

**IN THE SUPREME COURT OF MISSISSIPPI
NO. 2007-CA-02095**

ARTHUR and ANGELA PARSONS, JR.

PLAINTIFFS-APPELLANTS

VS.

MISSISSIPPI STATE PORT AUTHORITY and
MISSISSIPPI DEVELOPMENT AUTHORITY

DEFENDANTS-APPELLEES

APPEAL FROM THE CIRCUIT COURT OF
THE FIRST JUDICIAL DISTRICT OF
HARRISON COUNTY, MISSISSIPPI

REPLY BRIEF OF THE PLAINTIFFS-APPELLANTS

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ARGUMENT

I. THE MISSISSIPPI TORT CLAIMS ACT WAIVED THE ABSOLUTE IMMUNITY THAT PREVIOUSLY APPLIED PURSUANT TO THE MISSISSIPPI EMERGENCY MANAGEMENT LAW.

The sole question presented to the Court in this appeal is whether the Mississippi State Port Authority at Gulfport and the Mississippi Development Authority (“the State Defendants”) are entitled to absolute immunity for all actions or inactions taken in advance of Hurricane Katrina pursuant to the Mississippi Emergency Management Law (“MEML”), despite the Mississippi Legislature’s waiver of absolute immunity in 1992 through passage of the Mississippi Tort Claims Act (“MTCA”). The simple answer to that question is that the MTCA’s broad waiver of immunity extends to the MEML’s absolute immunity provision, Miss. Code Ann. § 33-15-21, rendering it unenforceable. The MTCA is the sole controlling statutory authority governing immunity and waiver of immunity for the State of Mississippi and its political subdivisions. When it became effective in 1992, it waived sovereign immunity, “[n]otwithstanding . . . any other law to the contrary,” Miss. Code Ann. § 11-46-5(1), with limited exemptions from liability specifically enumerated under Section 11-46-9 of the Act. Because that statutory list of twenty-four exemptions, (a) through (x), does not include an exemption for conduct under the MEML, the MTCA’s waiver of immunity applies to remove the State Defendants’ shield of absolute immunity previously provided under § 33-15-21.

A. The Subsequent Amendments to the MEML Cited by the State Defendants Do Not Resurrect Absolute Sovereign Immunity.

The State Defendants acknowledge that, should this Court agree that § 11-46-5 is in irreconcilable conflict with § 33-15-21, then the later-enacted provision must prevail. *Coker v.*

Wilkinson, 142 Miss. 1, 106 So. 886, 887 (1926). They do not dispute the plain language of the MTCA designating it the exclusive remedy available against governmental entities or their employees “notwithstanding the provisions of any other law to the contrary.” Miss. Code Ann. § 11-46-7. Nor do they take issue with this Court’s description of the MTCA as a “detailed, all-encompassing enactment covering tort claims against the State and all political subdivisions.” *Presley v. Miss. State Highway Comm’n*, 608 So.2d 1288, 1291 (Miss. 1992). They apparently disregard the plain language of § 11-46-5 waiving the immunity of the state and its political subdivisions “[n]otwithstanding . . . the provisions of any other law to the contrary,” and decline to address the Plaintiffs’ main argument that this language is effective despite any other statute to the contrary, including § 33-15-21, based upon this Court’s reasoning in *Mississippi Gaming Comm’n v. Imperial Palace of Mississippi, Inc.*, 751 So.2d 1025 (Miss. 1999).

Rather, the State Defendants argue that because the wording of § 11-46-5’s waiver of immunity has remained unchanged since it went into effect in 1992, the Legislature’s subsequent amendments to portions of the MEML somehow resurrect its absolute immunity provision found at § 33-15-21. However, applying this same logic, because the wording of § 33-15-21 has similarly remained unchanged since 1980, the later enactment of § 11-46-5’s waiver of immunity controls. This conclusion is supported by the rule of statutory construction, acknowledged by the State Defendants, that the last expression of the Legislature must prevail over the former. *Coker*, 106 So. at 887.

As for the revised portions of the MEML cited by the State Defendants, they first point to the language of Miss. Code Ann. § 33-15-2, enacted in 1995, stating that “the Legislature determines and declares that the provisions of this article fulfill an important state interest.”

From this vague legislative declaration, the State Defendants leap to the conclusion that the Legislature “clearly affirmed its legislative intent and its belief in the appropriateness of § 33-15-21 by stating over three (3) years after the effective date of the MTCA that all the provisions contained in the MEML fulfill an important state interest.” Response Brief of the Defendants-Appellees at 7. On the contrary, this very generalized legislative statement mentions nothing about the immunity issue at hand, and if anything supports the Plaintiffs’ position in this litigation that by breaching their duties under the MEML, the State Defendants failed to fulfill an important state interest and thwarted “the intent of the Legislature to reduce the vulnerability of the people and property of this state. . . .” Miss. Code Ann. § 33-15-2(1).

Next, the State Defendants argue that the Legislature’s amendment in 1995 of Miss. Code Ann. § 33-15-31 supports their position that the MEML’s absolute immunity provision still prevails. Subsection (b) of that statute states in relevant part that “[a]ll existing laws, ordinances, rules and regulations inconsistent with the provisions of this article, or of any order, rule, or regulation issued under the authority of this article, shall be suspended during the period of time and to the extent that such conflict, disaster or emergency exists.” There are several reasons why the State Defendants’ argument on this point fails. First, the language of § 33-15-31 has remained substantially unchanged since its inception in 1952. *See* 1952 Miss. Laws Ch. 312, § 16 (attached hereto as Appendix 1).¹ The 1995 amendment referenced by the State Defendants

¹In 1980, the Legislature amended § 33-15-31, changing the phrase “civil defense” to “emergency management” in subsections (a) and (c); substituting the phrase “conflict, disaster or emergency” for “conflict” in the last sentence of subsection (b); and changing the word “act” to “article” throughout. 1980 Miss. Laws Ch. 491, § 16 (attached hereto as Appendix 2). The 1995 amendment updated the statute to reflect the creation of the Mississippi Emergency Management Agency, by inserting reference to it into subsection (b). 1995 Miss. Laws Ch. 333, §13 (attached hereto as Appendix 3).

did not alter the wording or meaning of the provision at issue here. As a result, the Legislature's clear intent that § 11-46-5's waiver of immunity apply "notwithstanding . . . the provisions of any other law to the contrary" prevails, regardless of the irrelevant 1995 amendment to the MEML.

Second, the excerpt from § 33-15-31(b) relied upon by the State Defendants clearly provides that other laws be suspended only "during the period of time and to the extent that such conflict, disaster or emergency exists." The suspension of other laws does not extend beyond that point to provide immunity from suit filed after the state of emergency has been lifted. Finally, § 33-15-31 is clearly intended simply to allow government authorities to issue orders, rules, and regulations during times of emergency that might otherwise conflict with existing law. It is not intended to give the MEML permanent preemptive effect over other, already established statutes such as the MTCA. None of the MEML amendments cited by the State Defendants speak to the immunity issue in this case. Because the Legislature's last expression on the issue is found in § 11-46-5, its waiver of immunity must prevail over the conflicting immunity provision in § 33-15-21. *See Coker*, 106 So. at 887.

B. The MTCA Does Not Contain Any Provision Salvaging the MEML's Immunity Provision.

The State Defendants alternatively argue that the MEML immunity provision is not in conflict with the MTCA, and that § 33-15-21 may be read in harmony with the MTCA, citing Miss. Code Ann. §§ 11-46-7(8) and 11-46-9(1)(f). However, even if § 33-15-21 may be read in harmony with §§ 11-46-7(8) and 11-46-9(1)(f), the conflict between § 33-15-21 and § 11-46-5 remains. That a statute may be read in harmony with one provision does not reconcile that same statute's conflict with another provision.

Moreover, the State Defendants' reliance on §§ 11-46-7(8) and 11-46-9(1)(f) is misplaced. Section 11-46-7(8) provides:

Nothing in this chapter shall enlarge or otherwise adversely affect the personal liability of an employee of a governmental entity. Any immunity or other bar to a civil suit under Mississippi or federal law shall remain in effect. The fact that a governmental entity may relieve an employee from all necessary legal fees and expenses and any judgment arising from the civil lawsuit shall not under any circumstances be communicated to the trier of fact in the civil lawsuit.

The State Defendants cite the second sentence of this statutory subsection, taken out of context, for the premise that the Legislature intended for the immunity provided in the MEML to remain in effect. However, when construing a statute, a court "must seek to ascertain the legislative intent of the statute in question *as a whole*, taking into consideration each provision of the statute on the entire subject." *Wilbourn v. Hobson*, 608 So.2d 1187, 1191 (Miss. 1992) (quoting *McCaffrey's Food Market, Inc. v. Miss. Milk Comm'n*, 227 So.2d 459, 463 (Miss. 1969)) (emphasis added). Reading it as a whole, subsection (8) of § 11-46-7 clearly pertains to government employee liability. "Any immunity or other bar to a civil suit" would thus most logically refer to other individual immunities such as judicial immunity, qualified immunity, or prosecutorial immunity—not to the absolute sovereign immunity previously bestowed by the MEML.

Moreover, the State Defendants' reading of the statute would place it in direct conflict with another provision within the MTCA itself, § 11-46-5(1), which waives sovereign immunity, "[n]otwithstanding . . . any other law to the contrary." "Statutes on the same subject, although in apparent conflict, should if possible be construed in harmony with each other to give effect to each." *Mississippi Gaming Comm'n v. Imperial Palace of Mississippi, Inc.*, 751 So.2d 1025,

1028 (Miss. 1999). Because it is possible to construe § 11-46-7(8) in harmony with § 11-46-5(1) by interpreting it to retain individual employee immunities, not absolute sovereign immunity, then it must be so construed. *See id.*

The State Defendants also maintain that § 11-46-9(1)(f) applies to the circumstances in this case and “evinces a lack of any conflict between the MTCA and the MEML Immunity.” Response Brief of the Defendants-Appellees at 9. Subsection 1(f) states, “A governmental entity and its employees acting within the course and scope of their employment or duties shall not be liable for any claim . . . [w]hich is limited or barred by the provisions of any other law.” It is the State Defendants’ position that in this provision the Legislature expressed its clear intent that state agencies remain immune from liability for claims “limited or barred by the provisions of” § 33-15-21.

The problem with this interpretation of § 11-46-9(1)(f) is that it is in direct conflict with § 11-46-5(1), which waives sovereign immunity, “[n]otwithstanding . . . any other law to the contrary.” Accepting the State Defendants’ reading of § 11-46-9(1)(f) as resurrecting the absolute immunity of § 33-15-21 would give no effect to the “notwithstanding” language of § 11-46-5(1), contrary to the general rules of statutory construction. *See Imperial Palace*, 751 So.2d at 1029-30; *Morgan v. State ex rel. Dist. Attorney*, 208 Miss. 185, 197, 44 So.2d 45, 49 (1950) (“It is a well known rule of statutory construction that every word, sentence, phrase, or clause in a statute must be given a meaning, if possible.”). Moreover, the Plaintiffs’ claims in this case are not “barred by the provisions of” § 33-15-21, or of any other provision of the MEML. *Cf. Mississippi Dept. of Mental Health v. Hall*, 936 So.2d 917, 926 (Miss. 2006) (claim for injury sustained during commission of a criminal act would be “barred” for purposes of § 11-46-

9(1)(f)). In fact, none of the Plaintiffs' claims in this matter are limited or barred by the provisions of any other law at all. To the contrary, § 11-46-9(1)(b) specifically authorizes actions against state entities and their employees failing to exercise due care in the performance of statutes. *L.W. v. McComb Sep. Mun. School Dist.*, 754 So.2d 1136, 1142 (Miss. 1999). Section 33-15-21 does not bar the Plaintiffs' claims; it creates absolute immunity for acts performed under the MEML. The adoption of the MTCA modified that immunity. Thus, § 11-46-9(1)(f) has no application to the circumstances in this case.

Further, no other provision of the MTCA protects the State Defendants from liability for the Plaintiffs' claims in this case. The MTCA is the only controlling statutory authority on governmental immunity in Mississippi. See Miss. Code Ann. §§ 11-46-5 and 11-46-7. The only exceptions to this waiver of immunity are found in the list of exemptions from liability in § 11-46-9. See *L.W. v. McComb Sep. Mun. School Dist.*, 754 So.2d at 1138 (the MTCA waives sovereign immunity for monetary damages arising out of the torts of governmental entities and employees; however, § 11-46-9 outlines certain circumstances that are exempted from the waiver of immunity). Section 11-46-9 contains no exemption for torts committed by governmental entities or their employees engaged in attempted compliance with the MEML. "An exception must be clear from the language of the statute and cannot be created by construction." *Imperial Palace*, 751 So.2d at 1028. Had the Legislature wanted to preserve the MEML's absolute immunity provision, it would have been a simple matter to do so by including such an exemption within § 11-46-9. See *Imperial Palace*, 751 So.2d at 1028. Instead, the Legislature chose to waive the MEML's immunity provision through its enactment of the MTCA. As a result, this Court should find that the State Defendants are not entitled to absolute immunity in this case.

CONCLUSION

For the foregoing reasons, Plaintiffs-Appellants Arthur and Angela Parsons respectfully request that this Court reverse the opinion of the lower court dismissing the State Defendants in this matter, and remand this case to the Circuit Court of Harrison County, Mississippi, First Judicial District, for further proceedings.

Respectfully submitted,

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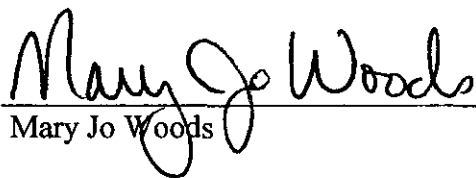
ATTORNEYS FOR PLAINTIFFS-APPELLANTS

By: Mary Jo Woods
OF COUNSEL

CERTIFICATE OF SERVICE

I, Mary Jo Woods, attorney for Plaintiffs-Appellants Angela and Arthur Parsons, certify that I have this day served a copy of this Reply Brief of the Plaintiffs-Appellants by United States Mail with postage prepaid on the following persons at these addresses: Roy H. Liddell, Esquire, Wells, Marble, & Hurst PLLC, Post Office Box 131, Jackson, Mississippi 39205-0131, attorney for KLLM Transport Services, Inc., Brant Pettis, Esquire, Balch & Bingham, Post Office Box 130, Gulfport, Mississippi 39205-0130, attorney for the State Agencies, Mississippi State Port Authority and Mississippi Development Authority, Thomas Wagoner, Esquire, Wagner & Bagot, LLP, 650 Poydras Street, Suite 2660, New Orleans, Louisiana 70130 and Roland F. Samson, III, Esquire, Samson & Powers, PLLC, 2408-14th Street, Post Office Box 1417, Gulfport, Mississippi 39502, attorneys for Chiquita Fresh North America, LLC and Honorable Larry Bourgeois, Circuit Court Judge, Post Office Box 998, Gulfport, MS 39502.

This the 3rd day of July, 2008.



Mary Jo Woods

**LAWS
OF THE
STATE OF MISSISSIPPI**

**APPROPRIATIONS
GENERAL LEGISLATION AND
RESOLUTIONS**

PASSED AT A REGULAR SESSION OF THE MISSISSIPPI
LEGISLATURE HELD IN THE CITY OF JACKSON
COMMENCING ON TUESDAY, JANUARY 8, 1952
AND ENDING THURSDAY, APRIL 17, 1952



(Local and Private Laws of 1952 are published
in separate volume)

Published by Authority

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Numerical List of House and Senate Bills, and General
Index Appear in the Back of this Volume

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provided by section 3 of this act, being section 7519, Mississippi Code of 1942, as amended. The revolving fund of the veterans farm and home board will constitute a trust fund and shall be segregated from all other funds in the state treasury but such funds may be withdrawn and invested as hereinafter provided. The state auditor is authorized and directed to draw warrants upon such funds from time to time upon requisition of the board executed by its executive officer, countersigned by the secretary of the state budget commission, and the state treasurer is hereby authorized and directed to pay such warrants.

(b) The money repaid by the purchaser shall be deposited in the veterans farm and home board revolving fund and shall be available under the same conditions as the original appropriation.

(c) Provided that the board shall have the authority, with the consent and advice of the state bond commission, to invest any funds at its disposal which may be lying idle in the U. S. government or State of Mississippi interest-bearing bonds, the income therefrom to accrue to the credit of the revolving fund of said board.

(d) Provided further that the board, with the advice and consent of the state bond commission, may also sell or hypothecate its mortgage loans to the reconstruction finance corporation of the United States government or to any subsidiary agency thereof, or to any other agency, private or public, when a sale of such mortgage loans would be to the advantage of the veterans farm and home board, provided that no mortgage loans may be sold for less than the par value, and that all sums received from the sale or hypothecation of such loans shall be paid into the revolving fund.

(e) Any additional moneys appropriated in order to extend the benefits of this act to Korean veterans, as defined in section 1, shall be mingled with and become an integral part of the revolving fund provided by this section, and the method of accounting therefor shall be the same as that used with respect to any and all other moneys in the revolving fund.

Section 3. This act shall take effect and be in force from and after its passage.

Approved April 10, 1952.

CHAPTER 312

HOUSE BILL NO. 625

AN ACT providing for the establishment of the Mississippi Civil Defense Council; to define the powers thereof; set forth the powers and responsibilities of the governor with respect thereto; to provide for the creation of local civil defense organizations in the respective counties and municipalities of this state; to provide for mutual aid arrangements among the various civil defense councils and related

agencies; to authorize expenditures by counties and municipalities for civil defense purposes; to authorize the state, counties and municipalities to match federal funds in the purchase of civil defense equipment; to provide rules and regulations for participation by individuals in the Civil Defense Program; to repeal sections 8610-8620, Mississippi Code of 1942; and for other related purposes.

Be it enacted by the Legislature of the State of Mississippi:

Section 1. This act may be cited as the Mississippi Civil Defense Act.

Amended.
Laws
1962
H.B.
798.

Section 2. **Policy and Purpose.** — (a) Because of the existing and increasing possibility of the occurrence of disasters or emergencies of unprecedented size and destructiveness resulting from enemy attack, sabotage or other hostile action, and in order to insure that preparations of this state will be adequate to deal with such disasters or emergencies, and generally to provide for the common defense and to protect the public peace, health, and safety, and to preserve the lives and property of the people of this state, it is hereby found and declared necessary: (1) to create a State Civil Defense Council, and to authorize the creation of local organizations for civil defense in the municipalities and counties of the state; (2) to confer upon the governor and upon the executive heads or governing bodies of the municipalities and counties of the state the emergency powers provided herein; and (3) to provide for the rendering of mutual aid between the municipalities and counties of the state, and with other states, and with the federal government with respect to the carrying out of civil defense functions; and (4) to authorize the establishment of such organizations and the taking of such steps as are necessary and appropriate to carry out the provisions of this act.

(b) It is further declared to be the purpose of this act and the policy of the state that all civil defense functions of this state be coordinated with the comparable functions of the federal government including its various departments and agencies, of other states and localities, and of private agencies of every type, to the end that the most effective preparation and use may be made of the nation's manpower, resources, and facilities for dealing with any disaster that may occur.

Section 3. **Definition.** — As used in this act the term "Civil Defense" shall mean the preparation for and the carrying out of all emergency functions, other than functions for which military forces or other federal agencies are primarily responsible, to prevent, minimize, and repair injury and damage resulting from disasters caused by enemy attack, sabotage, or other hostile action, or by fire, flood, or other causes. These functions include, without limitation, fire-fighting services, police services, medical and health services, rescue, engineering, air raid warn-

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areas, emergency welfare services (civilian war aid), emergency
transportation, plant protection, temporary restoration of public
utility services, and other functions related to civilian protec-
tion, together with all other activities necessary or incidental
to the preparation for and carrying out of the foregoing
functions.

Section 4. **Personnel.** — (a) There is hereby created within
the executive branch of the state government a department
called the Mississippi Civil Defense Council (hereinafter re-
ferred to as the Civil Defense Council) with a Director of Civil
Defense (hereinafter called the Director) who shall be the ad-
ministrative head thereof. The director shall be appointed by
the governor; he shall hold office during the pleasure of the
governor and shall be compensated as determined by any ap-
propriation that may be made by the legislature for such pur-
poses.

(b) The director, with the approval of the governor, may
employ such technical, clerical, stenographic and other person-
nel, to be compensated as provided in any appropriation that
may be made for such purpose, and may make such expenditures
within the appropriation therefor, or from other funds made
available to him for purposes of civil defense, as may be neces-
sary to carry out the purposes of this act.

(c) The director and other personnel of the Civil Defense
Council shall be provided with appropriate office space, furni-
ture, equipment, supplies, stationery and printing in the same
manner as provided for other state agencies.

(d) The director, subject to the direction and control of the
governor, shall be the executive head of the Civil Defense Coun-
cil and shall be responsible to the governor for carrying out the
program for civil defense of this state. He shall coordinate the
activities of all organizations for civil defense within the state,
and shall maintain liaison with and cooperate with civil de-
fense agencies and organizations of other states and of the
federal government, and shall have such additional authority,
duties, and responsibilities authorized by this act as may be
prescribed by the governor.

Section 5. **Members.** — Members of the Mississippi Civil
Defense Council shall serve in an advisory capacity to the gov-
ernor and the director; and shall be appointed by the governor
in such number as he may deem advisable. They shall have such
powers and responsibilities as may be designated in this act.
The governor shall serve as chairman of the council; the direc-

tor shall be the vice-chairman of the council; the attorney general and the adjutant general of the state shall be ex-officio members of the council. Members of the council, other than state officials, shall serve without compensation, but may be reimbursed for their reasonable and necessary expenses incurred in the performance of their duties.

Amended
Laws
1962
H. B.
798.

Section 6. Civil defense powers of the governor. — (a) The governor shall have general direction and control of the activities of the Civil Defense Council and shall be responsible for the carrying out of the provisions of this act, and in the event of disaster or emergency beyond local control, may assume direct operational control over all or any part of the civil defense functions within this state.

(b) In performing his duties under this act, the governor is further authorized and empowered:

(1) To make, amend, and rescind the necessary orders, rules and regulations to carry out the provisions of this act with due consideration of the plans of the federal government.

(2) To prepare a comprehensive plan and program for the civil defense of this state, with the advice and consent of the Civil Defense Council, such plan and program to be integrated into and coordinated with the civil defense plans of the federal government and of other states to the fullest possible extent, and to coordinate the preparation of plans and programs for civil defense by the political subdivisions of this state, such local plans to be integrated into and coordinated with the civil defense plan and program of this state to the fullest possible extent.

(3) In accordance with such plan and program for the civil defense of this state, to ascertain the requirements of the state or the political subdivisions thereof for food or clothing or other necessities of life in the event of attack and to plan for and procure supplies, medicines, materials, and equipment, and to use and employ from time to time any of the property, services, and resources within the state, for the purposes set forth in this act; to make surveys of the industries, resources, and facilities within the state as are necessary to carry out the purposes of this act; to institute training programs and public information programs, and to take all other preparatory steps, including the partial or full mobilization of civil defense organizations in advance of actual disaster, to insure the furnishing of adequately trained and equipped forces of civil defense personnel in time of need.

(4) To cooperate with the president and the heads of the armed forces, and the civil defense agency of the United States,

cil; the attorney general shall be ex-officio member of the council, other than the attorney general, but may be necessary expenses in-

governor. — (a) The governor shall be responsible for the control of the activities of the state in the event of an emergency, and may assume direct control of the civil defense

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program for the civil defense of the state and to plan for and to provide for the property, services, and resources, and to carry out the program and public information steps, in the civil defense organization, the furnishing of civil defense

and the heads of the departments of the United States,

and with the officers and agencies of other states in matters pertaining to the civil defense of the state and nation and the incidents thereof; and in connection therewith, to take any measures which he may deem proper to carry into effect any request of the president and the appropriate federal officers and agencies, for any action looking to civil defense, including the direction or control of (a) black-outs and practice black-outs, air raid drills, mobilization of civil defense forces, and other tests and exercises, (b) warnings and signals for drills or attacks and the mechanical devices to be used in connection therewith, (c) the effective screening or extinguishing of all lights and lighting devices and appliances, (d) shutting off water mains, gas mains, electric power connections and the suspension of all other utility services, (e) the conduct of civilians and the movement and cessation of movement of pedestrians and vehicular traffic during, prior, and subsequent to drills or attack, (f) public meetings or gatherings under emergency conditions, and (g) the evacuation and reception of the civilian population.

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

(6) To employ such measures and give such directions to the state or local boards of health as may be reasonably necessary for the purpose of securing compliance with the provisions of this act or with the findings or recommendations of such boards of health by reason of conditions arising from enemy attack or the threat of enemy attack or otherwise.

(7) To utilize the services and facilities of existing officers, and agencies of the state and of the political subdivisions thereof; and all such officers and agencies shall cooperate with and extend their services and facilities to the governor as he may request.

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

(9) To delegate any authority vested in him under this act, and to provide for the sub-delegation of any such authority.

(10) On behalf of this state to enter into reciprocal aid agreements or compacts with other states and the federal government, either on a state-wide basis or local political subdivision basis or with a neighboring state or province of a foreign country.

Such mutual aid arrangements shall be limited to the furnishing or exchange of food, clothing, medicine, and other supplies; engineering services; emergency housing, police services; National or State Guards while under the control of the state; health, medical and related services; fire fighting, rescue, transportation, and construction services and equipment; personnel necessary to provide or conduct these services; and such other supplies, equipment, facilities, personnel, and services as may be needed; the reimbursement of costs and expenses for equipment, supplies, personnel, and similar items for mobile support units, fire fighting, and police units and health units; and on such terms and conditions as are deemed necessary.

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

Section 7. Emergency powers. (a) In the event of actual enemy attack against the United States and the State of Mississippi, the governor, with the advice and consent of the Civil Defense Council, may declare that a state of emergency exists, and thereafter the governor shall have and may exercise for such period as such state of emergency exists or continues, the following additional emergency powers: (1) to enforce all laws, rules and regulations relating to civil defense and to assume direct operational control of all civil defense forces and helpers in the state; (2) to purchase supplies and services for civil defense purposes, including aiding the stricken populace, without necessity for advertising therefor; to call upon all persons, firms, and corporations to furnish such supplies, services and facilities as they may control which may be needed for the protection of the public, and to enter into all necessary contracts and agreements as may be necessary with relation thereto, all or any provisions of law with reference to advertisements in such matters being expressly waived for this purpose; (3) to utilize or commandeer any private property for the protection of the public or at the request of the president, the armed forces or the civil defense agency of the United States including:

(A) For use during emergency only, all means of transportation and communication, except newspapers, or publications, or wire facilities leased or owned by news services, newspapers and other news publications;

(B) Food, clothing, equipment, materials, medicines, any supplies, and stocks of fuel of whatever nature;

(C) Facilities including buildings and plants, for use during emergency only; provided that in the event it shall become necessary to utilize any such facilities, plants or services, the

imited to the furnishing and other supplies; emergency services; National Guard of the state; health, rescue, transportation, and personnel necessary for such other supplies, services as may be needed; for equipment, supplies, support units, fire fighting on such terms and

and plans and agreements the state, similar to states referred to above.

In the event of actual attack the State of Mississippi with the consent of the Civil Control Administration if an emergency exists, may exercise for the emergency or continues, the powers (1) to enforce all laws, defense and to assume the defense forces and helpers and services for civil defense of the stricken populace, without call upon all persons, supplies, services and equipment needed for the emergency; (2) to make all necessary contracts with relation thereto, all advertisements in this purpose; (3) to property for the protection of the state, the armed forces of the state including:

all means of transportation, papers, or publications, services, newspapers

materials, medicines, any other;

plants, for use during the event it shall become necessary for the state or services, the

operation thereof, if possible, shall be left in the hands of the owner, subject to direction of the governor, and only such portion as may be essential for the protection of life and property, or the national defense, shall be commandeered or utilized. (4) To sell, lend, give, or distribute all or any such personal property utilized among the inhabitants of the state and to account to the state treasurer for any funds received for such property; (5) To perform and exercise such other functions, powers and duties as may be deemed necessary to promote and secure the safety and protection of the civilian population.

(b) Adequate compensation shall be paid for any property so utilized, taken or condemned. In case it shall become necessary to take or use any private property as provided above, the full faith and credit of the State of Mississippi shall be pledged to pay just compensation therefor. In case the governor and the owner of any such property so utilized or taken shall not be able to agree on the compensation to be paid for use, damage or taking thereof, the amount of such compensation to be paid shall be determined in conformity with the statutes of this state relating to eminent domain procedures.

Section 8. Mobile support units. — (a) The governor or his duly designated representative is authorized to create and establish such number of mobile support units as may be necessary to reinforce civil defense organizations in stricken areas and with due consideration of the plans of the federal government and of other states. He shall appoint a commander for each such unit who shall have primary responsibility for the organization, administration and operation of such unit. Mobile support units shall be called to duty upon orders of the governor and shall perform their functions in any part of the state, or, upon the conditions specified in this section, in other states.

(b) Personnel of mobile support units while on emergency duty occasioned by enemy attack, whether within or without the state, shall:

(1) If they are employees of the state, have the powers, duties, rights, privileges and immunities and receive the compensation incidental to their employment; (2) If they are employees of a political subdivision of the state, and whether serving within or without such political subdivision, have the powers, duties, rights, privileges and immunities and receive the compensation incidental to their employment; and (3) if they are not employees of the state or a political subdivision thereof, be entitled to compensation by the state at \$5.00 per day and to the same rights and immunities as are provided by law for the employees of this state. All personnel of mobile support units shall, while on such emergency duty, be subject to the operational control

of the authority in charge of civil defense activities in the area in which they are serving, and shall be reimbursed for all actual and necessary travel and subsistence expenses, and for death, disability or injury to such personnel while on such emergency duty as a member of a mobile support unit, the state shall pay compensation to the heirs in event of death or the individual in event of injury or disability in accordance with payment schedules contained in the Mississippi Workman's Compensation Act, as amended.

(c) The state shall reimburse a political subdivision for the compensation paid and actual and necessary travel, subsistence and maintenance expenses of employees of such political subdivision while serving as members of a mobile support unit, and for all payments for death, disability or injury of such employees incurred in the course of such duty, and for all losses of or damage to supplies and equipment of such political subdivision resulting from the operation of such mobile support unit.

(d) Whenever a mobile support unit of another state shall render aid in this state pursuant to the orders of the governor of its home state and upon the request of the governor of this state, the personnel thereof shall have the powers, duties, rights, privileges and immunities of civil defense personnel serving in similar capacities in this state, except compensation, and this state shall reimburse such other state for the compensation paid and actual and necessary travel, subsistence and maintenance expenses of the personnel of such mobile support unit while rendering such aid, and for all payments for death, disability or injury of such personnel incurred in the course of rendering such aid, and for all losses of or damage to supplies and equipment of such other state or a political subdivision thereof resulting from the rendering of such aid; provided, that the laws of such other state contain provisions substantially similar to this section.

(e) No personnel of mobile support units of this state shall be ordered by the governor to operate in any other state unless the laws of such other state contain provisions substantially similar to this section.

Section 9. Local organization for civil defense. — (a) Each county and municipality, or counties and the municipalities therein acting jointly, of this state are hereby authorized and directed to establish a local organization for civil defense in accordance with the State Civil Defense Plan and Program, if required and authorized so to do by such State Civil Defense Plan. Each local organization for civil defense shall have a director who shall be appointed by the governing body of the political sub-

ense activities in the area reimbursed for all actual expenses, and for death, while on such emergency unit, the state shall pay death or the individual in accordance with payment schedule of the Compensation Act,

political subdivision for the necessary travel, subsistence expenses of such political subdivision, a mobile support unit, litigation or injury of such emergency unit, and for all losses incident to such political subdivision, such mobile support

unit of another state shall the orders of the governor of this state if the governor of this state has the powers, duties, rights, and compensation of such emergency personnel serving in this state, and this for the compensation paid subsistence and maintenance of such mobile support unit while it is on duty for death, disability or injury, the course of rendering aid to supplies and equipment of such political subdivision thereof resulting in the fact that the laws of this state are substantially similar to this

units of this state shall in any other state unless the provisions substantially

vi defense. — (a) Each political subdivision thereof authorized and directed by the governor in accordance with the Civil Defense Plan, if required by the Civil Defense Plan. Each political subdivision shall have a director who shall be appointed by the political sub-

division, and who shall have direct responsibility for the organization, administration and operation of such local organization for civil defense, subject to the direction and control of such governing body. Each local organization for civil defense shall perform civil defense functions within the territorial limits of the political subdivision within which it is organized, and, in addition, shall conduct such functions outside of such territorial limits as may be required pursuant to the provisions of the State Civil Defense Plan.

(b) In carrying out the provisions of this act each county and municipality, or the two acting jointly where there is joint organization, in which any disaster as described in section 2 hereof occurs, shall have the power to enter into contracts and incur obligations necessary to combat such disaster, protecting the health and safety of persons and property, and providing emergency assistance to the victims of such disaster. Each county and municipality is authorized to exercise the powers vested under this section in the light of the exigencies of the extreme emergency situation without regard to time-consuming procedures and formalities prescribed by law pertaining to the performance of public work, entering into contracts, the incurring of obligations, the employment of temporary workers, the rental of equipment, the purchase of supplies and materials, the levying of taxes, and the appropriation and expenditure of public funds.

(c) Each county and each municipality shall have the power and authority:

(1) To appropriate and expend funds, make contracts, obtain and distribute equipment, materials, and supplies for civil defense purposes; provide for the health and safety of persons and property, including emergency assistance to the victims of any disaster resulting from enemy attack; and to direct and coordinate the development of civil defense plans and programs in accordance with the policies and plans set by the federal and state civil defense agencies;

(2) To appoint, employ, remove, or provide air raid wardens, rescue teams, auxiliary fire and police personnel, and other civilian defense workers;

(3) To establish a primary and one or more secondary control centers to serve as command posts during an emergency;

(4) Subject to the order of the governor, or the chief executive of the political subdivision, to assign and make available for duty, the employees, property, or equipment of the subdivision relating to fire fighting, engineering, rescue, health,

medical and related services, police, transportation, construction, and similar items or services for civil defense purposes either within or outside of the limits of the subdivision.

Section 10. Mutual aid arrangements. — (a) The director of each local organization for civil defense, in collaboration with other public and private agencies within this state, may develop or cause to be developed mutual aid arrangements for reciprocal civil defense aid and assistance in case of disaster too great to be dealt with unassisted. Such arrangements shall be consistent with the State Civil Defense Plan and Program, and in time of emergency it shall be the duty of each local organization for civil defense to render assistance in accordance with the provisions of such mutual aid arrangements.

(b) The director of each local organization for civil defense may, subject to the approval of the governor, and the state civil defense plan, enter into mutual aid arrangements with civil defense agencies or organizations in other states for reciprocal civil defense aid and assistance in case of disaster too great to be dealt with unassisted.

Section 11. Immunity. (a) Neither the state nor any political subdivision thereof, nor other agencies, nor, except in cases of willful misconduct, the agents, employees, or representatives of any of them engaged in any civil defense activities, while complying with or attempting to comply with this act or any rule or regulation promulgated pursuant to the provisions of this act, shall be liable for the death of or any injury to persons, or damage to property, as a result of such activity. The provisions of this section shall not affect the right of any person to receive benefits to which he would otherwise be entitled under this act, or under the Workmen's Compensation Law, or under any pension law, nor the right of any such person to receive any benefits or compensation under any act of Congress.

(b) Any person owning or controlling real estate or other premises who voluntarily and without compensation grants a license or privilege, or otherwise permits the designation or use of the whole or any part or parts of such real estate or premises for the purpose of sheltering persons during an actual, impending, mock or practice attack, together with his successors in interest, if any, shall not be civilly liable for negligently causing the death of, or injury to, any person on or about such real estate or premises by virtue of its use for civil defense purposes, or loss of, or damage to, the property of such person.

Section 12. Funds. — For the purpose of paying any expenses of its local civil defense organization, or for paying any expenses of the civil defense program, any board of supervisors of a

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county or any governing body of a municipality is authorized
to expend any available funds from the general fund of such
county or municipality.

Section 13. Matching funds. — (a) The Governor of the
State of Mississippi is authorized to enter into agreements with
the federal government for the purpose of matching any federal
funds that may be made available for supplying civil defense
equipment to the state on a matching basis. The state's portion
of the purchase price of such equipment may be made available
from any appropriation made for such purposes, or such funds
may be made available by the State Building Commission, and
the State Building Commission is hereby authorized, in its dis-
cretion, to expend funds from any general appropriation that
may be made to it for the purpose of purchasing civil defense
equipment and supplies either on a matching basis or other-
wise in the same manner in which it expends funds for other
state departments or agencies, and the said State Building Com-
mission is further authorized in the event of emergency and the
declaration thereof, as provided in section 7 hereof, to expend
any available funds for any civil defense purpose to cope with
such emergency.

(b) Any county board of supervisors or municipal governing
body may enter into agreement with the federal government
with approval of the state director of civil defense for matching
funds which may be made available for the purchase of civil
defense equipment by such county or municipality in conjunc-
tion with any federal matching program and funds may be ex-
pended from the general fund of such county or municipality
or from such other funds as may be available to such county or
municipality for civil defense purposes in order to provide the
county or municipal portion of funds necessary to carry out
such matching agreement.

**Section 14. Authority to accept services, gifts, grants and
loans.** — (a) Whenever the federal government or any agency
or officer thereof shall offer to the state, or through the state to
any political subdivision thereof, services, equipment, supplies,
materials, or funds by way of gift, grant or loan, for purposes of
civil defense, the state, acting through the governor, or such
political subdivision, acting with the consent of the governor
and through its governing body, may accept such offer and
upon such acceptance the governor of the state or governing
body of such political subdivision, may authorize any officer
of the state or of the political subdivision, as the case may be,
to receive such services, equipment, supplies, materials, or funds
on behalf of the state or such political subdivision, and subject
to the terms of the offer and the rules and regulations, if any,
of the agency making the offer.

(c) Whenever any person, firm or corporation shall offer to the state or to any political subdivision thereof, services, equipment, supplies, materials, or funds by way of gift, grant or loan, for purposes of civil defense, the state, acting through the governor, or such political subdivision, acting through its governing body may accept such offer and upon such acceptance the governor of the state or governing body of such political subdivision may authorize any officer of the state or of the political subdivision, as the case may be, to receive such services, equipment, supplies, materials, or funds on behalf of the state or such political subdivision, and subject to the terms of the offer.

Section 15. Utilization of existing services and facilities. — In carrying out the provisions of this act, the governor and the executive officers or governing bodies of the political subdivisions of the state are directed to utilize the services, equipment, supplies and facilities of existing departments, offices, and agencies of the state and of the political subdivisions thereof to the maximum extent practicable, and the officers and personnel of all such departments, offices, and agencies are directed to cooperate with and extend such services and facilities to the governor and to the civil defense organizations of the state or such subdivisions upon request.

Section 16. Orders, rules and regulations. — (a) The governing bodies of the political subdivisions of the state and other agencies designated or appointed by the governor are authorized and empowered to make, amend, and rescind such orders, rules, and regulations as may be necessary for civil defense purposes and to supplement the carrying out of the provisions of this act, but not inconsistent with any orders, rules and regulations promulgated by the governor or by any state agency exercising a power delegated to it by him.

(b) All orders, rules, and regulations promulgated by the governor, or by any political subdivision or other agency authorized by this act to make orders, rules and regulations, shall have the full force and effect of law, when, in the event of issuance by the governor, or any state agency, a copy thereof is filed in the office of the secretary of state, or, if promulgated by a political subdivision of the state or agency thereof, when filed in the office of the clerk of the political subdivision or agency promulgating the same. All existing laws, ordinances, rules and regulations inconsistent with the provisions of this act, or of any order, rule, or regulation issued under the authority of this act, shall be suspended during the period of time and to the extent that such conflict exists.

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(c) In order to attain uniformity so far as practicable throughout the country in measures taken to aid civil defense, all action taken under this act and all orders, rules and regulations made pursuant thereto, shall be taken or made with due consideration to the orders, rules, regulations, actions, recommendations, and requests of federal authorities relevant thereto and, to the extent permitted by law, shall be consistent with such orders, rules, regulations, actions, recommendations and requests.

Section 17. Political activity prohibited. — No organization for civil defense established under the authority of this act shall participate in any form of political activity, nor shall it be employed directly or indirectly for political purposes.

Amended. **Section 18. Oath.** — (a) No person shall be employed or associated in any capacity in any civil defense organization established under this act who advocates or has advocated a change by force or violence in the constitutional form of the Government of the United States or in this state or the overthrow of any government in the United States by force or violence, or who has been convicted of or is under indictment or information charging any subversive act against the United States. Each person who is appointed to serve in any organization for civil defense shall, before entering upon his duties, take an oath, in writing, before a person authorized to administer oaths in this state, which oath shall be substantially as follows:

"I, _____, do solemnly swear (or affirm) that I will support and defend the constitution of the United States and the constitution of the State of Mississippi, against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties upon which I am about to enter.

"And I do further swear (or affirm) that I do not advocate, nor am I a member of any political party or organization that advocates the overthrow of the Government of the United States or of this state by force or violence; and that during such time as I am a member of the (name of civil defense organization), I will not advocate nor become a member of any political party or organization that advocates the overthrow of the Government of the United States or of this state by force or violence; that I am not a subversive person as defined in the Subversive Activities Act of 1950 (Chapter 451, Laws of 1950); that this statement is made by me subject to the

penalties for perjury as provided in said Subversive Activities Act of 1950 for any material misstatement of fact herein, and that for such purpose this statement shall be deemed to have been made under oath, as provided in said act."

Section 19. Enforcement. — It shall be the duty of every organization for civil defense established pursuant to this act and of the officers thereof to execute and enforce such orders, rules and regulations as may be made by the governor under authority of this act. Each such organization shall have available for inspection at its office all orders, rules and regulations made by the governor, or under his authority.

Section 20. Peace officers. — Any county or municipality, through its governing board, and with the approval of the sheriff in a county, or the chief of police in a municipality, may confer upon members of civil defense auxiliary police units, the powers of peace officers, subject to such restrictions as shall be imposed.

Section 21. Arrests. — Any civil defense auxiliary policeman who has had conferred upon him the power of a peace officer, as provided in the preceding section of this act and when in full and distinctive uniform or displaying a badge or other insignia of authority, may arrest without a warrant any person violating or attempting to violate in such officer's presence any order, rule, or regulation made pursuant to this act. This authority shall be limited to those rules and regulations which affect the public generally.

Section 22. Penalties. — Any person violating any provision of this act or any rule, order, or regulation made pursuant to this act shall, upon conviction thereof, be punishable by a fine not exceeding five hundred dollars (\$500.00) or imprisonment for not exceeding six months or both.

Section 23. All local civil defense councils heretofore created under the provisions of sections 8610-8620, Mississippi Code of 1942, are hereby continued, subject to the provisions of this act.

Section 24. Severability. — If any provision of this act or the application thereof to any person or circumstance is held invalid, or unconstitutional, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

Section 25. Liberality of construction. — This act shall be construed liberally in order to effectuate its purposes.

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Section 26. **Sections repealed.** — Sections 8610, 8611, 8612, 8613, 8614, 8615, 8616, 8617, 8618, 8619, and 8620, Mississippi Code of 1942, are hereby repealed.

Section 27. **Effective date.** — This act shall take effect and be in force from and after its passage.

Approved April 16, 1952.

CHAPTER 313

HOUSE BILL No. 623

AN ACT authorizing and approving an Interstate Civil Defense and Disaster Compact as herein set out and authorizing the Governor of this State to execute Civil Defense and Disaster Compacts with the several States of the Union.

WHEREAS, The Congress of the United States of America has granted its consent to Civil Defense compacts by an act entitled "Federal Civil Defense Act of 1950" (Public Act 920, 81st Congress, 2nd Session, approved January 12, 1951), and, whereas, many of the states of the nation have already signified their desire to enter into Civil Defense compacts with the State of Mississippi, and such compacts are deemed desirable and essential in protecting the lives and property of the people of this state in event of emergency; therefore,

Be it enacted by the Legislature of the State of Mississippi:

Section 1. That the Governor of the State of Mississippi is hereby authorized in the name of the State of Mississippi to enter into Civil Defense and Disaster compacts with any other state legally joining therein and to execute same on behalf of the State of Mississippi in form substantially as follows:

INTERSTATE CIVIL DEFENSE AND DISASTER COMPACT

The contracting States solemnly agree:

Article 1. The purpose of this compact is to provide mutual aid among the states in meeting any emergency or disaster from enemy attack or other cause (natural or otherwise) including sabotage and subversive acts and direct attacks by bombs, shell-fire, and atomic, radiological, chemical, bacteriological means, and other weapons. The prompt, full, and effective utilization of the resources of the respective States, including such resources as may be available from the United States Government or any other source, are essential to safety, care and welfare of the people thereof in the event of enemy action or other emergency, and any other resources, including personnel, equipment or supplies, shall be incorporated into a plan or plans of mutual aid to be developed among the Civil Defense agencies or similar bodies of the States that are parties hereto. The Directors of

LAWS

of the

STATE OF MISSISSIPPI

Appropriations

General Legislation and

Resolutions

**PASSED AT A REGULAR SESSION OF THE
MISSISSIPPI LEGISLATURE
HELD IN THE CITY OF JACKSON COMMENCING
ON TUESDAY, JANUARY 8, 1980 AND
ENDING ON FRIDAY, SUNDAY, MAY 11, 1980**



**(Local and Private Laws are published
in a separate volume.)**

**Numerical list of House and Senate Bills, general index,
data on laws which amend or repeal existing laws, and
Court Calendar appears in back of this volume.**

**Published by Authority
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Section 4. This act shall take effect and be in force from and after its passage.

Approved: May 9, 1980

CHAPTER NO. 491

HOUSE BILL NO. 909

AN ACT to amend Section 33-15-1, Mississippi Code of 1972, to change the name of the Mississippi Civil Defense Law to the Mississippi Emergency Management Law; to amend Section 33-15-3, Mississippi Code of 1972, in conformity thereto; to amend Section 33-15-5, Mississippi Code of 1972, to delete the term "Civil Defense" and add the term "Emergency Management," which is defined as "the preparation for and the carrying out of all emergency measures and functions, other than functions for which military forces or other federal agencies are primarily responsible, to prevent, minimize and repair injury, damage and loss resulting from disasters or emergencies caused by or that would be caused by enemy attack, sabotage, or other hostile action, or by natural, man-made or technological causes, and recovery therefrom"; to amend Sections 33-15-13, 33-15-15, 33-15-19, 33-15-21, 33-15-23, 33-15-25, 33-15-27, 33-15-29, 33-15-31, 33-15-33, 33-15-37, 33-15-39, 33-15-41, 33-15-45, 31-9-1, 37-11-5, 43-41-3, 49-17-27 and 97-37-9, Mississippi Code of 1972, in conformity thereto; to amend Section 33-15-7, Mississippi Code of 1972, to create the Mississippi Emergency Management Agency; to amend Section 33-15-9, Mississippi Code of 1972, to change the name of the Mississippi Civil Defense Council to the Mississippi Emergency Management Council; to amend Section 33-15-11, Mississippi Code of 1972, to prescribe the powers and duties of the Governor in the event of a man-made, technological or natural disaster; to amend Section 33-15-17, Mississippi Code of 1972, to provide that two or more counties acting jointly may establish a local organization for emergency management and to provide that the chief executive of a county or municipality or the Governor may order the evacuation of a disaster area; to provide that local governing authorities may use government personnel and equipment to remove debris from a disaster area; to amend Section 43-41-5, Mississippi Code of 1972, to create a revolving fund in the state treasury; to amend Section 43-41-7, Mississippi Code of 1972, to provide for certain audits by the State Department of Audit; to amend Section 43-41-9, Mississippi Code of 1972, to change the name of the Federal Disaster Assistance Administration to the Federal Emergency Management Agency to conform with federal law; to amend Section 43-41-315, Mississippi Code of 1972, in conformity thereto; to amend Section 43-41-11, Mississippi Code of 1972, to provide for a plan to implement the individual and family grant programs; to amend Section 43-41-305, Mississippi Code of 1972, to provide for certain housing assistance to disaster victims when a disaster is declared by the Governor or the President; to amend Section 43-41-311, Mississippi Code of 1972, to provide for the approval of rental housing for disaster victims; to amend Section 43-41-319, Mississippi Code of 1972, to provide certain reimbursements to state agencies in the event of a disaster; to provide for the administration and

force from and after

maintenance of certain temporary housing units by the Mississippi Emergency Management Agency; to repeal Section 33-15-35, Mississippi Code of 1972, which provides for an oath by civil defense personnel, and Section 45-17-13, Mississippi Code of 1972, which provides for the use of public personnel and equipment on private property affected by a natural disaster; and for related purposes.

Be it enacted by the Legislature of the State of Mississippi:

Section 1. Section 33-15-1, Mississippi Code of 1972, is amended as follows:

33-15-1. This article may be cited as the "Mississippi Emergency Management Law."

Section 2. Section 33-15-3, Mississippi Code of 1972, is amended as follows:

33-15-3. (a) Because of the existing and increasing possibility of the occurrence of disasters or emergencies of unprecedented size and destructiveness resulting from enemy attack, sabotage or other hostile action, and from natural, man-made or technological disasters, and in order to insure that preparations of this state will be adequate to deal with such disasters or emergencies, and generally to provide for the common defense and to protect the public peace, health, and safety, and to preserve the lives and property of the people of this state, it is hereby found and declared necessary: (1) To create a State Emergency Management Agency and Council, and to authorize the creation of local organizations for emergency management in the municipalities and counties of the state; (2) to confer upon the Governor and upon the executive heads or governing bodies of the municipalities and counties of the state the emergency powers provided herein; and (3) to provide for the rendering of mutual aid between the municipalities and counties of the state, and with other states, and with the federal government with respect to the carrying out of emergency management functions; and (4) to authorize the establishment of such organizations and the taking of such steps as are necessary and appropriate to carry out the provisions of this article.

(b) It is further declared to be the purpose of this article and the policy of the state that all emergency management functions of this state be coordinated with the comparable functions of the federal government, including its various departments and agencies, of other states and localities, and of private agencies of every type, to the end that the most effective preparation and use may be made of the nation's manpower, resources, and facilities for dealing with any disaster that may occur as enumerated in this section.

Section 3. Section 33-15-5, Mississippi Code of 1972, is amended as follows:

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

"Agency," the Mississippi Emergency Management Agency, created by Section 33-15-7.

"Emergency Management Council," the Mississippi Emergency Management Council, created by Section 33-15-9.

"Director," the Director of Emergency Management, appointed pursuant to Section 33-15-7.

"Emergency Management," the preparation for and the carrying out of all emergency measures and functions, other than functions for which military forces or other federal agencies are primarily responsible, to prevent, minimize and repair injury, damage and loss resulting from disasters or emergencies caused by or that would be caused by enemy attack, sabotage, or other hostile action, or by natural, man-made or technological causes, and the recovery therefrom. These measures and functions include, without limitation, fire-fighting services, police services, medical and health services, rescue, engineering, warning services, natural resource and technological management services, communications, radiological, chemical and other special weapons defense, evacuation of persons from stricken or threatened areas, emergency welfare services, emergency transportation, plant protection, temporary restoration of public utility services, and other measures and functions related to civilian protection, together with all other activities necessary or incidental to the preparation for and carrying out of the foregoing measures and functions.

"Civil defense," whenever it appears in the laws of the State of Mississippi, shall mean "emergency management" unless the context clearly indicates otherwise.

Section 4. Section 33-15-7, Mississippi Code of 1972, is amended as follows:

33-15-7. (a) There is hereby created within the executive branch of the state government a department called the Mississippi Emergency Management Agency with a Director of Emergency Management who shall be the administrative head thereof. The director shall be appointed by the Governor; he shall hold office during the pleasure of the Governor and shall be compensated as determined by any appropriation that may be made by the Legislature for such purposes.

(b) The director, with the approval of the Governor, may employ such technical, clerical, stenographic and other personnel, to be

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compensated as provided in any appropriation that may be made for such purpose, and may make such expenditures within the appropriation therefor, or from other funds made available to him for purposes of emergency management, as may be necessary to carry out the purposes of this article.

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

(d) The director, subject to the direction and control of the Governor, shall be the executive head of the Emergency Management Agency and shall be responsible to the Governor for carrying out the program for emergency management of this state. He shall coordinate the activities of all organizations for emergency management within the state, and shall maintain liaison with and cooperate with emergency management agencies and organizations of other states and of the federal government, and shall have such additional authority, duties, and responsibilities authorized by this article as may be prescribed by the Governor.

Section 5. Section 33-15-9, Mississippi Code of 1972, is amended as follows:

33-15-9. There is hereby created the Mississippi Emergency Management Council, hereinafter referred to as the "council," and the members of the Mississippi Emergency Management Council shall serve in an advisory capacity to the Governor and the Director of the Mississippi Emergency Management Agency, and shall be appointed by the Governor in such number as he may deem advisable. They shall have such powers and responsibilities as may be designated in this article. The Governor shall serve as chairman of the council. The director shall be the vice chairman of the council. The Attorney General and the Adjutant General of the state shall be ex officio members of the council. Members of the council, other than state officials, shall serve without compensation, but may be reimbursed for their reasonable and necessary expenses incurred in the performance of their duties.

Section 6. Section 33-15-11, Mississippi Code of 1972, is amended as follows:

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

emergency management functions within this state.

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

(1) To make, amend, and rescind the necessary orders, rules and regulations to carry out the provisions of this article with due consideration of the plans of the federal government.

(2) To prepare a comprehensive plan and program for the emergency management of this state, with the advice and consent of the Emergency Management Council, such plan and program to be integrated into and coordinated with the emergency management plans of the federal government and of other states to the fullest possible extent, and to coordinate the preparation of plans and programs for emergency management by the political subdivisions of this state, such local plans to be integrated into and coordinated with the emergency management plan and program of this state to the fullest possible extent.

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

(4) To cooperate with the President and the heads of the Armed Forces, and the Emergency Management Agency of the United States, and with the officers and agencies of other states in matters pertaining to the emergency management of the state and nation and the incidents thereof; and in connection therewith, to take any measures which he may deem proper to carry into effect any request of the President and the appropriate federal officers and agencies, for any action looking to emergency management, including the direction or control of (a) blackouts and practice blackouts, air raid drills, mobilization of emergency management forces, and other tests and exercises, (b) warnings and signals for drills or attacks and mechanical devices to be used in connection therewith, (c) the

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effective screening or extinguishing of all lights and lighting devices and appliances, (d) shutting off water mains, gas mains, electric power connections and the suspension of all other utility services, (e) the conduct of civilians and the movement and cessation of movement of pedestrians and vehicular traffic during, prior, and subsequent to drills or attack, (f) public meetings or gatherings under emergency conditions, (g) the evacuation and reception of the civilian population, and (h) implementing the State Emergency Management Agency's crisis relocation plan when directed.

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

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

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

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

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

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

equipment, facilities, personnel, and services as may be needed; the reimbursement of costs and expenses for equipment, supplies, personnel, and similar items for mobile support units, fire fighting, and police units and health units; and on such terms and conditions as are deemed necessary.

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

(12) With the approval of the Emergency Management Council, authorize any agency or arm of the state to create a special emergency management revolving fund, accept donations, contributions, fees, grants, including federal funds, as may be necessary for such agency or arm of the state to administer its functions of this article as set forth in the executive order of the Governor.

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

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

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

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

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

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

(3) To commandeer or utilize any private property if necessary to cope with a disaster or emergency, provided that such private property so commandeered or utilized shall be paid for under terms

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

Section 7. Section 33-15-13, Mississippi Code of 1972, is amended as follows:

33-15-13. (a) In the event of actual or impending enemy attack, as determined by the President, against the United States and the State of Mississippi, the Governor, with the advice and consent of the Emergency Management Council, may declare that a state of emergency exists, and thereafter the Governor shall have and may exercise for such period as such state of Emergency exists or continues, the following additional emergency powers:

(1) To enforce all laws, rules and regulations relating to emergency management and to assume direct operational control of all emergency management forces and helpers in the state;

(2) To purchase supplies and services for emergency management purposes, including aiding the populace, without necessity for advertising therefor; to call upon all persons, firms, and corporations to furnish such supplies, services and facilities as they may control which may be needed for the protection of the public, and to enter into all necessary contracts and agreements as may be necessary with relation thereto, all or any provisions of law with reference to advertisements in such matters being expressly waived for this purpose;

(3) To utilize or commandeer any private property for the protection of the public or at the request of the President, the Armed Forces or the Emergency Management Agency of the United States including:

(A) For use during emergency only, all means of transportation and communication, except newspapers, or publications, or wire facilities leased or owned by news services, newspapers and other news publications;

(B) Food, clothing, equipment, materials, medicines, any supplies, and stocks of fuel of whatever nature;

(C) Facilities including buildings and plants, for use during

emergency only; in the event it shall become necessary to utilize any such facilities, plants or services, the operation thereof, if possible, shall be left in the hands of the owner, subject to direction of the Governor, and only such portion as may be essential for the protection of life and property, or the national defense, shall be commandeered or utilized;

(4) To sell, lend, give, or distribute all or any such personal property utilized among the inhabitants of the state and to account to the State Treasurer for any funds received for such property;

(5) To perform and exercise such other functions, powers and duties as may be deemed necessary to promote and secure the safety and protection of the civilian population.

(b) Adequate compensation shall be paid for any property so utilized, taken or condemned. In case it shall become necessary to take or use any private property as provided above, the full faith and credit of the State of Mississippi shall be pledged to pay just compensation therefor. In case the Governor and the owner of any such property so utilized or taken shall not be able to agree on the compensation to be paid for use, damage or taking thereof, the amount of such compensation to be paid shall be determined in conformity with the statutes of this state relating to eminent domain procedures.

Section 8. Section 33-15-15, Mississippi Code of 1972, is amended as follows:

33-15-15. (a) The Governor, or his duly designated representative, is authorized to create and establish such number of mobile support units as may be necessary to reinforce emergency management organizations in stricken areas and with due consideration of the plans of the federal government and of other states. He shall appoint a commander for each such unit who shall have primary responsibility for the organization, administration and operation of such unit. Mobile support units shall be called to duty upon orders of the Governor and shall perform their functions in any part of the state, or, upon the conditions specified in this section, in other states.

(b) Personnel of mobile support units while on emergency duty occasioned by enemy attack or man-made, technological or natural disasters, whether within or without the state, shall:

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

(2) If they are employees of a political subdivision of the state, and whether serving within or without such political subdivision,

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(3) If they are not employees of the state or a political sub-
division thereof, be entitled to compensation by the state at a rate
commensurate with their duties and responsibilities and to the
same rights and immunities as are provided by law for the em-
ployees of this state.

All personnel of mobile support units shall, while on such
emergency duty, be subject to the operational control of the
authority in charge of emergency management activities in the area
in which they are serving, and shall be reimbursed for all actual and
necessary travel and subsistence expenses, and for death, disability
or injury to such personnel while on such emergency duty as a
member of a mobile support unit, the state shall pay compensation
to the heirs in event of death or the individual in event of injury or
disability in accordance with payment schedules contained in the
Mississippi Workmen's Compensation Law.

(c) The state shall reimburse a political subdivision for the
compensation paid and actual and necessary travel, subsistence and
maintenance expenses of employees of such political subdivision
while serving as members of a mobile support unit, and for all
payments for death, disability or injury of such employees incurred
in the course of such duty, and for all losses of or damage to supplies
and equipment of such political subdivision resulting from the
operation of such mobile support unit.

(d) Whenever a mobile support unit of another state shall render
aid in this state pursuant to the orders of the governor of its home
state and upon the request of the Governor of this state, the per-
sonnel thereof shall have the powers, duties, rights, privileges and
immunities of emergency management personnel serving in similar
capacities in this state, except compensation, and this state shall
reimburse such other state for the compensation paid and actual
and necessary travel, subsistence and maintenance expenses of the
personnel of such mobile support unit while rendering such aid, and
for all payments for death, disability or injury of such personnel
incurred in the course of rendering such aid, and for all losses of or
damage to supplies and equipment of such other state or a political
subdivision thereof resulting from the rendering of such aid;
provided, that the laws of such other state contain provisions
substantially similar to this section.

(e) No personnel of mobile support units of this state shall be
ordered by the Governor to operate in any other state unless the
laws of such other state contain provisions substantially similar to
this section.

Section 9. Section 33-15-17, Mississippi Code of 1972, is amended as follows:

33-15-17. (a) Each county and municipality, or counties and the municipalities therein acting jointly, or two (2) or more counties acting jointly, of this state are hereby authorized and directed to establish a local organization for emergency management in accordance with the state emergency management plan and program, if required and authorized so to do by such state emergency management plan. Each local organization for emergency management shall have a director who shall be appointed by the governing body of the political subdivision, or political subdivisions acting jointly, and who shall have direct responsibility for the organization, administration and operation of such local organization for emergency management, subject to the direction and control of such governing body. Each local organization for emergency management shall perform emergency management functions within the territorial limits of the political subdivision within which it is organized, and, in addition, shall conduct such functions outside of such territorial limits as may be required pursuant to the provisions of the state emergency management plan.

(b) In carrying out the provisions of this article each county and municipality, or the two (2) acting jointly, or two (2) or more counties acting jointly, where there is joint organization, in which any disaster as described in Section 33-15-3 occurs, shall have the power to enter into contracts and incur obligations necessary to combat such disaster, protecting the health and safety of persons and property, and providing emergency assistance to the victims of such disaster. Each county and municipality is authorized to exercise the powers vested under this section in the light of the exigencies of the extreme emergency situation without regard to time-consuming procedures and formalities prescribed by law pertaining to the performance of public work, entering into contracts, the incurring of obligations, the employment of temporary workers, the rental of equipment, the purchase of supplies and materials, the levying of taxes, and the appropriation and expenditure of public funds.

(c) Each county and each municipality, or two (2) or more counties acting jointly, shall have the power and authority:

(1) To appropriate and expend funds, make contracts, obtain and distribute equipment, materials, and supplies for emergency management purposes; provide for the health and safety of persons and property, including emergency assistance to the victims of any enemy attack or man-made, technological or natural disasters; and

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to direct and coordinate the development of emergency
 management plans and programs in accordance with the policies
 and plans set by the federal and state emergency management
 agencies;

(2) To appoint, employ, remove, or provide air raid wardens,
 rescue teams, auxiliary fire and police personnel, and other
 emergency management workers;

(3) To establish a primary and one or more secondary control
 centers to serve as command posts during an emergency;

(4) Subject to the order of the Governor, or the chief executive of
 the political subdivision, to assign and make available for duty, the
 employees, property, or equipment of the subdivision relating to fire
 fighting, engineering, rescue, health, medical and related services,
 police, transportation, construction, and similar items or services
 for emergency management purposes either within or outside of the
 limits of the subdivision;

(5) Subject to the order of the chief executive of the county or
 municipality or the Governor to order the evacuation of any area
 subject to an impending or existing enemy attack or man-made,
 technological or natural disaster;

(6) Subject to the order of the chief executive of the county or
 municipality or the Governor, to control or restrict egress, ingress
 and movement within the disaster area to the degree necessary to
 facilitate the protection of life and property.

Section 10. Section 33-15-19, Mississippi Code of 1972, is
 amended as follows:

33-15-19. (a) The director of each local organization for emergency
 management, in collaboration with other public and private
 agencies within this state, may develop or cause to be developed
 mutual aid arrangements for reciprocal emergency management aid
 and assistance in case of disaster too great to be dealt with
 unassisted. Such arrangements shall be consistent with the state
 emergency management plan and program, and in time of
 emergency it shall be the duty of each local organization for
 emergency management to render assistance in accordance with the
 provisions of such mutual aid arrangements.

(b) The director of each local organization for emergency
 management may, subject to the approval of the Governor, and the
 state emergency management plan, enter into mutual aid
 arrangements with emergency management agencies or
 organizations in other states for reciprocal emergency management

aid and assistance in case of disaster too great to be dealt with unassisted.

Section 11. Section 33-15-21, Mississippi Code of 1972, is amended as follows:

33-15-21. (a) Neither the state nor any political subdivision thereof, nor other agencies, nor, except in cases of willful misconduct, the agents, employees, or representatives of any of them engaged in any emergency management activities, while complying with or attempting to comply with this article or any rule or regulation promulgated pursuant to the provisions of this article, shall be liable for the death of or any injury to persons, or damage to property, as a result of such activity. The provisions of this section shall not affect the right of any person to receive benefits to which he would otherwise be entitled under this article, or under the Workmen's Compensation Law, or under any pension law, nor the right of any such person to receive any benefits or compensation under any act of Congress.

(b) Any person owning or controlling real estate or other premises who voluntarily and without compensation grants a license or privilege, or otherwise permits the designation or use of the whole or any part or parts of such real estate or premises for the purpose of sheltering persons or providing assistance to persons during or in recovery from an actual, impending, mock or practice attack or any man-made, technological or natural disaster, together with his successors in interest, if any, shall not be civilly liable for negligently causing the death of, or injury to, any person on or about such real estate or premises by virtue of its use for emergency management purposes, or loss of, or damage to, the property of such person.

Section 12. Section 33-15-23, Mississippi Code of 1972, is amended as follows:

33-15-23. For the purpose of paying any expenses of its local emergency management organization, or for paying any expenses of the emergency management program, any board of supervisors of a county or any governing body of a municipality is authorized to expend any available funds from the general fund of such county or municipality.

Section 13. Section 33-15-25, Mississippi Code of 1972, is amended as follows:

33-15-25. (a) The Governor of the State of Mississippi is authorized to enter into agreements with the federal government for the purpose of matching any federal funds that may be made

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available for supplying emergency management equipment to the state on a matching basis. The state's portion of the purchase price of such equipment may be made available from any appropriation made for such purposes, or such funds may be made available by the State Building Commission, and the State Building Commission is hereby authorized, in its discretion, to expend funds from any general appropriation that may be made to it for the purpose of purchasing emergency management equipment and supplies either on a matching basis or otherwise in the same manner in which it expends funds for other state departments or agencies, and the said State Building Commission is further authorized in the event of emergency and the declaration thereof, as provided in Section 33-15-13, to expend any available funds for any emergency management purpose to cope with such emergency.

(b) Any county board of supervisors or municipal governing body may enter into agreement with the federal government with approval of the State Director of Emergency Management for matching funds which may be made available for the purchase of emergency management equipment by such county or municipality in conjunction with any federal matching program and funds may be expended from the general fund of such county or municipality or from such other funds as may be available to such county or municipality for emergency management purposes in order to provide the county or municipal portion of funds necessary to carry out such matching agreement.

Section 14. Section 33-15-27, Mississippi Code of 1972, is amended as follows:

33-15-27. (a) Whenever the federal government or any agency or officer thereof shall offer to the state, or through the state to any political subdivision thereof, services, equipment, supplies, materials, or funds by way of gift, grant or loan, for purposes of emergency management, the state, acting through the Governor, or such political subdivision, acting with the consent of the Governor and through its governing body, may accept such offer and upon such acceptance the Governor of the state or governing body of such political subdivision, may authorize any officer of the state or of the political subdivision, as the case may be, to receive such services, equipment, supplies, materials, or funds on behalf of the state or such political subdivision, and subject to the terms of the offer and the rules and regulations, if any, of the agency making the offer.

(b) Whenever any person, firm or corporation shall offer to the state or to any political subdivision thereof, services, equipment, supplies, materials, or funds by way of gift, grant or loan, for

purposes of emergency management, the state, acting through the Governor, or such political subdivision, acting through its governing body may accept such offer and upon such acceptance the Governor of the state or governing body of such political subdivision may authorize any officer of the state or of the political subdivision, as the case may be, to receive such services, equipment, supplies, materials, or funds on behalf of the state or such political subdivision, and subject to the terms of the offer.

Section 15. Section 33-15-29, Mississippi Code of 1972, is amended as follows:

33-15-29. In carrying out the provisions of this article, the Governor and the executive officers or governing bodies of the political subdivisions of the state are directed to utilize the services, equipment, supplies and facilities of existing departments, offices, and agencies of the state and of the political subdivisions thereof to the maximum extent practicable, and the officers and personnel of all such departments, offices, and agencies are directed to cooperate with and extend such services and facilities to the Governor and to the emergency management organizations of the state or such subdivisions upon request.

Section 16. Section 33-15-31, Mississippi Code of 1972, is amended as follows:

33-15-31. (a) The governing bodies of the political subdivisions of the state and other agencies designated or appointed by the Governor are authorized and empowered to make, amend, and rescind such orders, rules, and regulations as may be necessary for emergency management purposes and to supplement the carrying out of the provisions of this article, but not inconsistent with any orders, rules and regulations promulgated by the Governor or by any state agency exercising a power delegated to it by him.

(b) All orders, rules, and regulations promulgated by the Governor, or by any political subdivision or other agency authorized by this article to make orders, rules and regulations, shall have the full force and effect of law, when, in the event of issuance by the Governor, or any state agency, a copy thereof is filed in the Office of the Secretary of State, or, if promulgated by a political subdivision of the state or agency thereof, when filed in the office of the clerk of the political subdivision or agency promulgating the same. All existing laws, ordinances, rules and regulations inconsistent with the provisions of this article, or of any order, rule, or regulation issued under the authority of this article, shall be suspended during the period of time and to the extent that such conflict, disaster or emergency exists.

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Section 17. Section 33-15-33, Mississippi Code of 1972, is amended as follows:

33-15-33. No individual employed by or for an organization for emergency management established under the authority of this article shall, while acting under authority of his position or representing himself in his official capacity, participate in any form of political activity, and no such organization shall be employed directly or indirectly for political purposes.

Section 18. Section 33-15-37, Mississippi Code of 1972, is amended as follows:

33-15-37. It shall be the duty of every organization for emergency management established pursuant to this article and of the officers thereof to execute and enforce such orders, rules and regulations as may be made by the Governor under authority of this article. Each such organization shall have available for inspection at its office all orders, rules and regulations made by the Governor, or under his authority.

Section 19. Section 33-15-39, Mississippi Code of 1972, is amended as follows:

33-15-39. Any county or municipality, through its governing board, and with the approval of the sheriff in a county, or the chief of police in a municipality, may confer upon members of emergency management auxiliary police units, the powers of peace officers, subject to such restrictions as shall be imposed.

Section 20. Section 33-15-41, Mississippi Code of 1972, is amended as follows:

33-15-41. Any emergency management auxiliary policeman who has had conferred upon him the power of a peace officer, as provided in Section 33-15-39 and when in full and distinctive uniform or displaying a badge or other insignia of authority, may arrest without a warrant any person violating or attempting to violate in such officer's presence any order, rule, or regulation made pursuant to this article. This authority shall be limited to those rules and regulations which affect the public generally.

Section 21. Section 33-15-45, Mississippi Code of 1972, is amended as follows:

33-15-45. All local emergency management councils heretofore created under the provisions of former Sections 8610-8620, Mississippi Code of 1942, are hereby continued, subject to the provisions of this article.

Section 22. It is the intent of the Legislature that the following shall be codified as Section 33-15-49, Mississippi Code of 1972:

33-15-49. In the event an impending enemy attack, an enemy attack, or a man-made, technological or natural disaster occurs within the state or within any portion of it and a proclamation is issued by the Office of the Governor of the state or the President of the United States declaring such affected areas to be disaster areas, the governing authorities of any county or municipality adversely affected by such disaster may:

(a) Use county or municipally owned equipment and such public employees as necessary to venture onto private property to aid in removing debris and to prevent further damage to such property at the request of the property owners;

(b) Use county or municipally owned equipment and such public employees as necessary to venture onto private property to remove debris and to perform any other necessary and needed services to prevent the spread of disease or any other health hazard to the community at large.

If the governing authorities of such adversely affected counties or municipalities are unable to perform such necessary and needed functions with their own equipment and personnel, they may request aid from other counties and municipalities not adversely affected by such impending enemy attack, enemy attack, or man-made, technological or natural disaster, and capable and willing to furnish needed services.

Provided, however, if the Governor determines that the governing authorities of such adversely affected counties or municipalities still lack sufficient equipment and personnel under such circumstances to perform such functions, any state agency or instrumentality, when directed by the Governor, is authorized to enter upon publicly or privately owned land or water and to use state-owned equipment and state employees as necessary to clear or remove debris and wreckage. Whenever the Governor provides for clearance of debris or wreckage pursuant hereto, employees of the designated state agencies or instrumentalities are authorized to enter upon private or public land or water and perform any tasks

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When, in the opinion of the commission or its executive director, an emergency situation exists which creates an imminent and substantial endangerment threatening the public health and safety or the lives and property of the people of this state, notice shall be given immediately to local governing authorities, both county and municipal, the state emergency management organization, and the

Governor for appropriate action in accordance with applicable laws for protections against disaster situations.

Section 26. Section 97-37-9, Mississippi Code of 1972, is amended as follows:

97-37-9. Any person indicted or charged for a violation of Section 97-37-1 may show as a defense:

(a) That he was threatened, and had good and sufficient reason to apprehend a serious attack from any enemy, and that he did so apprehend; or

(b) That he was traveling and was not a tramp, or was setting out on a journey and was not a tramp; or

(c) That he was a law enforcement or peace officer in the discharge of his duties; or

(d) That he was at the time in the discharge of his duties as a mail carrier; or

(e) That he was at the time engaged in transporting valuables for an express company or bank; or

(f) That he was a member of the Armed Forces of the United States, National Guard, State Militia, Emergency Management Corps, guard or patrolman in a state or municipal institution while in the performance of his official duties; or

(g) That he was in lawful pursuit of a felon; or

(h) That he was lawfully engaged in legitimate sports; or

(i) That at the time he was a company guard, bank guard, watchman, or other person enumerated in Section 97-37-7, and was then actually engaged in the performance of his duties as such, and then held a valid permit from the sheriff, the Commissioner of Public Safety, or a valid permit issued by the Secretary of State prior to May 1, 1974, to carry the weapon; and the burden of proving either of said defenses shall be on the accused.

Section 27. Section 43-41-3, Mississippi Code of 1972, is amended as follows:

43-41-3. The following words wherever used in this article shall, unless a different meaning clearly appears from the context, have the following meanings:

(a) "Necessary expense" shall mean the cost of an item or service essential to an individual or family to mitigate or overcome an adverse condition caused by a major disaster.

(b) "Serious need" shall mean a requirement for an item or service essential to an individual or family to prevent or reduce hardship, injury or loss caused by a major disaster.

(c) "Family" shall mean a social unit comprised of husband and wife and dependents, if any, or a head of a household, as these terms are defined in the Internal Revenue Code of 1954.

(d) "Individual" shall mean a person who is not a member of a family as defined in subparagraph (c) above.

(e) "Assistance from other means" shall mean aid, including monetary or in-kind contributions from other governmental programs, insurance, voluntary or charitable organizations or from any sources other than those of the individual or family.

(f) "Federal regulations" shall mean those regulations published in the Federal Register relating to the specific subject.

(g) "Emergency" shall mean any hurricane, tornado, storm, flood, high water, wind-driven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, snowstorm, drought, fire, explosion or other man-made, technological or natural disaster or catastrophe in the State of Mississippi requiring federal emergency assistance to supplement state and local efforts to save lives and protect property, public health and safety, or to avert or lessen the threat of a major disaster.

(h) "Federal assistance" shall mean aid to disaster victims or state and local governments by federal agencies under the provisions of the Federal Disaster Relief Act.

(i) "Major disaster" shall mean any hurricane, tornado, storm, flood, high water, wind-driven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, snowstorm, drought, fire, explosion or other man-made, technological or natural disaster or catastrophe in the State of Mississippi which, in the determination of the President, causes damage of sufficient severity and magnitude to warrant major disaster assistance under the Federal Disaster Relief Act above and beyond emergency services of the federal government to supplement the efforts and available resources of the state, local governments and disaster relief organizations in alleviating the damage, loss, hardship or suffering caused thereby.

(j) "Regional director" shall mean a director of a regional office of the Federal Emergency Management Agency.

(k) "State Coordinating Officer" shall mean the person appointed by the Governor who will act in cooperation with the federal

coordinating officer appointed under Section 303(a) of the Federal Disaster Relief Act of 1974.

(l) "Temporary housing" shall mean mobile home accommodations or rental of existing housing provided by the federal or state government, either individually or jointly, to individuals or families made homeless by emergency or major disaster.

(m) "Voluntary organization" shall mean any chartered or otherwise duly recognized tax-exempt local, state or nationally organized group which has provided or may provide services to states, local governments or individuals in a major disaster or emergency.

(n) "State emergency" shall mean that a state of emergency has been declared to exist as a result of an enemy attack or a man-made, technological or natural disaster and the local government has exhausted local resources and requires state assistance.

Section 28. Section 43-41-5, Mississippi Code of 1972, is amended as follows:

43-41-5. (1) The Disaster Emergency Funding Board, hereinafter called the "board," is hereby established and shall be composed of members of the Commission of Budget and Accounting.

(2) It is the intent of the Legislature that the board utilize funds which are made available by regular appropriation. However, there is hereby established within the State Treasury a revolving fund to be designated as the "Disaster Emergency Funding Board Fund." The monies appropriated and deposited in such fund shall be used to expedite aid to disaster victims until federal funds are made available. This fund shall be replenished as used in the event another disaster occurs. Said funds shall be deposited in interest-bearing accounts in compliance with state law.

Section 29. Section 43-41-7, Mississippi Code of 1972, is amended as follows:

43-41-7. Whenever the President of the United States, at the request of the Governor, has declared a major disaster to exist in this state, the Governor is authorized:

(a) To accept a grant by the federal government, subject to such terms and conditions as may be imposed, including the required final audit by the State Department of Audit, upon determination and with concurrence of the board that financial assistance is essential to meet disaster-related necessary expenses or serious needs of individuals or families adversely affected by a major disaster that cannot be otherwise adequately met from other means of assistance.

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(b) To enter into an agreement with the federal government, or any officer or agency thereof, pledging the state to participate in the funding of the financial assistance authorized in Section 408, Title IV, P. L. 93-288, in an amount not to exceed twenty-five percent (25%) thereof, and if state funds are not otherwise available to the Governor, to accept an advance of the state share from the federal government to be repaid when the state is able to do so when appropriated for that purpose.

Section 30. Section 43-41-9, Mississippi Code of 1972, is amended as follows:

43-41-9. In order to make assistance available to major disaster victims under this article, the Governor must file a request for such assistance, and the Federal Emergency Management Agency must approve such a request.

Section 31. Section 43-41-11, Mississippi Code of 1972, is amended as follows:

43-41-11. The Director of the State Emergency Management Agency shall develop a plan for the administration and implementation of the individuals and family grant program to be included in the state natural disaster plan, and it shall include, but not be limited to:

(a) Individuals or families who incur a necessary expense or serious need in the major disaster area may be eligible for assistance under this article without regard to their residency in the major disaster area or within the state.

(b) Individuals or families otherwise eligible for assistance under this article must obtain flood insurance as required by flood insurance regulations.

(c) Assistance under this article may be made available to meet necessary expenses or serious needs by providing essential items or services that cannot be provided from other sources and except those covered by insurance as provided in Title 24 CFR Chapter XIII, Part 2205.48.

(d) Under this article grants will not be made available for any item or service in the following categories:

- (i) Business losses, including farm businesses.
- (ii) Improvements or additions to real or personal property.
- (iii) Landscaping.
- (iv) Real or personal property used exclusively for recreation.
- (v) Financial obligations incurred prior to the disaster.

(vi) Any necessary expense or serious need or portion thereof for which assistance is available from other means but is refused by the individual or family.

(e) Should a case arise where it is determined that an individual or family has an expense or need not specifically identified as eligible, the state will provide a factual summary and forward it to the regional director, FEMA, for determination prior to making a state commitment.

Section 32. Section 43-41-305, Mississippi Code of 1972, is amended as follows:

43-41-305. Temporary housing assistance under this article may be made available to those disaster victims who, as a result of a major disaster or emergency declared by the Governor or the President of the United States, require temporary housing for reasons including, but not limited to, the following:

(a) Physical damage to the dwelling to the extent that it has been rendered uninhabitable.

(b) The dwelling has been determined uninhabitable as a result of disaster by an authorized governmental entity requiring evacuation of an area. This does not include subsequent condemnation for redevelopment of an area following a disaster.

(c) Impeded access to the dwelling which cannot be quickly alleviated by debris removal even though the structure may be unharmed.

(d) Extended interruption of essential utilities sufficient to constitute a health hazard.

(e) Eviction from a residence by the owner because of the owner's personal need for housing as a direct result of the disaster.

(f) Eviction from residence by owner because of a financial hardship which is a direct result of the disaster.

(g) Other circumstances which cause temporary housing to be required and which are approved by the regional director and State Coordinating Officer.

Section 33. Section 43-41-311, Mississippi Code of 1972, is amended as follows:

43-41-311. (1) The period of eligibility for occupancy in temporary housing shall be determined on the basis of need. Each temporary housing occupant shall endeavor to place himself in adequate alternate housing at the earliest possible time.

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(2) Each occupant's eligibility for continued occupancy shall be recertified every thirty (30) days. No rentals shall be established for the first twelve (12) months of occupancy. Thereafter, provided no adequate alternate housing exists, and upon approval of the Director of the Mississippi Emergency Management Agency, rentals shall be established, based on the fair market value of the accommodations being furnished. Such rentals shall be adjusted to take into consideration the financial ability of the occupant.

Section 34. Section 43-41-315, Mississippi Code of 1972, is amended as follows:

43-41-315. Temporary housing acquired from the Federal Emergency Management Agency under Section 404(d)(2), P. L. 93-288, by the state for use of disaster victims may be sold directly to individuals or families who are occupants, for their use as permanent housing. Such sales shall be at prices that are fair and equitable, as determined by the Regional Director of the Federal Emergency Management Agency or the State Coordinating Officer.

Section 35. Section 43-41-319, Mississippi Code of 1972, is amended as follows:

43-41-319. State agencies, in carrying out their assigned disaster or emergency assignments and when their regularly appropriated funds have been depleted below a level which would prohibit them from carrying out their normal work, shall be reimbursed their expenses for emergency or disaster related duties, which may include the payment of overtime and the employment of temporary personnel by such agencies, from such monies as are made available.

Section 36. It is the intent of the Legislature that the following shall be codified as Section 43-41-321, Mississippi Code of 1972:

43-41-321. At a time specified by and in compliance with the Federal-State Agreement, the Mississippi Emergency Management Agency shall assume full responsibility for and title to the temporary housing units which may be donated to the state. This responsibility shall include administration of, storage, maintenance, transportation, personnel, supplies and equipment. The Mississippi Emergency Management Agency is hereby authorized to employ such personnel as necessary on a temporary basis to carry out the responsibilities of this article. The Legislature may make available such funds as it may deem necessary for proper execution and performance of the Federal-State Agreement.

Section 37. Sections 33-15-35 and 45-17-13, Mississippi Code of 1972, are hereby repealed.

Section 38. This act shall take effect and be in force from and after its passage.

Approved: May 9, 1980

CHAPTER NO. 492

HOUSE BILL NO. 469

AN ACT to amend Sections 75-17-1, 75-67-39, 63-19-43, 81-5-79 and 81-13-39, Mississippi Code of 1972, to provide for an increase in maximum finance charges on certain loans under certain conditions; to clarify the meaning of the word "month" when concerned with finance charges; and for related purposes.

Be it enacted by the Legislature of the State of Mississippi:

Section 1. Section 75-17-1, Mississippi Code of 1972, is amended as follows:

75-17-1. (1) The legal rate of interest on all notes, accounts and contracts shall be eight percent (8%) per annum through June 30, 1982, and six percent (6%) per annum thereafter, calculated according to the actuarial method, but contracts may be made, in writing, for payment of a finance charge as otherwise provided by this section or as otherwise authorized by law.

(2) Any borrower or debtor may contract for and agree to pay a finance charge for any loan or other extension of credit made directly or indirectly to a borrower or debtor which will result in a yield not to exceed ten percent (10%) per annum, calculated according to the actuarial method; provided, that through June 30, 1982, any borrower or debtor may contract for and agree to pay a finance charge for any loan or other extension of credit made directly or indirectly to a borrower or debtor which may result in a yield not to exceed five percent (5%) per annum above the discount rate, excluding any surcharge thereon, on ninety-day commercial paper in effect at the Federal Reserve bank in the Federal Reserve district where the lender is located, calculated according to the actuarial method. The rate of finance charge authorized under this subsection (2) shall be known as the "contract rate."

(3) Notwithstanding the foregoing and any other provision of law to the contrary, any partnership, joint venture, religious society, unincorporated association, or domestic or foreign corporation, whether organized for profit or nonprofit, may contract for and agree to pay a finance charge which will result in a yield not to exceed fifteen percent (15%) per annum, calculated according to the actuarial method, on any contract or other obligation under which

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STATE OF MISSISSIPPI

Appropriations

General Legislation and

Resolutions

PASSED AT A REGULAR SESSION OF THE
MISSISSIPPI LEGISLATURE
HELD IN THE CITY OF JACKSON COMMENCING
ON TUESDAY JANUARY 3, 1995, AND
ENDING ON TUESDAY, APRIL 11, 1995.



(Local and Private Laws are published
in a separate volume.)

Numerical lists of House and Senate Bills, indexes, and
data on laws which amend or repeal existing laws
appear in back of this volume.

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nity under this section shall be extended only if the physician or certified nurse practitioner and patient execute a written waiver in advance of the rendering of such medical services specifying that such services are provided without the expectation of payment and that the licensed physician or certified nurse practitioner shall be immune as provided herein.

(2) Any physician who voluntarily renders any medical service under a special volunteer medical license authorized under Section 1 of this act without any payment or compensation or the expectation or promise of any payment or compensation shall be immune from liability for any civil action arising out of any act or omission resulting from the rendering of the medical service unless the act or omission was the result of the physician's gross negligence or willful misconduct. In order for the immunity under this subsection to apply, there must be a written or oral agreement for the physician to provide a voluntary noncompensated medical service before the rendering of the service by the physician.

SECTION 5. This act shall take effect and be in force from and after July 1, 1995.

Approved: March 10, 1995

CHAPTER NO. 333 HOUSE BILL NUMBER 1103

AN ACT TO CREATE NEW CODE SECTIONS TO BE CODIFIED AS SECTIONS 33-15-2, 33-15-14 AND 33-15-53, MISSISSIPPI CODE OF 1972, TO EXPRESS LEGISLATIVE INTENT WITH REGARD TO THE STATE'S EMERGENCY MANAGEMENT LAW; TO ESTABLISH THE RESPONSIBILITIES OF THE MISSISSIPPI EMERGENCY MANAGEMENT AGENCY; TO REQUIRE THAT EACH STATE DEPARTMENT, AGENCY OR COMMISSION DESIGNATE AN EMERGENCY COORDINATION OFFICER AND AN ALTERNATE EMERGENCY COORDINATION OFFICER FROM WITHIN SUCH DEPARTMENT, AGENCY OR COMMISSION; TO AMEND SECTION 33-15-5, MISSISSIPPI CODE OF 1972, TO DEFINE THE TERMS "EMERGENCY MANAGEMENT," "EMERGENCY," "MAN-MADE EMERGENCY," "NATURAL EMERGENCY," "TECHNOLOGICAL EMERGENCY," "LOCAL EMERGENCY MANAGEMENT AGENCY" AND "DISASTER"; TO AMEND SECTIONS 33-15-3, 33-15-7, 33-15-11, 33-15-13, 33-15-15, 33-15-17, 33-15-19, 33-15-25, 33-15-29 AND 33-15-31, MISSISSIPPI CODE OF 1972, IN CONFORMITY TO THE PROVISIONS OF THIS ACT; TO REPEAL SECTION 33-15-9, MISSISSIPPI CODE OF 1972, WHICH PROVIDES FOR THE CREATION OF THE MISSISSIPPI EMERGENCY MANAGEMENT COUNCIL; TO REPEAL SECTION 33-15-101, MISSISSIPPI CODE OF 1972, WHICH PROVIDES FOR THE AUTHORITY OF THE STATE TO ENTER INTO CIVIL DEFENSE AND DISASTER COMPACTS; AND FOR RELATED PURPOSES.

Be it enacted by the Legislature of the State of Mississippi:

SECTION 1. The following shall be codified as Section 33-15-2, Mississippi Code of 1972:

33-15-2. (1) The Legislature finds and declares that the state is vulnerable to a wide range of emergencies, including natural, technological and man-made disasters, all of which threaten the life, health and safety of its people; damage and destroy property; disrupt services and everyday business and recreational activities; and impede economic growth and development. The Legislature further finds that this vulnerability is exacerbated by the growth in the state's number of persons with special needs. This growth has greatly complicated the state's ability to coordinate its emergency management resources and activities.

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(2) It is the intent of the Legislature to reduce the vulnerability of the people and property of this state; to prepare for efficient evacuation and shelter of threatened or affected persons; to provide for the rapid and orderly provision of relief to persons and for the coordination of activities relating to emergency preparedness, response, recovery and mitigation among and between agencies and officials of this state, with similar agencies and officials of other states, with local and federal governments, with inter-state organizations and with the private sector.

(3) It is further the intent of the Legislature to promote the state's emergency preparedness, response, recovery and mitigation capabilities through enhanced coordination, long-term planning and adequate funding. State policy for responding to disasters is to support local emergency response efforts. In the case of a major or catastrophic disaster, however, the needs of residents and communities will likely be greater than local resources. In these situations, the state must be capable of providing effective, coordinated and timely support to communities and the public. Therefore, the Legislature determines and declares that the provisions of this article fulfill an important state interest.

SECTION 2. Section 33-15-3, Mississippi Code of 1972, is amended as follows:

33-15-3. (a) Because of the existing and increasing possibility of the occurrence of disasters or emergencies of unprecedented size and destructiveness resulting from enemy attack, sabotage or other hostile action, and from natural, man-made or technological disasters, and in order to insure that preparations of this state will be adequate to deal with, reduce vulnerability to, and recover from such disasters or emergencies, and generally to provide for the common defense and to protect the public peace, health and safety, and to preserve the lives and property of the people of this state, it is hereby found and declared necessary: (1) To create a state emergency management agency, and to authorize the creation of local organizations for emergency management in the municipalities and counties of the state, and to authorize cooperation with the federal government and the governments of other states; (2) to confer upon the Governor, the agency and upon the executive heads or governing bodies of the municipalities and counties of the state the emergency powers provided herein; and (3) to provide for the rendering of mutual aid among the municipalities and counties of the state, and with other states, and with the federal government with respect to the carrying out of emergency management functions and responsibilities; (4) to authorize the establishment of such organizations and the development and employment of such measures as are necessary and appropriate to carry out the provisions of this article; and (5) to provide the means to assist in the prevention or mitigation of emergencies which may be caused or aggravated by inadequate planning for, and regulation of, public and private facilities and land use.

(b) It is further declared to be the purpose of this article and the policy of the state that all emergency management functions of this state be coordinated, to the maximum extent, with the comparable functions of the federal government, including its various departments and agencies, of other states and localities, and of private agencies of every type, to the end that the most effective preparation and use may be made of the nation's manpower, resources, and facilities for dealing with any disaster or emergency, or both, that may occur as enumerated in this section.

SECTION 3. Section 33-15-5, Mississippi Code of 1972, is amended as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(m) "Disaster" means any natural, technological or civil emergency that causes damage of sufficient severity and magnitude to result in a declaration of a state of emergency by a county, the Governor or the President of the United States. Disasters shall be identified by the severity of resulting damage, as follows:

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

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

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

SECTION 4. Section 33-15-7, Mississippi Code of 1972, is amended as follows:

33-15-7. (a) There is hereby created within the executive branch of the state government a department called the Mississippi Emergency Management Agency with a director of emergency management who shall be appointed by the Governor; he shall hold office during the pleasure of the Governor and shall be compensated as determined by any appropriation that may be made by the Legislature for such purposes.

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

(c) The director and other personnel of the emergency management agency shall be provided with appropriate office space, furniture, equipment, supplies, stationery and printing in the same manner as provided for other state agencies.

(d) The director, subject to the direction and control of the Governor, shall be the executive head of the emergency management agency and shall be responsible to

the Governor for carrying out the program for emergency management of this state. He shall coordinate the activities of all organizations for emergency management within the state, and shall maintain liaison with and cooperate with emergency management agencies and organizations of other states and of the federal government, and shall have such additional authority, duties, and responsibilities authorized by this article as may be prescribed by the Governor.

SECTION 5. Section 33-15-11, Mississippi Code of 1972, is amended as follows:

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

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

(1) To make, amend, and rescind the necessary orders, rules and regulations to carry out the provisions of this article with due consideration of the plans of the federal government.

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

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

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

management of this state. He shall be responsible for the management within the emergency management agency, and shall have authority to direct or control the activities of the agency as may be authorized by this article as may be recommended as follows:

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

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

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

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

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

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

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

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

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

power connections and the suspension of all other utility services, (e) the conduct of civilians and the movement and cessation of movement of pedestrians and vehicular traffic during, prior, and subsequent to drills or attack, (f) public meetings or gatherings under emergency conditions, (g) the evacuation and reception of the civilian population, and (h) implementing the State Emergency Management Agency's crisis relocation plan when directed.

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

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

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

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

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

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

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

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

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

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

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

(16) To proclaim a state of emergency in an area affected or likely to be affected thereby when he finds that the conditions described in Section 33-15-5(g) exist, or when he is requested to do so by the mayor of a municipality or by the president of the board of supervisors of a county, or when he finds that a local authority is unable to cope with the emergency. Such proclamation shall be in writing and shall take effect immediately upon its issuance. As soon thereafter as possible, such proclamation shall be filed with the Secretary of State and be given widespread notice and publicity. The state of emergency shall be terminated at the earliest possible date that conditions warrant.

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

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

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

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

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

SECTION 6. Section 33-15-13, Mississippi Code of 1972, is amended as follows:

33-15-13. (a) In the event of actual or impending enemy attack, as determined by the President, against the United States and the State of Mississippi, the Governor may proclaim that a state of war emergency exists, and thereafter the Governor shall have and may exercise for such period as such state of war emergency exists or continues, the following additional emergency powers:

(1) To enforce all laws, rules and regulations relating to emergency management and to assume direct operational control of all emergency management forces and helpers in the state;

(2) To purchase supplies and services for emergency management purposes, including aiding the populace, without necessity for advertising therefor; to call upon all

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persons, firms and corporations to furnish such supplies, services and facilities as they may control which may be needed for the protection of the public, and to enter into all necessary contracts and agreements as may be necessary with relation thereto, all or any provisions of law with reference to advertisements in such matters being expressly waived for this purpose;

(3) To utilize or commandeer any private property for the protection of the public or at the request of the President, the Armed Forces or the Emergency Management Agency of the United States including:

(A) For use during emergency only, all means of transportation and communication, except newspapers, or publications, or wire facilities leased or owned by news services, newspapers and other news publications;

(B) Food, clothing, equipment, materials, medicines, any supplies and stocks of fuel of whatever nature;

(C) Facilities including buildings and plants, for use during emergency only; in the event it shall become necessary to utilize any such facilities, plants or services, the operation thereof, if possible, shall be left in the hands of the owner, subject to direction of the Governor, and only such portion as may be essential for the protection of life and property, or the national defense, shall be commandeered or utilized;

(4) To sell, lend, give or distribute all or any such personal property utilized among the inhabitants of the state and to account to the State Treasurer for any funds received for such property;

(5) To perform and exercise such other functions, powers and duties as may be deemed necessary to promote and secure the safety and protection of the civilian population.

(b) Adequate compensation shall be paid for any property so utilized, taken or condemned. In case it shall become necessary to take or use any private property as provided above, the full faith and credit of the State of Mississippi shall be pledged to pay just compensation therefor. In case the Governor and the owner of any such property so utilized or taken shall not be able to agree on the compensation to be paid for use, damage or taking thereof, the amount of such compensation to be paid shall be determined in conformity with the statutes of this state relating to eminent domain procedures.

(c) All powers granted to the Governor by this section with respect to a state of war emergency shall terminate when the state of war emergency has been terminated by proclamation of the Governor or by concurrent resolution of the Legislature declaring it at an end.

SECTION 7. The following shall be codified as Section 33-15-14, Mississippi code of 1972:

33-15-14. (1) The agency is responsible for maintaining a comprehensive statewide program of emergency management. The agency is responsible for coordination with efforts of the federal government with other departments and agencies of state government, with county and municipal governments and school boards and with private agencies that have a role in emergency management.

(2) In performing its duties under this article, the agency shall:

(a) Work with Governor, or his representative, in preparing a state comprehensive emergency management plan of this state, which shall be integrated into and coordinated with the emergency management plans of the federal government and of other states to the fullest possible extent, and to coordinate the preparation of plans and programs for emergency management by the political subdivisions of the state, such local plans to be integrated into and coordinated with the emergency plan and program of this state. The plan must contain provisions to ensure that the state is prepared for emergencies and minor, major and catastrophic disasters, and the agency shall work closely with local governments and agencies and organizations with emergency management responsibilities in preparing and maintaining the plan. The state comprehensive emergency management plan will be operations oriented and:

(i) Include an evacuation component that includes specific regional and interregional planning provisions and promotes intergovernmental coordination of evacuation activities. This component must, at a minimum: ensure coordination pertaining to evacuees crossing county lines; set forth procedures for directing people caught on evacuation routes to safe shelter; and establish policies and strategies for emergency medical evacuations.

(ii) Include a shelter component that includes specific regional and interregional planning provisions and promotes coordination of shelter activities between the public, private and nonprofit sectors. This component must, at a minimum: contain strategies to ensure the availability of adequate public shelter space in each region of the state; establish strategies for refuge-of-last-resort programs; provide strategies to assist local emergency management efforts to ensure that adequate staffing plans exist for all shelters, including medical and security personnel; provide for a postdisaster communications system for public shelters; establish model shelter guidelines for operations, registration, inventory, power generation capability, information management and staffing; and set forth policy guidance for sheltering people with special needs.

(iii) Include a postdisaster response and recovery component that includes specific regional and interregional planning provisions and promotes intergovernmental coordination of postdisaster response and recovery activities. This component must provide for postdisaster response and recovery strategies according to whether a disaster is minor, major or catastrophic. The postdisaster response and recovery component must, at a minimum: establish the structure of the state's postdisaster response and recovery organization; establish procedures for activating the state's plan; set forth policies used to guide postdisaster response and recovery activities; describe the chain of command during the postdisaster response and recovery period; describe initial and continuous postdisaster response and recovery actions; identify the roles and responsibilities of each involved agency and organization; provide for a comprehensive communications plan; establish procedures for monitoring mutual aid agreements; provide for rapid impact assessment teams; ensure the availability of an effective statewide urban search and rescue program coordinated with the fire services; ensure the existence of a comprehensive statewide medical care and relief plan administered by the State Department of Health; and establish systems for coordinating volunteers and accepting and distributing donated funds and goods.

(iv) Include additional provisions addressing aspects of preparedness, response and recovery, as determined necessary by the agency.

(v) Address the need for coordinated and expeditious deployment of state resources, including the Mississippi National Guard. In the case of an imminent major disaster, procedures should address predeployment of the Mississippi National Guard, and, in the case of an imminent catastrophic disaster, procedures should address predeployment of the Mississippi National Guard and the United States Armed Forces. This

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(g) Anticipate trends and promote innovations that will enhance the emergency management system.

(h) Prepare and distribute to appropriate state and local officials catalogs of federal, state and private assistance programs.

(i) Implement training programs to improve the ability of state and local emergency management personnel to prepare and implement emergency management plans and programs.

(j) Review periodically emergency operating procedures of state agencies and recommend revisions as needed to ensure consistency with the State Comprehensive Emergency Management Plan and program.

(k) Prepare, in advance whenever possible, such executive orders, proclamations and rules for issuance by the Governor as are necessary or appropriate for coping with emergencies and disasters.

(l) Cooperate with the federal government and any public or private agency or entity in achieving any purpose of this article.

(m) Assist political subdivisions with the creation and training of urban search and rescue teams and promote the development and maintenance of a state urban search and rescue program.

(n) Delegate, as necessary and appropriate, authority vested in it under this article and provide for the subdelegation of such authority.

(o) Report biennially to the Governor and the President of the Senate, and the Speaker of the House of Representatives, no later than January 1 of every odd-numbered year, the status of the emergency management capabilities of the state and its political subdivisions.

(p) In accordance with Section 25-43-1 et seq., create, implement, administer, promulgate, amend and rescind rules, programs and plans needed to carry out the provisions of this article with due consideration for, and in cooperating with, the plans and programs of the federal government.

(q) Do other things necessary, incidental or appropriate for the implementation of this article.

SECTION 8. Section 33-15-15, Mississippi Code of 1972, is amended as follows:

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

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

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

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

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

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

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

(d) Whenever an emergency management support force of another state shall render aid in this state pursuant to the orders of the governor of its home state and upon the request of the Governor of this state, the personnel thereof shall have the powers, duties, rights, privileges and immunities of emergency management personnel serving in similar capacities in this state, except compensation, and this state shall reimburse such other state for the compensation paid and actual and necessary travel, subsistence and maintenance expenses of the personnel of such emergency management support force while rendering such aid, and for all payments for death, disability or injury of such personnel incurred in the course of rendering such aid, and for all losses of or damage to supplies and equipment of such other state or a political subdivision thereof resulting from the rendering of such aid; provided, that the laws of such other state contain provisions substantially similar to this section.

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

SECTION 9. Section 33-15-17, Mississippi Code of 1972, is amended as follows:

33-15-17. (a) Each county and municipality, or counties and the municipalities therein acting jointly, or two (2) or more counties acting jointly, of this state are hereby authorized and directed to establish a local organization for emergency management in accordance with the state emergency management plan and program, if required and authorized so to do by such state emergency management plan. Each local organization for emergency management shall have a director who shall be appointed by the governing body of the political subdivision, or political subdivisions acting jointly, and who shall have direct responsibility for the organization, administration and operation of such local organization for emergency management, subject to the direction and control of such governing body. Each local organization for emergency management shall perform emergency management functions within the territorial limits of the political sub-

division within which it is organized, and, in addition, shall conduct such functions outside of such territorial limits as may be required pursuant to the provisions of the state emergency management plan. Each county shall develop an emergency management plan and program that is coordinated and consistent with the state comprehensive emergency management plan and program. Counties that are part of an interjurisdictional emergency management agreement entered into pursuant to this section shall cooperatively develop an emergency management plan and program that is coordinated and consistent with the state emergency management plan and program.

(b) In carrying out the provisions of this article each county and municipality, or the two (2) acting jointly, or two (2) or more counties acting jointly, where there is joint organization, in which any disaster as described in Section 33-15-3 occurs, shall have the power to enter into contracts and incur obligations necessary to combat such disaster, protecting the health and safety of persons and property, and providing emergency assistance to the victims of such disaster. Each county and municipality is authorized to exercise the powers vested under this section in the light of the exigencies of the extreme emergency situation without regard to time-consuming procedures and formalities prescribed by law pertaining to the performance of public work, entering into contracts, the incurring of obligations, the employment of temporary workers, the rental of equipment, the purchase of supplies and materials, the levying of taxes and the appropriation and expenditure of public funds.

(c) Each county and each municipality, or two (2) or more counties acting jointly, shall have the power and authority:

(1) To appropriate and expend funds, make contracts, obtain and distribute equipment, materials, and supplies for emergency management purposes; provide for the health and safety of persons and property, including emergency assistance to the victims of any enemy attack or man-made, technological or natural disasters; and to direct and coordinate the development of emergency management plans and programs in accordance with the policies and plans set by the federal and state emergency management agencies;

(2) To appoint, employ, remove, or provide, with or without compensation, air raid wardens, rescue teams, auxiliary fire and police personnel, and other emergency management workers;

(3) To establish, as necessary, a primary and one or more secondary emergency operating centers to provide continuity of government, and direction and control of emergency operation during an emergency;

(4) Subject to the order of the Governor, or the chief executive of the political subdivision, to assign and make available for duty, the employees, property or equipment of the subdivision relating to fire fighting, engineering, rescue, health, medical and related services, police, transportation, construction, and similar items or services for emergency management purposes either within or outside of the limits of the subdivision;

(5) Subject to the order of the chief executive of the county or municipality or the Governor to order the evacuation of any area subject to an impending or existing enemy attack or man-made, technological or natural disaster;

(6) Subject to the order of the chief executive of the county or municipality or the Governor, to control or restrict egress, ingress and movement within the disaster area to the degree necessary to facilitate the protection of life and property.

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(d) A local emergency as defined in Section 33-15-5 may be proclaimed by the governing body of a municipality or county. The governing body shall review the need for continuing the local emergency at least every seven (7) days until such local emergency is terminated, and shall proclaim the termination of such local emergency at the earliest possible date that conditions warrant. During a local emergency, the governing body of a political subdivision may promulgate orders and regulations necessary to provide for the protection of life and property, including orders or regulations imposing a curfew within designated boundaries where necessary to preserve the public order and safety. Such orders and regulations and amendments and rescissions thereof shall be in writing and shall be given widespread notice and publicity. The authorization granted by this section to impose a curfew shall not be construed as restricting in any manner the existing authority to impose a curfew pursuant to police power for any other lawful purpose.

SECTION 10. Section 33-15-19, Mississippi Code of 1972, is amended as follows:

33-15-19. (a) The governing body of a municipality or county of the state is authorized to develop and enter into mutual aid agreements within the state for reciprocal emergency management aid and assistance in case of disaster or emergency too extensive to be dealt with unassisted. Copies of the agreements shall be sent to the agency. Such arrangements shall be consistent with the state emergency management plan and program, and in time of emergency it shall be the duty of each local emergency management organization to render assistance in accordance with the provisions of such mutual aid arrangements.

(b) The Governor may enter into compacts with any state or group of states if he finds that joint action with that state or group of states is desirable in meeting common intergovernmental problems of emergency management planning or emergency prevention, mitigation, response and recovery.

SECTION 11. Section 33-15-25, Mississippi Code of 1972, is amended as follows:

33-15-25. (a) The Governor of the State of Mississippi is authorized to enter into agreements with the federal government for the purpose of matching any federal funds that may be made available for emergency management purposes, which shall include purchasing emergency management equipment and supplies, to the state on a matching basis. Provided, that no agreement shall obligate the state for an amount greater than the appropriation available for such purpose. The state's portion of the purchase price of any emergency management equipment may be made available from any appropriation made for such purposes.

(b) Any county board of supervisors or municipal governing body may enter into agreement with the federal government with approval of the State Director of Emergency Management for matching funds which may be made available for emergency management purposes, which shall include purchasing emergency management equipment and supplies, by such county or municipality in conjunction with any federal matching program and funds may be expended from the general fund of such county or municipality or from such other funds as may be available to such county or municipality for emergency management purposes in order to provide the county or municipal portion of funds necessary to carry out such matching agreement.

SECTION 12. Section 33-15-29, Mississippi Code of 1972, is amended as follows:

33-15-29. (a) In carrying out the provisions of this article, the Governor and the executive officers or governing bodies of the political subdivisions of the state are directed to utilize the services, equipment, supplies and facilities of existing departments, offices, and agencies of the state and of the political subdivisions thereof to the

maximum extent practicable, and the officers and personnel of all such departments, offices, and agencies are directed to cooperate with and extend such services and facilities to the Governor and to the emergency management organizations of the state or such subdivisions upon request.

(b) State agencies in carrying out their assigned disaster or emergency assignments shall be reimbursed their expenses for emergency or disaster-related duties which may include the payment of overtime and the employment of temporary personnel by such agencies in the same manner as authorized in Sections 33-15-301 et seq., 43-41-17 and 43-41-319, and as provided by Section 43-41-701.

SECTION 13. Section 33-15-31, Mississippi Code of 1972, is amended as follows:

33-15-31. (a) The governing bodies of the political subdivisions of the state and other agencies designated or appointed by the Governor are authorized and empowered to make, amend, and rescind such orders, rules, and regulations as may be necessary for emergency management purposes and to supplement the carrying out of the provisions of this article, but not inconsistent with any orders, rules and regulations promulgated by the Governor or by any state agency exercising a power delegated to it by him.

(b) All orders, rules, and regulations promulgated by the Governor, the Mississippi Emergency Management Agency or by any political subdivision or other agency authorized by this article to make orders, rules and regulations, shall have the full force and effect of law, when, in the event of issuance by the Governor, or any state agency, a copy thereof is filed in the office of the Secretary of State, or, if promulgated by a political subdivision of the state or agency thereof, when filed in the office of the clerk of the political subdivision or agency promulgating the same. All existing laws, ordinances, rules and regulations inconsistent with the provisions of this article, or of any order, rule, or regulation issued under the authority of this article, shall be suspended during the period of time and to the extent that such conflict, disaster or emergency exists.

(c) In order to attain uniformity so far as practicable throughout the country in measures taken to aid emergency management, all action taken under this article and all orders, rules and regulations made pursuant thereto, shall be taken or made with due consideration to the orders, rules, regulations, actions, recommendations, and requests of federal authorities relevant thereto and, to the extent permitted by law, shall be consistent with such orders, rules, regulations, actions, recommendations and requests.

SECTION 14. The following shall be codified as Section 33-15-53, Mississippi Code of 1972:

33-15-53. The head of each state department, agency or commission shall select from within such agency a person to be designated as the emergency coordination officer for the agency and an alternate. The emergency coordination officer is responsible for coordinating with the Mississippi Emergency Management Agency on emergency preparedness issues, preparing and maintaining emergency preparedness and postdisaster response and recovery plans for such agency, maintaining rosters of personnel to assist in disaster operations and coordinating appropriate training for agency personnel. These individuals shall be responsible for ensuring that each state facility, such as a prison, office building or university, has a disaster preparedness plan that is approved by the applicable local emergency management agency or the division. The head of each agency shall notify the Governor and the Mississippi Emergency Management Agency in writing of the person initially designated as the emergency coordination officer for such agency and his alternate and of any changes in persons so designated thereafter.

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b. The Governor, the Mis-
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shall have the full force
and effect of any state agency, a
rule promulgated by a politi-
cal officer of the clerk of the
existing laws, ordinances,
rules, articles, or of any order,
shall be suspended during
a state of emergency exists.

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considerations, and requests
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33-15-53, Mississippi Code

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in the state facility, such as a
nursing plan that is approved
by the commission. The head of each
emergency management Agency
emergency coordination officer for
shall be designated thereafter.

SECTION 15. Section 33-15-9, Mississippi Code of 1972, which provides for the creation of the Mississippi Emergency Management Council, is repealed.

SECTION 16. Section 33-15-101, Mississippi Code of 1972, which provides for the authority of the state to enter into civil defense and disaster compacts, is repealed.

SECTION 17. This act shall take effect and be in force from and after July 1, 1995.

Approved: March 10, 1995

CHAPTER NO. 334 HOUSE BILL NUMBER 1230

AN ACT TO DESIGNATE A CERTAIN SEGMENT OF MISSISSIPPI HIGHWAY 42 IN PETAL, MISSISSIPPI, AS "BOBBY RUNNELS MEMORIAL DRIVE"; AND FOR RELATED PURPOSES.

Be it enacted by the Legislature of the State of Mississippi:

SECTION 1. (1) That portion of Mississippi Highway 42 in the City of Petal, Mississippi, beginning at the Norfolk Southern Railroad and extending approximately one-half (1/2) mile to its intersection with Main Street is designated and shall be known as "Bobby Runnels Memorial Drive."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs on and along such highway.

SECTION 2. This act shall take effect and be in force from and after its passage.

Approved: March 10, 1995

CHAPTER NO. 335 HOUSE BILL NUMBER 1296

AN ACT TO AMEND SECTION 43-21-353, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR MANDATED REPORTING OF REPORTS OF SEXUAL ABUSE AND SEVERE PHYSICAL ABUSE TO A LAW ENFORCEMENT AGENCY IMMEDIATELY UPON RECEIPT OF THE REPORT AND TO THE DISTRICT ATTORNEY'S OFFICE WITHIN 72 HOURS OF RECEIVING THE REPORT; TO PROVIDE A PENALTY FOR VIOLATION OF THIS SECTION; AND FOR RELATED PURPOSES.

Be it enacted by the Legislature of the State of Mississippi:

SECTION 1. Section 43-21-353, Mississippi Code of 1972, is amended as follows:

43-21-353. (1) Any attorney, physician, dentist, intern, resident, nurse, psychologist, social worker, child care giver, minister, law enforcement officer, public or private school employee or any other person having reasonable cause to suspect that a child is a neglected child or an abused child, shall cause an oral report to be made immediately by telephone or otherwise and followed as soon thereafter as possible by a report in writing to the Department of Human Services, and immediately a referral shall be made by the Department of Human Services to the intake unit and where appropriate to the youth court prosecutor. Upon receiving a report that a child has been abused and that