

By: Senator(s) Nunnelee, King, Chassaniol,  
White, Williamson, Browning, Dawkins, Morgan,  
Pickering, Jackson (11th), Flowers, Lee  
(35th), Moffatt, Hyde-Smith, Burton, Jordan,  
Fillingane, Frazier, Clarke, Harden, Gordon,  
Horhn, Thomas, Little, Chaney, Albritton

To: Public Health and  
Welfare; Appropriations

SENATE BILL NO. 2764  
(As Passed the Senate)

1 AN ACT TO AMEND SECTION 41-3-20, MISSISSIPPI CODE OF 1972, TO  
2 PROVIDE THAT THE SECTIONS CREATING THE STATE BOARD OF HEALTH AND  
3 THE POSITION OF THE EXECUTIVE OFFICER OF THE STATE DEPARTMENT OF  
4 HEALTH SHALL REPEAL ON JULY 1, 2007, AND TO EXTEND THE AUTOMATIC  
5 REPEALER ON THOSE STATUTES WHICH CREATE AND EMPOWER THE STATE  
6 BOARD OF HEALTH AND THE STATE DEPARTMENT OF HEALTH AND ESTABLISH  
7 THE POSITION OF EXECUTIVE DIRECTOR OF THE STATE DEPARTMENT OF  
8 HEALTH; TO CODIFY SECTION 41-3-1.1, MISSISSIPPI CODE OF 1972, TO  
9 RECONSTITUTE THE MEMBERSHIP OF THE STATE BOARD OF HEALTH, PROVIDE  
10 FOR THE NUMBER, QUALIFICATIONS, APPOINTMENT AND TERMS OF NEW  
11 MEMBERS, TO PROHIBIT CERTAIN CONFLICTS OF INTEREST BY MEMBERS OF  
12 THE BOARD AND TO PROVIDE FOR NONVOTING LEGISLATIVE MEMBERS TO  
13 ATTEND BOARD MEETINGS; TO AMEND SECTION 41-3-4, MISSISSIPPI CODE  
14 OF 1972, TO CLARIFY THAT THE TERM OF OFFICE OF ANY MEMBER OF THE  
15 STATE BOARD OF HEALTH WHO MISSES THREE CONSECUTIVE MEETINGS SHALL  
16 BE TERMINATED; TO CODIFY SECTION 41-3-5.1, MISSISSIPPI CODE OF  
17 1972, TO PROVIDE FOR THE APPOINTMENT OF THE EXECUTIVE DIRECTOR OF  
18 THE STATE DEPARTMENT OF HEALTH; TO AMEND SECTION 41-3-15,  
19 MISSISSIPPI CODE OF 1972, TO CLARIFY THE GENERAL AUTHORITY OF THE  
20 STATE BOARD OF HEALTH AND THE STATE HEALTH OFFICER, TO AUTHORIZE  
21 THE STATE DEPARTMENT OF HEALTH TO PROVIDE FOR AND IMPLEMENT A  
22 COMPREHENSIVE STATEWIDE TOBACCO EDUCATION, PREVENTION AND  
23 CESSATION PROGRAM THAT IS CONSISTENT WITH FEDERAL GUIDELINES, AND  
24 TO EXTEND THE AUTOMATIC REPEALER ON THE ADMINISTRATIVE PENALTY  
25 ASSESSED ON RESTAURANTS BY THE STATE DEPARTMENT OF HEALTH; TO  
26 REENACT CERTAIN SECTIONS OF THE MISSISSIPPI CODE OF 1972 WHICH  
27 CREATE AND EMPOWER THE STATE BOARD OF HEALTH AND THE STATE  
28 DEPARTMENT OF HEALTH; TO AMEND SECTION 41-59-61, MISSISSIPPI CODE  
29 OF 1972, TO CLARIFY THE AUTHORIZED ADMINISTRATIVE COSTS WHICH MAY  
30 BE PAID FROM THE EMERGENCY MEDICAL SERVICES OPERATING FUND; TO  
31 AMEND SECTION 41-79-5, MISSISSIPPI CODE OF 1972, TO PROVIDE THE  
32 COMPONENTS OF THE TOBACCO EDUCATION, PREVENTION AND CESSATION  
33 PROGRAM IMPLEMENTED BY THE STATE DEPARTMENT OF HEALTH; TO AMEND  
34 SECTION 41-7-173, MISSISSIPPI CODE OF 1972, TO PROVIDE DEFINITIONS  
35 FOR CLINICAL AND NONCLINICAL EXPENDITURES AND TO REVISE THE  
36 MINIMUM CAPITAL EXPENDITURES REQUIRING A HEALTH CARE CERTIFICATE  
37 OF NEED AND TO PROVIDE FOR AN ANNUAL COST INDEX ADJUSTMENT FOR  
38 SUCH MINIMUM CAPITAL EXPENDITURES; TO AMEND SECTION 41-7-191,  
39 MISSISSIPPI CODE OF 1972, TO INCLUDE COMPUTERIZED TOMOGRAPHY  
40 (CT)-PET SERVICES IN THOSE NEW HEALTH SERVICES REQUIRING  
41 CERTIFICATE OF NEED REVIEW AND TO CLARIFY THAT THE CONVERSION OF  
42 MOBILE SERVICES TO FIXED SITE SERVICES REQUIRES A CERTIFICATE OF  
43 NEED; TO EXEMPT THE REOPENING OF 16 ACUTE CARE HOSPITAL BEDS IN  
44 KEMPER COUNTY FOR THE CONSTRUCTION OF "THE JOHN C. STENNIS  
45 MEMORIAL HOSPITAL" FROM THE REQUIREMENT OF A CERTIFICATE OF NEED;  
46 TO DIRECT THE STATE DEPARTMENT OF HEALTH TO ISSUE A CERTIFICATE OF  
47 NEED FOR THE CONSTRUCTION OF ACUTE CARE HOSPITAL BEDS IN ANY  
48 COUNTY LOCATED IN A METROPOLITAN STATISTICAL AREA WHICH HAS  
49 EXPERIENCED A POPULATION GROWTH OF 5% OR MORE ACCORDING TO THE  
50 PROJECTIONS OF THE STATE INSTITUTIONS OF HIGHER LEARNING OFFICE OF  
51 POLICY RESEARCH AND PLANNING TO ANY HOSPITAL WHICH HAS CONTINUOUS  
52 PARTICIPATION IN THE MISSISSIPPI TRAUMA CARE SYSTEM PLAN; TO

53 RESTORE THE PROCEDURE UNDER THE CERTIFICATE OF NEED LAW WHICH  
54 EXEMPTS THE NEW CONSTRUCTION OR ADDITION OF PRIVATE-PAY NURSING  
55 FACILITY BEDS WHICH ARE A PART OF A CONTINUING CARE RETIREMENT  
56 COMMUNITY CONTAINING INDEPENDENT LIVING ACCOMMODATIONS FROM THE  
57 CERTIFICATE OF NEED REQUIREMENT; TO PROVIDE THAT THE STATE  
58 DEPARTMENT OF HEALTH SHALL TRANSFER A CERTIFICATE OF NEED FOR  
59 PSYCHIATRIC RESIDENTIAL TREATMENT FACILITY BEDS FROM WARREN COUNTY  
60 TO RANKIN COUNTY; TO AUTHORIZE AND DIRECT THE STATE DEPARTMENT OF  
61 HEALTH TO ISSUE A CERTIFICATE OF NEED FOR 14 PSYCHIATRIC  
62 RESIDENTIAL TREATMENT FACILITY (PRTF) BEDS IN SIMPSON COUNTY FOR A  
63 SPECIALIZED UNIT FOR THE SUBACUTE TREATMENT OF CHILDREN AND  
64 ADOLESCENTS; TO PROVIDE THAT THE STATE DEPARTMENT OF HEALTH SHALL  
65 TRANSFER A CERTIFICATE OF NEED FOR CHILD/ADOLESCENT PSYCHIATRIC  
66 BEDS FROM WARREN COUNTY TO LAUDERDALE COUNTY; TO AUTHORIZE THE  
67 ISSUANCE OF A HEALTH CARE CERTIFICATE OF NEED FOR THE CONSTRUCTION  
68 OF A 60-BED NURSING FACILITY IN ANY UNDERSERVED MINORITY ZIP CODE  
69 AREA IN THE STATE; TO AMEND SECTIONS 41-7-197 AND 41-7-201,  
70 MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE STATE BOARD OF  
71 HEALTH SHALL HAVE THE POWER AND RESPONSIBILITY TO RENDER FINAL  
72 DECISIONS ON APPLICATIONS FOR CERTIFICATES OF NEED AND TO PROVIDE  
73 FOR INDEPENDENT HEARING OFFICERS AND TO CLARIFY THE STATUS OF  
74 CERTIFICATE OF NEED DECISIONS PENDING JUDICIAL APPEAL; TO AMEND  
75 SECTION 41-7-205, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT A  
76 REQUEST FOR A NONCLINICAL EXPENDITURE BY A HEALTH CARE FACILITY  
77 NOT EXCEEDING THE CAPITAL EXPENDITURE MINIMUM SHALL BE AUTHORIZED  
78 FOR EXPEDITED REVIEW; TO CODIFY SECTION 41-57-8, MISSISSIPPI CODE  
79 OF 1972, TO AUTHORIZE AND DIRECT THE BUREAU OF VITAL STATISTICS OF  
80 THE STATE DEPARTMENT OF HEALTH TO OFFER AND ISSUE CERTIFICATES OF  
81 BIRTH RESULTING IN STILLBIRTH TO A MOTHER AFTER THE OCCURRENCE OF  
82 ANY STILLBIRTH; TO DEFINE "STILLBIRTH" FOR PURPOSES OF THE  
83 ISSUANCE OF SUCH CERTIFICATES; TO PROVIDE THAT SUCH CERTIFICATES  
84 MAY BE ISSUED RETROACTIVELY; TO AMEND SECTION 41-57-11,  
85 MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE DEPARTMENT TO CHARGE  
86 FEES FOR THE ISSUANCE OF SUCH CERTIFICATES; AND FOR RELATED  
87 PURPOSES.

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

89 **SECTION 1.** Section 41-3-20, Mississippi Code of 1972, is  
90 amended as follows:

91 41-3-20. (1) Sections 41-3-1 and 41-3-5, which create the  
92 State Board of Health and the position of the Executive Officer of  
93 the State Department of Health, shall stand repealed on June 30,  
94 2007.

95 (2) Sections 41-3-1.1, 41-3-3, 41-3-4, 41-3-5.1, 41-3-6,  
96 41-3-15, 41-3-16, 41-3-17, 41-3-18 and 41-3-19, which create the  
97 reconstituted State Board of Health, establish the position of  
98 Executive Director of the State Department of Health and establish  
99 the State Department of Health and prescribe its powers and  
100 duties, shall stand repealed on June 30, 2010.

101 **SECTION 2.** The following shall be codified as Section  
102 41-3-1.1, Mississippi Code of 1972:

103           41-3-1.1. (1) The State Board of Health is hereby continued  
104 and reconstituted as follows:

105           There is hereby created the State Board of Health which from  
106 and after July 1, 2007, shall consist of seven (7) members  
107 appointed with the advice and consent of the Senate, as  
108 hereinafter set forth:

109           (a) Two (2) members of the board shall be licensed  
110 physicians of good professional standing who shall have had at  
111 least seven (7) years' experience in the practice of their  
112 profession in this state, appointed by the Governor, one (1) to be  
113 appointed from the First Mississippi Supreme Court District for an  
114 initial term to expire on July 1, 2010, and one (1) to be  
115 appointed from the Third Mississippi Supreme Court District for an  
116 initial term to expire on July 1, 2012.

117           (b) One (1) member of the board shall be a licensed  
118 physician of good professional standing who shall have had at  
119 least seven (7) years' experience in the practice of his  
120 profession in this state, appointed by the Lieutenant Governor  
121 from the Second Mississippi Supreme Court District, for an initial  
122 term to expire on July 1, 2012.

123           (c) One (1) member shall be engaged professionally in  
124 rendering health services who shall have had at least seven (7)  
125 years' experience in the practice of his profession in this state,  
126 appointed by the Governor from the Second Mississippi Supreme  
127 Court District, for an initial term to expire on July 1, 2011.

128           (d) Two (2) members shall be engaged professionally in  
129 rendering health services who shall have had at least seven (7)  
130 years' experience in the practice of his profession in this state,  
131 appointed by the Lieutenant Governor, one (1) to be appointed from  
132 the First Mississippi Supreme Court District for an initial term  
133 to expire on July 1, 2011, and one (1) to be appointed from the  
134 Third Mississippi Supreme Court District for an initial term to  
135 expire on July 1, 2012.

136 (e) One (1) member shall be a consumer representative  
137 with an interest in public health who is not a direct provider of  
138 health care goods or services, appointed by the Governor from the  
139 state at large for an initial term to expire on July 1, 2010.

140 A member of the board serving prior to January 1, 2007, shall  
141 be eligible for reappointment to the reconstituted board unless  
142 such person is disqualified due to a conflict of interest. No  
143 person shall be eligible for appointment or reappointment to the  
144 reconstituted board if related by blood or marriage within the  
145 first degree computed by the rule of civil law to another person  
146 who is an employee of the State Department of Health.

147 It is the intent of the Legislature that the membership of  
148 the board reflect the population of the State of Mississippi.

149 All members of the State Board of Health shall annually  
150 review and sign a statement acknowledging the statutes and  
151 policies concerning conflicts of interest. For purposes of this  
152 subsection, the term "direct interest" means a material financial  
153 interest in a legal entity or employment by a legal entity that is  
154 under the jurisdiction or regulatory authority of the State Board  
155 of Health, or a material financial interest in a business or  
156 employment by a business which is a contractor, subcontractor or  
157 vendor with the State Board of Health and an action by the board  
158 will affect that entity, business or employment. The term  
159 "indirect interest" means an interest which is less than a direct  
160 interest. Any member, upon determining that a matter scheduled  
161 for consideration by the State Board of Health results in a  
162 conflict with a direct interest, shall immediately notify the  
163 Executive Director of the State Board of Health and shall be  
164 recused from any deliberation of the matter, from making any  
165 recommendation, from testifying concerning the matter, or from  
166 voting on the matter. The member shall join the public during the  
167 proceedings. Any member of the State Board of Health with an  
168 indirect interest in a matter shall publicly acknowledge such

169 interest. All members shall make every reasonable effort to avoid  
170 the appearance of a conflict of interest in conducting board  
171 business. If a member is uncertain whether the relationship  
172 justifies recusal, the member shall follow the determination of  
173 the Mississippi Ethics Commission.

174 A determination by the State Board of Health or any court  
175 that (a) a member of the board with a direct interest failed to  
176 provide notice and be recused from deliberation of the matter,  
177 from making any recommendation, from testifying concerning the  
178 matter, or from voting on the matter, or (b) a member of the board  
179 is related by blood or marriage within the first degree computed  
180 by the rule of civil law to another person who is an employee of  
181 the State Department of Health, such determination shall result in  
182 a member's automatic termination from the board and the position  
183 shall be considered vacant. The member shall not be eligible for  
184 appointment to any agency, board or commission of the state for a  
185 period of two (2) years.

186 (2) At the expiration of a term, members of the board shall  
187 be appointed in the manner prescribed in subsection (1) of this  
188 section for terms of five (5) years from the expiration of the  
189 previous term and thereafter until his or her successor is duly  
190 appointed. Vacancies in office shall be filled by appointment of  
191 the Governor or the Lieutenant Governor, as the case may be, in  
192 the same manner as the appointment to the position which becomes  
193 vacant, subject to the advice and consent of the Senate at the  
194 next regular session of the Legislature. An appointment to fill a  
195 vacancy other than by expiration of a term of office shall be for  
196 the balance of the unexpired term and thereafter until his or her  
197 successor is duly appointed.

198 (3) The Lieutenant Governor may designate one (1) Senator  
199 and the Speaker of the House of Representatives may designate one  
200 (1) Representative to attend any meeting of the State Board of  
201 Health. The appointing authorities may designate alternate

202 members from their respective houses to serve when the regular  
203 designees are unable to attend such meetings of the board. Such  
204 legislative designees shall have no jurisdiction or vote on any  
205 matter within the jurisdiction of the board. For attending  
206 meetings of the board, such legislators shall receive per diem and  
207 expenses which shall be paid from the contingent expense funds of  
208 their respective houses in the same amounts as provided for  
209 committee meetings when the Legislature is not in session;  
210 however, no per diem and expenses for attending meetings of the  
211 board will be paid while the Legislature is in session. No per  
212 diem and expenses will be paid except for attending meetings of  
213 the board without prior approval of the proper committee in their  
214 respective houses.

215 (4) It shall be unlawful for any member of the State Board  
216 of Health or the State Health Officer to knowingly accept any  
217 gift, money or other pecuniary benefit whatsoever, either directly  
218 or indirectly, from any person interested as owner, agent or  
219 representative of any public or private entity that shall come  
220 under the jurisdiction or supervision of the State Department of  
221 Health. Any person found guilty of violating the provisions of  
222 this subsection shall immediately forfeit his or her office or  
223 position and, upon conviction, shall be fined not less than Ten  
224 Thousand Dollars (\$10,000.00), or imprisoned in the State  
225 Penitentiary for not less than one (1) year, or both.

226 **SECTION 3.** Section 41-3-3, Mississippi Code of 1972, is  
227 reenacted as follows:

228 41-3-3. Each person appointed as a member of the State Board  
229 of Health shall immediately take the oath prescribed by Section  
230 268 of the Constitution and file a certificate thereof in the  
231 Office of the Secretary of State. Thereupon a commission shall be  
232 issued to him under the terms as specified in Section 41-3-1.

233 **SECTION 4.** Section 41-3-4, Mississippi Code of 1972, is  
234 amended as follows:

235           41-3-4. (1) There shall be a chairman and vice chairman of  
236 the State Board of Health elected by and from its membership at  
237 the first meeting of the board; and the chairman shall be the  
238 presiding officer of the board. The board shall adopt rules and  
239 regulations governing times and places for meetings, and governing  
240 the manner of conducting its business. The term of office of any  
241 member who shall not attend three (3) consecutive regular meetings  
242 of the board shall be automatically terminated, and the position  
243 shall be considered as vacant, except in cases of the serious  
244 illness of a board member or the illness of his or her immediate  
245 family member. All meetings of the board shall be called by the  
246 chairman or by a majority of the members of the board, except the  
247 first meeting of the original appointees which shall be called by  
248 the Governor.

249           (2) The members of the board shall receive no annual salary  
250 but shall receive per diem compensation as is authorized by law  
251 for each day devoted to the discharge of official board duties and  
252 shall be entitled to reimbursement for all actual and necessary  
253 expenses incurred in the discharge of their duties, including  
254 mileage as authorized by Section 25-3-41.

255           **SECTION 5.** The following shall be codified as Section  
256 41-3-5.1, Mississippi Code of 1972:

257           41-3-5.1. The State Department of Health shall be headed by  
258 an executive director who shall be a physician having earned a  
259 graduate degree in public health or health care administration or,  
260 in the alternative, be a physician who in the opinion of the  
261 Governor is fitted and equipped to execute the duties incumbent  
262 upon him by law. The executive director shall not engage in the  
263 private practice of medicine. The State Board of Health shall  
264 submit three (3) nominees for the position of executive officer to  
265 the Governor. The Governor shall appoint the executive officer  
266 from the list of nominees with the advice and consent of the  
267 Senate. His term of office shall be six (6) years. The executive

268 officer may be removed for cause by majority vote of the members  
269 of the board. The executive director shall be subject to such  
270 rules and regulations as may be prescribed by the State Board of  
271 Health. The executive director shall be the State Health Officer  
272 with such authority and responsibility as is prescribed by law.  
273 Any reference to the Executive Officer of the State Department of  
274 Health in the laws of the State of Mississippi shall mean the  
275 Executive Director of the State Department of Health established  
276 under this section.

277 **SECTION 6.** Section 41-3-6, Mississippi Code of 1972, is  
278 reenacted as follows:

279 41-3-6. It shall be the duty of the State Board of Health to  
280 review the statutes of the State of Mississippi affecting public  
281 health and submit at least thirty (30) days prior to each regular  
282 session of the Legislature any proposed legislation as may be  
283 necessary to enhance the effective and efficient delivery of  
284 public health services and to bring existing statutes into  
285 compliance with modern technology and terminology. The board  
286 shall formulate a plan for consolidating and reorganizing existing  
287 state agencies having responsibilities in the field of public  
288 health to eliminate any needless duplication in services which may  
289 be found to exist. In carrying out the provisions of this  
290 section, the State Board of Health shall cooperate with and may  
291 utilize the services, facilities and personnel of any department  
292 or agency of the state, any private citizen task force and the  
293 committees on public health of both houses of the Legislature.  
294 The State Board of Health is authorized to apply for and expend  
295 funds made available to it by grant from any source in order to  
296 perform its responsibilities under this section.

297 **SECTION 7.** Section 41-3-15, Mississippi Code of 1972, is  
298 amended as follows:

299 41-3-15. (1) (a) There shall be a State Department of  
300 Health \* \* \*.



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

303           (i) To formulate the policy of the State  
304 Department of Health regarding public health matters within the  
305 jurisdiction of the department;

306           (ii) To adopt, modify, repeal and promulgate,  
307 after due notice and hearing, and where not otherwise prohibited  
308 by federal or state law, to make exceptions to and grant  
309 exemptions and variances from, and to enforce rules and  
310 regulations implementing or effectuating the powers and duties of  
311 the department under any and all statutes within the department's  
312 jurisdiction, and as the board may deem necessary;

313           (iii) To apply for, receive and expend any federal  
314 or state funds or contributions, gifts, devises, bequests or funds  
315 from any other source;

316           (iv) To enter into, and to authorize the executive  
317 director to execute, with the approval of the board, contracts,  
318 grants and cooperative agreements with any federal or state agency  
319 or subdivision thereof, or any public or private institution  
320 located inside or outside the State of Mississippi, or any person,  
321 corporation or association in connection with carrying out the  
322 provisions of this chapter; and

323           (v) To discharge such other duties,  
324 responsibilities and powers as are necessary to implement the  
325 provisions of this chapter.

326           (c) The Executive Director of the State Board of Health  
327 shall have the following powers and duties:

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

330           (ii) To supervise and direct all administrative  
331 and technical activities of the department;

332           (iii) To organize the administrative units of the  
333 department in accordance with the plan adopted by the board and,

334 with board approval, alter such organizational plan and reassign  
335 responsibilities as he may deem necessary to carry out the  
336 policies of the board;

337 (iv) To coordinate the activities of the various  
338 offices of the department;

339 (v) To employ qualified professional personnel in  
340 the subject matter or fields of each office, and such other  
341 technical and clerical staff as may be required for the operation  
342 of the department;

343 (vi) To recommend to the board such studies and  
344 investigations as he may deem appropriate, and to carry out the  
345 approved recommendations in conjunction with the various offices;

346 (vii) To prepare and deliver to the Legislature  
347 and the Governor on or before January 1 of each year, and at such  
348 other times as may be required by the Legislature or Governor, a  
349 full report of the work of the department and the offices thereof,  
350 including a detailed statement of expenditures of the department  
351 and any recommendations the board may have;

352 (viii) To prepare and deliver to the Chairmen of  
353 the Public Health and Welfare/Human Services Committees of the  
354 Senate and House on or before January 1 of each year, a plan for  
355 monitoring infant mortality in Mississippi and a full report of  
356 the work of the department on reducing Mississippi's infant  
357 mortality and morbidity rates and improving the status of maternal  
358 and infant health; and

359 (ix) With the approval of the board, to enter into  
360 contracts, grants and cooperative agreements with any federal or  
361 state agency or subdivision thereof, or any public or private  
362 institution located inside or outside the State of Mississippi, or  
363 any person, corporation or association in connection with carrying  
364 out the provisions of this chapter, provided the agreements do not  
365 have a financial cost in excess of the amounts appropriated for  
366 such purposes by the Legislature.

367 (2) The State Board of Health shall have the authority to  
368 establish an Office of Rural Health within the department. The  
369 duties and responsibilities of this office shall include the  
370 following:

371 (a) To collect and evaluate data on rural health  
372 conditions and needs;

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

375 (c) To develop and implement plans and provide  
376 technical assistance to enable community health systems to respond  
377 to various changes in their circumstances;

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

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

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

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

387 (a) To make investigations and inquiries with respect  
388 to the causes of disease and death, and to investigate the effect  
389 of environment, including conditions of employment and other  
390 conditions which may affect health, and to make such other  
391 investigations as it may deem necessary for the preservation and  
392 improvement of health.

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

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

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

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

408           (f) To charge and collect reasonable fees for health  
409 services, including immunizations, inspections and related  
410 activities, and the board shall charge fees for such services;  
411 provided, however, if it is determined that a person receiving  
412 services is unable to pay the total fee, the board shall collect  
413 any amount such person is able to pay.

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

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

418           (i) (i) To establish standards for, issue permits and  
419 exercise control over, any cafes, restaurants, food or drink  
420 stands, sandwich manufacturing establishments, and all other  
421 establishments, other than churches, church-related and private  
422 schools, and other nonprofit or charitable organizations, where  
423 food or drink is regularly prepared, handled and served for pay;  
424 and

425           (ii) To require that a permit be obtained from the  
426 Department of Health before such persons begin operation. If any  
427 such person fails to obtain the permit required herein, the State  
428 Board of Health, after due notice and opportunity for a hearing,  
429 may impose a monetary penalty not to exceed One Thousand Dollars  
430 (\$1,000.00) for each violation. However, the department is not  
431 authorized to impose a monetary penalty against any person whose  
432 gross annual prepared food sales are less than Five Thousand

433 Dollars (\$5,000.00). Money collected by the board under this item  
434 shall be deposited to the credit of the State General Fund of the  
435 State Treasury. This subparagraph (ii) shall stand repealed on  
436 July 1, 2010.

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

440 (k) On presentation of proper authority, to enter into  
441 and inspect any public place or building where the State Health  
442 Officer or his representative deems it necessary and proper to  
443 enter for the discovery and suppression of disease and for the  
444 enforcement of any health or sanitary laws and regulations in the  
445 state.

446 (l) To conduct investigations, inquiries and hearings,  
447 and to issue subpoenas for the attendance of witnesses and the  
448 production of books and records at any hearing when authorized and  
449 required by statute to be conducted by the State Health Officer or  
450 the State Board of Health.

451 (m) To employ, subject to the regulations of the State  
452 Personnel Board, qualified professional personnel in the subject  
453 matter or fields of each bureau, and such other technical and  
454 clerical staff as may be required for the operation of the  
455 department. The executive director shall be the appointing  
456 authority for the department, and shall have the power to delegate  
457 the authority to appoint or dismiss employees to appropriate  
458 subordinates, subject to the rules and regulations of the State  
459 Personnel Board.

460 (n) To promulgate rules and regulations, and to collect  
461 data and information, on (i) the delivery of services through the  
462 practice of telemedicine; and (ii) the use of electronic records  
463 for the delivery of telemedicine services.

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

466 (5) (a) The State Board of Health shall have the authority,  
467 in its discretion, to establish programs to promote the public  
468 health, to be administered by the State Department of Health.  
469 Specifically, such programs may include, but shall not be limited  
470 to, programs in the following areas:

- 471 (i) Maternal and child health;
- 472 (ii) Family planning;
- 473 (iii) Pediatric services;
- 474 (iv) Services to crippled and disabled children;
- 475 (v) Control of communicable and noncommunicable  
476 disease;
- 477 (vi) Child care licensure;
- 478 (vii) Radiological health;
- 479 (viii) Dental health;
- 480 (ix) Milk sanitation;
- 481 (x) Occupational safety and health;
- 482 (xi) Food, vector control and general sanitation;
- 483 (xii) Protection of drinking water;
- 484 (xiii) Sanitation in food handling establishments  
485 open to the public;
- 486 (xiv) Registration of births and deaths and other  
487 vital events;
- 488 (xv) Such public health programs and services as  
489 may be assigned to the State Board of Health by the Legislature or  
490 by executive order; and
- 491 (xvi) Regulation of domestic and imported fish for  
492 human consumption.

493 (b) The State Board of Health and State Department of  
494 Health shall not be authorized to sell, transfer, alienate or  
495 otherwise dispose of any of the home health agencies owned and  
496 operated by the department on January 1, 1995, and shall not be  
497 authorized to sell, transfer, assign, alienate or otherwise  
498 dispose of the license of any of those home health agencies,

499 except upon the specific authorization of the Legislature by an  
500 amendment to this section. However, this paragraph (b) shall not  
501 prevent the board or the department from closing or terminating  
502 the operation of any home health agency owned and operated by the  
503 department, or closing or terminating any office, branch office or  
504 clinic of any such home health agency, or otherwise discontinuing  
505 the providing of home health services through any such home health  
506 agency, office, branch office or clinic, if the board first  
507 demonstrates that there are other providers of home health  
508 services in the area being served by the department's home health  
509 agency, office, branch office or clinic that will be able to  
510 provide adequate home health services to the residents of the area  
511 if the department's home health agency, office, branch office or  
512 clinic is closed or otherwise discontinues the providing of home  
513 health services. This demonstration by the board that there are  
514 other providers of adequate home health services in the area shall  
515 be spread at length upon the minutes of the board at a regular or  
516 special meeting of the board at least thirty (30) days before a  
517 home health agency, office, branch office or clinic is proposed to  
518 be closed or otherwise discontinue the providing of home health  
519 services.

520 (c) The State Department of Health may undertake such  
521 technical programs and activities as may be required for the  
522 support and operation of such programs, including maintaining  
523 physical, chemical, bacteriological and radiological laboratories,  
524 and may make such diagnostic tests for diseases and tests for the  
525 evaluation of health hazards as may be deemed necessary for the  
526 protection of the people of the state.

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

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

531 (i) To enter into capitalization grant agreements  
532 with the United States Environmental Protection Agency, or any  
533 successor agency thereto;

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

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

539 (iv) To establish and collect fees to defray the  
540 reasonable costs of administering the revolving fund or emergency  
541 fund if the State Board of Health determines that such costs will  
542 exceed the limitations established in the federal Safe Drinking  
543 Water Act, as amended. The administration fees may be included in  
544 loan amounts to loan recipients for the purpose of facilitating  
545 payment to the board; however, such fees may not exceed five  
546 percent (5%) of the loan amount.

547 (7) The department shall perform the following duties  
548 relating to tobacco education, prevention and cessation:

549 (a) Develop and implement appropriate policies and  
550 procedures for the operation of the tobacco education, prevention  
551 and cessation program;

552 (b) Develop and implement a five-year strategic plan  
553 for the tobacco education, prevention and cessation program;

554 (c) Develop and maintain an annual operating budget and  
555 oversee fiscal management of the tobacco education, prevention and  
556 cessation program;

557 (d) Execute any contracts, agreements or other  
558 documents with any public school district, governmental agency or  
559 any person, corporation, association, partnership or other  
560 nonprofit organization or entity that are necessary to accomplish  
561 the purposes of this subsection;

562 (e) Receive appropriations, grants, bequeaths, gifts,  
563 donations or any other contributions made to the department to be



564 used for specific purposes related to the goals of this  
565 subsection;

566 (f) Receive grant applications and provide funds to  
567 public school districts or nonprofit entities to be used for  
568 specific purposes relative to the goals of this subsection;

569 (g) Receive grant applications and provide funds to the  
570 Mississippi Bureau of Narcotics for the purpose of hiring agents  
571 and supporting efforts to reduce drug crime;

572 (h) Submit an annual report to the Legislature  
573 regarding the operation of the department;

574 (i) Submit to the State Auditor any financial records  
575 that are necessary for the Auditor to perform an annual audit of  
576 the department as required by law;

577 (j) Adopt any rules or regulations that are necessary  
578 to carry out the purposes of this subsection; and

579 (k) Take any other actions that are necessary to carry  
580 out the purposes of this subsection.

581 **SECTION 8.** Section 41-3-16, Mississippi Code of 1972, is  
582 reenacted as follows:

583 41-3-16. (1) (a) There is established a local governments  
584 and rural water systems improvements revolving loan and grant  
585 program to be administered by the State Department of Health,  
586 referred to in this section as "department," for the purpose of  
587 assisting counties, incorporated municipalities, districts or  
588 other water organizations that have been granted tax exempt status  
589 under either federal or state law, in making improvements to their  
590 water systems, including construction of new water systems or  
591 expansion or repair of existing water systems. Loan and grant  
592 proceeds may be used by the recipient for planning, professional  
593 services, acquisition of interests in land, acquisition of  
594 personal property, construction, construction-related services,  
595 maintenance, and any other reasonable use which the board, in its  
596 discretion, may allow. For purposes of this section, "water

597 systems" has the same meaning as the term "public water system"  
598 under Section 41-26-3.

599 (b) (i) There is created a board to be known as the  
600 "Local Governments and Rural Water Systems Improvements Board,"  
601 referred to in this section as "board," to be composed of the  
602 following nine (9) members: the State Health Officer, or his  
603 designee, who shall serve as chairman of the board; the Executive  
604 Director of the Mississippi Development Authority, or his  
605 designee; the Executive Director of the Department of  
606 Environmental Quality, or his designee; the Executive Director of  
607 the Department of Finance and Administration, or his designee; the  
608 Executive Director of the Mississippi Association of Supervisors,  
609 or his designee; the Executive Director of the Mississippi  
610 Municipal League, or his designee; the Executive Director of the  
611 Consulting Engineers Council, or his designee; the State Director  
612 of the United States Department of Agriculture, Rural Development,  
613 or his designee; and a manager of a rural water system.

614 The Governor shall appoint a manager of a rural water system  
615 from a list of candidates provided by the Executive Director of  
616 the Mississippi Rural Water Association. The Executive Director  
617 of the Mississippi Rural Water Association shall provide the  
618 Governor a list of candidates which shall contain a minimum of  
619 three (3) candidates for each appointment.

620 (ii) Nonappointed members of the board may  
621 designate another representative of their agency or association to  
622 serve as an alternate.

623 (iii) The gubernatorial appointee shall serve a  
624 term concurrent with the term of the Governor and until a  
625 successor is appointed and qualified. No member, officer or  
626 employee of the Board of Directors of the Mississippi Rural Water  
627 Association shall be eligible for appointment.

628 (c) The department, if requested by the board, shall  
629 furnish the board with facilities and staff as needed to

630 administer this section. The department may contract, upon  
631 approval by the board, for those facilities and staff needed to  
632 administer this section, including routine management, as it deems  
633 necessary. The board may advertise for or solicit proposals from  
634 public or private sources, or both, for administration of this  
635 section or any services required for administration of this  
636 section or any portion thereof. It is the intent of the  
637 Legislature that the board endeavor to ensure that the costs of  
638 administration of this section are as low as possible in order to  
639 provide the water consumers of Mississippi safe drinking water at  
640 affordable prices.

641 (d) Members of the board may not receive any salary,  
642 compensation or per diem for the performance of their duties under  
643 this section.

644 (2) (a) There is created a special fund in the State  
645 Treasury to be designated as the "Local Governments and Rural  
646 Water Systems Improvements Revolving Loan Fund," referred to in  
647 this section as "revolving fund," which fund shall consist of  
648 those monies as provided in Sections 6 and 13 of Chapter 521, Laws  
649 of 1995. The revolving fund may receive appropriations, bond  
650 proceeds, grants, gifts, donations or funds from any source,  
651 public or private. The revolving fund shall be credited with all  
652 repayments of principal and interest derived from loans made from  
653 the revolving fund. The monies in the revolving fund may be  
654 expended only in amounts appropriated by the Legislature, and the  
655 different amounts specifically provided for the loan program and  
656 the grant program shall be so designated. Monies in the fund may  
657 only be expended for the grant program from the amount designated  
658 for such program. The revolving fund shall be maintained in  
659 perpetuity for the purposes established in this section and  
660 Sections 6 through 20 of Chapter 521, Laws of 1995. Unexpended  
661 amounts remaining in the revolving fund at the end of a fiscal  
662 year shall not lapse into the State General Fund, and any interest

663 earned on amounts in the revolving fund shall be deposited to the  
664 credit of the fund. Monies in the revolving fund may not be used  
665 or expended for any purpose except as authorized under this  
666 section and Sections 6 through 20 of Chapter 521, Laws of 1995.  
667 Any monies in the fund may be used to match any federal funds that  
668 are available for the same or related purposes for which funds are  
669 used and expended under this section and Sections 6 through 20 of  
670 Chapter 521, Laws of 1995. Any federal funds shall be used and  
671 expended only in accordance with federal laws, rules and  
672 regulations governing the expenditure of those funds. No person  
673 shall use any monies from the revolving fund for the acquisition  
674 of real property or any interest in real property unless that  
675 property is integral to the project funded under this section and  
676 the purchase is made from a willing seller. No county,  
677 incorporated municipality or district shall acquire any real  
678 property or any interest in any real property for a project funded  
679 through the revolving fund by condemnation. The board's  
680 application of Sections 43-37-1 through 43-37-13 shall be no more  
681 stringent or extensive in scope, coverage and effect than federal  
682 property acquisition laws and regulations.

683           (b) There is created a special fund in the State  
684 Treasury to be designated as the "Local Governments and Rural  
685 Water Systems Emergency Loan Fund," hereinafter referred to as  
686 "emergency fund," which fund shall consist of those monies as  
687 provided in Sections 6 and 13 of Chapter 521, Laws of 1995. The  
688 emergency fund may receive appropriations, bond proceeds, grants,  
689 gifts, donations or funds from any source, public or private. The  
690 emergency fund shall be credited with all repayments of principal  
691 and interest derived from loans made from the emergency fund. The  
692 monies in the emergency fund may be expended only in amounts  
693 appropriated by the Legislature. The emergency fund shall be  
694 maintained in perpetuity for the purposes established in this  
695 section and Section 6 of Chapter 521, Laws of 1995. Unexpended

696 amounts remaining in the emergency fund at the end of a fiscal  
697 year shall not lapse into the State General Fund. Any interest  
698 earned on amounts in the emergency fund shall be deposited to the  
699 credit of the fund. Monies in the emergency fund may not be used  
700 or expended for any purpose except as authorized under this  
701 section and Section 6 of Chapter 521, Laws of 1995.

702 (c) The board created in subsection (1) shall establish  
703 loan and grant programs by which loans and grants may be made  
704 available to counties, incorporated municipalities, districts or  
705 other water organizations that have been granted tax exempt status  
706 under either federal or state law, to assist those counties,  
707 incorporated municipalities, districts or water organizations in  
708 making water systems improvements, including the construction of  
709 new water systems or expansion or repair of existing water  
710 systems. Any entity eligible under this section may receive  
711 either a loan or a grant, or both. No grant awarded under the  
712 program established in this section may be made using funds from  
713 the loan program. Grants may be awarded only when the Legislature  
714 specifically appropriates funds for that particular purpose. The  
715 interest rate on those loans may vary from time to time and from  
716 loan to loan, and will be at or below market interest rates as  
717 determined by the board. The board shall act as quickly as is  
718 practicable and prudent in deciding on any loan request that it  
719 receives. Loans from the revolving fund or emergency fund may be  
720 made to counties, incorporated municipalities, districts or other  
721 water organizations that have been granted tax exempt status under  
722 either federal or state law, as set forth in a loan agreement in  
723 amounts not to exceed one hundred percent (100%) of eligible  
724 project costs as established by the board. The board may require  
725 county, municipal, district or other water organization  
726 participation or funding from other sources, or otherwise limit  
727 the percentage of costs covered by loans from the revolving fund  
728 or the emergency fund. The maximum amount for any loan from the

729 emergency fund shall be Five Hundred Thousand Dollars  
730 (\$500,000.00), and the maximum amount for any loan from the  
731 revolving fund shall be One Million Five Hundred Thousand Dollars  
732 (\$1,500,000.00).

733 (d) A county that receives a loan from the revolving  
734 fund or the emergency fund shall pledge for repayment of the loan  
735 any part of the homestead exemption annual tax loss reimbursement  
736 to which it may be entitled under Section 27-33-77, as may be  
737 required to meet the repayment schedule contained in the loan  
738 agreement. An incorporated municipality that receives a loan from  
739 the revolving fund or the emergency fund shall pledge for  
740 repayment of the loan any part of the sales tax revenue  
741 distribution to which it may be entitled under Section 27-65-75,  
742 as may be required to meet the repayment schedule contained in the  
743 loan agreement. All recipients of such loans shall establish a  
744 dedicated source of revenue for repayment of the loan. Before any  
745 county or incorporated municipality shall receive any loan, it  
746 shall have executed with the State Tax Commission and the board a  
747 loan agreement evidencing that loan. The loan agreement shall not  
748 be construed to prohibit any recipient from prepaying any part or  
749 all of the funds received. The repayment schedule in each loan  
750 agreement shall provide for (i) monthly payments, (ii) semiannual  
751 payments or (iii) other periodic payments, the annual total of  
752 which shall not exceed the annual total for any other year of the  
753 loan by more than fifteen percent (15%). Except as otherwise  
754 provided in subsection (4) of this section, the loan agreement  
755 shall provide for the repayment of all funds received from the  
756 revolving fund within not more than fifteen (15) years or a term  
757 as otherwise allowed by the federal Safe Drinking Water Act, and  
758 all funds received from the emergency fund within not more than  
759 five (5) years from the date of project completion, and any  
760 repayment shall commence not later than one (1) year after project  
761 completion. The State Tax Commission shall withhold semiannually

762 from counties and monthly from incorporated municipalities from  
763 the amount to be remitted to the county or municipality, a sum  
764 equal to the next repayment as provided in the loan agreement.

765 (e) Any county, incorporated municipality, district or  
766 other water organization desiring to construct a project approved  
767 by the board which receives a loan from the state for that purpose  
768 but which is not eligible to pledge for repayment under the  
769 provisions of paragraph (d) of this subsection, shall repay that  
770 loan by making payments each month to the State Treasurer through  
771 the Department of Finance and Administration for and on behalf of  
772 the board according to Section 7-7-15, to be credited to either  
773 the revolving fund or the emergency fund, whichever is  
774 appropriate, in lieu of pledging homestead exemption annual tax  
775 loss reimbursement or sales tax revenue distribution.

776 Loan repayments shall be according to a repayment schedule  
777 contained in each loan agreement as provided in paragraph (d) of  
778 this subsection.

779 (f) Any district created pursuant to Sections 19-5-151  
780 through 19-5-207 that receives a loan from the revolving fund or  
781 the emergency fund shall pledge for repayment of the loan any part  
782 of the revenues received by that district pursuant to Sections  
783 19-5-151 through 19-5-207, as may be required to meet the  
784 repayment schedule contained in the loan agreement.

785 (g) The State Auditor, upon request of the board, shall  
786 audit the receipts and expenditures of a county, an incorporated  
787 municipality, district or other water organization whose loan  
788 repayments appear to be in arrears, and if the Auditor finds that  
789 the county, incorporated municipality, district or other water  
790 organization is in arrears in those repayments, the Auditor shall  
791 immediately notify the chairman of the board who may take any  
792 action as may be necessary to enforce the terms of the loan  
793 agreement, including liquidation and enforcement of the security  
794 given for repayment of the loan, and the Executive Director of the

795 Department of Finance and Administration who shall withhold all  
796 future payments to the county of homestead exemption annual tax  
797 loss reimbursements under Section 27-33-77 and all sums allocated  
798 to the county or the incorporated municipality under Section  
799 27-65-75 until such time as the county or the incorporated  
800 municipality is again current in its loan repayments as certified  
801 by the board.

802           (h) All monies deposited in the revolving fund or the  
803 emergency fund, including loan repayments and interest earned on  
804 those repayments, shall be used only for providing loans or other  
805 financial assistance to water systems as the board deems  
806 appropriate. In addition, any amounts in the revolving fund or  
807 the emergency fund may be used to defray the reasonable costs of  
808 administering the revolving fund or the emergency fund and  
809 conducting activities under this section and Sections 6 through 20  
810 of Chapter 521, Laws of 1995, subject to any limitations  
811 established in the federal Safe Drinking Water Act, as amended and  
812 subject to annual appropriation by the Legislature. The  
813 department is authorized, upon approval by the board, to use  
814 amounts available to it from the revolving fund or the emergency  
815 fund to contract for those facilities and staff needed to  
816 administer and provide routine management for the funds and loan  
817 program.

818           (3) In administering this section and Sections 6 through 20  
819 of Chapter 521, Laws of 1995, the board created in subsection (1)  
820 of this section shall have the following powers and duties:

821           (a) To supervise the use of all funds made available  
822 under this section and Sections 6 through 20 of Chapter 521, Laws  
823 of 1995, for local governments and rural water systems  
824 improvements;

825           (b) To promulgate rules and regulations, to make  
826 variances and exceptions thereto, and to establish procedures in  
827 accordance with this section and Sections 6 through 20 of Chapter



828 521, Laws of 1995, for the implementation of the local governments  
829 and rural water systems improvements revolving loan program;

830 (c) To require, at the board's discretion, any loan or  
831 grant recipient to impose a per connection fee or surcharge or  
832 amended water rate schedule or tariff on each customer or any  
833 class of customers, benefiting from an improvement financed by a  
834 loan or grant made under this section, for repayment of any loan  
835 funds provided under this section and Sections 6 through 20 of  
836 Chapter 521, Laws of 1995. The board may require any loan or  
837 grant recipient to undergo a water system viability analysis and  
838 may require a loan or grant recipient to implement any result of  
839 the viability analysis. If the loan recipient fails to implement  
840 any result of a viability analysis as required by the board, the  
841 board may impose a monetary penalty or increase the interest rate  
842 on the loan, or both. If the grant recipient fails to implement  
843 any result of a viability analysis as required by the board, the  
844 board may impose a monetary penalty on the grant;

845 (d) To review and certify all projects for which funds  
846 are authorized to be made available under this section and  
847 Sections 6 through 20 of Chapter 521, Laws of 1995, for local  
848 governments and rural water systems improvements;

849 (e) To requisition monies in the Local Governments and  
850 Rural Water Systems Improvements Revolving Loan Fund and the Local  
851 Governments and Rural Water Systems Emergency Loan Fund and  
852 distribute those monies on a project-by-project basis in  
853 accordance with this section;

854 (f) To ensure that the funds made available under this  
855 section and Sections 6 through 20 of Chapter 521, Laws of 1995, to  
856 a county, an incorporated municipality, a district or a water  
857 organization that has been granted tax exempt status under either  
858 federal or state law provide for a distribution of projects and  
859 funds among the entities under a priority system established by  
860 the board;

861 (g) To maintain in accordance with generally accepted  
862 government accounting standards an accurate record of all monies  
863 in the revolving fund and the emergency fund made available to  
864 counties, incorporated municipalities, districts or other water  
865 organizations under this section and Sections 6 through 20 of  
866 Chapter 521, Laws of 1995, and the costs for each project;

867 (h) To establish policies, procedures and requirements  
868 concerning viability and financial capability to repay loans that  
869 may be used in approving loans available under this section,  
870 including a requirement that all loan recipients have a rate  
871 structure which will be sufficient to cover the costs of  
872 operation, maintenance, major equipment replacement and repayment  
873 of any loans made under this section; and

874 (i) To file annually with the Legislature a report  
875 detailing how monies in the Local Governments and Rural Water  
876 Systems Improvements Revolving Loan Fund and the Local Governments  
877 and Rural Water Systems Emergency Loan Fund were spent during the  
878 preceding fiscal year in each county, incorporated municipality,  
879 district or other water organization, the number of projects  
880 approved and constructed, and the cost of each project.

881 For efficient and effective administration of the loan  
882 program, revolving fund and emergency fund, the board may  
883 authorize the department or the State Health Officer to carry out  
884 any or all of the powers and duties enumerated above.

885 (4) The board may, on a case-by-case basis and to the extent  
886 allowed by federal law, renegotiate the payment of principal and  
887 interest on loans made under this section to the six (6) most  
888 southern counties of the state covered by the Presidential  
889 Declaration of Major Disaster for the State of Mississippi  
890 (FEMA-1604-DR) dated August 29, 2005, and to incorporated  
891 municipalities, districts or other water organizations located in  
892 such counties; however, the interest on the loans shall not be  
893 forgiven for a period of more than twenty-four (24) months and the

894 maturity of the loans shall not be extended for a period of more  
895 than forty-eight (48) months.

896 **SECTION 9.** Section 41-3-17, Mississippi Code of 1972, is  
897 reenacted as follows:

898 41-3-17. The State Board of Health is authorized to make and  
899 publish all reasonable rules and regulations necessary to enable  
900 it to discharge its duties and powers and to carry out the  
901 purposes and objectives of its creation. It is further authorized  
902 to make reasonable sanitary rules and regulations, to be enforced  
903 in the several counties by the county health officer under the  
904 supervision and control of the State Board of Health. The State  
905 Board of Health shall not make or enforce any rule or regulation  
906 that prohibits consumers from providing their own containers for  
907 the purpose of purchasing or accepting water from any vending  
908 machine or device which filters or treats water that has already  
909 been tested and determined to meet or exceed the minimum health  
910 protection standards prescribed for drinking water under the  
911 Mississippi Safe Drinking Water Law, if that vending machine or  
912 device meets or exceeds United States Environmental Protection  
913 Agency or national automatic merchandising standards.

914 **SECTION 10.** Section 41-3-18, Mississippi Code of 1972, is  
915 reenacted as follows:

916 41-3-18. The board shall assess fees in the following  
917 amounts and for the following purposes:

918 (a) Food establishment annual permit fee, based on the  
919 assessment factors of the establishment as follows:

|     |                             |          |
|-----|-----------------------------|----------|
| 920 | Assessment Category 1.....  | \$ 15.00 |
| 921 | Assessment Category 2.....  | 30.00    |
| 922 | Assessment Category 3.....  | 70.00    |
| 923 | Assessment Category 4 ..... | 100.00   |
| 924 | Assessment Category 5 ..... | 150.00   |

925 (b) Private water supply approval fee..... \$ 10.00

926           The board may develop such reasonable standards, rules and  
927 regulations to clearly define each assessment category.  
928 Assessment categories shall be based upon the factors to the  
929 public health implications of the category and type of food  
930 preparation being utilized by the food establishment, utilizing  
931 the model Food Code of 1995, or as may be amended by the federal  
932 Food and Drug Administration.

933           The fee authorized under paragraph (a) of this section shall  
934 not be assessed for food establishments operated by public  
935 schools, public junior and community colleges, or state agencies  
936 or institutions, including without limitation, the state  
937 institutions of higher learning and the State Penitentiary.

938           The fee authorized under paragraph (b) of this section shall  
939 not be assessed for private water supplies used by foster homes  
940 licensed by the Department of Human Services.

941           **SECTION 11.** Section 41-3-19, Mississippi Code of 1972, is  
942 reenacted as follows:

943           41-3-19. It is the duty of the State Board of Health to make  
944 a report, in writing, to the Governor, on or before the first day  
945 of December next preceding each session, not an extraordinary  
946 session of the Legislature, upon the sanitary condition, prospect,  
947 and needs of the state, setting forth the action of said board, of  
948 its officers and agents, the names thereof, and all its  
949 expenditures since the last preceding report, and such other  
950 matters as it may deem proper for the promotion of health or the  
951 prevention of disease. The report shall be laid before the  
952 Legislature by the Governor at its ensuing term.

953           **SECTION 12.** Section 41-59-61, Mississippi Code of 1972, is  
954 amended as follows:

955           41-59-61. (1) Such assessments as are collected under  
956 subsections (1) and (2) of Section 99-19-73 shall be deposited in  
957 a special fund hereby created in the State Treasury to be  
958 designated the "Emergency Medical Services Operating Fund." The

959 Legislature may make appropriations from the Emergency Medical  
960 Services Operating Fund to the State Board of Health for the  
961 purpose of defraying costs of administration of the Emergency  
962 Medical Services Operating Fund (EMSOF) and for redistribution of  
963 such funds to the counties, municipalities and organized medical  
964 service districts (hereinafter referred to as "governmental  
965 units") for the support of the Emergency Medical Services  
966 programs. The State Board of Health \* \* \* shall administer the  
967 disbursement to such governmental units of any funds appropriated  
968 to the board from the Emergency Medical Services Operating Fund  
969 and the utilization of such funds by the governmental units.

970 (2) Funds appropriated from the Emergency Medical Services  
971 Operating Fund to the State Board of Health shall be made  
972 available to all such governmental units to support the Emergency  
973 Medical Services programs therein, and such funds shall be  
974 distributed to each governmental unit based upon its general  
975 population relative to the total population of the state.  
976 Disbursement of such funds shall be made on an annual basis at the  
977 end of the fiscal year upon the request of each governmental unit.  
978 Funds distributed to such governmental units shall be used in  
979 addition to existing annual Emergency Medical Services budgets of  
980 the governmental units, and no such funds shall be used for the  
981 payment of any attorney's fees. The Director of the Emergency  
982 Medical Services program or his appointed designee is hereby  
983 authorized to require financial reports from the governmental  
984 units utilizing these funds in order to provide satisfactory proof  
985 of the maintenance of the funding effort by the governmental  
986 units.

987 **SECTION 13.** Section 41-79-5, Mississippi Code of 1972, is  
988 amended as follows:

989 41-79-5. (1) There is hereby established within the State  
990 Department of Health a school nurse intervention program,  
991 available to all public school districts in the state.

992           (2) By the school year 1998-1999, each public school  
993 district shall have employed a school nurse, to be known as a  
994 Health Service Coordinator, pursuant to the school nurse  
995 intervention program prescribed under this section. The school  
996 nurse intervention program shall offer any of the following  
997 specific preventive services, and other additional services  
998 appropriate to each grade level and the age and maturity of the  
999 pupils:

1000           (a) Reproductive health education and referral to  
1001 prevent teen pregnancy and sexually transmitted diseases, which  
1002 education shall include abstinence;

1003           (b) Child abuse and neglect identification;

1004           (c) Statutory rape counseling;

1005           (d) Hearing and vision screening to detect problems  
1006 which can lead to serious sensory losses and behavioral and  
1007 academic problems;

1008           (e) Alcohol, tobacco and drug abuse education to reduce  
1009 abuse of these substances;

1010           (f) Scoliosis screening to detect this condition so  
1011 that costly and painful surgery and lifelong disability can be  
1012 prevented;

1013           (g) Coordination of services for handicapped children  
1014 to ensure that these children receive appropriate medical  
1015 assistance and are able to remain in public school;

1016           (h) Nutrition education and counseling to prevent  
1017 obesity and/or other eating disorders which may lead to  
1018 life-threatening conditions, for example, hypertension;

1019           (i) Early detection and treatment of head lice to  
1020 prevent the spread of the parasite and to reduce absenteeism;

1021           (j) Emergency treatment of injury and illness to  
1022 include controlling bleeding, managing fractures, bruises or  
1023 contusions and cardiopulmonary resuscitation (CPR);

1024           (k) Applying appropriate theory as the basis for  
1025 decision making in nursing practice;

1026           (l) Establishing and maintaining a comprehensive school  
1027 health program;

1028           (m) Developing individualized health plans;

1029           (n) Assessing, planning, implementing and evaluating  
1030 programs and other school health activities, in collaboration with  
1031 other professionals;

1032           (o) Providing health education to assist students,  
1033 families and groups to achieve optimal levels of wellness;

1034           (p) Participating in peer review and other means of  
1035 evaluation to assure quality of nursing care provided for students  
1036 and assuming responsibility for continuing education and  
1037 professional development for self while contributing to the  
1038 professional growth of others;

1039           (q) Participating with other key members of the  
1040 community responsible for assessing, planning, implementing and  
1041 evaluating school health services and community services that  
1042 include the broad continuum or promotion of primary, secondary and  
1043 tertiary prevention; and

1044           (r) Contributing to nursing and school health through  
1045 innovations in theory and practice and participation in research.

1046           (3) Public school nurses shall be specifically prohibited  
1047 from providing abortion counseling to any student or referring any  
1048 student to abortion counseling or abortion clinics. Any violation  
1049 of this subsection shall disqualify the school district employing  
1050 such public school nurse from receiving any state administered  
1051 funds under this section.

1052           (4) The State Department of Health shall develop and  
1053 implement a comprehensive and statewide tobacco education,  
1054 prevention and cessation program that is consistent with the  
1055 recommendations for effective program components and funding  
1056 recommendations in the 1999 Best Practices for Comprehensive

1057 Tobacco Control Programs of the federal Centers for Disease  
1058 Control and Prevention, as those Best Practices may be  
1059 periodically amended by the Centers for Disease Control and  
1060 Prevention. At a minimum, the program shall include the following  
1061 components, and may include additional components that are  
1062 contained within the Best Practices for Comprehensive Tobacco  
1063 Control Programs of the federal Centers for Disease Control and  
1064 Prevention, as periodically amended, and that based on scientific  
1065 data and research have been shown to be effective at accomplishing  
1066 the purposes of this subsection:

1067 (a) The employment of school nurses by public school  
1068 districts;

1069 (b) The use of mass media, including paid advertising  
1070 and other communication tools to discourage the use of tobacco  
1071 products and to educate people, especially youth, about the health  
1072 hazards from the use of tobacco products, which shall be designed  
1073 to be effective at achieving these goals and shall include, but  
1074 need not be limited to, television, radio, and print advertising,  
1075 as well as sponsorship, exhibits and other opportunities to raise  
1076 awareness statewide;

1077 (c) Evidence-based curricula and programs implemented  
1078 in schools to educate youth about tobacco and to discourage their  
1079 use of tobacco products, including, but not limited to, programs  
1080 that involve youth, educate youth about the health hazards from  
1081 the use of tobacco products, help youth develop skills to refuse  
1082 tobacco products, and demonstrate to youth how to stop using  
1083 tobacco products;

1084 (d) Local community programs, including, but not  
1085 limited to, youth-based partnerships that discourage the use of  
1086 tobacco products and involve community-based organizations in  
1087 tobacco education, prevention and cessation programs in their  
1088 communities;



1089           (e) Enforcement of laws, regulations and policies  
1090 against the sale or other provision of tobacco products to minors,  
1091 and the possession of tobacco products by minors;

1092           (f) Programs to assist and help people to stop using  
1093 tobacco products;

1094           (g) Programs to support the misdemeanor of narcotics in  
1095 hiring agents to reduce drug crime; and

1096           (h) A surveillance and evaluation system that monitors  
1097 program accountability and results, produces publicly available  
1098 reports that review how monies expended for the program are spent,  
1099 and includes an evaluation of the program's effectiveness in  
1100 reducing and preventing the use of tobacco products, and annual  
1101 recommendations for improvements to enhance the program's  
1102 effectiveness.

1103           Funding for the different components of the program shall be  
1104 pursuant to specific appropriation by the Legislature and  
1105 apportioned between the components based on the recommendations in  
1106 the Best Practices for Comprehensive Tobacco Control Programs of  
1107 the federal Centers for Disease Control and Prevention, as  
1108 periodically amended, to provide adequate program development,  
1109 implementation and evaluation for effective control of the use of  
1110 tobacco products. Funds appropriated for tobacco education and  
1111 cessation program shall not be commingled with other program funds  
1112 of the department. While the department shall develop annual  
1113 budgets based on strategic planning, components of the program  
1114 shall be funded using the following areas as guidelines for  
1115 priority:

1116           (a) School nurses;

1117           (b) School programs;

1118           (c) Narcotics agents;

1119           (d) Law enforcement;

1120           (e) Mass media (counter-marketing);

1121           (f) Cessation programs (including media promotions);

1122           (g) Community programs;  
1123           (h) Surveillance and evaluation; and  
1124           (i) Administration and management; however, not more  
1125 than five percent (5%) of the total budget may be expended for  
1126 administration and management purposes.

1127           (5) Beginning with the 1997-1998 school year, to the extent  
1128 that federal or state funds are available therefor and pursuant to  
1129 appropriation therefor by the Legislature, in addition to the  
1130 school nurse intervention program funds administered under  
1131 subsection (4), the State Department of Health shall establish and  
1132 implement a Prevention of Teen Pregnancy Pilot Program to be  
1133 located in the public school districts with the highest numbers of  
1134 teen pregnancies. The Teen Pregnancy Pilot Program shall provide  
1135 the following education services directly through public school  
1136 nurses in the pilot school districts: health education sessions  
1137 in local schools, where contracted for or invited to provide,  
1138 which target issues including reproductive health, teen pregnancy  
1139 prevention and sexually transmitted diseases, including syphilis,  
1140 HIV and AIDS. When these services are provided by a school nurse,  
1141 training and counseling on abstinence shall be included.

1142           (6) In addition to the school nurse intervention program  
1143 funds administered under subsection (4) and the Teen Pregnancy  
1144 Pilot Program funds administered under subsection (5), to the  
1145 extent that federal or state funds are available therefor and  
1146 pursuant to appropriation therefor by the Legislature, the State  
1147 Department of Health shall establish and implement an Abstinence  
1148 Education Pilot Program to provide abstinence education,  
1149 mentoring, counseling and adult supervision to promote abstinence  
1150 from sexual activity, with a focus on those groups which are most  
1151 likely to bear children out of wedlock. Such abstinence education  
1152 services shall be provided by the State Department of Health  
1153 through its clinics, public health nurses, school nurses and  
1154 through contracts with rural and community health centers in order

1155 to reach a larger number of targeted clients. For purposes of  
1156 this subsection, the term "abstinence education" means an  
1157 educational or motivational program which:

1158 (a) Has as its exclusive purpose, teaching the social,  
1159 psychological and health gains to be realized by abstaining from  
1160 sexual activity;

1161 (b) Teaches abstinence from sexual activity outside  
1162 marriage as the expected standard for all school-age children;

1163 (c) Teaches that abstinence from sexual activity is the  
1164 only certain way to avoid out-of-wedlock pregnancy, sexually  
1165 transmitted diseases and other associated health problems;

1166 (d) Teaches that a mutually faithful monogamous  
1167 relationship in context of marriage is the expected standard of  
1168 human sexual activity;

1169 (e) Teaches that sexual activity outside of the context  
1170 of marriage is likely to have harmful psychological and physical  
1171 effects;

1172 (f) Teaches that bearing children out of wedlock is  
1173 likely to have harmful consequences for the child, the child's  
1174 parents and society;

1175 (g) Teaches young people how to reject sexual advances  
1176 and how alcohol and drug use increase vulnerability to sexual  
1177 advances; and

1178 (h) Teaches the importance of attaining  
1179 self-sufficiency before engaging in sexual activity.

1180 (7) Beginning with the 1998-1999 school year and pursuant to  
1181 appropriation therefor by the Legislature, in addition to other  
1182 funds allotted under the minimum education program, each school  
1183 district shall be allotted an additional teacher unit per every  
1184 one hundred (100) teacher units, for the purpose of employing  
1185 qualified public school nurses in such school district, which in  
1186 no event shall be less than one (1) teacher unit per school  
1187 district, for such purpose. In the event the Legislature provides

1188 less funds than the total state funds needed for the public school  
1189 nurse allotment, those school districts with fewer teacher units  
1190 shall be the first funded for such purpose, to the extent of funds  
1191 available.

1192 (8) Prior to the 1998-1999 school year, nursing staff  
1193 assigned to the program shall be employed through the local county  
1194 health department and shall be subject to the supervision of the  
1195 State Department of Health with input from local school officials.  
1196 Local county health departments may contract with any  
1197 comprehensive private primary health care facilities within their  
1198 county to employ and utilize additional nursing staff. Beginning  
1199 with the 1998-1999 school year, nursing staff assigned to the  
1200 program shall be employed by the local school district and shall  
1201 be designated as "health service coordinators," and shall be  
1202 required to possess a bachelor's degree in nursing as a minimum  
1203 qualification.

1204 (9) Upon each student's enrollment, the parent or guardian  
1205 shall be provided with information regarding the scope of the  
1206 school nurse intervention program. The parent or guardian may  
1207 provide the school administration with a written statement  
1208 refusing all or any part of the nursing service. No child shall  
1209 be required to undergo hearing and vision or scoliosis screening  
1210 or any other physical examination or tests whose parent objects  
1211 thereto on the grounds such screening, physical examination or  
1212 tests are contrary to his sincerely held religious beliefs.

1213 (10) A consent form for reproductive health education shall  
1214 be sent to the parent or guardian of each student upon his  
1215 enrollment. If a response from the parent or guardian is not  
1216 received within seven (7) days after the consent form is sent, the  
1217 school shall send a letter to the student's home notifying the  
1218 parent or guardian of the consent form. If the parent or guardian  
1219 fails to respond to the letter within ten (10) days after it is  
1220 sent, then the school principal shall be authorized to allow the

1221 student to receive reproductive health education. Reproductive  
1222 health education shall include the teaching of total abstinence  
1223 from premarital sex and, wherever practicable, reproductive health  
1224 education should be taught in classes divided according to gender.  
1225 All materials used in the reproductive health education program  
1226 shall be placed in a convenient and easily accessible location for  
1227 parental inspection. School nurses shall not dispense birth  
1228 control pills or contraceptive devices in the school. Dispensing  
1229 of such shall be the responsibility of the State Department of  
1230 Health on a referral basis only.

1231 (11) No provision of this section shall be construed as  
1232 prohibiting local school districts from accepting financial  
1233 assistance of any type from the State of Mississippi or any other  
1234 governmental entity, or any contribution, donation, gift, decree  
1235 or bequest from any source which may be utilized for the  
1236 maintenance or implementation of a school nurse intervention  
1237 program in a public school system of this state.

1238 **SECTION 14.** Section 41-7-173, Mississippi Code of 1972, is  
1239 amended as follows:

1240 41-7-173. For the purposes of Section 41-7-171 et seq., the  
1241 following words shall have the meanings ascribed herein, unless  
1242 the context otherwise requires:

1243 (a) "Affected person" means (i) the applicant; (ii) a  
1244 person residing within the geographic area to be served by the  
1245 applicant's proposal; (iii) a person who regularly uses health  
1246 care facilities or HMO's located in the geographic area of the  
1247 proposal which provide similar service to that which is proposed;  
1248 (iv) health care facilities and HMO's which have, prior to receipt  
1249 of the application under review, formally indicated an intention  
1250 to provide service similar to that of the proposal being  
1251 considered at a future date; (v) third-party payers who reimburse  
1252 health care facilities located in the geographical area of the  
1253 proposal; or (vi) any agency that establishes rates for health

1254 care services or HMO's located in the geographic area of the  
1255 proposal.

1256 (b) "Certificate of need" means a written order of the  
1257 State Department of Health setting forth the affirmative finding  
1258 that a proposal in prescribed application form, sufficiently  
1259 satisfies the plans, standards and criteria prescribed for such  
1260 service or other project by Section 41-7-171 et seq., and by rules  
1261 and regulations promulgated thereunder by the State Department of  
1262 Health.

1263 (c) (i) "Capital expenditure," when pertaining to  
1264 defined major medical equipment, shall mean an expenditure which,  
1265 under generally accepted accounting principles consistently  
1266 applied, is not properly chargeable as an expense of operation and  
1267 maintenance and which is incurred in performing a new clinical  
1268 health service or the expansion of a clinical health service  
1269 listed in Section 41-7-191(1)(d), including, but not limited to,  
1270 major medical equipment.

1271 (ii) "Capital expenditure," when pertaining to  
1272 other than major medical equipment, shall mean any expenditure  
1273 which under generally accepted accounting principles consistently  
1274 applied is not properly chargeable as an expense of operation and  
1275 maintenance and which exceeds Two Million Dollars (\$2,000,000.00)  
1276 for a clinical health service and which exceeds Five Million  
1277 Dollars (\$5,000,000.00) in nonclinical expenditures, as defined in  
1278 Section 1 of this act, and indexed annually for inflation by the  
1279 State Department of Health. Said minimum expenditure limits shall  
1280 be indexed by the State Department of Health for each twelve-month  
1281 period beginning twelve (12) months after July 1, 2007, to reflect  
1282 the changes in the preceding twelve-month period in the United  
1283 States Department of Commerce Bureau of Census implicit price  
1284 deflator cost index for construction.

1285 (iii) A "capital expenditure" shall include the  
1286 acquisition, whether by lease, sufferance, gift, devise, legacy,

1287 settlement of a trust or other means, of any facility or part  
1288 thereof, or equipment for a facility, the expenditure for which  
1289 would have been considered a capital expenditure if acquired by  
1290 purchase. Transactions which are separated in time but are  
1291 planned to be undertaken within twelve (12) months of each other  
1292 and are components of an overall plan for meeting patient care  
1293 objectives shall, for purposes of this definition, be viewed in  
1294 their entirety without regard to their timing.

1295           (iv) In those instances where a health care  
1296 facility or other provider of clinical health services proposes to  
1297 provide a service in which the capital expenditure for major  
1298 medical equipment or other than major medical equipment or a  
1299 combination of the two (2) may have been split between separate  
1300 parties, the total capital expenditure required to provide the  
1301 proposed service shall be considered in determining the necessity  
1302 of certificate of need review and in determining the appropriate  
1303 certificate of need review fee to be paid. The capital  
1304 expenditure associated with facilities and equipment to provide  
1305 services in Mississippi shall be considered regardless of where  
1306 the capital expenditure was made, in state or out of state, and  
1307 regardless of the domicile of the party making the capital  
1308 expenditure, in state or out of state.

1309           (d) "Change of ownership" includes, but is not limited  
1310 to, inter vivos gifts, purchases, transfers, lease arrangements,  
1311 cash and/or stock transactions or other comparable arrangements  
1312 whenever any person or entity acquires or controls a majority  
1313 interest of the facility or service. Changes of ownership from  
1314 partnerships, single proprietorships or corporations to another  
1315 form of ownership are specifically included. However, "change of  
1316 ownership" shall not include any inherited interest acquired as a  
1317 result of a testamentary instrument or under the laws of descent  
1318 and distribution of the State of Mississippi.

1319           (e) "Clinical health service" means a single  
1320 diagnostic, therapeutic, rehabilitative, preventive or palliative  
1321 procedure or series of such procedures that may be separately  
1322 identified for billing and accounting purposes.

1323           (f) "Commencement of construction" means that all of  
1324 the following have been completed with respect to a proposal or  
1325 project proposing construction, renovating, remodeling or  
1326 alteration:

1327                   (i) A legally binding written contract has been  
1328 consummated by the proponent and a lawfully licensed contractor to  
1329 construct and/or complete the intent of the proposal within a  
1330 specified period of time in accordance with final architectural  
1331 plans which have been approved by the licensing authority of the  
1332 State Department of Health;

1333                   (ii) Any and all permits and/or approvals deemed  
1334 lawfully necessary by all authorities with responsibility for such  
1335 have been secured; and

1336                   (iii) Actual bona fide undertaking of the subject  
1337 proposal has commenced, and a progress payment of at least one  
1338 percent (1%) of the total cost price of the contract has been paid  
1339 to the contractor by the proponent, and the requirements of this  
1340 paragraph (f) have been certified to in writing by the State  
1341 Department of Health.

1342           Force account expenditures, such as deposits, securities,  
1343 bonds, et cetera, may, in the discretion of the State Department  
1344 of Health, be excluded from any or all of the provisions of  
1345 defined commencement of construction.

1346           (g) "Consumer" means an individual who is not a  
1347 provider of health care as defined in paragraph (r) of this  
1348 section.

1349           (h) "Develop," when used in connection with clinical  
1350 health services, means to undertake those activities which, on  
1351 their completion, will result in the offering of a new



1352 institutional health service or the incurring of a financial  
1353 obligation as defined under applicable state law in relation to  
1354 the offering of such services.

1355           (i) "Health care facility" includes hospitals,  
1356 psychiatric hospitals, chemical dependency hospitals, skilled  
1357 nursing facilities, end stage renal disease (ESRD) facilities,  
1358 including freestanding hemodialysis units, intermediate care  
1359 facilities, ambulatory surgical facilities, intermediate care  
1360 facilities for the mentally retarded, home health agencies,  
1361 psychiatric residential treatment facilities, pediatric skilled  
1362 nursing facilities, long-term care hospitals, comprehensive  
1363 medical rehabilitation facilities, including facilities owned or  
1364 operated by the state or a political subdivision or  
1365 instrumentality of the state, but does not include Christian  
1366 Science sanatoriums operated or listed and certified by the First  
1367 Church of Christ, Scientist, Boston, Massachusetts. This  
1368 definition shall not apply to facilities for the private practice,  
1369 either independently or by incorporated medical groups, of  
1370 physicians, dentists or health care professionals except where  
1371 such facilities are an integral part of an institutional health  
1372 service. The various health care facilities listed in this  
1373 paragraph shall be defined as follows:

1374           (i) "Hospital" means an institution which is  
1375 primarily engaged in providing to inpatients, by or under the  
1376 supervision of physicians, diagnostic services and therapeutic  
1377 services for medical diagnosis, treatment and care of injured,  
1378 disabled or sick persons, or rehabilitation services for the  
1379 rehabilitation of injured, disabled or sick persons. Such term  
1380 does not include psychiatric hospitals.

1381           (ii) "Psychiatric hospital" means an institution  
1382 which is primarily engaged in providing to inpatients, by or under  
1383 the supervision of a physician, psychiatric services for the  
1384 diagnosis and treatment of mentally ill persons.

1385                   (iii) "Chemical dependency hospital" means an  
1386 institution which is primarily engaged in providing to inpatients,  
1387 by or under the supervision of a physician, medical and related  
1388 services for the diagnosis and treatment of chemical dependency  
1389 such as alcohol and drug abuse.

1390                   (iv) "Skilled nursing facility" means an  
1391 institution or a distinct part of an institution which is  
1392 primarily engaged in providing to inpatients skilled nursing care  
1393 and related services for patients who require medical or nursing  
1394 care or rehabilitation services for the rehabilitation of injured,  
1395 disabled or sick persons.

1396                   (v) "End stage renal disease (ESRD) facilities"  
1397 means kidney disease treatment centers, which includes  
1398 freestanding hemodialysis units and limited care facilities. The  
1399 term "limited care facility" generally refers to an  
1400 off-hospital-premises facility, regardless of whether it is  
1401 provider or nonprovider operated, which is engaged primarily in  
1402 furnishing maintenance hemodialysis services to stabilized  
1403 patients.

1404                   (vi) "Intermediate care facility" means an  
1405 institution which provides, on a regular basis, health-related  
1406 care and services to individuals who do not require the degree of  
1407 care and treatment which a hospital or skilled nursing facility is  
1408 designed to provide, but who, because of their mental or physical  
1409 condition, require health-related care and services (above the  
1410 level of room and board).

1411                   (vii) "Ambulatory surgical facility" means a  
1412 facility primarily organized or established for the purpose of  
1413 performing surgery for outpatients and is a separate identifiable  
1414 legal entity from any other health care facility. Such term does  
1415 not include the offices of private physicians or dentists, whether  
1416 for individual or group practice, and does not include any  
1417 abortion facility as defined in Section 41-75-1(e).

1418 (viii) "Intermediate care facility for the  
1419 mentally retarded" means an intermediate care facility that  
1420 provides health or rehabilitative services in a planned program of  
1421 activities to the mentally retarded, also including, but not  
1422 limited to, cerebral palsy and other conditions covered by the  
1423 Federal Developmentally Disabled Assistance and Bill of Rights  
1424 Act, Public Law 94-103.

1425 (ix) "Home health agency" means a public or  
1426 privately owned agency or organization, or a subdivision of such  
1427 an agency or organization, properly authorized to conduct business  
1428 in Mississippi, which is primarily engaged in providing to  
1429 individuals at the written direction of a licensed physician, in  
1430 the individual's place of residence, skilled nursing services  
1431 provided by or under the supervision of a registered nurse  
1432 licensed to practice in Mississippi, and one or more of the  
1433 following services or items:

- 1434 1. Physical, occupational or speech therapy;
- 1435 2. Medical social services;
- 1436 3. Part-time or intermittent services of a  
1437 home health aide;
- 1438 4. Other services as approved by the  
1439 licensing agency for home health agencies;
- 1440 5. Medical supplies, other than drugs and  
1441 biologicals, and the use of medical appliances; or
- 1442 6. Medical services provided by an intern or  
1443 resident-in-training at a hospital under a teaching program of  
1444 such hospital.

1445 Further, all skilled nursing services and those services  
1446 listed in items 1 through 4 of this subparagraph (ix) must be  
1447 provided directly by the licensed home health agency. For  
1448 purposes of this subparagraph, "directly" means either through an  
1449 agency employee or by an arrangement with another individual not  
1450 defined as a health care facility.

1451           This subparagraph (ix) shall not apply to health care  
1452 facilities which had contracts for the above services with a home  
1453 health agency on January 1, 1990.

1454                       (x) "Psychiatric residential treatment facility"  
1455 means any nonhospital establishment with permanent licensed  
1456 facilities which provides a twenty-four-hour program of care by  
1457 qualified therapists, including, but not limited to, duly licensed  
1458 mental health professionals, psychiatrists, psychologists,  
1459 psychotherapists and licensed certified social workers, for  
1460 emotionally disturbed children and adolescents referred to such  
1461 facility by a court, local school district or by the Department of  
1462 Human Services, who are not in an acute phase of illness requiring  
1463 the services of a psychiatric hospital, and are in need of such  
1464 restorative treatment services. For purposes of this paragraph,  
1465 the term "emotionally disturbed" means a condition exhibiting one  
1466 or more of the following characteristics over a long period of  
1467 time and to a marked degree, which adversely affects educational  
1468 performance:

- 1469                               1. An inability to learn which cannot be  
1470 explained by intellectual, sensory or health factors;
- 1471                               2. An inability to build or maintain  
1472 satisfactory relationships with peers and teachers;
- 1473                               3. Inappropriate types of behavior or  
1474 feelings under normal circumstances;
- 1475                               4. A general pervasive mood of unhappiness or  
1476 depression; or
- 1477                               5. A tendency to develop physical symptoms or  
1478 fears associated with personal or school problems. An  
1479 establishment furnishing primarily domiciliary care is not within  
1480 this definition.

1481                       (xi) "Pediatric skilled nursing facility" means an  
1482 institution or a distinct part of an institution that is primarily  
1483 engaged in providing to inpatients skilled nursing care and

1484 related services for persons under twenty-one (21) years of age  
1485 who require medical or nursing care or rehabilitation services for  
1486 the rehabilitation of injured, disabled or sick persons.

1487                   (xii) "Long-term care hospital" means a  
1488 freestanding, Medicare-certified hospital that has an average  
1489 length of inpatient stay greater than twenty-five (25) days, which  
1490 is primarily engaged in providing chronic or long-term medical  
1491 care to patients who do not require more than three (3) hours of  
1492 rehabilitation or comprehensive rehabilitation per day, and has a  
1493 transfer agreement with an acute care medical center and a  
1494 comprehensive medical rehabilitation facility. Long-term care  
1495 hospitals shall not use rehabilitation, comprehensive medical  
1496 rehabilitation, medical rehabilitation, sub-acute rehabilitation,  
1497 nursing home, skilled nursing facility, or sub-acute care facility  
1498 in association with its name.

1499                   (xiii) "Comprehensive medical rehabilitation  
1500 facility" means a hospital or hospital unit that is licensed  
1501 and/or certified as a comprehensive medical rehabilitation  
1502 facility which provides specialized programs that are accredited  
1503 by the Commission on Accreditation of Rehabilitation Facilities  
1504 and supervised by a physician board certified or board eligible in  
1505 Physiatry or other doctor of medicine or osteopathy with at least  
1506 two (2) years of training in the medical direction of a  
1507 comprehensive rehabilitation program that:

1508                               1. Includes evaluation and treatment of  
1509 individuals with physical disabilities;

1510                               2. Emphasizes education and training of  
1511 individuals with disabilities;

1512                               3. Incorporates at least the following core  
1513 disciplines:

1514   (i) Physical Therapy;

1515   (ii) Occupational Therapy;

1516   (iii) Speech and Language Therapy;

- 1517 (iv) Rehabilitation Nursing; and  
1518 4. Incorporates at least three (3) of the  
1519 following disciplines:  
1520 (i) Psychology;  
1521 (ii) Audiology;  
1522 (iii) Respiratory Therapy;  
1523 (iv) Therapeutic Recreation;  
1524 (v) Orthotics;  
1525 (vi) Prosthetics;  
1526 (vii) Special Education;  
1527 (viii) Vocational Rehabilitation;  
1528 (ix) Psychotherapy;  
1529 (x) Social Work;  
1530 (xi) Rehabilitation Engineering.

1531 These specialized programs include, but are not limited to:  
1532 spinal cord injury programs, head injury programs and infant and  
1533 early childhood development programs.

1534 (j) "Health maintenance organization" or "HMO" means a  
1535 public or private organization organized under the laws of this  
1536 state or the federal government which:

1537 (i) Provides or otherwise makes available to  
1538 enrolled participants health care services, including  
1539 substantially the following basic health care services: usual  
1540 physician services, hospitalization, laboratory, x-ray, emergency  
1541 and preventive services, and out-of-area coverage;

1542 (ii) Is compensated (except for copayments) for  
1543 the provision of the basic health care services listed in  
1544 subparagraph (i) of this paragraph to enrolled participants on a  
1545 predetermined basis; and

1546 (iii) Provides physician services primarily:

1547 1. Directly through physicians who are either  
1548 employees or partners of such organization; or

1549                               2. Through arrangements with individual  
1550 physicians or one or more groups of physicians (organized on a  
1551 group practice or individual practice basis).

1552                   (k) "Health service area" means a geographic area of  
1553 the state designated in the State Health Plan as the area to be  
1554 used in planning for specified health facilities and services and  
1555 to be used when considering certificate of need applications to  
1556 provide health facilities and services.

1557       \* \* \*

1558                   (l) "Institutional health services" shall mean clinical  
1559 health services provided in or through health care facilities and  
1560 shall include the entities in or through which such services are  
1561 provided.

1562                   (m) "Major medical equipment" means medical equipment  
1563 designed for providing medical or any health-related service  
1564 subject to licensure under this chapter or any clinical health  
1565 service listed in Section 41-7-191(1)(d) as requiring a  
1566 certificate of need \* \* \*. However, this definition shall not be  
1567 applicable to clinical laboratories if they are determined by the  
1568 State Department of Health to be independent of any physician's  
1569 office, hospital or other health care facility or otherwise not so  
1570 defined by federal or state law, or rules and regulations  
1571 promulgated thereunder.

1572                   (n) "Nonclinical expenditures" means any expenditure  
1573 for:

1574                               (i) Repairs, renovations, alterations and  
1575 improvements to the physical plant of a health facility which do  
1576 not result in a change in beds, a change in a listed clinical  
1577 health service, or the addition of major medical equipment, and do  
1578 not constitute the replacement or relocation of a health facility,  
1579 or

1580                    (ii) Projects which do not involve the provision  
1581 of clinical health services or direct patient care, including, but  
1582 not limited to, the following:

- 1583                    1. Administrative offices;
- 1584                    2. Energy conservation;
- 1585                    3. Heating and/or air conditioning systems;
- 1586                    4. Management information systems;
- 1587                    5. Medical offices;
- 1588                    6. Parking facilities;
- 1589                    7. Telecommunications or telephone systems;

1590 or

- 1591                    8. Ventilation systems.

1592                    (o) "State Department of Health" shall mean the state  
1593 agency created under Section 41-3-15, which shall be considered to  
1594 be the State Health Planning and Development Agency, as defined in  
1595 paragraph (u) of this section.

1596                    (p) "Offer," when used in connection with clinical  
1597 health services, means that it has been determined by the State  
1598 Department of Health that the health care facility is capable of  
1599 providing specified health services.

1600                    (q) "Person" means an individual, a trust or estate,  
1601 partnership, corporation (including associations, joint stock  
1602 companies and insurance companies), the state or a political  
1603 subdivision or instrumentality of the state.

1604                    (r) "Provider" shall mean any person who is a provider  
1605 or representative of a provider of health care services requiring  
1606 a certificate of need under Section 41-7-171 et seq., or who has  
1607 any financial or indirect interest in any provider of services.

1608                    (s) "Secretary" means the Secretary of Health and Human  
1609 Services, and any officer or employee of the Department of Health  
1610 and Human Services to whom the authority involved has been  
1611 delegated.



1612           (t) "State Health Plan" means the sole and official  
1613 statewide health plan for Mississippi which identifies priority  
1614 state health needs and establishes standards and criteria for  
1615 health-related activities which require certificate of need review  
1616 in compliance with Section 41-7-191.

1617           (u) "State Health Planning and Development Agency"  
1618 means the agency of state government designated to perform health  
1619 planning and resource development programs for the State of  
1620 Mississippi.

1621           **SECTION 15.** Section 41-7-191, Mississippi Code of 1972, is  
1622 amended as follows:

1623           41-7-191. (1) No person shall engage in any of the  
1624 following activities without obtaining the required certificate of  
1625 need:

1626           (a) The construction, development or other  
1627 establishment of a new health care facility, which establishment  
1628 shall include the reopening of a health care facility that has  
1629 ceased to operate for a period of sixty (60) months or more;

1630           (b) The relocation of a health care facility or portion  
1631 thereof, or major medical equipment, unless such relocation of a  
1632 health care facility or portion thereof, or major medical  
1633 equipment, which does not involve a capital expenditure by or on  
1634 behalf of a health care facility, is within five thousand two  
1635 hundred eighty (5,280) feet from the main entrance of the health  
1636 care facility;

1637           (c) Any change in the existing bed complement of any  
1638 health care facility through the addition or conversion of any  
1639 beds or the alteration, modernizing or refurbishing of any unit or  
1640 department in which the beds may be located; however, if a health  
1641 care facility has voluntarily delicensed some of its existing bed  
1642 complement, it may later relicense some or all of its delicensed  
1643 beds without the necessity of having to acquire a certificate of  
1644 need. The State Department of Health shall maintain a record of

1645 the delicensing health care facility and its voluntarily  
1646 delicensed beds and continue counting those beds as part of the  
1647 state's total bed count for health care planning purposes. If a  
1648 health care facility that has voluntarily delicensed some of its  
1649 beds later desires to relicense some or all of its voluntarily  
1650 delicensed beds, it shall notify the State Department of Health of  
1651 its intent to increase the number of its licensed beds. The State  
1652 Department of Health shall survey the health care facility within  
1653 thirty (30) days of that notice and, if appropriate, issue the  
1654 health care facility a new license reflecting the new contingent  
1655 of beds. However, in no event may a health care facility that has  
1656 voluntarily delicensed some of its beds be reissued a license to  
1657 operate beds in excess of its bed count before the voluntary  
1658 delicensure of some of its beds without seeking certificate of  
1659 need approval;

1660 (d) Offering of the following clinical health services  
1661 if those services have not been provided on a regular basis by the  
1662 proposed provider of such services within the period of twelve  
1663 (12) months prior to the time such services would be offered:

- 1664 (i) Open heart surgery services;
- 1665 (ii) Cardiac catheterization services;
- 1666 (iii) Comprehensive inpatient rehabilitation  
1667 services;
- 1668 (iv) Licensed psychiatric services;
- 1669 (v) Licensed chemical dependency services;
- 1670 (vi) Radiation therapy services;
- 1671 (vii) Diagnostic imaging services of an invasive  
1672 nature, i.e. invasive digital angiography;
- 1673 (viii) Nursing home care as defined in  
1674 subparagraphs (iv), (vi) and (viii) of Section 41-7-173(i);
- 1675 (ix) Home health services;
- 1676 (x) Swing-bed services;
- 1677 (xi) Ambulatory surgical services;

1678 (xii) Magnetic resonance imaging services;  
1679 (xiii) [Deleted]  
1680 (xiv) Long-term care hospital services;  
1681 (xv) Positron Emission Tomography/Computerized  
1682 Tomography (PET/CT) services;

1683 (e) The relocation of one or more clinical health  
1684 services from one physical facility or site to another physical  
1685 facility or site, unless such relocation, which does not involve a  
1686 capital expenditure by or on behalf of a health care facility, (i)  
1687 is to a physical facility or site within five thousand two hundred  
1688 eighty (5,280) feet from the main entrance of the health care  
1689 facility where the health care service is located, or (ii) is the  
1690 result of an order of a court of appropriate jurisdiction or a  
1691 result of pending litigation in such court, or by order of the  
1692 State Department of Health, or by order of any other agency or  
1693 legal entity of the state, the federal government, or any  
1694 political subdivision of either, whose order is also approved by  
1695 the State Department of Health;

1696 (f) The acquisition or otherwise control of any major  
1697 medical equipment for the provision of medical services, including  
1698 the conversion of mobile services to fixed site services;  
1699 provided, however, (i) the acquisition of any major medical  
1700 equipment used only for research purposes, and (ii) the  
1701 acquisition of major medical equipment to replace medical  
1702 equipment for which a facility is already providing medical  
1703 services and for which the State Department of Health has been  
1704 notified before the date of such acquisition shall be exempt from  
1705 this paragraph; an acquisition for less than fair market value  
1706 must be reviewed, if the acquisition at fair market value would be  
1707 subject to review;

1708 (g) Changes of ownership of existing health care  
1709 facilities in which a notice of intent is not filed with the State  
1710 Department of Health at least thirty (30) days prior to the date

1711 such change of ownership occurs, or a change in services or bed  
1712 capacity as prescribed in paragraph (c) or (d) of this subsection  
1713 as a result of the change of ownership; an acquisition for less  
1714 than fair market value must be reviewed, if the acquisition at  
1715 fair market value would be subject to review;

1716 (h) The change of ownership of any health care facility  
1717 defined in subparagraphs (iv), (vi) and (viii) of Section  
1718 41-7-173(i), in which a notice of intent as described in paragraph  
1719 (g) has not been filed and if the Executive Director, Division of  
1720 Medicaid, Office of the Governor, has not certified in writing  
1721 that there will be no increase in allowable costs to Medicaid from  
1722 revaluation of the assets or from increased interest and  
1723 depreciation as a result of the proposed change of ownership;

1724 (i) Any activity described in paragraphs (a) through  
1725 (h) if undertaken by any person if that same activity would  
1726 require certificate of need approval if undertaken by a health  
1727 care facility;

1728 (j) Any capital expenditure or deferred capital  
1729 expenditure by or on behalf of a health care facility not covered  
1730 by paragraphs (a) through (h);

1731 (k) The contracting of a health care facility as  
1732 defined in subparagraphs (i) through (viii) of Section 41-7-173(i)  
1733 to establish a home office, subunit, or branch office in the space  
1734 operated as a health care facility through a formal arrangement  
1735 with an existing health care facility as defined in subparagraph  
1736 (ix) of Section 41-7-173(i);

1737 (l) The replacement or relocation of a health care  
1738 facility designated as a critical access hospital shall be exempt  
1739 from this Section 41-7-191(1) so long as the critical access  
1740 hospital complies with all applicable federal law and regulations  
1741 regarding such replacement or relocation;

1742 (m) Reopening a health care facility that has ceased to  
1743 operate for a period of sixty (60) months or more, which reopening

1744 requires a certificate of need for the establishment of a new  
1745 health care facility. Provided, however, that the reopening of  
1746 sixteen (16) acute care hospital beds in Kemper County for the  
1747 purpose of constructing the "John C. Stennis Memorial Hospital" to  
1748 be owned and operated by a two-hundred-fifteen-bed hospital  
1749 located in Lauderdale County shall not require the issuance of a  
1750 certificate of need, notwithstanding any provision in Section  
1751 41-7-171 et seq. to the contrary if the following conditions are  
1752 met: The facility shall agree to participate or contract to  
1753 participate in the Mississippi Trauma Care System Plan established  
1754 by the State Board of Health under Section 41-59-5, and there  
1755 shall be significant commencement of construction or conversion of  
1756 beds as hereinafter provided. If by July 1, 2009, there has been  
1757 no significant commencement of construction of the beds authorized  
1758 under this paragraph (m), or no significant action taken to  
1759 convert existing beds to the beds authorized under this paragraph  
1760 (m), then the authority to construct or convert beds in Kemper  
1761 County without the necessity of a certificate of need shall  
1762 expire. If the authority to construct or convert beds in Kemper  
1763 County expires, the department may accept applications for  
1764 issuance of a certificate of need from another applicant for the  
1765 beds authorized under this paragraph (m), and the department may  
1766 issue a certificate of need to authorize the construction,  
1767 expansion or conversion of the beds authorized under this  
1768 paragraph (m).

1769 (2) The State Department of Health shall not grant approval  
1770 for or issue a certificate of need to any person proposing the new  
1771 construction of, addition to, or expansion of any health care  
1772 facility defined in subparagraphs (iv) (skilled nursing facility)  
1773 and (vi) (intermediate care facility) of Section 41-7-173(i) or  
1774 the conversion of vacant hospital beds to provide skilled or  
1775 intermediate nursing home care, except as hereinafter authorized:

1776           (a) The department may issue a certificate of need to  
1777 any person proposing the new construction of any health care  
1778 facility defined in subparagraphs (iv) and (vi) of Section  
1779 41-7-173(i) as part of a life care retirement facility, in any  
1780 county bordering on the Gulf of Mexico in which is located a  
1781 National Aeronautics and Space Administration facility, not to  
1782 exceed forty (40) beds. From and after July 1, 1999, there shall  
1783 be no prohibition or restrictions on participation in the Medicaid  
1784 program (Section 43-13-101 et seq.) for the beds in the health  
1785 care facility that were authorized under this paragraph (a).

1786           (b) The department may issue certificates of need in  
1787 Harrison County to provide skilled nursing home care for  
1788 Alzheimer's disease patients and other patients, not to exceed one  
1789 hundred fifty (150) beds. From and after July 1, 1999, there  
1790 shall be no prohibition or restrictions on participation in the  
1791 Medicaid program (Section 43-13-101 et seq.) for the beds in the  
1792 nursing facilities that were authorized under this paragraph (b).

1793           (c) The department may issue a certificate of need for  
1794 the addition to or expansion of any skilled nursing facility that  
1795 is part of an existing continuing care retirement community  
1796 located in Madison County, provided that the recipient of the  
1797 certificate of need agrees in writing that the skilled nursing  
1798 facility will not at any time participate in the Medicaid program  
1799 (Section 43-13-101 et seq.) or admit or keep any patients in the  
1800 skilled nursing facility who are participating in the Medicaid  
1801 program. This written agreement by the recipient of the  
1802 certificate of need shall be fully binding on any subsequent owner  
1803 of the skilled nursing facility, if the ownership of the facility  
1804 is transferred at any time after the issuance of the certificate  
1805 of need. Agreement that the skilled nursing facility will not  
1806 participate in the Medicaid program shall be a condition of the  
1807 issuance of a certificate of need to any person under this  
1808 paragraph (c), and if such skilled nursing facility at any time

1809 after the issuance of the certificate of need, regardless of the  
1810 ownership of the facility, participates in the Medicaid program or  
1811 admits or keeps any patients in the facility who are participating  
1812 in the Medicaid program, the State Department of Health shall  
1813 revoke the certificate of need, if it is still outstanding, and  
1814 shall deny or revoke the license of the skilled nursing facility,  
1815 at the time that the department determines, after a hearing  
1816 complying with due process, that the facility has failed to comply  
1817 with any of the conditions upon which the certificate of need was  
1818 issued, as provided in this paragraph and in the written agreement  
1819 by the recipient of the certificate of need. The total number of  
1820 beds that may be authorized under the authority of this paragraph  
1821 (c) shall not exceed sixty (60) beds.

1822 (d) The State Department of Health may issue a  
1823 certificate of need to any hospital located in DeSoto County for  
1824 the new construction of a skilled nursing facility, not to exceed  
1825 one hundred twenty (120) beds, in DeSoto County. From and after  
1826 July 1, 1999, there shall be no prohibition or restrictions on  
1827 participation in the Medicaid program (Section 43-13-101 et seq.)  
1828 for the beds in the nursing facility that were authorized under  
1829 this paragraph (d).

1830 (e) The State Department of Health may issue a  
1831 certificate of need for the construction of a nursing facility or  
1832 the conversion of beds to nursing facility beds at a personal care  
1833 facility for the elderly in Lowndes County that is owned and  
1834 operated by a Mississippi nonprofit corporation, not to exceed  
1835 sixty (60) beds. From and after July 1, 1999, there shall be no  
1836 prohibition or restrictions on participation in the Medicaid  
1837 program (Section 43-13-101 et seq.) for the beds in the nursing  
1838 facility that were authorized under this paragraph (e).

1839 (f) The State Department of Health may issue a  
1840 certificate of need for conversion of a county hospital facility  
1841 in Itawamba County to a nursing facility, not to exceed sixty (60)

1842 beds, including any necessary construction, renovation or  
1843 expansion. From and after July 1, 1999, there shall be no  
1844 prohibition or restrictions on participation in the Medicaid  
1845 program (Section 43-13-101 et seq.) for the beds in the nursing  
1846 facility that were authorized under this paragraph (f).

1847 (g) The State Department of Health may issue a  
1848 certificate of need for the construction or expansion of nursing  
1849 facility beds or the conversion of other beds to nursing facility  
1850 beds in either Hinds, Madison or Rankin County, not to exceed  
1851 sixty (60) beds. From and after July 1, 1999, there shall be no  
1852 prohibition or restrictions on participation in the Medicaid  
1853 program (Section 43-13-101 et seq.) for the beds in the nursing  
1854 facility that were authorized under this paragraph (g).

1855 (h) The State Department of Health may issue a  
1856 certificate of need for the construction or expansion of nursing  
1857 facility beds or the conversion of other beds to nursing facility  
1858 beds in either Hancock, Harrison or Jackson County, not to exceed  
1859 sixty (60) beds. From and after July 1, 1999, there shall be no  
1860 prohibition or restrictions on participation in the Medicaid  
1861 program (Section 43-13-101 et seq.) for the beds in the facility  
1862 that were authorized under this paragraph (h).

1863 (i) The department may issue a certificate of need for  
1864 the new construction of a skilled nursing facility in Leake  
1865 County, provided that the recipient of the certificate of need  
1866 agrees in writing that the skilled nursing facility will not at  
1867 any time participate in the Medicaid program (Section 43-13-101 et  
1868 seq.) or admit or keep any patients in the skilled nursing  
1869 facility who are participating in the Medicaid program. This  
1870 written agreement by the recipient of the certificate of need  
1871 shall be fully binding on any subsequent owner of the skilled  
1872 nursing facility, if the ownership of the facility is transferred  
1873 at any time after the issuance of the certificate of need.  
1874 Agreement that the skilled nursing facility will not participate



1875 in the Medicaid program shall be a condition of the issuance of a  
1876 certificate of need to any person under this paragraph (i), and if  
1877 such skilled nursing facility at any time after the issuance of  
1878 the certificate of need, regardless of the ownership of the  
1879 facility, participates in the Medicaid program or admits or keeps  
1880 any patients in the facility who are participating in the Medicaid  
1881 program, the State Department of Health shall revoke the  
1882 certificate of need, if it is still outstanding, and shall deny or  
1883 revoke the license of the skilled nursing facility, at the time  
1884 that the department determines, after a hearing complying with due  
1885 process, that the facility has failed to comply with any of the  
1886 conditions upon which the certificate of need was issued, as  
1887 provided in this paragraph and in the written agreement by the  
1888 recipient of the certificate of need. The provision of Section  
1889 43-7-193(1) regarding substantial compliance of the projection of  
1890 need as reported in the current State Health Plan is waived for  
1891 the purposes of this paragraph. The total number of nursing  
1892 facility beds that may be authorized by any certificate of need  
1893 issued under this paragraph (i) shall not exceed sixty (60) beds.  
1894 If the skilled nursing facility authorized by the certificate of  
1895 need issued under this paragraph is not constructed and fully  
1896 operational within eighteen (18) months after July 1, 1994, the  
1897 State Department of Health, after a hearing complying with due  
1898 process, shall revoke the certificate of need, if it is still  
1899 outstanding, and shall not issue a license for the skilled nursing  
1900 facility at any time after the expiration of the eighteen-month  
1901 period.

1902 (j) The department may issue certificates of need to  
1903 allow any existing freestanding long-term care facility in  
1904 Tishomingo County and Hancock County that on July 1, 1995, is  
1905 licensed with fewer than sixty (60) beds. For the purposes of  
1906 this paragraph (j), the provision of Section 41-7-193(1) requiring  
1907 substantial compliance with the projection of need as reported in

1908 the current State Health Plan is waived. From and after July 1,  
1909 1999, there shall be no prohibition or restrictions on  
1910 participation in the Medicaid program (Section 43-13-101 et seq.)  
1911 for the beds in the long-term care facilities that were authorized  
1912 under this paragraph (j).

1913 (k) The department may issue a certificate of need for  
1914 the construction of a nursing facility at a continuing care  
1915 retirement community in Lowndes County. The total number of beds  
1916 that may be authorized under the authority of this paragraph (k)  
1917 shall not exceed sixty (60) beds. From and after July 1, 2001,  
1918 the prohibition on the facility participating in the Medicaid  
1919 program (Section 43-13-101 et seq.) that was a condition of  
1920 issuance of the certificate of need under this paragraph (k) shall  
1921 be revised as follows: The nursing facility may participate in  
1922 the Medicaid program from and after July 1, 2001, if the owner of  
1923 the facility on July 1, 2001, agrees in writing that no more than  
1924 thirty (30) of the beds at the facility will be certified for  
1925 participation in the Medicaid program, and that no claim will be  
1926 submitted for Medicaid reimbursement for more than thirty (30)  
1927 patients in the facility in any month or for any patient in the  
1928 facility who is in a bed that is not Medicaid-certified. This  
1929 written agreement by the owner of the facility shall be a  
1930 condition of licensure of the facility, and the agreement shall be  
1931 fully binding on any subsequent owner of the facility if the  
1932 ownership of the facility is transferred at any time after July 1,  
1933 2001. After this written agreement is executed, the Division of  
1934 Medicaid and the State Department of Health shall not certify more  
1935 than thirty (30) of the beds in the facility for participation in  
1936 the Medicaid program. If the facility violates the terms of the  
1937 written agreement by admitting or keeping in the facility on a  
1938 regular or continuing basis more than thirty (30) patients who are  
1939 participating in the Medicaid program, the State Department of  
1940 Health shall revoke the license of the facility, at the time that

1941 the department determines, after a hearing complying with due  
1942 process, that the facility has violated the written agreement.

1943 (l) Provided that funds are specifically appropriated  
1944 therefor by the Legislature, the department may issue a  
1945 certificate of need to a rehabilitation hospital in Hinds County  
1946 for the construction of a sixty-bed long-term care nursing  
1947 facility dedicated to the care and treatment of persons with  
1948 severe disabilities including persons with spinal cord and  
1949 closed-head injuries and ventilator-dependent patients. The  
1950 provision of Section 41-7-193(1) regarding substantial compliance  
1951 with projection of need as reported in the current State Health  
1952 Plan is hereby waived for the purpose of this paragraph.

1953 (m) The State Department of Health may issue a  
1954 certificate of need to a county-owned hospital in the Second  
1955 Judicial District of Panola County for the conversion of not more  
1956 than seventy-two (72) hospital beds to nursing facility beds,  
1957 provided that the recipient of the certificate of need agrees in  
1958 writing that none of the beds at the nursing facility will be  
1959 certified for participation in the Medicaid program (Section  
1960 43-13-101 et seq.), and that no claim will be submitted for  
1961 Medicaid reimbursement in the nursing facility in any day or for  
1962 any patient in the nursing facility. This written agreement by  
1963 the recipient of the certificate of need shall be a condition of  
1964 the issuance of the certificate of need under this paragraph, and  
1965 the agreement shall be fully binding on any subsequent owner of  
1966 the nursing facility if the ownership of the nursing facility is  
1967 transferred at any time after the issuance of the certificate of  
1968 need. After this written agreement is executed, the Division of  
1969 Medicaid and the State Department of Health shall not certify any  
1970 of the beds in the nursing facility for participation in the  
1971 Medicaid program. If the nursing facility violates the terms of  
1972 the written agreement by admitting or keeping in the nursing  
1973 facility on a regular or continuing basis any patients who are

1974 participating in the Medicaid program, the State Department of  
1975 Health shall revoke the license of the nursing facility, at the  
1976 time that the department determines, after a hearing complying  
1977 with due process, that the nursing facility has violated the  
1978 condition upon which the certificate of need was issued, as  
1979 provided in this paragraph and in the written agreement. If the  
1980 certificate of need authorized under this paragraph is not issued  
1981 within twelve (12) months after July 1, 2001, the department shall  
1982 deny the application for the certificate of need and shall not  
1983 issue the certificate of need at any time after the twelve-month  
1984 period, unless the issuance is contested. If the certificate of  
1985 need is issued and substantial construction of the nursing  
1986 facility beds has not commenced within eighteen (18) months after  
1987 July 1, 2001, the State Department of Health, after a hearing  
1988 complying with due process, shall revoke the certificate of need  
1989 if it is still outstanding, and the department shall not issue a  
1990 license for the nursing facility at any time after the  
1991 eighteen-month period. Provided, however, that if the issuance of  
1992 the certificate of need is contested, the department shall require  
1993 substantial construction of the nursing facility beds within six  
1994 (6) months after final adjudication on the issuance of the  
1995 certificate of need.

1996           (n) The department may issue a certificate of need for  
1997 the new construction, addition or conversion of skilled nursing  
1998 facility beds in Madison County, provided that the recipient of  
1999 the certificate of need agrees in writing that the skilled nursing  
2000 facility will not at any time participate in the Medicaid program  
2001 (Section 43-13-101 et seq.) or admit or keep any patients in the  
2002 skilled nursing facility who are participating in the Medicaid  
2003 program. This written agreement by the recipient of the  
2004 certificate of need shall be fully binding on any subsequent owner  
2005 of the skilled nursing facility, if the ownership of the facility  
2006 is transferred at any time after the issuance of the certificate

2007 of need. Agreement that the skilled nursing facility will not  
2008 participate in the Medicaid program shall be a condition of the  
2009 issuance of a certificate of need to any person under this  
2010 paragraph (n), and if such skilled nursing facility at any time  
2011 after the issuance of the certificate of need, regardless of the  
2012 ownership of the facility, participates in the Medicaid program or  
2013 admits or keeps any patients in the facility who are participating  
2014 in the Medicaid program, the State Department of Health shall  
2015 revoke the certificate of need, if it is still outstanding, and  
2016 shall deny or revoke the license of the skilled nursing facility,  
2017 at the time that the department determines, after a hearing  
2018 complying with due process, that the facility has failed to comply  
2019 with any of the conditions upon which the certificate of need was  
2020 issued, as provided in this paragraph and in the written agreement  
2021 by the recipient of the certificate of need. The total number of  
2022 nursing facility beds that may be authorized by any certificate of  
2023 need issued under this paragraph (n) shall not exceed sixty (60)  
2024 beds. If the certificate of need authorized under this paragraph  
2025 is not issued within twelve (12) months after July 1, 1998, the  
2026 department shall deny the application for the certificate of need  
2027 and shall not issue the certificate of need at any time after the  
2028 twelve-month period, unless the issuance is contested. If the  
2029 certificate of need is issued and substantial construction of the  
2030 nursing facility beds has not commenced within eighteen (18)  
2031 months after the effective date of July 1, 1998, the State  
2032 Department of Health, after a hearing complying with due process,  
2033 shall revoke the certificate of need if it is still outstanding,  
2034 and the department shall not issue a license for the nursing  
2035 facility at any time after the eighteen-month period. Provided,  
2036 however, that if the issuance of the certificate of need is  
2037 contested, the department shall require substantial construction  
2038 of the nursing facility beds within six (6) months after final  
2039 adjudication on the issuance of the certificate of need.

2040           (o) The department may issue a certificate of need for  
2041 the new construction, addition or conversion of skilled nursing  
2042 facility beds in Leake County, provided that the recipient of the  
2043 certificate of need agrees in writing that the skilled nursing  
2044 facility will not at any time participate in the Medicaid program  
2045 (Section 43-13-101 et seq.) or admit or keep any patients in the  
2046 skilled nursing facility who are participating in the Medicaid  
2047 program. This written agreement by the recipient of the  
2048 certificate of need shall be fully binding on any subsequent owner  
2049 of the skilled nursing facility, if the ownership of the facility  
2050 is transferred at any time after the issuance of the certificate  
2051 of need. Agreement that the skilled nursing facility will not  
2052 participate in the Medicaid program shall be a condition of the  
2053 issuance of a certificate of need to any person under this  
2054 paragraph (o), and if such skilled nursing facility at any time  
2055 after the issuance of the certificate of need, regardless of the  
2056 ownership of the facility, participates in the Medicaid program or  
2057 admits or keeps any patients in the facility who are participating  
2058 in the Medicaid program, the State Department of Health shall  
2059 revoke the certificate of need, if it is still outstanding, and  
2060 shall deny or revoke the license of the skilled nursing facility,  
2061 at the time that the department determines, after a hearing  
2062 complying with due process, that the facility has failed to comply  
2063 with any of the conditions upon which the certificate of need was  
2064 issued, as provided in this paragraph and in the written agreement  
2065 by the recipient of the certificate of need. The total number of  
2066 nursing facility beds that may be authorized by any certificate of  
2067 need issued under this paragraph (o) shall not exceed sixty (60)  
2068 beds. If the certificate of need authorized under this paragraph  
2069 is not issued within twelve (12) months after July 1, 2001, the  
2070 department shall deny the application for the certificate of need  
2071 and shall not issue the certificate of need at any time after the  
2072 twelve-month period, unless the issuance is contested. If the

2073 certificate of need is issued and substantial construction of the  
2074 nursing facility beds has not commenced within eighteen (18)  
2075 months after the effective date of July 1, 2001, the State  
2076 Department of Health, after a hearing complying with due process,  
2077 shall revoke the certificate of need if it is still outstanding,  
2078 and the department shall not issue a license for the nursing  
2079 facility at any time after the eighteen-month period. Provided,  
2080 however, that if the issuance of the certificate of need is  
2081 contested, the department shall require substantial construction  
2082 of the nursing facility beds within six (6) months after final  
2083 adjudication on the issuance of the certificate of need.

2084           (p) The department may issue a certificate of need for  
2085 the construction of a municipally owned nursing facility within  
2086 the Town of Belmont in Tishomingo County, not to exceed sixty (60)  
2087 beds, provided that the recipient of the certificate of need  
2088 agrees in writing that the skilled nursing facility will not at  
2089 any time participate in the Medicaid program (Section 43-13-101 et  
2090 seq.) or admit or keep any patients in the skilled nursing  
2091 facility who are participating in the Medicaid program. This  
2092 written agreement by the recipient of the certificate of need  
2093 shall be fully binding on any subsequent owner of the skilled  
2094 nursing facility, if the ownership of the facility is transferred  
2095 at any time after the issuance of the certificate of need.  
2096 Agreement that the skilled nursing facility will not participate  
2097 in the Medicaid program shall be a condition of the issuance of a  
2098 certificate of need to any person under this paragraph (p), and if  
2099 such skilled nursing facility at any time after the issuance of  
2100 the certificate of need, regardless of the ownership of the  
2101 facility, participates in the Medicaid program or admits or keeps  
2102 any patients in the facility who are participating in the Medicaid  
2103 program, the State Department of Health shall revoke the  
2104 certificate of need, if it is still outstanding, and shall deny or  
2105 revoke the license of the skilled nursing facility, at the time

2106 that the department determines, after a hearing complying with due  
2107 process, that the facility has failed to comply with any of the  
2108 conditions upon which the certificate of need was issued, as  
2109 provided in this paragraph and in the written agreement by the  
2110 recipient of the certificate of need. The provision of Section  
2111 43-7-193(1) regarding substantial compliance of the projection of  
2112 need as reported in the current State Health Plan is waived for  
2113 the purposes of this paragraph. If the certificate of need  
2114 authorized under this paragraph is not issued within twelve (12)  
2115 months after July 1, 1998, the department shall deny the  
2116 application for the certificate of need and shall not issue the  
2117 certificate of need at any time after the twelve-month period,  
2118 unless the issuance is contested. If the certificate of need is  
2119 issued and substantial construction of the nursing facility beds  
2120 has not commenced within eighteen (18) months after July 1, 1998,  
2121 the State Department of Health, after a hearing complying with due  
2122 process, shall revoke the certificate of need if it is still  
2123 outstanding, and the department shall not issue a license for the  
2124 nursing facility at any time after the eighteen-month period.  
2125 Provided, however, that if the issuance of the certificate of need  
2126 is contested, the department shall require substantial  
2127 construction of the nursing facility beds within six (6) months  
2128 after final adjudication on the issuance of the certificate of  
2129 need.

2130 (q) (i) Beginning on July 1, 1999, the State  
2131 Department of Health shall issue certificates of need during each  
2132 of the next four (4) fiscal years for the construction or  
2133 expansion of nursing facility beds or the conversion of other beds  
2134 to nursing facility beds in each county in the state having a need  
2135 for fifty (50) or more additional nursing facility beds, as shown  
2136 in the fiscal year 1999 State Health Plan, in the manner provided  
2137 in this paragraph (q). The total number of nursing facility beds



2138 that may be authorized by any certificate of need authorized under  
2139 this paragraph (q) shall not exceed sixty (60) beds.

2140           (ii) Subject to the provisions of subparagraph  
2141 (v), during each of the next four (4) fiscal years, the department  
2142 shall issue six (6) certificates of need for new nursing facility  
2143 beds, as follows: During fiscal years 2000, 2001 and 2002, one  
2144 (1) certificate of need shall be issued for new nursing facility  
2145 beds in the county in each of the four (4) Long-Term Care Planning  
2146 Districts designated in the fiscal year 1999 State Health Plan  
2147 that has the highest need in the district for those beds; and two  
2148 (2) certificates of need shall be issued for new nursing facility  
2149 beds in the two (2) counties from the state at large that have the  
2150 highest need in the state for those beds, when considering the  
2151 need on a statewide basis and without regard to the Long-Term Care  
2152 Planning Districts in which the counties are located. During  
2153 fiscal year 2003, one (1) certificate of need shall be issued for  
2154 new nursing facility beds in any county having a need for fifty  
2155 (50) or more additional nursing facility beds, as shown in the  
2156 fiscal year 1999 State Health Plan, that has not received a  
2157 certificate of need under this paragraph (q) during the three (3)  
2158 previous fiscal years. During fiscal year 2000, in addition to  
2159 the six (6) certificates of need authorized in this subparagraph,  
2160 the department also shall issue a certificate of need for new  
2161 nursing facility beds in Amite County and a certificate of need  
2162 for new nursing facility beds in Carroll County.

2163           (iii) Subject to the provisions of subparagraph  
2164 (v), the certificate of need issued under subparagraph (ii) for  
2165 nursing facility beds in each Long-Term Care Planning District  
2166 during each fiscal year shall first be available for nursing  
2167 facility beds in the county in the district having the highest  
2168 need for those beds, as shown in the fiscal year 1999 State Health  
2169 Plan. If there are no applications for a certificate of need for  
2170 nursing facility beds in the county having the highest need for

2171 those beds by the date specified by the department, then the  
2172 certificate of need shall be available for nursing facility beds  
2173 in other counties in the district in descending order of the need  
2174 for those beds, from the county with the second highest need to  
2175 the county with the lowest need, until an application is received  
2176 for nursing facility beds in an eligible county in the district.

2177 (iv) Subject to the provisions of subparagraph  
2178 (v), the certificate of need issued under subparagraph (ii) for  
2179 nursing facility beds in the two (2) counties from the state at  
2180 large during each fiscal year shall first be available for nursing  
2181 facility beds in the two (2) counties that have the highest need  
2182 in the state for those beds, as shown in the fiscal year 1999  
2183 State Health Plan, when considering the need on a statewide basis  
2184 and without regard to the Long-Term Care Planning Districts in  
2185 which the counties are located. If there are no applications for  
2186 a certificate of need for nursing facility beds in either of the  
2187 two (2) counties having the highest need for those beds on a  
2188 statewide basis by the date specified by the department, then the  
2189 certificate of need shall be available for nursing facility beds  
2190 in other counties from the state at large in descending order of  
2191 the need for those beds on a statewide basis, from the county with  
2192 the second highest need to the county with the lowest need, until  
2193 an application is received for nursing facility beds in an  
2194 eligible county from the state at large.

2195 (v) If a certificate of need is authorized to be  
2196 issued under this paragraph (q) for nursing facility beds in a  
2197 county on the basis of the need in the Long-Term Care Planning  
2198 District during any fiscal year of the four-year period, a  
2199 certificate of need shall not also be available under this  
2200 paragraph (q) for additional nursing facility beds in that county  
2201 on the basis of the need in the state at large, and that county  
2202 shall be excluded in determining which counties have the highest  
2203 need for nursing facility beds in the state at large for that

2204 fiscal year. After a certificate of need has been issued under  
2205 this paragraph (q) for nursing facility beds in a county during  
2206 any fiscal year of the four-year period, a certificate of need  
2207 shall not be available again under this paragraph (q) for  
2208 additional nursing facility beds in that county during the  
2209 four-year period, and that county shall be excluded in determining  
2210 which counties have the highest need for nursing facility beds in  
2211 succeeding fiscal years.

2212 (vi) If more than one (1) application is made for  
2213 a certificate of need for nursing home facility beds available  
2214 under this paragraph (q), in Yalobusha, Newton or Tallahatchie  
2215 County, and one (1) of the applicants is a county-owned hospital  
2216 located in the county where the nursing facility beds are  
2217 available, the department shall give priority to the county-owned  
2218 hospital in granting the certificate of need if the following  
2219 conditions are met:

2220 1. The county-owned hospital fully meets all  
2221 applicable criteria and standards required to obtain a certificate  
2222 of need for the nursing facility beds; and

2223 2. The county-owned hospital's qualifications  
2224 for the certificate of need, as shown in its application and as  
2225 determined by the department, are at least equal to the  
2226 qualifications of the other applicants for the certificate of  
2227 need.

2228 (r) (i) Beginning on July 1, 1999, the State  
2229 Department of Health shall issue certificates of need during each  
2230 of the next two (2) fiscal years for the construction or expansion  
2231 of nursing facility beds or the conversion of other beds to  
2232 nursing facility beds in each of the four (4) Long-Term Care  
2233 Planning Districts designated in the fiscal year 1999 State Health  
2234 Plan, to provide care exclusively to patients with Alzheimer's  
2235 disease.

2236 (ii) Not more than twenty (20) beds may be  
2237 authorized by any certificate of need issued under this paragraph  
2238 (r), and not more than a total of sixty (60) beds may be  
2239 authorized in any Long-Term Care Planning District by all  
2240 certificates of need issued under this paragraph (r). However,  
2241 the total number of beds that may be authorized by all  
2242 certificates of need issued under this paragraph (r) during any  
2243 fiscal year shall not exceed one hundred twenty (120) beds, and  
2244 the total number of beds that may be authorized in any Long-Term  
2245 Care Planning District during any fiscal year shall not exceed  
2246 forty (40) beds. Of the certificates of need that are issued for  
2247 each Long-Term Care Planning District during the next two (2)  
2248 fiscal years, at least one (1) shall be issued for beds in the  
2249 northern part of the district, at least one (1) shall be issued  
2250 for beds in the central part of the district, and at least one (1)  
2251 shall be issued for beds in the southern part of the district.

2252 (iii) The State Department of Health, in  
2253 consultation with the Department of Mental Health and the Division  
2254 of Medicaid, shall develop and prescribe the staffing levels,  
2255 space requirements and other standards and requirements that must  
2256 be met with regard to the nursing facility beds authorized under  
2257 this paragraph (r) to provide care exclusively to patients with  
2258 Alzheimer's disease.

2259 (s) The State Department of Health may issue a  
2260 certificate of need to a nonprofit skilled nursing facility using  
2261 the Green House model of skilled nursing care and located in Yazoo  
2262 City, Yazoo County, Mississippi, for the construction, expansion  
2263 or conversion of not more than nineteen (19) nursing facility  
2264 beds. For purposes of this paragraph (s), the provisions of  
2265 Section 41-7-193(1) requiring substantial compliance with the  
2266 projection of need as reported in the current State Health Plan  
2267 and the provisions of Section 41-7-197 requiring a formal  
2268 certificate of need hearing process are waived. There shall be no

2269 prohibition or restrictions on participation in the Medicaid  
2270 program for the person receiving the certificate of need  
2271 authorized under this paragraph (s).

2272 (t) The State Department of Health shall issue  
2273 certificates of need to the owner of a nursing facility in  
2274 operation at the time of Hurricane Katrina in Hancock County that  
2275 was not operational on December 31, 2005, because of damage  
2276 sustained from Hurricane Katrina to authorize the following: (i)  
2277 the construction of a new nursing facility in Harrison County;  
2278 (ii) the relocation of forty-nine (49) nursing facility beds from  
2279 the Hancock County facility to the new Harrison County facility;  
2280 (iii) the establishment of not more than twenty (20) non-Medicaid  
2281 nursing facility beds at the Hancock County facility; and (iv) the  
2282 establishment of not more than twenty (20) non-Medicaid beds at  
2283 the new Harrison County facility. The certificates of need that  
2284 authorize the non-Medicaid nursing facility beds under  
2285 subparagraphs (iii) and (iv) of this paragraph (t) shall be  
2286 subject to the following conditions: The owner of the Hancock  
2287 County facility and the new Harrison County facility must agree in  
2288 writing that no more than fifty (50) of the beds at the Hancock  
2289 County facility and no more than forty-nine (49) of the beds at  
2290 the Harrison County facility will be certified for participation  
2291 in the Medicaid program, and that no claim will be submitted for  
2292 Medicaid reimbursement for more than fifty (50) patients in the  
2293 Hancock County facility in any month, or for more than forty-nine  
2294 (49) patients in the Harrison County facility in any month, or for  
2295 any patient in either facility who is in a bed that is not  
2296 Medicaid-certified. This written agreement by the owner of the  
2297 nursing facilities shall be a condition of the issuance of the  
2298 certificates of need under this paragraph (t), and the agreement  
2299 shall be fully binding on any later owner or owners of either  
2300 facility if the ownership of either facility is transferred at any  
2301 time after the certificates of need are issued. After this

2302 written agreement is executed, the Division of Medicaid and the  
2303 State Department of Health shall not certify more than fifty (50)  
2304 of the beds at the Hancock County facility or more than forty-nine  
2305 (49) of the beds at the Harrison County facility for participation  
2306 in the Medicaid program. If the Hancock County facility violates  
2307 the terms of the written agreement by admitting or keeping in the  
2308 facility on a regular or continuing basis more than fifty (50)  
2309 patients who are participating in the Medicaid program, or if the  
2310 Harrison County facility violates the terms of the written  
2311 agreement by admitting or keeping in the facility on a regular or  
2312 continuing basis more than forty-nine (49) patients who are  
2313 participating in the Medicaid program, the State Department of  
2314 Health shall revoke the license of the facility that is in  
2315 violation of the agreement, at the time that the department  
2316 determines, after a hearing complying with due process, that the  
2317 facility has violated the agreement.

2318 (u) The State Department of Health shall issue a  
2319 certificate of need for the construction of a nursing facility in  
2320 Hinds County, not to exceed sixty (60) beds, to a legal entity  
2321 using the Green House model of skilled nursing care. For purposes  
2322 of this paragraph (u), the provisions of Section 41-7-193(1)  
2323 requiring substantial compliance with the projection of need as  
2324 reported in the current State Health Plan and the provisions of  
2325 Section 41-7-197 requiring a formal certificate of need hearing  
2326 process are waived. There shall be no prohibition or restrictions  
2327 on participation in the Medicaid program for the person receiving  
2328 the certificate of need authorized under this paragraph (u). It  
2329 is the intention of the Legislature that this nursing facility be  
2330 located in an underserved minority zip code area located in Hinds  
2331 County in which not less than seventy-five percent (75%) of the  
2332 population in the zip code area are racial minorities. If by July  
2333 1, 2009, there has been no significant commencement of  
2334 construction of the beds authorized under this paragraph, or no

2335 significant action taken to convert existing beds to the beds  
2336 authorized under this paragraph, then the certificate of need that  
2337 was previously issued under this paragraph shall expire and the  
2338 department shall revoke the certificate of need if it is still  
2339 outstanding. This condition by the recipient of the certificate  
2340 of need shall be fully binding on any subsequent owner of the  
2341 certificate of need if the ownership is transferred at any time  
2342 after the issuance of the certificate of need. If the previously  
2343 issued certificate of need expires, the department may accept  
2344 applications for issuance of another certificate of need for the  
2345 beds authorized under this paragraph, and may issue a certificate  
2346 of need to authorize the construction expansion or conversion of  
2347 the beds authorized under this paragraph under the same  
2348 conditions.

2349 (3) The State Department of Health may grant approval for  
2350 and issue certificates of need to any person proposing the new  
2351 construction of, addition to, conversion of beds of or expansion  
2352 of any health care facility defined in subparagraph (x)  
2353 (psychiatric residential treatment facility) of Section  
2354 41-7-173(i). The total number of beds which may be authorized by  
2355 such certificates of need shall not exceed three hundred  
2356 forty-eight (348) beds for the entire state.

2357 (a) Of the total number of beds authorized under this  
2358 subsection, the department shall issue a certificate of need to a  
2359 privately-owned psychiatric residential treatment facility in  
2360 Simpson County for the conversion of sixteen (16) intermediate  
2361 care facility for the mentally retarded (ICF-MR) beds to  
2362 psychiatric residential treatment facility beds, provided that  
2363 facility agrees in writing that the facility shall give priority  
2364 for the use of those sixteen (16) beds to Mississippi residents  
2365 who are presently being treated in out-of-state facilities.

2366 (b) Of the total number of beds authorized under this  
2367 subsection, the department may issue a certificate or certificates

2368 of need for the construction or expansion of psychiatric  
2369 residential treatment facility beds or the conversion of other  
2370 beds to psychiatric residential treatment facility beds in Warren  
2371 County, not to exceed sixty (60) psychiatric residential treatment  
2372 facility beds, provided that the facility agrees in writing that  
2373 no more than thirty (30) of the beds at the psychiatric  
2374 residential treatment facility will be certified for participation  
2375 in the Medicaid program (Section 43-13-101 et seq.) for the use of  
2376 any patients other than those who are participating only in the  
2377 Medicaid program of another state, and that no claim will be  
2378 submitted to the Division of Medicaid for Medicaid reimbursement  
2379 for more than thirty (30) patients in the psychiatric residential  
2380 treatment facility in any day or for any patient in the  
2381 psychiatric residential treatment facility who is in a bed that is  
2382 not Medicaid-certified. This written agreement by the recipient  
2383 of the certificate of need shall be a condition of the issuance of  
2384 the certificate of need under this paragraph, and the agreement  
2385 shall be fully binding on any subsequent owner of the psychiatric  
2386 residential treatment facility if the ownership of the facility is  
2387 transferred at any time after the issuance of the certificate of  
2388 need. After this written agreement is executed, the Division of  
2389 Medicaid and the State Department of Health shall not certify more  
2390 than thirty (30) of the beds in the psychiatric residential  
2391 treatment facility for participation in the Medicaid program for  
2392 the use of any patients other than those who are participating  
2393 only in the Medicaid program of another state. If the psychiatric  
2394 residential treatment facility violates the terms of the written  
2395 agreement by admitting or keeping in the facility on a regular or  
2396 continuing basis more than thirty (30) patients who are  
2397 participating in the Mississippi Medicaid program, the State  
2398 Department of Health shall revoke the license of the facility, at  
2399 the time that the department determines, after a hearing complying  
2400 with due process, that the facility has violated the condition



2401 upon which the certificate of need was issued, as provided in this  
2402 paragraph and in the written agreement.

2403         The State Department of Health, on or before July 1, 2002,  
2404 shall transfer the certificate of need authorized under the  
2405 authority of this paragraph (b) to 3531 Lakeland Drive in Flowood  
2406 (Rankin County), Mississippi, for the construction, expansion or  
2407 conversion of psychiatric residential treatment beds in Rankin  
2408 County. For purposes of this paragraph (b), the provisions of  
2409 Section 41-7-193(1) requiring substantial compliance with the  
2410 projection of need as reported in the current State Health Plan  
2411 and the provisions of Section 41-7-197 requiring a formal  
2412 certificate of need hearing process are waived. The total number  
2413 of beds that may be authorized under the authority of this  
2414 paragraph (b) shall not exceed sixty (60) beds, no more than  
2415 thirty (30) of which will be certified for participation in the  
2416 Medicaid program, as specified in this paragraph (b). For  
2417 purposes of the relocation of beds authorized by Section  
2418 41-7-191(3)(b), the State Department of Health shall treat the  
2419 beds so authorized as if they were licensed and operating, even if  
2420 the beds are not yet licensed and operating, and the department  
2421 shall issue an amendment for the relocation of all beds authorized  
2422 by said section. If by July 1, 2009, there has been no  
2423 significant commencement of construction of the beds authorized  
2424 under this paragraph, or no significant action taken to convert  
2425 existing beds to the beds authorized under this paragraph, then  
2426 the certificate of need that was previously issued under this  
2427 paragraph shall expire and the department shall revoke the  
2428 certificate of need if it is still outstanding. This condition by  
2429 the recipient of the certificate of need shall be fully binding on  
2430 any subsequent owner of the certificate of need if the ownership  
2431 is transferred at any time after the issuance of the certificate  
2432 of need. If the previously issued certificate of need expires,  
2433 the department may accept applications for issuance of another

2434 certificate of need for the beds authorized under this paragraph,  
2435 and may issue a certificate of need to authorize the construction  
2436 expansion or conversion of the beds authorized under this  
2437 paragraph under the same conditions.

2438 (c) Of the total number of beds authorized under this  
2439 subsection, the department shall issue a certificate of need to a  
2440 hospital currently operating Medicaid-certified acute psychiatric  
2441 beds for adolescents in DeSoto County, for the establishment of a  
2442 forty-bed psychiatric residential treatment facility in DeSoto  
2443 County, provided that the hospital agrees in writing (i) that the  
2444 hospital shall give priority for the use of those forty (40) beds  
2445 to Mississippi residents who are presently being treated in  
2446 out-of-state facilities, and (ii) that no more than fifteen (15)  
2447 of the beds at the psychiatric residential treatment facility will  
2448 be certified for participation in the Medicaid program (Section  
2449 43-13-101 et seq.), and that no claim will be submitted for  
2450 Medicaid reimbursement for more than fifteen (15) patients in the  
2451 psychiatric residential treatment facility in any day or for any  
2452 patient in the psychiatric residential treatment facility who is  
2453 in a bed that is not Medicaid-certified. This written agreement  
2454 by the recipient of the certificate of need shall be a condition  
2455 of the issuance of the certificate of need under this paragraph,  
2456 and the agreement shall be fully binding on any subsequent owner  
2457 of the psychiatric residential treatment facility if the ownership  
2458 of the facility is transferred at any time after the issuance of  
2459 the certificate of need. After this written agreement is  
2460 executed, the Division of Medicaid and the State Department of  
2461 Health shall not certify more than fifteen (15) of the beds in the  
2462 psychiatric residential treatment facility for participation in  
2463 the Medicaid program. If the psychiatric residential treatment  
2464 facility violates the terms of the written agreement by admitting  
2465 or keeping in the facility on a regular or continuing basis more  
2466 than fifteen (15) patients who are participating in the Medicaid

2467 program, the State Department of Health shall revoke the license  
2468 of the facility, at the time that the department determines, after  
2469 a hearing complying with due process, that the facility has  
2470 violated the condition upon which the certificate of need was  
2471 issued, as provided in this paragraph and in the written  
2472 agreement.

2473 (d) Of the total number of beds authorized under this  
2474 subsection, the department may issue a certificate or certificates  
2475 of need for the construction or expansion of psychiatric  
2476 residential treatment facility beds or the conversion of other  
2477 beds to psychiatric treatment facility beds, not to exceed thirty  
2478 (30) psychiatric residential treatment facility beds, in either  
2479 Alcorn, Tishomingo, Prentiss, Lee, Itawamba, Monroe, Chickasaw,  
2480 Pontotoc, Calhoun, Lafayette, Union, Benton or Tippah County.

2481 (e) Of the total number of beds authorized under this  
2482 subsection (3) the department shall issue a certificate of need to  
2483 a privately-owned, nonprofit psychiatric residential treatment  
2484 facility in Hinds County for an eight-bed expansion of the  
2485 facility, provided that the facility agrees in writing that the  
2486 facility shall give priority for the use of those eight (8) beds  
2487 to Mississippi residents who are presently being treated in  
2488 out-of-state facilities.

2489 (f) The department shall issue a certificate of need to  
2490 a one-hundred-thirty-four-bed specialty hospital located on  
2491 twenty-nine and forty-four one-hundredths (29.44) commercial acres  
2492 at 5900 Highway 39 North in Meridian (Lauderdale County),  
2493 Mississippi, for the addition, construction or expansion of  
2494 child/adolescent psychiatric residential treatment facility beds  
2495 in Lauderdale County. As a condition of issuance of the  
2496 certificate of need under this paragraph, the facility shall give  
2497 priority in admissions to the child/adolescent psychiatric  
2498 residential treatment facility beds authorized under this  
2499 paragraph to patients who otherwise would require out-of-state

2500 placement. The Division of Medicaid, in conjunction with the  
2501 Department of Human Services, shall furnish the facility a list of  
2502 all out-of-state patients on a quarterly basis. Furthermore,  
2503 notice shall also be provided to the parent, custodial parent or  
2504 guardian of each out-of-state patient notifying them of the  
2505 priority status granted by this paragraph. For purposes of this  
2506 paragraph, the provisions of Section 41-7-193(1) requiring  
2507 substantial compliance with the projection of need as reported in  
2508 the current State Health Plan are waived. The total number of  
2509 child/adolescent psychiatric residential treatment facility beds  
2510 that may be authorized under the authority of this paragraph shall  
2511 be sixty (60) beds. There shall be no prohibition or restrictions  
2512 on participation in the Medicaid program (Section 43-13-101 et  
2513 seq.) for the person receiving the certificate of need authorized  
2514 under this paragraph or for the beds converted pursuant to the  
2515 authority of that certificate of need.

2516 (g) Of the total number of beds authorized under this  
2517 subsection, the department shall issue a certificate of need to a  
2518 privately owned psychiatric residential treatment facility (PRTF)  
2519 in Simpson County for the construction, expansion or conversion of  
2520 fourteen (14) psychiatric residential treatment facility (PRTF)  
2521 beds to be used to develop a specialized unit for the subacute  
2522 treatment of children and adolescents, provided that the facility  
2523 agrees in writing that the facility shall give priority for the  
2524 use of those fourteen (14) beds to Mississippi residents who are  
2525 presently being treated in out-of-state facilities. For purposes  
2526 of this paragraph (g), the provisions of Section 41-7-193(1)  
2527 requiring substantial compliance with the projection of need as  
2528 reported in the current State Health Plan and the provisions of  
2529 Section 41-7-197 requiring a formal certificate of need hearing  
2530 process are waived. There shall be no prohibition or restrictions  
2531 on participation in the Medicaid program (Section 43-13-101 et  
2532 seq.) for the person receiving the certificate of need pursuant to

2533 the authority of the certificate of need authorized under this  
2534 paragraph (g). If by July 1, 2009, there has been no significant  
2535 commencement of construction of the beds authorized under this  
2536 paragraph, or no significant action taken to convert existing beds  
2537 to the beds authorized under this paragraph, then the certificate  
2538 of need that was previously issued under this paragraph shall  
2539 expire and the department shall revoke the certificate of need if  
2540 it is still outstanding. This condition by the recipient of the  
2541 certificate of need shall be fully binding on any subsequent owner  
2542 of the certificate of need if the ownership is transferred at any  
2543 time after the issuance of the certificate of need. If the  
2544 previously issued certificate of need expires, the department may  
2545 accept applications for issuance of another certificate of need  
2546 for the beds authorized under this paragraph, and may issue a  
2547 certificate of need to authorize the construction expansion or  
2548 conversion of the beds authorized under this paragraph under the  
2549 same conditions.

2550 (4) (a) From and after July 1, 1993, the department shall  
2551 not issue a certificate of need to any person for the new  
2552 construction of any hospital, psychiatric hospital or chemical  
2553 dependency hospital that will contain any child/adolescent  
2554 psychiatric or child/adolescent chemical dependency beds, or for  
2555 the conversion of any other health care facility to a hospital,  
2556 psychiatric hospital or chemical dependency hospital that will  
2557 contain any child/adolescent psychiatric or child/adolescent  
2558 chemical dependency beds, or for the addition of any  
2559 child/adolescent psychiatric or child/adolescent chemical  
2560 dependency beds in any hospital, psychiatric hospital or chemical  
2561 dependency hospital, or for the conversion of any beds of another  
2562 category in any hospital, psychiatric hospital or chemical  
2563 dependency hospital to child/adolescent psychiatric or  
2564 child/adolescent chemical dependency beds, except as hereinafter  
2565 authorized:

2566 (i) The department may issue certificates of need  
2567 to any person for any purpose described in this subsection,  
2568 provided that the hospital, psychiatric hospital or chemical  
2569 dependency hospital does not participate in the Medicaid program  
2570 (Section 43-13-101 et seq.) at the time of the application for the  
2571 certificate of need and the owner of the hospital, psychiatric  
2572 hospital or chemical dependency hospital agrees in writing that  
2573 the hospital, psychiatric hospital or chemical dependency hospital  
2574 will not at any time participate in the Medicaid program or admit  
2575 or keep any patients who are participating in the Medicaid program  
2576 in the hospital, psychiatric hospital or chemical dependency  
2577 hospital. This written agreement by the recipient of the  
2578 certificate of need shall be fully binding on any subsequent owner  
2579 of the hospital, psychiatric hospital or chemical dependency  
2580 hospital, if the ownership of the facility is transferred at any  
2581 time after the issuance of the certificate of need. Agreement  
2582 that the hospital, psychiatric hospital or chemical dependency  
2583 hospital will not participate in the Medicaid program shall be a  
2584 condition of the issuance of a certificate of need to any person  
2585 under this subparagraph \* \* \* (i), and if such hospital,  
2586 psychiatric hospital or chemical dependency hospital at any time  
2587 after the issuance of the certificate of need, regardless of the  
2588 ownership of the facility, participates in the Medicaid program or  
2589 admits or keeps any patients in the hospital, psychiatric hospital  
2590 or chemical dependency hospital who are participating in the  
2591 Medicaid program, the State Department of Health shall revoke the  
2592 certificate of need, if it is still outstanding, and shall deny or  
2593 revoke the license of the hospital, psychiatric hospital or  
2594 chemical dependency hospital, at the time that the department  
2595 determines, after a hearing complying with due process, that the  
2596 hospital, psychiatric hospital or chemical dependency hospital has  
2597 failed to comply with any of the conditions upon which the  
2598 certificate of need was issued, as provided in this subparagraph

2599 (i) and in the written agreement by the recipient of the  
2600 certificate of need.

2601                   (ii) The department may issue a certificate of  
2602 need for the conversion of existing beds in a county hospital in  
2603 Choctaw County from acute care beds to child/adolescent chemical  
2604 dependency beds. For purposes of this subparagraph (ii), the  
2605 provisions of Section 41-7-193(1) requiring substantial compliance  
2606 with the projection of need as reported in the current State  
2607 Health Plan is waived. The total number of beds that may be  
2608 authorized under authority of this subparagraph shall not exceed  
2609 twenty (20) beds. There shall be no prohibition or restrictions  
2610 on participation in the Medicaid program (Section 43-13-101 et  
2611 seq.) for the hospital receiving the certificate of need  
2612 authorized under this subparagraph \* \* \* or for the beds converted  
2613 pursuant to the authority of that certificate of need.

2614                   (iii) The department may issue a certificate or  
2615 certificates of need for the construction or expansion of  
2616 child/adolescent psychiatric beds or the conversion of other beds  
2617 to child/adolescent psychiatric beds in Warren County. For  
2618 purposes of this subparagraph (iii), the provisions of Section  
2619 41-7-193(1) requiring substantial compliance with the projection  
2620 of need as reported in the current State Health Plan are waived.  
2621 The total number of beds that may be authorized under the  
2622 authority of this subparagraph shall not exceed twenty (20) beds.  
2623 There shall be no prohibition or restrictions on participation in  
2624 the Medicaid program (Section 43-13-101 et seq.) for the person  
2625 receiving the certificate of need authorized under this  
2626 subparagraph \* \* \* or for the beds converted pursuant to the  
2627 authority of that certificate of need.

2628 \* \* \*

2629                   The State Department of Health, on or before July 1, 2007,  
2630 shall transfer the certificate of need authorized under the  
2631 authority of this paragraph (a)(iii) to 5900 Highway 39 North in

2632 Meridian (Lauderdale County), Mississippi, for the addition,  
2633 construction or expansion of child/adolescent psychiatric  
2634 residential treatment facility beds in Lauderdale County. For  
2635 purposes of this subparagraph, the provisions of Section  
2636 41-7-193(1) requiring substantial compliance with the projection  
2637 of need as reported in the current State Health Plan and the  
2638 provisions of Section 41-7-197 requiring a formal certificate of  
2639 need hearing process are waived. The total number of beds that  
2640 may be authorized under the authority of this subparagraph shall  
2641 not exceed twenty (20) beds. There shall be no prohibition or  
2642 restrictions on participation in the Medicaid program (Section  
2643 43-13-101 et seq.) for the hospital receiving the certificate of  
2644 need authorized under this subparagraph (a)(iii) or for the beds  
2645 covered pursuant to the authority of that certificate of need.  
2646 For purposes of the relocation of beds authorized by Section  
2647 41-7-191(4)(a)(iii), the State Department of Health shall treat  
2648 the beds so authorized as if they were licensed and operating,  
2649 even if the beds are not yet licensed and operating, and the  
2650 department shall issue an amendment for the relocation of all beds  
2651 authorized by said section. If by July 1, 2009, there has been no  
2652 significant commencement of construction of the beds authorized  
2653 under this paragraph, or no significant action taken to convert  
2654 existing beds to the beds authorized under this paragraph, then  
2655 the certificate of need that was previously issued under this  
2656 paragraph shall expire and the department shall revoke the  
2657 certificate of need if it is still outstanding. This condition by  
2658 the recipient of the certificate of need shall be fully binding on  
2659 any subsequent owner of the certificate of need if the ownership  
2660 is transferred at any time after the issuance of the certificate  
2661 of need. If the previously issued certificate of need expires,  
2662 the department may accept applications for issuance of another  
2663 certificate of need for the beds authorized under this paragraph,  
2664 and may issue a certificate of need to authorize the construction



2665 expansion or conversion of the beds authorized under this  
2666 paragraph under the same conditions.

2667 (iv) The department shall issue a certificate of  
2668 need to the Region 7 Mental Health/Retardation Commission for the  
2669 construction or expansion of child/adolescent psychiatric beds or  
2670 the conversion of other beds to child/adolescent psychiatric beds  
2671 in any of the counties served by the commission. For purposes of  
2672 this subparagraph (iv), the provisions of Section 41-7-193(1)  
2673 requiring substantial compliance with the projection of need as  
2674 reported in the current State Health Plan is waived. The total  
2675 number of beds that may be authorized under the authority of this  
2676 subparagraph shall not exceed twenty (20) beds. There shall be no  
2677 prohibition or restrictions on participation in the Medicaid  
2678 program (Section 43-13-101 et seq.) for the person receiving the  
2679 certificate of need authorized under this subparagraph \* \* \* or  
2680 for the beds converted pursuant to the authority of that  
2681 certificate of need.

2682 (v) The department may issue a certificate of need  
2683 to any county hospital located in Leflore County for the  
2684 construction or expansion of adult psychiatric beds or the  
2685 conversion of other beds to adult psychiatric beds, not to exceed  
2686 twenty (20) beds, provided that the recipient of the certificate  
2687 of need agrees in writing that the adult psychiatric beds will not  
2688 at any time be certified for participation in the Medicaid program  
2689 and that the hospital will not admit or keep any patients who are  
2690 participating in the Medicaid program in any of such adult  
2691 psychiatric beds. This written agreement by the recipient of the  
2692 certificate of need shall be fully binding on any subsequent owner  
2693 of the hospital if the ownership of the hospital is transferred at  
2694 any time after the issuance of the certificate of need. Agreement  
2695 that the adult psychiatric beds will not be certified for  
2696 participation in the Medicaid program shall be a condition of the  
2697 issuance of a certificate of need to any person under this

2698 subparagraph \* \* \* (v), and if such hospital at any time after the  
2699 issuance of the certificate of need, regardless of the ownership  
2700 of the hospital, has any of such adult psychiatric beds certified  
2701 for participation in the Medicaid program or admits or keeps any  
2702 Medicaid patients in such adult psychiatric beds, the State  
2703 Department of Health shall revoke the certificate of need, if it  
2704 is still outstanding, and shall deny or revoke the license of the  
2705 hospital at the time that the department determines, after a  
2706 hearing complying with due process, that the hospital has failed  
2707 to comply with any of the conditions upon which the certificate of  
2708 need was issued, as provided in this subparagraph and in the  
2709 written agreement by the recipient of the certificate of need.

2710                   (vi) The department may issue a certificate or  
2711 certificates of need for the expansion of child psychiatric beds  
2712 or the conversion of other beds to child psychiatric beds at the  
2713 University of Mississippi Medical Center. For purposes of this  
2714 subparagraph \* \* \* (vi), the provision of Section 41-7-193(1)  
2715 requiring substantial compliance with the projection of need as  
2716 reported in the current State Health Plan is waived. The total  
2717 number of beds that may be authorized under the authority of this  
2718 subparagraph \* \* \* shall not exceed fifteen (15) beds. There  
2719 shall be no prohibition or restrictions on participation in the  
2720 Medicaid program (Section 43-13-101 et seq.) for the hospital  
2721 receiving the certificate of need authorized under this  
2722 subparagraph \* \* \* or for the beds converted pursuant to the  
2723 authority of that certificate of need.

2724                   (b) From and after July 1, 1990, no hospital,  
2725 psychiatric hospital or chemical dependency hospital shall be  
2726 authorized to add any child/adolescent psychiatric or  
2727 child/adolescent chemical dependency beds or convert any beds of  
2728 another category to child/adolescent psychiatric or  
2729 child/adolescent chemical dependency beds without a certificate of  
2730 need under the authority of subsection (1)(c) of this section.

2731 (5) The department may issue a certificate of need to a  
2732 county hospital in Winston County for the conversion of fifteen  
2733 (15) acute care beds to geriatric psychiatric care beds.

2734 (6) The State Department of Health shall issue a certificate  
2735 of need to a Mississippi corporation qualified to manage a  
2736 long-term care hospital as defined in Section 41-7-173(i)(xii) in  
2737 Harrison County, not to exceed eighty (80) beds, including any  
2738 necessary renovation or construction required for licensure and  
2739 certification, provided that the recipient of the certificate of  
2740 need agrees in writing that the long-term care hospital will not  
2741 at any time participate in the Medicaid program (Section 43-13-101  
2742 et seq.) or admit or keep any patients in the long-term care  
2743 hospital who are participating in the Medicaid program. This  
2744 written agreement by the recipient of the certificate of need  
2745 shall be fully binding on any subsequent owner of the long-term  
2746 care hospital, if the ownership of the facility is transferred at  
2747 any time after the issuance of the certificate of need. Agreement  
2748 that the long-term care hospital will not participate in the  
2749 Medicaid program shall be a condition of the issuance of a  
2750 certificate of need to any person under this subsection (6), and  
2751 if such long-term care hospital at any time after the issuance of  
2752 the certificate of need, regardless of the ownership of the  
2753 facility, participates in the Medicaid program or admits or keeps  
2754 any patients in the facility who are participating in the Medicaid  
2755 program, the State Department of Health shall revoke the  
2756 certificate of need, if it is still outstanding, and shall deny or  
2757 revoke the license of the long-term care hospital, at the time  
2758 that the department determines, after a hearing complying with due  
2759 process, that the facility has failed to comply with any of the  
2760 conditions upon which the certificate of need was issued, as  
2761 provided in this subsection and in the written agreement by the  
2762 recipient of the certificate of need. For purposes of this  
2763 subsection, the provision of Section 41-7-193(1) requiring

2764 substantial compliance with the projection of need as reported in  
2765 the current State Health Plan is hereby waived.

2766 (7) The State Department of Health may issue a certificate  
2767 of need to any hospital in the state to utilize a portion of its  
2768 beds for the "swing-bed" concept. Any such hospital must be in  
2769 conformance with the federal regulations regarding such swing-bed  
2770 concept at the time it submits its application for a certificate  
2771 of need to the State Department of Health, except that such  
2772 hospital may have more licensed beds or a higher average daily  
2773 census (ADC) than the maximum number specified in federal  
2774 regulations for participation in the swing-bed program. Any  
2775 hospital meeting all federal requirements for participation in the  
2776 swing-bed program which receives such certificate of need shall  
2777 render services provided under the swing-bed concept to any  
2778 patient eligible for Medicare (Title XVIII of the Social Security  
2779 Act) who is certified by a physician to be in need of such  
2780 services, and no such hospital shall permit any patient who is  
2781 eligible for both Medicaid and Medicare or eligible only for  
2782 Medicaid to stay in the swing beds of the hospital for more than  
2783 thirty (30) days per admission unless the hospital receives prior  
2784 approval for such patient from the Division of Medicaid, Office of  
2785 the Governor. Any hospital having more licensed beds or a higher  
2786 average daily census (ADC) than the maximum number specified in  
2787 federal regulations for participation in the swing-bed program  
2788 which receives such certificate of need shall develop a procedure  
2789 to insure that before a patient is allowed to stay in the swing  
2790 beds of the hospital, there are no vacant nursing home beds  
2791 available for that patient located within a fifty-mile radius of  
2792 the hospital. When any such hospital has a patient staying in the  
2793 swing beds of the hospital and the hospital receives notice from a  
2794 nursing home located within such radius that there is a vacant bed  
2795 available for that patient, the hospital shall transfer the  
2796 patient to the nursing home within a reasonable time after receipt

2797 of the notice. Any hospital which is subject to the requirements  
2798 of the two (2) preceding sentences of this subsection may be  
2799 suspended from participation in the swing-bed program for a  
2800 reasonable period of time by the State Department of Health if the  
2801 department, after a hearing complying with due process, determines  
2802 that the hospital has failed to comply with any of those  
2803 requirements.

2804 (8) The Department of Health shall not grant approval for or  
2805 issue a certificate of need to any person proposing the new  
2806 construction of, addition to or expansion of a health care  
2807 facility as defined in subparagraph (viii) of Section 41-7-173(i),  
2808 except as hereinafter provided: The department may issue a  
2809 certificate of need to a nonprofit corporation located in Madison  
2810 County, Mississippi, for the construction, expansion or conversion  
2811 of not more than twenty (20) beds in a community living program  
2812 for developmentally disabled adults in a facility as defined in  
2813 subparagraph (viii) of Section 41-7-173(i). For purposes of this  
2814 subsection (8), the provisions of Section 41-7-193(1) requiring  
2815 substantial compliance with the projection of need as reported in  
2816 the current State Health Plan and the provisions of Section  
2817 41-7-197 requiring a formal certificate of need hearing process  
2818 are waived. There shall be no prohibition or restrictions on  
2819 participation in the Medicaid program for the person receiving the  
2820 certificate of need authorized under this subsection (8).

2821 (9) The Department of Health shall not grant approval for or  
2822 issue a certificate of need to any person proposing the  
2823 establishment of, or expansion of the currently approved territory  
2824 of, or the contracting to establish a home office, subunit or  
2825 branch office within the space operated as a health care facility  
2826 as defined in Section 41-7-173(i)(i) through (viii) by a health  
2827 care facility as defined in subparagraph (ix) of Section  
2828 41-7-173(i).

2829           (10) Health care facilities owned and/or operated by the  
2830 state or its agencies are exempt from the restraints in this  
2831 section against issuance of a certificate of need if such addition  
2832 or expansion consists of repairing or renovation necessary to  
2833 comply with the state licensure law. This exception shall not  
2834 apply to the new construction of any building by such state  
2835 facility. This exception shall not apply to any health care  
2836 facilities owned and/or operated by counties, municipalities,  
2837 districts, unincorporated areas, other defined persons, or any  
2838 combination thereof.

2839           (11) The new construction, renovation or expansion of or  
2840 addition to any health care facility defined in subparagraph (ii)  
2841 (psychiatric hospital), subparagraph (iv) (skilled nursing  
2842 facility), subparagraph (vi) (intermediate care facility),  
2843 subparagraph (viii) (intermediate care facility for the mentally  
2844 retarded) and subparagraph (x) (psychiatric residential treatment  
2845 facility) of Section 41-7-173(i) which is owned by the State of  
2846 Mississippi and under the direction and control of the State  
2847 Department of Mental Health, and the addition of new beds or the  
2848 conversion of beds from one category to another in any such  
2849 defined health care facility which is owned by the State of  
2850 Mississippi and under the direction and control of the State  
2851 Department of Mental Health, shall not require the issuance of a  
2852 certificate of need under Section 41-7-171 et seq.,  
2853 notwithstanding any provision in Section 41-7-171 et seq. to the  
2854 contrary.

2855           (12) The new construction, renovation or expansion of or  
2856 addition to any veterans homes or domiciliaries for eligible  
2857 veterans of the State of Mississippi as authorized under Section  
2858 35-1-19 shall not require the issuance of a certificate of need,  
2859 notwithstanding any provision in Section 41-7-171 et seq. to the  
2860 contrary.

2861           (13) The new construction of a nursing facility or nursing  
2862 facility beds or the conversion of other beds to nursing facility  
2863 beds shall not require the issuance of a certificate of need,  
2864 notwithstanding any provision in Section 41-7-171 et seq. to the  
2865 contrary, if the conditions of this subsection are met.

2866           (a) Before any construction or conversion may be  
2867 undertaken without a certificate of need, the owner of the nursing  
2868 facility, in the case of an existing facility, or the applicant to  
2869 construct a nursing facility, in the case of new construction,  
2870 first must file a written notice of intent and sign a written  
2871 agreement with the State Department of Health that the entire  
2872 nursing facility will not at any time participate in or have any  
2873 beds certified for participation in the Medicaid program (Section  
2874 43-13-101 et seq.), will not admit or keep any patients in the  
2875 nursing facility who are participating in the Medicaid program,  
2876 and will not submit any claim for Medicaid reimbursement for any  
2877 patient in the facility. This written agreement by the owner or  
2878 applicant shall be a condition of exercising the authority under  
2879 this subsection without a certificate of need, and the agreement  
2880 shall be fully binding on any subsequent owner of the nursing  
2881 facility if the ownership of the facility is transferred at any  
2882 time after the agreement is signed. After the written agreement  
2883 is signed, the Division of Medicaid and the State Department of  
2884 Health shall not certify any beds in the nursing facility for  
2885 participation in the Medicaid program. If the nursing facility  
2886 violates the terms of the written agreement by participating in  
2887 the Medicaid program, having any beds certified for participation  
2888 in the Medicaid program, admitting or keeping any patient in the  
2889 facility who is participating in the Medicaid program, or  
2890 submitting any claim for Medicaid reimbursement for any patient in  
2891 the facility, the State Department of Health shall revoke the  
2892 license of the nursing facility at the time that the department

2893 determines, after a hearing complying with due process, that the  
2894 facility has violated the terms of the written agreement.

2895 (b) For the purposes of this subsection, participation  
2896 in the Medicaid program by a nursing facility includes Medicaid  
2897 reimbursement of coinsurance and deductibles for recipients who  
2898 are qualified Medicare beneficiaries and/or those who are dually  
2899 eligible. Any nursing facility exercising the authority under  
2900 this subsection may not bill or submit a claim to the Division of  
2901 Medicaid for services to qualified Medicare beneficiaries and/or  
2902 those who are dually eligible.

2903 (c) The new construction of a nursing facility or  
2904 nursing facility beds or the conversion of other beds to nursing  
2905 facility beds described in this section must be either a part of a  
2906 completely new continuing care retirement community, as described  
2907 in the latest edition of the Mississippi State Health Plan, or an  
2908 addition to existing personal care and independent living  
2909 components, and so that the completed project will be a continuing  
2910 care retirement community, containing (i) independent living  
2911 accommodations, (ii) personal care beds, and (iii) the nursing  
2912 home facility beds. The three (3) components must be located on a  
2913 single site and be operated as one (1) inseparable facility. The  
2914 nursing facility component must contain a minimum of thirty (30)  
2915 beds. Any nursing facility beds authorized by this section will  
2916 not be counted against the bed need set forth in the State Health  
2917 Plan, as identified in Section 41-7-171 et seq.

2918 \* \* \*

2919 (14) The State Department of Health shall issue a  
2920 certificate of need to any hospital which is currently licensed  
2921 for two hundred fifty (250) or more acute care beds and is located  
2922 in any general hospital service area not having a comprehensive  
2923 cancer center, for the establishment and equipping of such a  
2924 center which provides facilities and services for outpatient  
2925 radiation oncology therapy, outpatient medical oncology therapy,



2926 and appropriate support services including the provision of  
2927 radiation therapy services. The provision of Section 41-7-193(1)  
2928 regarding substantial compliance with the projection of need as  
2929 reported in the current State Health Plan is waived for the  
2930 purpose of this subsection.

2931 (15) The State Department of Health may authorize the  
2932 transfer of hospital beds, not to exceed sixty (60) beds, from the  
2933 North Panola Community Hospital to the South Panola Community  
2934 Hospital. The authorization for the transfer of those beds shall  
2935 be exempt from the certificate of need review process.

2936 (16) The State Department of Health shall issue any  
2937 certificates of need necessary for Mississippi State University  
2938 and a public or private health care provider to jointly acquire  
2939 and operate a linear accelerator and a magnetic resonance imaging  
2940 unit. Those certificates of need shall cover all capital  
2941 expenditures related to the project between Mississippi State  
2942 University and the health care provider, including, but not  
2943 limited to, the acquisition of the linear accelerator, the  
2944 magnetic resonance imaging unit and other radiological modalities;  
2945 the offering of linear accelerator and magnetic resonance imaging  
2946 services; and the cost of construction of facilities in which to  
2947 locate these services. The linear accelerator and the magnetic  
2948 resonance imaging unit shall be (a) located in the City of  
2949 Starkville, Oktibbeha County, Mississippi; (b) operated jointly by  
2950 Mississippi State University and the public or private health care  
2951 provider selected by Mississippi State University through a  
2952 request for proposals (RFP) process in which Mississippi State  
2953 University selects, and the Board of Trustees of State  
2954 Institutions of Higher Learning approves, the health care provider  
2955 that makes the best overall proposal; (c) available to Mississippi  
2956 State University for research purposes two-thirds (2/3) of the  
2957 time that the linear accelerator and magnetic resonance imaging  
2958 unit are operational; and (d) available to the public or private

2959 health care provider selected by Mississippi State University and  
2960 approved by the Board of Trustees of State Institutions of Higher  
2961 Learning one-third (1/3) of the time for clinical, diagnostic and  
2962 treatment purposes. For purposes of this subsection, the  
2963 provisions of Section 41-7-193(1) requiring substantial compliance  
2964 with the projection of need as reported in the current State  
2965 Health Plan are waived.

2966 (17) Nothing in this section or in any other provision of  
2967 Section 41-7-171 et seq. shall prevent any nursing facility from  
2968 designating an appropriate number of existing beds in the facility  
2969 as beds for providing care exclusively to patients with  
2970 Alzheimer's disease.

2971 (18) The State Department of Health shall issue a  
2972 certificate of need for the construction, addition or conversion  
2973 of acute care hospital beds in a county located in a standard  
2974 metropolitan statistical area (SMSA) as defined in the latest  
2975 federal decennial census which shall experience a population  
2976 growth of five percent (5%) or more, not to exceed one hundred  
2977 (100) beds. The recipient of such certificate of need shall be a  
2978 hospital which has continuous participation, or agrees to contract  
2979 to participate, in the Mississippi Trauma Care System Plan  
2980 established by the State Board of Health under Section 41-59-5.  
2981 For purposes of this subsection (18), "five percent (5%) or more  
2982 population growth" shall be defined by the Mississippi population  
2983 projections for 2010-2015 prepared by the Office of Policy  
2984 Research and Planning of the State Institutions of Higher  
2985 Learning. For purposes of this subsection (18), the provisions of  
2986 Section 41-7-193(1) requiring substantial compliance with the  
2987 projection of need as reported in the current State Health Plan  
2988 and the provisions of Section 41-7-197 requiring a formal  
2989 certificate of need hearing process are waived. There shall be no  
2990 prohibition or restrictions on participation in the Medicaid  
2991 program for the person receiving the certificate of need

2992 authorized under this subsection (18). If by July 1, 2009, there  
2993 has been no significant commencement of construction of the beds  
2994 authorized under this paragraph, or no significant action taken to  
2995 convert existing beds to the beds authorized under this paragraph,  
2996 then the certificate of need that was previously issued under this  
2997 paragraph shall expire and the department shall revoke the  
2998 certificate of need if it is still outstanding. This condition by  
2999 the recipient of the certificate of need shall be fully binding on  
3000 any subsequent owner of the certificate of need if the ownership  
3001 is transferred at any time after the issuance of the certificate  
3002 of need. If the previously issued certificate of need expires,  
3003 the department may accept applications for issuance of another  
3004 certificate of need for the beds authorized under this paragraph,  
3005 and may issue a certificate of need to authorize the construction  
3006 expansion or conversion of the beds authorized under this  
3007 paragraph under the same conditions.

3008       **SECTION 16.** Section 41-7-197, Mississippi Code of 1972, is  
3009 amended as follows:

3010       41-7-197. (1) The State Board of Health shall adopt and  
3011 utilize procedures for conducting certificate of need reviews.  
3012 Such procedures shall include, inter alia, the following: (a)  
3013 written notification to the applicant; (b) written notification to  
3014 health care facilities in the same health service area as the  
3015 proposed service; (c) written notification to other persons who  
3016 prior to the receipt of the application have filed a formal notice  
3017 of intent to provide the proposed services in the same service  
3018 area; and (d) notification to members of the public who reside in  
3019 the service area where the service is proposed, which may be  
3020 provided through newspapers or public information channels.

3021       (2) All notices provided shall include, inter alia, the  
3022 following: (a) the proposed schedule for the review; (b) written  
3023 notification of the period within which a public hearing during  
3024 the course of the review may be requested in writing by one or

3025 more affected persons, such request to be made within twenty (20)  
3026 days of said notification; and (c) the manner in which  
3027 notification will be provided of the time and place of any hearing  
3028 so requested. Any such hearing shall be conducted by an  
3029 independent hearing officer, who is not an employee of the  
3030 department, designated by the State Board of Health. At such  
3031 hearing, the hearing officer and any person affected by the  
3032 proposal being reviewed may conduct reasonable questioning of  
3033 persons who make relevant factual allegations concerning the  
3034 proposal. The hearing officer shall require that all persons be  
3035 sworn before they may offer any testimony at the hearing, and the  
3036 hearing officer is authorized to administer oaths. Any person so  
3037 choosing may be represented by counsel at the hearing. A record  
3038 of the hearing shall be made, which shall consist of a transcript  
3039 of all testimony received, all documents and other material  
3040 introduced by any interested person, the staff report and  
3041 recommendation and such other material as the hearing officer  
3042 considers relevant, including his own recommendation, which he  
3043 shall make within a reasonable period of time after the hearing is  
3044 closed and after he has had an opportunity to review, study and  
3045 analyze the evidence presented during the hearing. The completed  
3046 record shall be certified to the State Board of Health \* \* \*,  
3047 which shall consider only the record in making its decision, and  
3048 shall not consider any evidence or material which is not included  
3049 therein. *All final decisions regarding the issuance of a*  
3050 *certificate of need shall be made by the State Board of*  
3051 *Health \* \* \*. The State Board of Health \* \* \* shall make its*  
3052 *written findings and issue its order after reviewing said*  
3053 *record. \* \* \**

3054 (3) If the decision by the State Board of Health concerning  
3055 the issuance of a certificate of need is not complete within \* \* \*  
3056 ninety (90) days, the certificate of need shall not be granted.  
3057 The proponent of the proposal may, within thirty (30) days, after

3058 *the expiration of the specified time for the decision, or within*  
3059 *thirty (30) days of an adverse decision, commence such legal*  
3060 *action as is necessary, in the Chancery Court of the First*  
3061 *Judicial District of Hinds County or in the chancery court of the*  
3062 *county in which the new institutional health service is proposed*  
3063 *to be provided, to compel the State Board of Health \* \* \* to issue*  
3064 *written findings and written order approving or disapproving the*  
3065 *proposal in question.*

3066         **SECTION 17.** Section 41-7-201, Mississippi Code of 1972, is  
3067 amended as follows:

3068         41-7-201. (1) The provisions of this subsection (1) shall  
3069 apply to any party appealing any final order of the State Board of  
3070 Health pertaining to a certificate of need for a home health  
3071 agency, as defined in Section 41-7-173(h)(ix):

3072             (a) In addition to other remedies now available at law  
3073 or in equity, any party aggrieved by any such final order of the  
3074 State Board of Health shall have the right of appeal to the  
3075 Chancery Court of the First Judicial District of Hinds County,  
3076 Mississippi, which appeal must be filed within thirty (30) days  
3077 after the date of the final order. Provided, however, that any  
3078 appeal of an order disapproving an application for such a  
3079 certificate of need may be made to the chancery court of the  
3080 county where the proposed construction, expansion or alteration  
3081 was to be located or the new service or purpose of the capital  
3082 expenditure was to be located. Such appeal must be filed in  
3083 accordance with the thirty (30) days for filing as heretofore  
3084 provided. Any appeal shall state briefly the nature of the  
3085 proceedings before the State Board of Health and shall specify the  
3086 order complained of. Any person whose rights may be materially  
3087 affected by the action of the State Board of Health may appear and  
3088 become a party or the court may, upon motion, order that any such  
3089 person, organization or entity be joined as a necessary party.

3090           (b) Upon the filing of such an appeal, the clerk of the  
3091 chancery court shall serve notice thereof upon the State Board of  
3092 Health, whereupon the State Department of Health shall, within  
3093 fifty (50) days or within such additional time as the court may by  
3094 order for cause allow from the service of such notice, certify to  
3095 the chancery court the record in the case, which records shall  
3096 include a transcript of all testimony, together with all exhibits  
3097 or copies thereof, all pleadings, proceedings, orders, findings  
3098 and opinions entered in the case; provided, however, that the  
3099 parties and the State Department of Health may stipulate that a  
3100 specified portion only of the record shall be certified to the  
3101 court as the record on appeal.

3102           (c) No new or additional evidence shall be introduced  
3103 in the chancery court but the case shall be determined upon the  
3104 record certified to the court.

3105           (d) The court may dispose of the appeal in termtime or  
3106 vacation and may sustain or dismiss the appeal, modify or vacate  
3107 the order complained of in whole or in part as the case may be;  
3108 but in case the order is wholly or partly vacated, the court may  
3109 also, in its discretion, remand the matter to the State Department  
3110 of Health for such further proceedings, not inconsistent with the  
3111 court's order, as, in the opinion of the court, justice may  
3112 require. The order shall not be vacated or set aside, either in  
3113 whole or in part, except for errors of law, unless the court finds  
3114 that the order of the State Board of Health is not supported by  
3115 substantial evidence, is contrary to the manifest weight of the  
3116 evidence, is in excess of the statutory authority or jurisdiction  
3117 of the State Board of Health, or violates any vested  
3118 constitutional rights of any party involved in the appeal.  
3119 Provided, however, an order of the chancery court reversing the  
3120 denial of a certificate of need by the State Board of Health shall  
3121 not entitle the applicant to effectuate the certificate of need  
3122 until either:

3123                   (i) Such order of the chancery court has become  
3124 final and has not been appealed to the Supreme Court; or

3125                   (ii) The Supreme Court has entered a final order  
3126 affirming the chancery court.

3127                   (e) Appeals in accordance with law may be had to the  
3128 Supreme Court of the State of Mississippi from any final judgment  
3129 of the chancery court.

3130                   (2) The provisions of this subsection (2) shall apply to any  
3131 party appealing any final order of the State Board of Health  
3132 pertaining to a certificate of need for any health care facility  
3133 as defined in Section 41-7-173(h), with the exception of any home  
3134 health agency as defined in Section 41-7-173(h)(ix):

3135                   (a) There shall be a "stay of proceedings" of any final  
3136 order issued by the State Board of Health pertaining to the  
3137 issuance of a certificate of need for the establishment,  
3138 construction, expansion or replacement of a health care facility  
3139 for a period of thirty (30) days from the date of the order, if an  
3140 existing provider located in the same service area where the  
3141 health care facility is or will be located has requested a hearing  
3142 during the course of review in opposition to the issuance of the  
3143 certificate of need. The stay of proceedings shall expire at the  
3144 termination of thirty (30) days; however, no construction,  
3145 renovation or other capital expenditure that is the subject of the  
3146 order shall be undertaken, no license to operate any facility that  
3147 is the subject of the order shall be issued by the licensing  
3148 agency, and no certification to participate in the Title XVIII or  
3149 Title XIX programs of the Social Security Act shall be granted,  
3150 until all statutory appeals have been exhausted or the time for  
3151 such appeals has expired. Notwithstanding the foregoing, the  
3152 filing of an appeal from a final order of the State Board of  
3153 Health or the chancery court for the issuance of a certificate of  
3154 need shall not prevent the purchase of medical equipment or

3155 development or offering of institutional health services granted  
3156 in a certificate of need issued by the State Board of Health.

3157 (b) In addition to other remedies now available at law  
3158 or in equity, any party aggrieved by any such final order of the  
3159 State Board of Health shall have the right of appeal to the  
3160 Chancery Court of the First Judicial District of Hinds County,  
3161 Mississippi, which appeal must be filed within twenty (20) days  
3162 after the date of the final order. Provided, however, that any  
3163 appeal of an order disapproving an application for such a  
3164 certificate of need may be made to the chancery court of the  
3165 county where the proposed construction, expansion or alteration  
3166 was to be located or the new service or purpose of the capital  
3167 expenditure was to be located. Such appeal must be filed in  
3168 accordance with the twenty (20) days for filing as heretofore  
3169 provided. Any appeal shall state briefly the nature of the  
3170 proceedings before the State Board of Health and shall specify the  
3171 order complained of.

3172 (c) Upon the filing of such an appeal, the clerk of the  
3173 chancery court shall serve notice thereof upon the State Board of  
3174 Health, whereupon the State Department of Health shall, within  
3175 thirty (30) days of the date of the filing of the appeal, certify  
3176 to the chancery court the record in the case, which records shall  
3177 include a transcript of all testimony, together with all exhibits  
3178 or copies thereof, all pleadings, proceedings, orders, findings  
3179 and opinions entered in the case; provided, however, that the  
3180 parties and the State Department of Health may stipulate that a  
3181 specified portion only of the record shall be certified to the  
3182 court as the record on appeal. The chancery court shall give  
3183 preference to any such appeal from a final order by the State  
3184 Board of Health in a certificate of need proceeding, and shall  
3185 render a final order regarding such appeal no later than one  
3186 hundred twenty (120) days from the date of the final order by the  
3187 State Board of Health. If the chancery court has not rendered a



3188 final order within this 120-day period, then the final order of  
3189 the State Board of Health shall be deemed to have been affirmed by  
3190 the chancery court, and any party to the appeal shall have the  
3191 right to appeal from the chancery court to the Supreme Court on  
3192 the record certified by the State Department of Health as  
3193 otherwise provided in paragraph (g) of this subsection. In the  
3194 event the chancery court has not rendered a final order within the  
3195 120-day period and an appeal is made to the Supreme Court as  
3196 provided herein, the Supreme Court shall remand the case to the  
3197 chancery court to make an award of costs, fees, reasonable  
3198 expenses and attorney's fees incurred in favor of appellee payable  
3199 by the appellant(s) should the Supreme Court affirm the order of  
3200 the State Board of Health.

3201 (d) Any appeal of a final order by the State Board of  
3202 Health in a certificate of need proceeding shall require the  
3203 giving of a bond by the appellant(s) sufficient to secure the  
3204 appellee against the loss of costs, fees, expenses and attorney's  
3205 fees incurred in defense of the appeal, approved by the chancery  
3206 court within five (5) days of the date of filing the appeal.

3207 (e) No new or additional evidence shall be introduced  
3208 in the chancery court but the case shall be determined upon the  
3209 record certified to the court.

3210 (f) The court may dispose of the appeal in termtime or  
3211 vacation and may sustain or dismiss the appeal, modify or vacate  
3212 the order complained of in whole or in part and may make an award  
3213 of costs, fees, expenses and attorney's fees, as the case may be;  
3214 but in case the order is wholly or partly vacated, the court may  
3215 also, in its discretion, remand the matter to the State Board of  
3216 Health for such further proceedings, not inconsistent with the  
3217 court's order, as, in the opinion of the court, justice may  
3218 require. The court, as part of the final order, shall make an  
3219 award of costs, fees, reasonable expenses and attorney's fees  
3220 incurred in favor of appellee payable by the appellant(s) should

3221 the court affirm the order of the State Board of Health. The  
3222 order shall not be vacated or set aside, either in whole or in  
3223 part, except for errors of law, unless the court finds that the  
3224 order of the State Board of Health is not supported by substantial  
3225 evidence, is contrary to the manifest weight of the evidence, is  
3226 in excess of the statutory authority or jurisdiction of the State  
3227 Board of Health, or violates any vested constitutional rights of  
3228 any party involved in the appeal. Provided, however, an order of  
3229 the chancery court reversing the denial of a certificate of need  
3230 by the State Board of Health shall not entitle the applicant to  
3231 effectuate the certificate of need until either:

3232 (i) Such order of the chancery court has become  
3233 final and has not been appealed to the Supreme Court; or

3234 (ii) The Supreme Court has entered a final order  
3235 affirming the chancery court.

3236 (g) Appeals in accordance with law may be had to the  
3237 Supreme Court of the State of Mississippi from any final judgment  
3238 of the chancery court.

3239 (h) Within thirty (30) days from the date of a final  
3240 order by the Supreme Court or a final order of the chancery court  
3241 not appealed to the Supreme Court that modifies or wholly or  
3242 partly vacates the final order of the State Board of Health  
3243 granting a certificate of need, the State Board of Health shall  
3244 issue another order in conformity with the final order of the  
3245 Supreme Court, or the final order of the chancery court not  
3246 appealed to the Supreme Court.

3247 **SECTION 18.** Section 41-7-205, Mississippi Code of 1972, is  
3248 amended as follows:

3249 41-7-205. The State Department of Health shall provide an  
3250 expedited review for those projects which it determines to warrant  
3251 such action. All requests for such an expedited review by the  
3252 applicant must be made in writing to the State Department of  
3253 Health. The State Board of Health shall make a determination as

3254 to whether expedited review is appropriate within fifteen (15)  
3255 days after receipt of a written request. The State Board of  
3256 Health shall render its decision concerning the issuance of a  
3257 certificate of need within ninety (90) days after the receipt of a  
3258 completed application. A project is subject to expedited review  
3259 only if it meets one (1) of the following criteria:

3260 (a) A transfer or change of ownership of a health care  
3261 facility wherein the facility continues to operate under the same  
3262 category of license or permit as it possessed prior to the date of  
3263 the proposed change of ownership and none of the other activities  
3264 described in Section 41-7-191(1) take place in conjunction with  
3265 such transfer;

3266 (b) Replacement of equipment with used equipment of  
3267 similar capability if the equipment is included in the facility's  
3268 annual capital expenditure budget or plan;

3269 (c) A request for project cost overruns that exceed the  
3270 rate of inflation as determined by the State Department of Health;

3271 (d) A request for relocation of services or facilities  
3272 if the relocation of such services or facilities (i) involves a  
3273 capital expenditure by or on behalf of a health care facility, or  
3274 (ii) is more than one thousand three hundred twenty (1,320) feet  
3275 from the main entrance of the health care facility or the facility  
3276 where the service is located;

3277 (e) A request for a certificate of need to comply with  
3278 duly recognized fire, building, or life safety codes, or to comply  
3279 with state licensure standards or accreditation standards required  
3280 for reimbursements; and

3281 (f) A request for a certificate of need that is a  
3282 nonclinical expenditure exceeding the capital expenditure minimum  
3283 under Section 41-7-173(c)(ii) of this act.

3284 **SECTION 19.** The following provision shall be codified as  
3285 Section 41-57-8, Mississippi Code of 1972:

3286           41-57-8. (1) For purposes of this section, the term  
3287 "stillborn child" shall be defined as "an intrauterine death that  
3288 occurs after the twentieth week of gestation through the moment of  
3289 birth."

3290           (2) The Bureau of Vital Statistics of the State Department  
3291 of Health shall develop a form for the registration of a  
3292 Certificate of Birth Resulting in Stillbirth for any stillborn  
3293 child in Mississippi. The Certificate of Birth Resulting in  
3294 Stillbirth shall be offered to a mother after the occurrence of  
3295 any stillbirth. If such mother decides not to place a name on the  
3296 Certificate of Birth Resulting in Stillbirth, the person preparing  
3297 the certificate shall leave this option on the certificate blank.  
3298 The option of registering a Certificate of Birth Resulting in  
3299 Stillbirth shall be available to any parent of a stillborn child  
3300 wherein the stillbirth occurred in Mississippi on or after July 1,  
3301 2005, provided that the burden of applying and supplying medical  
3302 verification of such stillbirth occurring prior to the effective  
3303 date of this act shall be with the parent(s) requesting the  
3304 issuance and registration of such certificate.

3305           (3) The State Board of Health shall formulate and promulgate  
3306 rules and regulations for the proper reporting and registration of  
3307 Certificates of Birth Resulting in Stillbirth.

3308           **SECTION 20.** Section 41-57-11, Mississippi Code of 1972, is  
3309 amended as follows:

3310           41-57-11. (1) Each local registrar shall be paid the sum of  
3311 One Dollar (\$1.00) for each birth and each death certificate and  
3312 each Certificate of Birth Resulting in Stillbirth properly made  
3313 out, and in the manner and on the form required by the State Board  
3314 of Health. Such sum shall be paid by the board of supervisors of  
3315 the county in which the births and deaths occurred, upon  
3316 certification made monthly to the board of supervisors by the  
3317 state registrar.

3318           However, any local registrar shall receive only Fifty Cents  
3319 (50¢) for each birth, each death certificate and each certificate  
3320 of stillbirth sent in to the Bureau of Vital Statistics improperly  
3321 completed or sent in at a later time than that fixed by the  
3322 regulations of the State Board of Health.

3323           (2) In addition to any fees established and collected by the  
3324 State Board of Health for the issuance of original and copies of  
3325 birth certificates and Certificates of Birth Resulting in  
3326 Stillbirth, there shall be charged a fee of One Dollar (\$1.00) for  
3327 each original and each copy of a birth certificate. This  
3328 additional fee shall be deposited into the Mississippi Children's  
3329 Trust Fund created by Section 93-21-305 and shall be used only as  
3330 set forth in Sections 93-21-301 through 93-21-311. This  
3331 additional fee shall not be added to birth certificates furnished  
3332 free as provided in Sections 35-3-9 and 41-57-25.

3333           **SECTION 21.** The annual salary of the State Health Officer  
3334 serving on January 1, 2007, shall be One Dollar (\$1.00).

3335           **SECTION 22.** This act shall take effect and be in force from  
3336 and after June 30, 2007, except that Section 21 of this act shall  
3337 take effect and be in force from and after its passage.