

**Adopted  
AMENDMENT NO 1 PROPOSED TO**

**Senate Bill No. 2828**

**BY: Senator(s) Tollison**

1           **AMEND by striking lines 12 through 31 in their entirety and**  
2 **inserting in lieu thereof the following:**

3                   (b) "State of emergency" has the meaning ascribed in  
4 Section 33-15-5.

5                   (c) "Local emergency" has the meaning ascribed in  
6 Section 33-15-5.

7                   (d) "Emergency impact area" has the meaning ascribed in  
8 Section 33-15-5.

9           **FURTHER, AMEND on line 32 by changing "(d)" to "(e)"**

10           **FURTHER, AMEND on line 37 by changing "state" to "designated**  
11 **emergency impact area"**

12           **FURTHER, AMEND by inserting after line 71 the following:**

13           **SECTION \*.** Section 33-15-5, Mississippi Code of 1972, is  
14 amended as follows:

15           33-15-5. The following words, whenever used in this article  
16 shall, unless a different meaning clearly appears from the  
17 context, have the following meanings:

18                   (a) "Agency" means the Mississippi Emergency Management  
19 Agency, created by Section 33-15-7.

20                   (b) "Director" means the Director of Emergency  
21 Management, appointed pursuant to Section 33-15-7.

22           (c) "Emergency management" means the preparation for,  
23 the mitigation of, the response to, and the recovery from  
24 emergencies and disasters. Specific emergency management  
25 responsibilities include, but are not limited to:

26           (i) Reduction of vulnerability of people and  
27 communities of this state to damage, injury and loss of life and  
28 property resulting from natural, technological or man-made  
29 emergencies or hostile military paramilitary action.

30           (ii) Preparation for prompt and efficient response  
31 and recovery to protect lives and property affected by  
32 emergencies.

33           (iii) Response to emergencies using all systems,  
34 plans and resources necessary to preserve adequately the health,  
35 safety and welfare of persons or property affected by the  
36 emergency.

37           (iv) Recovery from emergencies by providing for  
38 the rapid and orderly start of restoration and rehabilitation of  
39 persons and property affected by emergencies.

40           (v) Provision of an emergency management system  
41 embodying all aspects of preemergency preparedness and  
42 postemergency response, recovery and mitigation.

43           (vi) Assistance in anticipation, recognition,  
44 appraisal, prevention and mitigation of emergencies which may be  
45 caused or aggravated by inadequate planning for, and regulation of  
46 public and private facilities and land use.

47           (d) "Civil defense," whenever it appears in the laws of  
48 the State of Mississippi, shall mean "emergency management" unless  
49 the context clearly indicates otherwise.

50           (e) "State of war emergency" means the condition which  
51 exists immediately, with or without a proclamation thereof by the  
52 Governor, whenever this state or nation is attacked by an enemy of  
53 the United States or upon receipt by the state of a warning from

54 the federal government indicating that such an attack is probable  
55 or imminent.

56 (f) "State of emergency" means the duly proclaimed  
57 existence of conditions of disaster or extreme peril to the safety  
58 of persons or property within the state caused by air or water  
59 pollution, fire, flood, storm, epidemic, earthquake, hurricane,  
60 resource shortages, or other natural or man-made conditions other  
61 than conditions causing a "state of war emergency," which  
62 conditions by reasons of their magnitude are or are likely to be  
63 beyond the control of the services, personnel, equipment and  
64 facilities of any single county and/or municipality and requires  
65 combined forces of the state to combat.

66 (g) "Local emergency" means the duly proclaimed  
67 existence of conditions of disaster or extreme peril to the safety  
68 of persons and property within the territorial limits of a county  
69 and/or municipality caused by such conditions as air or water  
70 pollution, fire, flood, storm, epidemic, earthquake, hurricane,  
71 resource shortages or other natural or man-made conditions, which  
72 conditions are or are likely to be beyond the control of the  
73 services, personnel, equipment and facilities of the political  
74 subdivision and require the combined forces of other subdivisions  
75 or of the state to combat.

76 (h) "Emergency" means any occurrence, or threat  
77 thereof, whether natural, technological, or man-made, in war or in  
78 peace, which results or may result in substantial injury or harm  
79 to the population or substantial damage to or loss of property.

80 (i) "Man-made emergency" means an emergency caused by  
81 an action against persons or society, including, but not limited  
82 to, emergency attack, sabotage, terrorism, civil unrest or other  
83 action impairing the orderly administration of government.

84 (j) "Natural emergency" means an emergency caused by a  
85 natural event, including, but not limited to, a hurricane, a  
86 storm, a flood, severe wave action, a drought or an earthquake.

87 (k) "Technological emergency" means an emergency caused  
88 by a technological failure or accident, including, but not limited  
89 to, an explosion, transportation accident, radiological accident,  
90 or chemical or other hazardous material incident.

91 (l) "Local emergency management agency" means an  
92 organization created to discharge the emergency management  
93 responsibilities and functions of a political subdivision.

94 (m) "Disaster" means any natural, technological or  
95 civil emergency as defined in this section that causes damage of  
96 sufficient severity and magnitude to result in a declaration of an  
97 emergency by a county or municipality, the Governor or the  
98 President of the United States. Disasters shall be identified by  
99 the severity of resulting damage, as follows:

100 (i) "Catastrophic disaster" means a disaster that  
101 will require massive state and federal assistance, including  
102 immediate military involvement.

103 (ii) "Major disaster" means a disaster that will  
104 likely exceed local capabilities and require a broad range of  
105 state and federal assistance.

106 (iii) "Minor disaster" means a disaster that is  
107 likely to be within the response capabilities of local government  
108 and to result in only a minimal need for state or federal  
109 assistance.

110 (n) "Disaster Reservist" means any person hired on a  
111 temporary basis pursuant to State Personnel Board policies and  
112 procedures regulating personal service contracts, that is hired to  
113 perform specific tasks related to a Governor's State of Emergency,  
114 or by an emergency or disaster declaration of the President of the  
115 United States, by the agency, and is assigned to perform such

116 duties as may be required under the direction of the appropriate  
117 agency supervisor.

118 (o) "Emergency impact area" means the area of the state  
119 in which market conditions exist due to a state of emergency  
120 creating a likelihood that prices ordinarily charged for goods and  
121 services could be raised unfairly due to the underlying emergency.

122 **SECTION \*.** Section 33-15-11, Mississippi Code of 1972, is  
123 amended as follows:

124 33-15-11. (a) The Governor shall have general direction and  
125 control of the activities of the Emergency Management Agency and  
126 Council and shall be responsible for the carrying out of the  
127 provisions of this article, and in the event of a man-made,  
128 technological or natural disaster or emergency beyond local  
129 control, may assume direct operational control over all or any  
130 part of the emergency management functions within this state.

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

133 (1) To make, amend and rescind the necessary orders,  
134 rules and regulations to carry out the provisions of this article  
135 with due consideration of the plans of the federal government, and  
136 to enter into disaster assistance grants and agreements with the  
137 federal government under the terms as may be required by federal  
138 law.

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

147 with the emergency management plan and program of this state to  
148 the fullest possible extent.

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

165 (4) To cooperate with the President and the heads of  
166 the Armed Forces, and the Emergency Management Agency of the  
167 United States, and with the officers and agencies of other states  
168 in matters pertaining to the emergency management of the state and  
169 nation and the incidents thereof; and in connection therewith, to  
170 take any measures which he may deem proper to carry into effect  
171 any request of the President and the appropriate federal officers  
172 and agencies, for any action looking to emergency management,  
173 including the direction or control of (a) blackouts and practice  
174 blackouts, air raid drills, mobilization of emergency management  
175 forces, and other tests and exercises, (b) warnings and signals  
176 for drills or attacks and the mechanical devices to be used in  
177 connection therewith, (c) the effective screening or extinguishing  
178 of all lights and lighting devices and appliances, (d) shutting

179 off water mains, gas mains, electric power connections and the  
180 suspension of all other utility services, (e) the conduct of  
181 civilians and the movement and cessation of movement of  
182 pedestrians and vehicular traffic during, prior and subsequent to  
183 drills or attack, (f) public meetings or gatherings under  
184 emergency conditions, and (g) the evacuation and reception of the  
185 civilian population.

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

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

198           (7) To utilize the services and facilities of existing  
199 officers and agencies of the state and of the political  
200 subdivisions thereof; and all such officers and agencies shall  
201 cooperate with and extend their services and facilities to the  
202 Governor as he may request.

203           (8) To establish agencies and offices and to appoint  
204 executive, technical, clerical and other personnel as may be  
205 necessary to carry out the provisions of this article including,  
206 with due consideration to the recommendation of the local  
207 authorities, part-time or full-time state and regional area  
208 directors.

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

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

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

232           (12) To collect information and data for assessment of  
233 vulnerabilities and capabilities within the borders of Mississippi  
234 as it pertains to the nation and state's security and homeland  
235 defense. This information shall be exempt from the Mississippi  
236 Public Records Act, Section 25-61-1 et seq.

237           (13) Authorize any agency or arm of the state to create  
238 a special emergency management revolving fund, accept donations,  
239 contributions, fees, grants, including federal funds, as may be  
240 necessary for such agency or arm of the state to administer its

241 functions of this article as set forth in the Executive Order of  
242 the Governor.

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

246 (15) To suspend or limit the sale, dispensing or  
247 transportation of alcoholic beverages, firearms, explosives and  
248 combustibles.

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

254 (17) To proclaim a state of emergency in an area  
255 affected or likely to be affected thereby when he finds that the  
256 conditions described in Section 33-15-5(g) exist, or when he is  
257 requested to do so by the mayor of a municipality or by the  
258 president of the board of supervisors of a county, or when he  
259 finds that a local authority is unable to cope with the emergency.  
260 Such proclamation shall be in writing and shall take effect  
261 immediately upon its execution by the Governor. As soon  
262 thereafter as possible, such proclamation shall be filed with the  
263 Secretary of State and be given widespread notice and publicity.  
264 The Governor, upon advice of the director, shall review the need  
265 for continuing the state of emergency at least every thirty (30)  
266 days until the emergency is terminated and shall proclaim a  
267 reduction of area or the termination of the state of emergency at  
268 the earliest possible date that conditions warrant.

269 (18) To declare an emergency impact area when he finds  
270 that the conditions described in Section 33-15-5(o) exist. The  
271 proclamation shall be in writing and shall take effect immediately  
272 upon its execution by the Governor. As soon as possible, the

273 proclamation shall be filed with the Secretary of State and be  
274 given widespread notice and publicity. The Governor, in  
275 consultation with the Attorney General, shall review the need for  
276 continuing the declaration of emergency impact area at least every  
277 thirty (30) days until the emergency is terminated, and shall  
278 proclaim the reduction of the emergency impact area or termination  
279 of the declaration of emergency impact area at the earliest date  
280 or dates possible.

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

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

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

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

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

309           **FURTHER, AMEND on line 73 by changing "July 1, 2006" to "its**  
310 **passage".**

311           **FURTHER, AMEND the title by inserting after the semicolon on**  
312 **line 2 the following:**

313 TO AMEND SECTIONS 33-15-5 AND 33-15-11, MISSISSIPPI CODE OF 1972,  
314 TO CONFORM;