

By: Representatives Brown, Barnett (116th),
Mayo, Reeves, Simpson, Ward, Whittington

To: Judiciary A

HOUSE BILL NO. 651

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

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

44 **ARTICLE I**

45 **GENERAL PROVISIONS**

46 **SECTION 1.** The following shall be codified as Section

47 25-43-1.101, Mississippi Code of 1972:



48 25-43-1.101. **Title; Statement of Purpose.**

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

51 (2) This chapter is intended to provide a minimum procedural
52 code for the operation of all state agencies when they take action
53 affecting the rights and duties of the public. Nothing in this
54 chapter shall be construed as invalidating any rule or regulation
55 adopted before July 1, 2005, if such rule or regulation was
56 properly adopted in accordance with the law as it existed at the
57 time of adoption. Nothing in this chapter is meant to discourage
58 agencies from adopting procedures providing greater protections to
59 the public or conferring additional rights upon the public; and
60 save for express provisions of this chapter to the contrary,
61 nothing in this chapter is meant to abrogate in whole or in part
62 any statute prescribing procedural duties for an agency which are
63 greater than or in addition to those provided here. This chapter
64 is meant to apply to all rule-making that is not specifically
65 excluded from this chapter or some portion thereof by its express
66 terms or by the express terms of another chapter.

67 The purposes of the Mississippi Administrative Procedures Law
68 are: to provide legislative oversight of powers and duties
69 delegated to administrative agencies; to increase public
70 accountability of administrative agencies; to simplify government
71 by assuring a uniform minimum procedure to which all agencies will
72 be held in the conduct of their most important functions; to
73 increase public access to governmental information; and to
74 increase public participation in the formulation of administrative
75 rules. In accomplishing its objectives, the intention of this
76 chapter is to strike a fair balance between these purposes and the
77 need for efficient, economical and effective government
78 administration. The chapter is not meant to alter the substantive
79 rights of any person or agency. Its impact is limited to
80 procedural rights with the expectation that better substantive



81 results will be achieved in the everyday conduct of state
82 government by improving the process by which those results are
83 attained.

84 (3) From and after July 1, 2005, any reference to the
85 Mississippi Administrative Procedure Act, the Mississippi
86 Administrative Procedures Act, the Mississippi Administrative
87 Procedure Law, or the Mississippi Administrative Procedures Law,
88 being Section 25-43-1 et seq., Mississippi Code of 1972, shall be
89 deemed to mean and refer to this chapter.

90 **SECTION 2.** The following shall be codified as Section
91 25-43-1.102, Mississippi Code of 1972:

92 25-43-1.102. **Definitions.**

93 As used in this chapter the following terms shall have the
94 meanings ascribed to them in this section unless the context
95 otherwise requires:

96 (a) "Agency" means a board, commission, department,
97 officer or other administrative unit of this state, including the
98 agency head, and one or more members of the agency head or agency
99 employees directly or indirectly purporting to act on behalf or
100 under the authority of the agency head. The term does not include
101 the Legislature or any of its component units, the judiciary or
102 any of its component units or the Governor. The term does not
103 include a political subdivision of the state or any of the
104 administrative units of a political subdivision. Furthermore, the
105 Board of Trustees of State Institutions of Higher Learning, or any
106 college or university thereunder, shall be exempt from the
107 provisions of this chapter until July 1, 2005, at which time this
108 exemption shall stand repealed. To the extent it purports to
109 exercise authority subject to any provision of this chapter, an
110 administrative unit otherwise qualifying as an "agency" must be
111 treated as a separate agency even if the unit is located within or
112 subordinate to another agency.



113 (b) "Agency head" or "head of the agency" means an
114 individual or body of individuals in whom the ultimate legal
115 authority of the agency is vested by any provision of law.

116 (c) "Agency proceeding" or "proceeding" means the
117 process by which an agency considers:

118 (i) A declaratory opinion pursuant to Section
119 25-43-2.103, or

120 (ii) A rule pursuant to Article III of this
121 chapter.

122 (d) "Agency record" means the official rule-making
123 record of an agency pursuant to Section 25-43-3.112.

124 (e) "Declaratory opinion" means an agency opinion
125 rendered in accordance with the provisions of Section 25-43-2.103.

126 (f) "License" means a franchise, permit, certification,
127 approval, registration, charter or similar form of authorization
128 required by law. The holder of a "license" may be referred to as
129 a "licensee," "permittee" or "franchisee."

130 (g) "Order" means an agency action of particular
131 applicability that determines the legal rights, duties,
132 privileges, immunities or other legal interests of one or more
133 specific persons. An order shall be in writing signed by a person
134 with authority to render the order, or if more than one (1) person
135 has such authority by at least that number of such persons as
136 jointly have the authority to render the order, or by a person
137 authorized to render the order on behalf of all such persons. The
138 term does not include an executive order issued by the Governor
139 pursuant to Section 25-43-1.104, an opinion issued by the Attorney
140 General pursuant to Section 7-5-25, an opinion issued by the
141 Ethics Commission pursuant to Section 25-4-17, or a declaratory
142 opinion rendered in accordance with Section 25-43-2.103.

143 (h) "Person" means an individual, partnership,
144 corporation, association, governmental subdivision or unit



145 thereof, or public or private organization or entity of any
146 character, and includes another agency.

147 (i) "Provision of law" or "law" means the whole or a
148 part of the federal or state Constitution, or of any federal or
149 state (i) statute, (ii) case law or common law, (iii) rule of
150 court, (iv) executive order, or (v) rule or order of an
151 administrative agency.

152 (j) "Public employee" means any person engaged in
153 "state service" as defined in Section 25-9-107(b) and excludes any
154 person engaged in "nonstate service" as defined in Section
155 25-9-107(c).

156 (k) "Rule" means the whole or a part of an agency
157 regulation or other statement of general applicability that
158 implements, interprets or prescribes:

159 (i) Law or policy, or

160 (ii) The organization, procedure or practice
161 requirements of an agency. The term includes the amendment,
162 repeal or suspension of an existing rule. "Rule" does not
163 include:

164 1. A regulation or statement concerning only
165 the internal management of an agency which does not directly and
166 substantially affect the procedural or substantive rights or
167 duties of any segment of the public;

168 2. A regulation or statement that establishes
169 criteria or guidelines to be used by the staff of an agency in
170 performing audits, investigations or inspections, settling
171 commercial disputes, negotiating commercial arrangements or in the
172 defense, prosecution or settlement of cases, if disclosure of the
173 criteria or guidelines would:

174 a. Enable law violators to avoid
175 detection;

176 b. Facilitate disregard of requirements
177 imposed by law; or



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

180 3. A regulation or statement that only
181 establishes specific prices to be charged for particular goods or
182 services sold by an agency;

183 4. A regulation or statement concerning only
184 the physical servicing, maintenance or care of agency owned or
185 operated facilities or property;

186 5. A regulation or statement relating only to
187 the use of a particular facility or property owned, operated or
188 maintained by the state or any of its subdivisions, if the
189 substance of the regulation or statement is adequately indicated
190 by means of signs or signals to persons who use the facility or
191 property;

192 6. A regulation or statement concerning only
193 inmates of a correctional or detention facility, students enrolled
194 in an educational institution or patients admitted to a hospital,
195 if adopted by that facility, institution or hospital;

196 7. A form whose contents or substantive
197 requirements are prescribed by rule or statute, and instructions
198 for the execution or use of the form;

199 8. An agency budget;

200 9. A compact or agreement between an agency
201 of this state and one or more agencies of another state or states;
202 or

203 10. An opinion of the Attorney General
204 pursuant to Section 7-5-25, an opinion of the Ethics Commission
205 pursuant to Section 25-4-17, or an executive order of the
206 Governor.

207 (1) "Rule-making" means the process for formulation and
208 adoption of a rule.

209 **SECTION 3.** The following shall be codified as Section
210 25-43-1.103, Mississippi Code of 1972:



211 25-43-1.103. **Applicability and Relation to Other Law.**

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

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

217 (3) Specific statutory provisions which govern agency
218 proceedings and which are in conflict with any of the provisions
219 of this chapter shall continue to be applied to all proceedings of
220 any such agency to the extent of such conflict only.

221 (4) The provisions of this chapter shall not be construed to
222 amend, repeal or supersede the provisions of any other law; and,
223 to the extent that the provisions of any other law conflict or are
224 inconsistent with the provisions of this chapter, the provisions
225 of such other law shall govern and control.

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

230 **SECTION 4.** The following shall be codified as Section
231 25-43-1.104, Mississippi Code of 1972:

232 25-43-1.104. **Suspension of Chapter's Provisions when**
233 **Necessary to Avoid Loss of Federal Funds or Services.**

234 (1) To the extent necessary to avoid a denial of funds or
235 services from the United States which would otherwise be available
236 to the state, the Governor, by executive order, may suspend, in
237 whole or in part, one or more provisions of this chapter. The
238 Governor, by executive order, shall declare the termination of a
239 suspension as soon as it is no longer necessary to prevent the
240 loss of funds or services from the United States.

241 (2) If any provision of this chapter is suspended pursuant
242 to this section, the Governor shall promptly report the suspension
243 to the Legislature. The report may include recommendations



244 concerning desirable legislation that may be necessary to conform
245 this chapter to federal law, including the exemption, if
246 appropriate, of a particular program from the provisions of this
247 chapter.

248 **SECTION 5.** The following shall be codified as Section
249 25-43-1.105, Mississippi Code of 1972:

250 25-43-1.105. **Waiver of Rights.**

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

254 **SECTION 6.** The following shall be codified as Section
255 25-43-1.106, Mississippi Code of 1972:

256 25-43-1.106. **Filings with Agency; Service; Computation of**
257 **Time.**

258 (1) (a) Whenever a party or any person is permitted or
259 required to file with an agency any pleading, motion or other
260 document, filing must be made by delivery of the document to the
261 agency, by mailing it to the agency or by transmitting it to the
262 agency by electronic means, including, but not limited to,
263 facsimile transfer or e-mail. Filing by electronic means is
264 complete when the electronic equipment being used by the agency
265 acknowledges receipt of the material. If the equipment used by
266 the agency does not automatically acknowledge transmission,
267 service is not complete until the filing party obtains an
268 acknowledgment from the agency. Filing by mail is complete upon
269 receipt by the agency.

270 (b) The agency may implement this section by agency
271 rule.

272 (2) (a) Whenever service is required by this chapter, and
273 whether the service is made by a party, an agency or a presiding
274 officer, service of orders, notices, pleadings, motions and other
275 documents upon a party shall be made by delivering a copy to the
276 party, by transmitting it to the party by electronic means,



277 including, but not limited to, facsimile transfer or e-mail, or by
278 mailing it to the party at the party's last known address.
279 Delivery of a copy means handing it to a party, leaving it at the
280 office of a party with a person in charge thereof, or leaving it
281 at the dwelling house or usual place of abode of the party with
282 some person of suitable age and discretion then residing therein.
283 Service by electronic means is complete when the electronic
284 equipment being used by the party being served acknowledges
285 receipt of the material. If the equipment used by the party being
286 served does not automatically acknowledge the transmission,
287 service is not complete until the sending party obtains an
288 acknowledgment from the recipient. Service by mail is complete
289 upon mailing.

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

293 (c) Whenever an agency issues an order or serves a
294 notice or other document, the order or notice or other document
295 shall be dated and shall be deemed to have been issued on the day
296 it is served on the parties to the matter. If the order or notice
297 or other document is to be served by mail, it shall be dated and
298 shall be deemed to have been issued on the day it is mailed.

299 (3) (a) In computing any period of time prescribed or
300 allowed by this article, by order of an agency, or by any
301 applicable statute or agency rule, the day of the act, event or
302 default from which the designated period of time begins to run
303 shall not be included. The last day of the period so computed
304 shall be included, unless it is a Saturday, a Sunday or a legal
305 holiday, as defined by statute, or any other day when the agency's
306 office is in fact closed, whether with or without legal authority,
307 in which event the period runs until the end of the next day which
308 is not a Saturday, a Sunday, a legal holiday or any other day when
309 the agency's office is closed. When the period of time prescribed



310 or allowed is less than seven (7) days, intermediate Saturdays,
311 Sundays and legal holidays shall be excluded in the computation.
312 In the event any legal holiday falls on a Sunday, the next
313 following day shall be a legal holiday.

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

319 **ARTICLE II**

320 **PUBLIC ACCESS TO AGENCY LAW AND POLICY**

321 **SECTION 7.** The following shall be codified as Section
322 25-43-2.101, Mississippi Code of 1972:

323 25-43-2.101. **Publication, Compilation, Indexing and Public**
324 **Inspection of Rules.**

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

331 (2) The Secretary of State shall cause an administrative
332 bulletin to be published in a format and at such regular intervals
333 as the Secretary of State shall prescribe by rule. Upon proper
334 filing of proposed rules, the Secretary of State shall publish
335 them in the administrative bulletin as expeditiously as possible.
336 The administrative bulletin must contain:

337 (a) Notices of proposed rule adoption prepared so that
338 the text of the proposed rule shows the text of any existing rule
339 proposed to be changed and the change proposed;

340 (b) Any other notices and materials designated by law
341 for publication therein; and

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



343 (3) The Secretary of State shall cause an administrative
344 bulletin to be published in a format and at such regular intervals
345 as the Secretary of State shall prescribe by rule. Upon proper
346 filing of newly adopted rules, the Secretary of State shall
347 publish them as expeditiously as possible. The administrative
348 bulletin must contain:

349 (a) Newly filed adopted rules prepared so that the text
350 shows the text of any existing rule being changed and the change
351 being made;

352 (b) Any other notices and materials designated by law
353 for publication therein; and

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

355 (4) The Secretary of State retains the authority to reject
356 proposed and newly adopted rules not properly filed in accordance
357 with the Secretary of State's rules prescribing the numbering
358 system, form, style or transmitting format for such filings. The
359 Secretary of State shall not be empowered to reject filings for
360 reasons of the substance or content or any proposed or newly
361 adopted rule. The Secretary of State shall notify the agency of
362 its rejection of a proposed or newly adopted rule as expeditiously
363 as possible and accompany such notification with a stated reason
364 for the rejection. A rejected filing of a proposed or newly
365 adopted rule does not constitute filing pursuant to Section
366 25-43-3.101 et seq. of this chapter.

367 (5) (a) The Secretary of State shall cause an
368 administrative code to be compiled, indexed by subject and
369 published in a format prescribed by the Secretary of State by
370 rule. All of the effective rules of each agency must be published
371 and indexed in that publication. The Secretary of State shall
372 also cause supplements to the administrative code to be published
373 in a format and at such regular intervals as the Secretary of
374 State shall prescribe by rule.



375 (b) The Joint Legislative Committee on Compilation,
376 Revision and Publication of Legislation is hereby authorized to
377 contract with a reputable and competent publishing company on such
378 terms and conditions and at such prices as may be deemed proper to
379 digest, compile, annotate, index and publish the state agency
380 rules and regulations.

381 (6) (a) Copyrights of the Mississippi Administrative Code,
382 including, but not limited to, cross references, tables of cases,
383 notes of decisions, tables of contents, indices, source notes,
384 authority notes, numerical lists and codification guides, other
385 than the actual text of rules or regulations, shall be taken by
386 and in the name of the publishers of said compilation. Such
387 publishers shall thereafter promptly assign the same to the State
388 of Mississippi and said copyright shall be owned by the state.

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

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

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

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

402 (c) The administrative bulletin or code contains a
403 notice stating in detail the specific subject matter of the
404 omitted proposed or adopted rule and how a copy of the omitted
405 material may be obtained.

406 (8) The administrative bulletin and administrative code with
407 supplements must be furnished to designated officials without



408 charge and to all subscribers at a reasonable cost to be
409 determined by the Secretary of State. Each agency shall also make
410 available for public inspection and copying those portions of the
411 administrative bulletin and administrative code containing all
412 rules adopted or used by the agency in the discharge of its
413 functions, and the index to those rules.

414 **SECTION 8.** The following shall be codified as Section
415 25-43-2.102, Mississippi Code of 1972:

416 25-43-2.102. **Public Inspection and Indexing of Agency**
417 **Orders.**

418 (1) In addition to other requirements imposed by any
419 provision of law, and subject to any confidentiality provisions
420 established by law, each agency shall make all written final
421 orders available for public inspection and copying and index them
422 by name and subject.

423 (2) A written final order available for public inspection
424 pursuant to subsection (1) may not be relied on as precedent by an
425 agency to the detriment of any person until it has been made
426 available for public inspection and indexed in the manner
427 described in subsection (1) of this section. This provision is
428 inapplicable to any person who has actual, timely knowledge of the
429 order. The burden of proving that knowledge is on the agency.

430 **SECTION 9.** The following shall be codified as Section
431 25-43-2.103, Mississippi Code of 1972:

432 25-43-2.103. **Declaratory Opinions.**

433 (1) Any person with a substantial interest in the subject
434 matter may make a written request of an agency for a declaratory
435 opinion as to the applicability to specified circumstances of a
436 statute, rule or order within the primary jurisdiction of the
437 agency. Such written request must clearly set forth the specific
438 facts upon which an opinion is asked for and shall be limited to a
439 single transaction or occurrence. An agency, through the agency
440 head or its designee(s) by rule, shall issue a declaratory opinion



441 in response to a written request for that opinion unless the
442 agency determines that issuance of the opinion under the
443 circumstances would be contrary to a rule adopted in accordance
444 with subsection (2) of this section.

445 (2) Each agency shall issue rules that provide for: (a) the
446 form, contents and filing of written requests for declaratory
447 opinions; (b) the procedural rights of persons in relation to the
448 written requests; and (c) the disposition of the written requests.
449 Those rules must describe the classes of circumstances in which
450 the agency will not issue a declaratory opinion.

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

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

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

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

460 (4) A copy of all opinions issued in response to a written
461 request for a declaratory opinion must be mailed promptly to the
462 requesting person.

463 (5) (a) When any person receives a declaratory opinion from
464 an agency and shall have stated all the facts to govern such
465 opinion, the agency shall take no civil or criminal action against
466 such person who, in good faith, follows the direction of such
467 opinion and acts in accordance therewith unless a court of
468 competent jurisdiction, after a full hearing, shall judicially
469 declare that such opinion is manifestly wrong and without any
470 substantial support. No declaratory opinion shall be given or
471 considered if the opinion is requested after suit is filed or
472 prosecution begun. Any declaratory opinion rendered pursuant to
473 this chapter shall not be binding or effective for any third party



474 or person other than the agency issuing the declaratory opinion
475 and the person to whom the opinion is issued and shall not be used
476 as precedent for any other transaction or occurrence beyond that
477 set forth by the requesting person.

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

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

487 **SECTION 10.** The following shall be codified as Section
488 25-43-2.104, Mississippi Code of 1972:

489 25-43-2.104. **Required Rule-Making.**

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

492 (a) Adopt as a rule a description of the organization
493 of the agency which states the general course and method of its
494 operations and where and how the public may obtain information or
495 make submissions or requests;

496 (b) Adopt rules of practice setting forth the nature
497 and requirements of all formal and informal proceedings available
498 to the public.

499 **SECTION 11.** The following shall be codified as Section
500 25-43-2.105, Mississippi Code of 1972:

501 25-43-2.105. **Model Rules of Procedure.**

502 In accordance with the rule-making requirements of this
503 chapter, the Secretary of State shall adopt model rules of
504 procedure appropriate for use by as many agencies as possible.
505 The model rules must deal with all general functions and duties
506 performed in common by several agencies. Each agency may adopt as



507 much of the model rules as is practicable under its circumstances.
508 To the extent an agency adopts the model rules, it shall do so in
509 accordance with the rule-making requirements of this chapter.

510 **ARTICLE III**

511 **RULE-MAKING**

512 **ADOPTION AND EFFECTIVENESS OF RULES**

513 **SECTION 12.** The following shall be codified as Section
514 25-43-3.101, Mississippi Code of 1972:

515 25-43-3.101. **Advice on Possible Rules before Notice of**
516 **Proposed Rule Adoption.**

517 (1) In addition to seeking information by other methods, an
518 agency, before filing of a notice of proposed rule adoption under
519 Section 25-43-3.103, may solicit comments from the public on a
520 subject matter of possible rule-making under active consideration
521 within the agency by causing notice to be filed with the Secretary
522 of State for publication in the administrative bulletin of the
523 subject matter and indicating where, when and how persons may
524 comment.

525 (2) Each agency may also appoint committees of nonagency
526 personnel or other members of the public to comment, before filing
527 of a notice of proposed rule adoption under Section 25-43-3.103,
528 on the subject matter of a possible rule-making under active
529 consideration within the agency. The membership of those
530 committees must be filed with the Secretary of State for
531 publication in the administrative bulletin.

532 **SECTION 13.** The following shall be codified as Section
533 25-43-3.102, Mississippi Code of 1972:

534 25-43-3.102. **Public Rule-Making Docket.**

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

537 (2) The rule-making docket may, but need not, contain a
538 listing of the subject matter of possible rules currently under
539 active consideration within the agency for proposal under Section



540 25-43-3.103 and the name and address of agency personnel with whom
541 persons may communicate with respect to the matter.

542 (3) The rule-making docket must list each pending
543 rule-making proceeding. A rule-making proceeding is pending from
544 the time it is commenced, by proper filing with the Secretary of
545 State of a notice of proposed rule adoption, to the time it is
546 terminated by the filing with the Secretary of State of a notice
547 of termination or the rule becoming effective. For each pending
548 rule-making proceeding, the docket must indicate:

549 (a) The subject matter of the proposed rule;

550 (b) A citation to all published notices relating to the
551 proceeding;

552 (c) Where written submissions or written requests for
553 an opportunity to make oral presentations on the proposed rule may
554 be inspected;

555 (d) The time during which written submissions may be
556 made;

557 (e) If applicable, where and when oral presentations
558 may be made;

559 (f) Where any economic impact statement and written
560 requests for the issuance of and other information concerning an
561 economic impact statement of the proposed rule may be inspected;

562 (g) The current status of the proposed rule;

563 (h) The date of the rule's adoption; and

564 (i) When the rule will become effective.

565 **SECTION 14.** The following shall be codified as Section
566 25-43-3.103, Mississippi Code of 1972:

567 25-43-3.103. **Notice of Proposed Rule Adoption.**

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



573 (a) A short explanation of the purpose of the proposed
574 rule and the agency's reasons for proposing the rule;

575 (b) The specific legal authority authorizing the
576 promulgation of rules;

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

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

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

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

586 (2) Within three (3) days after its proper filing with the
587 Secretary of State for publication in the administrative bulletin,
588 the agency shall cause a copy of the notice of proposed rule
589 adoption to be provided to each person who has made a timely
590 request to the agency to be placed on the mailing list maintained
591 by the agency of persons who have requested notices of proposed
592 rule adoptions. An agency may mail the copy to the person and may
593 charge the person a reasonable fee for such service, which fee may
594 be in excess of the actual cost of providing the person with a
595 mailed copy. Alternatively, the agency may provide the copy via
596 the Internet or by transmitting it to the person by electronic
597 means, including, but not limited to, facsimile transfer or e-mail
598 at no charge to the person, if the person consents to this form of
599 delivery.

600 **SECTION 15.** The following shall be codified as Section
601 25-43-3.104, Mississippi Code of 1972:

602 25-43-3.104. **Public Participation.**

603 (1) For at least twenty-five (25) days after proper filing
604 with the Secretary of State of the notice of proposed rule



605 adoption, an agency shall afford persons the opportunity to
606 submit, in writing, argument, data and views on the proposed rule.

607 (2) (a) An agency, in its discretion, may schedule an oral
608 proceeding on any proposed rule. However, an agency shall
609 schedule an oral proceeding on a proposed rule if, within twenty
610 (20) days after the proper filing of the notice of proposed rule
611 adoption, a written request for an oral proceeding is submitted by
612 a political subdivision, an agency or twenty-five (25) persons.
613 At that proceeding, persons may present oral or written argument,
614 data and views on the proposed rule.

615 (b) An oral proceeding on a proposed rule, if required,
616 may not be held earlier than twenty (20) days after notice of its
617 location and time is properly filed with the Secretary of State
618 for publication in the administrative bulletin. Within three (3)
619 days after its proper filing with the Secretary of State for
620 publication in the administrative bulletin, the agency shall cause
621 a copy of the notice of the location and time of the oral
622 proceeding to be mailed to each person who has made a timely
623 request to the agency to be placed on the mailing list maintained
624 by the agency of persons who have requested notices of proposed
625 rule adoptions.

626 (c) The agency, a member of the agency, or another
627 presiding officer designated by the agency shall preside at a
628 required oral proceeding on a proposed rule. Oral proceedings
629 must be open to the public and may be recorded by stenographic or
630 other means.

631 (d) An agency may issue rules for the conduct of oral
632 rule-making proceedings or prepare reasonable guidelines or
633 procedures for the conduct of any such proceedings. Those rules
634 may include, but not be limited to, provisions calculated to
635 prevent undue repetition in the oral proceedings.

636 **SECTION 16.** The following shall be codified as Section
637 25-43-3.105, Mississippi Code of 1972:



638 25-43-3.105. **Economic Impact Statement, Requirement and**
639 **Conditions.**

640 (1) Prior to giving the notice required in Section
641 25-43-3.103, each agency proposing the adoption of a rule or
642 significant amendment of an existing rule imposing a duty,
643 responsibility or requirement on any person shall consider the
644 economic impact the rule will have on the citizens of our state
645 and the benefits the rule will cause to accrue to those citizens.
646 For purposes of this section, a "significant amendment" means any
647 amendment to a rule for which the total aggregate cost to all
648 persons required to comply with that rule exceeds One Hundred
649 Thousand Dollars (\$100,000.00).

650 (2) Each agency shall prepare a written report providing an
651 economic impact statement for the adoption of a rule or
652 significant amendment to an existing rule imposing a duty,
653 responsibility or requirement on any person, except as provided in
654 subsection (7) of this section. The economic impact statement
655 shall include the following:

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

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

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

664 (d) An analysis of the impact of the proposed rule on
665 small business;

666 (e) A comparison of the costs and benefits of the
667 proposed rule to the probable costs and benefits of not adopting
668 the proposed rule or significantly amending an existing rule;

669 (f) A determination of whether less costly methods or
670 less intrusive methods exist for achieving the purpose of the



671 proposed rule where reasonable alternative methods exist which are
672 not precluded by law;

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

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

679 (3) No rule or regulation shall be declared invalid based on
680 a challenge to the economic impact statement for the rule unless
681 the issue is raised in the agency proceeding. No person shall
682 have standing to challenge a rule, based upon the economic impact
683 statement or lack thereof, unless that person provided the agency
684 with information sufficient to make the agency aware of specific
685 concerns regarding the statement in an oral proceeding or in
686 written comments regarding the rule. The grounds for invalidation
687 of an agency action, based upon the economic impact statement, are
688 limited to the agency's failure to adhere to the procedure for
689 preparation of the economic impact statement as provided in this
690 section, or the agency's failure to consider information submitted
691 to the agency regarding specific concerns about the statement, if
692 that failure substantially impairs the fairness of the rule-making
693 proceeding.

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

700 (5) The properly filed summary of the economic impact
701 statement must also indicate where persons may obtain copies of
702 the full text of the economic impact statement and where, when and
703 how persons may present their views on the proposed rule and



704 demand an oral proceeding on the proposed rule if one is not
705 already provided.

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

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

711 (a) Any rule which is required by the federal
712 government pursuant to a state/federal program delegation
713 agreement or contract;

714 (b) Any rule which is expressly required by state law;
715 and

716 (c) A temporary rule adopted pursuant to Section
717 25-43-3.108.

718 **SECTION 17.** The following shall be codified as Section
719 25-43-3.106, Mississippi Code of 1972:

720 25-43-3.106. **Time and Manner of Rule Adoption.**

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

723 (2) Following the proper filing with the Secretary of State
724 of the notice of proposed rule adoption, an agency shall adopt a
725 rule pursuant to the rule-making proceeding or terminate the
726 proceeding by proper filing with the Secretary of State of a
727 notice to that effect for publication in the administrative
728 bulletin.

729 (3) Before the adoption of a rule, an agency shall consider
730 the written submissions, oral submissions or any memorandum
731 summarizing oral submissions, and any economic impact statement,
732 provided for by this article.

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



736 **SECTION 18.** The following shall be codified as Section
737 25-43-3.107, Mississippi Code of 1972:

738 25-43-3.107. **Variance between Adopted Rule and Published**
739 **Notice of Proposed Rule Adoption.**

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

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

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

749 (c) The notice of proposed rule adoption provided fair
750 warning that the outcome of that rule-making proceeding could be
751 the rule in question.

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

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

759 (b) The extent to which the subject matter of the rule
760 or issues determined by the rule are different from the subject
761 matter or issues contained in the notice of proposed rule
762 adoption; and

763 (c) The extent to which the effects of the rule differ
764 from the effects of the proposed rule contained in the notice of
765 proposed rule adoption.

766 **SECTION 19.** The following shall be codified as Section
767 25-43-3.108, Mississippi Code of 1972:



768 25-43-3.108. **Exemption from Public Rule-Making Procedures**
769 **for Temporary Rules.**

770 (1) To the extent an agency for good cause finds that any
771 requirements of Sections 25-43-3.103 through 25-43-3.107 are
772 unnecessary, impracticable or contrary to the public interest in
773 the process of adopting a temporary rule, those requirements do
774 not apply. The agency shall incorporate the required finding and
775 a brief statement of its supporting reasons in each temporary rule
776 adopted in reliance on this subsection. The supporting reasons
777 for the issuance of a temporary rule in accordance with this
778 provision may include, but are not limited to, a serious and
779 unforeseen threat to the public health, safety or welfare; an
780 impending effective date of a recent act of the Legislature of the
781 State of Mississippi or the United States Congress that requires
782 the issuance of implementing or conforming rules or regulations;
783 an impending effective date of a regulation recently issued by an
784 agency or authority of the federal government of the United States
785 that requires the issuance of implementing or conforming rules or
786 regulations; or a court order or other controlling judicial
787 decision that requires the issuance of implementing or conforming
788 rules or regulations. Unless a shorter period of time is stated
789 in the temporary rule, a temporary rule shall expire no later than
790 one hundred eighty (180) days after adoption. A temporary rule
791 may not be renewed after its expiration or early termination by
792 the agency. However, an agency may adopt a rule which is
793 identical or similar to a temporary rule to become effective
794 following the expiration or early termination of the temporary
795 rule, provided that the rule is adopted in accordance with the
796 requirements of Sections 25-43-3.103 through 25-43-3.107.

797 (2) In an action contesting a temporary rule adopted under
798 subsection (1) of this section, the burden is upon the agency to
799 demonstrate that any omitted requirements of Sections 25-43-3.103



800 through 25-43-3.107 were impracticable, unnecessary or contrary to
801 the public interest in the particular circumstances involved.

802 **SECTION 20.** The following shall be codified as Section
803 25-43-3.109, Mississippi Code of 1972:

804 25-43-3.109. **Contents, Style and Form of Rule.**

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

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

808 (b) An indication of any change between the text of the
809 proposed rule contained in the published notice of proposed rule
810 adoption and the text of the rule as finally adopted, with the
811 reasons for any substantive change;

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

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

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

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

822 (3) An agency may incorporate, by reference in its rules and
823 without publishing the incorporated matter in full, all or any
824 part of a code, standard, rule or regulation that has been adopted
825 by an agency of the United States or of this state, another state
826 or by a nationally recognized organization or association, if
827 incorporation of its text in agency rules would be unduly
828 cumbersome, expensive or otherwise inexpedient. The reference in
829 the agency rules must fully identify the incorporated matter with
830 an appropriate citation. An agency may incorporate by reference
831 such matter in its rules only if the agency, organization or
832 association originally issuing that matter makes copies of it



833 readily available to the public. The rules must state if copies
834 of the incorporated matter are available from the agency issuing
835 the rule or where copies of the incorporated matter are available
836 from the agency of the United States, this state, another state or
837 the organization or association originally issuing that matter.

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

841 **SECTION 21.** The following shall be codified as Section
842 25-43-3.110, Mississippi Code of 1972:

843 25-43-3.110. **Agency Rule-Making Record.**

844 (1) An agency shall maintain an official rule-making record
845 for each rule it (a) proposes or (b) adopts. The agency has the
846 exclusive authority to prepare and exclusive authority to certify
847 the record or any part thereof, including, but not limited to, any
848 transcript of the proceedings, and the agency's certificate shall
849 be accepted by the court and by any other agency. The record must
850 be available for public inspection.

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

852 (a) Copies of all notices of proposed rule-making or
853 oral proceedings or other publications in the administrative
854 bulletin with respect to the rule or the proceeding upon which the
855 rule is based;

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

859 (c) All written requests, submissions and comments
860 received by the agency and all other written materials considered
861 by the agency in connection with the formulation, proposal or
862 adoption of the rule or the proceeding upon which the rule is
863 based;

864 (d) Any official transcript of oral presentations made
865 in the proceeding upon which the rule is based or, if not



866 transcribed, any tape recording or stenographic record of those
867 presentations, and any memorandum prepared by a presiding official
868 summarizing the contents of those presentations. The word
869 "transcript" includes a written transcript, a printed transcript,
870 an audible audiotape or videotape that is indexed and annotated so
871 that it is readily accessible and any other means that the agency
872 may have by rule provided for the reliable and accessible
873 preservation of the proceeding;

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

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

879 (g) All written requests for exceptions to, amendments
880 of, or repeal or suspension of, the rule.

881 (3) The agency shall have authority to engage such persons
882 and acquire such equipment as may be reasonably necessary to
883 record and preserve in any technically and practicably feasible
884 manner all matters and all proceedings had at any rule-making
885 proceeding.

886 (4) Upon judicial review, the record required by this
887 section constitutes the official agency rule-making record with
888 respect to a rule. Except as otherwise required by a provision of
889 law, the agency rule-making record need not constitute the
890 exclusive basis for agency action on that rule or for judicial
891 review thereof.

892 **SECTION 22.** The following shall be codified as Section
893 25-43-3.111, Mississippi Code of 1972:

894 25-43-3.111. **Invalidity of Rules not Adopted According to**
895 **Article; Time Limitation.**

896 (1) A rule adopted after July 1, 2005, is invalid unless
897 adopted in substantial compliance with the provisions of Sections
898 25-43-3.102 through 25-43-3.110. Inadvertent failure to mail a



899 notice of proposed rule adoption to any person as required by
900 Section 25-43-3.103(2) does not invalidate a rule.

901 (2) An action to contest the validity of a rule on the
902 grounds of its noncompliance with any provision of Sections
903 25-43-3.102 through 25-43-3.110 must be commenced within one (1)
904 year after the effective date of the rule.

905 **SECTION 23.** The following shall be codified as Section
906 25-43-3.112, Mississippi Code of 1972:

907 25-43-3.112. **Filing of Rules.**

908 An agency shall file in the Office of the Secretary of State
909 each rule it adopts and all rules existing on July 1, 2005, that
910 have not previously been filed. The filing must be done as soon
911 after adoption of the rule as is practicable. At the time of
912 filing, each rule adopted after July 1, 2005, must have included
913 in or attached to it the material set out in Section 25-43-3.109.
914 The Secretary of State shall affix to each rule and statement a
915 certification of the date of filing and keep a permanent register
916 open to public inspection of all filed rules and attached
917 material. In filing a rule, each agency shall use a standard
918 format prescribed by the Secretary of State.

919 **SECTION 24.** The following shall be codified as Section
920 25-43-3.113, Mississippi Code of 1972:

921 25-43-3.113. **Effective Date of Rules.**

922 (1) Except to the extent subsection (2) or (3) of this
923 section provides otherwise, each rule adopted after July 1, 2005,
924 becomes effective thirty (30) days after its proper filing in the
925 Office of the Secretary of State.

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

929 (b) A rule may become effective immediately upon its
930 filing or on any subsequent date earlier than that established by



931 subsection (1) of this section if the agency establishes such an
932 effective date and finds that:

933 (i) It is required by constitution, statute or
934 court order;

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

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

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

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

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

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

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

956 **SECTION 25.** The following shall be codified as Section
957 25-43-3.114, Mississippi Code of 1972:

958 25-43-3.114. **Review by Agency.**

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

962 **SECTION 26.** Sections 25-43-1, 25-43-3, 25-43-5, 25-43-6,
963 25-43-7, 25-43-9, 25-43-11, 25-43-13, 25-43-15, 25-43-17 and



964 25-43-19, Mississippi Code of 1972, which create the Mississippi
965 Administrative Procedures Law, provide definitions for terms used
966 in such law, prescribe procedures that must be followed by
967 agencies in the adoption, amendment and repeal of agency rules,
968 require the filing of an economic impact statement for the
969 adoption of a rule, require filing and notice before such rules
970 may become effective, require agencies to index all effective
971 rules adopted, provide that revocation or suspension of any
972 license shall not be effective unless notice of such intended
973 action is given to the licensee, and require agencies to adopt
974 procedures to assure that opponents of proposed rules have the
975 opportunity to present their views and review adverse rulings, are
976 repealed.

977 **SECTION 27.** Every agency as defined in this act shall, no
978 later than July 1, 2002, file with the Secretary of the Senate and
979 the Clerk of the House a report which outlines any conflicts
980 between this act and any other laws affecting the agency. This
981 report shall include proposed legislation to bring the other laws
982 into conformity with the requirements of this act. The Secretary
983 of State shall, no later than October 1, 2002, file with the
984 Secretary of the Senate and the Clerk of the House a list of
985 sections which the Secretary of State believes conflict with this
986 act. The Secretary of the Senate and the Clerk of the House shall
987 maintain a list of agencies which have complied with this section.

988 **SECTION 28.** Section 27 of this act shall take effect and be
989 in force from and after its passage. The remainder of this act
990 shall take effect and be in force from and after July 1, 2005.

