) of this section if the agency establishes such an  
958 effective date and finds that:

959 (i) It is required by constitution, statute or  
960 court order;

961 (ii) The rule only confers a benefit or removes a  
962 restriction on the public or some segment thereof;

963 (iii) The rule only delays the effective date of  
964 another rule that is not yet effective; or

965 (iv) The earlier effective date is necessary  
966 because of imminent peril to the public health, safety or welfare.



967 (c) The finding and a brief statement of the reasons  
968 therefor required by paragraph (b) of this subsection must be made  
969 a part of the rule. In any action contesting the effective date  
970 of a rule made effective under paragraph (b) of this subsection,  
971 the burden is on the agency to justify its finding.

972 (d) A temporary rule may become effective immediately  
973 upon its filing or on any subsequent date earlier than that  
974 established by subsection (1) of this section.

975 (e) Each agency shall make a reasonable effort to make  
976 known to persons who may be affected by it a rule made effective  
977 before any date established by subsection (1) of this section.

978 (3) This section does not relieve an agency from compliance  
979 with any provision of law requiring that some or all of its rules  
980 be approved by other designated officials or bodies before they  
981 become effective.

982 **SECTION 25.** The following shall be codified as Section  
983 25-43-3.114, Mississippi Code of 1972:

984 25-43-3.114. **Review by Agency.**

985 At least every five (5) years, each agency shall review all  
986 of its rules to determine whether any rule should be repealed,  
987 amended or a new rule adopted.

988 **SECTION 26.** Sections 25-43-1, 25-43-3, 25-43-5, 25-43-6,  
989 25-43-7, 25-43-9, 25-43-11, 25-43-13, 25-43-15, 25-43-17 and  
990 25-43-19, Mississippi Code of 1972, which create the Mississippi  
991 Administrative Procedures Law, provide definitions for terms used  
992 in such law, prescribe procedures that must be followed by  
993 agencies in the adoption, amendment and repeal of agency rules,  
994 require the filing of an economic impact statement for the  
995 adoption of a rule, require filing and notice before such rules  
996 may become effective, require agencies to index all effective  
997 rules adopted, provide that revocation or suspension of any  
998 license shall not be effective unless notice of such intended  
999 action is given to the licensee, and require agencies to adopt



1000 procedures to assure that opponents of proposed rules have the  
1001 opportunity to present their views and review adverse rulings, are  
1002 repealed.

1003         **SECTION 27.** Every agency as defined in this act shall, no  
1004 later than July 1, 2002, file with the Secretary of the Senate and  
1005 the Clerk of the House a report which outlines any conflicts  
1006 between this act and any other laws affecting the agency. This  
1007 report shall include proposed legislation to bring the other laws  
1008 into conformity with the requirements of this act. The Secretary  
1009 of State shall, no later than October 1, 2002, file with the  
1010 Secretary of the Senate and the Clerk of the House a list of  
1011 sections which the Secretary of State believes conflict with this  
1012 act. The Secretary of the Senate and the Clerk of the House shall  
1013 maintain a list of agencies which have complied with this section.

1014         **SECTION 28.** Section 27 of this act shall take effect and be  
1015 in force from and after its passage. The remainder of this act  
1016 shall take effect and be in force from and after July 1, 2003.

