To: Public Health and Welfare; Appropriations

MISSISSIPPI LEGISLATURE

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

SENATE BILL NO. 2764
(As Sent to Governor)

AN ACT TO AMEND SECTION 41-3-20, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE SECTION CREATING THE STATE BOARD OF HEALTH SHALL REPEAL ON THE EFFECTIVE DATE OF THIS ACT AND THE SECTION CREATING THE POSITION OF THE EXECUTIVE OFFICER OF THE STATE DEPARTMENT OF HEALTH SHALL REPEAL ON JUNE 30, 2007; TO EXTEND UNTIL JUNE 30, 2010, THE REPEALER ON VARIOUS STATUTES THAT CREATE AND EMPOWER THE STATE BOARD OF HEALTH AND THE STATE DEPARTMENT OF HEALTH AND ESTABLISH THE POSITION OF EXECUTIVE OFFICER OF THE STATE DEPARTMENT OF HEALTH; TO EXTEND UNTIL JUNE 30, 2010, THE REPEALER ON VARIOUS STATUTES THAT CREATE AND EMPOWER THE STATE BOARD OF HEALTH AND THE STATE DEPARTMENT OF HEALTH AND ESTABLISH THE POSITION OF EXECUTIVE OFFICER OF THE STATE DEPARTMENT OF HEALTH; TO CODIFY SECTION 41-3-1.1, MISSISSIPPI CODE OF 1972, TO RECONSTITUTE THE MEMBERSHIP OF THE STATE BOARD OF HEALTH AND PROVIDE FOR THE NUMBER, QUALIFICATIONS, APPOINTMENT AND TERMS OF NEW MEMBERS; TO PROVIDE FOR NONVOTING LEGISLATIVE MEMBERS TO ATTEND BOARD MEETINGS; TO PROHIBIT MEMBERS OF THE BOARD FROM PARTICIPATING IN ACTIONS HAVING A MONETARY EFFECT ON THE MEMBER'S BUSINESS; TO REQUIRE BOARD MEMBERS TO RECUSE THEMSELVES FROM MATTERS BEFORE THE BOARD IN WHICH THEY MAY NOT PARTICIPATE; TO AMEND REENACTED SECTION 41-3-4, MISSISSIPPI CODE OF 1972, TO REQUIRE THE STATE BOARD OF HEALTH TO MEET AT LEAST ONCE EACH QUARTER; TO CLARIFY THAT THE TERM OF OFFICE OF ANY MEMBER OF THE BOARD WHO MISSES THREE CONSECUTIVE MEETINGS SHALL BE TERMINATED; TO CODIFY SECTION 41-3-5.1, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR THE APPOINTMENT OF THE EXECUTIVE OFFICER OF THE STATE DEPARTMENT OF HEALTH; TO AMEND REENACTED SECTION 41-3-15, MISSISSIPPI CODE OF 1972, AS AMENDED BY HOUSE BILL NO. 553, 2007 REGULAR SESSION, TO CLARIFY THE GENERAL AUTHORITY OF THE STATE BOARD OF HEALTH AND THE STATE HEALTH OFFICER; TO AMEND REENACTED SECTION 41-3-18, MISSISSIPPI CODE OF 1972, TO REVISE CERTAIN FEES ASSESSED ON RESTAURANTS BY THE STATE DEPARTMENT OF HEALTH; TO REENACT SECTIONS 41-3-3, 41-3-6, 41-3-16, 41-3-17, 41-3-18 AND 41-3-19, MISSISSIPPI CODE OF 1972, WHICH CREATE AND EMPOWER THE STATE BOARD OF HEALTH AND THE STATE DEPARTMENT OF HEALTH; TO AMEND SECTION 41-59-61, MISSISSIPPI CODE OF 1972, TO CLARIFY THE AUTHORIZED ADMINISTRATIVE COSTS THAT MAY BE PAID FROM THE EMERGENCY MEDICAL SERVICES OPERATING FUND; TO PROVIDE FOR A COMPREHENSIVE AND STATEWIDE TOBACCO EDUCATION, PREVENTION AND CESSATION PROGRAM THAT IS CONSISTENT WITH FEDERAL GUIDELINES; TO ESTABLISH THE OFFICE OF TOBACCO CONTROL IN THE STATE DEPARTMENT OF HEALTH; TO CREATE THE MISSISSIPPI TOBACCO CONTROL ADVISORY COUNCIL TO ADVISE ON THE IMPLEMENTATION OF THE PROGRAM; TO PROVIDE FOR THE APPOINTMENT OF THE MEMBERSHIP OF THE ADVISORY COUNCIL; TO PROVIDE FOR A DIRECTOR OF THE OFFICE; TO PRESCRIBE THE MINIMUM COMPONENTS OF THE PROGRAM; TO PROVIDE GUIDELINES FOR PRIORITY FOR FUNDING THE COMPONENTS OF THE PROGRAM; TO ESTABLISH IN THE STATE TREASURY A SPECIAL FUND TO BE KNOWN AS THE TOBACCO CONTROL FUND; TO PROVIDE THAT A CERTAIN AMOUNT FROM THE TOBACCO SETTLEMENT INSTALLMENT PAYMENTS RECEIVED BY THE STATE EACH YEAR SHALL BE DEPOSITED INTO THE SPECIAL FUND; TO PROVIDE THAT THE FUNDS IN THE SPECIAL FUND SHALL BE EXPENDED SOLELY FOR THE PURPOSES SPECIFIED IN THIS ACT; TO AMEND SECTION 43-13-405, MISSISSIPPI CODE OF 1972, TO CONFORM TO THE PRECEDING PROVISION; TO CODIFY NEW SECTION 41-57-31, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR THE ISSUANCE OF A "CERTIFICATE OF BIRTH RESULTING IN STILLBIRTH" BY THE BUREAU OF
VITAL STATISTICS OF THE STATE DEPARTMENT OF HEALTH UPON THE
REQUEST OF A PARENT OF A STILLBORN CHILD; TO PROVIDE THAT A PARENT
MAY REQUEST THE ISSUANCE OF THIS CERTIFICATE WITHOUT REGARD TO
WHETHER THE DEATH OCCURRED BEFORE OR AFTER THE EFFECTIVE DATE OF
THIS ACT; TO PROVIDE THAT THE PERSON WHO IS REQUIRED TO FILE A
DEATH CERTIFICATE SHALL ADVISE THE PARENT OR PARENTS OF A
STILLBORN CHILD ABOUT THE AVAILABILITY OF THIS CERTIFICATE AND HOW
TO REQUEST THE ISSUANCE OF THE CERTIFICATE; TO PROVIDE THAT THE
STATE DEPARTMENT OF HEALTH SHALL PRESCRIBE THE FORM AND CONTENT OF
THE CERTIFICATE AND SPECIFY THE INFORMATION NECESSARY TO PREPARE
THE CERTIFICATE; TO AUTHORIZE THE STATE BOARD OF HEALTH TO ADOPT
ANY RULES OR REGULATIONS NECESSARY TO ADMINISTER THIS SECTION; TO
AMEND SECTION 41-7-191, MISSISSIPPI CODE OF 1972, TO DIRECT THE
STATE DEPARTMENT OF HEALTH TO ISSUE A CERTIFICATE OF NEED FOR THE
CONSTRUCTION OF AN ACUTE CARE HOSPITAL IN KEMPER COUNTY, NOT TO
EXCEED 25 BEDS, WHICH SHALL BE NAMED THE "JOHN C. STENNIS MEMORIAL
HOSPITAL"; AND FOR RELATED PURPOSES.

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

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

41-3-20. (1) Section 41-3-1 * * *, which creates the State
Board of Health * * *, shall stand repealed on the effective date
of this section.

(2) Section 41-3-5, which creates the position of the
Executive Officer of the State Department of Health, shall stand
repealed on June 30, 2007.

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

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

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

There is created the State Board of Health which, from and
after the effective date of this section, shall consist of eleven
(11) members appointed with the advice and consent of the Senate,
(a) Five (5) members of the board shall be currently licensed physicians of good professional standing who have had at least seven (7) years' experience in the practice of medicine in this state. Three (3) members shall be appointed by the Governor, one (1) member shall be appointed by the Lieutenant Governor, and one (1) member shall be appointed by the Attorney General, in the manner provided in paragraph (d) of this subsection (1).

(b) Six (6) members of the board shall be individuals who have a background in public health or an interest in public health who are not currently or formerly licensed physicians. Four (4) of those members shall be appointed by the Governor, one (1) of those members shall be appointed by the Lieutenant Governor, and one (1) of those members shall be appointed by the Attorney General, in the manner provided in paragraph (d) of this subsection (1).

(c) The Governor, Lieutenant Governor and Attorney General shall give due regard to geographic distribution, race and gender in making their appointments to the board. It is the intent of the Legislature that the membership of the board reflect the population of the State of Mississippi. Of the Governor's appointments, one (1) member of the board shall be appointed from each of the four (4) congressional districts as constituted on June 30, 2007, and one (1) member of the board shall be appointed from each of the three (3) Supreme Court districts as constituted on June 30, 2007. Of the Lieutenant Governor's appointments, one (1) member of the board shall be appointed from the First Congressional District and one (1) member of the board shall be appointed from the Fourth Congressional District as constituted on June 30, 2007. Of the Attorney General's appointments, one (1) member of the board shall be appointed from the Second Congressional District and one (1) member of the board shall be appointed from the Third Congressional District as constituted on June 30, 2007.
(d) The initial members of the board shall be appointed for staggered terms, as follows: Of the Governor's appointments, two (2) members shall be appointed for terms that end on June 30, 2009; two (2) members shall be appointed for terms that end on June 30, 2011; and three (3) members shall be appointed for terms that end on June 30, 2013. Of the Lieutenant Governor's appointments, one (1) member shall be appointed for a term that ends on June 30, 2009; and one (1) member shall be appointed for a term that ends on June 30, 2013. Of the Attorney General's appointments, one (1) member shall be appointed for a term that ends on June 30, 2009; and one (1) member shall be appointed for a term that ends on June 30, 2011.

A member of the board serving before January 1, 2007, shall be eligible for reappointment to the reconstituted board unless the person is disqualified under subsection (4) of this section.

(2) At the expiration of the terms of the initial members, all members of the board shall be appointed by the Governor, in the same manner and from the same districts prescribed in subsection (1) of this section, for terms of six (6) years from the expiration of the previous term and thereafter until his or her successor is duly appointed. Vacancies in office shall be filled by appointment in the same manner as the appointment to the position that becomes vacant, subject to the advice and consent of the Senate at the next regular session of the Legislature. An appointment to fill a vacancy other than by expiration of a term of office shall be for the balance of the unexpired term and thereafter until his or her successor is duly appointed.

(3) The Lieutenant Governor may designate one (1) Senator and the Speaker of the House of Representatives may designate one (1) Representative to attend any meeting of the State Board of Health. The appointing authorities may designate alternate members from their respective houses to serve when the regular designees are unable to attend the meetings of the board. Those
legislative designees shall have no jurisdiction or vote on any matter within the jurisdiction of the board. For attending meetings of the board, the legislators shall receive per diem and expenses, which shall be paid from the contingent expense funds of their respective houses in the same amounts as provided for committee meetings when the Legislature is not in session; however, no per diem and expenses for attending meetings of the board will be paid while the Legislature is in session. No per diem and expenses will be paid except for attending meetings of the board without prior approval of the proper committee in their respective houses.

(4) (a) All members of the State Board of Health shall file with the Mississippi Ethics Commission, before the first day of May each year, the statement of economic interest as required by Sections 25-4-25 through 25-4-29.

(b) No member of the board shall participate in any action by the board or department if that action could have any monetary effect on any business with which that member is associated, as defined in Section 25-4-103.

(c) When any matter in which a member may not participate comes before the board or department, that member must fully recuse himself or herself from the entire matter. The member shall avoid debating, discussing or taking action on the subject matter during official meetings or deliberations by leaving the meeting room before the matter comes before the board and by returning only after the discussion, vote or other action is completed. The member shall not discuss the matter with other members, department staff or any other person. Any minutes or other record of the meeting shall accurately reflect the recusal. If a member is uncertain whether recusal is required, the member shall follow the determination of the Mississippi Ethics Commission. The commission may delegate that determination to its executive director.
(d) Upon a determination by the board or by any court of competent jurisdiction that a member of the board has violated the provisions of this subsection (4) regarding recusal, the member shall be removed from office. Any member of the board who violates the provisions of this section regarding recusal also shall be subject to the penalties set forth in Sections 25-4-109 through 25-4-117. After removal from office, the member shall not be eligible for appointment to any agency, board or commission of the state for a period of two (2) years. Nothing in this section shall be construed to limit the restrictions codified in Section 25-4-105.

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

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

SECTION 4. Section 41-3-4, Mississippi Code of 1972, is reenacted and amended as follows:

41-3-4. (1) There shall be a Chairman and Vice Chairman of the State Board of Health elected by and from its membership at the first meeting of the board; and the chairman shall be the presiding officer of the board. The chairman shall always be a physician member of the board. The board shall adopt rules and regulations governing times and places for meetings, and governing the manner of conducting its business. The board shall meet not less frequently than once each quarter, and at such other times as determined to be necessary. The term of office of any member who does not attend three (3) consecutive regular meetings of the board shall be automatically terminated, and the position shall be considered as vacant, except in cases of the serious illness of a board member or of his or her immediate family member. All
meetings of the board shall be called by the chairman or by a majority of the members of the board, except the first meeting of the initial members of the reconstituted board, which shall be called by the Governor.

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

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

41-3-5.1. The State Department of Health shall be headed by an executive officer who shall be appointed by the State Board of Health. The executive officer shall be either a physician who has earned a graduate degree in public health or health care administration, or a physician who in the opinion of the board is fitted and equipped to execute the duties incumbent upon him or her by law. The executive officer shall not engage in the private practice of medicine. The term of office of the executive officer shall be six (6) years, and the executive officer may be removed for cause by majority vote of the members of the board. The executive officer shall be subject to such rules and regulations as may be prescribed by the State Board of Health. The executive officer shall be the State Health Officer with such authority and responsibility as is prescribed by law.

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

41-3-6. It shall be the duty of the State Board of Health to review the statutes of the State of Mississippi affecting public health and submit at least thirty (30) days prior to each regular session of the Legislature any proposed legislation as may be necessary to enhance the effective and efficient delivery of
public health services and to bring existing statutes into compliance with modern technology and terminology. The board shall formulate a plan for consolidating and reorganizing existing state agencies having responsibilities in the field of public health to eliminate any needless duplication in services which may be found to exist. In carrying out the provisions of this section, the State Board of Health shall cooperate with and may utilize the services, facilities and personnel of any department or agency of the state, any private citizen task force and the committees on public health of both houses of the Legislature.

The State Board of Health is authorized to apply for and expend funds made available to it by grant from any source in order to perform its responsibilities under this section.

SECTION 7. Section 41-3-15, Mississippi Code of 1972, as amended by House Bill No. 553, 2007 Regular Session, is reenacted and amended as follows:

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

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

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

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

(iii) To apply for, receive, accept and expend any federal or state funds or contributions, gifts, trusts, devises, bequests, grants, endowments or funds from any other source or transfers of property of any kind;
(iv) To enter into, and to authorize the executive officer to execute, contracts, grants and cooperative agreements with any federal or state agency or subdivision thereof, or any public or private institution located inside or outside the State of Mississippi, or any person, corporation or association in connection with carrying out the provisions of this chapter, if it finds those actions to be in the public interest and the contracts or agreements do not have a financial cost that exceeds the amounts appropriated for those purposes by the Legislature;

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

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

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

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

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

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

(iv) To coordinate the activities of the various offices of the department;
(v) To employ, subject to regulations of the State Personnel Board, qualified professional personnel in the subject matter or fields of each office, and such other technical and clerical staff as may be required for the operation of the department. The executive officer shall be the appointing authority for the department, and shall have the power to delegate the authority to appoint or dismiss employees to appropriate subordinates, subject to the rules and regulations of the State Personnel Board;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

* * *

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

* * *

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

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

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

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

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

* * *

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

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

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

(i) Maternal and child health;
(ii) Family planning;
(iii) Pediatric services;
(iv) Services to crippled and disabled children;
(v) Control of communicable and noncommunicable disease;
(vi) Chronic disease;
(vii) Accidental deaths and injuries;
(viii) Child care licensure;
(ix) Radiological health;
(x) Dental health;
(xi) Milk sanitation;
(xii) Occupational safety and health;
(xiii) Food, vector control and general sanitation;
(xiv) Protection of drinking water;
(xv) Sanitation in food handling establishments open to the public;
(xvi) Registration of births and deaths and other vital events;
(xvii) Such public health programs and services as may be assigned to the State Board of Health by the Legislature or by executive order; and
(xviii) Regulation of domestic and imported fish for human consumption.

(b) The State Board of Health and State Department of Health shall not be authorized to sell, transfer, alienate or otherwise dispose of any of the home health agencies owned and operated by the department on January 1, 1995, and shall not be authorized to sell, transfer, assign, alienate or otherwise dispose of the license of any of those home health agencies, except upon the specific authorization of the Legislature by an amendment to this section. However, this paragraph (b) shall not prevent the board or the department from closing or terminating the operation of any home health agency owned and operated by the department, or closing or terminating any office, branch office or clinic of any such home health agency, or otherwise discontinuing
the providing of home health services through any such home health agency, office, branch office or clinic, if the board first demonstrates that there are other providers of home health services in the area being served by the department's home health agency, office, branch office or clinic that will be able to provide adequate home health services to the residents of the area if the department's home health agency, office, branch office or clinic is closed or otherwise discontinues the providing of home health services. This demonstration by the board that there are other providers of adequate home health services in the area shall be spread at length upon the minutes of the board at a regular or special meeting of the board at least thirty (30) days before a home health agency, office, branch office or clinic is proposed to be closed or otherwise discontinue the providing of home health services.

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

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

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

(ii) To accept capitalization grant awards made under the federal Safe Drinking Water Act, as amended;
(iii) To provide annual reports and audits to the United States Environmental Protection Agency, as may be required by federal capitalization grant agreements; and
(iv) To establish and collect fees to defray the reasonable costs of administering the revolving fund or emergency fund if the State Board of Health determines that those costs will exceed the limitations established in the federal Safe Drinking Water Act, as amended. The administration fees may be included in loan amounts to loan recipients for the purpose of facilitating payment to the board; however, those fees may not exceed five percent (5%) of the loan amount.

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

41-3-16. (1) (a) There is established a local governments and rural water systems improvements revolving loan and grant program to be administered by the State Department of Health, referred to in this section as "department," for the purpose of assisting counties, incorporated municipalities, districts or other water organizations that have been granted tax exempt status under either federal or state law, in making improvements to their water systems, including construction of new water systems or expansion or repair of existing water systems. Loan and grant proceeds may be used by the recipient for planning, professional services, acquisition of interests in land, acquisition of personal property, construction, construction-related services, maintenance, and any other reasonable use which the board, in its discretion, may allow. For purposes of this section, "water systems" has the same meaning as the term "public water system" under Section 41-26-3.

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

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

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

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

(c) The department, if requested by the board, shall furnish the board with facilities and staff as needed to administer this section. The department may contract, upon approval by the board, for those facilities and staff needed to administer this section, including routine management, as it deems necessary. The board may advertise for or solicit proposals from public or private sources, or both, for administration of this section or any services required for administration of this
section or any portion thereof. It is the intent of the Legislature that the board endeavor to ensure that the costs of administration of this section are as low as possible in order to provide the water consumers of Mississippi safe drinking water at affordable prices.

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

(2) (a) There is created a special fund in the State Treasury to be designated as the "Local Governments and Rural Water Systems Improvements Revolving Loan Fund," referred to in this section as "revolving fund," which fund shall consist of those monies as provided in Sections 6 and 13 of Chapter 521, Laws of 1995. The revolving fund may receive appropriations, bond proceeds, grants, gifts, donations or funds from any source, public or private. The revolving fund shall be credited with all repayments of principal and interest derived from loans made from the revolving fund. The monies in the revolving fund may be expended only in amounts appropriated by the Legislature, and the different amounts specifically provided for the loan program and the grant program shall be so designated. Monies in the fund may only be expended for the grant program from the amount designated for such program. The revolving fund shall be maintained in perpetuity for the purposes established in this section and Sections 6 through 20 of Chapter 521, Laws of 1995. Unexpended amounts remaining in the revolving fund at the end of a fiscal year shall not lapse into the State General Fund, and any interest earned on amounts in the revolving fund shall be deposited to the credit of the fund. Monies in the revolving fund may not be used or expended for any purpose except as authorized under this section and Sections 6 through 20 of Chapter 521, Laws of 1995. Any monies in the fund may be used to match any federal funds that are available for the same or related purposes for which funds are
used and expended under this section and Sections 6 through 20 of Chapter 521, Laws of 1995. Any federal funds shall be used and expended only in accordance with federal laws, rules and regulations governing the expenditure of those funds. No person shall use any monies from the revolving fund for the acquisition of real property or any interest in real property unless that property is integral to the project funded under this section and the purchase is made from a willing seller. No county, incorporated municipality or district shall acquire any real property or any interest in any real property for a project funded through the revolving fund by condemnation. The board's application of Sections 43-37-1 through 43-37-13 shall be no more stringent or extensive in scope, coverage and effect than federal property acquisition laws and regulations.

(b) There is created a special fund in the State Treasury to be designated as the "Local Governments and Rural Water Systems Emergency Loan Fund," hereinafter referred to as "emergency fund," which fund shall consist of those monies as provided in Sections 6 and 13 of Chapter 521, Laws of 1995. The emergency fund may receive appropriations, bond proceeds, grants, gifts, donations or funds from any source, public or private. The emergency fund shall be credited with all repayments of principal and interest derived from loans made from the emergency fund. The monies in the emergency fund may be expended only in amounts appropriated by the Legislature. The emergency fund shall be maintained in perpetuity for the purposes established in this section and Section 6 of Chapter 521, Laws of 1995. Unexpended amounts remaining in the emergency fund at the end of a fiscal year shall not lapse into the State General Fund. Any interest earned on amounts in the emergency fund shall be deposited to the credit of the fund. Monies in the emergency fund may not be used or expended for any purpose except as authorized under this section and Section 6 of Chapter 521, Laws of 1995.
(c) The board created in subsection (1) shall establish loan and grant programs by which loans and grants may be made available to counties, incorporated municipalities, districts or other water organizations that have been granted tax exempt status under either federal or state law, to assist those counties, incorporated municipalities, districts or water organizations in making water systems improvements, including the construction of new water systems or expansion or repair of existing water systems. Any entity eligible under this section may receive either a loan or a grant, or both. No grant awarded under the program established in this section may be made using funds from the loan program. Grants may be awarded only when the Legislature specifically appropriates funds for that particular purpose. The interest rate on those loans may vary from time to time and from loan to loan, and will be at or below market interest rates as determined by the board. The board shall act as quickly as is practicable and prudent in deciding on any loan request that it receives. Loans from the revolving fund or emergency fund may be made to counties, incorporated municipalities, districts or other water organizations that have been granted tax exempt status under either federal or state law, as set forth in a loan agreement in amounts not to exceed one hundred percent (100%) of eligible project costs as established by the board. The board may require county, municipal, district or other water organization participation or funding from other sources, or otherwise limit the percentage of costs covered by loans from the revolving fund or the emergency fund. The maximum amount for any loan from the emergency fund shall be Five Hundred Thousand Dollars ($500,000.00), and the maximum amount for any loan from the revolving fund shall be One Million Five Hundred Thousand Dollars ($1,500,000.00).

(d) A county that receives a loan from the revolving fund or the emergency fund shall pledge for repayment of the loan
any part of the homestead exemption annual tax loss reimbursement
to which it may be entitled under Section 27-33-77, as may be
required to meet the repayment schedule contained in the loan
agreement. An incorporated municipality that receives a loan from
the revolving fund or the emergency fund shall pledge for
repayment of the loan any part of the sales tax revenue
distribution to which it may be entitled under Section 27-65-75,
as may be required to meet the repayment schedule contained in the
loan agreement. All recipients of such loans shall establish a
dedicated source of revenue for repayment of the loan. Before any
county or incorporated municipality shall receive any loan, it
shall have executed with the State Tax Commission and the board a
loan agreement evidencing that loan. The loan agreement shall not
be construed to prohibit any recipient from prepaying any part or
all of the funds received. The repayment schedule in each loan
agreement shall provide for (i) monthly payments, (ii) semiannual
payments or (iii) other periodic payments, the annual total of
which shall not exceed the annual total for any other year of the
loan by more than fifteen percent (15%). Except as otherwise
provided in subsection (4) of this section, the loan agreement
shall provide for the repayment of all funds received from the
revolving fund within not more than fifteen (15) years or a term
as otherwise allowed by the federal Safe Drinking Water Act, and
all funds received from the emergency fund within not more than
five (5) years from the date of project completion, and any
repayment shall commence not later than one (1) year after project
completion. The State Tax Commission shall withhold semiannually
from counties and monthly from incorporated municipalities from
the amount to be remitted to the county or municipality, a sum
equal to the next repayment as provided in the loan agreement.

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

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

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

(g) The State Auditor, upon request of the board, shall
audit the receipts and expenditures of a county, an incorporated
municipality, district or other water organization whose loan
repayments appear to be in arrears, and if the Auditor finds that
the county, incorporated municipality, district or other water
organization is in arrears in those repayments, the Auditor shall
immediately notify the chairman of the board who may take any
action as may be necessary to enforce the terms of the loan
agreement, including liquidation and enforcement of the security
given for repayment of the loan, and the Executive Director of the
Department of Finance and Administration who shall withhold all
future payments to the county of homestead exemption annual tax
loss reimbursements under Section 27-33-77 and all sums allocated
to the county or the incorporated municipality under Section
27-65-75 until such time as the county or the incorporated
municipality is again current in its loan repayments as certified by the board.

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

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

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

(b) To promulgate rules and regulations, to make variances and exceptions thereto, and to establish procedures in accordance with this section and Sections 6 through 20 of Chapter 521, Laws of 1995, for the implementation of the local governments and rural water systems improvements revolving loan program;

(c) To require, at the board's discretion, any loan or grant recipient to impose a per connection fee or surcharge or amended water rate schedule or tariff on each customer or any
class of customers, benefiting from an improvement financed by a
loan or grant made under this section, for repayment of any loan
funds provided under this section and Sections 6 through 20 of
Chapter 521, Laws of 1995. The board may require any loan or
grant recipient to undergo a water system viability analysis and
may require a loan or grant recipient to implement any result of
the viability analysis. If the loan recipient fails to implement
any result of a viability analysis as required by the board, the
board may impose a monetary penalty or increase the interest rate
on the loan, or both. If the grant recipient fails to implement
any result of a viability analysis as required by the board, the
board may impose a monetary penalty on the grant;
(d) To review and certify all projects for which funds
are authorized to be made available under this section and
Sections 6 through 20 of Chapter 521, Laws of 1995, for local
governments and rural water systems improvements;
(e) To requisition monies in the Local Governments and
Rural Water Systems Improvements Revolving Loan Fund and the Local
Governments and Rural Water Systems Emergency Loan Fund and
distribute those monies on a project-by-project basis in
accordance with this section;
(f) To ensure that the funds made available under this
section and Sections 6 through 20 of Chapter 521, Laws of 1995, to
a county, an incorporated municipality, a district or a water
organization that has been granted tax exempt status under either
federal or state law provide for a distribution of projects and
funds among the entities under a priority system established by
the board;
(g) To maintain in accordance with generally accepted
government accounting standards an accurate record of all monies
in the revolving fund and the emergency fund made available to
counties, incorporated municipalities, districts or other water
organizations under this section and Sections 6 through 20 of
Chapter 521, Laws of 1995, and the costs for each project;

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

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

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

(4) The board may, on a case-by-case basis and to the extent
allowed by federal law, renegotiate the payment of principal and
interest on loans made under this section to the six (6) most
southern counties of the state covered by the Presidential
Declaration of Major Disaster for the State of Mississippi
(FEMA-1604-DR) dated August 29, 2005, and to incorporated
municipalities, districts or other water organizations located in
such counties; however, the interest on the loans shall not be
forgiven for a period of more than twenty-four (24) months and the
maturity of the loans shall not be extended for a period of more
than forty-eight (48) months.

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

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

SECTION 10. Section 41-3-18, Mississippi Code of 1972, is reenacted and amended as follows:

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

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

<table>
<thead>
<tr>
<th>Assessment Category</th>
<th>Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>Category 1</td>
<td>$30.00</td>
</tr>
<tr>
<td>Category 2</td>
<td>$100.00</td>
</tr>
<tr>
<td>Category 3</td>
<td>$150.00</td>
</tr>
<tr>
<td>Category 4</td>
<td>$200.00</td>
</tr>
</tbody>
</table>

(b) Private water supply approval fee $10.00

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

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

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

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

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

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

41-59-61. (1) The assessments that are collected under subsections (1) and (2) of Section 99-19-73 shall be deposited in a special fund that is created in the State Treasury to be designated the "Emergency Medical Services Operating Fund." The Legislature may make appropriations from the Emergency Medical Services Operating Fund to the State Board of Health for the purpose of defraying costs of administration of the Emergency Medical Services Operating Fund (EMSOF) and for redistribution of those funds to the counties, municipalities and organized medical
service districts (hereinafter referred to as "governmental
units") for the support of the Emergency Medical Services
programs. The State Board of Health, with the Emergency Medical
Services Advisory Council acting in an advisory capacity, shall
administer the disbursement to those governmental units of any
funds appropriated to the board from the Emergency Medical
Services Operating Fund and the utilization of those funds by the
governmental units.

(2) Funds appropriated from the Emergency Medical Services
Operating Fund to the State Board of Health shall be made
available to all such governmental units to support the Emergency
Medical Services programs therein, and those funds shall be
distributed to each governmental unit based upon its general
population relative to the total population of the state.

Disbursement of those funds shall be made on an annual basis at
the end of the fiscal year upon the request of each governmental
unit. Funds distributed to those governmental units shall be used
in addition to existing annual Emergency Medical Services budgets
of the governmental units, and no such funds shall be used for the
payment of any attorney's fees. The Director of the Emergency
Medical Services program or his appointed designee is * * *
authorized to require financial reports from the governmental
units utilizing these funds in order to provide satisfactory proof
of the maintenance of the funding effort by the governmental
units.

SECTION 13. (1) The Mississippi Legislature recognizes the
devastating impact that tobacco use has on the citizens of our
state. Tobacco use is the single most preventable cause of death
and disease in this country and this state. Each year, thousands
of Mississippians lose their lives to diseases caused by tobacco
use, and the cost to the state is hundreds of millions of dollars.
Tobacco use also is a large burden on the families and businesses
of Mississippi. It is therefore the intent of the Legislature
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that there be developed, implemented and fully funded a comprehensive and statewide tobacco education, prevention and cessation program that is consistent with the Best Practices for Tobacco Control Programs of the federal Centers for Disease Control and Prevention, as periodically amended. It is also the intent of the Legislature that all reasonable efforts be made to maximize the amount of federal funds available for this program.

(2) The goals of the tobacco education, prevention and cessation program include, but are not limited to, the following:

(a) Preventing the initiation of use of tobacco products by youth;

(b) Encouraging and helping smokers to quit and reducing the numbers of youth and adults who use tobacco products;

(c) Assisting in the protection from secondhand smoke;

(d) Supporting the enforcement of laws prohibiting youth access to tobacco products;

(e) Eliminating the racial and cultural disparities related to use of tobacco products; and

(f) Educating the public and changing the cultural perception of use of tobacco products in Mississippi.

SECTION 14. (1) There is hereby created the Office of Tobacco Control (office) which shall be an administrative division of the State Department of Health.

(2) The Office of Tobacco Control, with the advice of the Mississippi Tobacco Control Advisory Board, shall develop and implement a comprehensive and statewide tobacco education, prevention and cessation program that is consistent with the recommendations for effective program components and funding recommendations in the 1999 Best Practices for Comprehensive Tobacco Control Programs of the federal Centers for Disease Control and Prevention, as those Best Practices may be periodically amended by the Centers for Disease Control and Prevention.
(3) At a minimum, the program shall include the following components, and may include additional components that are contained within the Best Practices for Comprehensive Tobacco Control Programs of the federal Centers for Disease Control and Prevention, as periodically amended, and that based on scientific data and research have been shown to be effective at accomplishing the purposes of this section:

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

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

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

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

   (e) Programs to assist and help people to stop using tobacco products; and
(f) A surveillance and evaluation system that monitors program accountability and results, produces publicly available reports that review how monies expended for the program are spent, and includes an evaluation of the program's effectiveness in reducing and preventing the use of tobacco products, and annual recommendations for improvements to enhance the program's effectiveness.

(4) All programs or activities funded by the State Department of Health through the tobacco education, prevention and cessation program, whether part of a component described in subsection (2) or an additional component, must be consistent with the Best Practices for Comprehensive Tobacco Control Programs of the federal Centers for Disease Control and Prevention, as periodically amended, and all funds received by any person or entity under any such program or activity must be expended for purposes that are consistent with those Best Practices.

(5) Funding for the different components of the program shall be apportioned between the components based on the recommendations in the Best Practices for Comprehensive Tobacco Control Programs of the federal Centers for Disease Control and Prevention, as periodically amended, to provide adequate program development, implementation and evaluation for effective control of the use of tobacco products. While the office shall develop annual budgets based on strategic planning, components of the program shall be funded using the following areas as guidelines for priority:

(a) School nurses and school programs;
(b) Mass media (counter-marketing);
(c) Cessation programs (including media promotions);
(d) Community programs;
(e) Surveillance and evaluation;
(f) Law enforcement; and
(g) Administration and management; however, not more than five percent (5%) of the total budget may be expended for administration and management purposes.

(6) In funding the components of the program, the State Department of Health may provide funding for health care programs at the University of Mississippi Medical Center that are related to the prevention and cessation of the use of tobacco products and the treatment of illnesses that are related to the use of tobacco products.

(7) No statewide, district, local, county or municipal elected official shall take part as a public official in mass media advertising under the provisions of Sections 13 through 17 of this act.

SECTION 15. (1) The Office of Tobacco Control shall be under the management of a director, who shall be appointed by the State Health Officer. The responsibility for implementation of the comprehensive and statewide tobacco education, prevention and cessation program shall be vested in the director. The director shall be an individual who has knowledge and experience in public health, medical care, health care services, preventive health measures or tobacco use control. The director shall be the administrative officer of the Office of Tobacco Control, and shall perform the duties that are required of him or her by law and such other duties as may be assigned to him or her by the State Board of Health. The director shall receive such compensation as may be fixed by the State Board of Health, subject to the approval of the State Personnel Board.

(2) The State Health Officer may employ such other persons as may be necessary to carry out the provisions of Sections 13 through 17 of this act. The compensation and the terms and conditions of their employment shall be determined by the State Board of Health in accordance with applicable state law and rules and regulations of the State Personnel Board.
SECTION 16. The Office of Tobacco Control shall perform the following duties, with the advice of the Mississippi Tobacco Control Advisory Council:

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

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

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

(d) Execute any contracts, agreements or other documents with any governmental agency or any person, corporation, association, partnership or other organization or entity that are necessary to accomplish the purposes of Sections 13 through 17 of this act;

(e) Receive grants, bequeaths, gifts, donations or any other contributions made to the office to be used for specific purposes related to the goals of Sections 13 through 17 of this act;

(f) Submit an annual report to the Legislature regarding the operation of the office;

(g) Submit to the State Auditor any financial records that are necessary for the Auditor to perform an annual audit of the office as required by law; and

(h) Take any other actions that are necessary to carry out the purposes of Sections 13 through 17 of this act.

SECTION 17. (1) There is created the Mississippi Tobacco Control Advisory Council, which shall consist of thirteen (13) members. The thirteen (13) members of the advisory council shall consist of the following:

(a) Four (4) members appointed by the Governor, with one (1) member from a list of three (3) physicians recommended by
the Mississippi State Medical Association, one (1) member from a
list of three (3) individuals recommended by the Mississippi
Chapter of the American Heart Association, and two (2) individuals
who are not affiliated with the tobacco industry who possess
knowledge, skill, and prior experience in scientifically proven
smoking prevention, reduction and cessation programs, health care
services or preventive health measures;

(b) Two (2) members appointed by the Lieutenant
Governor, with one (1) member from a list of three (3) nurses
recommended by the Mississippi Nurses' Association, and one (1)
member from a list of three (3) individuals recommended by the
Mississippi Chapter of the American Lung Association;

c) Two (2) members approved by the Speaker of the
House of Representatives, with one (1) member from a list of three
(3) social workers recommended by the Mississippi Chapter of the
National Association of Social Workers (NASW), and one (1) member
from a list of three (3) individuals recommended by the
Mississippi Chapter of the American Cancer Society;

d) The Attorney General, or his or her designee;

e) The State Superintendent of Public Education, or
his or her designee;

(f) The Vice-Chancellor of Health Affairs of the
University of Mississippi Medical Center, or his or her designee;

(g) The Dean of the College of Health at the University
of Southern Mississippi, or his or her designee; and

(h) The Administrator of the School of Health Sciences
of the College of Public Service at Jackson State University, or
his or her designee.

(2) The Lieutenant Governor shall appoint one (1) member of
the Senate and the Speaker of the House shall appoint one (1)
Representative to attend meetings of the Tobacco Control Advisory
Council.
(3) For those members that are required to be appointed from lists of individuals recommended by certain nominating groups, if none of the recommended names are acceptable to the appointing official, then the nominating group shall submit another list of three (3) different individuals until an acceptable individual is submitted to the appointing official.

(4) The members who are state officials or university officials shall serve as members for as long as they hold the designated office or university position. The appointed members shall serve for terms that are concurrent with the terms of the appointing officials, or until their successors are appointed and qualified.

(5) Any vacancy in an appointed member position shall be filled within thirty (30) days of the vacancy by the original appointing official, and the individual appointed to fill the vacancy shall meet the same qualifications as required for the former member.

(6) The initial appointments to the advisory council shall be made not later than forty-five (45) days after the effective date of this act, and the first meeting of the advisory council shall be held within sixty (60) days after the effective date of this act at a time, date and location specified by the State Board of Health.

(7) The advisory council shall annually elect a chairman from among its members. The advisory council shall meet at least quarterly. A quorum for meetings of the advisory council shall be a majority of the voting members of the advisory council. The members of the advisory council shall receive the per diem compensation provided under Section 25-3-69 plus expense reimbursement as provided under Section 25-3-41 for attending meetings and necessary business of the advisory council.
(8) The Mississippi Tobacco Advisory Council shall advise and make recommendations to the State Board of Health regarding rules and regulations promulgated pursuant to this program.

SECTION 18. (1) There is established in the State Treasury a special fund to be known as the Tobacco Control Program Fund, which shall be comprised of the funds specified in subsection (2) of this section and any other funds that are authorized or required to be deposited into the special fund.

(2) From the tobacco settlement installment payments that the State of Mississippi receives during each calendar year, the sum of Twenty Million Dollars ($20,000,000.00) shall be deposited into the special fund.

(3) Monies in the fund shall be expended solely for the purposes specified in Sections 13 through 17 of this act. None of the funds in the special fund may be transferred to any other fund or appropriated or expended for any other purpose.

(4) All income from the investment of the funds in the special fund shall be credited to the account of the special fund. Any funds in the special fund at the end of a fiscal year shall not lapse into the State General Fund.

SECTION 19. Section 43-13-405, Mississippi Code of 1972, is amended as follows:

43-13-405. (1) In accordance with the purposes of this article, there is established in the State Treasury the Health Care Trust Fund, into which shall be deposited Two Hundred Eighty Million Dollars ($280,000,000.00) of the funds received by the State of Mississippi as a result of the tobacco settlement as of the end of fiscal year 1999, and all tobacco settlement installment payments made in subsequent years for which the use or purpose for expenditure is not restricted by the terms of the settlement, except as otherwise provided in Section 43-13-407(2) and (3) and Section 18 of this act. All income from the investment of the funds in the Health Care Trust Fund shall be
credited to the account of the Health Care Trust Fund. The funds in the Health Care Trust Fund at the end of a fiscal year shall not lapse into the State General Fund.

(2) The Health Care Trust Fund shall remain inviolate and shall never be expended, except as provided in this article. The Legislature shall appropriate from the Health Care Trust Fund such sums as are necessary to recoup any funds lost as a result of any of the following actions:

(a) The federal Centers for Medicare and Medicaid Services, or other agency of the federal government, is successful in recouping tobacco settlement funds from the State of Mississippi;

(b) The federal share of funds for the support of the Mississippi Medicaid Program is reduced directly or indirectly as a result of the tobacco settlement;

(c) Federal funding for any other program is reduced as a result of the tobacco settlement; or

(d) Tobacco cessation programs are mandated by the federal government or court order.

(3) This section shall stand repealed on July 1, 2010.

SECTION 20. The following shall be codified as Section 41-57-31, Mississippi Code of 1972:

41-57-31. (1) As used in this section, the following terms shall be defined as provided in this section, unless the context otherwise requires:

(a) "Certificate of birth resulting in stillbirth" means a birth certificate issued to record and memorialize the birth of a stillborn child.

(b) "Stillbirth" or "stillborn" means an unintended, intrauterine fetal death occurring in this state after a gestational age of not less than twenty (20) completed weeks.

(2) For any stillborn child in this state, the Bureau of Vital Statistics shall issue a certificate of birth resulting in
stillbirth upon the request of a parent named on the death certificate, within sixty (60) days of the date of the request. A parent may request the Bureau of Vital Statistics to issue a certificate of birth resulting in stillbirth without regard to whether the death occurred on, before, or after July 1, 2007, and without regard to the date on which the death certificate was issued.

(3) The person who is required to file a death certificate under this chapter shall advise the parent or parents of a stillborn child:

(a) That a parent may, but is not required to, request the preparation of a certificate of birth resulting in stillbirth;

(b) That a parent may obtain a certificate of birth resulting in stillbirth by contacting the Bureau of Vital Statistics to request the certificate and paying the required fee;

and

(c) How a parent may contact the Bureau of Vital Statistics to request a certificate of birth resulting in stillbirth.

(4) A parent may provide a name for a stillborn child on the request for a certificate of birth resulting in stillbirth. The name of the stillborn child provided on or later added by amendment to the certificate shall be the same name as placed on the original or amended death certificate. If the requesting parent does not wish to provide a name, the Bureau of Vital Statistics shall fill in the certificate with the name "baby boy" or "baby girl" and the last name of the parent.

(5) Not later than September 1, 2007, the State Department of Health shall prescribe the form and content of a certificate of birth resulting in stillbirth and shall specify the information necessary to prepare the certificate. In addition to any other information required to be on the certificate, the certificate shall include:
(a) The date of the stillbirth;
(b) The county in which the stillbirth occurred;
(c) The state file number of the corresponding death certificate; and
(d) The following statement: "This certificate is not proof of live birth."

(6) Upon issuance of a certificate of birth resulting in stillbirth to a parent, the Bureau of Vital Statistics shall file an exact copy of the certificate with the local registrar of the registration district in which the stillbirth occurred. The local registrar shall file the certificate of birth resulting in stillbirth with the death certificate.

(7) The Bureau of Vital Statistics may not use a certificate of birth resulting in stillbirth to calculate live birth statistics.

(8) The State Board of Health may adopt any rules or regulations necessary to administer this section.

SECTION 21. Section 41-7-191, Mississippi Code of 1972, is amended as follows:

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

(a) The construction, development or other establishment of a new health care facility, which establishment shall include the reopening of a health care facility that has ceased to operate for a period of sixty (60) months or more;
(b) The relocation of a health care facility or portion thereof, or major medical equipment, unless such relocation of a health care facility or portion thereof, or major medical equipment, which does not involve a capital expenditure by or on behalf of a health care facility, is within five thousand two hundred eighty (5,280) feet from the main entrance of the health care facility;
(c) Any change in the existing bed complement of any health care facility through the addition or conversion of any beds or the alteration, modernizing or refurbishing of any unit or department in which the beds may be located; however, if a health care facility has voluntarily delicensed some of its existing bed complement, it may later relicense some or all of its delicensed beds without the necessity of having to acquire a certificate of need. The State Department of Health shall maintain a record of the delicensing health care facility and its voluntarily delicensed beds and continue counting those beds as part of the state's total bed count for health care planning purposes. If a health care facility that has voluntarily delicensed some of its beds later desires to relicense some or all of its voluntarily delicensed beds, it shall notify the State Department of Health of its intent to increase the number of its licensed beds. The State Department of Health shall survey the health care facility within thirty (30) days of that notice and, if appropriate, issue the health care facility a new license reflecting the new contingent of beds. However, in no event may a health care facility that has voluntarily delicensed some of its beds be reissued a license to operate beds in excess of its bed count before the voluntary delicensure of some of its beds without seeking certificate of need approval;

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

(i) Open heart surgery services;
(ii) Cardiac catheterization services;
(iii) Comprehensive inpatient rehabilitation services;
(iv) Licensed psychiatric services;
(v) Licensed chemical dependency services;
(vi) Radiation therapy services;
(vii) Diagnostic imaging services of an invasive nature, i.e. invasive digital angiography;
(viii) Nursing home care as defined in subparagraphs (iv), (vi) and (viii) of Section 41-7-173(h);
(ix) Home health services;
(x) Swing-bed services;
(xi) Ambulatory surgical services;
(xii) Magnetic resonance imaging services;
(xiii) [Deleted]
(xiv) Long-term care hospital services;
(xv) Positron Emission Tomography (PET) services;
(e) The relocation of one or more health services from one physical facility or site to another physical facility or site, unless such relocation, which does not involve a capital expenditure by or on behalf of a health care facility, (i) is to a physical facility or site within five thousand two hundred eighty (5,280) feet from the main entrance of the health care facility where the health care service is located, or (ii) is the result of an order of a court of appropriate jurisdiction or a result of pending litigation in such court, or by order of the State Department of Health, or by order of any other agency or legal entity of the state, the federal government, or any political subdivision of either, whose order is also approved by the State Department of Health;
(f) The acquisition or otherwise control of any major medical equipment for the provision of medical services; provided, however, (i) the acquisition of any major medical equipment used only for research purposes, and (ii) the acquisition of major medical equipment to replace medical equipment for which a facility is already providing medical services and for which the State Department of Health has been notified before the date of such acquisition shall be exempt from this paragraph; an
acquisition for less than fair market value must be reviewed, if
the acquisition at fair market value would be subject to review;

(g) Changes of ownership of existing health care
facilities in which a notice of intent is not filed with the State
Department of Health at least thirty (30) days prior to the date
such change of ownership occurs, or a change in services or bed
capacity as prescribed in paragraph (c) or (d) of this subsection
as a result of the change of ownership; an acquisition for less
than fair market value must be reviewed, if the acquisition at
fair market value would be subject to review;

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

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

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

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

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

(m) Reopening a health care facility that has ceased to
operate for a period of sixty (60) months or more, which reopening
requires a certificate of need for the establishment of a new
health care facility.

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

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

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

(c) The department may issue a certificate of need for
the addition to or expansion of any skilled nursing facility that
is part of an existing continuing care retirement community located in Madison County, provided that the recipient of the certificate of need agrees in writing that the skilled nursing facility will not at any time participate in the Medicaid program (Section 43-13-101 et seq.) or admit or keep any patients in the skilled nursing facility who are participating in the Medicaid program. This written agreement by the recipient of the certificate of need shall be fully binding on any subsequent owner of the skilled nursing facility, if the ownership of the facility is transferred at any time after the issuance of the certificate of need. Agreement that the skilled nursing facility will not participate in the Medicaid program shall be a condition of the issuance of a certificate of need to any person under this paragraph (c), and if such skilled nursing facility at any time after the issuance of the certificate of need, regardless of the ownership of the facility, participates in the Medicaid program or admits or keeps any patients in the facility who are participating in the Medicaid program, the State Department of Health shall revoke the certificate of need, if it is still outstanding, and shall deny or revoke the license of the skilled nursing facility, at the time that the department determines, after a hearing complying with due process, that the facility has failed to comply with any of the conditions upon which the certificate of need was issued, as provided in this paragraph and in the written agreement by the recipient of the certificate of need. The total number of beds that may be authorized under the authority of this paragraph (c) shall not exceed sixty (60) beds.

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

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

(f) The State Department of Health may issue a
certificate of need for conversion of a county hospital facility
in Itawamba County to a nursing facility, not to exceed sixty (60)
beds, including any necessary construction, renovation or
expansion. From and after July 1, 1999, there shall be no
prohibition or restrictions on participation in the Medicaid
program (Section 43-13-101 et seq.) for the beds in the nursing
facility that were authorized under this paragraph (f).

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

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

(i) The department may issue a certificate of need for

the new construction of a skilled nursing facility in Leake County, provided that the recipient of the certificate of need agrees in writing that the skilled nursing facility will not at any time participate in the Medicaid program (Section 43-13-101 et seq.) or admit or keep any patients in the skilled nursing facility who are participating in the Medicaid program. This written agreement by the recipient of the certificate of need shall be fully binding on any subsequent owner of the skilled nursing facility, if the ownership of the facility is transferred at any time after the issuance of the certificate of need. Agreement that the skilled nursing facility will not participate in the Medicaid program shall be a condition of the issuance of a certificate of need to any person under this paragraph (i), and if such skilled nursing facility at any time after the issuance of the certificate of need, regardless of the ownership of the facility, participates in the Medicaid program or admits or keeps any patients in the facility who are participating in the Medicaid program, the State Department of Health shall revoke the certificate of need, if it is still outstanding, and shall deny or revoke the license of the skilled nursing facility, at the time that the department determines, after a hearing complying with due process, that the facility has failed to comply with any of the conditions upon which the certificate of need was issued, as provided in this paragraph and in the written agreement by the recipient of the certificate of need. The provision of Section 43-7-193(1) regarding substantial compliance of the projection of need as reported in the current State Health Plan is waived for the purposes of this paragraph. The total number of nursing facility beds that may be authorized by any certificate of need issued under this paragraph (i) shall not exceed sixty (60) beds.
If the skilled nursing facility authorized by the certificate of need issued under this paragraph is not constructed and fully operational within eighteen (18) months after July 1, 1994, the State Department of Health, after a hearing complying with due process, shall revoke the certificate of need, if it is still outstanding, and shall not issue a license for the skilled nursing facility at any time after the expiration of the eighteen-month period.

(j) The department may issue certificates of need to allow any existing freestanding long-term care facility in Tishomingo County and Hancock County that on July 1, 1995, is licensed with fewer than sixty (60) beds. For the purposes of this paragraph (j), the provision of Section 41-7-193(1) requiring substantial compliance with the projection of need as reported in the current State Health Plan is waived. From and after July 1, 1999, there shall be no prohibition or restrictions on participation in the Medicaid program (Section 43-13-101 et seq.) for the beds in the long-term care facilities that were authorized under this paragraph (j).

(k) The department may issue a certificate of need for the construction of a nursing facility at a continuing care retirement community in Lowndes County. The total number of beds that may be authorized under the authority of this paragraph (k) shall not exceed sixty (60) beds. From and after July 1, 2001, the prohibition on the facility participating in the Medicaid program (Section 43-13-101 et seq.) that was a condition of issuance of the certificate of need under this paragraph (k) shall be revised as follows: The nursing facility may participate in the Medicaid program from and after July 1, 2001, if the owner of the facility on July 1, 2001, agrees in writing that no more than thirty (30) of the beds at the facility will be certified for participation in the Medicaid program, and that no claim will be submitted for Medicaid reimbursement for more than thirty (30)
patients in the facility in any month or for any patient in the
facility who is in a bed that is not Medicaid-certified. This
written agreement by the owner of the facility shall be a
condition of licensure of the facility, and the agreement shall be
fully binding on any subsequent owner of the facility if the
ownership of the facility is transferred at any time after July 1,
2001. After this written agreement is executed, the Division of
Medicaid and the State Department of Health shall not certify more
than thirty (30) of the beds in the facility for participation in
the Medicaid program. If the facility violates the terms of the
written agreement by admitting or keeping in the facility on a
regular or continuing basis more than thirty (30) patients who are
participating in the Medicaid program, the State Department of
Health shall revoke the license of the facility, at the time that
the department determines, after a hearing complying with due
process, that the facility has violated the written agreement.

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

(m) The State Department of Health may issue a
certificate of need to a county-owned hospital in the Second
Judicial District of Panola County for the conversion of not more
than seventy-two (72) hospital beds to nursing facility beds,
provided that the recipient of the certificate of need agrees in
writing that none of the beds at the nursing facility will be
certified for participation in the Medicaid program (Section
43-13-101 et seq.), and that no claim will be submitted for
Medicaid reimbursement in the nursing facility in any day or for
any patient in the nursing facility. This written agreement by
the recipient of the certificate of need shall be a condition of
the issuance of the certificate of need under this paragraph, and
the agreement shall be fully binding on any subsequent owner of
the nursing facility if the ownership of the nursing facility is
transferred at any time after the issuance of the certificate of
need. After this written agreement is executed, the Division of
Medicaid and the State Department of Health shall not certify any
of the beds in the nursing facility for participation in the
Medicaid program. If the nursing facility violates the terms of
the written agreement by admitting or keeping in the nursing
facility on a regular or continuing basis any patients who are
participating in the Medicaid program, the State Department of
Health shall revoke the license of the nursing facility, at the
time that the department determines, after a hearing complying
with due process, that the nursing facility has violated the
condition upon which the certificate of need was issued, as
provided in this paragraph and in the written agreement. If the
certificate of need authorized under this paragraph is not issued
within twelve (12) months after July 1, 2001, the department shall
deny the application for the certificate of need and shall not
issue the certificate of need at any time after the twelve-month
period, unless the issuance is contested. If the certificate of
need is issued and substantial construction of the nursing
facility beds has not commenced within eighteen (18) months after
July 1, 2001, the State Department of Health, after a hearing
complying with due process, shall revoke the certificate of need
if it is still outstanding, and the department shall not issue a
license for the nursing facility at any time after the
eighteen-month period. Provided, however, that if the issuance of
the certificate of need is contested, the department shall require
substantial construction of the nursing facility beds within six (6) months after final adjudication on the issuance of the certificate of need.

(n) The department may issue a certificate of need for the new construction, addition or conversion of skilled nursing facility beds in Madison County, provided that the recipient of the certificate of need agrees in writing that the skilled nursing facility will not at any time participate in the Medicaid program (Section 43-13-101 et seq.) or admit or keep any patients in the skilled nursing facility who are participating in the Medicaid program. This written agreement by the recipient of the certificate of need shall be fully binding on any subsequent owner of the skilled nursing facility, if the ownership of the facility is transferred at any time after the issuance of the certificate of need. Agreement that the skilled nursing facility will not participate in the Medicaid program shall be a condition of the issuance of a certificate of need to any person under this paragraph (n), and if such skilled nursing facility at any time after the issuance of the certificate of need, regardless of the ownership of the facility, participates in the Medicaid program or admits or keeps any patients in the facility who are participating in the Medicaid program, the State Department of Health shall revoke the certificate of need, if it is still outstanding, and shall deny or revoke the license of the skilled nursing facility, at the time that the department determines, after a hearing complying with due process, that the facility has failed to comply with any of the conditions upon which the certificate of need was issued, as provided in this paragraph and in the written agreement by the recipient of the certificate of need. The total number of nursing facility beds that may be authorized by any certificate of need issued under this paragraph (n) shall not exceed sixty (60) beds. If the certificate of need authorized under this paragraph is not issued within twelve (12) months after July 1, 1998, the
department shall deny the application for the certificate of need and shall not issue the certificate of need at any time after the twelve-month period, unless the issuance is contested. If the certificate of need is issued and substantial construction of the nursing facility beds has not commenced within eighteen (18) months after the effective date of July 1, 1998, the State Department of Health, after a hearing complying with due process, shall revoke the certificate of need if it is still outstanding, and the department shall not issue a license for the nursing facility at any time after the eighteen-month period. Provided, however, that if the issuance of the certificate of need is contested, the department shall require substantial construction of the nursing facility beds within six (6) months after final adjudication on the issuance of the certificate of need.

(o) The department may issue a certificate of need for the new construction, addition or conversion of skilled nursing facility beds in Leake County, provided that the recipient of the certificate of need agrees in writing that the skilled nursing facility will not at any time participate in the Medicaid program (Section 43-13-101 et seq.) or admit or keep any patients in the skilled nursing facility who are participating in the Medicaid program. This written agreement by the recipient of the certificate of need shall be fully binding on any subsequent owner of the skilled nursing facility, if the ownership of the facility is transferred at any time after the issuance of the certificate of need. Agreement that the skilled nursing facility will not participate in the Medicaid program shall be a condition of the issuance of a certificate of need to any person under this paragraph (o), and if such skilled nursing facility at any time after the issuance of the certificate of need, regardless of the ownership of the facility, participates in the Medicaid program or admits or keeps any patients in the facility who are participating in the Medicaid program, the State Department of Health shall
revoke the certificate of need, if it is still outstanding, and
shall deny or revoke the license of the skilled nursing facility,
at the time that the department determines, after a hearing
complying with due process, that the facility has failed to comply
with any of the conditions upon which the certificate of need was
issued, as provided in this paragraph and in the written agreement
by the recipient of the certificate of need. The total number of
nursing facility beds that may be authorized by any certificate of
need issued under this paragraph (o) shall not exceed sixty (60)
beds. If the certificate of need authorized under this paragraph
is not issued within twelve (12) months after July 1, 2001, the
department shall deny the application for the certificate of need
and shall not issue the certificate of need at any time after the
twelve-month period, unless the issuance is contested. If the
certificate of need is issued and substantial construction of the
nursing facility beds has not commenced within eighteen (18)
months after the effective date of July 1, 2001, the State
Department of Health, after a hearing complying with due process,
shall revoke the certificate of need if it is still outstanding,
and the department shall not issue a license for the nursing
facility at any time after the eighteen-month period. Provided,
however, that if the issuance of the certificate of need is
contested, the department shall require substantial construction
of the nursing facility beds within six (6) months after final
adjudication on the issuance of the certificate of need.

(p) The department may issue a certificate of need for
the construction of a municipally owned nursing facility within
the Town of Belmont in Tishomingo County, not to exceed sixty (60)
beds, provided that the recipient of the certificate of need
agrees in writing that the skilled nursing facility will not at
any time participate in the Medicaid program (Section 43-13-101 et
seq.) or admit or keep any patients in the skilled nursing
facility who are participating in the Medicaid program. This
written agreement by the recipient of the certificate of need shall be fully binding on any subsequent owner of the skilled nursing facility, if the ownership of the facility is transferred at any time after the issuance of the certificate of need. Agreement that the skilled nursing facility will not participate in the Medicaid program shall be a condition of the issuance of a certificate of need to any person under this paragraph (p), and if such skilled nursing facility at any time after the issuance of the certificate of need, regardless of the ownership of the facility, participates in the Medicaid program or admits or keeps any patients in the facility who are participating in the Medicaid program, the State Department of Health shall revoke the certificate of need, if it is still outstanding, and shall deny or revoke the license of the skilled nursing facility, at the time that the department determines, after a hearing complying with due process, that the facility has failed to comply with any of the conditions upon which the certificate of need was issued, as provided in this paragraph and in the written agreement by the recipient of the certificate of need. The provision of Section 43-7-193(1) regarding substantial compliance of the projection of need as reported in the current State Health Plan is waived for the purposes of this paragraph. If the certificate of need authorized under this paragraph is not issued within twelve (12) months after July 1, 1998, the department shall deny the application for the certificate of need and shall not issue the certificate of need at any time after the twelve-month period, unless the issuance is contested. If the certificate of need is issued and substantial construction of the nursing facility beds has not commenced within eighteen (18) months after July 1, 1998, the State Department of Health, after a hearing complying with due process, shall revoke the certificate of need if it is still outstanding, and the department shall not issue a license for the nursing facility at any time after the eighteen-month period.
Provided, however, that if the issuance of the certificate of need is contested, the department shall require substantial construction of the nursing facility beds within six (6) months after final adjudication on the issuance of the certificate of need.

(q) (i) Beginning on July 1, 1999, the State Department of Health shall issue certificates of need during each of the next four (4) fiscal years for the construction or expansion of nursing facility beds or the conversion of other beds to nursing facility beds in each county in the state having a need for fifty (50) or more additional nursing facility beds, as shown in the fiscal year 1999 State Health Plan, in the manner provided in this paragraph (q). The total number of nursing facility beds that may be authorized by any certificate of need authorized under this paragraph (q) shall not exceed sixty (60) beds.

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

(iii) Subject to the provisions of subparagraph
(v), the certificate of need issued under subparagraph (ii) for
nursing facility beds in each Long-Term Care Planning District
during each fiscal year shall first be available for nursing
facility beds in the county in the district having the highest
need for those beds, as shown in the fiscal year 1999 State Health
Plan. If there are no applications for a certificate of need for
nursing facility beds in the county having the highest need for
those beds by the date specified by the department, then the
certificate of need shall be available for nursing facility beds
in other counties in the district in descending order of the need
for those beds, from the county with the second highest need to
the county with the lowest need, until an application is received
for nursing facility beds in an eligible county in the district.

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

(v) If a certificate of need is authorized to be
issued under this paragraph (q) for nursing facility beds in a
county on the basis of the need in the Long-Term Care Planning
District during any fiscal year of the four-year period, a
certificate of need shall not also be available under this
paragraph (q) for additional nursing facility beds in that county
on the basis of the need in the state at large, and that county
shall be excluded in determining which counties have the highest
need for nursing facility beds in the state at large for that
fiscal year. After a certificate of need has been issued under
this paragraph (q) for nursing facility beds in a county during
any fiscal year of the four-year period, a certificate of need
shall not be available again under this paragraph (q) for
additional nursing facility beds in that county during the
four-year period, and that county shall be excluded in determining
which counties have the highest need for nursing facility beds in
succeeding fiscal years.

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

1. The county-owned hospital fully meets all
applicable criteria and standards required to obtain a certificate
of need for the nursing facility beds; and
2. The county-owned hospital's qualifications for the certificate of need, as shown in its application and as determined by the department, are at least equal to the qualifications of the other applicants for the certificate of need.

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

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

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

(s) The State Department of Health may issue a certificate of need to a nonprofit skilled nursing facility using the Green House model of skilled nursing care and located in Yazoo City, Yazoo County, Mississippi, for the construction, expansion or conversion of not more than nineteen (19) nursing facility beds. For purposes of this paragraph (s), the provisions of Section 41-7-193(1) requiring substantial compliance with the projection of need as reported in the current State Health Plan and the provisions of Section 41-7-197 requiring a formal certificate of need hearing process are waived. There shall be no prohibition or restrictions on participation in the Medicaid program for the person receiving the certificate of need authorized under this paragraph (s).

(t) The State Department of Health shall issue certificates of need to the owner of a nursing facility in operation at the time of Hurricane Katrina in Hancock County that was not operational on December 31, 2005, because of damage sustained from Hurricane Katrina to authorize the following: (i) the construction of a new nursing facility in Harrison County; (ii) the relocation of forty-nine (49) nursing facility beds from the Hancock County facility to the new Harrison County facility; (iii) the establishment of not more than twenty (20) non-Medicaid nursing facility beds at the Hancock County facility; and (iv) the establishment of not more than twenty (20) non-Medicaid beds at the new Harrison County facility. The certificates of need that authorize the non-Medicaid nursing facility beds under subparagraphs (iii) and (iv) of this paragraph (t) shall be subject to the following conditions: The owner of the Hancock County facility and the new Harrison County facility must agree in writing that no more than fifty (50) of the beds at the Hancock
County facility and no more than forty-nine (49) of the beds at the Harrison County facility will be certified for participation in the Medicaid program, and that no claim will be submitted for Medicaid reimbursement for more than fifty (50) patients in the Hancock County facility in any month, or for more than forty-nine (49) patients in the Harrison County facility in any month, or for any patient in either facility who is in a bed that is not Medicaid-certified. This written agreement by the owner of the nursing facilities shall be a condition of the issuance of the certificates of need under this paragraph (t), and the agreement shall be fully binding on any later owner or owners of either facility if the ownership of either facility is transferred at any time after the certificates of need are issued. After this written agreement is executed, the Division of Medicaid and the State Department of Health shall not certify more than fifty (50) of the beds at the Hancock County facility or more than forty-nine (49) of the beds at the Harrison County facility for participation in the Medicaid program. If the Hancock County facility violates the terms of the written agreement by admitting or keeping in the facility on a regular or continuing basis more than fifty (50) patients who are participating in the Medicaid program, or if the Harrison County facility violates the terms of the written agreement by admitting or keeping in the facility on a regular or continuing basis more than forty-nine (49) patients who are participating in the Medicaid program, the State Department of Health shall revoke the license of the facility that is in violation of the agreement, at the time that the department determines, after a hearing complying with due process, that the facility has violated the agreement.

(3) The State Department of Health may grant approval for and issue certificates of need to any person proposing the new construction of, addition to, conversion of beds of or expansion of any health care facility defined in subparagraph (x)
(psychiatric residential treatment facility) of Section 41-7-173(h). The total number of beds which may be authorized by such certificates of need shall not exceed three hundred thirty-four (334) beds for the entire state.

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

(b) Of the total number of beds authorized under this subsection, the department may issue a certificate or certificates of need for the construction or expansion of psychiatric residential treatment facility beds or the conversion of other beds to psychiatric residential treatment facility beds in Warren County, not to exceed sixty (60) psychiatric residential treatment facility beds, provided that the facility agrees in writing that no more than thirty (30) of the beds at the psychiatric residential treatment facility will be certified for participation in the Medicaid program (Section 43-13-101 et seq.) for the use of any patients other than those who are participating only in the Medicaid program of another state, and that no claim will be submitted to the Division of Medicaid for Medicaid reimbursement for more than thirty (30) patients in the psychiatric residential treatment facility in any day or for any patient in the psychiatric residential treatment facility who is in a bed that is not Medicaid-certified. This written agreement by the recipient of the certificate of need shall be a condition of the issuance of the certificate of need under this paragraph, and the agreement shall be fully binding on any subsequent owner of the psychiatric
residential treatment facility if the ownership of the facility is transferred at any time after the issuance of the certificate of need. After this written agreement is executed, the Division of Medicaid and the State Department of Health shall not certify more than thirty (30) of the beds in the psychiatric residential treatment facility for participation in the Medicaid program for the use of any patients other than those who are participating only in the Medicaid program of another state. If the psychiatric residential treatment facility violates the terms of the written agreement by admitting or keeping in the facility on a regular or continuing basis more than thirty (30) patients who are participating in the Mississippi Medicaid program, the State Department of Health shall revoke the license of the facility, at the time that the department determines, after a hearing complying with due process, that the facility has violated the condition upon which the certificate of need was issued, as provided in this paragraph and in the written agreement.

The State Department of Health, on or before July 1, 2002, shall transfer the certificate of need authorized under the authority of this paragraph (b), or reissue the certificate of need if it has expired, to River Region Health System.

(c) Of the total number of beds authorized under this subsection, the department shall issue a certificate of need to a hospital currently operating Medicaid-certified acute psychiatric beds for adolescents in DeSoto County, for the establishment of a forty-bed psychiatric residential treatment facility in DeSoto County, provided that the hospital agrees in writing (i) that the hospital shall give priority for the use of those forty (40) beds to Mississippi residents who are presently being treated in out-of-state facilities, and (ii) that no more than fifteen (15) of the beds at the psychiatric residential treatment facility will be certified for participation in the Medicaid program (Section 43-13-101 et seq.), and that no claim will be submitted for
Medicaid reimbursement for more than fifteen (15) patients in the psychiatric residential treatment facility in any day or for any patient in the psychiatric residential treatment facility who is in a bed that is not Medicaid-certified. This written agreement by the recipient of the certificate of need shall be a condition of the issuance of the certificate of need under this paragraph, and the agreement shall be fully binding on any subsequent owner of the psychiatric residential treatment facility if the ownership of the facility is transferred at any time after the issuance of the certificate of need. After this written agreement is executed, the Division of Medicaid and the State Department of Health shall not certify more than fifteen (15) of the beds in the psychiatric residential treatment facility for participation in the Medicaid program. If the psychiatric residential treatment facility violates the terms of the written agreement by admitting or keeping in the facility on a regular or continuing basis more than fifteen (15) patients who are participating in the Medicaid program, the State Department of Health shall revoke the license of the facility, at the time that the department determines, after a hearing complying with due process, that the facility has violated the condition upon which the certificate of need was issued, as provided in this paragraph and in the written agreement.

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

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

(f) The department shall issue a certificate of need to a one-hundred-thirty-four-bed specialty hospital located on twenty-nine and forty-four one-hundredths (29.44) commercial acres at 5900 Highway 39 North in Meridian (Lauderdale County), Mississippi, for the addition, construction or expansion of child/adolescent psychiatric residential treatment facility beds in Lauderdale County. As a condition of issuance of the certificate of need under this paragraph, the facility shall give priority in admissions to the child/adolescent psychiatric treatment facility beds authorized under this paragraph to patients who otherwise would require out-of-state placement. The Division of Medicaid, in conjunction with the Department of Human Services, shall furnish the facility a list of all out-of-state patients on a quarterly basis. Furthermore, notice shall also be provided to the parent, custodial parent or guardian of each out-of-state patient notifying them of the priority status granted by this paragraph. For purposes of this paragraph, the provisions of Section 41-7-193(1) requiring substantial compliance with the projection of need as reported in the current State Health Plan are waived. The total number of child/adolescent psychiatric residential treatment facility beds that may be authorized under the authority of this paragraph shall be sixty (60) beds. There shall be no prohibition or restrictions on participation in the Medicaid program (Section 43-13-101 et seq.) for the person receiving the certificate of need authorized under this paragraph or for the beds converted pursuant to the authority of that certificate of need.
From and after July 1, 1993, the department shall not issue a certificate of need to any person for the new construction of any hospital, psychiatric hospital or chemical dependency hospital that will contain any child/adolescent psychiatric or child/adolescent chemical dependency beds, or for the conversion of any other health care facility to a hospital, psychiatric hospital or chemical dependency hospital that will contain any child/adolescent psychiatric or child/adolescent chemical dependency beds, or for the addition of any child/adolescent psychiatric or child/adolescent chemical dependency beds in any hospital, psychiatric hospital or chemical dependency hospital, or for the conversion of any beds of another category in any hospital, psychiatric hospital or chemical dependency hospital to child/adolescent psychiatric or child/adolescent chemical dependency beds, except as hereinafter authorized:

(i) The department may issue certificates of need to any person for any purpose described in this subsection, provided that the hospital, psychiatric hospital or chemical dependency hospital does not participate in the Medicaid program (Section 43-13-101 et seq.) at the time of the application for the certificate of need and the owner of the hospital, psychiatric hospital or chemical dependency hospital agrees in writing that the hospital, psychiatric hospital or chemical dependency hospital will not at any time participate in the Medicaid program or admit or keep any patients who are participating in the Medicaid program in the hospital, psychiatric hospital or chemical dependency hospital. This written agreement by the recipient of the certificate of need shall be fully binding on any subsequent owner of the hospital, psychiatric hospital or chemical dependency hospital, if the ownership of the facility is transferred at any time after the issuance of the certificate of need. Agreement that the hospital, psychiatric hospital or chemical dependency
hospital will not participate in the Medicaid program shall be a
condition of the issuance of a certificate of need to any person
under this subparagraph (i), and if such hospital, psychiatric hospital or chemical dependency hospital at any time
after the issuance of the certificate of need, regardless of the
ownership of the facility, participates in the Medicaid program or
admits or keeps any patients in the hospital, psychiatric hospital
or chemical dependency hospital who are participating in the
Medicaid program, the State Department of Health shall revoke the
certificate of need, if it is still outstanding, and shall deny or
revoke the license of the hospital, psychiatric hospital or
chemical dependency hospital, at the time that the department
determines, after a hearing complying with due process, that the
hospital, psychiatric hospital or chemical dependency hospital has
failed to comply with any of the conditions upon which the
certificate of need was issued, as provided in this subparagraph
(i) and in the written agreement by the recipient of the
certificate of need.

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

(iii) The department may issue a certificate of
such certificates of need for the construction or expansion of

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child/adolescent psychiatric beds or the conversion of other beds to child/adolescent psychiatric beds in Warren County. For purposes of this subparagraph (iii), the provisions of Section 41-7-193(1) requiring substantial compliance with the projection of need as reported in the current State Health Plan are waived.

The total number of beds that may be authorized under the authority of this subparagraph shall not exceed twenty (20) beds. There shall be no prohibition or restrictions on participation in the Medicaid program (Section 43-13-101 et seq.) for the person receiving the certificate of need authorized under this subparagraph or for the beds converted pursuant to the authority of that certificate of need.

If by January 1, 2002, there has been no significant commencement of construction of the beds authorized under this subparagraph (iii), or no significant action taken to convert existing beds to the beds authorized under this subparagraph, then the certificate of need that was previously issued under this subparagraph shall expire. If the previously issued certificate of need expires, the department may accept applications for issuance of another certificate of need for the beds authorized under this subparagraph, and may issue a certificate of need to authorize the construction, expansion or conversion of the beds authorized under this subparagraph.

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

(v) The department may issue a certificate of need to any county hospital located in Leflore County for the construction or expansion of adult psychiatric beds or the conversion of other beds to adult psychiatric beds, not to exceed twenty (20) beds, provided that the recipient of the certificate of need agrees in writing that the adult psychiatric beds will not at any time be certified for participation in the Medicaid program and that the hospital will not admit or keep any patients who are participating in the Medicaid program in any of such adult psychiatric beds. This written agreement by the recipient of the certificate of need shall be fully binding on any subsequent owner of the hospital if the ownership of the hospital is transferred at any time after the issuance of the certificate of need. Agreement that the adult psychiatric beds will not be certified for participation in the Medicaid program shall be a condition of the issuance of a certificate of need to any person under this subparagraph (v), and if such hospital at any time after the issuance of the certificate of need, regardless of the ownership of the hospital, has any of such adult psychiatric beds certified for participation in the Medicaid program or admits or keeps any Medicaid patients in such adult psychiatric beds, the State Department of Health shall revoke the certificate of need, if it is still outstanding, and shall deny or revoke the license of the hospital at the time that the department determines, after a hearing complying with due process, that the hospital has failed to comply with any of the conditions upon which the certificate of need was issued, as provided in this subparagraph and in the written agreement by the recipient of the certificate of need.
(vi) The department may issue a certificate or certificates of need for the expansion of child psychiatric beds or the conversion of other beds to child psychiatric beds at the University of Mississippi Medical Center. For purposes of this subparagraph ***(vi), the provision of Section 41-7-193(1) requiring substantial compliance with the projection of need as reported in the current State Health Plan is waived. The total number of beds that may be authorized under the authority of this subparagraph ***(vi) shall not exceed fifteen (15) beds. There shall be no prohibition or restrictions on participation in the Medicaid program (Section 43-13-101 et seq.) for the hospital receiving the certificate of need authorized under this subparagraph ***(vi) or for the beds converted pursuant to the authority of that certificate of need.

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

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

(6) The State Department of Health shall issue a certificate of need to a Mississippi corporation qualified to manage a long-term care hospital as defined in Section 41-7-173(h)(xii) in Harrison County, not to exceed eighty (80) beds, including any necessary renovation or construction required for licensure and certification, provided that the recipient of the certificate of need agrees in writing that the long-term care hospital will not at any time participate in the Medicaid program (Section 43-13-101 et seq.) or admit or keep any patients in the long-term care
hospital who are participating in the Medicaid program. This
written agreement by the recipient of the certificate of need
shall be fully binding on any subsequent owner of the long-term
care hospital, if the ownership of the facility is transferred at
any time after the issuance of the certificate of need. Agreement
that the long-term care hospital will not participate in the
Medicaid program shall be a condition of the issuance of a
certificate of need to any person under this subsection (6), and
if such long-term care hospital at any time after the issuance of
the certificate of need, regardless of the ownership of the
facility, participates in the Medicaid program or admits or keeps
any patients in the facility who are participating in the Medicaid
program, the State Department of Health shall revoke the
certificate of need, if it is still outstanding, and shall deny or
revoke the license of the long-term care hospital, at the time
that the department determines, after a hearing complying with due
process, that the facility has failed to comply with any of the
conditions upon which the certificate of need was issued, as
provided in this subsection and in the written agreement by the
recipient of the certificate of need. For purposes of this
subsection, the provision of Section 41-7-193(1) requiring
substantial compliance with the projection of need as reported in
the current State Health Plan is hereby waived.

(7) The State Department of Health may issue a certificate
of need to any hospital in the state to utilize a portion of its
beds for the "swing-bed" concept. Any such hospital must be in
conformance with the federal regulations regarding such swing-bed
concept at the time it submits its application for a certificate
of need to the State Department of Health, except that such
hospital may have more licensed beds or a higher average daily
census (ADC) than the maximum number specified in federal
regulations for participation in the swing-bed program. Any
hospital meeting all federal requirements for participation in the
swing-bed program which receives such certificate of need shall render services provided under the swing-bed concept to any patient eligible for Medicare (Title XVIII of the Social Security Act) who is certified by a physician to be in need of such services, and no such hospital shall permit any patient who is eligible for both Medicaid and Medicare or eligible only for Medicaid to stay in the swing beds of the hospital for more than thirty (30) days per admission unless the hospital receives prior approval for such patient from the Division of Medicaid, Office of the Governor. Any hospital having more licensed beds or a higher average daily census (ADC) than the maximum number specified in federal regulations for participation in the swing-bed program which receives such certificate of need shall develop a procedure to insure that before a patient is allowed to stay in the swing beds of the hospital, there are no vacant nursing home beds available for that patient located within a fifty-mile radius of the hospital. When any such hospital has a patient staying in the swing beds of the hospital and the hospital receives notice from a nursing home located within such radius that there is a vacant bed available for that patient, the hospital shall transfer the patient to the nursing home within a reasonable time after receipt of the notice. Any hospital which is subject to the requirements of the two (2) preceding sentences of this subsection may be suspended from participation in the swing-bed program for a reasonable period of time by the State Department of Health if the department, after a hearing complying with due process, determines that the hospital has failed to comply with any of those requirements.

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

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

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

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

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

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

(a) Before any construction or conversion may be undertaken without a certificate of need, the owner of the nursing facility, in the case of an existing facility, or the applicant to construct a nursing facility, in the case of new construction, first must file a written notice of intent and sign a written agreement with the State Department of Health that the entire nursing facility will not at any time participate in or have any beds certified for participation in the Medicaid program (Section 43-13-101 et seq.), will not admit or keep any patients in the
nursing facility who are participating in the Medicaid program, and will not submit any claim for Medicaid reimbursement for any patient in the facility. This written agreement by the owner or applicant shall be a condition of exercising the authority under this subsection without a certificate of need, and the agreement shall be fully binding on any subsequent owner of the nursing facility if the ownership of the facility is transferred at any time after the agreement is signed. After the written agreement is signed, the Division of Medicaid and the State Department of Health shall not certify any beds in the nursing facility for participation in the Medicaid program. If the nursing facility violates the terms of the written agreement by participating in the Medicaid program, having any beds certified for participation in the Medicaid program, admitting or keeping any patient in the facility who is participating in the Medicaid program, or submitting any claim for Medicaid reimbursement for any patient in the facility, the State Department of Health shall revoke the license of the nursing facility at the time that the department determines, after a hearing complying with due process, that the facility has violated the terms of the written agreement.

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

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

This subsection (13) shall stand repealed from and after July
1, 2005.

(14) The State Department of Health shall issue a
certificate of need to any hospital which is currently licensed
for two hundred fifty (250) or more acute care beds and is located
in any general hospital service area not having a comprehensive
cancer center, for the establishment and equipping of such a
center which provides facilities and services for outpatient
radiation oncology therapy, outpatient medical oncology therapy,
and appropriate support services including the provision of
radiation therapy services. The provision of Section 41-7-193(1)
regarding substantial compliance with the projection of need as
reported in the current State Health Plan is waived for the
purpose of this subsection.

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

(16) The State Department of Health shall issue any
certificates of need necessary for Mississippi State University
and a public or private health care provider to jointly acquire
and operate a linear accelerator and a magnetic resonance imaging
unit. Those certificates of need shall cover all capital expenditures related to the project between Mississippi State University and the health care provider, including, but not limited to, the acquisition of the linear accelerator, the magnetic resonance imaging unit and other radiological modalities; the offering of linear accelerator and magnetic resonance imaging services; and the cost of construction of facilities in which to locate these services. The linear accelerator and the magnetic resonance imaging unit shall be (a) located in the City of Starkville, Oktibbeha County, Mississippi; (b) operated jointly by Mississippi State University and the public or private health care provider selected by Mississippi State University through a request for proposals (RFP) process in which Mississippi State University selects, and the Board of Trustees of State Institutions of Higher Learning approves, the health care provider that makes the best overall proposal; (c) available to Mississippi State University for research purposes two-thirds (2/3) of the time that the linear accelerator and magnetic resonance imaging unit are operational; and (d) available to the public or private health care provider selected by Mississippi State University and approved by the Board of Trustees of State Institutions of Higher Learning one-third (1/3) of the time for clinical, diagnostic and treatment purposes. For purposes of this subsection, the provisions of Section 41-7-193(1) requiring substantial compliance with the projection of need as reported in the current State Health Plan are waived.

(17) The State Department of Health shall issue a certificate of need for the construction of an acute care hospital in Kemper County, not to exceed twenty-five (25) beds, which shall be named the "John C. Stennis Memorial Hospital." In issuing the certificate of need under this subsection, the department shall give priority to a hospital located in Lauderdale County that has two hundred fifteen (215) beds. For purposes of this subsection,
the provisions of Section 41-7-193(1) requiring substantial 
compliance with the projection of need as reported in the current 
State Health Plan and the provisions of Section 41-7-197 requiring 
a formal certificate of need hearing process are waived. There 
shall be no prohibition or restrictions on participation in the 
Medicaid program (Section 43-13-101 et seq.) for the person or 
entity receiving the certificate of need authorized under this 
subsection or for the beds constructed under the authority of that 
certificate of need.  
(18) Nothing in this section or in any other provision of 
Section 41-7-171 et seq. shall prevent any nursing facility from 
designating an appropriate number of existing beds in the facility 
as beds for providing care exclusively to patients with 
Alzheimer's disease.  

SECTION 22. This act shall take effect and be in force from 
and after June 30, 2007, except for Sections 1 and 2 and Sections 
13 through 18, which shall take effect and be in force from and 
after the passage of this act.