

By: Senator(s) White, Flowers

To: Public Health and Welfare

SENATE BILL NO. 2654

1 AN ACT TO AMEND SECTION 33-15-5, MISSISSIPPI CODE OF 1972, O
2 INCLUDE WITHIN THE DEFINITION OF THE TERM NATURAL EMERGENCY
3 PANDEMICS AND EPIDEMICS; TO AMEND SECTION 33-15-11, MISSISSIPPI
4 CODE OF 1972, TO ALLOW THE GOVERNOR TO DIRECT THE STATE DEPARTMENT
5 OF HEALTH TO CARRY OUT CERTAIN FUNCTIONS RELATIVE TO THE DISPOSAL
6 OF DANGEROUS WASTES OR OTHER CONTAMINATED PROPERTY IN THE WAKE OF
7 A PANDEMIC, EPIDEMIC OR ACT OF TERRORISM; TO AMEND SECTION
8 41-3-15, MISSISSIPPI CODE OF 1972, TO REQUIRE THE STATE BOARD OF
9 HEALTH TO ADOPT RULES AND REGULATIONS NECESSARY FOR COMPLIANCE
10 WITH THIS ACT; TO AMEND SECTION 41-23-1, MISSISSIPPI CODE OF 1972,
11 TO REQUIRE THAT VETERINARIANS, CERTAIN STOCK DEALERS AND
12 PHARMACISTS REPORT DISEASES TO THE DEPARTMENT OF HEALTH; TO AMEND
13 SECTION 41-23-5, MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE
14 DEPARTMENT OF HEALTH TO TAKE RESPONSIBILITY FOR DEATH
15 INVESTIGATIONS IN CERTAIN CIRCUMSTANCES; TO CREATE A NEW CODE
16 SECTION, SECTION 41-39-55, MISSISSIPPI CODE OF 1972, TO PROVIDE
17 WHEN THE DEPARTMENT OF HEALTH MAY TAKE CHARGE OF CORPSES FOLLOWING
18 A PANDEMIC, EPIDEMIC OR ACT OF TERRORISM; AND FOR RELATED
19 PURPOSES.

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

21 **SECTION 1.** Section 33-15-5, Mississippi Code of 1972, is
22 amended as follows:

23 33-15-5. The following words, whenever used in this article
24 shall, unless a different meaning clearly appears from the
25 context, have the following meanings:

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

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

30 (c) "Emergency management" means the preparation for,
31 the mitigation of, the response to, and the recovery from
32 emergencies and disasters. Specific emergency management
33 responsibilities include, but are not limited to:

34 (i) Reduction of vulnerability of people and
35 communities of this state to damage, injury and loss of life and

36 property resulting from natural, technological or man-made
37 emergencies or hostile military paramilitary action.

38 (ii) Preparation for prompt and efficient response
39 and recovery to protect lives and property affected by
40 emergencies.

41 (iii) Response to emergencies using all systems,
42 plans and resources necessary to preserve adequately the health,
43 safety and welfare of persons or property affected by the
44 emergency.

45 (iv) Recovery from emergencies by providing for
46 the rapid and orderly start of restoration and rehabilitation of
47 persons and property affected by emergencies.

48 (v) Provision of an emergency management system
49 embodying all aspects of preemergency preparedness and
50 postemergency response, recovery and mitigation.

51 (vi) Assistance in anticipation, recognition,
52 appraisal, prevention and mitigation of emergencies which may be
53 caused or aggravated by inadequate planning for, and regulation of
54 public and private facilities and land use.

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

58 (e) "State of war emergency" means the condition which
59 exists immediately, with or without a proclamation thereof by the
60 Governor, whenever this state or nation is attacked by an enemy of
61 the United States or upon receipt by the state of a warning from
62 the federal government indicating that such an attack is probable
63 or imminent.

64 (f) "State of emergency" means the duly proclaimed
65 existence of conditions of disaster or extreme peril to the safety
66 of persons or property within the state caused by air or water
67 pollution, fire, flood, storm, epidemic, earthquake, hurricane,
68 resource shortages, or other natural or man-made conditions other

69 than conditions causing a "state of war emergency," which
70 conditions by reasons of their magnitude are or are likely to be
71 beyond the control of the services, personnel, equipment and
72 facilities of any single county and/or municipality and requires
73 combined forces of the state to combat.

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

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

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

92 (j) "Natural emergency" means an emergency caused by a
93 natural event, including, but not limited to, a hurricane, a
94 storm, a flood, severe wave action, a drought or an earthquake.
95 Natural emergencies also include pandemics and epidemics.

96 (k) "Technological emergency" means an emergency caused
97 by a technological failure or accident, including, but not limited
98 to, an explosion, transportation accident, radiological accident,
99 or chemical or other hazardous material incident.

100 (1) "Local emergency management agency" means an
101 organization created to discharge the emergency management
102 responsibilities and functions of a political subdivision.

103 (m) "Disaster" means any natural, technological or
104 civil emergency as defined in this section that causes damage of
105 sufficient severity and magnitude to result in a declaration of an
106 emergency by a county or municipality, the Governor or the
107 President of the United States. Disasters shall be identified by
108 the severity of resulting damage, as follows:

109 (i) "Catastrophic disaster" means a disaster that
110 will require massive state and federal assistance, including
111 immediate military involvement.

112 (ii) "Major disaster" means a disaster that will
113 likely exceed local capabilities and require a broad range of
114 state and federal assistance.

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

119 (n) "Disaster Reservist" means any person hired on a
120 temporary basis pursuant to State Personnel Board policies and
121 procedures regulating personal service contracts, that is hired to
122 perform specific tasks related to a Governor's State of Emergency,
123 or by an emergency or disaster declaration of the President of the
124 United States, by the agency, and is assigned to perform such
125 duties as may be required under the direction of the appropriate
126 agency supervisor.

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

131 **SECTION 2.** Section 33-15-11, Mississippi Code of 1972, is
132 amended as follows:

133 33-15-11. (a) The Governor shall have general direction and
134 control of the activities of the Emergency Management Agency and
135 Council and shall be responsible for the carrying out of the
136 provisions of this article, and in the event of a man-made,
137 technological or natural disaster or emergency beyond local
138 control, may assume direct operational control over all or any
139 part of the emergency management functions within this state.

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

142 (1) To make, amend and rescind the necessary orders,
143 rules and regulations to carry out the provisions of this article
144 with due consideration of the plans of the federal government, and
145 to enter into disaster assistance grants and agreements with the
146 federal government under the terms as may be required by federal
147 law.

148 (2) To work with the Mississippi Emergency Management
149 Agency in preparing a comprehensive plan and program for the
150 emergency management of this state, such plan and program to be
151 integrated into and coordinated with the emergency management
152 plans of the federal government and of other states to the fullest
153 possible extent, and to coordinate the preparation of plans and
154 programs for emergency management by the political subdivisions of
155 this state, such local plans to be integrated into and coordinated
156 with the emergency management plan and program of this state to
157 the fullest possible extent.

158 (3) In accordance with such plan and program for
159 emergency management of this state, to ascertain the requirements
160 of the state or the political subdivisions thereof for food or
161 clothing or other necessities of life in the event of attack or
162 natural or man-made or technological disasters and to plan for and
163 procure supplies, medicines, materials and equipment, and to use
164 and employ from time to time any of the property, services and
165 resources within the state, for the purposes set forth in this

166 article; to make surveys of the industries, resources and
167 facilities within the state as are necessary to carry out the
168 purposes of this article; to institute training programs and
169 public information programs, and to take all other preparatory
170 steps, including the partial or full mobilization of emergency
171 management organizations in advance of actual disaster, to insure
172 the furnishing of adequately trained and equipped forces of
173 emergency management personnel in time of need.

174 (4) To cooperate with the President and the heads of
175 the Armed Forces, and the Emergency Management Agency of the
176 United States, and with the officers and agencies of other states
177 in matters pertaining to the emergency management of the state and
178 nation and the incidents thereof; and in connection therewith, to
179 take any measures which he may deem proper to carry into effect
180 any request of the President and the appropriate federal officers
181 and agencies, for any action looking to emergency management,
182 including the direction or control of (a) blackouts and practice
183 blackouts, air raid drills, mobilization of emergency management
184 forces, and other tests and exercises, (b) warnings and signals
185 for drills or attacks and the mechanical devices to be used in
186 connection therewith, (c) the effective screening or extinguishing
187 of all lights and lighting devices and appliances, (d) shutting
188 off water mains, gas mains, electric power connections and the
189 suspension of all other utility services, (e) the conduct of
190 civilians and the movement and cessation of movement of
191 pedestrians and vehicular traffic during, prior and subsequent to
192 drills or attack, (f) public meetings or gatherings under
193 emergency conditions, and (g) the evacuation and reception of the
194 civilian population.

195 (5) To take such action and give such directions to
196 state and local law enforcement officers and agencies as may be
197 reasonable and necessary for the purpose of securing compliance

198 with the provisions of this article and with the orders, rules and
199 regulations made pursuant thereto.

200 (6) To employ such measures and give such directions to
201 the state or local boards of health as may be reasonably necessary
202 for the purpose of securing compliance with the provisions of this
203 article or with the findings or recommendations of such boards of
204 health by reason of conditions arising from enemy attack or the
205 threat of enemy attack or natural, man-made or technological
206 disaster.

207 (7) To utilize the services and facilities of existing
208 officers and agencies of the state and of the political
209 subdivisions thereof; and all such officers and agencies shall
210 cooperate with and extend their services and facilities to the
211 Governor as he may request.

212 (8) To establish agencies and offices and to appoint
213 executive, technical, clerical and other personnel as may be
214 necessary to carry out the provisions of this article including,
215 with due consideration to the recommendation of the local
216 authorities, part-time or full-time state and regional area
217 directors.

218 (9) To delegate any authority vested in him under this
219 article, and to provide for the subdelegation of any such
220 authority.

221 (10) On behalf of this state to enter into reciprocal
222 aid agreements or compacts with other states and the federal
223 government, either on a statewide basis or local political
224 subdivision basis or with a neighboring state or province of a
225 foreign country. Such mutual aid arrangements shall be limited to
226 the furnishings or exchange of food, clothing, medicine and other
227 supplies; engineering services; emergency housing; police
228 services; national or state guards while under the control of the
229 state; health, medical and related services; fire fighting,
230 rescue, transportation and construction services and equipment;

231 personnel necessary to provide or conduct these services; and such
232 other supplies, equipment, facilities, personnel and services as
233 may be needed; the reimbursement of costs and expenses for
234 equipment, supplies, personnel and similar items for mobile
235 support units, fire fighting and police units and health units;
236 and on such terms and conditions as are deemed necessary.

237 (11) To sponsor and develop mutual aid plans and
238 agreements between the political subdivisions of the state,
239 similar to the mutual aid arrangements with other states referred
240 to above.

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

246 (13) Authorize any agency or arm of the state to create
247 a special emergency management revolving fund, accept donations,
248 contributions, fees, grants, including federal funds, as may be
249 necessary for such agency or arm of the state to administer its
250 functions of this article as set forth in the Executive Order of
251 the Governor.

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

255 (15) To suspend or limit the sale, dispensing or
256 transportation of alcoholic beverages, firearms, explosives and
257 combustibles.

258 (16) To control, restrict and regulate by rationing,
259 freezing, use of quotas, prohibitions on shipments, price fixing,
260 allocation or other means, the use, sale or distribution of food,
261 feed, fuel, clothing and other commodities, materials, goods or
262 services.

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

278 (18) To declare an emergency impact area when he finds
279 that the conditions described in Section 33-15-5(o) exist. The
280 proclamation shall be in writing and shall take effect immediately
281 upon its execution by the Governor. As soon as possible, the
282 proclamation shall be filed with the Secretary of State and be
283 given widespread notice and publicity. The Governor shall review
284 the need for continuing the declaration of emergency impact area
285 at least every thirty (30) days until the emergency is terminated,
286 and shall proclaim the reduction of the emergency impact area or
287 termination of the declaration of emergency impact area at the
288 earliest date or dates possible.

289 (c) In addition to the powers conferred upon the Governor in
290 this section, the Legislature hereby expressly delegates to the
291 Governor the following powers and duties in the event of an
292 impending enemy attack, an enemy attack, or a man-made,
293 technological or natural disaster where such disaster is beyond
294 local control:

295 (1) To suspend the provisions of any regulatory statute
296 prescribing the procedures for conduct of state business, or the
297 orders, rules or regulations of any state agency, if strict
298 compliance with the provisions of any statute, order, rule or
299 regulation would in any way prevent, hinder or delay necessary
300 action in coping with a disaster or emergency.

301 (2) To transfer the direction, personnel or functions
302 of state agencies, boards, commissions or units thereof for the
303 purpose of performing or facilitating disaster or emergency
304 services.

305 (3) To commandeer or utilize any private property if
306 necessary to cope with a disaster or emergency, provided that such
307 private property so commandeered or utilized shall be paid for
308 under terms and conditions agreed upon by the participating
309 parties. The owner of said property shall immediately be given a
310 receipt for the said private property and said receipt shall serve
311 as a valid claim against the Treasury of the State of Mississippi
312 for the agreed upon market value of said property.

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

317 (d) (1) Following the declaration of an emergency on the
318 grounds of natural disaster arising out of an epidemic or
319 pandemic, or man-made disaster arising out of an act of terrorism,
320 the Governor may direct the appropriate licensing authority, in
321 conjunction with the State Board of Health, to exercise the
322 following powers for the duration of the emergency regarding the
323 licensure and deployment of health personnel:

324 (i) To require in-state health care providers to
325 assist in the performance of vaccination, treatment, examination
326 or testing of any individual as a condition of licensure,

327 authorization or, the ability to continue to function as a health
328 care provider in this state;

329 (ii) To appoint and prescribe the duties of such
330 out-of-state emergency health care providers as may be reasonable
331 and necessary for emergency response; and

332 (iii) To authorize the medical examiner or coroner
333 to appoint and prescribe the duties of such emergency assistant
334 medical examiners or coroners as may be required for the proper
335 performance of the duties of the office.

336 (2) (i) The appoint of out-of-state emergency health
337 care providers pursuant to this section may be for a limited or
338 unlimited time, but must not exceed the termination of the state
339 of public health emergency. The appropriate licensing authority
340 may terminate the out-of-state appointments at any time or for any
341 reason provided that any termination will not jeopardize the
342 health, safety and welfare of the people of this state.

343 (ii) The appropriate licensing authority may waive
344 any or all licensing requirements, permits or fees required by law
345 and applicable orders, rules or regulations for health care
346 providers from other jurisdictions to practice in this state.

347 (iii) Any out-of-state emergency health care
348 provider appointed pursuant to this section shall not be held
349 liable for any civil damages as a result of medical care or
350 treatment related to the emergency response unless the damages
351 result from providing, or failing to provide, medical care or
352 treatment under circumstances demonstrating a reckless disregard
353 for the consequences so as to affect the life or health of the
354 patient.

355 (3) (i) The appointment of emergency assistant medical
356 examiners or coroners pursuant to this section may be for a
357 limited or unlimited time, but must not exceed the termination of
358 the state of public health emergency. The medical examiner or
359 coroner may terminate the emergency appointments at any time or

360 for any reason, provided that any such termination may not impede
361 the performance of the duties of the office.

362 (ii) The medical examiner or coroner may waive any
363 or all licensing requirements, permits, or fees required by law
364 and applicable order, rules or regulations for the performance of
365 these duties.

366 (iii) Any person appointed pursuant to this
367 section who in good faith performs the assigned duties is not
368 liable for any civil damages for any personal injury as the result
369 of any act or omission, except acts of omissions amounting to
370 gross negligence or willful or wanton misconduct.

371 (4) All powers granted by this subsection (d) shall
372 terminate at the conclusion of the emergency.

373 (e) Following the declaration of an emergency on the grounds
374 of natural disasters arising out of an epidemic or pandemic, or
375 man-made disaster arising out of an act of terrorism, the Governor
376 may direct the Department of Health to take the following measures
377 respecting property both real and personal that may have been
378 contaminated:

379 (1) Close, compel evacuation, to decontaminate, or
380 cause to be decontaminated, any facility of which there is
381 reasonable cause to believe that it may endanger the public
382 health.

383 (2) To decontaminate, or cause to be decontaminated, or
384 destroy any material of which there is a reasonable cause to
385 believe that it may endanger the public health.

386 (3) To adopt measures for the safe disposal of
387 infectious waste as may be reasonable and necessary to respond to
388 the emergency. Such measures may include, but not be limited to,
389 the collection, storage, handling, destruction, transportation,
390 and disposal of infectious waste.

391 (4) To require any business or facility authorized to
392 collect, store, handle, destroy, treat, transport and dispose of

393 infectious waste under the laws of this state, and any landfill
394 business, or other property, to accept infectious waste or provide
395 service or the use of the business, facility or property if such
396 action is reasonable and necessary to respond to the emergency as
397 a condition of licensure, authorization, or the ability to
398 continue doing business in the state in such a business of
399 facility. The use of the business or facility or property may
400 include transferring the management and operation of such business
401 or facility or property to the public health authority for a
402 limited period of time not to exceed the period of the declared
403 emergency. In extraordinary cases, the Department of Health may
404 request that the Governor exercise the powers under paragraph (3)
405 of subsection (c) of this section, to commandeer the business or
406 facility if the public health demand such action.

407 (5) All bags, boxes or other containers containing
408 infectious wastes shall by regulation of the Department of Health
409 clearly identify the type of infectious waste contained in such
410 bag, box or other container.

411 (6) To the extent practicable and consistent with the
412 requirements of the public's health, the department shall, prior
413 to destroying any property, institute appropriate civil
414 proceedings against the property to be destroyed in accordance
415 with existing laws of the state, or any court rules or common law
416 principles regarding such actions. Any property acquired by the
417 department through such proceedings shall after entry of decree be
418 disposed of by destruction as the court may direct.

419 (7) All powers granted by this subsection (e) shall
420 terminate at the conclusion of the declared emergency.

421 **SECTION 3.** Section 41-3-15, Mississippi Code of 1972, is
422 amended as follows:

423 41-3-15. (1) There shall be a State Department of Health
424 which shall be organized into such bureaus and divisions as are
425 considered necessary by the executive officer, and shall be

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

428 (2) The State Board of Health shall have the authority to
429 establish an Office of Rural Health within the department. The
430 duties and responsibilities of this office shall include the
431 following:

432 (a) To collect and evaluate data on rural health
433 conditions and needs;

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

436 (c) To develop and implement plans and provide
437 technical assistance to enable community health systems to respond
438 to various changes in their circumstances;

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

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

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

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

448 (a) To make investigations and inquiries with respect
449 to the causes of disease and death, and to investigate the effect
450 of environment, including conditions of employment and other
451 conditions which may affect health, and to make such other
452 investigations as it may deem necessary for the preservation and
453 improvement of health.

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

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

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

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

469 (f) To charge and collect reasonable fees for health
470 services, including immunizations, inspections and related
471 activities, and the board shall charge fees for such services;
472 provided, however, if it is determined that a person receiving
473 services is unable to pay the total fee, the board shall collect
474 any amount such person is able to pay.

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

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

479 (i) (i) To establish standards for, issue permits and
480 exercise control over, any cafes, restaurants, food or drink
481 stands, sandwich manufacturing establishments, and all other
482 establishments, other than churches, church-related and private
483 schools, and other nonprofit or charitable organizations, where
484 food or drink is regularly prepared, handled and served for pay;
485 and

486 (ii) To require that a permit be obtained from the
487 Department of Health before such persons begin operation. If any
488 such person fails to obtain the permit required herein, the State
489 Board of Health, after due notice and opportunity for a hearing,
490 may impose a monetary penalty not to exceed One Thousand Dollars

491 (\$1,000.00) for each violation. However, the department is not
492 authorized to impose a monetary penalty against any person whose
493 gross annual prepared food sales are less than Five Thousand
494 Dollars (\$5,000.00). Money collected by the board under this item
495 shall be deposited to the credit of the State General Fund of the
496 State Treasury. This subparagraph (ii) shall stand repealed on
497 July 1, 2007.

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

501 (k) On presentation of proper authority, to enter into
502 and inspect any public place or building where the State Health
503 Officer or his representative deems it necessary and proper to
504 enter for the discovery and suppression of disease and for the
505 enforcement of any health or sanitary laws and regulations in the
506 state.

507 (l) To conduct investigations, inquiries and hearings,
508 and to issue subpoenas for the attendance of witnesses and the
509 production of books and records at any hearing when authorized and
510 required by statute to be conducted by the State Health Officer or
511 the State Board of Health.

512 (m) To employ, subject to the regulations of the State
513 Personnel Board, qualified professional personnel in the subject
514 matter or fields of each bureau, and such other technical and
515 clerical staff as may be required for the operation of the
516 department. The executive officer shall be the appointing
517 authority for the department, and shall have the power to delegate
518 the authority to appoint or dismiss employees to appropriate
519 subordinates, subject to the rules and regulations of the State
520 Personnel Board.

521 (n) To promulgate rules and regulations, and to collect
522 data and information, on (i) the delivery of services through the

523 practice of telemedicine; and (ii) the use of electronic records
524 for the delivery of telemedicine services.

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

527 (5) (a) The State Board of Health shall have the authority,
528 in its discretion, to establish programs to promote the public
529 health, to be administered by the State Department of Health.
530 Specifically, such programs may include, but shall not be limited
531 to, programs in the following areas:

532 (i) Maternal and child health;

533 (ii) Family planning;

534 (iii) Pediatric services;

535 (iv) Services to crippled and disabled children;

536 (v) Control of communicable and noncommunicable

537 disease;

538 (vi) Child care licensure;

539 (vii) Radiological health;

540 (viii) Dental health;

541 (ix) Milk sanitation;

542 (x) Occupational safety and health;

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

544 (xii) Protection of drinking water;

545 (xiii) Sanitation in food handling establishments

546 open to the public;

547 (xiv) Registration of births and deaths and other

548 vital events;

549 (xv) Such public health programs and services as

550 may be assigned to the State Board of Health by the Legislature or

551 by executive order; and

552 (xvi) Regulation of domestic and imported fish for

553 human consumption.

554 (b) The State Board of Health and State Department of

555 Health shall not be authorized to sell, transfer, alienate or

556 otherwise dispose of any of the home health agencies owned and
557 operated by the department on January 1, 1995, and shall not be
558 authorized to sell, transfer, assign, alienate or otherwise
559 dispose of the license of any of those home health agencies,
560 except upon the specific authorization of the Legislature by an
561 amendment to this section. However, this paragraph (b) shall not
562 prevent the board or the department from closing or terminating
563 the operation of any home health agency owned and operated by the
564 department, or closing or terminating any office, branch office or
565 clinic of any such home health agency, or otherwise discontinuing
566 the providing of home health services through any such home health
567 agency, office, branch office or clinic, if the board first
568 demonstrates that there are other providers of home health
569 services in the area being served by the department's home health
570 agency, office, branch office or clinic that will be able to
571 provide adequate home health services to the residents of the area
572 if the department's home health agency, office, branch office or
573 clinic is closed or otherwise discontinues the providing of home
574 health services. This demonstration by the board that there are
575 other providers of adequate home health services in the area shall
576 be spread at length upon the minutes of the board at a regular or
577 special meeting of the board at least thirty (30) days before a
578 home health agency, office, branch office or clinic is proposed to
579 be closed or otherwise discontinue the providing of home health
580 services.

581 (c) The State Department of Health may undertake such
582 technical programs and activities as may be required for the
583 support and operation of such programs, including maintaining
584 physical, chemical, bacteriological and radiological laboratories,
585 and may make such diagnostic tests for diseases and tests for the
586 evaluation of health hazards as may be deemed necessary for the
587 protection of the people of the state.

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

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

592 (i) To enter into capitalization grant agreements
593 with the United States Environmental Protection Agency, or any
594 successor agency thereto;

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

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

600 (iv) To establish and collect fees to defray the
601 reasonable costs of administering the revolving fund or emergency
602 fund if the State Board of Health determines that such costs will
603 exceed the limitations established in the federal Safe Drinking
604 Water Act, as amended. The administration fees may be included in
605 loan amounts to loan recipients for the purpose of facilitating
606 payment to the board; however, such fees may not exceed five
607 percent (5%) of the loan amount.

608 (7) The State Board of Health shall adopt any and all
609 regulations or rules necessary to insure compliance with this act.

610 **SECTION 4.** Section 41-23-1, Mississippi Code of 1972, is
611 amended as follows:

612 41-23-1. (1) The State Board of Health shall adopt rules
613 and regulations (a) defining and classifying communicable diseases
614 and other diseases that are a danger to health based upon the
615 characteristics of the disease; and (b) establishing reporting,
616 monitoring and preventive procedures for those diseases.

617 (2) Upon the death of any person who has been diagnosed as
618 having Human Immunodeficiency Virus/Acquired Immune Deficiency
619 Syndrome (HIV/AIDS) or any Class 1 disease as designated by the
620 State Board of Health, in a hospital or other health care

621 facility, in all other cases where there is an attending
622 physician, and in cases in which the medical examiner, as defined
623 in Section 41-61-53(f), investigates and certifies the cause of
624 death, the attending physician, the person in charge of the
625 hospital or health care facility, or the medical examiner, as the
626 case may be, shall report as soon as practicable to the Executive
627 Officer of the State Board of Health or to other authorities the
628 cause or contributing cause of death as required by the State
629 Board of Health. Such reporting shall be according to procedures
630 as required by the State Board of Health.

631 (3) Upon the death of any person who has been diagnosed as
632 having Human Immunodeficiency Virus/Acquired Immune Deficiency
633 Syndrome (HIV/AIDS), where there is not an attending physician,
634 any family member or other person making disposition of the body
635 who knows that such decedent had been diagnosed as having HIV/AIDS
636 shall report this fact to the medical examiner as defined in
637 Section 41-61-53(f), who shall report as soon as practicable to
638 the Executive Officer of the State Board of Health or to other
639 authorities the cause or contributing cause of death as required
640 by the State Board of Health. Such reporting shall be according
641 to procedures as required by the State Board of Health.

642 (4) Every practicing or licensed physician, or person in
643 charge of a hospital, health care facility, insurance company
644 which causes to be performed blood tests for underwriting purposes
645 or laboratory, shall report immediately to the Executive Officer
646 of the State Board of Health or to other authorities as required
647 by the State Board of Health every case of such diseases as shall
648 be required to be reported by the State Board of Health. Such
649 reporting shall be according to procedures, and shall include such
650 information about the case, as shall be required by the State
651 Board of Health. Insurance companies having such blood test
652 results shall report immediately to the Executive Officer of the
653 State Board of Health or to other authorities as required by the

654 State Board of Health every case of such diseases as shall be
655 required to be reported by the State Board of Health. The
656 insurance company shall notify the individual on whom the blood
657 test was performed in writing by certified mail of an adverse
658 underwriting decision based upon the results of such individual's
659 blood test but shall not disclose the specific results of such
660 blood tests to the individual. The insurance company shall also
661 inform the individual on whom the blood test was performed that
662 the results of the blood test will be sent to the physician
663 designated by the individual at the time of application and that
664 such physician should be contacted for information regarding the
665 blood test results. If a physician was not designated at the time
666 of application, the insurance company shall request that the
667 individual name a physician to whom a copy of the blood test can
668 be sent.

669 (5) Any practicing or licensed physician, or person in
670 charge of a hospital or health care facility, who knows that a
671 patient has a medical condition specified by the Department of
672 Health as requiring special precautions by health care providers,
673 shall report this fact and the need for appropriate precautions to
674 any other institution or provider of health care services to whom
675 such patient is transferred or referred, according to regulations
676 established by the State Board of Health.

677 (6) Any practicing or licensed physician or person in charge
678 of a hospital, health care facility or laboratory who fails to
679 make the reports required under this section regarding Human
680 Immunodeficiency Virus/Acquired Immune Deficiency Syndrome
681 (HIV/AIDS) or any Class 1 disease or condition as designated by
682 the State Board of Health shall be reported to the Board of
683 Medical Licensure, in the case of a physician, or to the
684 applicable licensing agency in the case of institutions, and such
685 failure shall be grounds for suspension of license.

686 (7) In accordance with regulations of the Department of
687 Health, every veterinarian, livestock owner, veterinary diagnostic
688 laboratory director or other person having the care of animals
689 shall report animals having or suspected of having any disease
690 that may be caused by bioterrorism, epidemic or pandemic disease,
691 or novel and highly fatal infectious agents or biological or other
692 toxins that might pose a substantial risk of a significant number
693 of human or animal fatalities or incidents of permanent or
694 long-term disability. The Department of Health shall by
695 regulation determine which diseases or other conditions shall be
696 reportable.

697 (8) (a) In accordance with regulations of the Department of
698 Health, persons registered to dispense controlled substances under
699 this article shall report any unusual or increased prescription
700 rates, unusual types of prescriptions, or unusual trends in
701 pharmacy visits that may be caused by bioterrorism, epidemic or
702 pandemic disease, or novel and high fatal infectious agents or
703 biological or other toxins that might pose a substantial risk of a
704 significant number of human fatalities or incidents of permanent
705 or long-term disability. Prescription-related events that suggest
706 a report, include, but are not limited to: an unusual increase in
707 the number of prescriptions to treat fever, respiratory or
708 gastrointestinal complaints; an unusual increase in the number of
709 prescriptions for antibiotics; an unusual increase in the number
710 of requests for information on over-the-counter pharmaceuticals to
711 treat fever, respiratory or gastrointestinal complaints; and any
712 prescription that treats a disease that is relatively uncommon and
713 has bioterrorism potential. The report shall be transmitted to
714 the State Department of Health in a format prescribed by the
715 department and shall include as much of the following information
716 as possible:

717 (i) Recipient's name, when feasible to submit;

718 (ii) Recipient's identification number;

719 (iii) National Drug Code number of the substance
720 dispensed;

721 (iv) Date of the dispensation;

722 (v) Quantity of the substance dispensed;

723 (vi) Prescriber's United States Drug Enforcement
724 Administration registration number; and

725 (vii) Dispenser's registration number and
726 location.

727 (b) The information collected pursuant to paragraph (a)
728 of this subsection shall be confidential and shall not be open to
729 the public. Access to the information shall be limited to:

730 (i) Bureau of Narcotics agents and special
731 contract agents of the bureau pursuant to Section 41-29-112;

732 (ii) The United States Drug Enforcement
733 Administration Diversion Group Supervisor; and

734 (iii) The executive director or chief
735 investigator, as designated by each board, of the state boards of
736 Dental Examiners, Pharmacy, Medical Licensure, and Nursing; the
737 State Board of Pharmacy, and Veterinary Medical Examiners,
738 provided, however, that the executive director or chief
739 investigator of each of these boards shall be limited to access to
740 information relevant to licensees of his employing board.

741 (c) Any person authorized to dispense controlled
742 substances as described in paragraph (a) of this subsection who
743 fails to comply with this provision of law shall be guilty of a
744 misdemeanor and shall, upon conviction, be fined in an amount not
745 to exceed One Thousand Dollars (\$1,000.00) or jailed in the county
746 jail for a period not to exceed six (6) months, or both.

747 (d) The State Department of Health shall have the
748 authority to investigate any person required to comply with this
749 section and any pharmacy which, in the opinion of the department,
750 employs persons who have failed to comply with this section and
751 may petition the chancery court of any county wherein such person

752 is employed, or where such pharmacy may be located, for any order
753 or writ necessary to obtain compliance with the provisions of this
754 subsection (8).

755 (e) The Department of Health shall have the authority
756 to adopt regulations that set out the types of conduct that must
757 be reported under the authority of this subsection (8).

758 (9) Any person other than a practicing or licensed
759 physician, or person in charge of a hospital or health care
760 facility, willfully failing to make the reports required under
761 this section shall be guilty of a misdemeanor and, upon
762 conviction, shall be punished by a fine of not more than Five
763 Hundred Dollars (\$500.00) or by confinement in the county jail for
764 not more than thirty (30) days, or both.

765 (10) The provisions of this section are cumulative and
766 supplemental to any other provision of law, and a conviction or
767 penalty imposed under this section shall not preclude any other
768 action at law, proceedings for professional discipline or other
769 criminal proceedings.

770 (11) Notwithstanding any law of this state to the contrary,
771 the State Board of Health is authorized to establish the rules by
772 which exceptions may be made to the confidentiality provisions of
773 the laws of this state for the notification of third parties of an
774 individual's infection with any Class 1 or Class 2 disease, as
775 designated by the State Board of Health, when exposure is
776 indicated or there exists a threat to the public health and
777 welfare. All notifications authorized by this section shall be
778 within the rules established according to this subsection. All
779 persons who receive notification of the infectious condition of an
780 individual under this subsection and the rules established under
781 this subsection shall hold such information in the strictest of
782 confidence and privilege, shall not reveal the information to
783 others, and shall take only those actions necessary to protect the

784 health of the infected person or other persons where there is a
785 foreseeable, real or probable risk of transmission of the disease.

786 (12) Each public or private correctional facility housing
787 state offenders, federal offenders or offenders from any other
788 jurisdiction shall require all offenders in the facility to be
789 tested for tuberculosis and Human Immunodeficiency Virus (HIV) in
790 conjunction with the rules and regulations of the State Department
791 of Health. The reporting shall be according to procedures and
792 shall include any information about the case that is required by
793 the State Board of Health. In order to carry out the provisions
794 of this section, the following shall apply:

795 (a) Any such public or private correctional facility
796 may contract with the Mississippi Department of Corrections, the
797 Mississippi State Department of Health, or other such appropriate
798 state, federal or local entity for the inspection, monitoring or
799 provision of any assistance necessary or desirable to maintain
800 appropriate facilities for the purpose of identification,
801 prevention, and treatment of communicable diseases and other
802 conditions considered prejudicial to public health; and

803 (b) Any such public or private correctional facility
804 shall grant representatives of the State Department of Health, in
805 the discharge of its duties, access to all areas of the facility
806 and to the offenders and staff at all times. The facility shall
807 reimburse the State Department of Health for all costs incurred
808 for the control of communicable diseases or other conditions
809 prejudicial to public health in the facility and for the costs
810 incurred for the control of communicable diseases or other
811 conditions prejudicial to public health spreading from the
812 facility, staff or inmates to other individuals or property in the
813 county or state.

814 **SECTION 5.** Section 41-23-5, Mississippi Code of 1972, is
815 amended as follows:

816 41-23-5. (1) The State Department of Health shall have the
817 authority to investigate and control the causes of epidemic,
818 infectious and other disease affecting the public health,
819 including the authority to establish, maintain and enforce
820 isolation and quarantine, and in pursuance thereof, to exercise
821 such physical control over property and individuals as the
822 department may find necessary for the protection of the public
823 health.

824 (2) In the event that the Governor declares an emergency for
825 cause of a natural disaster arising out of an epidemic or
826 pandemic, or man-made disaster arising out of an act of terrorism,
827 notwithstanding any provision of law to the contrary, the State
828 Department of Health shall have such authority as the State Health
829 Officer deems proper and necessary to protect the public health,
830 to investigate and certify that causes of any deaths that have
831 occurred in any area described in the Governor's declaration of
832 emergency and may appoint private physicians to conduct such
833 investigations or utilize the personnel or facilities of the
834 Office of the State Medical Examiner in instances wherein the
835 State Health Officer deems such appropriate.

836 **SECTION 6.** The following shall be codified as Section
837 41-39-55, Mississippi Code of 1972:

838 41-39-55. (1) In the event that the Governor declares an
839 emergency for cause of a natural disaster arising out of an
840 epidemic or pandemic, or man-made disaster arising out of an act
841 of terrorism, the Department of Health shall direct coroners,
842 medical examiners and funeral directors, for such period as the
843 state of emergency exists, to exercise, in addition to existing
844 powers, the following powers regarding the safe disposal of human
845 remains:

846 (a) To take possession or control of any human remains
847 which cannot be safely handled otherwise;

848 (b) To order the disposal of human remains of a person
849 who has died of an infectious disease through burial or cremation
850 within twenty-four (24) hours after death;

851 (c) To require any business or facility authorized to
852 embalm, bury, cremate, inter, disinter, transport and dispose of
853 human remains under the laws of this state to accept any human
854 remains or provide the use of its business or facility if these
855 actions are reasonable and necessary for emergency response. When
856 necessary during the period of time of the public health
857 emergency, the department must coordinate with the business or
858 facility on the management or supervision of the business or
859 facility; and

860 (d) To procure, by order or otherwise, any business or
861 facility authorized to embalm, bury, cremate, inter, disinter,
862 transport, and dispose of human remains under the laws of this
863 state as may be reasonable and necessary for emergency response,
864 with the right to take immediate possession thereof.

865 (2) Where possible, existing provisions set forth in the
866 State Operations Plan for the safe disposal of human remains must
867 be used in a public health emergency. Where the State Operations
868 Plan is not sufficient to handle the safe disposal of human
869 remains for a public health emergency, the department, in
870 coordination with coroners, medical examiners and funeral
871 directors, must adopt and enforce measures to provide for the
872 examiners and funeral directors, must adopt and enforce measures
873 to provide for the safe disposal of human remains as may be
874 reasonable and necessary for emergency response. These measures
875 may include, but are not limited to, the embalming, burial,
876 cremation, interment, disinterment, transportation and disposal of
877 human remains.

878 (3) All human remains prior to disposal must be clearly
879 labeled with all available information to identify the decedent
880 and the circumstances of death. Any human remains of a deceased

881 person with an infectious disease must have an external, clearly
882 visible tag indicating that the human remains are infected and, if
883 known, the infectious disease.

884 (4) Every person in charge of disposing of any human remains
885 must maintain a written record of each set of human remains and
886 all available information to identify the decedent and the
887 circumstances of death and disposal. If the human remains cannot
888 be identified, prior to disposal, a qualified person must, to the
889 extent possible, take fingerprints and one or more photographs of
890 the human remains, and collect a DNA specimen. All information
891 gathered under this subsection must be promptly forwarded to the
892 department. Identification must be handled by the agencies that
893 have laboratories suitable for DNA identification.

894 (5) The Department of Health shall have the authority to
895 issue such regulations as are reasonably necessary to carry out
896 the purposes of this section.

897 **SECTION 7.** This act shall take effect and be in force from
898 and after July 1, 2007.