

By: Senator(s) Furniss

To: Judiciary;
Appropriations

SENATE BILL NO. 2737

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 CODIFY SECTION 97-27-10, MISSISSIPPI CODE OF 1972, TO DEFINE
6 CERTAIN TERMS; TO AMEND SECTION 97-27-11, MISSISSIPPI CODE OF
7 1972, TO PROHIBIT THE INTRODUCTION OF HARMFUL BIOLOGICAL
8 SUBSTANCES INTO MISSISSIPPI, TO PROHIBIT THE UNLAWFUL POSSESSION
9 OF SUCH HARMFUL BIOLOGICAL SUBSTANCES, AND TO INCREASE THE
10 PENALTIES ASSOCIATED WITH SUCH PROHIBITED ACTS; TO CODIFY SECTION
11 97-27-12, MISSISSIPPI CODE OF 1972, TO MAKE UNLAWFUL THE
12 PERFORMING OF AN ACT INTENDED TO CAUSE A PERSON TO FALSELY BELIEVE
13 THAT THE PERSON HAS BEEN EXPOSED TO A HARMFUL BIOLOGICAL, CHEMICAL
14 OR RADIOLOGICAL SUBSTANCE OR DEVICE, TO PROVIDE CRIMINAL PENALTIES
15 AND TO IMPOSE THE COSTS OF INDIVIDUAL AND GOVERNMENTAL RESPONSE TO
16 SUCH UNLAWFUL ACTS; TO AMEND SECTION 97-3-19, MISSISSIPPI CODE OF
17 1972, TO ESTABLISH A CAPITAL OFFENSE FOR TERRORIST ACTIVITIES THAT
18 RESULT IN LOSS OF LIFE; TO AMEND SECTION 13-1-21, MISSISSIPPI CODE
19 OF 1972, TO PERMIT DISCLOSURE OF MEDICAL INFORMATION IN THE EVENT
20 OF AN EMERGENCY DECLARATION BY THE GOVERNOR; TO AMEND SECTION
21 41-23-1, MISSISSIPPI CODE OF 1972, TO EXPAND THE CLASSIFICATION OF
22 DISEASES, CONDITIONS OR THREATS WHICH ARE REPORTABLE, TO REQUIRE
23 VETERINARIANS AND OTHER PERSONS WORKING IN THE ANIMAL HEALTH FIELD
24 TO REPORT, AND TO REQUIRE PHARMACIST REPORTING OF UNUSUAL
25 PRESCRIPTIONS OR RATES OF PRESCRIPTIONS; TO AMEND SECTION 41-23-2,
26 MISSISSIPPI CODE OF 1972, TO REVISE THE PENALTY FOR ANY PERSON
27 VIOLATING A LAWFUL ORDER OF THE COUNTY, DISTRICT OR STATE HEALTH
28 OFFICER; TO AMEND SECTION 41-23-5, MISSISSIPPI CODE OF 1972, TO
29 REVISE THE AUTHORITY OF THE STATE OFFICER TO PROTECT THE PUBLIC
30 HEALTH; TO CREATE NEW SECTION 41-36-5, MISSISSIPPI CODE OF 1972,
31 TO REVISE THE PROCEDURE FOR OBTAINING A JUDGMENT OF PRESUMPTION
32 DEATH IN SITUATIONS OF MASS CASUALTY; TO AMEND SECTION 13-1-23,
33 MISSISSIPPI CODE OF 1972, IN CONFORMITY TO THIS NEW PROCEDURE
34 REGARDING PRESUMPTION OF DEATH; TO AMEND SECTION 9-4-3,
35 MISSISSIPPI CODE OF 1972, TO REVISE THE JURISDICTION OF THE COURT
36 OF APPEALS TO CONFORM; TO AMEND SECTION 41-3-15, MISSISSIPPI CODE
37 OF 1972, TO REVISE THE AUTHORITY OF THE DEPARTMENT OF HEALTH TO
38 INSPECT ANY PLACE RATHER THAN ONLY A PUBLIC PLACE; TO CREATE NEW
39 SECTION 41-39-55, MISSISSIPPI CODE OF 1972, TO PROVIDE EMERGENCY
40 MEASURES TO HANDLE LARGE NUMBERS OF CORPSES OR HUMAN REMAINS; TO
41 AMEND SECTION 41-29-133, MISSISSIPPI CODE OF 1972, TO CREATE A
42 CENTRAL REPORTING BUREAU FOR PHARMACISTS TO REPORT CERTAIN
43 INFORMATION CONCERNING UNUSUAL PRESCRIPTIONS OR RATES OF
44 PRESCRIPTIONS; TO AMEND SECTIONS 45-35-7, 63-1-43, 63-1-47 AND
45 63-1-82, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT DRIVERS'
46 LICENSES, IDENTIFICATION CARDS ISSUED BY THE DEPARTMENT OF PUBLIC
47 SAFETY AND ALL COMMERCIAL DRIVERS' LICENSES ISSUED TO PERSONS WHO
48 ARE NOT UNITED STATES CITIZENS SHALL EXPIRE ONE YEAR AFTER DATE OF
49 ISSUE; TO PRESCRIBE THE FEE FOR SUCH LICENSES; TO AMEND SECTION
50 63-9-31, MISSISSIPPI CODE OF 1972, TO REQUIRE GOVERNING
51 AUTHORITIES OF COUNTIES AND MUNICIPALITIES TO IMPOSE A SURCHARGE
52 ON CERTAIN TRAFFIC VIOLATION CITATIONS ISSUED BY MISSISSIPPI



53 HIGHWAY SAFETY PATROL OFFICERS FOR THE PURPOSE OF FUNDING AN
54 INTERGOVERNMENTAL WIRELESS RADIO COMMUNICATIONS PROGRAM; TO AMEND
55 SECTION 11-46-9, MISSISSIPPI CODE OF 1972, TO PROVIDE GOVERNMENTAL
56 IMMUNITY FOR RESPONSE TO A TERRORISTIC THREAT OR ACT; TO AMEND
57 SECTION 65-1-8, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT WHEN THE
58 GOVERNOR DECLARES A STATE OF EMERGENCY OR STATE OF ALERT, THE
59 MISSISSIPPI TRANSPORTATION COMMISSION MAY TEMPORARILY ASSIGN ITS
60 WEIGHT ENFORCEMENT OFFICERS TO THE DEPARTMENT OF PUBLIC SAFETY TO
61 AUGMENT THE MANPOWER NEEDS OF THE DEPARTMENT OF PUBLIC SAFETY; TO
62 AMEND SECTION 65-1-71, MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE
63 DIRECTOR OF THE MISSISSIPPI DEPARTMENT OF TRANSPORTATION TO CLOSE
64 HIGHWAYS WHEN THE GOVERNOR HAS DECLARED A STATE OF EMERGENCY OR A
65 STATE OF ALERT AND THE HIGHWAY TO BE CLOSED IS A POTENTIAL
66 TERRORIST TARGET; TO AMEND SECTION 65-1-85, MISSISSIPPI CODE OF
67 1972, TO AUTHORIZE THE MISSISSIPPI DEPARTMENT OF TRANSPORTATION TO
68 DEVIATE FROM ITS NORMAL PROCEDURE WHEN CONTRACTING TO REPAIR
69 DAMAGE TO PUBLIC ROADS CAUSED BY A TERRORIST ATTACK; TO AMEND
70 SECTIONS 33-15-15 AND 33-15-307, MISSISSIPPI CODE OF 1972, TO
71 AMEND THE MISSISSIPPI EMERGENCY MANAGEMENT LAW AND THE DISASTER
72 ASSISTANCE ACT OF 1993 TO AUTHORIZE THE CREATION AND THE
73 EXPENDITURE OF COSTS ASSOCIATED WITH THE ESTABLISHMENT AND
74 MAINTENANCE OF FIVE REGIONAL HAZARDOUS MATERIALS AND WEAPONS OF
75 MASS DESTRUCTION TEAMS TO BE LOCATED AND HOUSED IN APPROPRIATE
76 FACILITIES AT CRITICAL AND STRATEGIC AREAS THROUGHOUT THE STATE SO
77 AS TO PROVIDE FOR AN IMMEDIATE AND EFFECTIVE RESPONSE TO REAL,
78 THREATENED OR POTENTIAL EMERGENCIES OR DISASTERS RELATING TO SUCH
79 MATERIALS OR WEAPONS; TO AMEND SECTION 33-15-7, MISSISSIPPI CODE
80 OF 1972, TO PROVIDE THAT THE ANNUAL APPROPRIATION BILL FOR THE
81 EMERGENCY MANAGEMENT AGENCY SHALL PROVIDE FOR THE APPROPRIATION OF
82 LUMP SUMS OF THE TOTAL AMOUNT OF GENERAL FUNDS AND SPECIAL FUNDS
83 APPROPRIATED TO THE AGENCY, AND SHALL NOT CONTAIN ANY BREAKDOWN BY
84 MAJOR OBJECTS OF EXPENDITURE; AND FOR RELATED PURPOSES.

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

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

88 33-15-11. (a) The Governor shall have general direction and
89 control of the activities of the Emergency Management Agency and
90 Council and shall be responsible for the carrying out of the
91 provisions of this article, and in the event of a man-made,
92 technological or natural disaster or emergency beyond local
93 control, may assume direct operational control over all or any
94 part of the emergency management functions within this state.

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

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



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

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

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

129 (4) To cooperate with the President and the heads of
130 the Armed Forces, and the Emergency Management Agency of the
131 United States, and with the officers and agencies of other states
132 in matters pertaining to the emergency management of the state and
133 nation and the incidents thereof; and in connection therewith, to



134 take any measures which he may deem proper to carry into effect
135 any request of the President and the appropriate federal officers
136 and agencies, for any action looking to emergency management,
137 including the direction or control of (a) blackouts and practice
138 blackouts, air raid drills, mobilization of emergency management
139 forces, and other tests and exercises, (b) warnings and signals
140 for drills or attacks and the mechanical devices to be used in
141 connection therewith, (c) the effective screening or extinguishing
142 of all lights and lighting devices and appliances, (d) shutting
143 off water mains, gas mains, electric power connections and the
144 suspension of all other utility services, (e) the conduct of
145 civilians and the movement and cessation of movement of
146 pedestrians and vehicular traffic during, prior, and subsequent to
147 drills or attack, (f) public meetings or gatherings under
148 emergency conditions, and (g) the evacuation and reception of the
149 civilian population.

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

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

162 (7) To utilize the services and facilities of existing
163 officers and agencies of the state and of the political
164 subdivisions thereof; and all such officers and agencies shall
165 cooperate with and extend their services and facilities to the
166 Governor as he may request.



167 (8) To establish agencies and offices and to appoint
168 executive, technical, clerical, and other personnel as may be
169 necessary to carry out the provisions of this article including,
170 with due consideration to the recommendation of the local
171 authorities, part-time or full-time state and regional area
172 directors.

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

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

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

196 (12) Authorize any agency or arm of the state to create
197 a special emergency management revolving fund, accept donations,
198 contributions, fees, grants, including federal funds, as may be
199 necessary for such agency or arm of the state to administer its



200 functions of this article as set forth in the executive order of
201 the Governor.

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

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

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

213 (16) To proclaim a state of emergency or state of alert
214 in an area affected or likely to be affected thereby when he finds
215 that the conditions described in Section 33-15-5(g) exist, or when
216 he is requested to do so by the mayor of a municipality or by the
217 president of the board of supervisors of a county, or when he
218 finds that a local authority is unable to cope with the emergency.
219 Such proclamation shall be in writing and shall take effect
220 immediately upon its issuance. As soon thereafter as possible,
221 such proclamation shall be filed with the Secretary of State and
222 be given widespread notice and publicity. The Governor, upon
223 advise of the director, shall review the need for continuing the
224 state of emergency at least every thirty (30) days until the
225 emergency is terminated and shall proclaim the termination of the
226 state of emergency at the earliest possible date that conditions
227 warrant.

228 (c) In addition to the powers conferred upon the Governor in
229 this section, the Legislature hereby expressly delegates to the
230 Governor the following powers and duties in the event of an
231 impending enemy attack, an enemy attack, or a man-made,



232 technological or natural disaster where such disaster is beyond
233 local control:

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

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

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

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

256 **SECTION 2.** (1) A person commits the offense of a
257 terroristic threat when he threatens to commit any crime of
258 violence or to burn or damage property with the purpose of
259 terrorizing another or of causing the evacuation of a building,
260 place of assembly, or facility of public transportation or
261 otherwise causing serious public inconvenience, or in reckless
262 disregard of the risk of causing such terror or inconvenience. No
263 person shall be convicted under this subsection on the
264 uncorroborated testimony of the party to whom the threat is



265 communicated. A person convicted of the offense of a terroristic
266 threat shall be guilty of a misdemeanor and shall be punished by a
267 fine of not more than Five Thousand Dollars (\$5,000.00) or by
268 imprisonment for not more than one (1) year, or both.

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

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

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

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

282 **SECTION 3.** The following shall be codified as Section
283 97-27-10, Mississippi Code of 1972:

284 97-27-10. As used in Sections 97-27-10 through 97-27-12:

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

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

291 (c) "Harmful chemical substance" means a solid, liquid
292 or gas that through its chemical or physical properties, along or
293 in combination with one or more other chemical substances, can be
294 used to cause death, injury or disease in humans, animals or
295 plants.



296 (d) "Harmful radioactive material" means material that
297 is radioactive and that can be used to cause death, injury or
298 disease in humans, animals or growing plants by its radioactivity.

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

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

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

305 97-27-11. (1) It shall be unlawful for any person to
306 willfully and knowingly import, bring or send into this state a
307 harmful biological substance including smallpox, anthrax or any
308 other contagious or infectious disease * * *, with the design to
309 unlawfully spread the same or assist in spreading the same with
310 intent to cause harm to human, animal or plant life and it shall
311 likewise be unlawful for any person to develop, manufacture or
312 possess such harmful biological substances, except for purposes
313 authorized by law.

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

318 **SECTION 5.** The following shall be codified as Section
319 97-27-12, Mississippi Code of 1972:

320 97-27-12. (1) It shall be unlawful for any person to commit
321 an act intended to cause another person or persons to falsely
322 believe that said person or persons have been exposed to a harmful
323 biological substance, harmful biological device, harmful chemical
324 substance, harmful chemical device, harmful radioactive material
325 or harmful radioactive device.

326 (2) Any person convicted of subsection (1) of this section
327 shall be guilty of a felony, and, upon conviction, shall be
328 punished by imprisonment in the State Penitentiary for not more



329 than five (5) years or shall be fined not more than Ten Thousand
330 Dollars (\$10,000.00), or both.

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

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

338 97-3-19. (1) The killing of a human being without the
339 authority of law by any means or in any manner shall be murder in
340 the following cases:

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

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

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

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

357 (a) Murder which is perpetrated by killing a peace
358 officer or fireman while such officer or fireman is acting in his
359 official capacity or by reason of an act performed in his official
360 capacity, and with knowledge that the victim was a peace officer
361 or fireman. For purposes of this paragraph, the term "peace



362 officer" means any state or federal law enforcement officer
363 including but not limited to a federal park ranger, the sheriff of
364 or police officer of a city or town, a conservation officer, a
365 parole officer, a judge, prosecuting attorney or any other court
366 official, an agent of the Alcoholic Beverage Control Division of
367 the State Tax Commission, an agent of the Bureau of Narcotics,
368 personnel of the Mississippi Highway Patrol, and the employees of
369 the Department of Corrections who are designated as peace officers
370 by the Commissioner of Corrections pursuant to Section 47-5-54,
371 and the superintendent and his deputies, guards, officers and
372 other employees of the Mississippi State Penitentiary;

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

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

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

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

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

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



395 (h) Murder which is perpetrated by the killing of any
396 elected official of a county, municipal, state or federal
397 government with knowledge that the victim was such public
398 official.

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

401 13-1-21. (1) All communications made to a physician,
402 osteopath, dentist, hospital, nurse, pharmacist, podiatrist,
403 optometrist or chiropractor by a patient under his charge or by
404 one seeking professional advice are hereby declared to be
405 privileged, and such party shall not be required to disclose the
406 same in any legal proceeding except at the instance of the patient
407 or, in case of the death of the patient, at the instance of his
408 personal representative or legal heirs in case there be no
409 personal representative, or except, if the validity of the will of
410 the decedent is in question, at the instance of the personal
411 representative or any of the legal heirs or any contestant or
412 proponent of the will.

413 (2) There shall be waiver of the medical privilege of
414 patients regarding the release of medical information to health
415 care personnel, the State Board of Health or local health
416 departments, made to comply with Sections 41-3-15, 41-23-1 and
417 41-23-2 and related rules * * *. The medical privilege likewise
418 shall be waived to allow any physician, osteopath, dentist,
419 hospital, nurse, pharmacist, podiatrist, optometrist or
420 chiropractor to report to the State Department of Health necessary
421 information regarding any person afflicted with any communicable
422 disease or infected with the causative agent thereof who neglects
423 or refuses to comply with accepted protective measures to prevent
424 the transmission of the communicable disease or in cases of
425 actual, threatened or reasonably suspected chemical or biological
426 terrorism.



427 (3) Willful violations of the provisions of this section
428 shall constitute a misdemeanor and shall be punishable as provided
429 for by law. Any physician, osteopath, dentist, hospital, nurse,
430 pharmacist, podiatrist, optometrist, or chiropractor shall be
431 civilly liable for damages for any willful or reckless and wanton
432 acts or omissions constituting such violations.

433 (4) In any action commenced or claim made after July 1,
434 1983, against a physician, hospital, hospital employee, osteopath,
435 dentist, nurse, pharmacist, podiatrist, optometrist or
436 chiropractor for professional services rendered or which should
437 have been rendered, the delivery of written notice of such claim
438 or the filing of such an action shall constitute a waiver of the
439 medical privilege and any medical information relevant to the
440 allegation upon which the cause of action or claim is based shall
441 be disclosed upon the request of the defendant, or his or her
442 counsel.

443 (5) In any disciplinary action commencing on or after July
444 1, 1987, against a medical physician, an osteopathic physician or
445 a podiatrist pursuant to the provisions of Sections 73-25-1
446 through 73-25-39, 73-25-51 through 73-25-67, 73-25-81 through
447 73-25-95 and 73-27-1 through 73-27-19, waiver of the medical
448 privilege of a patient to the extent of any information other than
449 that which would identify the patient shall be implied.

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

452 41-23-1. (1) The State Board of Health shall adopt rules
453 and regulations (a) defining and classifying communicable diseases
454 and other diseases, conditions and threats that are a danger to
455 health based upon the characteristics of the disease, condition or
456 threat; and (b) establishing reporting, monitoring, examination,
457 treatment and preventive procedures for those diseases, conditions
458 or threats.



459 (2) Upon the death of any person who has been diagnosed as
460 having Human Immunodeficiency Virus/Acquired Immune Deficiency
461 Syndrome (HIV/AIDS) or any Class 1 disease as designated by the
462 State Board of Health, in a hospital or other health care
463 facility, in all other cases where there is an attending
464 physician, and in cases in which the medical examiner, as defined
465 in Section 41-61-53(f), investigates and certifies the cause of
466 death, the attending physician, the person in charge of the
467 hospital or health care facility, or the medical examiner, as the
468 case may be, shall report as soon as practicable to the Executive
469 Officer of the State Board of Health or to other authorities the
470 cause or contributing cause of death as required by the State
471 Board of Health. Such reporting shall be according to procedures
472 as required by the State Board of Health.

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

484 (4) Every practicing or licensed physician, or person in
485 charge of a hospital, health care facility, insurance company
486 which causes to be performed blood tests for underwriting purposes
487 or laboratory, shall report immediately to the Executive Officer
488 of the State Board of Health or to other authorities as required
489 by the State Board of Health every case of such diseases and
490 conditions as shall be required to be reported by the State Board
491 of Health. Such reporting shall be according to procedures, and



492 shall include such information about the case, as shall be
493 required by the State Board of Health. Insurance companies having
494 such blood test results shall report immediately to the Executive
495 Officer of the State Board of Health or to other authorities as
496 required by the State Board of Health every case of such diseases
497 and conditions as shall be required to be reported by the State
498 Board of Health. The insurance company shall notify the
499 individual on whom the blood test was performed in writing by
500 certified mail of an adverse underwriting decision based upon the
501 results of such individual's blood test but shall not disclose the
502 specific results of such blood tests to the individual. The
503 insurance company shall also inform the individual on whom the
504 blood test was performed that the results of the blood test will
505 be sent to the physician designated by the individual at the time
506 of application and that such physician should be contacted for
507 information regarding the blood test results. If a physician was
508 not designated at the time of application, the insurance company
509 shall request that the individual name a physician to whom a copy
510 of the blood test can be sent.

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

519 (6) Any practicing or licensed physician or person in charge
520 of a hospital, health care facility or laboratory who fails to
521 make the reports required under this section regarding Human
522 Immunodeficiency Virus/Acquired Immune Deficiency Syndrome
523 (HIV/AIDS) or any Class 1 disease or condition as designated by
524 the State Board of Health shall be reported to the Board of



525 Medical Licensure, in the case of a physician, or to the
526 applicable licensing agency in the case of institutions, and such
527 failure shall be grounds for suspension of license.

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

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

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

548 (10) Notwithstanding any law of this state to the contrary,
549 the State Board of Health is authorized to establish the rules by
550 which exceptions may be made to the confidentiality provisions of
551 the laws of this state for the notification of third parties of an
552 individual's infection with any Class 1 or Class 2 disease, as
553 designated by the State Board of Health, when exposure is
554 indicated or there exists a threat to the public health and
555 welfare. All notifications authorized by this section shall be
556 within the rules established according to this subsection. All
557 persons who receive notification of the infectious condition of an



558 individual under this subsection and the rules established under
559 this subsection shall hold such information in the strictest of
560 confidence and privilege, shall not reveal the information to
561 others, and shall take only those actions necessary to protect the
562 health of the infected person or other persons where there is a
563 foreseeable, real or probable risk of transmission of the disease.

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

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

581 (b) Any such public or private correctional facility
582 shall grant representatives of the State Department of Health, in
583 the discharge of its duties, access to all areas of the facility
584 and to the offenders and staff at all times. The facility shall
585 reimburse the State Department of Health for all costs incurred
586 for the control of communicable diseases or other conditions
587 prejudicial to public health in the facility and for the costs
588 incurred for the control of communicable diseases or other
589 conditions prejudicial to public health spreading from the



590 facility, staff or inmates to other individuals or property in the
591 county or state.

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

594 41-23-2. Any person who shall knowingly and willfully
595 violate the lawful order of the county, district or State Health
596 Officer where that person is afflicted with a life-threatening
597 communicable disease or condition or the causative agent thereof,
598 or who shall knowingly and willfully violate the lawful order of
599 the county, district or State Health Officer where such order is
600 intended to prevent the spread of a disease, condition or threat
601 which poses a clear and present danger to the public health, shall
602 be guilty of a felony and, upon conviction, shall be punished by a
603 fine not exceeding Five Thousand Dollars (\$5,000.00) or by
604 imprisonment in the Penitentiary for not more than five (5) years,
605 or by both.

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

608 41-23-5. (1) The State Department of Health shall have the
609 authority to investigate and control the causes of epidemic,
610 infectious and other disease, condition or threat affecting the
611 public health, including the authority to establish, maintain and
612 enforce isolation and quarantine and decontaminate buildings, and
613 in pursuance thereof, to exercise such physical control over
614 property and individuals as the department may find necessary for
615 the protection of the public health.

616 (2) Notwithstanding any other provision of law to the
617 contrary, following a declaration of emergency or war emergency by
618 the Governor, the State Health Officer may exercise such authority
619 as he deems proper and necessary to protect the public health,
620 including investigation and certification as to the cause of
621 death, and may appoint private physicians to conduct said
622 investigations into and certifications of the cause of death.



623 **SECTION 11.** Section 13-1-23, Mississippi Code of 1972, is
624 amended as follows:

625 13-1-23. (1) Any person who shall remain beyond the sea, or
626 absent himself from this state, or conceal himself in this state,
627 for seven (7) years successively without being heard of, shall be
628 presumed to be dead in any case where his death shall come in
629 question, unless proof be made that he was alive within that time.
630 Any property or estate recovered in any such case shall be
631 restored to the person evicted or deprived thereof, if, in a
632 subsequent action, it shall be proved that the person so presumed
633 to be dead is living.

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

640 **SECTION 12.** The following shall be codified as Section
641 41-36-5, Mississippi Code of 1972:

642 41-36-5. The state registrar may obtain a presumptive death
643 order from the Court of Appeals pursuant to Section 13-1-23, and
644 under that authority may issue the certificate of death.

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

647 9-4-3. (1) The Court of Appeals shall have the power to
648 determine or otherwise dispose of any appeal or other proceeding
649 assigned to it by the Supreme Court.

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

653 The Supreme Court shall prescribe rules for the assignment of
654 matters to the Court of Appeals. These rules may provide for the
655 selective assignment of individual cases and may provide for the



656 assignment of cases according to subject matter or other general
657 criteria. However, the Supreme Court shall retain appeals in
658 cases imposing the death penalty, or cases involving utility
659 rates, annexations, bond issues, election contests, or a statute
660 held unconstitutional by the lower court.

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

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

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

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

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

685 41-3-15. (1) There shall be a State Department of Health
686 which shall be organized into such bureaus and divisions as are
687 considered necessary by the executive officer, and shall be



688 assigned appropriate functions as are required of the State Board
689 of Health by law, subject to the approval of the board.

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

694 (a) To collect and evaluate data on rural health
695 conditions and needs;

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

698 (c) To develop and implement plans and provide
699 technical assistance to enable community health systems to respond
700 to various changes in their circumstances;

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

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

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

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

710 (a) To make investigations and inquiries with respect
711 to the causes of disease and death, and to investigate the effect
712 of environment, including conditions of employment and other
713 conditions which may affect health, and to make such other
714 investigations as it may deem necessary for the preservation and
715 improvement of health.

716 (b) To make such sanitary investigations as it may,
717 from time to time, deem necessary for the protection and
718 improvement of health and to investigate nuisance questions which
719 affect the security of life and health within the state.



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

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

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

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

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

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

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

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

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



753 (k) On presentation of proper authority, to enter into
754 or onto and inspect any * * * place or building where the State
755 Health Officer or his representative deems it necessary and proper
756 to enter for the discovery and suppression of disease and for the
757 enforcement of any health or sanitary laws and regulations in the
758 state.

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

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

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

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

- 782 (i) Maternal and child health;
- 783 (ii) Family planning;
- 784 (iii) Pediatric services;
- 785 (iv) Services to crippled and disabled children;



786 (v) Control of communicable and noncommunicable
787 disease;
788 (vi) Child care licensure;
789 (vii) Radiological health;
790 (viii) Dental health;
791 (ix) Milk sanitation;
792 (x) Occupational safety and health;
793 (xi) Food, vector control and general sanitation;
794 (xii) Protection of drinking water;
795 (xiii) Sanitation in food handling establishments
796 open to the public;
797 (xiv) Registration of births and deaths and other
798 vital events;
799 (xv) Such public health programs and services as
800 may be assigned to the State Board of Health by the Legislature or
801 by executive order.

802 (b) The State Board of Health and State Department of
803 Health shall not be authorized to sell, transfer, alienate or
804 otherwise dispose of any of the home health agencies owned and
805 operated by the department on January 1, 1995, and shall not be
806 authorized to sell, transfer, assign, alienate or otherwise
807 dispose of the license of any of those home health agencies,
808 except upon the specific authorization of the Legislature by an
809 amendment to this section. However, this paragraph (b) shall not
810 prevent the board or the department from closing or terminating
811 the operation of any home health agency owned and operated by the
812 department, or closing or terminating any office, branch office or
813 clinic of any such home health agency, or otherwise discontinuing
814 the providing of home health services through any such home health
815 agency, office, branch office or clinic, if the board first
816 demonstrates that there are other providers of home health
817 services in the area being served by the department's home health
818 agency, office, branch office or clinic that will be able to



819 provide adequate home health services to the residents of the area
820 if the department's home health agency, office, branch office or
821 clinic is closed or otherwise discontinues the providing of home
822 health services. This demonstration by the board that there are
823 other providers of adequate home health services in the area shall
824 be spread at length upon the minutes of the board at a regular or
825 special meeting of the board at least thirty (30) days before a
826 home health agency, office, branch office or clinic is proposed to
827 be closed or otherwise discontinue the providing of home health
828 services.

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

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

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

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

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

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

848 (iv) To establish and collect fees to defray the
849 reasonable costs of administering the revolving fund or emergency
850 fund if the State Board of Health determines that such costs will
851 exceed the limitations established in the federal Safe Drinking



852 Water Act, as amended. The administration fees may be included in
853 loan amounts to loan recipients for the purpose of facilitating
854 payment to the board; however, such fees may not exceed five
855 percent (5%) of the loan amount.

856 **SECTION 15.** The following shall be codified as Section
857 41-39-55, Mississippi Code of 1972:

858 41-39-55. The Mississippi State board of Health may
859 exercise, for such period as a state of emergency or public health
860 emergency exists, the following powers regarding the safe disposal
861 of corpses:

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

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

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

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

883 (e) To procure, by condemnation or otherwise, any
884 business or facility authorized to embalm, bury, cremate, inter,



885 disinter, transport and dispose of corpses as may be reasonable
886 and necessary for emergency response, with the right to take
887 immediate possession thereof.

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

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

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

905 41-29-133. (1) Persons registered to manufacture,
906 distribute, or dispense controlled substances under this article
907 shall keep records and maintain inventories in conformance with
908 the record-keeping and inventory requirements of federal law and
909 with any additional rules the State Board of Pharmacy, the State
910 Board of Medical Licensure, the State Board of Dental Examiners or
911 the Mississippi Board of Nursing may issue.

912 (2) Persons registered to dispense controlled substances
913 under this article shall report any unusual or increased
914 prescription rates, unusual types of prescriptions, or unusual
915 trends in pharmacy visits that may be caused by bioterrorism,
916 epidemic or pandemic disease, or novel and highly fatal infectious
917 agents or biological or other toxins that might pose a substantial



918 risk of a significant number of human fatalities or incidents of
919 permanent or long-term disability. Prescription-related events
920 that require a report include, but are not limited to: an unusual
921 increase in the number of prescriptions to treat fever,
922 respiratory or gastrointestinal complaints; an unusual increase in
923 the number of prescriptions for antibiotics; an unusual increase
924 in the number of requests for information on over-the-counter
925 pharmaceuticals to treat fever, respiratory or gastrointestinal
926 complaints; and any prescription that treats a disease that is
927 relatively uncommon and has bioterrorism potential. The report
928 shall be transmitted to the State Board of Pharmacy central
929 repository and shall include as much of the following information
930 as possible:

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

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

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

948 (b) Within fifteen (15) days of the time that the
949 substance is dispensed or the unusual rate of dispensation is
950 noted.



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

956 (b) Any second or subsequent offense under subsection
957 (2) of this section shall be a felony punishable upon conviction
958 by not more than three (3) years in the custody of the State
959 Department of Corrections and a fine of not less than One Thousand
960 Dollars (\$1,000.00) nor more than Three Thousand Dollars
961 (\$3,000.00).

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

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

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

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

976 (c) The executive director or chief investigator as
977 designated by each board, of the State Boards of Dental Examiners,
978 Pharmacy, Medical Licensure, Nursing and Veterinary Medical
979 Examiners, provided, however, that the executive director or chief
980 investigator of each of these boards shall be limited to access to
981 information relevant to licensees of his employing board; and



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

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

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

995 (9) All access to information in the central repository
996 shall be controlled by and made through the State Board of
997 Pharmacy, which shall develop criteria for the production of
998 exception reports out of the information collected at the central
999 repository in consultation with the State Boards of Dental
1000 Examiners, Medical Licensure, and Veterinary Medical Examiners,
1001 and Mississippi Dental Association, Mississippi Pharmaceutical
1002 Association, Mississippi State Medical Association, Mississippi
1003 Veterinary Medical Association and Bureau of Narcotics in
1004 developing these criteria.

1005 (10) The State Board of Pharmacy shall promulgate and adopt
1006 rules to implement and enforce this section.

1007 **SECTION 17.** Section 45-35-7, Mississippi Code of 1972, is
1008 amended as follows:

1009 45-35-7. (1) Except as provided in subsection (3) of this
1010 section, each applicant for an original identification card issued
1011 pursuant to this chapter who is entitled to issuance of such a
1012 card shall be issued a four-year card. Each card shall expire at
1013 midnight on the last day of the cardholder's birth month.



1014 (2) Except as provided in subsection (3) of this section,
1015 all renewal identification cards shall be for four-year periods
1016 and may be renewed any time during the birth month of the
1017 cardholder upon application and payment of the required fee.

1018 (3) (a) Any applicant who is blind, as defined in Section
1019 43-6-1, upon payment of the fee prescribed in this section, shall
1020 be issued an original identification card which shall remain valid
1021 for a period of ten (10) years. All renewal identification cards
1022 issued to such persons shall also be valid for a period of ten
1023 (10) years.

1024 (b) Any applicant who is not a United States citizen,
1025 upon payment of the fee prescribed in this section, shall be
1026 issued an original identification card which shall remain valid
1027 for a period of one (1) year from date of issuance. All renewal
1028 identification cards issued to such persons shall also be valid
1029 for a period of one (1) year from date of issuance when
1030 accompanied by required immigration documents.

1031 (4) A fee of Eleven Dollars (\$11.00) plus the applicable
1032 photograph fee, shall be collected for the issuance of an original
1033 or renewal identification card, except that the fee for the
1034 issuance of an original or renewal identification card to a person
1035 who is not a United States citizen shall be Three Dollars (\$3.00)
1036 plus the applicable photograph fee.

1037 The Commissioner of Public Safety, by rule or regulation,
1038 shall establish a driver's license photograph fee which shall be
1039 the actual cost of the photograph rounded off to the next highest
1040 dollar. Monies collected for the photograph fee shall be
1041 deposited into a special photograph fee account which the
1042 Department of Public Safety shall use to pay the actual cost of
1043 producing the photographs. Any monies collected in excess of the
1044 actual costs of the photography shall be deposited to the General
1045 Fund of the State of Mississippi. Such fee shall be deposited
1046 into the State General Fund.



1047 (5) Any person who, for medical reasons, surrenders his
1048 unexpired driver's license, and any person whose unexpired
1049 driver's license is suspended for medical reasons by the
1050 Commissioner of Public Safety under Section 63-1-53(e), may be
1051 issued an identification card without payment of a fee. The
1052 identification card shall be valid for a period of four (4) years
1053 from its date of issue. All renewals of such card shall be
1054 subject to the fee prescribed in subsection (4) of this section.

1055 (6) The department shall maintain a record of all
1056 identification cards issued, except for those cards cancelled,
1057 surrendered or denied renewal.

1058 **SECTION 18.** Section 63-1-43, Mississippi Code of 1972, is
1059 amended as follows:

1060 63-1-43. (1) The fee for receiving the application and
1061 issuing the driver's or operator's license and the fee for
1062 renewing the license shall be:

1063 (a) Eighteen Dollars (\$18.00) plus the applicable
1064 photograph fee for each applicant for a four-year license;

1065 (b) Three Dollars (\$3.00) plus the applicable
1066 photograph fee for each applicant for a one-year license, except
1067 as provided in paragraph (c) of this subsection; and

1068 (c) Eight Dollars (\$8.00) plus the applicable
1069 photograph fee for a one-year license for each applicant who is
1070 not a United States citizen.

1071 All originals and renewals of regular operators' licenses
1072 shall be in compliance with Section 63-1-47.

1073 (2) The fee for receiving the application and issuing a
1074 motorcycle endorsement shall be Five Dollars (\$5.00). Motorcycle
1075 endorsements shall be valid for the same period of time as the
1076 applicant's operator's license.

1077 (3) The fee for receiving the application and issuing a
1078 restricted motorcycle operator's license and the fee for renewing
1079 such license shall be Eleven Dollars (\$11.00) plus the applicable



1080 photograph fee. All originals and renewals of restricted
1081 motorcycle licenses shall be valid for a period of four (4) years,
1082 in compliance with Section 63-1-47.

1083 (4) From and after January 1, 1990, every person who makes
1084 application for an original license or a renewal license to
1085 operate a vehicle as a common carrier by motor vehicle, taxicab,
1086 passenger coach, dray, contract carrier or private commercial
1087 carrier as such terms are defined in Section 27-19-3, except for
1088 those vehicles for which a Class A, B or C license is required
1089 under Article 2 of this chapter, shall, in lieu of the regular
1090 driver's license above provided for, apply for and obtain a Class
1091 D commercial driver's license. Except as otherwise provided in
1092 subsection (5) of this section, the fee for the issuance of a
1093 Class D commercial driver's license shall be Twenty-three Dollars
1094 (\$23.00) plus the applicable photograph fee for a period of four
1095 (4) years; * * * however, except as required under Article 2 of
1096 this chapter, no driver of a pickup truck shall be required to
1097 have a commercial license regardless of the purpose for which the
1098 pickup truck is used.

1099 Except as otherwise provided in subsection (5) of this
1100 section, all originals and renewals of commercial licenses issued
1101 under this section shall be valid for a period of four (4) years,
1102 in compliance with Section 63-1-47. Only persons who operate the
1103 above-mentioned vehicles in the course of the regular and
1104 customary business of the owner shall be required to obtain a
1105 Class D commercial operator's license, and persons operating such
1106 vehicles for private purposes or in emergencies shall not be
1107 required to obtain such license.

1108 (5) The original and each renewal of a commercial driver's
1109 license issued under this section to a person who is not a United
1110 States citizen shall be issued for a period of one (1) year for a
1111 fee of Thirteen Dollars (\$13.00) plus the applicable photograph
1112 fee and shall expire on the date the licensee's immigration



1113 documents expire. A person who is not a United States citizen may
1114 renew a commercial license issued under this section within two
1115 (2) weeks before expiration of the license.

1116 (6) The Commissioner of Public Safety, by rule or
1117 regulation, shall establish a driver's license photograph fee
1118 which shall be the actual cost of the photograph rounded off to
1119 the next highest dollar. Monies collected for the photograph fee
1120 shall be deposited into a special photograph fee account which the
1121 Department of Public Safety shall use to pay the actual cost of
1122 producing the photographs. Any monies collected in excess of the
1123 actual costs of the photography shall be deposited to the General
1124 Fund of the State of Mississippi.

1125 **SECTION 19.** Section 63-1-47, Mississippi Code of 1972, is
1126 amended as follows:

1127 63-1-47. (1) Except as otherwise provided in this section,
1128 each applicant for an original license issued pursuant to this
1129 article, who is entitled to issuance of same, and who is eighteen
1130 (18) years of age or older, shall be issued a four-year license
1131 which will expire at midnight on the licensee's birthday.

1132 (a) Except as otherwise provided in this section, all
1133 renewal licenses of operators eighteen (18) years of age or older
1134 shall be for four-year periods and may be renewed any time within
1135 six (6) months before the expiration of the license upon
1136 application and payment of the required fee, unless required to be
1137 reexamined.

1138 (b) From and after January 1, 1990, no commercial
1139 driver's license shall be issued under the provisions of this
1140 article for any commercial motor vehicle, the lawful operation of
1141 which requires the driver to obtain a Class A, B or C commercial
1142 driver's license under Article 2 of this chapter; however, from
1143 time to time, the holder of a commercial license may apply for a
1144 commercial driver's license under Article 2 of this chapter; and,
1145 if he fails to pass the required test for such license, he shall



1146 be entitled to an extension of his license that shall be valid for
1147 one hundred twenty (120) days or until he again is tested under
1148 Article 2 of this chapter, whichever occurs first. The extension
1149 shall entitle the license holder to operate all vehicles which
1150 such license authorized him to operate prior to taking the
1151 required test. The first extension shall be without charge;
1152 however, a fee of Fifteen Dollars (\$15.00) shall be imposed for
1153 any subsequent extension. No extension shall be valid past March
1154 31, 1992.

1155 * * *

1156 (2) Any commercial driver's license issued under this
1157 article before January 1, 1990, which expires after March 31,
1158 1992, shall be void on April 1, 1992, for the operation of any
1159 commercial vehicle requiring a commercial license to be issued
1160 under Article 2 of this chapter; however, if the holder of any
1161 such license applies for a commercial driver's license under
1162 Article 2 of this chapter, passes the required tests for such
1163 license, pays all applicable fees under Article 2 of this chapter
1164 except the Forty Dollars (\$40.00) license fee and otherwise meets
1165 all requirements for the issuance of such license, then such
1166 person shall be issued a license under Article 2 of this chapter
1167 which shall expire on the expiration date of the commercial
1168 driver's license being replaced.

1169 (3) The fee for the issuance of an original and renewals of
1170 a Class D commercial driver's license under this article to an
1171 applicant who is not a United States citizen and the period for
1172 which such license will be valid and expire shall be as prescribed
1173 in Section 63-1-43.

1174 (4) The Commissioner of Public Safety shall notify, by
1175 United States mail addressed to the last known address of record
1176 with the Department of Public Safety, all holders of a commercial
1177 driver's license issued under this article before January 1, 1990,
1178 and which expire after March 31, 1992, that such license will be



1179 void on and after April 1, 1992, for the operation of any vehicle
1180 for which a commercial driver's license is required to be issued
1181 under Article 2 of this chapter.

1182 (5) Any person holding a valid commercial driver's license
1183 issued under this article before January 1, 1990, shall continue
1184 thereafter, until expiration of such license, to be entitled to
1185 operate all vehicles which such license authorized him to operate
1186 immediately before January 1, 1990, except that from and after
1187 April 1, 1992, such license shall not entitle the licensee to
1188 operate a commercial motor vehicle the lawful operation of which
1189 requires a commercial driver's license under Article 2 of this
1190 chapter.

1191 (6) Except as otherwise provided in this article, each
1192 applicant for an original driver's license issued pursuant to this
1193 article, who is entitled to issuance of same, being under eighteen
1194 (18) years of age, shall be issued a one-year license which will
1195 expire at midnight on the licensee's birthday. Renewal drivers'
1196 licenses of operators under the age of eighteen (18) shall be for
1197 one-year periods and may be renewed any time within two (2) months
1198 before the expiration of the license upon application and payment
1199 of the required fee, unless required to be reexamined. An
1200 intermediate license shall be valid for one (1) year from its date
1201 of issue and may be renewed any time within fourteen (14) days
1202 before expiration of the license. All applications by an operator
1203 under the age of eighteen (18) must be accompanied by
1204 documentation that the applicant is in compliance with the
1205 education requirements of Section 63-1-9(1)(g); the documentation
1206 must be dated no more than thirty (30) days prior to the date of
1207 application.

1208 **SECTION 20.** Section 63-1-82, Mississippi Code of 1972, is
1209 amended as follows:

1210 63-1-82. (1) Each commercial driver's license shall be
1211 marked "Commercial Driver's License" or "CDL," and shall, to the



1212 maximum extent practicable, be tamper proof. Each such license
1213 shall include thereon, but not be limited to, the following
1214 information:

1215 (a) The name and residential address of the licensee;

1216 (b) The licensee's color photograph;

1217 (c) A physical description of the licensee, including
1218 his sex, height, weight, eye and hair color;

1219 (d) The licensee's date of birth;

1220 (e) Except for a nonresident commercial driver's
1221 license, the licensee's social security number; and any other
1222 identifying information which the Commissioner of Public Safety,
1223 by rule or regulation, determines necessary and essential for the
1224 purposes of complying with the provisions of this article;

1225 (f) The licensee's signature;

1226 (g) The class or type of commercial motor vehicle or
1227 vehicles which the licensee is authorized to drive together with
1228 any endorsements or restrictions;

1229 (h) The name of this state; and

1230 (i) The dates between which the license is valid.

1231 (2) The holder of a valid commercial driver's license may
1232 drive all vehicles in the class for which that license is issued
1233 and all lesser classes of vehicles, including any vehicle for
1234 which an operator's license or commercial driver's license issued
1235 under Article 1 of this chapter authorizes a person to drive.
1236 However, vehicles which require an endorsement may not be driven
1237 unless the proper endorsement appears on the license.

1238 (3) Commercial drivers' licenses may be issued with the
1239 following classifications:

1240 (a) Class A. Any combination of vehicles with a gross
1241 vehicle weight rating of twenty-six thousand one (26,001) pounds
1242 or more, provided the gross vehicle weight rating of the vehicle
1243 or vehicles being towed is in excess of ten thousand (10,000)
1244 pounds;



1245 (b) Class B. Any single vehicle with a gross vehicle
1246 weight rating of twenty-six thousand one (26,001) pounds or more,
1247 and any such vehicle towing a vehicle not in excess of ten
1248 thousand (10,000) pounds;

1249 (c) Class C. Any single vehicle with a gross vehicle
1250 weight rating of less than twenty-six thousand one (26,001) pounds
1251 or any such vehicle towing a vehicle with a gross vehicle weight
1252 rating not in excess of ten thousand (10,000) pounds comprising:

1253 (i) Vehicles designed to transport sixteen (16) or
1254 more passengers, including the driver; and

1255 (ii) Vehicles used in the transportation of
1256 hazardous materials which are required to be placarded under the
1257 Hazardous Materials Transportation Act, 49 USCS Appx., Section
1258 1801 et seq.; and

1259 (d) Class D. All other vehicles or combination of
1260 vehicles which are not included in Class A, Class B or Class C and
1261 for which a commercial license is required to be issued as
1262 provided by Section 63-1-43, Mississippi Code of 1972.

1263 (4) Commercial drivers' licenses may be issued with the
1264 following endorsements and restrictions:

1265 (a) "H" authorizes the driver to drive a vehicle
1266 transporting hazardous materials;

1267 (b) "K" restricts the driver to vehicles not equipped
1268 with air brakes;

1269 (c) "T" authorizes driving double and triple trailers;

1270 (d) "P" authorizes driving vehicles carrying
1271 passengers;

1272 (e) "N" authorizes driving tank vehicles; * * *

1273 (f) "X" represents a combination of hazardous materials
1274 and tank vehicle endorsements; and

1275 (g) "S" restricts the driver to school buses being
1276 operated for the purpose of transporting pupils to and from school



1277 or to school-related functions and/or to all other vehicles not
1278 requiring a commercial driver's license.

1279 (5) Before issuing a commercial driver's license, the
1280 Commissioner of Public Safety shall obtain driving record
1281 information through the Commercial Driver License Information
1282 System.

1283 (6) Within ten (10) days after issuing a commercial driver's
1284 license, the Commissioner of Public Safety shall notify the
1285 Commercial Driver License Information System of that fact,
1286 providing all information required to ensure identification of the
1287 person.

1288 (7) Except as provided in subsection (10) of this section,
1289 the fee charged for the issuance of each original and each renewal
1290 of a Class A, B or C commercial driver's license shall be
1291 Thirty-eight Dollars (\$38.00) plus the applicable photograph fee.
1292 In addition, a fee of Five Dollars (\$5.00) shall be charged for
1293 each endorsement or restriction entered on a commercial driver's
1294 license under subsection (4) of this section. However, the fee
1295 charged for each original and renewal of a commercial driver's
1296 license with an "S" restriction shall be the same as the fee for a
1297 Class D commercial driver's license in addition to all application
1298 fees.

1299 (8) If a commercial driver instruction permit or commercial
1300 driver's license is lost or destroyed, or if the holder of a
1301 commercial driver's license changes his name, mailing address or
1302 residence, an application for a duplicate permit or license shall
1303 be made as provided by Section 63-1-37, Mississippi Code of 1972.

1304 (9) Except as provided in subsection (10) of this section,
1305 all commercial drivers' licenses issued under the provisions of
1306 this article shall be issued for a period of not more than four
1307 (4) years and shall expire at midnight on the last day of the
1308 licensee's month of birth.



1309 (10) The original and each renewal of a commercial driver's
1310 license issued under this section to a person who is not a United
1311 States citizen shall be issued for a period of one (1) year for a
1312 fee of Thirteen Dollars (\$13.00) plus the applicable photograph
1313 fee and shall expire on the date the licensee's immigration
1314 documents expire. Such person may renew a commercial license
1315 issued under this section within two (2) weeks before expiration
1316 of the license.

1317 (11) Every person applying for renewal of a commercial
1318 driver's license shall complete the application form required by
1319 Section 63-1-81, Mississippi Code of 1972, providing updated
1320 information and required certifications and paying the appropriate
1321 fees. If the applicant wishes to retain a hazardous materials
1322 endorsement, the written test for a hazardous materials
1323 endorsement must be taken and passed.

1324 (12) The Commissioner of Public Safety, by rule or
1325 regulation, shall establish a driver's license photograph fee
1326 which shall be the actual cost of the photograph rounded off to
1327 the next highest dollar. Monies collected for the photograph fee
1328 shall be deposited into a special photograph fee account which the
1329 Department of Public Safety shall use to pay the actual cost of
1330 producing the photographs. Any monies collected in excess of the
1331 actual costs of the photography shall be deposited to the General
1332 Fund of the State of Mississippi.

1333 **SECTION 21.** Section 63-9-31, Mississippi Code of 1972, is
1334 amended as follows:

1335 63-9-31. (1) In addition to any other monetary penalties
1336 and other penalties imposed by law, any county or municipality
1337 which participates in an intergovernmental wireless radio
1338 communications program approved by the applicable governing
1339 authorities may assess an additional surcharge in an amount not to
1340 exceed Ten Dollars (\$10.00) on each person upon whom a court
1341 imposes a fine or other penalty for each violation of Title 63,



1342 Mississippi Code of 1972, except offenses relating to vehicular
1343 parking or registration. Governing authorities shall assess a
1344 surcharge in the amount of Ten Dollars (\$10.00) on all such
1345 citations issued by Mississippi Highway Safety Patrol officers.
1346 The proceeds from the surcharge on citations issued by county and
1347 municipal law enforcement officers may be used by a county or
1348 municipality only to fund that county's or municipality's
1349 participation in the intergovernmental wireless radio
1350 communications program by funding public safety wireless
1351 communications systems and related computer and communications
1352 equipment. The proceeds from the surcharge on citations issued by
1353 Mississippi Highway Safety Patrol officers shall be used as
1354 provided in subsection (2) of this section. All proceeds from the
1355 surcharge imposed by this subsection shall be deposited into a
1356 special fund in the Department of Public Safety's Office of Public
1357 Safety Planning * * *. The Office of Public Safety Planning shall
1358 promulgate rules and procedures relating to the administration of
1359 the special fund and the disbursement of monies in the fund to
1360 participating governmental entities. The maximum amount that a
1361 governmental entity may receive from the special fund shall be an
1362 amount equal to the deposits made into the fund by that entity,
1363 less one percent (1%) to be retained by the Office of Public
1364 Safety Planning to defray the costs of administering the special
1365 fund. Interest earned on the special fund shall remain in the
1366 fund and shall be used by the Office of Public Safety Planning to
1367 further defray the costs of administering the special fund.

1368 (2) Deposits into the special fund resulting from citations
1369 issued by the Mississippi Highway Safety Patrol shall be utilized
1370 for the purpose of funding wireless communications and related
1371 computer equipment, subject to the approval of the Mississippi
1372 Department of Information Technology Services.



1373 (3) Approval of an intergovernmental wireless radio
1374 communications program must be given by the applicable governing
1375 authorities when:

1376 (a) The program includes the sharing of support
1377 facilities, including, but not limited to, towers, shelters and
1378 microwave, by participating entities; or

1379 (b) The program includes the establishment of a mutual
1380 aid system using common radio frequency channels between
1381 participating entities; or

1382 (c) The program sets forth a feasible methodology that
1383 utilizes the radio frequency spectrum in an efficient manner.

1384 (4) Participating counties, municipalities and the
1385 Mississippi Highway Safety Patrol must provide notification of
1386 facilities available for interoperability to the Mississippi
1387 Department of Information Technology Services annually.

1388 (5) Counties and municipalities participating in an
1389 intergovernmental wireless radio communications program and the
1390 Mississippi Highway Safety Patrol must comply with competitive
1391 bidding requirements prescribed in Section 31-7-13 and are
1392 encouraged to utilize an open architecture, nonproprietary system.

1393 **SECTION 22.** Section 11-46-9, Mississippi Code of 1972, is
1394 amended as follows:

1395 11-46-9. (1) A governmental entity and its employees acting
1396 within the course and scope of their employment or duties shall
1397 not be liable for any claim:

1398 (a) Arising out of a legislative or judicial action or
1399 inaction, or administrative action or inaction of a legislative or
1400 judicial nature;

1401 (b) Arising out of any act or omission of an employee
1402 of a governmental entity exercising ordinary care in reliance
1403 upon, or in the execution or performance of, or in the failure to
1404 execute or perform, a statute, ordinance or regulation, whether or
1405 not the statute, ordinance or regulation be valid;



1406 (c) Arising out of any act or omission of an employee
1407 of a governmental entity engaged in the performance or execution
1408 of duties or activities relating to police or fire protection
1409 unless the employee acted in reckless disregard of the safety and
1410 well-being of any person not engaged in criminal activity at the
1411 time of injury;

1412 (d) Based upon the exercise or performance or the
1413 failure to exercise or perform a discretionary function or duty on
1414 the part of a governmental entity or employee thereof, whether or
1415 not the discretion be abused;

1416 (e) Arising out of an injury caused by adopting or
1417 failing to adopt a statute, ordinance or regulation;

1418 (f) Which is limited or barred by the provisions of any
1419 other law;

1420 (g) Arising out of the exercise of discretion in
1421 determining whether or not to seek or provide the resources
1422 necessary for the purchase of equipment, the construction or
1423 maintenance of facilities, the hiring of personnel and, in
1424 general, the provision of adequate governmental services;

1425 (h) Arising out of the issuance, denial, suspension or
1426 revocation of, or the failure or refusal to issue, deny, suspend
1427 or revoke any privilege, ticket, pass, permit, license,
1428 certificate, approval, order or similar authorization where the
1429 governmental entity or its employee is authorized by law to
1430 determine whether or not such authorization should be issued,
1431 denied, suspended or revoked unless such issuance, denial,
1432 suspension or revocation, or failure or refusal thereof, is of a
1433 malicious or arbitrary and capricious nature;

1434 (i) Arising out of the assessment or collection of any
1435 tax or fee;

1436 (j) Arising out of the detention of any goods or
1437 merchandise by any law enforcement officer, unless such detention
1438 is of a malicious or arbitrary and capricious nature;



1439 (k) Arising out of the imposition or establishment of a
1440 quarantine, whether such quarantine relates to persons or
1441 property;

1442 (l) Of any claimant who is an employee of a
1443 governmental entity and whose injury is covered by the Workers'
1444 Compensation Law of this state by benefits furnished by the
1445 governmental entity by which he is employed;

1446 (m) Of any claimant who at the time the claim arises is
1447 an inmate of any detention center, jail, workhouse, penal farm,
1448 penitentiary or other such institution, regardless of whether such
1449 claimant is or is not an inmate of any detention center, jail,
1450 workhouse, penal farm, penitentiary or other such institution when
1451 the claim is filed;

1452 (n) Arising out of any work performed by a person
1453 convicted of a crime when the work is performed pursuant to any
1454 sentence or order of any court or pursuant to laws of the State of
1455 Mississippi authorizing or requiring such work;

1456 (o) Under circumstances where liability has been or is
1457 hereafter assumed by the United States, to the extent of such
1458 assumption of liability, including but not limited to any claim
1459 based on activities of the Mississippi National Guard when such
1460 claim is cognizable under the National Guard Tort Claims Act of
1461 the United States, 32 USC 715 (32 USCS 715), or when such claim
1462 accrues as a result of active federal service or state service at
1463 the call of the Governor for quelling riots and civil
1464 disturbances;

1465 (p) Arising out of a plan or design for construction or
1466 improvements to public property, including but not limited to,
1467 public buildings, highways, roads, streets, bridges, levees,
1468 dikes, dams, impoundments, drainage channels, diversion channels,
1469 harbors, ports, wharfs or docks, where such plan or design has
1470 been approved in advance of the construction or improvement by the
1471 legislative body or governing authority of a governmental entity



1472 or by some other body or administrative agency, exercising
1473 discretion by authority to give such approval, and where such plan
1474 or design is in conformity with engineering or design standards in
1475 effect at the time of preparation of the plan or design;

1476 (q) Arising out of an injury caused solely by the
1477 effect of weather conditions on the use of streets and highways;

1478 (r) Arising out of the lack of adequate personnel or
1479 facilities at a state hospital or state corrections facility if
1480 reasonable use of available appropriations has been made to
1481 provide such personnel or facilities;

1482 (s) Arising out of loss, damage or destruction of
1483 property of a patient or inmate of a state institution;

1484 (t) Arising out of any loss of benefits or compensation
1485 due under a program of public assistance or public welfare;

1486 (u) Arising out of or resulting from riots, unlawful
1487 assemblies, unlawful public demonstrations, mob violence or civil
1488 disturbances;

1489 (v) Arising out of an injury caused by a dangerous
1490 condition on property of the governmental entity that was not
1491 caused by the negligent or other wrongful conduct of an employee
1492 of the governmental entity or of which the governmental entity did
1493 not have notice, either actual or constructive, and adequate
1494 opportunity to protect or warn against; provided, however, that a
1495 governmental entity shall not be liable for the failure to warn of
1496 a dangerous condition which is obvious to one exercising due care;

1497 (w) Arising out of the absence, condition, malfunction
1498 or removal by third parties of any sign, signal, warning device,
1499 illumination device, guardrail or median barrier, unless the
1500 absence, condition, malfunction or removal is not corrected by the
1501 governmental entity responsible for its maintenance within a
1502 reasonable time after actual or constructive notice; * * *

1503 (x) Arising out of the administration of corporal
1504 punishment or the taking of any action to maintain control and



1505 discipline of students, as defined in Section 37-11-57, by a
1506 teacher, assistant teacher, principal or assistant principal of a
1507 public school district in the state unless the teacher, assistant
1508 teacher, principal or assistant principal acted in bad faith or
1509 with malicious purpose or in a manner exhibiting a wanton and
1510 willful disregard of human rights or safety; or

1511 (y) Arising out of a response to a terroristic threat
1512 or act.

1513 (2) A governmental entity shall also not be liable for any
1514 claim where the governmental entity:

1515 (a) Is inactive and dormant;

1516 (b) Receives no revenue;

1517 (c) Has no employees; and

1518 (d) Owns no property.

1519 (3) If a governmental entity exempt from liability by
1520 subsection (2) becomes active, receives income, hires employees or
1521 acquires any property, such governmental entity shall no longer be
1522 exempt from liability as provided in subsection (2) and shall be
1523 subject to the provisions of this chapter.

1524 **SECTION 23.** Section 65-1-8, Mississippi Code of 1972, is
1525 amended as follows:

1526 65-1-8. (1) The Mississippi Transportation Commission shall
1527 have the following general powers, duties and responsibilities:

1528 (a) To coordinate and develop a comprehensive, balanced
1529 transportation policy for the State of Mississippi;

1530 (b) To promote the coordinated and efficient use of all
1531 available and future modes of transportation;

1532 (c) To make recommendations to the Legislature
1533 regarding alterations or modifications in any existing
1534 transportation policies;

1535 (d) To study means of encouraging travel and
1536 transportation of goods by the combination of motor vehicle and
1537 other modes of transportation;



1538 (e) To take such actions as are necessary and proper to
1539 discharge its duties pursuant to the provisions of Laws, 1992,
1540 Chapter 496, and any other provision of law;

1541 (f) To receive and provide for the expenditure of any
1542 funds made available to it by the Legislature, the federal
1543 government, or any other source.

1544 (2) In addition to the general powers, duties and
1545 responsibilities listed in subsection (1) of this section, the
1546 Mississippi Transportation Commission shall have the following
1547 specific powers:

1548 (a) To make rules and regulations whereby the
1549 transportation department shall change or relocate any and all
1550 highways herein or hereafter fixed as constituting a part of the
1551 state highway system, as may be deemed necessary or economical in
1552 the construction or maintenance thereof; to acquire by gift,
1553 purchase, condemnation, or otherwise, land or other property
1554 whatsoever that may be necessary for a state highway system as
1555 herein provided, with full consideration to be given to the
1556 stimulation of local public and private investment when acquiring
1557 such property in the vicinity of Mississippi towns, cities and
1558 population centers;

1559 (b) To enforce by mandamus, or other proper legal
1560 remedies, all legal rights or rights of action of the Mississippi
1561 Transportation Commission with other public bodies, corporations
1562 or persons;

1563 (c) To make and publish rules, regulations and
1564 ordinances for the control of and the policing of the traffic on
1565 the state highways, and to prevent their abuse by any or all
1566 persons, natural or artificial, by trucks, tractors, trailers or
1567 any other heavy or destructive vehicles or machines, or by any
1568 other means whatsoever, by establishing weights of loads or of
1569 vehicles, types of tires, width of tire surfaces, length and width
1570 of vehicles, with reasonable variations to meet approximate



1571 weather conditions, and all other proper police and protective
1572 regulations, and to provide ample means for the enforcement of
1573 same. The violation of any of the rules, regulations or
1574 ordinances so prescribed by the commission shall constitute a
1575 misdemeanor. No rule, regulation or ordinance shall be made that
1576 conflicts with any statute now in force or which may hereafter be
1577 enacted, or with any ordinance of municipalities. A monthly
1578 publication giving general information to the boards of
1579 supervisors, employees and the public may be issued under such
1580 rules and regulations as the commission may determine;

1581 (d) To give suitable numbers to highways and to change
1582 the number of any highway that shall become a part of the state
1583 highway system. However, nothing herein shall authorize the
1584 number of any highway to be changed so as to conflict with any
1585 designation thereof as a U.S. numbered highway. Where, by a
1586 specific act of the Legislature, the commission has been directed
1587 to give a certain number to a highway, the commission shall not
1588 have the authority to change such number;

1589 (e) To make proper and reasonable rules, regulations,
1590 and ordinances for the placing, erection, removal or relocation of
1591 telephone, telegraph or other poles, signboards, fences, gas,
1592 water, sewerage, oil or other pipelines, and other obstructions
1593 that may, in the opinion of the commission, contribute to the
1594 hazards upon any of the state highways, or in any way interfere
1595 with the ordinary travel upon such highways, or the construction,
1596 reconstruction or maintenance thereof, and to make reasonable
1597 rules and regulations for the proper control thereof. Any
1598 violation of such rules or regulations or noncompliance with such
1599 ordinances shall constitute a misdemeanor.

1600 Whenever the order of the commission shall require the
1601 removal of, or other changes in the location of telephone,
1602 telegraph, or other poles, signboards, gas, water, sewerage, oil
1603 or other pipelines; or other similar obstructions on the



1604 right-of-way or such other places where removal is required by
1605 law, the owners thereof shall at their own expense move or change
1606 the same to conform to the order of the commission. Any violation
1607 of such rules or regulations or noncompliance with such orders
1608 shall constitute a misdemeanor;

1609 (f) To regulate and abandon grade crossings on any road
1610 fixed as a part of the state highway system, and whenever the
1611 commission, in order to avoid a grade crossing with the railroad,
1612 locates or constructs said road on one side of the railroad, the
1613 commission shall have the power to abandon and close such grade
1614 crossing, and whenever an underpass or overhead bridge is
1615 substituted for a grade crossing, the commission shall have power
1616 to abandon such grade crossing and any other crossing adjacent
1617 thereto. Included in the powers herein granted shall be the power
1618 to require the railroad at grade crossings, where any road of the
1619 state highway system crosses the same, to place signal posts with
1620 lights or other warning devices at such crossings at the expense
1621 of the railroad, and to regulate and abandon underpass or overhead
1622 bridges and, where abandoned because of the construction of a new
1623 underpass or overhead bridge, to close such old underpass or
1624 overhead bridge, or, in its discretion, to return the same to the
1625 jurisdiction of the county board of supervisors;

1626 (g) To make proper and reasonable rules and regulations
1627 to control the cutting or opening of the road surfaces for
1628 subsurface installations;

1629 (h) To make proper and reasonable rules and regulations
1630 for the removal from the public rights-of-way of any form of
1631 obstruction, to cooperate in improving their appearance, and to
1632 prescribe minimum clearance heights for seed conveyors, pipes,
1633 passageways or other structure of private or other ownership above
1634 the highways;

1635 (i) To establish, and have the Transportation
1636 Department maintain and operate, and to cooperate with the state



1637 educational institutions in establishing, enlarging, maintaining
1638 and operating a laboratory or laboratories for testing materials
1639 and for other proper highway purposes;

1640 (j) To provide, under the direction and with the
1641 approval of the Department of Finance and Administration, suitable
1642 offices, shops and barns in the City of Jackson;

1643 (k) To establish and have enforced set-back
1644 regulations;

1645 (l) To cooperate with proper state authorities in
1646 producing limerock for highway purposes and to purchase same at
1647 cost;

1648 (m) To provide for the purchase of necessary equipment
1649 and vehicles and to provide for the repair and housing of same, to
1650 acquire by gift, purchase, condemnation or otherwise, land or
1651 lands and buildings in fee simple, and to authorize the
1652 Transportation Department to construct, lease or otherwise provide
1653 necessary and proper permanent district offices for the
1654 construction and maintenance divisions of the department, and for
1655 the repair and housing of the equipment and vehicles of the
1656 department; however, in each Supreme Court district only two (2)
1657 permanent district offices shall be set up, but a permanent status
1658 shall not be given to any such offices until so provided by act of
1659 the Legislature and in the meantime, all shops of the department
1660 shall be retained at their present location. As many local or
1661 subdistrict offices, shops or barns may be provided as is
1662 essential and proper to economical maintenance of the state
1663 highway system;

1664 (n) To cooperate with the Department of Archives and
1665 History in having placed and maintained suitable historical
1666 markers, including those which have been approved and purchased by
1667 the State Historical Commission, along state highways, and to have
1668 constructed and maintained roadside driveways for convenience and



1669 safety in viewing them when necessary; however, no highway or
1670 bridge shall ever be memorialized to a man while living;

1671 (o) To cooperate, in its discretion, with the
1672 Mississippi Department of Wildlife, Fisheries and Parks in
1673 planning and constructing roadside parks upon the right-of-way of
1674 state highways, whether constructed, under construction, or
1675 planned; said parks to utilize where practical barrow pits used in
1676 construction of state highways for use as fishing ponds. Said
1677 parks shall be named for abundant flora and fauna existing in the
1678 area or for the first flora or fauna found on the site;

1679 (p) Unless otherwise prohibited by law, to make such
1680 contracts and execute such instruments containing such reasonable
1681 and necessary appropriate terms, provisions and conditions as in
1682 its absolute discretion it may deem necessary, proper or
1683 advisable, for the purpose of obtaining or securing financial
1684 assistance, grants or loans from the United States of America or
1685 any department or agency thereof, including contracts with several
1686 counties of the state pertaining to the expenditure of such funds;

1687 (q) To cooperate with the Federal Highway
1688 Administration in the matter of location, construction and
1689 maintenance of the Great River Road, to expend such funds paid to
1690 the commission by the Federal Highway Administration or other
1691 federal agency, and to authorize the Transportation Department to
1692 erect suitable signs marking this highway, the cost of such signs
1693 to be paid from state highway funds other than earmarked
1694 construction funds;

1695 (r) To cooperate, in its discretion, with the
1696 Mississippi Forestry Commission and the School of Forestry,
1697 Mississippi State University, in a forestry management program,
1698 including planting, thinning, cutting and selling, upon the
1699 right-of-way of any highway, constructed, acquired or maintained
1700 by the Transportation Department, and to sell and dispose of any
1701 and all growing timber standing, lying or being on any



1702 right-of-way acquired by the commission for highway purposes in
1703 the future; such sale or sales to be made in accordance with the
1704 sale of personal property which has become unnecessary for public
1705 use as provided for in Section 65-1-123, Mississippi Code of 1972;

1706 (s) To expend funds in cooperation with the Division of
1707 Plant Industry, Mississippi Department of Agriculture and
1708 Commerce, the United States government or any department or agency
1709 thereof, or with any department or agency of this state, to
1710 control, suppress or eradicate serious insect pests, rodents,
1711 plant parasites and plant diseases on the state highway
1712 rights-of-way;

1713 (t) To provide for the placement, erection and
1714 maintenance of motorist services business signs and supports
1715 within state highway rights-of-way in accordance with current
1716 state and federal laws and regulations governing the placement of
1717 traffic control devices on state highways, and to establish and
1718 collect reasonable fees from the businesses having information on
1719 such signs;

1720 (u) To request and to accept the use of persons
1721 convicted of an offense, whether a felony or a misdemeanor, for
1722 work on any road construction, repair or other project of the
1723 Transportation Department. The commission is also authorized to
1724 request and to accept the use of persons who have not been
1725 convicted of an offense but who are required to fulfill certain
1726 court-imposed conditions pursuant to Section 41-29-150(d)(1) or
1727 99-15-26, Mississippi Code of 1972, or the Pretrial Intervention
1728 Act, being Sections 99-15-101 through 99-15-127, Mississippi Code
1729 of 1972. The commission is authorized to enter into any
1730 agreements with the Department of Corrections, the State Parole
1731 Board, any criminal court of this state, and any other proper
1732 official regarding the working, guarding, safekeeping, clothing
1733 and subsistence of such persons performing work for the
1734 Transportation Department. Such persons shall not be deemed



1735 agents, employees or involuntary servants of the Transportation
1736 Department while performing such work or while going to and from
1737 work or other specified areas;

1738 (v) To provide for the administration of the railroad
1739 revitalization program pursuant to Section 57-43-1 et seq.;

1740 (w) The Mississippi Transportation Commission is
1741 further authorized, in its discretion, to expend funds for the
1742 purchase of service pins for employees of the Mississippi
1743 Transportation Department;

1744 (x) To cooperate with the State Tax Commission by
1745 providing for weight enforcement field personnel to collect and
1746 assess taxes, fees and penalties and to perform all duties as
1747 required pursuant to Section 27-55-501 et seq., Sections 27-19-1
1748 et seq., 27-55-1 et seq., 27-59-1 et seq. and 27-61-1 et seq.,
1749 Mississippi Code of 1972, with regard to vehicles subject to the
1750 jurisdiction of the Office of Weight Enforcement. All collections
1751 and assessments shall be transferred daily to the State Tax
1752 Commission;

1753 (y) The Mississippi Transportation Commission may
1754 delegate the authority to enter into a supplemental agreement to a
1755 contract previously approved by the commission if the supplemental
1756 agreement involves an additional expenditure not to exceed One
1757 Hundred Thousand Dollars (\$100,000.00);

1758 (z) (i) The Mississippi Transportation Commission, in
1759 its discretion, may enter into agreements with any county,
1760 municipality, county transportation commission, business,
1761 corporation, partnership, association, individual or other legal
1762 entity, for the purpose of accelerating the completion date of
1763 scheduled highway construction projects.

1764 (ii) Such an agreement may permit the cost of a
1765 highway construction project to be advanced to the commission by a
1766 county, municipality, county transportation commission, business,
1767 corporation, partnership, association, individual or other legal



1768 entity, and repaid to such entity by the commission when highway
1769 construction funds become available; provided, however, that
1770 repayment of funds advanced to the Mississippi Transportation
1771 Commission shall be made no sooner than the commission's
1772 identified projected revenue schedule for funding of that
1773 particular construction project, and no other scheduled highway
1774 construction project established by statute or by the commission
1775 may be delayed by an advanced funding project authorized under
1776 this paragraph (z). Repayments to an entity that advances funds
1777 to the Mississippi Transportation Commission under this paragraph
1778 (z) may not include interest or other fees or charges, and the
1779 total amount repaid shall not exceed the total amount of funds
1780 advanced to the commission by the entity.

1781 (iii) In considering whether to enter into such an
1782 agreement, the commission shall consider the availability of
1783 financial resources, the effect of such agreement on other ongoing
1784 highway construction, the urgency of the public's need for swift
1785 completion of the project and any other relevant factors.

1786 (iv) Such an agreement shall be executed only upon
1787 a finding by the commission, spread upon its minutes, that the
1788 acceleration of the scheduled project is both feasible and
1789 beneficial. The commission shall also spread upon its minutes its
1790 findings with regard to the factors required to be considered
1791 pursuant to item (iii) of this paragraph (z).

1792 (3) When the Governor declares a state of emergency or state
1793 of alert, the commission may, in its discretion, temporarily
1794 assign its agent and employees who are charged with the
1795 enforcement of the weight laws and motor vehicle privilege tax
1796 laws of this state, to the Department of Public Safety to augment
1797 the manpower needs of the Department of Public Safety during the
1798 state of emergency or state of alert.

1799 **SECTION 24.** Section 65-1-71, Mississippi Code of 1972, is
1800 amended as follows:



1801 65-1-71. The director is * * * authorized to close highways
1802 for construction purposes and in emergencies. The director is
1803 authorized to close highways when the Governor has declared a
1804 state of emergency or state of alert and the highway to be closed
1805 is a potential terrorist target. The director shall select, lay
1806 out, maintain, and keep in as good repair as possible suitable
1807 detours by the most practicable route, where they are necessary
1808 for the public convenience while any sections of * * * highways or
1809 roads are being improved or constructed or closed. The director
1810 shall place or cause to be placed explicit directions to the
1811 traveling public during repair of said highway or road under
1812 process of construction. As far as practical roads already laid
1813 out shall be connected with and used for * * * detours.

1814 The director is * * * authorized, subject to the approval of
1815 the commission, to enter into agreements, spread on the minutes of
1816 both boards, with the local road authorities of the county or
1817 counties in which construction or maintenance work is to be done,
1818 to pay all or any part of the cost of laying out or
1819 maintaining * * * detours. All expenses to the state of laying
1820 out and maintaining * * * detours shall be paid out of the state
1821 highway funds. The director is also authorized, subject to the
1822 approval of the commission, to make reasonable rules and
1823 regulations to keep highways under construction open to traffic
1824 where such action is deemed to be practical and desirable.

1825 If any county-maintained road or municipally maintained
1826 street is used temporarily as a part of a state highway detour, it
1827 shall be the duty of the highway department, when the detour is
1828 abandoned * * *, to place the same in as good condition as said
1829 road or street was when its use as a detour began.

1830 **SECTION 25.** Section 65-1-85, Mississippi Code of 1972, is
1831 amended as follows:

1832 65-1-85. All contracts by or on behalf of the Mississippi
1833 Transportation Commission for the purchase of materials, equipment



1834 and supplies shall be made in compliance with Section 31-7-1 et
1835 seq. All contracts by or on behalf of the Mississippi
1836 Transportation Commission for construction, reconstruction or
1837 other public work authorized to be done under the provisions of
1838 this chapter, except maintenance, shall be made by the executive
1839 director, subject to the approval of the commission, only upon
1840 competitive bids after due advertisement as follows, to wit:

1841 Such advertisement for bids shall be in accordance with such
1842 rules and regulations, in addition to those herein provided, as
1843 may be adopted therefor by the Mississippi Transportation
1844 Commission, and said commission is hereby authorized and empowered
1845 to make and promulgate such rules and regulations as it may deem
1846 proper, to provide and adopt standard specifications for road and
1847 bridge construction, and to amend the same from time to time.

1848 Such advertisement shall be inserted twice, being once a week for
1849 two (2) successive weeks in a newspaper published at the seat of
1850 government in Jackson, Mississippi, having a general circulation
1851 throughout the state, and no letting shall be less than fourteen
1852 (14) days nor more than sixty (60) days after the publication of
1853 the first notice thereof, and notices of such letting may be
1854 placed in a metropolitan paper or national trade publication.

1855 Before advertising for such work, the executive director shall
1856 cause to be prepared and filed in the Mississippi Department of
1857 Transportation detailed plans and specifications covering the work
1858 proposed to be done, copies of which plans and specifications
1859 shall be subject to inspection by any citizen during all office
1860 hours and made available to all prospective bidders upon such
1861 reasonable terms and conditions as may be required by the
1862 Mississippi Transportation Commission; provided, that there shall
1863 be a fee equal to the cost of producing a copy of any such plans
1864 and specifications. All such contracts shall be let to the lowest
1865 responsible bidder, and a record of all bids received for
1866 construction and reconstruction shall be preserved. In letting



1867 such contracts, each bid for construction and reconstruction must
1868 be accompanied by a cashier's check, a certified check or bidders
1869 bond executed by a surety company authorized to do business in the
1870 State of Mississippi, in the principal amount of not less than
1871 five percent (5%) of the bid, guaranteeing that the bidder will
1872 give bond and enter into a contract for the faithful performance
1873 of the contract according to plans and specifications on file.

1874 Bonds shall be required of the successful bidder in an amount
1875 equal to the contract price. The contract price shall mean the
1876 entire cost of the particular contract let. In the event change
1877 orders are made after the execution of a contract which results in
1878 increasing the total contract price, additional bond in the amount
1879 of the increased cost may be required. The surety or sureties on
1880 such bonds shall be a surety company or surety companies
1881 authorized to do business in the State of Mississippi, all bonds
1882 to be payable to the State of Mississippi and to be conditioned
1883 for the prompt, faithful and efficient performance of the contract
1884 according to plans and specifications, and for the prompt payment
1885 of all persons furnishing labor, material, equipment and supplies
1886 therefor. Such bonds shall be subject to the additional
1887 obligation that the principal and surety or sureties executing the
1888 same shall be liable to the state in a civil action instituted by
1889 the state at the instance of the Mississippi Transportation
1890 Commission or any officer of the state authorized in such cases,
1891 for double any amount in money or property the state may lose or
1892 be overcharged or otherwise defrauded of by reason of any wrongful
1893 or criminal act, if any, of the contractor, his agent or
1894 employees.

1895 With respect to equipment used in the construction,
1896 reconstruction or other public work authorized to be done under
1897 the provisions of this chapter: the word "equipment," in addition
1898 to all equipment incorporated into or fully consumed in connection
1899 with such project, shall include the reasonable value of the use



1900 of all equipment of every kind and character and all accessories
1901 and attachments thereto which are reasonably necessary to be used
1902 and which are used in carrying out the performance of the
1903 contract, and the reasonable value of the use thereof, during the
1904 period of time the same are used in carrying out the performance
1905 of the contract, shall be the amount as agreed upon by the persons
1906 furnishing the equipment and those using the same to be paid
1907 therefor, which amount, however, shall not be in excess of the
1908 maximum current rates and charges allowable for leasing or renting
1909 as specified in Section 65-7-95; the word "labor" shall include
1910 all work performed in repairing equipment used in carrying out the
1911 performance of the contract, which repair labor is reasonably
1912 necessary to the efficient operation of said equipment; and the
1913 words "materials" and "supplies" shall include all repair parts
1914 installed in or on equipment used in carrying out the performance
1915 of the contract, which repair parts are reasonably necessary to
1916 the efficient operation of said equipment.

1917 The executive director, subject to the approval of the
1918 Mississippi Transportation Commission, shall have the right to
1919 reject any and all bids, whether such right is reserved in the
1920 notice or not. Any contract for construction or paving of any
1921 highway may be entered into for any cost which does not exceed the
1922 amount of funds that may be made available therefor through bond
1923 issues or from other sources of revenue, and the letting of
1924 contracts for such construction or paving shall not necessarily be
1925 delayed until the funds are actually on hand, provided
1926 authorization for the issuance of necessary bonds has been granted
1927 by law to supplement other anticipated revenue or when the
1928 Mississippi Department of Transportation certifies to the
1929 Department of Finance and Administration and the Legislative
1930 Budget Office that projected receipts of funds by the department
1931 will be sufficient to pay such contracts as they become due and
1932 the Department of Finance and Administration determines that the



1933 projections are reasonable and receipts will be sufficient to pay
1934 the contracts as they become due. The Department of Finance and
1935 Administration shall spread such determination on its minutes
1936 prior to the letting of any contracts based on projected receipts.
1937 Nothing herein shall prohibit the issuance of bonds, which have
1938 been authorized, at any time in the discretion of the State Bond
1939 Commission, nor to prevent investment of surplus funds in United
1940 States government bonds or State of Mississippi bonds as presently
1941 authorized by Section 12, Chapter 312, Laws of 1956.

1942 All other contracts for work to be done under the provisions
1943 of this chapter and for the purchase of materials, equipment and
1944 supplies to be used as provided for in this chapter shall be made
1945 in compliance with Section 31-7-1 et seq.

1946 The Mississippi Transportation Commission shall not empower
1947 or authorize the executive director, or any one or more of its
1948 members, or any engineer or other person to let or make contracts
1949 for the construction or repair of public roads, or building
1950 bridges, or for the purchase of material, equipment or supplies
1951 contrary to the provisions of this chapter as above set forth,
1952 except in cases of flood, damage to public roads caused by a
1953 terrorist attack or other cases of emergency where the public
1954 interest requires that the work be done or the materials,
1955 equipment or supplies be purchased without the delay incident to
1956 advertising for competitive bids. Such emergency contracts may be
1957 made without advertisement under such rules and regulations as the
1958 Mississippi Transportation Commission may prescribe.

1959 The executive director, subject to the approval of the
1960 Mississippi Transportation Commission, is authorized to negotiate
1961 and make agreements with communities and/or civic organizations
1962 for landscaping, beautification and maintenance of highway
1963 rights-of-way; provided, however, that nothing herein shall be
1964 construed as authorization for the executive director or
1965 commission to participate in such a project to an extent greater



1966 than the average cost for maintenance of shoulders, backslopes and
1967 median areas with respect thereto. The executive director may
1968 negotiate and enter into contracts with private parties for the
1969 mowing of grass and trimming of vegetation on the rights-of-way of
1970 state highways whenever such practice is possible and cost
1971 effective.

1972 **SECTION 26.** Section 33-15-15, Mississippi Code of 1972, is
1973 amended as follows:

1974 33-15-15. (a) The agency is authorized to provide, within
1975 or without the state, such support from available personnel,
1976 equipment and other resources of state agencies and the political
1977 subdivisions of the state as may be necessary to reinforce
1978 emergency management agencies in areas stricken by emergency.
1979 Such support shall be rendered with due consideration of the plans
1980 of the federal government, this state, the other states and of the
1981 criticalness of the existing situation. Emergency management
1982 support forces shall be called to duty upon orders of the agency
1983 and shall perform their functions in any part of the state, or,
1984 upon the conditions specified in this section, in other states.

1985 (b) Personnel of emergency management support forces while
1986 on duty, whether within or without the state, shall:

1987 (1) If they are employees of the state, have the
1988 powers, duties, rights, privileges and immunities and receive the
1989 compensation incidental to their employment;

1990 (2) If they are employees of a political subdivision of
1991 the state, and whether serving within or without such political
1992 subdivision, have the powers, duties, rights, privileges and
1993 immunities and receive the compensation incidental to their
1994 employment; and

1995 (3) If they are not employees of the state or a
1996 political subdivision thereof, be entitled to compensation by the
1997 state at a rate commensurate with their duties and



1998 responsibilities and to the same rights and immunities as are
1999 provided by law for the employees of this state.

2000 All personnel of emergency management support forces shall,
2001 while on duty, be subject to the operational control of the
2002 authority in charge of emergency management activities in the area
2003 in which they are serving, and shall be reimbursed for all actual
2004 and necessary travel and subsistence expenses, and for death,
2005 disability or injury to such personnel while on such emergency
2006 duty as a member of an emergency management support force, the
2007 state shall pay compensation to the heirs in event of death or the
2008 individual in event of injury or disability in accordance with
2009 payment schedules contained in the Mississippi Workers'
2010 Compensation Law.

2011 (c) The state shall reimburse a political subdivision for
2012 the actual and necessary travel, subsistence and maintenance
2013 expenses of employees of such political subdivision while serving
2014 as members of an emergency management support force, and for all
2015 payments for death, disability or injury of such employees
2016 incurred in the course of such duty, and for all losses of or
2017 damage to supplies and equipment of such political subdivision
2018 resulting from the operation of such emergency management support
2019 force.

2020 (d) Whenever an emergency management support force of
2021 another state shall render aid in this state pursuant to the
2022 orders of the governor of its home state and upon the request of
2023 the Governor of this state, the personnel thereof shall have the
2024 powers, duties, rights, privileges and immunities of emergency
2025 management personnel serving in similar capacities in this state,
2026 except compensation, and this state shall reimburse such other
2027 state for the compensation paid and actual and necessary travel,
2028 subsistence and maintenance expenses of the personnel of such
2029 emergency management support force while rendering such aid, and
2030 for all payments for death, disability or injury of such personnel



2031 incurred in the course of rendering such aid, and for all losses
2032 of or damage to supplies and equipment of such other state or a
2033 political subdivision thereof resulting from the rendering of such
2034 aid; provided, that the laws of such other state contain
2035 provisions substantially similar to this section.

2036 (e) No personnel of emergency management support forces of
2037 this state shall be ordered by the Governor to operate in any
2038 other state unless the laws of such other state contain provisions
2039 substantially similar to this section.

2040 (f) In addition to such other powers and duties as may be
2041 exercised by the agency, the agency shall establish and maintain
2042 five (5) regional hazardous materials and weapons of mass
2043 destruction teams which shall be located and housed in appropriate
2044 facilities at critical and strategic areas throughout the state so
2045 as to provide for an immediate and effective response to real,
2046 threatened or potential emergencies or disasters relating to such
2047 materials or weapons.

2048 **SECTION 27.** Section 33-15-307, Mississippi Code of 1972, is
2049 amended as follows:

2050 33-15-307. (1) The provisions of this article shall be
2051 invoked only pursuant to a state of emergency declared by the
2052 Governor or an emergency or major disaster declared by the
2053 President, or pursuant to an executive order of the Governor, or
2054 administrative order of the director, in order to provide state or
2055 local government resources and personnel in compliance with the
2056 provisions of the Emergency Management Assistance Compact, Section
2057 45-18-1 et seq., or in nondeclared times for administrative and
2058 training costs associated with state disaster response and
2059 recovery programs. Each declaration shall cite the cause for the
2060 declaration and define the area eligible for assistance and the
2061 type of assistance to be provided.

2062 (2) The Disaster Assistance Trust Fund is created as a
2063 special fund in the State Treasury into which shall be paid any



2064 funds appropriated by the Legislature for disaster assistance, any
2065 funds transferred from the Working Cash-Stabilization Reserve Fund
2066 as provided under subsection (5) of this section, any income from
2067 investment of the funds in the trust fund, and federal
2068 reimbursement for administrative costs for management of the
2069 Individual and Family Grant Program, the Public Assistance
2070 Program, the Hazard Mitigation Program and Disaster Reservist
2071 Program.

2072 (3) Income from investment of the funds in the trust fund,
2073 and all other funds deposited therein pursuant to law, shall be
2074 available for expenditure, transfer and allocation pursuant to
2075 this article.

2076 (4) The Disaster Assistance Trust Fund shall be used only
2077 for the following purposes:

2078 (a) The state's portion of the cost share for public
2079 assistance under a major disaster declaration.

2080 (b) The state's cost share of the Individual and Family
2081 Grant (IFG) Program under the provisions of Section 43-41-1 et
2082 seq.

2083 (c) Administrative costs for managing the IFG Program.

2084 (d) Administrative costs for managing the Public
2085 Assistance Program.

2086 (e) The Temporary Housing Program under provisions of
2087 Section 43-41-301 et seq.

2088 (f) Out-of-pocket expenses, including travel, per diem,
2089 overtime and other similar expenses, of state or local agencies
2090 when so tasked by the Governor or the director for emergency
2091 response under the provisions of Section 33-15-11(b)(7) and
2092 current executive orders. This includes actual emergency response
2093 and recovery activities, and applies to mobilization and
2094 deployment of state or local agencies to another state under the
2095 provisions of the Emergency Management Assistance Compact.



2096 (g) Costs incurred as a result of state active duty for
2097 the Mississippi National Guard when so tasked by the Governor to
2098 provide support to other agencies and local governments in a major
2099 disaster or emergency situation, or when tasked by the Governor to
2100 provide support to another state under the provisions of the
2101 Emergency Management Assistance Compact.

2102 (h) The state's portion of the cost share for hazard
2103 mitigation under a major disaster declaration.

2104 (i) Administrative costs of the Hazard Mitigation
2105 Program.

2106 (j) Costs incurred as a result of the implementation of
2107 the Disaster Reservist Program under a major disaster declaration.

2108 (k) Administrative costs of the Disaster Reservist
2109 Program.

2110 (l) Costs incurred as a result of the implementation of
2111 public assistance, and/or individual assistance, and/or Disaster
2112 Reservist Program, and/or hazard mitigation, and/or temporary
2113 housing under a Governor's state of emergency.

2114 (m) Costs incurred as a result of the establishment and
2115 maintenance of five (5) regional hazardous materials and weapons
2116 of mass destruction teams located and housed in appropriate
2117 facilities at critical and strategic areas throughout the state so
2118 as to provide for an immediate and effective response to real,
2119 threatened or potential emergencies or disasters relating to such
2120 materials or weapons.

2121 (5) Whenever the director determines that funds are
2122 immediately needed in the Disaster Assistance Trust Fund to
2123 provide for disaster assistance under this article, he shall
2124 notify the Executive Director of the Department of Finance and
2125 Administration of his determination and shall requisition the
2126 amount of funds from the Working Cash-Stabilization Fund that are
2127 needed in the trust fund, which shall be subject to the
2128 limitations set forth below in this subsection. At the same time



2129 he makes the requisition, the director shall notify the Lieutenant
2130 Governor, the Speaker of the House of Representatives and the
2131 respective Chairmen of the Senate Appropriations Committee, the
2132 Senate Finance Committee, the House Appropriations Committee and
2133 the House Ways and Means Committee of his determination of the
2134 need for the funds and the amount that he has requisitioned. Upon
2135 receipt of such a requisition from the director, the Executive
2136 Director of the Department of Finance and Administration shall
2137 ascertain if the amount requisitioned is available in the Working
2138 Cash-Stabilization Reserve Fund and is within the limitations set
2139 forth below in this subsection and, if it is, he shall transfer
2140 that amount from the Working Cash-Stabilization Reserve Fund to
2141 the trust fund. If the amount requisitioned is more than the
2142 amount available in the Working Cash-Stabilization Fund or above
2143 the limitations set forth below in this subsection, the executive
2144 director shall transfer the amount that is available within the
2145 limitations. The maximum amount that may be transferred from the
2146 Working Cash-Stabilization Reserve Fund to the trust fund for any
2147 one (1) disaster occurrence shall be Five Hundred Thousand Dollars
2148 (\$500,000.00) and the maximum amount that may be transferred
2149 during any fiscal year shall be One Million Dollars
2150 (\$1,000,000.00).

2151 (6) Unexpended state funds in the Disaster Assistance Trust
2152 Fund at the end of a fiscal year shall not lapse into the State
2153 General Fund but shall remain in the trust fund for use under this
2154 article for as long as the funds are needed for the particular
2155 purpose for which they were appropriated or transferred into the
2156 trust fund. After any state funds in the trust fund are no longer
2157 needed for the particular purpose for which they were appropriated
2158 or transferred into the trust fund, the director may use those
2159 funds for any other purpose under this article for which they
2160 currently are needed and for which other funds are not available.
2161 If there is no current need for such funds for any purpose under



2162 this article, the funds and the income earned from the investment
2163 of the funds shall be transferred back to the particular fund or
2164 funds in the State Treasury from which they were appropriated or
2165 transferred into the trust fund, upon certification of the
2166 director to the Executive Director of the Department of Finance
2167 and Administration that the funds are not currently needed.

2168 **SECTION 28.** Section 33-15-7, Mississippi Code of 1972, is
2169 amended as follows:

2170 33-15-7. (1) There is * * * created within the executive
2171 branch of the state government a department called the Mississippi
2172 Emergency Management Agency with a director of emergency
2173 management who shall be appointed by the Governor. The director
2174 shall hold office during the pleasure of the Governor, and shall
2175 be compensated as determined by any appropriation that may be made
2176 by the Legislature for that purpose.

2177 (2) The director, with the approval of the Governor, may
2178 employ such technical, clerical, stenographic and other personnel,
2179 to be compensated as provided in any appropriation that may be
2180 made for that purpose, and may make those expenditures within the
2181 appropriation therefor, or from other funds made available to him
2182 for purposes of emergency management, as may be necessary to carry
2183 out the purposes of this article.

2184 (3) The director and other personnel of the Emergency
2185 Management Agency shall be provided with appropriate office space,
2186 furniture, equipment, supplies, stationery and printing in the
2187 same manner as provided for other state agencies.

2188 (4) The director, subject to the direction and control of
2189 the Governor, shall be the executive head of the Emergency
2190 Management Agency and shall be responsible to the Governor for
2191 carrying out the program for emergency management of this state.
2192 He shall coordinate the activities of all organizations for
2193 emergency management within the state, and shall maintain liaison
2194 with and cooperate with emergency management agencies and



2195 organizations of other states and of the federal government, and
2196 shall have such additional authority, duties, and responsibilities
2197 authorized by this article as may be prescribed by the Governor.

2198 (5) The annual appropriation bill for the Emergency
2199 Management Agency shall be provided for the appropriation of only
2200 two (2) sums, one (1) that specifies the total amount of general
2201 funds appropriated to the agency and one (1) that specifies the
2202 total amount of special funds appropriated to the agency. The
2203 bill shall not contain any breakdown of the appropriated funds by
2204 major objects of expenditure, such as personal services,
2205 contractual services, commodities, capital outlay, subsidies,
2206 loans and grants, and shall not contain the number of authorized
2207 positions for the agency.

2208 **SECTION 29.** This act shall take effect and be in force from
2209 and after July 1, 2002.

