

By: Representative Watson

To: Judiciary A;  
Appropriations

HOUSE BILL NO. 1447

1 AN ACT TO AMEND SECTION 33-15-11, MISSISSIPPI CODE OF 1972,  
2 TO CLARIFY THE AUTHORITY OF THE GOVERNOR TO DECLARE A STATE OF  
3 ALERT; TO CREATE THE OFFENSE OF A TERRORISTIC THREAT OR ACT; TO  
4 PRESCRIBE THE ELEMENTS THEREOF AND THE PENALTIES THEREFOR; TO  
5 AMEND SECTION 97-3-19, MISSISSIPPI CODE OF 1972, TO ESTABLISH A  
6 CAPITAL OFFENSE FOR TERRORIST ACTIVITIES THAT RESULT IN LOSS OF  
7 LIFE; TO AMEND SECTION 13-1-21, MISSISSIPPI CODE OF 1972, TO  
8 PERMIT DISCLOSURE OF MEDICAL INFORMATION IN THE EVENT OF AN  
9 EMERGENCY DECLARATION BY THE GOVERNOR; TO AMEND SECTION 41-23-1,  
10 MISSISSIPPI CODE OF 1972, TO EXPAND THE CLASSIFICATION OF  
11 DISEASES, CONDITIONS OR THREATS WHICH ARE REPORTABLE, TO REQUIRE  
12 VETERINARIANS AND OTHER PERSONS WORKING IN THE ANIMAL HEALTH FIELD  
13 TO REPORT, AND TO REQUIRE PHARMACIST REPORTING OF UNUSUAL  
14 PRESCRIPTIONS OR RATES OF PRESCRIPTIONS; TO AMEND SECTION 41-23-2,  
15 MISSISSIPPI CODE OF 1972, TO REVISE THE PENALTY FOR ANY PERSON  
16 VIOLATING A LAWFUL ORDER OF THE COUNTY, DISTRICT OR STATE HEALTH  
17 OFFICER; TO AMEND SECTION 41-23-5, MISSISSIPPI CODE OF 1972, TO  
18 REVISE THE AUTHORITY OF THE STATE OFFICER TO PROTECT THE PUBLIC  
19 HEALTH; TO CREATE NEW SECTION 41-36-5, MISSISSIPPI CODE OF 1972,  
20 TO REVISE THE PROCEDURE FOR OBTAINING A JUDGMENT OF PRESUMPTION OF  
21 DEATH IN SITUATIONS OF MASS CASUALTY; TO AMEND SECTION 13-1-23,  
22 MISSISSIPPI CODE OF 1972, IN CONFORMITY TO THIS NEW PROCEDURE  
23 REGARDING PRESUMPTION OF DEATH; TO AMEND SECTION 9-4-3,  
24 MISSISSIPPI CODE OF 1972, TO REVISE THE JURISDICTION OF THE COURT  
25 OF APPEALS TO CONFORM; TO AMEND SECTION 41-3-15, MISSISSIPPI CODE  
26 OF 1972, TO REVISE THE AUTHORITY OF THE DEPARTMENT OF HEALTH TO  
27 INSPECT ANY PLACE RATHER THAN ONLY A PUBLIC PLACE; TO CREATE NEW  
28 SECTION 41-39-55, MISSISSIPPI CODE OF 1972, TO PROVIDE EMERGENCY  
29 MEASURES TO HANDLE LARGE NUMBERS OF CORPSES OR HUMAN REMAINS; TO  
30 AMEND SECTION 41-29-133, MISSISSIPPI CODE OF 1972, TO CREATE A  
31 CENTRAL REPORTING BUREAU FOR PHARMACISTS TO REPORT CERTAIN  
32 INFORMATION CONCERNING UNUSUAL PRESCRIPTIONS OR RATES OF  
33 PRESCRIPTIONS; TO AMEND SECTIONS 45-35-7 AND 63-1-82, MISSISSIPPI  
34 CODE OF 1972, TO PROVIDE THAT DRIVERS' LICENSES, IDENTIFICATION  
35 CARDS ISSUED BY THE DEPARTMENT OF PUBLIC SAFETY AND ALL COMMERCIAL  
36 DRIVERS' LICENSES ISSUED TO PERSONS WHO ARE NOT UNITED STATES  
37 CITIZENS SHALL EXPIRE ONE YEAR AFTER DATE OF ISSUE; TO PRESCRIBE  
38 THE FEE FOR SUCH LICENSES; TO AMEND SECTION 11-46-9, MISSISSIPPI  
39 CODE OF 1972, TO PROVIDE GOVERNMENTAL IMMUNITY FOR RESPONSE TO A  
40 TERRORISTIC THREAT OR ACT; TO AMEND SECTION 65-1-8, MISSISSIPPI  
41 CODE OF 1972, TO PROVIDE THAT WHEN THE GOVERNOR DECLARES A STATE  
42 OF EMERGENCY OR STATE OF ALERT, THE MISSISSIPPI TRANSPORTATION  
43 COMMISSION MAY TEMPORARILY ASSIGN ITS WEIGHT ENFORCEMENT OFFICERS  
44 TO THE DEPARTMENT OF PUBLIC SAFETY TO AUGMENT THE MANPOWER NEEDS  
45 OF THE DEPARTMENT OF PUBLIC SAFETY; TO AMEND SECTION 65-1-71,  
46 MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE DIRECTOR OF THE  
47 MISSISSIPPI DEPARTMENT OF TRANSPORTATION TO CLOSE HIGHWAYS WHEN  
48 THE GOVERNOR HAS DECLARED A STATE OF EMERGENCY OR A STATE OF ALERT  
49 AND THE HIGHWAY TO BE CLOSED IS A POTENTIAL TERRORIST TARGET; TO  
50 AMEND SECTION 65-1-85, MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE  
51 MISSISSIPPI DEPARTMENT OF TRANSPORTATION TO DEVIATE FROM ITS  
52 NORMAL PROCEDURE WHEN CONTRACTING TO REPAIR DAMAGE TO PUBLIC ROADS



53 CAUSED BY A TERRORIST ATTACK; TO AMEND SECTIONS 33-15-15 AND  
54 33-15-307, MISSISSIPPI CODE OF 1972, TO AMEND THE MISSISSIPPI  
55 EMERGENCY MANAGEMENT LAW AND THE DISASTER ASSISTANCE ACT OF 1993  
56 TO AUTHORIZE THE CREATION AND THE EXPENDITURE OF COSTS ASSOCIATED  
57 WITH THE ESTABLISHMENT AND MAINTENANCE OF FIVE REGIONAL HAZARDOUS  
58 MATERIALS AND WEAPONS OF MASS DESTRUCTION TEAMS TO BE LOCATED AND  
59 HOUSED IN APPROPRIATE FACILITIES AT CRITICAL AND STRATEGIC AREAS  
60 THROUGHOUT THE STATE SO AS TO PROVIDE FOR AN IMMEDIATE AND  
61 EFFECTIVE RESPONSE TO REAL, THREATENED OR POTENTIAL EMERGENCIES OR  
62 DISASTERS RELATING TO SUCH MATERIALS OR WEAPONS; TO AMEND SECTION  
63 33-15-7, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE ANNUAL  
64 APPROPRIATION BILL FOR THE EMERGENCY MANAGEMENT AGENCY SHALL  
65 PROVIDE FOR THE APPROPRIATION OF LUMP SUMS OF THE TOTAL AMOUNT OF  
66 GENERAL FUNDS AND SPECIAL FUNDS APPROPRIATED TO THE AGENCY, AND  
67 SHALL NOT CONTAIN ANY BREAKDOWN BY MAJOR OBJECTS OF EXPENDITURE;  
68 AND FOR RELATED PURPOSES.

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

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

72 33-15-11. (a) The Governor shall have general direction and  
73 control of the activities of the Emergency Management Agency and  
74 Council and shall be responsible for the carrying out of the  
75 provisions of this article, and in the event of a man-made,  
76 technological or natural disaster or emergency beyond local  
77 control, may assume direct operational control over all or any  
78 part of the emergency management functions within this state.

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

81 (1) To make, amend, and rescind the necessary orders,  
82 rules and regulations to carry out the provisions of this article  
83 with due consideration of the plans of the federal government, and  
84 to enter into disaster assistance grants and agreements with the  
85 federal government under the terms as may be required by federal  
86 law.

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



94 this state, such local plans to be integrated into and coordinated  
95 with the emergency management plan and program of this state to  
96 the fullest possible extent.

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

113 (4) To cooperate with the President and the heads of  
114 the Armed Forces, and the Emergency Management Agency of the  
115 United States, and with the officers and agencies of other states  
116 in matters pertaining to the emergency management of the state and  
117 nation and the incidents thereof; and in connection therewith, to  
118 take any measures which he may deem proper to carry into effect  
119 any request of the President and the appropriate federal officers  
120 and agencies, for any action looking to emergency management,  
121 including the direction or control of (a) blackouts and practice  
122 blackouts, air raid drills, mobilization of emergency management  
123 forces, and other tests and exercises, (b) warnings and signals  
124 for drills or attacks and the mechanical devices to be used in  
125 connection therewith, (c) the effective screening or extinguishing  
126 of all lights and lighting devices and appliances, (d) shutting



127 off water mains, gas mains, electric power connections and the  
128 suspension of all other utility services, (e) the conduct of  
129 civilians and the movement and cessation of movement of  
130 pedestrians and vehicular traffic during, prior, and subsequent to  
131 drills or attack, (f) public meetings or gatherings under  
132 emergency conditions, and (g) the evacuation and reception of the  
133 civilian population.

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

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

146 (7) To utilize the services and facilities of existing  
147 officers and agencies of the state and of the political  
148 subdivisions thereof; and all such officers and agencies shall  
149 cooperate with and extend their services and facilities to the  
150 Governor as he may request.

151 (8) To establish agencies and offices and to appoint  
152 executive, technical, clerical, and other personnel as may be  
153 necessary to carry out the provisions of this article including,  
154 with due consideration to the recommendation of the local  
155 authorities, part-time or full-time state and regional area  
156 directors.

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



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

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

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

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

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



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

197           (16) To proclaim a state of emergency or state of alert  
198 in an area affected or likely to be affected thereby when he finds  
199 that the conditions described in Section 33-15-5(g) exist, or when  
200 he is requested to do so by the mayor of a municipality or by the  
201 president of the board of supervisors of a county, or when he  
202 finds that a local authority is unable to cope with the emergency.  
203 Such proclamation shall be in writing and shall take effect  
204 immediately upon its issuance. As soon thereafter as possible,  
205 such proclamation shall be filed with the Secretary of State and  
206 be given widespread notice and publicity. The Governor, upon  
207 advise of the director, shall review the need for continuing the  
208 state of emergency at least every thirty (30) days until the  
209 emergency is terminated and shall proclaim the termination of the  
210 state of emergency at the earliest possible date that conditions  
211 warrant.

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

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



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

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

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

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

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

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



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

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

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

268           97-3-19. (1) The killing of a human being without the  
269 authority of law by any means or in any manner shall be murder in  
270 the following cases:

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

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

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

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

287           (a) Murder which is perpetrated by killing a peace  
288 officer or fireman while such officer or fireman is acting in his  
289 official capacity or by reason of an act performed in his official





290 capacity, and with knowledge that the victim was a peace officer  
291 or fireman. For purposes of this paragraph, the term "peace  
292 officer" means any state or federal law enforcement officer  
293 including but not limited to a federal park ranger, the sheriff of  
294 or police officer of a city or town, a conservation officer, a  
295 parole officer, a judge, prosecuting attorney or any other court  
296 official, an agent of the Alcoholic Beverage Control Division of  
297 the State Tax Commission, an agent of the Bureau of Narcotics,  
298 personnel of the Mississippi Highway Patrol, and the employees of  
299 the Department of Corrections who are designated as peace officers  
300 by the Commissioner of Corrections pursuant to Section 47-5-54,  
301 and the superintendent and his deputies, guards, officers and  
302 other employees of the Mississippi State Penitentiary;

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

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

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

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

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



323 (g) Murder which is perpetrated on educational property  
324 as defined in Section 97-37-17;

325 (h) Murder which is perpetrated by the killing of any  
326 elected official of a county, municipal, state or federal  
327 government with knowledge that the victim was such public  
328 official.

329 **SECTION 4.** Section 13-1-21, Mississippi Code of 1972, is  
330 amended as follows:

331 13-1-21. (1) All communications made to a physician,  
332 osteopath, dentist, hospital, nurse, pharmacist, podiatrist,  
333 optometrist or chiropractor by a patient under his charge or by  
334 one seeking professional advice are hereby declared to be  
335 privileged, and such party shall not be required to disclose the  
336 same in any legal proceeding except at the instance of the patient  
337 or, in case of the death of the patient, at the instance of his  
338 personal representative or legal heirs in case there be no  
339 personal representative, or except, if the validity of the will of  
340 the decedent is in question, at the instance of the personal  
341 representative or any of the legal heirs or any contestant or  
342 proponent of the will.

343 (2) There shall be a waiver of the medical privilege of  
344 patients regarding the release of medical information to health  
345 care personnel, the State Board of Health or local health  
346 departments, made to comply with Sections 41-3-15, 41-23-1 and  
347 41-23-2 and related rules \* \* \*. The medical privilege likewise  
348 shall be waived to allow any physician, osteopath, dentist,  
349 hospital, nurse, pharmacist, podiatrist, optometrist or  
350 chiropractor to report to the State Department of Health necessary  
351 information regarding any person afflicted with any communicable  
352 disease or infected with the causative agent thereof who neglects  
353 or refuses to comply with accepted protective measures to prevent  
354 the transmission of the communicable disease or in cases of



355 actual, threatened or reasonably suspected chemical or biological  
356 terrorism.

357 (3) Willful violations of the provisions of this section  
358 shall constitute a misdemeanor and shall be punishable as provided  
359 for by law. Any physician, osteopath, dentist, hospital, nurse,  
360 pharmacist, podiatrist, optometrist, or chiropractor shall be  
361 civilly liable for damages for any willful or reckless and wanton  
362 acts or omissions constituting such violations.

363 (4) In any action commenced or claim made after July 1,  
364 1983, against a physician, hospital, hospital employee, osteopath,  
365 dentist, nurse, pharmacist, podiatrist, optometrist or  
366 chiropractor for professional services rendered or which should  
367 have been rendered, the delivery of written notice of such claim  
368 or the filing of such an action shall constitute a waiver of the  
369 medical privilege and any medical information relevant to the  
370 allegation upon which the cause of action or claim is based shall  
371 be disclosed upon the request of the defendant, or his or her  
372 counsel.

373 (5) In any disciplinary action commencing on or after July  
374 1, 1987, against a medical physician, an osteopathic physician or  
375 a podiatrist pursuant to the provisions of Sections 73-25-1  
376 through 73-25-39, 73-25-51 through 73-25-67, 73-25-81 through  
377 73-25-95 and 73-27-1 through 73-27-19, waiver of the medical  
378 privilege of a patient to the extent of any information other than  
379 that which would identify the patient shall be implied.

380 **SECTION 5.** Section 41-23-1, Mississippi Code of 1972, is  
381 amended as follows:

382 41-23-1. (1) The State Board of Health shall adopt rules  
383 and regulations (a) defining and classifying communicable diseases  
384 and other diseases, conditions and threats that are a danger to  
385 health based upon the characteristics of the disease, condition or  
386 threat; and (b) establishing reporting, monitoring, examination,



387 treatment and preventive procedures for those diseases, conditions  
388 or threats.

389 (2) Upon the death of any person who has been diagnosed as  
390 having Human Immunodeficiency Virus/Acquired Immune Deficiency  
391 Syndrome (HIV/AIDS) or any Class 1 disease as designated by the  
392 State Board of Health, in a hospital or other health care  
393 facility, in all other cases where there is an attending  
394 physician, and in cases in which the medical examiner, as defined  
395 in Section 41-61-53(f), investigates and certifies the cause of  
396 death, the attending physician, the person in charge of the  
397 hospital or health care facility, or the medical examiner, as the  
398 case may be, shall report as soon as practicable to the Executive  
399 Officer of the State Board of Health or to other authorities the  
400 cause or contributing cause of death as required by the State  
401 Board of Health. Such reporting shall be according to procedures  
402 as required by the State Board of Health.

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

414 (4) Every practicing or licensed physician, or person in  
415 charge of a hospital, health care facility, insurance company  
416 which causes to be performed blood tests for underwriting purposes  
417 or laboratory, shall report immediately to the Executive Officer  
418 of the State Board of Health or to other authorities as required  
419 by the State Board of Health every case of such diseases and



420 conditions as shall be required to be reported by the State Board  
421 of Health. Such reporting shall be according to procedures, and  
422 shall include such information about the case, as shall be  
423 required by the State Board of Health. Insurance companies having  
424 such blood test results shall report immediately to the Executive  
425 Officer of the State Board of Health or to other authorities as  
426 required by the State Board of Health every case of such diseases  
427 and conditions as shall be required to be reported by the State  
428 Board of Health. The insurance company shall notify the  
429 individual on whom the blood test was performed in writing by  
430 certified mail of an adverse underwriting decision based upon the  
431 results of such individual's blood test but shall not disclose the  
432 specific results of such blood tests to the individual. The  
433 insurance company shall also inform the individual on whom the  
434 blood test was performed that the results of the blood test will  
435 be sent to the physician designated by the individual at the time  
436 of application and that such physician should be contacted for  
437 information regarding the blood test results. If a physician was  
438 not designated at the time of application, the insurance company  
439 shall request that the individual name a physician to whom a copy  
440 of the blood test can be sent.

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

449 (6) Any practicing or licensed physician or person in charge  
450 of a hospital, health care facility or laboratory who fails to  
451 make the reports required under this section regarding Human  
452 Immunodeficiency Virus/Acquired Immune Deficiency Syndrome



453 (HIV/AIDS) or any Class 1 disease or condition as designated by  
454 the State Board of Health shall be reported to the Board of  
455 Medical Licensure, in the case of a physician, or to the  
456 applicable licensing agency in the case of institutions, and such  
457 failure shall be grounds for suspension of license.

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

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

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

478 (10) Notwithstanding any law of this state to the contrary,  
479 the State Board of Health is authorized to establish the rules by  
480 which exceptions may be made to the confidentiality provisions of  
481 the laws of this state for the notification of third parties of an  
482 individual's infection with any Class 1 or Class 2 disease, as  
483 designated by the State Board of Health, when exposure is  
484 indicated or there exists a threat to the public health and  
485 welfare. All notifications authorized by this section shall be



486 within the rules established according to this subsection. All  
487 persons who receive notification of the infectious condition of an  
488 individual under this subsection and the rules established under  
489 this subsection shall hold such information in the strictest of  
490 confidence and privilege, shall not reveal the information to  
491 others, and shall take only those actions necessary to protect the  
492 health of the infected person or other persons where there is a  
493 foreseeable, real or probable risk of transmission of the disease.

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

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

511 (b) Any such public or private correctional facility  
512 shall grant representatives of the State Department of Health, in  
513 the discharge of its duties, access to all areas of the facility  
514 and to the offenders and staff at all times. The facility shall  
515 reimburse the State Department of Health for all costs incurred  
516 for the control of communicable diseases or other conditions  
517 prejudicial to public health in the facility and for the costs  
518 incurred for the control of communicable diseases or other



519 conditions prejudicial to public health spreading from the  
520 facility, staff or inmates to other individuals or property in the  
521 county or state.

522       **SECTION 6.** Section 41-23-2, Mississippi Code of 1972, is  
523 amended as follows:

524       41-23-2. Any person who \* \* \* knowingly and willfully  
525 violates the lawful order of the county, district or State Health  
526 Officer where that person is afflicted with a life-threatening  
527 communicable disease or condition or the causative agent thereof,  
528 or who knowingly and willfully violates the lawful order of the  
529 county, district or State Health Officer where such order is  
530 intended to prevent the spread of a disease, condition or threat  
531 which poses a clear and present danger to the public health, shall  
532 be guilty of a felony and, upon conviction, shall be punished by a  
533 fine not exceeding Five Thousand Dollars (\$5,000.00) or by  
534 imprisonment in the Penitentiary for not more than five (5) years,  
535 or by both.

536       **SECTION 7.** Section 41-23-5, Mississippi Code of 1972, is  
537 amended as follows:

538       41-23-5. (1) The State Department of Health shall have the  
539 authority to investigate and control the causes of epidemic,  
540 infectious and other disease, condition or threat affecting the  
541 public health, including the authority to establish, maintain and  
542 enforce isolation and quarantine and decontaminate buildings, and  
543 in pursuance thereof, to exercise such physical control over  
544 property and individuals as the department may find necessary for  
545 the protection of the public health.

546       (2) Notwithstanding any other provision of law to the  
547 contrary, following a declaration of emergency or war emergency by  
548 the Governor, the State Health Officer may exercise such authority  
549 as he deems proper and necessary to protect the public health,  
550 including investigation and certification as to the cause of





551 death, and may appoint private physicians to conduct the  
552 investigations into and certifications of the cause of death.

553 **SECTION 8.** Section 13-1-23, Mississippi Code of 1972, is  
554 amended as follows:

555 13-1-23. (1) Any person who shall remain beyond the sea, or  
556 absent himself from this state, or conceal himself in this state,  
557 for seven (7) years successively without being heard of, shall be  
558 presumed to be dead in any case where his death shall come in  
559 question, unless proof be made that he was alive within that time.  
560 Any property or estate recovered in any such case shall be  
561 restored to the person evicted or deprived thereof, if, in a  
562 subsequent action, it shall be proved that the person so presumed  
563 to be dead is living.

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

570 **SECTION 9.** The following shall be codified as Section  
571 41-36-5, Mississippi Code of 1972:

572 41-36-5. The state registrar may obtain a presumptive death  
573 order from the Court of Appeals pursuant to Section 13-1-23, and  
574 under that authority may issue the certificate of death.

575 **SECTION 10.** Section 9-4-3, Mississippi Code of 1972, is  
576 amended as follows:

577 9-4-3. (1) The Court of Appeals shall have the power to  
578 determine or otherwise dispose of any appeal or other proceeding  
579 assigned to it by the Supreme Court.

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



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

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

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

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

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

613           **SECTION 11.** Section 41-3-15, Mississippi Code of 1972, is  
614 amended as follows:



615           41-3-15. (1) There shall be a State Department of Health  
616 which shall be organized into such bureaus and divisions as are  
617 considered necessary by the executive officer, and shall be  
618 assigned appropriate functions as are required of the State Board  
619 of Health by law, subject to the approval of the board.

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

624                   (a) To collect and evaluate data on rural health  
625 conditions and needs;

626                   (b) To engage in policy analysis, policy development  
627 and economic impact studies with regard to rural health issues;

628                   (c) To develop and implement plans and provide  
629 technical assistance to enable community health systems to respond  
630 to various changes in their circumstances;

631                   (d) To plan and assist in professional recruitment and  
632 retention of medical professionals and assistants; and

633                   (e) To establish information clearinghouses to improve  
634 access to and sharing of rural health care information.

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

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

640                   (a) To make investigations and inquiries with respect  
641 to the causes of disease and death, and to investigate the effect  
642 of environment, including conditions of employment and other  
643 conditions which may affect health, and to make such other  
644 investigations as it may deem necessary for the preservation and  
645 improvement of health.

646                   (b) To make such sanitary investigations as it may,  
647 from time to time, deem necessary for the protection and



648 improvement of health and to investigate nuisance questions which  
649 affect the security of life and health within the state.

650 (c) To direct and control sanitary and quarantine  
651 measures for dealing with all diseases within the state possible  
652 to suppress same and prevent their spread.

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

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

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

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

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

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

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



680 (j) To promulgate rules and regulations and exercise  
681 control over the production and sale of milk pursuant to the  
682 provisions of Sections 75-31-41 through 75-31-49.

683 (k) On presentation of proper authority, to enter into  
684 or onto and inspect any \* \* \* place or building where the State  
685 Health Officer or his representative deems it necessary and proper  
686 to enter for the discovery and suppression of disease and for the  
687 enforcement of any health or sanitary laws and regulations in the  
688 state.

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

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

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

707 (o) To enforce and regulate domestic and imported fish  
708 as authorized under Section 69-7-601 et seq.

709 (5) (a) The State Board of Health shall have the authority,  
710 in its discretion, to establish programs to promote the public  
711 health, to be administered by the State Department of Health.



712 Specifically, such programs may include, but shall not be limited  
713 to, programs in the following areas:

714 (i) Maternal and child health;

715 (ii) Family planning;

716 (iii) Pediatric services;

717 (iv) Services to crippled and disabled children;

718 (v) Control of communicable and noncommunicable  
719 disease;

720 (vi) Child care licensure;

721 (vii) Radiological health;

722 (viii) Dental health;

723 (ix) Milk sanitation;

724 (x) Occupational safety and health;

725 (xi) Food, vector control and general sanitation;

726 (xii) Protection of drinking water;

727 (xiii) Sanitation in food handling establishments  
728 open to the public;

729 (xiv) Registration of births and deaths and other  
730 vital events;

731 (xv) Such public health programs and services as  
732 may be assigned to the State Board of Health by the Legislature or  
733 by executive order; and

734 (xvi) Regulation of domestic and imported fish for  
735 human consumption.

736 (b) The State Board of Health and State Department of  
737 Health shall not be authorized to sell, transfer, alienate or  
738 otherwise dispose of any of the home health agencies owned and  
739 operated by the department on January 1, 1995, and shall not be  
740 authorized to sell, transfer, assign, alienate or otherwise  
741 dispose of the license of any of those home health agencies,  
742 except upon the specific authorization of the Legislature by an  
743 amendment to this section. However, this paragraph (b) shall not  
744 prevent the board or the department from closing or terminating



745 the operation of any home health agency owned and operated by the  
746 department, or closing or terminating any office, branch office or  
747 clinic of any such home health agency, or otherwise discontinuing  
748 the providing of home health services through any such home health  
749 agency, office, branch office or clinic, if the board first  
750 demonstrates that there are other providers of home health  
751 services in the area being served by the department's home health  
752 agency, office, branch office or clinic that will be able to  
753 provide adequate home health services to the residents of the area  
754 if the department's home health agency, office, branch office or  
755 clinic is closed or otherwise discontinues the providing of home  
756 health services. This demonstration by the board that there are  
757 other providers of adequate home health services in the area shall  
758 be spread at length upon the minutes of the board at a regular or  
759 special meeting of the board at least thirty (30) days before a  
760 home health agency, office, branch office or clinic is proposed to  
761 be closed or otherwise discontinue the providing of home health  
762 services.

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

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

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

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



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

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

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

790 **SECTION 12.** The following shall be codified as Section  
791 41-39-55, Mississippi Code of 1972:

792 41-39-55. The Mississippi State Board of Health may  
793 exercise, for such period as a state of emergency or public health  
794 emergency exists, the following powers regarding the safe disposal  
795 of corpses:

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

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

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

808 (d) Compel any business or facility authorized to  
809 embalm, bury, cremate, inter, disinter, transport or dispose of





810 corpses to accept any corpse or provide the use of its business or  
811 facility if such actions are reasonable and necessary for  
812 emergency response. The use of the business or facility may  
813 include transferring the management and supervision of such  
814 business or facility to the State Health Officer for a limited or  
815 unlimited period of time, but shall not exceed the termination of  
816 the state of emergency or public health emergency.

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

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

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

837 **SECTION 13.** Section 41-29-133, Mississippi Code of 1972, is  
838 amended as follows:

839 41-29-133. (1) Persons registered to manufacture,  
840 distribute, or dispense controlled substances under this article  
841 shall keep records and maintain inventories in conformance with  
842 the record-keeping and inventory requirements of federal law and



843 with any additional rules the State Board of Pharmacy, the State  
844 Board of Medical Licensure, the State Board of Dental Examiners or  
845 the Mississippi Board of Nursing may issue.

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

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

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



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

882           (b) Within fifteen (15) days of the time that the  
883 substance is dispensed or the unusual rate of dispensation is  
884 noted.

885           (4) (a) The willful, knowing and intentional failure to  
886 transmit information as required by subsection (2) of this section  
887 shall be a misdemeanor punishable, upon conviction, by not more  
888 than one (1) year in the county jail or a fine of not more than  
889 One Thousand Dollars (\$1,000.00), or both.

890           (b) Any second or subsequent offense under subsection  
891 (2) of this section shall be a felony punishable upon conviction  
892 by not more than three (3) years in the custody of the State  
893 Department of Corrections and a fine of not less than One Thousand  
894 Dollars (\$1,000.00) nor more than Three Thousand Dollars  
895 (\$3,000.00).

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

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

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



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

910           (c) The executive director or chief investigator as  
911 designated by each board, of the State Boards of Dental Examiners,  
912 Pharmacy, Medical Licensure, Nursing and Veterinary Medical  
913 Examiners, provided, however, that the executive director or chief  
914 investigator of each of these boards shall be limited to access to  
915 information relevant to licensees of his employing board; and

916           (d) A statewide grand jury properly convened pursuant  
917 to the Statewide Grand Jury Act, as provided by Section 13-7-1 et  
918 seq.

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

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

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

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



941           **SECTION 14.** Section 45-35-7, Mississippi Code of 1972, is  
942 amended as follows:

943           45-35-7. (1) Except as provided in subsection (3) of this  
944 section, each applicant for an original identification card issued  
945 pursuant to this chapter who is entitled to issuance of such a  
946 card shall be issued a four-year card. Each card shall expire at  
947 midnight on the last day of the cardholder's birth month.

948           (2) Except as provided in subsection (3) of this section,  
949 all renewal identification cards shall be for four-year periods  
950 and may be renewed any time during the birth month of the  
951 cardholder upon application and payment of the required fee.

952           (3) (a) Any applicant who is blind, as defined in Section  
953 43-6-1, upon payment of the fee prescribed in this section, shall  
954 be issued an original identification card which shall remain valid  
955 for a period of ten (10) years. All renewal identification cards  
956 issued to such persons shall also be valid for a period of ten  
957 (10) years.

958           (b) Any applicant who is not a United States citizen  
959 and who does not possess a social security number issued by the  
960 United States government, upon payment of the fee prescribed in  
961 this section, shall be issued an original identification card  
962 which shall remain valid for a period of one (1) year from date of  
963 issuance. All renewal identification cards issued to such persons  
964 shall also be valid for a period of one (1) year from date of  
965 issuance when accompanied by required immigration documents.

966           (4) A fee of Eleven Dollars (\$11.00) shall be collected for  
967 the issuance of an original or renewal identification card, except  
968 that the fee for the issuance of an original or renewal  
969 identification card to a person who is not a United States citizen  
970 shall be Three Dollars (\$3.00), plus the applicable photograph fee  
971 as provided in subsection (5) of this section. The fee of Eleven  
972 Dollars (\$11.00) or Three Dollars (\$3.00) shall be deposited into  
973 the State General Fund. The photograph fee shall be deposited



974 into a special photograph fee account or the State General Fund as  
975 provided under subsection (5) of this section.

976 (5) The Commissioner of Public Safety, by rule or  
977 regulation, shall establish an identification card photograph fee  
978 which shall be the actual cost of the photograph rounded off to  
979 the next highest dollar. Monies collected for the photograph fee  
980 shall be deposited into a special photograph fee account which the  
981 Department of Public Safety shall use to pay the actual cost of  
982 producing the photographs. Any monies collected in excess of the  
983 actual costs of the photography shall be deposited to the General  
984 Fund of the State of Mississippi.

985 (6) Any person who, for medical reasons, surrenders his  
986 unexpired driver's license, and any person whose unexpired  
987 driver's license is suspended for medical reasons by the  
988 Commissioner of Public Safety under Section 63-1-53(e), may be  
989 issued an identification card without payment of a fee. The  
990 identification card shall be valid for a period of four (4) years  
991 from its date of issue. All renewals of such card shall be  
992 subject to the fees prescribed in subsections (4) and (5) of this  
993 section.

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

997 (8) (a) Any male who is at least eighteen (18) years of age  
998 but less than twenty-six (26) years of age and who applies for an  
999 identification card or a renewal of an identification card under  
1000 this chapter shall be registered in compliance with the  
1001 requirements of Section 3 of the Military Selective Service Act,  
1002 50 USCS Appx 451 et seq., as amended.

1003 (b) The department shall forward in an electronic  
1004 format the necessary personal information of the applicant to the  
1005 Selective Service System. The applicant's submission of the  
1006 application shall serve as an indication that the applicant either



1007 has already registered with the Selective Service System or that  
1008 he is authorizing the department to forward to the Selective  
1009 Service System the necessary information for registration. The  
1010 commissioner shall notify the applicant on, or as a part of, the  
1011 application that his submission of the application will serve as  
1012 his consent to registration with the Selective Service System, if  
1013 so required. The commissioner also shall notify any male  
1014 applicant under the age of eighteen (18) that he will be  
1015 registered upon turning age eighteen (18) as required by federal  
1016 law.

1017 **SECTION 15.** Section 63-1-82, Mississippi Code of 1972, is  
1018 amended as follows:

1019 63-1-82. (1) Each commercial driver's license shall be  
1020 marked "Commercial Driver's License" or "CDL," and shall, to the  
1021 maximum extent practicable, be tamper proof. Each such license  
1022 shall include thereon, but not be limited to, the following  
1023 information:

1024 (a) The name and residential address of the licensee;

1025 (b) The licensee's color photograph;

1026 (c) A physical description of the licensee, including  
1027 his sex, height, weight, eye and hair color;

1028 (d) The licensee's date of birth;

1029 (e) Except for a nonresident commercial driver's  
1030 license, the licensee's social security number; and any other  
1031 identifying information which the Commissioner of Public Safety,  
1032 by rule or regulation, determines necessary and essential for the  
1033 purposes of complying with the provisions of this article;

1034 (f) The licensee's signature;

1035 (g) The class or type of commercial motor vehicle or  
1036 vehicles which the licensee is authorized to drive together with  
1037 any endorsements or restrictions;

1038 (h) The name of this state; and

1039 (i) The dates between which the license is valid.



1040 (2) The holder of a valid commercial driver's license may  
1041 drive all vehicles in the class for which that license is issued  
1042 and all lesser classes of vehicles, including any vehicle for  
1043 which an operator's license or commercial driver's license issued  
1044 under Article 1 of this chapter authorizes a person to drive.  
1045 However, vehicles which require an endorsement may not be driven  
1046 unless the proper endorsement appears on the license.

1047 (3) Commercial drivers' licenses may be issued with the  
1048 following classifications:

1049 (a) Class A. Any combination of vehicles with a gross  
1050 vehicle weight rating of twenty-six thousand one (26,001) pounds  
1051 or more, provided the gross vehicle weight rating of the vehicle  
1052 or vehicles being towed is in excess of ten thousand (10,000)  
1053 pounds;

1054 (b) Class B. Any single vehicle with a gross vehicle  
1055 weight rating of twenty-six thousand one (26,001) pounds or more,  
1056 and any such vehicle towing a vehicle not in excess of ten  
1057 thousand (10,000) pounds;

1058 (c) Class C. Any single vehicle with a gross vehicle  
1059 weight rating of less than twenty-six thousand one (26,001) pounds  
1060 or any such vehicle towing a vehicle with a gross vehicle weight  
1061 rating not in excess of ten thousand (10,000) pounds comprising:

1062 (i) Vehicles designed to transport sixteen (16) or  
1063 more passengers, including the driver; and

1064 (ii) Vehicles used in the transportation of  
1065 hazardous materials which are required to be placarded under the  
1066 Hazardous Materials Transportation Act, 49 USCS Appx., Section  
1067 1801 et seq.; and

1068 (d) Class D. All other vehicles or combination of  
1069 vehicles which are not included in Class A, Class B or Class C and  
1070 for which a commercial license is required to be issued as  
1071 provided by Section 63-1-43, Mississippi Code of 1972.





1072           (4) Commercial drivers' licenses may be issued with the  
1073 following endorsements and restrictions:

1074           (a) "H" authorizes the driver to drive a vehicle  
1075 transporting hazardous materials;

1076           (b) "K" restricts the driver to vehicles not equipped  
1077 with air brakes;

1078           (c) "T" authorizes driving double and triple trailers;

1079           (d) "P" authorizes driving vehicles carrying  
1080 passengers;

1081           (e) "N" authorizes driving tank vehicles; \* \* \*

1082           (f) "X" represents a combination of hazardous materials  
1083 and tank vehicle endorsements; and

1084           (g) "S" restricts the driver to school buses being  
1085 operated for the purpose of transporting pupils to and from school  
1086 or to school-related functions and/or to all other vehicles not  
1087 requiring a commercial driver's license.

1088           (5) Before issuing a commercial driver's license, the  
1089 Commissioner of Public Safety shall obtain driving record  
1090 information through the Commercial Driver License Information  
1091 System.

1092           (6) Within ten (10) days after issuing a commercial driver's  
1093 license, the Commissioner of Public Safety shall notify the  
1094 Commercial Driver License Information System of that fact,  
1095 providing all information required to ensure identification of the  
1096 person.

1097           (7) Except as provided in subsection (10) of this section,  
1098 the fee charged for the issuance of each original and each renewal  
1099 of a Class A, B or C commercial driver's license shall be  
1100 Thirty-eight Dollars (\$38.00) plus the applicable photograph fee.  
1101 In addition, a fee of Five Dollars (\$5.00) shall be charged for  
1102 each endorsement or restriction entered on a commercial driver's  
1103 license under subsection (4) of this section. However, the fee  
1104 charged for each original and renewal of a commercial driver's



1105 license with an "S" restriction shall be the same as the fee for a  
1106 Class D commercial driver's license in addition to all application  
1107 fees.

1108 (8) If a commercial driver instruction permit or commercial  
1109 driver's license is lost or destroyed, or if the holder of a  
1110 commercial driver's license changes his name, mailing address or  
1111 residence, an application for a duplicate permit or license shall  
1112 be made as provided by Section 63-1-37, Mississippi Code of 1972.

1113 (9) Except as provided in subsection (10) of this section,  
1114 all commercial drivers' licenses issued under the provisions of  
1115 this article shall be issued for a period of not more than four  
1116 (4) years and shall expire at midnight on the last day of the  
1117 licensee's month of birth.

1118 (10) The original and each renewal of a commercial driver's  
1119 license issued under this section to a person who is not a United  
1120 States citizen shall be issued for a period of one (1) year for a  
1121 fee of Thirteen Dollars (\$13.00) plus the applicable photograph  
1122 fee and shall expire on the date the licensee's immigration  
1123 documents expire. Such person may renew a commercial license  
1124 issued under this section within two (2) weeks before expiration  
1125 of the license.

1126 (11) Every person applying for renewal of a commercial  
1127 driver's license shall complete the application form required by  
1128 Section 63-1-81, Mississippi Code of 1972, providing updated  
1129 information and required certifications and paying the appropriate  
1130 fees. If the applicant wishes to retain a hazardous materials  
1131 endorsement, the written test for a hazardous materials  
1132 endorsement must be taken and passed.

1133 (12) The Commissioner of Public Safety, by rule or  
1134 regulation, shall establish a driver's license photograph fee  
1135 which shall be the actual cost of the photograph rounded off to  
1136 the next highest dollar. Monies collected for the photograph fee  
1137 shall be deposited into a special photograph fee account which the



1138 Department of Public Safety shall use to pay the actual cost of  
1139 producing the photographs. Any monies collected in excess of the  
1140 actual costs of the photography shall be deposited to the General  
1141 Fund of the State of Mississippi.

1142 **SECTION 16.** Section 11-46-9, Mississippi Code of 1972, is  
1143 amended as follows:

1144 11-46-9. (1) A governmental entity and its employees acting  
1145 within the course and scope of their employment or duties shall  
1146 not be liable for any claim:

1147 (a) Arising out of a legislative or judicial action or  
1148 inaction, or administrative action or inaction of a legislative or  
1149 judicial nature;

1150 (b) Arising out of any act or omission of an employee  
1151 of a governmental entity exercising ordinary care in reliance  
1152 upon, or in the execution or performance of, or in the failure to  
1153 execute or perform, a statute, ordinance or regulation, whether or  
1154 not the statute, ordinance or regulation be valid;

1155 (c) Arising out of any act or omission of an employee  
1156 of a governmental entity engaged in the performance or execution  
1157 of duties or activities relating to police or fire protection  
1158 unless the employee acted in reckless disregard of the safety and  
1159 well-being of any person not engaged in criminal activity at the  
1160 time of injury;

1161 (d) Based upon the exercise or performance or the  
1162 failure to exercise or perform a discretionary function or duty on  
1163 the part of a governmental entity or employee thereof, whether or  
1164 not the discretion be abused;

1165 (e) Arising out of an injury caused by adopting or  
1166 failing to adopt a statute, ordinance or regulation;

1167 (f) Which is limited or barred by the provisions of any  
1168 other law;

1169 (g) Arising out of the exercise of discretion in  
1170 determining whether or not to seek or provide the resources



1171 necessary for the purchase of equipment, the construction or  
1172 maintenance of facilities, the hiring of personnel and, in  
1173 general, the provision of adequate governmental services;

1174 (h) Arising out of the issuance, denial, suspension or  
1175 revocation of, or the failure or refusal to issue, deny, suspend  
1176 or revoke any privilege, ticket, pass, permit, license,  
1177 certificate, approval, order or similar authorization where the  
1178 governmental entity or its employee is authorized by law to  
1179 determine whether or not such authorization should be issued,  
1180 denied, suspended or revoked unless such issuance, denial,  
1181 suspension or revocation, or failure or refusal thereof, is of a  
1182 malicious or arbitrary and capricious nature;

1183 (i) Arising out of the assessment or collection of any  
1184 tax or fee;

1185 (j) Arising out of the detention of any goods or  
1186 merchandise by any law enforcement officer, unless such detention  
1187 is of a malicious or arbitrary and capricious nature;

1188 (k) Arising out of the imposition or establishment of a  
1189 quarantine, whether such quarantine relates to persons or  
1190 property;

1191 (l) Of any claimant who is an employee of a  
1192 governmental entity and whose injury is covered by the Workers'  
1193 Compensation Law of this state by benefits furnished by the  
1194 governmental entity by which he is employed;

1195 (m) Of any claimant who at the time the claim arises is  
1196 an inmate of any detention center, jail, workhouse, penal farm,  
1197 penitentiary or other such institution, regardless of whether such  
1198 claimant is or is not an inmate of any detention center, jail,  
1199 workhouse, penal farm, penitentiary or other such institution when  
1200 the claim is filed;

1201 (n) Arising out of any work performed by a person  
1202 convicted of a crime when the work is performed pursuant to any



1203 sentence or order of any court or pursuant to laws of the State of  
1204 Mississippi authorizing or requiring such work;

1205           (o) Under circumstances where liability has been or is  
1206 hereafter assumed by the United States, to the extent of such  
1207 assumption of liability, including but not limited to any claim  
1208 based on activities of the Mississippi National Guard when such  
1209 claim is cognizable under the National Guard Tort Claims Act of  
1210 the United States, 32 USC 715 (32 USCS 715), or when such claim  
1211 accrues as a result of active federal service or state service at  
1212 the call of the Governor for quelling riots and civil  
1213 disturbances;

1214           (p) Arising out of a plan or design for construction or  
1215 improvements to public property, including but not limited to,  
1216 public buildings, highways, roads, streets, bridges, levees,  
1217 dikes, dams, impoundments, drainage channels, diversion channels,  
1218 harbors, ports, wharfs or docks, where such plan or design has  
1219 been approved in advance of the construction or improvement by the  
1220 legislative body or governing authority of a governmental entity  
1221 or by some other body or administrative agency, exercising  
1222 discretion by authority to give such approval, and where such plan  
1223 or design is in conformity with engineering or design standards in  
1224 effect at the time of preparation of the plan or design;

1225           (q) Arising out of an injury caused solely by the  
1226 effect of weather conditions on the use of streets and highways;

1227           (r) Arising out of the lack of adequate personnel or  
1228 facilities at a state hospital or state corrections facility if  
1229 reasonable use of available appropriations has been made to  
1230 provide such personnel or facilities;

1231           (s) Arising out of loss, damage or destruction of  
1232 property of a patient or inmate of a state institution;

1233           (t) Arising out of any loss of benefits or compensation  
1234 due under a program of public assistance or public welfare;



1235 (u) Arising out of or resulting from riots, unlawful  
1236 assemblies, unlawful public demonstrations, mob violence or civil  
1237 disturbances;

1238 (v) Arising out of an injury caused by a dangerous  
1239 condition on property of the governmental entity that was not  
1240 caused by the negligent or other wrongful conduct of an employee  
1241 of the governmental entity or of which the governmental entity did  
1242 not have notice, either actual or constructive, and adequate  
1243 opportunity to protect or warn against; provided, however, that a  
1244 governmental entity shall not be liable for the failure to warn of  
1245 a dangerous condition which is obvious to one exercising due care;

1246 (w) Arising out of the absence, condition, malfunction  
1247 or removal by third parties of any sign, signal, warning device,  
1248 illumination device, guardrail or median barrier, unless the  
1249 absence, condition, malfunction or removal is not corrected by the  
1250 governmental entity responsible for its maintenance within a  
1251 reasonable time after actual or constructive notice; \* \* \*

1252 (x) Arising out of the administration of corporal  
1253 punishment or the taking of any action to maintain control and  
1254 discipline of students, as defined in Section 37-11-57, by a  
1255 teacher, assistant teacher, principal or assistant principal of a  
1256 public school district in the state unless the teacher, assistant  
1257 teacher, principal or assistant principal acted in bad faith or  
1258 with malicious purpose or in a manner exhibiting a wanton and  
1259 willful disregard of human rights or safety; or

1260 (y) Arising out of a response to a terroristic threat  
1261 or act.

1262 (2) A governmental entity shall also not be liable for any  
1263 claim where the governmental entity:

1264 (a) Is inactive and dormant;

1265 (b) Receives no revenue;

1266 (c) Has no employees; and

1267 (d) Owns no property.



1268 (3) If a governmental entity exempt from liability by  
1269 subsection (2) becomes active, receives income, hires employees or  
1270 acquires any property, such governmental entity shall no longer be  
1271 exempt from liability as provided in subsection (2) and shall be  
1272 subject to the provisions of this chapter.

1273 **SECTION 17.** Section 65-1-8, Mississippi Code of 1972, is  
1274 amended as follows:

1275 65-1-8. (1) The Mississippi Transportation Commission shall  
1276 have the following general powers, duties and responsibilities:

1277 (a) To coordinate and develop a comprehensive, balanced  
1278 transportation policy for the State of Mississippi;

1279 (b) To promote the coordinated and efficient use of all  
1280 available and future modes of transportation;

1281 (c) To make recommendations to the Legislature  
1282 regarding alterations or modifications in any existing  
1283 transportation policies;

1284 (d) To study means of encouraging travel and  
1285 transportation of goods by the combination of motor vehicle and  
1286 other modes of transportation;

1287 (e) To take such actions as are necessary and proper to  
1288 discharge its duties pursuant to the provisions of Laws, 1992,  
1289 Chapter 496, and any other provision of law;

1290 (f) To receive and provide for the expenditure of any  
1291 funds made available to it by the Legislature, the federal  
1292 government or any other source.

1293 (2) In addition to the general powers, duties and  
1294 responsibilities listed in subsection (1) of this section, the  
1295 Mississippi Transportation Commission shall have the following  
1296 specific powers:

1297 (a) To make rules and regulations whereby the  
1298 Transportation Department shall change or relocate any and all  
1299 highways herein or hereafter fixed as constituting a part of the  
1300 state highway system, as may be deemed necessary or economical in



1301 the construction or maintenance thereof; to acquire by gift,  
1302 purchase, condemnation or otherwise, land or other property  
1303 whatsoever that may be necessary for a state highway system as  
1304 herein provided, with full consideration to be given to the  
1305 stimulation of local public and private investment when acquiring  
1306 such property in the vicinity of Mississippi towns, cities and  
1307 population centers;

1308 (b) To enforce by mandamus, or other proper legal  
1309 remedies, all legal rights or rights of action of the Mississippi  
1310 Transportation Commission with other public bodies, corporations  
1311 or persons;

1312 (c) To make and publish rules, regulations and  
1313 ordinances for the control of and the policing of the traffic on  
1314 the state highways, and to prevent their abuse by any or all  
1315 persons, natural or artificial, by trucks, tractors, trailers or  
1316 any other heavy or destructive vehicles or machines, or by any  
1317 other means whatsoever, by establishing weights of loads or of  
1318 vehicles, types of tires, width of tire surfaces, length and width  
1319 of vehicles, with reasonable variations to meet approximate  
1320 weather conditions, and all other proper police and protective  
1321 regulations, and to provide ample means for the enforcement of  
1322 same. The violation of any of the rules, regulations or  
1323 ordinances so prescribed by the commission shall constitute a  
1324 misdemeanor. No rule, regulation or ordinance shall be made that  
1325 conflicts with any statute now in force or which may hereafter be  
1326 enacted, or with any ordinance of municipalities. A monthly  
1327 publication giving general information to the boards of  
1328 supervisors, employees and the public may be issued under such  
1329 rules and regulations as the commission may determine;

1330 (d) To give suitable numbers to highways and to change  
1331 the number of any highway that shall become a part of the state  
1332 highway system. However, nothing herein shall authorize the  
1333 number of any highway to be changed so as to conflict with any





1334 designation thereof as a U.S. numbered highway. Where, by a  
1335 specific act of the Legislature, the commission has been directed  
1336 to give a certain number to a highway, the commission shall not  
1337 have the authority to change such number;

1338           (e) (i) To make proper and reasonable rules,  
1339 regulations, and ordinances for the placing, erection, removal or  
1340 relocation of telephone, telegraph or other poles, signboards,  
1341 fences, gas, water, sewerage, oil or other pipelines, and other  
1342 obstructions that may, in the opinion of the commission,  
1343 contribute to the hazards upon any of the state highways, or in  
1344 any way interfere with the ordinary travel upon such highways, or  
1345 the construction, reconstruction or maintenance thereof, and to  
1346 make reasonable rules and regulations for the proper control  
1347 thereof. Any violation of such rules or regulations or  
1348 noncompliance with such ordinances shall constitute a misdemeanor;

1349           (ii) Except as otherwise provided for in this  
1350 paragraph, whenever the order of the commission shall require the  
1351 removal of, or other changes in the location of telephone,  
1352 telegraph or other poles, signboards, gas, water, sewerage, oil or  
1353 other pipelines; or other similar obstructions on the right-of-way  
1354 or such other places where removal is required by law, the owners  
1355 thereof shall at their own expense move or change the same to  
1356 conform to the order of the commission. Any violation of such  
1357 rules or regulations or noncompliance with such orders shall  
1358 constitute a misdemeanor;

1359           (iii) Rural water districts, rural water systems,  
1360 nonprofit water associations and municipal public water systems in  
1361 municipalities with a population of ten thousand (10,000) or less,  
1362 according to the latest federal decennial census, shall not be  
1363 required to bear the cost and expense of removal and relocation of  
1364 water and sewer lines and facilities constructed or in place in  
1365 the rights-of-way of state highways. The cost and expense of such



1366 removal and relocation, including any unpaid prior to July 1,  
1367 2002, shall be paid by the Department of Transportation;

1368 (f) To regulate and abandon grade crossings on any road  
1369 fixed as a part of the state highway system, and whenever the  
1370 commission, in order to avoid a grade crossing with the railroad,  
1371 locates or constructs said road on one side of the railroad, the  
1372 commission shall have the power to abandon and close such grade  
1373 crossing, and whenever an underpass or overhead bridge is  
1374 substituted for a grade crossing, the commission shall have power  
1375 to abandon such grade crossing and any other crossing adjacent  
1376 thereto. Included in the powers herein granted shall be the power  
1377 to require the railroad at grade crossings, where any road of the  
1378 state highway system crosses the same, to place signal posts with  
1379 lights or other warning devices at such crossings at the expense  
1380 of the railroad, and to regulate and abandon underpass or overhead  
1381 bridges and, where abandoned because of the construction of a new  
1382 underpass or overhead bridge, to close such old underpass or  
1383 overhead bridge, or, in its discretion, to return the same to the  
1384 jurisdiction of the county board of supervisors;

1385 (g) To make proper and reasonable rules and regulations  
1386 to control the cutting or opening of the road surfaces for  
1387 subsurface installations;

1388 (h) To make proper and reasonable rules and regulations  
1389 for the removal from the public rights-of-way of any form of  
1390 obstruction, to cooperate in improving their appearance, and to  
1391 prescribe minimum clearance heights for seed conveyors, pipes,  
1392 passageways or other structure of private or other ownership above  
1393 the highways;

1394 (i) To establish, and have the Transportation  
1395 Department maintain and operate, and to cooperate with the state  
1396 educational institutions in establishing, enlarging, maintaining  
1397 and operating a laboratory or laboratories for testing materials  
1398 and for other proper highway purposes;



1399           (j) To provide, under the direction and with the  
1400 approval of the Department of Finance and Administration, suitable  
1401 offices, shops and barns in the City of Jackson;

1402           (k) To establish and have enforced set-back  
1403 regulations;

1404           (l) To cooperate with proper state authorities in  
1405 producing limerock for highway purposes and to purchase same at  
1406 cost;

1407           (m) To provide for the purchase of necessary equipment  
1408 and vehicles and to provide for the repair and housing of same, to  
1409 acquire by gift, purchase, condemnation or otherwise, land or  
1410 lands and buildings in fee simple, and to authorize the  
1411 Transportation Department to construct, lease or otherwise provide  
1412 necessary and proper permanent district offices for the  
1413 construction and maintenance divisions of the department, and for  
1414 the repair and housing of the equipment and vehicles of the  
1415 department; however, in each Supreme Court district only two (2)  
1416 permanent district offices shall be set up, but a permanent status  
1417 shall not be given to any such offices until so provided by act of  
1418 the Legislature and in the meantime, all shops of the department  
1419 shall be retained at their present location. As many local or  
1420 subdistrict offices, shops or barns may be provided as is  
1421 essential and proper to economical maintenance of the state  
1422 highway system;

1423           (n) To cooperate with the Department of Archives and  
1424 History in having placed and maintained suitable historical  
1425 markers, including those which have been approved and purchased by  
1426 the State Historical Commission, along state highways, and to have  
1427 constructed and maintained roadside driveways for convenience and  
1428 safety in viewing them when necessary;

1429           (o) To cooperate, in its discretion, with the  
1430 Mississippi Department of Wildlife, Fisheries and Parks in  
1431 planning and constructing roadside parks upon the right-of-way of



1432 state highways, whether constructed, under construction, or  
1433 planned; said parks to utilize where practical barrow pits used in  
1434 construction of state highways for use as fishing ponds. Said  
1435 parks shall be named for abundant flora and fauna existing in the  
1436 area or for the first flora or fauna found on the site;

1437 (p) Unless otherwise prohibited by law, to make such  
1438 contracts and execute such instruments containing such reasonable  
1439 and necessary appropriate terms, provisions and conditions as in  
1440 its absolute discretion it may deem necessary, proper or  
1441 advisable, for the purpose of obtaining or securing financial  
1442 assistance, grants or loans from the United States of America or  
1443 any department or agency thereof, including contracts with several  
1444 counties of the state pertaining to the expenditure of such funds;

1445 (q) To cooperate with the Federal Highway  
1446 Administration in the matter of location, construction and  
1447 maintenance of the Great River Road, to expend such funds paid to  
1448 the commission by the Federal Highway Administration or other  
1449 federal agency, and to authorize the Transportation Department to  
1450 erect suitable signs marking this highway, the cost of such signs  
1451 to be paid from state highway funds other than earmarked  
1452 construction funds;

1453 (r) To cooperate, in its discretion, with the  
1454 Mississippi Forestry Commission and the School of Forestry,  
1455 Mississippi State University, in a forestry management program,  
1456 including planting, thinning, cutting and selling, upon the  
1457 right-of-way of any highway, constructed, acquired or maintained  
1458 by the Transportation Department, and to sell and dispose of any  
1459 and all growing timber standing, lying or being on any  
1460 right-of-way acquired by the commission for highway purposes in  
1461 the future; such sale or sales to be made in accordance with the  
1462 sale of personal property which has become unnecessary for public  
1463 use as provided for in Section 65-1-123, Mississippi Code of 1972;



1464           (s) To expend funds in cooperation with the Division of  
1465 Plant Industry, Mississippi Department of Agriculture and  
1466 Commerce, the United States government or any department or agency  
1467 thereof, or with any department or agency of this state, to  
1468 control, suppress or eradicate serious insect pests, rodents,  
1469 plant parasites and plant diseases on the state highway  
1470 rights-of-way;

1471           (t) To provide for the placement, erection and  
1472 maintenance of motorist services business signs and supports  
1473 within state highway rights-of-way in accordance with current  
1474 state and federal laws and regulations governing the placement of  
1475 traffic control devices on state highways, and to establish and  
1476 collect reasonable fees from the businesses having information on  
1477 such signs;

1478           (u) To request and to accept the use of persons  
1479 convicted of an offense, whether a felony or a misdemeanor, for  
1480 work on any road construction, repair or other project of the  
1481 Transportation Department. The commission is also authorized to  
1482 request and to accept the use of persons who have not been  
1483 convicted of an offense but who are required to fulfill certain  
1484 court-imposed conditions pursuant to Section 41-29-150(d)(1) or  
1485 99-15-26, Mississippi Code of 1972, or the Pretrial Intervention  
1486 Act, being Sections 99-15-101 through 99-15-127, Mississippi Code  
1487 of 1972. The commission is authorized to enter into any  
1488 agreements with the Department of Corrections, the State Parole  
1489 Board, any criminal court of this state, and any other proper  
1490 official regarding the working, guarding, safekeeping, clothing  
1491 and subsistence of such persons performing work for the  
1492 Transportation Department. Such persons shall not be deemed  
1493 agents, employees or involuntary servants of the Transportation  
1494 Department while performing such work or while going to and from  
1495 work or other specified areas;



1496 (v) To provide for the administration of the railroad  
1497 revitalization program pursuant to Section 57-43-1 et seq.;

1498 (w) The Mississippi Transportation Commission is  
1499 further authorized, in its discretion, to expend funds for the  
1500 purchase of service pins for employees of the Mississippi  
1501 Transportation Department;

1502 (x) To cooperate with the State Tax Commission by  
1503 providing for weight enforcement field personnel to collect and  
1504 assess taxes, fees and penalties and to perform all duties as  
1505 required pursuant to Section 27-55-501 et seq., Sections 27-19-1  
1506 et seq., 27-55-1 et seq., 27-59-1 et seq. and 27-61-1 et seq.,  
1507 Mississippi Code of 1972, with regard to vehicles subject to the  
1508 jurisdiction of the Office of Weight Enforcement. All collections  
1509 and assessments shall be transferred daily to the State Tax  
1510 Commission;

1511 (y) The Mississippi Transportation Commission may  
1512 delegate the authority to enter into a supplemental agreement to a  
1513 contract previously approved by the commission if the supplemental  
1514 agreement involves an additional expenditure not to exceed One  
1515 Hundred Thousand Dollars (\$100,000.00);

1516 (z) (i) The Mississippi Transportation Commission, in  
1517 its discretion, may enter into agreements with any county,  
1518 municipality, county transportation commission, business,  
1519 corporation, partnership, association, individual or other legal  
1520 entity, for the purpose of accelerating the completion date of  
1521 scheduled highway construction projects.

1522 (ii) Such an agreement may permit the cost of a  
1523 highway construction project to be advanced to the commission by a  
1524 county, municipality, county transportation commission, business,  
1525 corporation, partnership, association, individual or other legal  
1526 entity, and repaid to such entity by the commission when highway  
1527 construction funds become available; provided, however, that  
1528 repayment of funds advanced to the Mississippi Transportation



1529 Commission shall be made no sooner than the commission's  
1530 identified projected revenue schedule for funding of that  
1531 particular construction project, and no other scheduled highway  
1532 construction project established by statute or by the commission  
1533 may be delayed by an advanced funding project authorized under  
1534 this paragraph (z). Repayments to an entity that advances funds  
1535 to the Mississippi Transportation Commission under this paragraph  
1536 (z) may not include interest or other fees or charges, and the  
1537 total amount repaid shall not exceed the total amount of funds  
1538 advanced to the commission by the entity.

1539 (iii) In considering whether to enter into such an  
1540 agreement, the commission shall consider the availability of  
1541 financial resources, the effect of such agreement on other ongoing  
1542 highway construction, the urgency of the public's need for swift  
1543 completion of the project and any other relevant factors.

1544 (iv) Such an agreement shall be executed only upon  
1545 a finding by the commission, spread upon its minutes, that the  
1546 acceleration of the scheduled project is both feasible and  
1547 beneficial. The commission shall also spread upon its minutes its  
1548 findings with regard to the factors required to be considered  
1549 pursuant to item (iii) of this paragraph (z).

1550 (3) When the Governor declares a state of emergency or state  
1551 of alert, the commission may, in its discretion, temporarily  
1552 assign its agent and employees who are charged with the  
1553 enforcement of the weight laws and motor vehicle privilege tax  
1554 laws of this state, to the Department of Public Safety to augment  
1555 the manpower needs of the Department of Public Safety during the  
1556 state of emergency or state of alert.

1557 **SECTION 18.** Section 65-1-71, Mississippi Code of 1972, is  
1558 amended as follows:

1559 65-1-71. The director may close highways for construction  
1560 purposes and in emergencies. The director may close highways when  
1561 the Governor has declared a state of emergency or state of alert



1562 and the highway to be closed is a potential terrorist target. The  
1563 director shall select, lay out, maintain, and keep in as good  
1564 repair as possible suitable detours by the most practicable route,  
1565 where they are necessary for the public convenience while any  
1566 sections of \* \* \* highways or roads are being improved or  
1567 constructed or closed. The director shall place or cause to be  
1568 placed explicit directions to the traveling public during repair  
1569 of said highway or road under process of construction. As far as  
1570 practical, roads already laid out shall be connected with and used  
1571 for \* \* \* detours.

1572 The director \* \* \*, subject to the approval of the  
1573 commission, may enter into agreements, spread on the minutes of  
1574 both boards, with the local road authorities of the county or  
1575 counties in which construction or maintenance work is to be done,  
1576 to pay all or any part of the cost of laying out or  
1577 maintaining \* \* \* detours. All expenses to the state of laying  
1578 out and maintaining \* \* \* detours shall be paid out of the state  
1579 highway funds. The director is also authorized, subject to the  
1580 approval of the commission, to make reasonable rules and  
1581 regulations to keep highways under construction open to traffic  
1582 where such action is deemed to be practical and desirable.

1583 If any county-maintained road or municipally maintained  
1584 street is used temporarily as a part of a state highway detour, it  
1585 shall be the duty of the highway department, when the detour is  
1586 abandoned \* \* \*, to place the same in as good condition as said  
1587 road or street was when its use as a detour began.

1588 **SECTION 19.** Section 65-1-85, Mississippi Code of 1972, is  
1589 amended as follows:

1590 65-1-85. All contracts by or on behalf of the Mississippi  
1591 Transportation Commission for the purchase of materials, equipment  
1592 and supplies shall be made in compliance with Section 31-7-1 et  
1593 seq. All contracts by or on behalf of the Mississippi  
1594 Transportation Commission for construction, reconstruction or





1595 other public work authorized to be done under the provisions of  
1596 this chapter, except maintenance, shall be made by the executive  
1597 director, subject to the approval of the commission, only upon  
1598 competitive bids after due advertisement as follows, to wit:

1599       Such advertisement for bids shall be in accordance with such  
1600 rules and regulations, in addition to those herein provided, as  
1601 may be adopted therefor by the Mississippi Transportation  
1602 Commission, and said commission is hereby authorized and empowered  
1603 to make and promulgate such rules and regulations as it may deem  
1604 proper, to provide and adopt standard specifications for road and  
1605 bridge construction, and to amend the same from time to time.

1606 Such advertisement shall be inserted twice, being once a week for  
1607 two (2) successive weeks in a newspaper published at the seat of  
1608 government in Jackson, Mississippi, having a general circulation  
1609 throughout the state, and no letting shall be less than fourteen  
1610 (14) days nor more than sixty (60) days after the publication of  
1611 the first notice thereof, and notices of such letting may be  
1612 placed in a metropolitan paper or national trade publication.

1613 Before advertising for such work, the executive director shall  
1614 cause to be prepared and filed in the Mississippi Department of  
1615 Transportation detailed plans and specifications covering the work  
1616 proposed to be done, copies of which plans and specifications  
1617 shall be subject to inspection by any citizen during all office  
1618 hours and made available to all prospective bidders upon such  
1619 reasonable terms and conditions as may be required by the  
1620 Mississippi Transportation Commission; provided, that there shall  
1621 be a fee equal to the cost of producing a copy of any such plans  
1622 and specifications. All such contracts shall be let to the lowest  
1623 responsible bidder, and a record of all bids received for  
1624 construction and reconstruction shall be preserved. In letting  
1625 such contracts, each bid for construction and reconstruction must  
1626 be accompanied by a cashier's check, a certified check or bidders  
1627 bond executed by a surety company authorized to do business in the



1628 State of Mississippi, in the principal amount of not less than  
1629 five percent (5%) of the bid, guaranteeing that the bidder will  
1630 give bond and enter into a contract for the faithful performance  
1631 of the contract according to plans and specifications on file.

1632 Bonds shall be required of the successful bidder in an amount  
1633 equal to the contract price. The contract price shall mean the  
1634 entire cost of the particular contract let. In the event change  
1635 orders are made after the execution of a contract which results in  
1636 increasing the total contract price, additional bond in the amount  
1637 of the increased cost may be required. The surety or sureties on  
1638 such bonds shall be a surety company or surety companies  
1639 authorized to do business in the State of Mississippi, all bonds  
1640 to be payable to the State of Mississippi and to be conditioned  
1641 for the prompt, faithful and efficient performance of the contract  
1642 according to plans and specifications, and for the prompt payment  
1643 of all persons furnishing labor, material, equipment and supplies  
1644 therefor. Such bonds shall be subject to the additional  
1645 obligation that the principal and surety or sureties executing the  
1646 same shall be liable to the state in a civil action instituted by  
1647 the state at the instance of the Mississippi Transportation  
1648 Commission or any officer of the state authorized in such cases,  
1649 for double any amount in money or property the state may lose or  
1650 be overcharged or otherwise defrauded of by reason of any wrongful  
1651 or criminal act, if any, of the contractor, his agent or  
1652 employees.

1653 With respect to equipment used in the construction,  
1654 reconstruction or other public work authorized to be done under  
1655 the provisions of this chapter: the word "equipment," in addition  
1656 to all equipment incorporated into or fully consumed in connection  
1657 with such project, shall include the reasonable value of the use  
1658 of all equipment of every kind and character and all accessories  
1659 and attachments thereto which are reasonably necessary to be used  
1660 and which are used in carrying out the performance of the



1661 contract, and the reasonable value of the use thereof, during the  
1662 period of time the same are used in carrying out the performance  
1663 of the contract, shall be the amount as agreed upon by the persons  
1664 furnishing the equipment and those using the same to be paid  
1665 therefor, which amount, however, shall not be in excess of the  
1666 maximum current rates and charges allowable for leasing or renting  
1667 as specified in Section 65-7-95; the word "labor" shall include  
1668 all work performed in repairing equipment used in carrying out the  
1669 performance of the contract, which repair labor is reasonably  
1670 necessary to the efficient operation of said equipment; and the  
1671 words "materials" and "supplies" shall include all repair parts  
1672 installed in or on equipment used in carrying out the performance  
1673 of the contract, which repair parts are reasonably necessary to  
1674 the efficient operation of said equipment.

1675         The executive director, subject to the approval of the  
1676 Mississippi Transportation Commission, shall have the right to  
1677 reject any and all bids, whether such right is reserved in the  
1678 notice or not. Any contract for construction or paving of any  
1679 highway may be entered into for any cost which does not exceed the  
1680 amount of funds that may be made available therefor through bond  
1681 issues or from other sources of revenue, and the letting of  
1682 contracts for such construction or paving shall not necessarily be  
1683 delayed until the funds are actually on hand, provided  
1684 authorization for the issuance of necessary bonds has been granted  
1685 by law to supplement other anticipated revenue or when the  
1686 Mississippi Department of Transportation certifies to the  
1687 Department of Finance and Administration and the Legislative  
1688 Budget Office that projected receipts of funds by the department  
1689 will be sufficient to pay such contracts as they become due and  
1690 the Department of Finance and Administration determines that the  
1691 projections are reasonable and receipts will be sufficient to pay  
1692 the contracts as they become due. The Department of Finance and  
1693 Administration shall spread such determination on its minutes



1694 prior to the letting of any contracts based on projected receipts.  
1695 Nothing herein shall prohibit the issuance of bonds, which have  
1696 been authorized, at any time in the discretion of the State Bond  
1697 Commission, nor to prevent investment of surplus funds in United  
1698 States government bonds or State of Mississippi bonds as presently  
1699 authorized by Section 12, Chapter 312, Laws of 1956.

1700 All other contracts for work to be done under the provisions  
1701 of this chapter and for the purchase of materials, equipment and  
1702 supplies to be used as provided for in this chapter shall be made  
1703 in compliance with Section 31-7-1 et seq.

1704 The Mississippi Transportation Commission shall not empower  
1705 or authorize the executive director, or any one or more of its  
1706 members, or any engineer or other person to let or make contracts  
1707 for the construction or repair of public roads, or building  
1708 bridges, or for the purchase of material, equipment or supplies  
1709 contrary to the provisions of this chapter as above set forth,  
1710 except in cases of flood, damage to public roads caused by a  
1711 terrorist attack or other cases of emergency where the public  
1712 interest requires that the work be done or the materials,  
1713 equipment or supplies be purchased without the delay incident to  
1714 advertising for competitive bids. Such emergency contracts may be  
1715 made without advertisement under such rules and regulations as the  
1716 Mississippi Transportation Commission may prescribe.

1717 The executive director, subject to the approval of the  
1718 Mississippi Transportation Commission, is authorized to negotiate  
1719 and make agreements with communities and/or civic organizations  
1720 for landscaping, beautification and maintenance of highway  
1721 rights-of-way; provided, however, that nothing herein shall be  
1722 construed as authorization for the executive director or  
1723 commission to participate in such a project to an extent greater  
1724 than the average cost for maintenance of shoulders, backslopes and  
1725 median areas with respect thereto. The executive director may  
1726 negotiate and enter into contracts with private parties for the



1727 mowing of grass and trimming of vegetation on the rights-of-way of  
1728 state highways whenever such practice is possible and cost  
1729 effective.

1730         **SECTION 20.** Section 33-15-15, Mississippi Code of 1972, is  
1731 amended as follows:

1732         33-15-15. (a) The agency is authorized to provide, within  
1733 or without the state, such support from available personnel,  
1734 equipment and other resources of state agencies and the political  
1735 subdivisions of the state as may be necessary to reinforce  
1736 emergency management agencies in areas stricken by emergency.  
1737 Such support shall be rendered with due consideration of the plans  
1738 of the federal government, this state, the other states and of the  
1739 criticalness of the existing situation. Emergency management  
1740 support forces shall be called to duty upon orders of the agency  
1741 and shall perform their functions in any part of the state, or,  
1742 upon the conditions specified in this section, in other states.

1743         (b) Personnel of emergency management support forces while  
1744 on duty, whether within or without the state, shall:

1745                 (1) If they are employees of the state, have the  
1746 powers, duties, rights, privileges and immunities and receive the  
1747 compensation incidental to their employment;

1748                 (2) If they are employees of a political subdivision of  
1749 the state, and whether serving within or without such political  
1750 subdivision, have the powers, duties, rights, privileges and  
1751 immunities and receive the compensation incidental to their  
1752 employment; and

1753                 (3) If they are not employees of the state or a  
1754 political subdivision thereof, be entitled to compensation by the  
1755 state at a rate commensurate with their duties and  
1756 responsibilities and to the same rights and immunities as are  
1757 provided by law for the employees of this state.

1758         All personnel of emergency management support forces shall,  
1759 while on duty, be subject to the operational control of the



1760 authority in charge of emergency management activities in the area  
1761 in which they are serving, and shall be reimbursed for all actual  
1762 and necessary travel and subsistence expenses, and for death,  
1763 disability or injury to such personnel while on such emergency  
1764 duty as a member of an emergency management support force, the  
1765 state shall pay compensation to the heirs in event of death or the  
1766 individual in event of injury or disability in accordance with  
1767 payment schedules contained in the Mississippi Workers'  
1768 Compensation Law.

1769 (c) The state shall reimburse a political subdivision for  
1770 the actual and necessary travel, subsistence and maintenance  
1771 expenses of employees of such political subdivision while serving  
1772 as members of an emergency management support force, and for all  
1773 payments for death, disability or injury of such employees  
1774 incurred in the course of such duty, and for all losses of or  
1775 damage to supplies and equipment of such political subdivision  
1776 resulting from the operation of such emergency management support  
1777 force.

1778 (d) Whenever an emergency management support force of  
1779 another state shall render aid in this state pursuant to the  
1780 orders of the governor of its home state and upon the request of  
1781 the Governor of this state, the personnel thereof shall have the  
1782 powers, duties, rights, privileges and immunities of emergency  
1783 management personnel serving in similar capacities in this state,  
1784 except compensation, and this state shall reimburse such other  
1785 state for the compensation paid and actual and necessary travel,  
1786 subsistence and maintenance expenses of the personnel of such  
1787 emergency management support force while rendering such aid, and  
1788 for all payments for death, disability or injury of such personnel  
1789 incurred in the course of rendering such aid, and for all losses  
1790 of or damage to supplies and equipment of such other state or a  
1791 political subdivision thereof resulting from the rendering of such



1792 aid; provided, that the laws of such other state contain  
1793 provisions substantially similar to this section.

1794 (e) No personnel of emergency management support forces of  
1795 this state shall be ordered by the Governor to operate in any  
1796 other state unless the laws of such other state contain provisions  
1797 substantially similar to this section.

1798 (f) In addition to such other powers and duties as may be  
1799 exercised by the agency, the agency shall establish and maintain  
1800 five (5) regional hazardous materials and weapons of mass  
1801 destruction teams which shall be located and housed in appropriate  
1802 facilities at critical and strategic areas throughout the state so  
1803 as to provide for an immediate and effective response to real,  
1804 threatened or potential emergencies or disasters relating to those  
1805 materials or weapons.

1806 **SECTION 21.** Section 33-15-307, Mississippi Code of 1972, is  
1807 amended as follows:

1808 33-15-307. (1) The provisions of this article shall be  
1809 invoked only pursuant to a state of emergency declared by the  
1810 Governor or an emergency or major disaster declared by the  
1811 President, or pursuant to an executive order of the Governor, or  
1812 administrative order of the director, in order to provide state or  
1813 local government resources and personnel in compliance with the  
1814 provisions of the Emergency Management Assistance Compact, Section  
1815 45-18-1 et seq., or in nondeclared times for administrative and  
1816 training costs associated with state disaster response and  
1817 recovery programs. Each declaration shall cite the cause for the  
1818 declaration and define the area eligible for assistance and the  
1819 type of assistance to be provided.

1820 (2) The Disaster Assistance Trust Fund is created as a  
1821 special fund in the State Treasury into which shall be paid any  
1822 funds appropriated or otherwise made available by the Legislature  
1823 for disaster assistance, any funds transferred from the Working  
1824 Cash-Stabilization Reserve Fund as provided under subsection (5)



1825 of this section, any income from investment of the funds in the  
1826 trust fund, and federal reimbursement for administrative costs for  
1827 management of the Individual and Family Grant Program, the Public  
1828 Assistance Program, the Hazard Mitigation Program and Disaster  
1829 Reservist Program.

1830 (3) Income from investment of the funds in the trust fund,  
1831 and all other funds deposited therein pursuant to law, shall be  
1832 available for expenditure, transfer and allocation pursuant to  
1833 this article.

1834 (4) The Disaster Assistance Trust Fund shall be used only  
1835 for the following purposes:

1836 (a) The state's portion of the cost share for public  
1837 assistance under a major disaster declaration.

1838 (b) The state's cost share of the Individual and Family  
1839 Grant (IFG) Program under the provisions of Section 43-41-1 et  
1840 seq.

1841 (c) Administrative costs for managing the IFG Program.

1842 (d) Administrative costs for managing the Public  
1843 Assistance Program.

1844 (e) The Temporary Housing Program under provisions of  
1845 Section 43-41-301 et seq.

1846 (f) Out-of-pocket expenses, including travel, per diem,  
1847 overtime and other similar expenses, of state or local agencies  
1848 when so tasked by the Governor or the director for emergency  
1849 response under the provisions of Section 33-15-11(b)(7) and  
1850 current executive orders. This includes actual emergency response  
1851 and recovery activities, and applies to mobilization and  
1852 deployment of state or local agencies to another state under the  
1853 provisions of the Emergency Management Assistance Compact.

1854 (g) Costs incurred as a result of state active duty for  
1855 the Mississippi National Guard when so tasked by the Governor to  
1856 provide support to other agencies and local governments in a major  
1857 disaster or emergency situation, or when tasked by the Governor to





1858 provide support to another state under the provisions of the  
1859 Emergency Management Assistance Compact.

1860 (h) The state's portion of the cost share for hazard  
1861 mitigation under a major disaster declaration.

1862 (i) Administrative costs of the Hazard Mitigation  
1863 Program.

1864 (j) Costs incurred as a result of the implementation of  
1865 the Disaster Reservist Program under a major disaster declaration.

1866 (k) Administrative costs of the Disaster Reservist  
1867 Program.

1868 (l) Costs incurred as a result of the implementation of  
1869 public assistance, and/or individual assistance, and/or Disaster  
1870 Reservist Program, and/or hazard mitigation, and/or temporary  
1871 housing under a Governor's state of emergency.

1872 (m) The state's portion of the cost share for public  
1873 assistance under a major disaster declaration for tornado or other  
1874 storm damage to public facilities and infrastructure occurring on  
1875 November 10, 2002, as provided in Sections 1 through 16 of Chapter  
1876 5, 2002 Third Extraordinary Session.

1877 (n) Costs incurred as a result of the establishment and  
1878 maintenance of five (5) regional hazardous materials and weapons  
1879 of mass destruction teams located and housed in appropriate  
1880 facilities at critical and strategic areas throughout the state so  
1881 as to provide for an immediate and effective response to real,  
1882 threatened or potential emergencies or disasters relating to such  
1883 materials or weapons.

1884 (5) Whenever the director determines that funds are  
1885 immediately needed in the Disaster Assistance Trust Fund to  
1886 provide for disaster assistance under this article, he shall  
1887 notify the Executive Director of the Department of Finance and  
1888 Administration of his determination and shall requisition the  
1889 amount of funds from the Working Cash-Stabilization Fund that are  
1890 needed in the trust fund, which shall be subject to the



1891 limitations set forth below in this subsection. At the same time  
1892 he makes the requisition, the director shall notify the Lieutenant  
1893 Governor, the Speaker of the House of Representatives and the  
1894 respective Chairmen of the Senate Appropriations Committee, the  
1895 Senate Finance Committee, the House Appropriations Committee and  
1896 the House Ways and Means Committee of his determination of the  
1897 need for the funds and the amount that he has requisitioned. Upon  
1898 receipt of such a requisition from the director, the Executive  
1899 Director of the Department of Finance and Administration shall  
1900 ascertain if the amount requisitioned is available in the Working  
1901 Cash-Stabilization Reserve Fund and is within the limitations set  
1902 forth below in this subsection and, if it is, he shall transfer  
1903 that amount from the Working Cash-Stabilization Reserve Fund to  
1904 the trust fund. If the amount requisitioned is more than the  
1905 amount available in the Working Cash-Stabilization Fund or above  
1906 the limitations set forth below in this subsection, the executive  
1907 director shall transfer the amount that is available within the  
1908 limitations. The maximum amount that may be transferred from the  
1909 Working Cash-Stabilization Reserve Fund to the trust fund for any  
1910 one (1) disaster occurrence shall be Five Hundred Thousand Dollars  
1911 (\$500,000.00) and the maximum amount that may be transferred  
1912 during any fiscal year shall be One Million Dollars  
1913 (\$1,000,000.00).

1914 (6) Unexpended state funds in the Disaster Assistance Trust  
1915 Fund at the end of a fiscal year shall not lapse into the State  
1916 General Fund but shall remain in the trust fund for use under this  
1917 article for as long as the funds are needed for the particular  
1918 purpose for which they were appropriated, deposited or transferred  
1919 into the trust fund. After any state funds in the trust fund are  
1920 no longer needed for the particular purpose for which they were  
1921 appropriated, deposited or transferred into the trust fund, the  
1922 director may use those funds for any other purpose under this  
1923 article for which they currently are needed and for which other



1924 funds are not available. If there is no current need for such  
1925 funds for any purpose under this article, the funds and the income  
1926 earned from the investment of the funds shall be transferred back  
1927 to the particular fund or funds in the State Treasury from which  
1928 they were appropriated or transferred into the trust fund, upon  
1929 certification of the director to the Executive Director of the  
1930 Department of Finance and Administration that the funds are not  
1931 currently needed; however, if such funds are derived from the  
1932 proceeds of general obligation bonds issued by the state, such  
1933 excess funds and the income earned from such funds shall be  
1934 utilized to pay the debt service on the bonds.

1935 **SECTION 22.** Section 33-15-7, Mississippi Code of 1972, is  
1936 amended as follows:

1937 33-15-7. (1) There is \* \* \* created within the executive  
1938 branch of the state government a department called the Mississippi  
1939 Emergency Management Agency with a director of emergency  
1940 management who shall be appointed by the Governor. The director  
1941 shall hold office during the pleasure of the Governor, and shall  
1942 be compensated as determined by any appropriation that may be made  
1943 by the Legislature for that purpose.

1944 (2) The director, with the approval of the Governor, may  
1945 employ such technical, clerical, stenographic and other personnel,  
1946 to be compensated as provided in any appropriation that may be  
1947 made for that purpose, and may make those expenditures within the  
1948 appropriation therefor, or from other funds made available to him  
1949 for purposes of emergency management, as may be necessary to carry  
1950 out the purposes of this article.

1951 (3) The director and other personnel of the Emergency  
1952 Management Agency shall be provided with appropriate office space,  
1953 furniture, equipment, supplies, stationery and printing in the  
1954 same manner as provided for other state agencies.

1955 (4) The director, subject to the direction and control of  
1956 the Governor, shall be the executive head of the Emergency



1957 Management Agency and shall be responsible to the Governor for  
1958 carrying out the program for emergency management of this state.  
1959 He shall coordinate the activities of all organizations for  
1960 emergency management within the state, and shall maintain liaison  
1961 with and cooperate with emergency management agencies and  
1962 organizations of other states and of the federal government, and  
1963 shall have such additional authority, duties, and responsibilities  
1964 authorized by this article as may be prescribed by the Governor.

1965 (5) The annual appropriation bill for the Emergency  
1966 Management Agency shall be provided for the appropriation of only  
1967 two (2) sums, one (1) that specifies the total amount of general  
1968 funds appropriated to the agency and one (1) that specifies the  
1969 total amount of special funds appropriated to the agency. The  
1970 bill shall not contain any breakdown of the appropriated funds by  
1971 major objects of expenditure, such as personal services,  
1972 contractual services, commodities, capital outlay, subsidies,  
1973 loans and grants, and shall not contain the number of authorized  
1974 positions for the agency.

1975 **SECTION 23.** This act shall take effect and be in force from  
1976 and after July 1, 2003.

