

By: Representatives Moss, Bailey, Dedeaux,
Robinson

To: Public Health and Human
Services

HOUSE BILL NO. 960

1 AN ACT TO AMEND SECTION 33-15-5, MISSISSIPPI CODE OF 1972, TO
2 INCLUDE PANDEMICS AND EPIDEMICS WITHIN THE DEFINITION OF THE TERM
3 "NATURAL EMERGENCY" UNDER THE EMERGENCY MANAGEMENT LAW; TO AMEND
4 SECTION 33-15-11, MISSISSIPPI CODE OF 1972, TO ALLOW THE GOVERNOR
5 TO DIRECT THE STATE DEPARTMENT OF HEALTH TO CARRY OUT CERTAIN
6 FUNCTIONS RELATIVE TO THE DISPOSAL OF DANGEROUS WASTES OR OTHER
7 CONTAMINATED PROPERTY IN THE WAKE OF A PANDEMIC, EPIDEMIC OR ACT
8 OF TERRORISM; TO AMEND SECTION 41-3-15, MISSISSIPPI CODE OF 1972,
9 TO REQUIRE THE STATE BOARD OF HEALTH TO ADOPT RULES AND
10 REGULATIONS NECESSARY FOR COMPLIANCE WITH THIS ACT; TO AMEND
11 SECTION 41-23-1, MISSISSIPPI CODE OF 1972, TO REQUIRE THAT
12 VETERINARIANS, CERTAIN STOCK DEALERS AND PHARMACISTS REPORT
13 DISEASES TO THE DEPARTMENT OF HEALTH; TO AMEND SECTION 41-23-5,
14 MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE DEPARTMENT OF HEALTH TO
15 TAKE RESPONSIBILITY FOR DEATH INVESTIGATIONS IN CERTAIN
16 CIRCUMSTANCES; TO CREATE NEW SECTION 41-39-55, MISSISSIPPI CODE OF
17 1972, TO PROVIDE WHEN THE DEPARTMENT OF HEALTH MAY TAKE CHARGE OF
18 CORPSES FOLLOWING A PANDEMIC, EPIDEMIC OR ACT OF TERRORISM; AND
19 FOR RELATED 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 appointment of out-of-state emergency
337 health care providers pursuant to this section may be for a
338 limited or unlimited time, but must not exceed the termination of
339 the state of public health emergency. The appropriate licensing
340 authority may terminate the out-of-state appointments at any time
341 or for any reason provided that any termination will not
342 jeopardize the health, safety and welfare of the people of this
343 state.

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

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

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



360 coroner may terminate the emergency appointments at any time or
361 for any reason, provided that any such termination may not impede
362 the performance of the duties of the office.

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

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

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

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

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

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

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



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

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

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

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

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



424 41-3-15. (1) (a) There shall be a State Department of
425 Health.

426 (b) The State Board of Health shall have the following
427 powers and duties:

428 (i) To formulate the policy of the State
429 Department of Health regarding public health matters within the
430 jurisdiction of the department;

431 (ii) To adopt, modify, repeal and promulgate,
432 after due notice and hearing, and enforce rules and regulations
433 implementing or effectuating the powers and duties of the
434 department under any and all statutes within the department's
435 jurisdiction, and as the board may deem necessary;

436 (iii) To apply for, receive, accept and expend any
437 federal or state funds or contributions, gifts, trusts, devises,
438 bequests, grants, endowments or funds from any other source or
439 transfers of property of any kind;

440 (iv) To enter into, and to authorize the executive
441 officer to execute, contracts, grants and cooperative agreements
442 with any federal or state agency or subdivision thereof, or any
443 public or private institution located inside or outside the State
444 of Mississippi, or any person, corporation or association in
445 connection with carrying out the provisions of this chapter, if it
446 finds those actions to be in the public interest and the contracts
447 or agreements do not have a financial cost that exceeds the
448 amounts appropriated for those purposes by the Legislature;

449 (v) To appoint, upon recommendation of the
450 Executive Officer of the State Department of Health, a Director of
451 Internal Audit who shall be either a Certified Public Accountant
452 or Certified Internal Auditor, and whose employment shall be
453 continued at the discretion of the board, and who shall report
454 directly to the board, or its designee; and



455 (vi) To discharge such other duties,
456 responsibilities and powers as are necessary to implement the
457 provisions of this chapter.

458 (c) The Executive Officer of the State Department of
459 Health shall have the following powers and duties:

460 (i) To administer the policies of the State Board
461 of Health within the authority granted by the board;

462 (ii) To supervise and direct all administrative
463 and technical activities of the department, except that the
464 department's internal auditor shall be subject to the sole
465 supervision and direction of the board;

466 (iii) To organize the administrative units of the
467 department in accordance with the plan adopted by the board and,
468 with board approval, alter the organizational plan and reassign
469 responsibilities as he or she may deem necessary to carry out the
470 policies of the board;

471 (iv) To coordinate the activities of the various
472 offices of the department;

473 (v) To employ, subject to regulations of the State
474 Personnel Board, qualified professional personnel in the subject
475 matter or fields of each office, and such other technical and
476 clerical staff as may be required for the operation of the
477 department. The executive officer shall be the appointing
478 authority for the department, and shall have the power to delegate
479 the authority to appoint or dismiss employees to appropriate
480 subordinates, subject to the rules and regulations of the State
481 Personnel Board;

482 (vi) To recommend to the board such studies and
483 investigations as he or she may deem appropriate, and to carry out
484 the approved recommendations in conjunction with the various
485 offices;

486 (vii) To prepare and deliver to the Legislature
487 and the Governor on or before January 1 of each year, and at such



488 other times as may be required by the Legislature or Governor, a
489 full report of the work of the department and the offices thereof,
490 including a detailed statement of expenditures of the department
491 and any recommendations the board may have;

492 (viii) To prepare and deliver to the Chairmen of
493 the Public Health and Welfare/Human Services Committees of the
494 Senate and House on or before January 1 of each year, a plan for
495 monitoring infant mortality in Mississippi and a full report of
496 the work of the department on reducing Mississippi's infant
497 mortality and morbidity rates and improving the status of maternal
498 and infant health; and

499 (ix) To enter into contracts, grants and
500 cooperative agreements with any federal or state agency or
501 subdivision thereof, or any public or private institution located
502 inside or outside the State of Mississippi, or any person,
503 corporation or association in connection with carrying out the
504 provisions of this chapter, if he or she finds those actions to be
505 in the public interest and the contracts or agreements do not have
506 a financial cost that exceeds the amounts appropriated for those
507 purposes by the Legislature. Each contract or agreement entered
508 into by the executive officer shall be submitted to the board
509 before its next meeting.

510 (2) The State Board of Health shall have the authority to
511 establish an Office of Rural Health within the department. The
512 duties and responsibilities of this office shall include the
513 following:

514 (a) To collect and evaluate data on rural health
515 conditions and needs;

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

518 (c) To develop and implement plans and provide
519 technical assistance to enable community health systems to respond
520 to various changes in their circumstances;



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

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

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

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

530 (a) To make investigations and inquiries with respect
531 to the causes of disease and death, and to investigate the effect
532 of environment, including conditions of employment and other
533 conditions that may affect health, and to make such other
534 investigations as it may deem necessary for the preservation and
535 improvement of health.

536 (b) To make such sanitary investigations as it may,
537 from time to time, deem necessary for the protection and
538 improvement of health and to investigate nuisance questions that
539 affect the security of life and health within the state.

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

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

547 (e) To charge and collect reasonable fees for health
548 services, including immunizations, inspections and related
549 activities, and the board shall charge fees for those services;
550 provided, however, if it is determined that a person receiving
551 services is unable to pay the total fee, the board shall collect
552 any amount that the person is able to pay.



553 (f) (i) To establish standards for, issue permits and
554 exercise control over, any cafes, restaurants, food or drink
555 stands, sandwich manufacturing establishments, and all other
556 establishments, other than churches, church-related and private
557 schools, and other nonprofit or charitable organizations, where
558 food or drink is regularly prepared, handled and served for pay;
559 and

560 (ii) To require that a permit be obtained from the
561 Department of Health before those persons begin operation. If any
562 such person fails to obtain the permit required in this
563 subparagraph (ii), the State Board of Health, after due notice and
564 opportunity for a hearing, may impose a monetary penalty not to
565 exceed One Thousand Dollars (\$1,000.00) for each violation.
566 However, the department is not authorized to impose a monetary
567 penalty against any person whose gross annual prepared food sales
568 are less than Five Thousand Dollars (\$5,000.00). Money collected
569 by the board under this subparagraph (ii) shall be deposited to
570 the credit of the State General Fund of the State Treasury.

571 (g) To promulgate rules and regulations and exercise
572 control over the production and sale of milk pursuant to the
573 provisions of Sections 75-31-41 through 75-31-49.

574 (h) On presentation of proper authority, to enter into
575 and inspect any public place or building where the State Health
576 Officer or his representative deems it necessary and proper to
577 enter for the discovery and suppression of disease and for the
578 enforcement of any health or sanitary laws and regulations in the
579 state.

580 (i) To conduct investigations, inquiries and hearings,
581 and to issue subpoenas for the attendance of witnesses and the
582 production of books and records at any hearing when authorized and
583 required by statute to be conducted by the State Health Officer or
584 the State Board of Health.



585 (j) To promulgate rules and regulations, and to collect
586 data and information, on (i) the delivery of services through the
587 practice of telemedicine; and (ii) the use of electronic records
588 for the delivery of telemedicine services.

589 (k) To enforce and regulate domestic and imported fish
590 as authorized under Section 69-7-601 et seq.

591 (5) (a) The State Board of Health shall have the authority,
592 in its discretion, to establish programs to promote the public
593 health, to be administered by the State Department of Health.
594 Specifically, those programs may include, but shall not be limited
595 to, programs in the following areas:

596 (i) Maternal and child health;

597 (ii) Family planning;

598 (iii) Pediatric services;

599 (iv) Services to crippled and disabled children;

600 (v) Control of communicable and noncommunicable
601 disease;

602 (vi) Chronic disease;

603 (vii) Accidental deaths and injuries;

604 (viii) Child care licensure;

605 (ix) Radiological health;

606 (x) Dental health;

607 (xi) Milk sanitation;

608 (xii) Occupational safety and health;

609 (xiii) Food, vector control and general
610 sanitation;

611 (xiv) Protection of drinking water;

612 (xv) Sanitation in food handling establishments
613 open to the public;

614 (xvi) Registration of births and deaths and other
615 vital events;



616 (xvii) Such public health programs and services as
617 may be assigned to the State Board of Health by the Legislature or
618 by executive order; and

619 (xviii) Regulation of domestic and imported fish
620 for human consumption.

621 (b) The State Board of Health and State Department of
622 Health shall not be authorized to sell, transfer, alienate or
623 otherwise dispose of any of the home health agencies owned and
624 operated by the department on January 1, 1995, and shall not be
625 authorized to sell, transfer, assign, alienate or otherwise
626 dispose of the license of any of those home health agencies,
627 except upon the specific authorization of the Legislature by an
628 amendment to this section. However, this paragraph (b) shall not
629 prevent the board or the department from closing or terminating
630 the operation of any home health agency owned and operated by the
631 department, or closing or terminating any office, branch office or
632 clinic of any such home health agency, or otherwise discontinuing
633 the providing of home health services through any such home health
634 agency, office, branch office or clinic, if the board first
635 demonstrates that there are other providers of home health
636 services in the area being served by the department's home health
637 agency, office, branch office or clinic that will be able to
638 provide adequate home health services to the residents of the area
639 if the department's home health agency, office, branch office or
640 clinic is closed or otherwise discontinues the providing of home
641 health services. This demonstration by the board that there are
642 other providers of adequate home health services in the area shall
643 be spread at length upon the minutes of the board at a regular or
644 special meeting of the board at least thirty (30) days before a
645 home health agency, office, branch office or clinic is proposed to
646 be closed or otherwise discontinue the providing of home health
647 services.



648 (c) The State Department of Health may undertake such
649 technical programs and activities as may be required for the
650 support and operation of those programs, including maintaining
651 physical, chemical, bacteriological and radiological laboratories,
652 and may make such diagnostic tests for diseases and tests for the
653 evaluation of health hazards as may be deemed necessary for the
654 protection of the people of the state.

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

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

659 (i) To enter into capitalization grant agreements
660 with the United States Environmental Protection Agency, or any
661 successor agency thereto;

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

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

667 (iv) To establish and collect fees to defray the
668 reasonable costs of administering the revolving fund or emergency
669 fund if the State Board of Health determines that those costs will
670 exceed the limitations established in the federal Safe Drinking
671 Water Act, as amended. The administration fees may be included in
672 loan amounts to loan recipients for the purpose of facilitating
673 payment to the board; however, those fees may not exceed five
674 percent (5%) of the loan amount.

675 (7) The State Board of Health shall adopt any regulations or
676 rules necessary to insure compliance with House Bill No. _____,
677 2009 Regular Session.

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



680 41-23-1. (1) The State Board of Health shall adopt rules
681 and regulations (a) defining and classifying communicable diseases
682 and other diseases that are a danger to health based upon the
683 characteristics of the disease; and (b) establishing reporting,
684 monitoring and preventive procedures for those diseases.

685 (2) Upon the death of any person who has been diagnosed as
686 having Human Immunodeficiency Virus/Acquired Immune Deficiency
687 Syndrome (HIV/AIDS) or any Class 1 disease as designated by the
688 State Board of Health, in a hospital or other health care
689 facility, in all other cases where there is an attending
690 physician, and in cases in which the medical examiner, as defined
691 in Section 41-61-53(f), investigates and certifies the cause of
692 death, the attending physician, the person in charge of the
693 hospital or health care facility, or the medical examiner, as the
694 case may be, shall report as soon as practicable to the Executive
695 Officer of the State Board of Health or to other authorities the
696 cause or contributing cause of death as required by the State
697 Board of Health. Such reporting shall be according to procedures
698 as required by the State Board of Health.

699 (3) Upon the death of any person who has been diagnosed as
700 having Human Immunodeficiency Virus/Acquired Immune Deficiency
701 Syndrome (HIV/AIDS), where there is not an attending physician,
702 any family member or other person making disposition of the body
703 who knows that such decedent had been diagnosed as having HIV/AIDS
704 shall report this fact to the medical examiner as defined in
705 Section 41-61-53(f), who shall report as soon as practicable to
706 the Executive Officer of the State Board of Health or to other
707 authorities the cause or contributing cause of death as required
708 by the State Board of Health. Such reporting shall be according
709 to procedures as required by the State Board of Health.

710 (4) Every practicing or licensed physician, or person in
711 charge of a hospital, health care facility, insurance company
712 which causes to be performed blood tests for underwriting purposes



713 or laboratory, shall report immediately to the Executive Officer
714 of the State Board of Health or to other authorities as required
715 by the State Board of Health every case of such diseases as shall
716 be required to be reported by the State Board of Health. Such
717 reporting shall be according to procedures, and shall include such
718 information about the case, as shall be required by the State
719 Board of Health. Insurance companies having such blood test
720 results shall report immediately to the Executive Officer of the
721 State Board of Health or to other authorities as required by the
722 State Board of Health every case of such diseases as shall be
723 required to be reported by the State Board of Health. The
724 insurance company shall notify the individual on whom the blood
725 test was performed in writing by certified mail of an adverse
726 underwriting decision based upon the results of such individual's
727 blood test but shall not disclose the specific results of such
728 blood tests to the individual. The insurance company shall also
729 inform the individual on whom the blood test was performed that
730 the results of the blood test will be sent to the physician
731 designated by the individual at the time of application and that
732 such physician should be contacted for information regarding the
733 blood test results. If a physician was not designated at the time
734 of application, the insurance company shall request that the
735 individual name a physician to whom a copy of the blood test can
736 be sent.

737 (5) Any practicing or licensed physician, or person in
738 charge of a hospital or health care facility, who knows that a
739 patient has a medical condition specified by the Department of
740 Health as requiring special precautions by health care providers,
741 shall report this fact and the need for appropriate precautions to
742 any other institution or provider of health care services to whom
743 such patient is transferred or referred, according to regulations
744 established by the State Board of Health.



745 (6) Any practicing or licensed physician or person in charge
746 of a hospital, health care facility or laboratory who fails to
747 make the reports required under this section regarding Human
748 Immunodeficiency Virus/Acquired Immune Deficiency Syndrome
749 (HIV/AIDS) or any Class 1 disease or condition as designated by
750 the State Board of Health shall be reported to the Board of
751 Medical Licensure, in the case of a physician, or to the
752 applicable licensing agency in the case of institutions, and such
753 failure shall be grounds for suspension of license.

754 (7) In accordance with regulations of the Department of
755 Health, every veterinarian, livestock owner, veterinary diagnostic
756 laboratory director or other person having the care of animals
757 shall report animals having or suspected of having any disease
758 that may be caused by bioterrorism, epidemic or pandemic disease,
759 or novel and highly fatal infectious agents or biological or other
760 toxins that might pose a substantial risk of a significant number
761 of human or animal fatalities or incidents of permanent or
762 long-term disability. The Department of Health shall by
763 regulation determine which diseases or other conditions shall be
764 reportable.

765 (8) (a) In accordance with regulations of the Department of
766 Health, persons registered to dispense controlled substances under
767 Section 41-29-101 et seq., shall report any unusual or increased
768 prescription rates, unusual types of prescriptions, or unusual
769 trends in pharmacy visits that may be caused by bioterrorism,
770 epidemic or pandemic disease, or novel and high fatal infectious
771 agents or biological or other toxins that might pose a substantial
772 risk of a significant number of human fatalities or incidents of
773 permanent or long-term disability. Prescription-related events
774 that suggest a report, include, but are not limited to: an
775 unusual increase in the number of prescriptions to treat fever,
776 respiratory or gastrointestinal complaints; an unusual increase in
777 the number of prescriptions for antibiotics; an unusual increase



778 in the number of requests for information on over-the-counter
779 pharmaceuticals to treat fever, respiratory or gastrointestinal
780 complaints; and any prescription that treats a disease that is
781 relatively uncommon and has bioterrorism potential. The report
782 shall be transmitted to the Department of Health in a format
783 prescribed by the department and shall include as much of the
784 following information as possible:

785 (i) Recipient's name, when feasible to submit;
786 (ii) Recipient's identification number;
787 (iii) National Drug Code number of the substance
788 dispensed;

789 (iv) Date of the dispensation;

790 (v) Quantity of the substance dispensed;

791 (vi) Prescriber's United States Drug Enforcement
792 Administration registration number; and

793 (vii) Dispenser's registration number and
794 location.

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

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

800 (ii) The United States Drug Enforcement
801 Administration Diversion Group Supervisor; and

802 (iii) The executive director or chief
803 investigator, as designated by each board, of the state boards of
804 Dental Examiners, Pharmacy, Medical Licensure, and Nursing; the
805 State Board of Pharmacy, and Veterinary Medical Examiners,
806 however, the executive director or chief investigator of each of
807 these boards shall be limited to access to information relevant to
808 licensees of his employing board.

809 (c) Any person authorized to dispense controlled
810 substances as described in paragraph (a) of this subsection who



811 fails to comply with this provision of law shall be guilty of a
812 misdemeanor and shall, upon conviction, be fined in an amount not
813 to exceed One Thousand Dollars (\$1,000.00) or jailed in the county
814 jail for a period not to exceed six (6) months, or both.

815 (d) The Department of Health shall have the authority
816 to investigate any person required to comply with this section and
817 any pharmacy which, in the opinion of the department, employs
818 persons who have failed to comply with this section and may
819 petition the chancery court of any county wherein such person is
820 employed, or where such pharmacy may be located, for any order or
821 writ necessary to obtain compliance with the provisions of this
822 subsection (8).

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

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

833 (10) The provisions of this section are cumulative and
834 supplemental to any other provision of law, and a conviction or
835 penalty imposed under this section shall not preclude any other
836 action at law, proceedings for professional discipline or other
837 criminal proceedings.

838 (11) Notwithstanding any law of this state to the contrary,
839 the State Board of Health is authorized to establish the rules by
840 which exceptions may be made to the confidentiality provisions of
841 the laws of this state for the notification of third parties of an
842 individual's infection with any Class 1 or Class 2 disease, as
843 designated by the State Board of Health, when exposure is



844 indicated or there exists a threat to the public health and
845 welfare. All notifications authorized by this section shall be
846 within the rules established according to this subsection. All
847 persons who receive notification of the infectious condition of an
848 individual under this subsection and the rules established under
849 this subsection shall hold such information in the strictest of
850 confidence and privilege, shall not reveal the information to
851 others, and shall take only those actions necessary to protect the
852 health of the infected person or other persons where there is a
853 foreseeable, real or probable risk of transmission of the disease.

854 (12) Each public or private correctional facility housing
855 state offenders, federal offenders or offenders from any other
856 jurisdiction shall require all offenders in the facility to be
857 tested for tuberculosis and Human Immunodeficiency Virus (HIV) in
858 conjunction with the rules and regulations of the State Department
859 of Health. The reporting shall be according to procedures and
860 shall include any information about the case that is required by
861 the State Board of Health. In order to carry out the provisions
862 of this section, the following shall apply:

863 (a) Any such public or private correctional facility
864 may contract with the Mississippi Department of Corrections, the
865 Mississippi State Department of Health, or other such appropriate
866 state, federal or local entity for the inspection, monitoring or
867 provision of any assistance necessary or desirable to maintain
868 appropriate facilities for the purpose of identification,
869 prevention, and treatment of communicable diseases and other
870 conditions considered prejudicial to public health; and

871 (b) Any such public or private correctional facility
872 shall grant representatives of the State Department of Health, in
873 the discharge of its duties, access to all areas of the facility
874 and to the offenders and staff at all times. The facility shall
875 reimburse the State Department of Health for all costs incurred
876 for the control of communicable diseases or other conditions



877 prejudicial to public health in the facility and for the costs
878 incurred for the control of communicable diseases or other
879 conditions prejudicial to public health spreading from the
880 facility, staff or inmates to other individuals or property in the
881 county or state.

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

884 41-23-5. (1) The State Department of Health shall have the
885 authority to investigate and control the causes of epidemic,
886 infectious and other disease affecting the public health,
887 including the authority to establish, maintain and enforce
888 isolation and quarantine, and in pursuance thereof, to exercise
889 such physical control over property and individuals as the
890 department may find necessary for the protection of the public
891 health.

892 (2) If the Governor declares an emergency for cause of a
893 natural disaster arising out of an epidemic or pandemic, or
894 man-made disaster arising out of an act of terrorism,
895 notwithstanding any provision of law to the contrary, the State
896 Department of Health shall have such authority as the State Health
897 Officer deems proper and necessary to protect the public health,
898 to investigate and certify that causes of any deaths that have
899 occurred in any area described in the Governor's declaration of
900 emergency and may appoint private physicians to conduct such
901 investigations or utilize the personnel or facilities of the
902 Office of the State Medical Examiner in instances in which the
903 State Health Officer deems such appropriate.

904 **SECTION 6.** The following shall be codified as Section
905 41-39-55, Mississippi Code of 1972:

906 41-39-55. (1) If the Governor declares an emergency for
907 cause of a natural disaster arising out of an epidemic or
908 pandemic, or man-made disaster arising out of an act of terrorism,
909 the Department of Health shall direct coroners, medical examiners



910 and funeral directors, for such period as the state of emergency
911 exists, to exercise, in addition to existing powers, the following
912 powers regarding the safe disposal of human remains:

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

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

918 (c) To require any business or facility authorized to
919 embalm, bury, cremate, inter, disinter, transport and dispose of
920 human remains under the laws of this state to accept any human
921 remains or provide the use of its business or facility if these
922 actions are reasonable and necessary for emergency response. When
923 necessary during the period of time of the public health
924 emergency, the department must coordinate with the business or
925 facility on the management or supervision of the business or
926 facility; and

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

932 (2) Where possible, existing provisions set forth in the
933 State Operations Plan for the safe disposal of human remains must
934 be used in a public health emergency. Where the State Operations
935 Plan is not sufficient to handle the safe disposal of human
936 remains for a public health emergency, the department, in
937 coordination with coroners, medical examiners and funeral
938 directors, must adopt and enforce measures to provide for the
939 examiners and funeral directors, must adopt and enforce measures
940 to provide for the safe disposal of human remains as may be
941 reasonable and necessary for emergency response. These measures
942 may include, but are not limited to, the embalming, burial,



943 cremation, interment, disinterment, transportation and disposal of
944 human remains.

945 (3) All human remains prior to disposal must be clearly
946 labeled with all available information to identify the decedent
947 and the circumstances of death. Any human remains of a deceased
948 person with an infectious disease must have an external, clearly
949 visible tag indicating that the human remains are infected and, if
950 known, the infectious disease.

951 (4) Every person in charge of disposing of any human remains
952 must maintain a written record of each set of human remains and
953 all available information to identify the decedent and the
954 circumstances of death and disposal. If the human remains cannot
955 be identified, prior to disposal, a qualified person must, to the
956 extent possible, take fingerprints and one or more photographs of
957 the human remains, and collect a DNA specimen. All information
958 gathered under this subsection must be promptly forwarded to the
959 department. Identification must be handled by the agencies that
960 have laboratories suitable for DNA identification.

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

964 **SECTION 7.** This act shall take effect and be in force from
965 and after July 1, 2009.

