

REPORT OF CONFERENCE COMMITTEE

MADAM PRESIDENT AND MR. SPEAKER:

We, the undersigned conferees, have had under consideration the amendments to the following entitled BILL:

S. B. No. 2764: State Board of Health and State Department of Health; extend department and reconstitute board.

We, therefore, respectfully submit the following report and recommendation:

1. That the House recede from its Amendment No. 1.
2. That the Senate and House adopt the following amendment:

Amend by striking all after the enacting clause and inserting in lieu thereof the following:

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

73 41-3-20. (1) Section 41-3-1 * * *, which creates the State
74 Board of Health * * *, shall stand repealed on the effective date
75 of this section.

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78 repealed on June 30, 2007.

79 (3) Sections 41-3-1.1, 41-3-3, 41-3-4, 41-3-5.1, 41-3-6,
80 41-3-15, 41-3-16, 41-3-17, 41-3-18 and 41-3-19, which create the
81 reconstituted State Board of Health, establish the position of
82 Executive Officer of the State Department of Health and establish
83 the State Department of Health and prescribe its powers and
84 duties, shall stand repealed on June 30, 2010.

85 **SECTION 2.** The following shall be codified as Section
86 41-3-1.1, Mississippi Code of 1972:

87 41-3-1.1. (1) The State Board of Health is continued and
88 reconstituted as follows:

89 There is created the State Board of Health which, from and
90 after the effective date of this section, shall consist of eleven

91 (11) members appointed with the advice and consent of the Senate,
92 as follows:

93 (a) Five (5) members of the board shall be currently
94 licensed physicians of good professional standing who have had at
95 least seven (7) years' experience in the practice of medicine in
96 this state. Three (3) members shall be appointed by the Governor,
97 one (1) member shall be appointed by the Lieutenant Governor, and
98 one (1) member shall be appointed by the Attorney General, in the
99 manner provided in paragraph (d) of this subsection (1).

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

108 (c) The Governor, Lieutenant Governor and Attorney
109 General shall give due regard to geographic distribution, race and
110 gender in making their appointments to the board. It is the
111 intent of the Legislature that the membership of the board reflect
112 the population of the State of Mississippi. Of the Governor's
113 appointments, one (1) member of the board shall be appointed from
114 each of the four (4) congressional districts as constituted on
115 June 30, 2007, and one (1) member of the board shall be appointed
116 from each of the three (3) Supreme Court districts as constituted
117 on June 30, 2007. Of the Lieutenant Governor's appointments, one
118 (1) member of the board shall be appointed from the First
119 Congressional District and one (1) member of the board shall be
120 appointed from the Fourth Congressional District as constituted on
121 June 30, 2007. Of the Attorney General's appointments, one (1)
122 member of the board shall be appointed from the Second

123 Congressional District and one (1) member of the board shall be
124 appointed from the Third Congressional District as constituted on
125 June 30, 2007.

126 (d) The initial members of the board shall be appointed
127 for staggered terms, as follows: Of the Governor's appointments,
128 two (2) members shall be appointed for terms that end on June 30,
129 2009; two (2) members shall be appointed for terms that end on
130 June 30, 2011; and three (3) members shall be appointed for terms
131 that end on June 30, 2013. Of the Lieutenant Governor's
132 appointments, one (1) member shall be appointed for a term that
133 ends on June 30, 2009; and one (1) member shall be appointed for a
134 term that ends on June 30, 2013. Of the Attorney General's
135 appointments, one (1) member shall be appointed for a term that
136 ends on June 30, 2009; and one (1) member shall be appointed for a
137 term that ends on June 30, 2011.

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

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

153 (3) The Lieutenant Governor may designate one (1) Senator
154 and the Speaker of the House of Representatives may designate one

155 (1) Representative to attend any meeting of the State Board of
156 Health. The appointing authorities may designate alternate
157 members from their respective houses to serve when the regular
158 designees are unable to attend the meetings of the board. Those
159 legislative designees shall have no jurisdiction or vote on any
160 matter within the jurisdiction of the board. For attending
161 meetings of the board, the legislators shall receive per diem and
162 expenses, which shall be paid from the contingent expense funds of
163 their respective houses in the same amounts as provided for
164 committee meetings when the Legislature is not in session;
165 however, no per diem and expenses for attending meetings of the
166 board will be paid while the Legislature is in session. No per
167 diem and expenses will be paid except for attending meetings of
168 the board without prior approval of the proper committee in their
169 respective houses.

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

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

178 (c) When any matter in which a member may not
179 participate comes before the board or department, that member must
180 fully recuse himself or herself from the entire matter. The
181 member shall avoid debating, discussing or taking action on the
182 subject matter during official meetings or deliberations by
183 leaving the meeting room before the matter comes before the board
184 and by returning only after the discussion, vote or other action
185 is completed. The member shall not discuss the matter with other
186 members, department staff or any other person. Any minutes or

187 other record of the meeting shall accurately reflect the recusal.
188 If a member is uncertain whether recusal is required, the member
189 shall follow the determination of the Mississippi Ethics
190 Commission. The commission may delegate that determination to its
191 executive director.

192 (d) Upon a determination by the board or by any court
193 of competent jurisdiction that a member of the board has violated
194 the provisions of this subsection (2) regarding recusal, the
195 member shall be removed from office. Any member of the board who
196 violates the provisions of this section regarding recusal also
197 shall be subject to the penalties set forth in Sections 25-4-109
198 through 25-4-117. After removal from office, the member shall not
199 be eligible for appointment to any agency, board or commission of
200 the state for a period of two (2) years. Nothing in this section
201 shall be construed to limit the restrictions codified in Section
202 25-4-105.

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

205 41-3-3. Each person appointed as a member of the State Board
206 of Health shall immediately take the oath prescribed by Section
207 268 of the Constitution and file a certificate thereof in the
208 Office of the Secretary of State. Thereupon a commission shall be
209 issued to him under the terms as specified in Section 41-3-1.

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

212 41-3-4. (1) There shall be a Chairman and Vice Chairman of
213 the State Board of Health elected by and from its membership at
214 the first meeting of the board; and the chairman shall be the
215 presiding officer of the board. The chairman shall always be a
216 physician member of the board. The board shall adopt rules and
217 regulations governing times and places for meetings, and governing
218 the manner of conducting its business. The board shall meet not

219 less frequently than once each quarter, and at such other times as
220 determined to be necessary. The term of office of any member who
221 does not attend three (3) consecutive regular meetings of the
222 board shall be automatically terminated, and the position shall be
223 considered as vacant, except in cases of the serious illness of a
224 board member or of his or her immediate family member. All
225 meetings of the board shall be called by the chairman or by a
226 majority of the members of the board, except the first meeting of
227 the initial members of the reconstituted board, which shall be
228 called by the Governor.

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

235 **SECTION 5.** The following shall be codified as Section
236 41-3-5.1, Mississippi Code of 1972:

237 41-3-5.1. The State Department of Health shall be headed by
238 an executive officer who shall be appointed by the State Board of
239 Health. The executive officer shall be either a physician who has
240 earned a graduate degree in public health or health care
241 administration, or a physician who in the opinion of the board is
242 fitted and equipped to execute the duties incumbent upon him or
243 her by law. The executive officer shall not engage in the private
244 practice of medicine. The term of office of the executive officer
245 shall be six (6) years, and the executive officer may be removed
246 for cause by majority vote of the members of the board. The
247 executive officer shall be subject to such rules and regulations
248 as may be prescribed by the State Board of Health. The executive
249 officer shall be the State Health Officer with such authority and
250 responsibility as is prescribed by law.

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

253 41-3-6. It shall be the duty of the State Board of Health to
254 review the statutes of the State of Mississippi affecting public
255 health and submit at least thirty (30) days prior to each regular
256 session of the Legislature any proposed legislation as may be
257 necessary to enhance the effective and efficient delivery of
258 public health services and to bring existing statutes into
259 compliance with modern technology and terminology. The board
260 shall formulate a plan for consolidating and reorganizing existing
261 state agencies having responsibilities in the field of public
262 health to eliminate any needless duplication in services which may
263 be found to exist. In carrying out the provisions of this
264 section, the State Board of Health shall cooperate with and may
265 utilize the services, facilities and personnel of any department
266 or agency of the state, any private citizen task force and the
267 committees on public health of both houses of the Legislature.
268 The State Board of Health is authorized to apply for and expend
269 funds made available to it by grant from any source in order to
270 perform its responsibilities under this section.

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

274 41-3-15. (1) (a) There shall be a State Department of
275 Health * * *.

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

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

281 (ii) To adopt, modify, repeal and promulgate,
282 after due notice and hearing, and enforce rules and regulations

283 implementing or effectuating the powers and duties of the
284 department under any and all statutes within the department's
285 jurisdiction, and as the board may deem necessary;

286 (iii) To apply for, receive, accept and expend any
287 federal or state funds or contributions, gifts, trusts, devises,
288 bequests, grants, endowments or funds from any other source or
289 transfers of property of any kind;

290 (iv) To enter into, and to authorize the executive
291 officer to execute, contracts, grants and cooperative agreements
292 with any federal or state agency or subdivision thereof, or any
293 public or private institution located inside or outside the State
294 of Mississippi, or any person, corporation or association in
295 connection with carrying out the provisions of this chapter, if it
296 finds those actions to be in the public interest and the contracts
297 or agreements do not have a financial cost that exceeds the
298 amounts appropriated for those purposes by the Legislature;

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

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

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

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

312 (ii) To supervise and direct all administrative
313 and technical activities of the department, except that the

314 department's internal auditor shall be subject to the sole
315 supervision and direction of the board;

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

321 (iv) To coordinate the activities of the various
322 offices of the department;

323 (v) To employ, subject to regulations of the State
324 Personnel Board, qualified professional personnel in the subject
325 matter or fields of each office, and such other technical and
326 clerical staff as may be required for the operation of the
327 department. The executive officer shall be the appointing
328 authority for the department, and shall have the power to delegate
329 the authority to appoint or dismiss employees to appropriate
330 subordinates, subject to the rules and regulations of the State
331 Personnel Board;

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

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

342 (viii) To prepare and deliver to the Chairmen of
343 the Public Health and Welfare/Human Services Committees of the
344 Senate and House on or before January 1 of each year, a plan for
345 monitoring infant mortality in Mississippi and a full report of

346 the work of the department on reducing Mississippi's infant
347 mortality and morbidity rates and improving the status of maternal
348 and infant health; and

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

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

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

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

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

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

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

375 (3) The State Board of Health shall have general supervision
376 of the health interests of the people of the state and to exercise

377 the rights, powers and duties of those acts which it is authorized
378 by law to enforce.

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

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

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

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

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

397 * * *

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

404 * * *

405 (f) (i) To establish standards for, issue permits and
406 exercise control over, any cafes, restaurants, food or drink
407 stands, sandwich manufacturing establishments, and all other
408 establishments, other than churches, church-related and private

409 schools, and other nonprofit or charitable organizations, where
410 food or drink is regularly prepared, handled and served for pay;
411 and

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

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

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

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

437 * * *

438 (j) To promulgate rules and regulations, and to collect
439 data and information, on (i) the delivery of services through the

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

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

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

449 (i) Maternal and child health;

450 (ii) Family planning;

451 (iii) Pediatric services;

452 (iv) Services to crippled and disabled children;

453 (v) Control of communicable and noncommunicable

454 disease;

455 (vi) Chronic disease;

456 (vii) Accidental deaths and injuries;

457 (viii) Child care licensure;

458 (ix) Radiological health;

459 (x) Dental health;

460 (xi) Milk sanitation;

461 (xii) Occupational safety and health;

462 (xiii) Food, vector control and general

463 sanitation;

464 (xiv) Protection of drinking water;

465 (xv) Sanitation in food handling establishments

466 open to the public;

467 (xvi) Registration of births and deaths and other

468 vital events;

469 (xvii) Such public health programs and services as

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

471 by executive order; and

472 (xviii) Regulation of domestic and imported fish
473 for human consumption.

474 (b) The State Board of Health and State Department of
475 Health shall not be authorized to sell, transfer, alienate or
476 otherwise dispose of any of the home health agencies owned and
477 operated by the department on January 1, 1995, and shall not be
478 authorized to sell, transfer, assign, alienate or otherwise
479 dispose of the license of any of those home health agencies,
480 except upon the specific authorization of the Legislature by an
481 amendment to this section. However, this paragraph (b) shall not
482 prevent the board or the department from closing or terminating
483 the operation of any home health agency owned and operated by the
484 department, or closing or terminating any office, branch office or
485 clinic of any such home health agency, or otherwise discontinuing
486 the providing of home health services through any such home health
487 agency, office, branch office or clinic, if the board first
488 demonstrates that there are other providers of home health
489 services in the area being served by the department's home health
490 agency, office, branch office or clinic that will be able to
491 provide adequate home health services to the residents of the area
492 if the department's home health agency, office, branch office or
493 clinic is closed or otherwise discontinues the providing of home
494 health services. This demonstration by the board that there are
495 other providers of adequate home health services in the area shall
496 be spread at length upon the minutes of the board at a regular or
497 special meeting of the board at least thirty (30) days before a
498 home health agency, office, branch office or clinic is proposed to
499 be closed or otherwise discontinue the providing of home health
500 services.

501 (c) The State Department of Health may undertake such
502 technical programs and activities as may be required for the
503 support and operation of those programs, including maintaining

504 physical, chemical, bacteriological and radiological laboratories,
505 and may make such diagnostic tests for diseases and tests for the
506 evaluation of health hazards as may be deemed necessary for the
507 protection of the people of the state.

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

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

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

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

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

520 (iv) To establish and collect fees to defray the
521 reasonable costs of administering the revolving fund or emergency
522 fund if the State Board of Health determines that those costs will
523 exceed the limitations established in the federal Safe Drinking
524 Water Act, as amended. The administration fees may be included in
525 loan amounts to loan recipients for the purpose of facilitating
526 payment to the board; however, those fees may not exceed five
527 percent (5%) of the loan amount.

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

530 41-3-16. (1) (a) There is established a local governments
531 and rural water systems improvements revolving loan and grant
532 program to be administered by the State Department of Health,
533 referred to in this section as "department," for the purpose of
534 assisting counties, incorporated municipalities, districts or
535 other water organizations that have been granted tax exempt status

536 under either federal or state law, in making improvements to their
537 water systems, including construction of new water systems or
538 expansion or repair of existing water systems. Loan and grant
539 proceeds may be used by the recipient for planning, professional
540 services, acquisition of interests in land, acquisition of
541 personal property, construction, construction-related services,
542 maintenance, and any other reasonable use which the board, in its
543 discretion, may allow. For purposes of this section, "water
544 systems" has the same meaning as the term "public water system"
545 under Section 41-26-3.

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

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

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

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

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

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

591 (2) (a) There is created a special fund in the State
592 Treasury to be designated as the "Local Governments and Rural
593 Water Systems Improvements Revolving Loan Fund," referred to in
594 this section as "revolving fund," which fund shall consist of
595 those monies as provided in Sections 6 and 13 of Chapter 521, Laws
596 of 1995. The revolving fund may receive appropriations, bond
597 proceeds, grants, gifts, donations or funds from any source,
598 public or private. The revolving fund shall be credited with all

599 repayments of principal and interest derived from loans made from
600 the revolving fund. The monies in the revolving fund may be
601 expended only in amounts appropriated by the Legislature, and the
602 different amounts specifically provided for the loan program and
603 the grant program shall be so designated. Monies in the fund may
604 only be expended for the grant program from the amount designated
605 for such program. The revolving fund shall be maintained in
606 perpetuity for the purposes established in this section and
607 Sections 6 through 20 of Chapter 521, Laws of 1995. Unexpended
608 amounts remaining in the revolving fund at the end of a fiscal
609 year shall not lapse into the State General Fund, and any interest
610 earned on amounts in the revolving fund shall be deposited to the
611 credit of the fund. Monies in the revolving fund may not be used
612 or expended for any purpose except as authorized under this
613 section and Sections 6 through 20 of Chapter 521, Laws of 1995.
614 Any monies in the fund may be used to match any federal funds that
615 are available for the same or related purposes for which funds are
616 used and expended under this section and Sections 6 through 20 of
617 Chapter 521, Laws of 1995. Any federal funds shall be used and
618 expended only in accordance with federal laws, rules and
619 regulations governing the expenditure of those funds. No person
620 shall use any monies from the revolving fund for the acquisition
621 of real property or any interest in real property unless that
622 property is integral to the project funded under this section and
623 the purchase is made from a willing seller. No county,
624 incorporated municipality or district shall acquire any real
625 property or any interest in any real property for a project funded
626 through the revolving fund by condemnation. The board's
627 application of Sections 43-37-1 through 43-37-13 shall be no more
628 stringent or extensive in scope, coverage and effect than federal
629 property acquisition laws and regulations.

630 (b) There is created a special fund in the State
631 Treasury to be designated as the "Local Governments and Rural
632 Water Systems Emergency Loan Fund," hereinafter referred to as
633 "emergency fund," which fund shall consist of those monies as
634 provided in Sections 6 and 13 of Chapter 521, Laws of 1995. The
635 emergency fund may receive appropriations, bond proceeds, grants,
636 gifts, donations or funds from any source, public or private. The
637 emergency fund shall be credited with all repayments of principal
638 and interest derived from loans made from the emergency fund. The
639 monies in the emergency fund may be expended only in amounts
640 appropriated by the Legislature. The emergency fund shall be
641 maintained in perpetuity for the purposes established in this
642 section and Section 6 of Chapter 521, Laws of 1995. Unexpended
643 amounts remaining in the emergency fund at the end of a fiscal
644 year shall not lapse into the State General Fund. Any interest
645 earned on amounts in the emergency fund shall be deposited to the
646 credit of the fund. Monies in the emergency fund may not be used
647 or expended for any purpose except as authorized under this
648 section and Section 6 of Chapter 521, Laws of 1995.

649 (c) The board created in subsection (1) shall establish
650 loan and grant programs by which loans and grants may be made
651 available to counties, incorporated municipalities, districts or
652 other water organizations that have been granted tax exempt status
653 under either federal or state law, to assist those counties,
654 incorporated municipalities, districts or water organizations in
655 making water systems improvements, including the construction of
656 new water systems or expansion or repair of existing water
657 systems. Any entity eligible under this section may receive
658 either a loan or a grant, or both. No grant awarded under the
659 program established in this section may be made using funds from
660 the loan program. Grants may be awarded only when the Legislature
661 specifically appropriates funds for that particular purpose. The

662 interest rate on those loans may vary from time to time and from
663 loan to loan, and will be at or below market interest rates as
664 determined by the board. The board shall act as quickly as is
665 practicable and prudent in deciding on any loan request that it
666 receives. Loans from the revolving fund or emergency fund may be
667 made to counties, incorporated municipalities, districts or other
668 water organizations that have been granted tax exempt status under
669 either federal or state law, as set forth in a loan agreement in
670 amounts not to exceed one hundred percent (100%) of eligible
671 project costs as established by the board. The board may require
672 county, municipal, district or other water organization
673 participation or funding from other sources, or otherwise limit
674 the percentage of costs covered by loans from the revolving fund
675 or the emergency fund. The maximum amount for any loan from the
676 emergency fund shall be Five Hundred Thousand Dollars
677 (\$500,000.00), and the maximum amount for any loan from the
678 revolving fund shall be One Million Five Hundred Thousand Dollars
679 (\$1,500,000.00).

680 (d) A county that receives a loan from the revolving
681 fund or the emergency fund shall pledge for repayment of the loan
682 any part of the homestead exemption annual tax loss reimbursement
683 to which it may be entitled under Section 27-33-77, as may be
684 required to meet the repayment schedule contained in the loan
685 agreement. An incorporated municipality that receives a loan from
686 the revolving fund or the emergency fund shall pledge for
687 repayment of the loan any part of the sales tax revenue
688 distribution to which it may be entitled under Section 27-65-75,
689 as may be required to meet the repayment schedule contained in the
690 loan agreement. All recipients of such loans shall establish a
691 dedicated source of revenue for repayment of the loan. Before any
692 county or incorporated municipality shall receive any loan, it
693 shall have executed with the State Tax Commission and the board a

694 loan agreement evidencing that loan. The loan agreement shall not
695 be construed to prohibit any recipient from prepaying any part or
696 all of the funds received. The repayment schedule in each loan
697 agreement shall provide for (i) monthly payments, (ii) semiannual
698 payments or (iii) other periodic payments, the annual total of
699 which shall not exceed the annual total for any other year of the
700 loan by more than fifteen percent (15%). Except as otherwise
701 provided in subsection (4) of this section, the loan agreement
702 shall provide for the repayment of all funds received from the
703 revolving fund within not more than fifteen (15) years or a term
704 as otherwise allowed by the federal Safe Drinking Water Act, and
705 all funds received from the emergency fund within not more than
706 five (5) years from the date of project completion, and any
707 repayment shall commence not later than one (1) year after project
708 completion. The State Tax Commission shall withhold semiannually
709 from counties and monthly from incorporated municipalities from
710 the amount to be remitted to the county or municipality, a sum
711 equal to the next repayment as provided in the loan agreement.

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

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

726 (f) Any district created pursuant to Sections 19-5-151
727 through 19-5-207 that receives a loan from the revolving fund or
728 the emergency fund shall pledge for repayment of the loan any part
729 of the revenues received by that district pursuant to Sections
730 19-5-151 through 19-5-207, as may be required to meet the
731 repayment schedule contained in the loan agreement.

732 (g) The State Auditor, upon request of the board, shall
733 audit the receipts and expenditures of a county, an incorporated
734 municipality, district or other water organization whose loan
735 repayments appear to be in arrears, and if the Auditor finds that
736 the county, incorporated municipality, district or other water
737 organization is in arrears in those repayments, the Auditor shall
738 immediately notify the chairman of the board who may take any
739 action as may be necessary to enforce the terms of the loan
740 agreement, including liquidation and enforcement of the security
741 given for repayment of the loan, and the Executive Director of the
742 Department of Finance and Administration who shall withhold all
743 future payments to the county of homestead exemption annual tax
744 loss reimbursements under Section 27-33-77 and all sums allocated
745 to the county or the incorporated municipality under Section
746 27-65-75 until such time as the county or the incorporated
747 municipality is again current in its loan repayments as certified
748 by the board.

749 (h) All monies deposited in the revolving fund or the
750 emergency fund, including loan repayments and interest earned on
751 those repayments, shall be used only for providing loans or other
752 financial assistance to water systems as the board deems
753 appropriate. In addition, any amounts in the revolving fund or
754 the emergency fund may be used to defray the reasonable costs of
755 administering the revolving fund or the emergency fund and
756 conducting activities under this section and Sections 6 through 20
757 of Chapter 521, Laws of 1995, subject to any limitations

758 established in the federal Safe Drinking Water Act, as amended and
759 subject to annual appropriation by the Legislature. The
760 department is authorized, upon approval by the board, to use
761 amounts available to it from the revolving fund or the emergency
762 fund to contract for those facilities and staff needed to
763 administer and provide routine management for the funds and loan
764 program.

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

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

772 (b) To promulgate rules and regulations, to make
773 variances and exceptions thereto, and to establish procedures in
774 accordance with this section and Sections 6 through 20 of Chapter
775 521, Laws of 1995, for the implementation of the local governments
776 and rural water systems improvements revolving loan program;

777 (c) To require, at the board's discretion, any loan or
778 grant recipient to impose a per connection fee or surcharge or
779 amended water rate schedule or tariff on each customer or any
780 class of customers, benefiting from an improvement financed by a
781 loan or grant made under this section, for repayment of any loan
782 funds provided under this section and Sections 6 through 20 of
783 Chapter 521, Laws of 1995. The board may require any loan or
784 grant recipient to undergo a water system viability analysis and
785 may require a loan or grant recipient to implement any result of
786 the viability analysis. If the loan recipient fails to implement
787 any result of a viability analysis as required by the board, the
788 board may impose a monetary penalty or increase the interest rate
789 on the loan, or both. If the grant recipient fails to implement

790 any result of a viability analysis as required by the board, the
791 board may impose a monetary penalty on the grant;

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

796 (e) To requisition monies in the Local Governments and
797 Rural Water Systems Improvements Revolving Loan Fund and the Local
798 Governments and Rural Water Systems Emergency Loan Fund and
799 distribute those monies on a project-by-project basis in
800 accordance with this section;

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

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

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

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

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

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

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

845 41-3-17. The State Board of Health is authorized to make and
846 publish all reasonable rules and regulations necessary to enable
847 it to discharge its duties and powers and to carry out the
848 purposes and objectives of its creation. It is further authorized
849 to make reasonable sanitary rules and regulations, to be enforced
850 in the several counties by the county health officer under the
851 supervision and control of the State Board of Health. The State
852 Board of Health shall not make or enforce any rule or regulation

853 that prohibits consumers from providing their own containers for
854 the purpose of purchasing or accepting water from any vending
855 machine or device which filters or treats water that has already
856 been tested and determined to meet or exceed the minimum health
857 protection standards prescribed for drinking water under the
858 Mississippi Safe Drinking Water Law, if that vending machine or
859 device meets or exceeds United States Environmental Protection
860 Agency or national automatic merchandising standards.

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

863 41-3-18. The board shall assess fees in the following
864 amounts and for the following purposes:

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

867	Assessment Category 1.....	\$ <u>30.00</u>
868	Assessment Category 2.....	<u>100.00</u>
869	Assessment Category 3.....	<u>150.00</u>
870	Assessment Category 4	<u>200.00</u>

871 * * *

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

873 The board may develop such reasonable standards, rules and
874 regulations to clearly define each assessment category.

875 Assessment categories shall be based upon the factors to the
876 public health implications of the category and type of food
877 preparation being utilized by the food establishment, utilizing
878 the model Food Code of 1995, or as may be amended by the federal
879 Food and Drug Administration.

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

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

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

890 41-3-19. It is the duty of the State Board of Health to make
891 a report, in writing, to the Governor, on or before the first day
892 of December next preceding each session, not an extraordinary
893 session of the Legislature, upon the sanitary condition, prospect,
894 and needs of the state, setting forth the action of said board, of
895 its officers and agents, the names thereof, and all its
896 expenditures since the last preceding report, and such other
897 matters as it may deem proper for the promotion of health or the
898 prevention of disease. The report shall be laid before the
899 Legislature by the Governor at its ensuing term.

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

902 41-59-61. (1) The assessments that are collected under
903 subsections (1) and (2) of Section 99-19-73 shall be deposited in
904 a special fund that is created in the State Treasury to be
905 designated the "Emergency Medical Services Operating Fund." The
906 Legislature may make appropriations from the Emergency Medical
907 Services Operating Fund to the State Board of Health for the
908 purpose of defraying costs of administration of the Emergency
909 Medical Services Operating Fund (EMSOF) and for redistribution of
910 those funds to the counties, municipalities and organized medical
911 service districts (hereinafter referred to as "governmental
912 units") for the support of the Emergency Medical Services
913 programs. The State Board of Health, with the Emergency Medical
914 Services Advisory Council acting in an advisory capacity, shall
915 administer the disbursement to those governmental units of any
916 funds appropriated to the board from the Emergency Medical

917 Services Operating Fund and the utilization of those funds by the
918 governmental units.

919 (2) Funds appropriated from the Emergency Medical Services
920 Operating Fund to the State Board of Health shall be made
921 available to all such governmental units to support the Emergency
922 Medical Services programs therein, and those funds shall be
923 distributed to each governmental unit based upon its general
924 population relative to the total population of the state.
925 Disbursement of those funds shall be made on an annual basis at
926 the end of the fiscal year upon the request of each governmental
927 unit. Funds distributed to those governmental units shall be used
928 in addition to existing annual Emergency Medical Services budgets
929 of the governmental units, and no such funds shall be used for the
930 payment of any attorney's fees. The Director of the Emergency
931 Medical Services program or his appointed designee is * * *
932 authorized to require financial reports from the governmental
933 units utilizing these funds in order to provide satisfactory proof
934 of the maintenance of the funding effort by the governmental
935 units.

936 **SECTION 13.** (1) The Mississippi Legislature recognizes the
937 devastating impact that tobacco use has on the citizens of our
938 state. Tobacco use is the single most preventable cause of death
939 and disease in this country and this state. Each year, thousands
940 of Mississippians lose their lives to diseases caused by tobacco
941 use, and the cost to the state is hundreds of millions of dollars.
942 Tobacco use also is a large burden on the families and businesses
943 of Mississippi. It is therefore the intent of the Legislature
944 that there be developed, implemented and fully funded a
945 comprehensive and statewide tobacco education, prevention and
946 cessation program that is consistent with the Best Practices for
947 Tobacco Control Programs of the federal Centers for Disease
948 Control and Prevention, as periodically amended. It is also the

949 intent of the Legislature that all reasonable efforts be made to
950 maximize the amount of federal funds available for this program.

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

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

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

957 (c) Assisting in the protection from secondhand smoke;

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

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

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

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

967 (2) The Office of Tobacco Control, with the advice of the
968 Mississippi Tobacco Control Advisory Board, shall develop and
969 implement a comprehensive and statewide tobacco education,
970 prevention and cessation program that is consistent with the
971 recommendations for effective program components and funding
972 recommendations in the 1999 Best Practices for Comprehensive
973 Tobacco Control Programs of the federal Centers for Disease
974 Control and Prevention, as those Best Practices may be
975 periodically amended by the Centers for Disease Control and
976 Prevention.

977 (3) At a minimum, the program shall include the following
978 components, and may include additional components that are
979 contained within the Best Practices for Comprehensive Tobacco
980 Control Programs of the federal Centers for Disease Control and

981 Prevention, as periodically amended, and that based on scientific
982 data and research have been shown to be effective at accomplishing
983 the purposes of this section:

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

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

999 (c) Local community programs, including, but not
1000 limited to, youth-based partnerships that discourage the use of
1001 tobacco products and involve community based organizations in
1002 tobacco education, prevention and cessation programs in their
1003 communities;

1004 (d) Enforcement of laws, regulations and policies
1005 against the sale or other provision of tobacco products to minors,
1006 and the possession of tobacco products by minors;

1007 (e) Programs to assist and help people to stop using
1008 tobacco products; and

1009 (f) A surveillance and evaluation system that monitors
1010 program accountability and results, produces publicly available
1011 reports that review how monies expended for the program are spent,
1012 and includes an evaluation of the program's effectiveness in

1013 reducing and preventing the use of tobacco products, and annual
1014 recommendations for improvements to enhance the program's
1015 effectiveness.

1016 (4) All programs or activities funded by the State
1017 Department of Health through the tobacco education, prevention and
1018 cessation program, whether part of a component described in
1019 subsection (2) or an additional component, must be consistent with
1020 the Best Practices for Comprehensive Tobacco Control Programs of
1021 the federal Centers for Disease Control and Prevention, as
1022 periodically amended, and all funds received by any person or
1023 entity under any such program or activity must be expended for
1024 purposes that are consistent with those Best Practices.

1025 (5) Funding for the different components of the program
1026 shall be apportioned between the components based on the
1027 recommendations in the Best Practices for Comprehensive Tobacco
1028 Control Programs of the federal Centers for Disease Control and
1029 Prevention, as periodically amended, to provide adequate program
1030 development, implementation and evaluation for effective control
1031 of the use of tobacco products. While the office shall develop
1032 annual budgets based on strategic planning, components of the
1033 program shall be funded using the following areas as guidelines
1034 for priority:

- 1035 (a) School nurses and school programs;
- 1036 (b) Mass media (counter-marketing);
- 1037 (c) Cessation programs (including media promotions);
- 1038 (d) Community programs;
- 1039 (e) Surveillance and evaluation;
- 1040 (f) Law enforcement; and
- 1041 (g) Administration and management; however, not more
1042 than five percent (5%) of the total budget may be expended for
1043 administration and management purposes.

1044 (6) In funding the components of the program, the State
1045 Department of Health may provide funding for health care programs
1046 at the University of Mississippi Medical Center that are related
1047 to the prevention and cessation of the use of tobacco products and
1048 the treatment of illnesses that are related to the use of tobacco
1049 products.

1050 (7) No statewide, district, local, county or municipal
1051 elected official shall take part as a public official in mass
1052 media advertising under the provisions of Sections 13 through 17
1053 of this act.

1054 **SECTION 15.** (1) The Office of Tobacco Control shall be
1055 under the management of a director, who shall be appointed by the
1056 State Health Officer. The responsibility for implementation of
1057 the comprehensive and statewide tobacco education, prevention and
1058 cessation program shall be vested in the director. The director
1059 shall be an individual who has knowledge and experience in public
1060 health, medical care, health care services, preventive health
1061 measures or tobacco use control. The director shall be the
1062 administrative officer of the Office of Tobacco Control, and shall
1063 perform the duties that are required of him or her by law and such
1064 other duties as may be assigned to him or her by the State Board
1065 of Health. The director shall receive such compensation as may be
1066 fixed by the State Board of Health, subject to the approval of the
1067 State Personnel Board.

1068 (2) The State Health Officer may employ such other persons
1069 as may be necessary to carry out the provisions of Sections 13
1070 through 17 of this act. The compensation and the terms and
1071 conditions of their employment shall be determined by the State
1072 Board of Health in accordance with applicable state law and rules
1073 and regulations of the State Personnel Board.

1074 **SECTION 16.** The Office of Tobacco Control shall perform the
1075 following duties, with the advice of the Mississippi Tobacco
1076 Control Advisory Council:

1077 (a) Develop and implement appropriate policies and
1078 procedures for the operation of the tobacco education, prevention
1079 and cessation program;

1080 (b) Develop and implement a five-year strategic plan
1081 for the tobacco education, prevention and cessation program;

1082 (c) Develop and maintain an annual operating budget and
1083 oversee fiscal management of the tobacco education, prevention and
1084 cessation program;

1085 (d) Execute any contracts, agreements or other
1086 documents with any governmental agency or any person, corporation,
1087 association, partnership or other organization or entity that are
1088 necessary to accomplish the purposes of Sections 13 through 17 of
1089 this act;

1090 (e) Receive grants, bequeaths, gifts, donations or any
1091 other contributions made to the office to be used for specific
1092 purposes related to the goals of Sections 13 through 17 of this
1093 act;

1094 (f) Submit an annual report to the Legislature
1095 regarding the operation of the office;

1096 (g) Submit to the State Auditor any financial records
1097 that are necessary for the Auditor to perform an annual audit of
1098 the office as required by law; and

1099 (h) Take any other actions that are necessary to carry
1100 out the purposes of Sections 13 through 17 of this act.

1101 **SECTION 17.** (1) There is created the Mississippi Tobacco
1102 Control Advisory Council, which shall consist of thirteen (13)
1103 members. The thirteen (13) members of the advisory council shall
1104 consist of the following:

1105 (a) Four (4) members appointed by the Governor, with
1106 one (1) member from a list of three (3) physicians recommended by
1107 the Mississippi State Medical Association, one (1) member from a
1108 list of three (3) individuals recommended by the Mississippi
1109 Chapter of the American Heart Association, and two (2) individuals
1110 who are not affiliated with the tobacco industry who possess
1111 knowledge, skill, and prior experience in scientifically proven
1112 smoking prevention, reduction and cessation programs, health care
1113 services or preventive health measures;

1114 (b) Two (2) members appointed by the Lieutenant
1115 Governor, with one (1) member from a list of three (3) nurses
1116 recommended by the Mississippi Nurses' Association, and one (1)
1117 member from a list of three (3) individuals recommended by the
1118 Mississippi Chapter of the American Lung Association;

1119 (c) Two (2) members approved by the Speaker of the
1120 House of Representatives, with one (1) member from a list of three
1121 (3) social workers recommended by the Mississippi Chapter of the
1122 National Association of Social Workers (NASW), and one (1) member
1123 from a list of three (3) individuals recommended by the
1124 Mississippi Chapter of the American Cancer Society;

1125 (d) The Attorney General, or his or her designee;

1126 (e) The State Superintendent of Public Education, or
1127 his or her designee;

1128 (f) The Vice-Chancellor of Health Affairs of the
1129 University of Mississippi Medical Center, or his or her designee;

1130 (g) The Dean of the College of Health at the University
1131 of Southern Mississippi, or his or her designee; and

1132 (h) The Administrator of the School of Health Sciences
1133 of the College of Public Service at Jackson State University, or
1134 his or her designee.

1135 (2) The Lieutenant Governor shall appoint one (1) member of
1136 the Senate and the Speaker of the House shall appoint one (1)

1137 Representative to attend meetings of the Tobacco Control Advisory
1138 Council.

1139 (3) For those members that are required to be appointed from
1140 lists of individuals recommended by certain nominating groups, if
1141 none of the recommended names are acceptable to the appointing
1142 official, then the nominating group shall submit another list of
1143 three (3) different individuals until an acceptable individual is
1144 submitted to the appointing official.

1145 (4) The members who are state officials or university
1146 officials shall serve as members for as long as they hold the
1147 designated office or university position. The appointed members
1148 shall serve for terms that are concurrent with the terms of the
1149 appointing officials, or until their successors are appointed and
1150 qualified.

1151 (5) Any vacancy in an appointed member position shall be
1152 filled within thirty (30) days of the vacancy by the original
1153 appointing official, and the individual appointed to fill the
1154 vacancy shall meet the same qualifications as required for the
1155 former member.

1156 (6) The initial appointments to the advisory council shall
1157 be made not later than forty-five (45) days after the effective
1158 date of this act, and the first meeting of the advisory council
1159 shall be held within sixty (60) days after the effective date of
1160 this act at a time, date and location specified by the State Board
1161 of Health.

1162 (7) The advisory council shall annually elect a chairman
1163 from among its members. The advisory council shall meet at least
1164 quarterly. A quorum for meetings of the advisory council shall be
1165 a majority of the voting members of the advisory council. The
1166 members of the advisory council shall receive the per diem
1167 compensation provided under Section 25-3-69 plus expense

1168 reimbursement as provided under Section 25-3-41 for attending
1169 meetings and necessary business of the advisory council.

1170 (8) The Mississippi Tobacco Advisory Council shall advise
1171 and make recommendations to the State Board of Health regarding
1172 rules and regulations promulgated pursuant to this program.

1173 **SECTION 18.** (1) There is established in the State Treasury
1174 a special fund to be known as the Tobacco Control Program Fund,
1175 which shall be comprised of the funds specified in subsection (2)
1176 of this section and any other funds that are authorized or
1177 required to be deposited into the special fund.

1178 (2) From the tobacco settlement installment payments that
1179 the State of Mississippi receives during each calendar year, the
1180 sum of Twenty Million Dollars (\$20,000,000.00) shall be deposited
1181 into the special fund.

1182 (3) Monies in the fund shall be expended solely for the
1183 purposes specified in Sections 13 through 17 of this act. None of
1184 the funds in the special fund may be transferred to any other fund
1185 or appropriated or expended for any other purpose.

1186 (4) All income from the investment of the funds in the
1187 special fund shall be credited to the account of the special fund.
1188 Any funds in the special fund at the end of a fiscal year shall
1189 not lapse into the State General Fund.

1190 **SECTION 19.** Section 43-13-405, Mississippi Code of 1972, is
1191 amended as follows:

1192 43-13-405. (1) In accordance with the purposes of this
1193 article, there is established in the State Treasury the Health
1194 Care Trust Fund, into which shall be deposited Two Hundred Eighty
1195 Million Dollars (\$280,000,000.00) of the funds received by the
1196 State of Mississippi as a result of the tobacco settlement as of
1197 the end of fiscal year 1999, and all tobacco settlement
1198 installment payments made in subsequent years for which the use or
1199 purpose for expenditure is not restricted by the terms of the

1200 settlement, except as otherwise provided in Section 43-13-407(2)
1201 and (3) and Section 18 of this act. All income from the
1202 investment of the funds in the Health Care Trust Fund shall be
1203 credited to the account of the Health Care Trust Fund. The funds
1204 in the Health Care Trust Fund at the end of a fiscal year shall
1205 not lapse into the State General Fund.

1206 (2) The Health Care Trust Fund shall remain inviolate and
1207 shall never be expended, except as provided in this article. The
1208 Legislature shall appropriate from the Health Care Trust Fund such
1209 sums as are necessary to recoup any funds lost as a result of any
1210 of the following actions:

1211 (a) The federal Centers for Medicare and Medicaid
1212 Services, or other agency of the federal government, is successful
1213 in recouping tobacco settlement funds from the State of
1214 Mississippi;

1215 (b) The federal share of funds for the support of the
1216 Mississippi Medicaid Program is reduced directly or indirectly as
1217 a result of the tobacco settlement;

1218 (c) Federal funding for any other program is reduced as
1219 a result of the tobacco settlement; or

1220 (d) Tobacco cessation programs are mandated by the
1221 federal government or court order.

1222 (3) This section shall stand repealed on July 1, 2010.

1223 **SECTION 20.** The following shall be codified as Section
1224 41-57-31, Mississippi Code of 1972:

1225 41-57-31. (1) As used in this section, the following terms
1226 shall be defined as provided in this section, unless the context
1227 otherwise requires:

1228 (a) "Certificate of birth resulting in stillbirth"
1229 means a birth certificate issued to record and memorialize the
1230 birth of a stillborn child.

1231 (b) "Stillbirth" or "stillborn" means an unintended,
1232 intrauterine fetal death occurring in this state after a
1233 gestational age of not less than twenty (20) completed weeks.

1234 (2) For any stillborn child in this state, the Bureau of
1235 Vital Statistics shall issue a certificate of birth resulting in
1236 stillbirth upon the request of a parent named on the death
1237 certificate, within sixty (60) days of the date of the request. A
1238 parent may request the Bureau of Vital Statistics to issue a
1239 certificate of birth resulting in stillbirth without regard to
1240 whether the death occurred on, before, or after July 1, 2007, and
1241 without regard to the date on which the death certificate was
1242 issued.

1243 (3) The person who is required to file a death certificate
1244 under this chapter shall advise the parent or parents of a
1245 stillborn child:

1246 (a) That a parent may, but is not required to, request
1247 the preparation of a certificate of birth resulting in stillbirth;

1248 (b) That a parent may obtain a certificate of birth
1249 resulting in stillbirth by contacting the Bureau of Vital
1250 Statistics to request the certificate and paying the required fee;
1251 and

1252 (c) How a parent may contact the Bureau of Vital
1253 Statistics to request a certificate of birth resulting in
1254 stillbirth.

1255 (4) A parent may provide a name for a stillborn child on the
1256 request for a certificate of birth resulting in stillbirth. The
1257 name of the stillborn child provided on or later added by
1258 amendment to the certificate shall be the same name as placed on
1259 the original or amended death certificate. If the requesting
1260 parent does not wish to provide a name, the Bureau of Vital
1261 Statistics shall fill in the certificate with the name "baby boy"
1262 or "baby girl" and the last name of the parent.

1263 (5) Not later than September 1, 2007, the State Department
1264 of Health shall prescribe the form and content of a certificate of
1265 birth resulting in stillbirth and shall specify the information
1266 necessary to prepare the certificate. In addition to any other
1267 information required to be on the certificate, the certificate
1268 shall include:

1269 (a) The date of the stillbirth;

1270 (b) The county in which the stillbirth occurred;

1271 (c) The state file number of the corresponding death
1272 certificate; and

1273 (d) The following statement: "This certificate is not
1274 proof of live birth."

1275 (6) Upon issuance of a certificate of birth resulting in
1276 stillbirth to a parent, the Bureau of Vital Statistics shall file
1277 an exact copy of the certificate with the local registrar of the
1278 registration district in which the stillbirth occurred. The local
1279 registrar shall file the certificate of birth resulting in
1280 stillbirth with the death certificate.

1281 (7) The Bureau of Vital Statistics may not use a certificate
1282 of birth resulting in stillbirth to calculate live birth
1283 statistics.

1284 (8) The State Board of Health may adopt any rules or
1285 regulations necessary to administer this section.

1286 **SECTION 21.** Section 41-7-191, Mississippi Code of 1972, is
1287 amended as follows:

1288 41-7-191. (1) No person shall engage in any of the
1289 following activities without obtaining the required certificate of
1290 need:

1291 (a) The construction, development or other
1292 establishment of a new health care facility, which establishment
1293 shall include the reopening of a health care facility that has
1294 ceased to operate for a period of sixty (60) months or more;

1295 (b) The relocation of a health care facility or portion
1296 thereof, or major medical equipment, unless such relocation of a
1297 health care facility or portion thereof, or major medical
1298 equipment, which does not involve a capital expenditure by or on
1299 behalf of a health care facility, is within five thousand two
1300 hundred eighty (5,280) feet from the main entrance of the health
1301 care facility;

1302 (c) Any change in the existing bed complement of any
1303 health care facility through the addition or conversion of any
1304 beds or the alteration, modernizing or refurbishing of any unit or
1305 department in which the beds may be located; however, if a health
1306 care facility has voluntarily delicensed some of its existing bed
1307 complement, it may later relicense some or all of its delicensed
1308 beds without the necessity of having to acquire a certificate of
1309 need. The State Department of Health shall maintain a record of
1310 the delicensing health care facility and its voluntarily
1311 delicensed beds and continue counting those beds as part of the
1312 state's total bed count for health care planning purposes. If a
1313 health care facility that has voluntarily delicensed some of its
1314 beds later desires to relicense some or all of its voluntarily
1315 delicensed beds, it shall notify the State Department of Health of
1316 its intent to increase the number of its licensed beds. The State
1317 Department of Health shall survey the health care facility within
1318 thirty (30) days of that notice and, if appropriate, issue the
1319 health care facility a new license reflecting the new contingent
1320 of beds. However, in no event may a health care facility that has
1321 voluntarily delicensed some of its beds be reissued a license to
1322 operate beds in excess of its bed count before the voluntary
1323 delicensure of some of its beds without seeking certificate of
1324 need approval;

1325 (d) Offering of the following health services if those
1326 services have not been provided on a regular basis by the proposed

1327 provider of such services within the period of twelve (12) months
1328 prior to the time such services would be offered:

- 1329 (i) Open heart surgery services;
- 1330 (ii) Cardiac catheterization services;
- 1331 (iii) Comprehensive inpatient rehabilitation
1332 services;
- 1333 (iv) Licensed psychiatric services;
- 1334 (v) Licensed chemical dependency services;
- 1335 (vi) Radiation therapy services;
- 1336 (vii) Diagnostic imaging services of an invasive
1337 nature, i.e. invasive digital angiography;
- 1338 (viii) Nursing home care as defined in
1339 subparagraphs (iv), (vi) and (viii) of Section 41-7-173(h);
- 1340 (ix) Home health services;
- 1341 (x) Swing-bed services;
- 1342 (xi) Ambulatory surgical services;
- 1343 (xii) Magnetic resonance imaging services;
- 1344 (xiii) [Deleted]
- 1345 (xiv) Long-term care hospital services;
- 1346 (xv) Positron Emission Tomography (PET) services;

1347 (e) The relocation of one or more health services from
1348 one physical facility or site to another physical facility or
1349 site, unless such relocation, which does not involve a capital
1350 expenditure by or on behalf of a health care facility, (i) is to a
1351 physical facility or site within five thousand two hundred eighty
1352 (5,280) feet from the main entrance of the health care facility
1353 where the health care service is located, or (ii) is the result of
1354 an order of a court of appropriate jurisdiction or a result of
1355 pending litigation in such court, or by order of the State
1356 Department of Health, or by order of any other agency or legal
1357 entity of the state, the federal government, or any political

1358 subdivision of either, whose order is also approved by the State
1359 Department of Health;

1360 (f) The acquisition or otherwise control of any major
1361 medical equipment for the provision of medical services; provided,
1362 however, (i) the acquisition of any major medical equipment used
1363 only for research purposes, and (ii) the acquisition of major
1364 medical equipment to replace medical equipment for which a
1365 facility is already providing medical services and for which the
1366 State Department of Health has been notified before the date of
1367 such acquisition shall be exempt from this paragraph; an
1368 acquisition for less than fair market value must be reviewed, if
1369 the acquisition at fair market value would be subject to review;

1370 (g) Changes of ownership of existing health care
1371 facilities in which a notice of intent is not filed with the State
1372 Department of Health at least thirty (30) days prior to the date
1373 such change of ownership occurs, or a change in services or bed
1374 capacity as prescribed in paragraph (c) or (d) of this subsection
1375 as a result of the change of ownership; an acquisition for less
1376 than fair market value must be reviewed, if the acquisition at
1377 fair market value would be subject to review;

1378 (h) The change of ownership of any health care facility
1379 defined in subparagraphs (iv), (vi) and (viii) of Section
1380 41-7-173(h), in which a notice of intent as described in paragraph
1381 (g) has not been filed and if the Executive Director, Division of
1382 Medicaid, Office of the Governor, has not certified in writing
1383 that there will be no increase in allowable costs to Medicaid from
1384 revaluation of the assets or from increased interest and
1385 depreciation as a result of the proposed change of ownership;

1386 (i) Any activity described in paragraphs (a) through
1387 (h) if undertaken by any person if that same activity would
1388 require certificate of need approval if undertaken by a health
1389 care facility;

1390 (j) Any capital expenditure or deferred capital
1391 expenditure by or on behalf of a health care facility not covered
1392 by paragraphs (a) through (h);

1393 (k) The contracting of a health care facility as
1394 defined in subparagraphs (i) through (viii) of Section 41-7-173(h)
1395 to establish a home office, subunit, or branch office in the space
1396 operated as a health care facility through a formal arrangement
1397 with an existing health care facility as defined in subparagraph
1398 (ix) of Section 41-7-173(h);

1399 (l) The replacement or relocation of a health care
1400 facility designated as a critical access hospital shall be exempt
1401 from this Section 41-7-191(1) so long as the critical access
1402 hospital complies with all applicable federal law and regulations
1403 regarding such replacement or relocation;

1404 (m) Reopening a health care facility that has ceased to
1405 operate for a period of sixty (60) months or more, which reopening
1406 requires a certificate of need for the establishment of a new
1407 health care facility.

1408 (2) The State Department of Health shall not grant approval
1409 for or issue a certificate of need to any person proposing the new
1410 construction of, addition to, or expansion of any health care
1411 facility defined in subparagraphs (iv) (skilled nursing facility)
1412 and (vi) (intermediate care facility) of Section 41-7-173(h) or
1413 the conversion of vacant hospital beds to provide skilled or
1414 intermediate nursing home care, except as hereinafter authorized:

1415 (a) The department may issue a certificate of need to
1416 any person proposing the new construction of any health care
1417 facility defined in subparagraphs (iv) and (vi) of Section
1418 41-7-173(h) as part of a life care retirement facility, in any
1419 county bordering on the Gulf of Mexico in which is located a
1420 National Aeronautics and Space Administration facility, not to
1421 exceed forty (40) beds. From and after July 1, 1999, there shall

1422 be no prohibition or restrictions on participation in the Medicaid
1423 program (Section 43-13-101 et seq.) for the beds in the health
1424 care facility that were authorized under this paragraph (a).

1425 (b) The department may issue certificates of need in
1426 Harrison County to provide skilled nursing home care for
1427 Alzheimer's disease patients and other patients, not to exceed one
1428 hundred fifty (150) beds. From and after July 1, 1999, there
1429 shall be no prohibition or restrictions on participation in the
1430 Medicaid program (Section 43-13-101 et seq.) for the beds in the
1431 nursing facilities that were authorized under this paragraph (b).

1432 (c) The department may issue a certificate of need for
1433 the addition to or expansion of any skilled nursing facility that
1434 is part of an existing continuing care retirement community
1435 located in Madison County, provided that the recipient of the
1436 certificate of need agrees in writing that the skilled nursing
1437 facility will not at any time participate in the Medicaid program
1438 (Section 43-13-101 et seq.) or admit or keep any patients in the
1439 skilled nursing facility who are participating in the Medicaid
1440 program. This written agreement by the recipient of the
1441 certificate of need shall be fully binding on any subsequent owner
1442 of the skilled nursing facility, if the ownership of the facility
1443 is transferred at any time after the issuance of the certificate
1444 of need. Agreement that the skilled nursing facility will not
1445 participate in the Medicaid program shall be a condition of the
1446 issuance of a certificate of need to any person under this
1447 paragraph (c), and if such skilled nursing facility at any time
1448 after the issuance of the certificate of need, regardless of the
1449 ownership of the facility, participates in the Medicaid program or
1450 admits or keeps any patients in the facility who are participating
1451 in the Medicaid program, the State Department of Health shall
1452 revoke the certificate of need, if it is still outstanding, and
1453 shall deny or revoke the license of the skilled nursing facility,

1454 at the time that the department determines, after a hearing
1455 complying with due process, that the facility has failed to comply
1456 with any of the conditions upon which the certificate of need was
1457 issued, as provided in this paragraph and in the written agreement
1458 by the recipient of the certificate of need. The total number of
1459 beds that may be authorized under the authority of this paragraph
1460 (c) shall not exceed sixty (60) beds.

1461 (d) The State Department of Health may issue a
1462 certificate of need to any hospital located in DeSoto County for
1463 the new construction of a skilled nursing facility, not to exceed
1464 one hundred twenty (120) beds, in DeSoto County. From and after
1465 July 1, 1999, there shall be no prohibition or restrictions on
1466 participation in the Medicaid program (Section 43-13-101 et seq.)
1467 for the beds in the nursing facility that were authorized under
1468 this paragraph (d).

1469 (e) The State Department of Health may issue a
1470 certificate of need for the construction of a nursing facility or
1471 the conversion of beds to nursing facility beds at a personal care
1472 facility for the elderly in Lowndes County that is owned and
1473 operated by a Mississippi nonprofit corporation, not to exceed
1474 sixty (60) beds. From and after July 1, 1999, there shall be no
1475 prohibition or restrictions on participation in the Medicaid
1476 program (Section 43-13-101 et seq.) for the beds in the nursing
1477 facility that were authorized under this paragraph (e).

1478 (f) The State Department of Health may issue a
1479 certificate of need for conversion of a county hospital facility
1480 in Itawamba County to a nursing facility, not to exceed sixty (60)
1481 beds, including any necessary construction, renovation or
1482 expansion. From and after July 1, 1999, there shall be no
1483 prohibition or restrictions on participation in the Medicaid
1484 program (Section 43-13-101 et seq.) for the beds in the nursing
1485 facility that were authorized under this paragraph (f).

1486 (g) The State Department of Health may issue a
1487 certificate of need for the construction or expansion of nursing
1488 facility beds or the conversion of other beds to nursing facility
1489 beds in either Hinds, Madison or Rankin County, not to exceed
1490 sixty (60) beds. From and after July 1, 1999, there shall be no
1491 prohibition or restrictions on participation in the Medicaid
1492 program (Section 43-13-101 et seq.) for the beds in the nursing
1493 facility that were authorized under this paragraph (g).

1494 (h) The State Department of Health may issue a
1495 certificate of need for the construction or expansion of nursing
1496 facility beds or the conversion of other beds to nursing facility
1497 beds in either Hancock, Harrison or Jackson County, not to exceed
1498 sixty (60) beds. From and after July 1, 1999, there shall be no
1499 prohibition or restrictions on participation in the Medicaid
1500 program (Section 43-13-101 et seq.) for the beds in the facility
1501 that were authorized under this paragraph (h).

1502 (i) The department may issue a certificate of need for
1503 the new construction of a skilled nursing facility in Leake
1504 County, provided that the recipient of the certificate of need
1505 agrees in writing that the skilled nursing facility will not at
1506 any time participate in the Medicaid program (Section 43-13-101 et
1507 seq.) or admit or keep any patients in the skilled nursing
1508 facility who are participating in the Medicaid program. This
1509 written agreement by the recipient of the certificate of need
1510 shall be fully binding on any subsequent owner of the skilled
1511 nursing facility, if the ownership of the facility is transferred
1512 at any time after the issuance of the certificate of need.
1513 Agreement that the skilled nursing facility will not participate
1514 in the Medicaid program shall be a condition of the issuance of a
1515 certificate of need to any person under this paragraph (i), and if
1516 such skilled nursing facility at any time after the issuance of
1517 the certificate of need, regardless of the ownership of the

1518 facility, participates in the Medicaid program or admits or keeps
1519 any patients in the facility who are participating in the Medicaid
1520 program, the State Department of Health shall revoke the
1521 certificate of need, if it is still outstanding, and shall deny or
1522 revoke the license of the skilled nursing facility, at the time
1523 that the department determines, after a hearing complying with due
1524 process, that the facility has failed to comply with any of the
1525 conditions upon which the certificate of need was issued, as
1526 provided in this paragraph and in the written agreement by the
1527 recipient of the certificate of need. The provision of Section
1528 43-7-193(1) regarding substantial compliance of the projection of
1529 need as reported in the current State Health Plan is waived for
1530 the purposes of this paragraph. The total number of nursing
1531 facility beds that may be authorized by any certificate of need
1532 issued under this paragraph (i) shall not exceed sixty (60) beds.
1533 If the skilled nursing facility authorized by the certificate of
1534 need issued under this paragraph is not constructed and fully
1535 operational within eighteen (18) months after July 1, 1994, the
1536 State Department of Health, after a hearing complying with due
1537 process, shall revoke the certificate of need, if it is still
1538 outstanding, and shall not issue a license for the skilled nursing
1539 facility at any time after the expiration of the eighteen-month
1540 period.

1541 (j) The department may issue certificates of need to
1542 allow any existing freestanding long-term care facility in
1543 Tishomingo County and Hancock County that on July 1, 1995, is
1544 licensed with fewer than sixty (60) beds. For the purposes of
1545 this paragraph (j), the provision of Section 41-7-193(1) requiring
1546 substantial compliance with the projection of need as reported in
1547 the current State Health Plan is waived. From and after July 1,
1548 1999, there shall be no prohibition or restrictions on
1549 participation in the Medicaid program (Section 43-13-101 et seq.)

1550 for the beds in the long-term care facilities that were authorized
1551 under this paragraph (j).

1552 (k) The department may issue a certificate of need for
1553 the construction of a nursing facility at a continuing care
1554 retirement community in Lowndes County. The total number of beds
1555 that may be authorized under the authority of this paragraph (k)
1556 shall not exceed sixty (60) beds. From and after July 1, 2001,
1557 the prohibition on the facility participating in the Medicaid
1558 program (Section 43-13-101 et seq.) that was a condition of
1559 issuance of the certificate of need under this paragraph (k) shall
1560 be revised as follows: The nursing facility may participate in
1561 the Medicaid program from and after July 1, 2001, if the owner of
1562 the facility on July 1, 2001, agrees in writing that no more than
1563 thirty (30) of the beds at the facility will be certified for
1564 participation in the Medicaid program, and that no claim will be
1565 submitted for Medicaid reimbursement for more than thirty (30)
1566 patients in the facility in any month or for any patient in the
1567 facility who is in a bed that is not Medicaid-certified. This
1568 written agreement by the owner of the facility shall be a
1569 condition of licensure of the facility, and the agreement shall be
1570 fully binding on any subsequent owner of the facility if the
1571 ownership of the facility is transferred at any time after July 1,
1572 2001. After this written agreement is executed, the Division of
1573 Medicaid and the State Department of Health shall not certify more
1574 than thirty (30) of the beds in the facility for participation in
1575 the Medicaid program. If the facility violates the terms of the
1576 written agreement by admitting or keeping in the facility on a
1577 regular or continuing basis more than thirty (30) patients who are
1578 participating in the Medicaid program, the State Department of
1579 Health shall revoke the license of the facility, at the time that
1580 the department determines, after a hearing complying with due
1581 process, that the facility has violated the written agreement.

1582 (1) Provided that funds are specifically appropriated
1583 therefor by the Legislature, the department may issue a
1584 certificate of need to a rehabilitation hospital in Hinds County
1585 for the construction of a sixty-bed long-term care nursing
1586 facility dedicated to the care and treatment of persons with
1587 severe disabilities including persons with spinal cord and
1588 closed-head injuries and ventilator-dependent patients. The
1589 provision of Section 41-7-193(1) regarding substantial compliance
1590 with projection of need as reported in the current State Health
1591 Plan is hereby waived for the purpose of this paragraph.

1592 (m) The State Department of Health may issue a
1593 certificate of need to a county-owned hospital in the Second
1594 Judicial District of Panola County for the conversion of not more
1595 than seventy-two (72) hospital beds to nursing facility beds,
1596 provided that the recipient of the certificate of need agrees in
1597 writing that none of the beds at the nursing facility will be
1598 certified for participation in the Medicaid program (Section
1599 43-13-101 et seq.), and that no claim will be submitted for
1600 Medicaid reimbursement in the nursing facility in any day or for
1601 any patient in the nursing facility. This written agreement by
1602 the recipient of the certificate of need shall be a condition of
1603 the issuance of the certificate of need under this paragraph, and
1604 the agreement shall be fully binding on any subsequent owner of
1605 the nursing facility if the ownership of the nursing facility is
1606 transferred at any time after the issuance of the certificate of
1607 need. After this written agreement is executed, the Division of
1608 Medicaid and the State Department of Health shall not certify any
1609 of the beds in the nursing facility for participation in the
1610 Medicaid program. If the nursing facility violates the terms of
1611 the written agreement by admitting or keeping in the nursing
1612 facility on a regular or continuing basis any patients who are
1613 participating in the Medicaid program, the State Department of

1614 Health shall revoke the license of the nursing facility, at the
1615 time that the department determines, after a hearing complying
1616 with due process, that the nursing facility has violated the
1617 condition upon which the certificate of need was issued, as
1618 provided in this paragraph and in the written agreement. If the
1619 certificate of need authorized under this paragraph is not issued
1620 within twelve (12) months after July 1, 2001, the department shall
1621 deny the application for the certificate of need and shall not
1622 issue the certificate of need at any time after the twelve-month
1623 period, unless the issuance is contested. If the certificate of
1624 need is issued and substantial construction of the nursing
1625 facility beds has not commenced within eighteen (18) months after
1626 July 1, 2001, the State Department of Health, after a hearing
1627 complying with due process, shall revoke the certificate of need
1628 if it is still outstanding, and the department shall not issue a
1629 license for the nursing facility at any time after the
1630 eighteen-month period. Provided, however, that if the issuance of
1631 the certificate of need is contested, the department shall require
1632 substantial construction of the nursing facility beds within six
1633 (6) months after final adjudication on the issuance of the
1634 certificate of need.

1635 (n) The department may issue a certificate of need for
1636 the new construction, addition or conversion of skilled nursing
1637 facility beds in Madison County, provided that the recipient of
1638 the certificate of need agrees in writing that the skilled nursing
1639 facility will not at any time participate in the Medicaid program
1640 (Section 43-13-101 et seq.) or admit or keep any patients in the
1641 skilled nursing facility who are participating in the Medicaid
1642 program. This written agreement by the recipient of the
1643 certificate of need shall be fully binding on any subsequent owner
1644 of the skilled nursing facility, if the ownership of the facility
1645 is transferred at any time after the issuance of the certificate

1646 of need. Agreement that the skilled nursing facility will not
1647 participate in the Medicaid program shall be a condition of the
1648 issuance of a certificate of need to any person under this
1649 paragraph (n), and if such skilled nursing facility at any time
1650 after the issuance of the certificate of need, regardless of the
1651 ownership of the facility, participates in the Medicaid program or
1652 admits or keeps any patients in the facility who are participating
1653 in the Medicaid program, the State Department of Health shall
1654 revoke the certificate of need, if it is still outstanding, and
1655 shall deny or revoke the license of the skilled nursing facility,
1656 at the time that the department determines, after a hearing
1657 complying with due process, that the facility has failed to comply
1658 with any of the conditions upon which the certificate of need was
1659 issued, as provided in this paragraph and in the written agreement
1660 by the recipient of the certificate of need. The total number of
1661 nursing facility beds that may be authorized by any certificate of
1662 need issued under this paragraph (n) shall not exceed sixty (60)
1663 beds. If the certificate of need authorized under this paragraph
1664 is not issued within twelve (12) months after July 1, 1998, the
1665 department shall deny the application for the certificate of need
1666 and shall not issue the certificate of need at any time after the
1667 twelve-month period, unless the issuance is contested. If the
1668 certificate of need is issued and substantial construction of the
1669 nursing facility beds has not commenced within eighteen (18)
1670 months after the effective date of July 1, 1998, the State
1671 Department of Health, after a hearing complying with due process,
1672 shall revoke the certificate of need if it is still outstanding,
1673 and the department shall not issue a license for the nursing
1674 facility at any time after the eighteen-month period. Provided,
1675 however, that if the issuance of the certificate of need is
1676 contested, the department shall require substantial construction

1677 of the nursing facility beds within six (6) months after final
1678 adjudication on the issuance of the certificate of need.

1679 (o) The department may issue a certificate of need for
1680 the new construction, addition or conversion of skilled nursing
1681 facility beds in Leake County, provided that the recipient of the
1682 certificate of need agrees in writing that the skilled nursing
1683 facility will not at any time participate in the Medicaid program
1684 (Section 43-13-101 et seq.) or admit or keep any patients in the
1685 skilled nursing facility who are participating in the Medicaid
1686 program. This written agreement by the recipient of the
1687 certificate of need shall be fully binding on any subsequent owner
1688 of the skilled nursing facility, if the ownership of the facility
1689 is transferred at any time after the issuance of the certificate
1690 of need. Agreement that the skilled nursing facility will not
1691 participate in the Medicaid program shall be a condition of the
1692 issuance of a certificate of need to any person under this
1693 paragraph (o), and if such skilled nursing facility at any time
1694 after the issuance of the certificate of need, regardless of the
1695 ownership of the facility, participates in the Medicaid program or
1696 admits or keeps any patients in the facility who are participating
1697 in the Medicaid program, the State Department of Health shall
1698 revoke the certificate of need, if it is still outstanding, and
1699 shall deny or revoke the license of the skilled nursing facility,
1700 at the time that the department determines, after a hearing
1701 complying with due process, that the facility has failed to comply
1702 with any of the conditions upon which the certificate of need was
1703 issued, as provided in this paragraph and in the written agreement
1704 by the recipient of the certificate of need. The total number of
1705 nursing facility beds that may be authorized by any certificate of
1706 need issued under this paragraph (o) shall not exceed sixty (60)
1707 beds. If the certificate of need authorized under this paragraph
1708 is not issued within twelve (12) months after July 1, 2001, the

1709 department shall deny the application for the certificate of need
1710 and shall not issue the certificate of need at any time after the
1711 twelve-month period, unless the issuance is contested. If the
1712 certificate of need is issued and substantial construction of the
1713 nursing facility beds has not commenced within eighteen (18)
1714 months after the effective date of July 1, 2001, the State
1715 Department of Health, after a hearing complying with due process,
1716 shall revoke the certificate of need if it is still outstanding,
1717 and the department shall not issue a license for the nursing
1718 facility at any time after the eighteen-month period. Provided,
1719 however, that if the issuance of the certificate of need is
1720 contested, the department shall require substantial construction
1721 of the nursing facility beds within six (6) months after final
1722 adjudication on the issuance of the certificate of need.

1723 (p) The department may issue a certificate of need for
1724 the construction of a municipally owned nursing facility within
1725 the Town of Belmont in Tishomingo County, not to exceed sixty (60)
1726 beds, provided that the recipient of the certificate of need
1727 agrees in writing that the skilled nursing facility will not at
1728 any time participate in the Medicaid program (Section 43-13-101 et
1729 seq.) or admit or keep any patients in the skilled nursing
1730 facility who are participating in the Medicaid program. This
1731 written agreement by the recipient of the certificate of need
1732 shall be fully binding on any subsequent owner of the skilled
1733 nursing facility, if the ownership of the facility is transferred
1734 at any time after the issuance of the certificate of need.

1735 Agreement that the skilled nursing facility will not participate
1736 in the Medicaid program shall be a condition of the issuance of a
1737 certificate of need to any person under this paragraph (p), and if
1738 such skilled nursing facility at any time after the issuance of
1739 the certificate of need, regardless of the ownership of the
1740 facility, participates in the Medicaid program or admits or keeps

1741 any patients in the facility who are participating in the Medicaid
1742 program, the State Department of Health shall revoke the
1743 certificate of need, if it is still outstanding, and shall deny or
1744 revoke the license of the skilled nursing facility, at the time
1745 that the department determines, after a hearing complying with due
1746 process, that the facility has failed to comply with any of the
1747 conditions upon which the certificate of need was issued, as
1748 provided in this paragraph and in the written agreement by the
1749 recipient of the certificate of need. The provision of Section
1750 43-7-193(1) regarding substantial compliance of the projection of
1751 need as reported in the current State Health Plan is waived for
1752 the purposes of this paragraph. If the certificate of need
1753 authorized under this paragraph is not issued within twelve (12)
1754 months after July 1, 1998, the department shall deny the
1755 application for the certificate of need and shall not issue the
1756 certificate of need at any time after the twelve-month period,
1757 unless the issuance is contested. If the certificate of need is
1758 issued and substantial construction of the nursing facility beds
1759 has not commenced within eighteen (18) months after July 1, 1998,
1760 the State Department of Health, after a hearing complying with due
1761 process, shall revoke the certificate of need if it is still
1762 outstanding, and the department shall not issue a license for the
1763 nursing facility at any time after the eighteen-month period.
1764 Provided, however, that if the issuance of the certificate of need
1765 is contested, the department shall require substantial
1766 construction of the nursing facility beds within six (6) months
1767 after final adjudication on the issuance of the certificate of
1768 need.

1769 (q) (i) Beginning on July 1, 1999, the State
1770 Department of Health shall issue certificates of need during each
1771 of the next four (4) fiscal years for the construction or
1772 expansion of nursing facility beds or the conversion of other beds

1773 to nursing facility beds in each county in the state having a need
1774 for fifty (50) or more additional nursing facility beds, as shown
1775 in the fiscal year 1999 State Health Plan, in the manner provided
1776 in this paragraph (q). The total number of nursing facility beds
1777 that may be authorized by any certificate of need authorized under
1778 this paragraph (q) shall not exceed sixty (60) beds.

1779 (ii) Subject to the provisions of subparagraph
1780 (v), during each of the next four (4) fiscal years, the department
1781 shall issue six (6) certificates of need for new nursing facility
1782 beds, as follows: During fiscal years 2000, 2001 and 2002, one
1783 (1) certificate of need shall be issued for new nursing facility
1784 beds in the county in each of the four (4) Long-Term Care Planning
1785 Districts designated in the fiscal year 1999 State Health Plan
1786 that has the highest need in the district for those beds; and two
1787 (2) certificates of need shall be issued for new nursing facility
1788 beds in the two (2) counties from the state at large that have the
1789 highest need in the state for those beds, when considering the
1790 need on a statewide basis and without regard to the Long-Term Care
1791 Planning Districts in which the counties are located. During
1792 fiscal year 2003, one (1) certificate of need shall be issued for
1793 new nursing facility beds in any county having a need for fifty
1794 (50) or more additional nursing facility beds, as shown in the
1795 fiscal year 1999 State Health Plan, that has not received a
1796 certificate of need under this paragraph (q) during the three (3)
1797 previous fiscal years. During fiscal year 2000, in addition to
1798 the six (6) certificates of need authorized in this subparagraph,
1799 the department also shall issue a certificate of need for new
1800 nursing facility beds in Amite County and a certificate of need
1801 for new nursing facility beds in Carroll County.

1802 (iii) Subject to the provisions of subparagraph
1803 (v), the certificate of need issued under subparagraph (ii) for
1804 nursing facility beds in each Long-Term Care Planning District

1805 during each fiscal year shall first be available for nursing
1806 facility beds in the county in the district having the highest
1807 need for those beds, as shown in the fiscal year 1999 State Health
1808 Plan. If there are no applications for a certificate of need for
1809 nursing facility beds in the county having the highest need for
1810 those beds by the date specified by the department, then the
1811 certificate of need shall be available for nursing facility beds
1812 in other counties in the district in descending order of the need
1813 for those beds, from the county with the second highest need to
1814 the county with the lowest need, until an application is received
1815 for nursing facility beds in an eligible county in the district.

1816 (iv) Subject to the provisions of subparagraph
1817 (v), the certificate of need issued under subparagraph (ii) for
1818 nursing facility beds in the two (2) counties from the state at
1819 large during each fiscal year shall first be available for nursing
1820 facility beds in the two (2) counties that have the highest need
1821 in the state for those beds, as shown in the fiscal year 1999
1822 State Health Plan, when considering the need on a statewide basis
1823 and without regard to the Long-Term Care Planning Districts in
1824 which the counties are located. If there are no applications for
1825 a certificate of need for nursing facility beds in either of the
1826 two (2) counties having the highest need for those beds on a
1827 statewide basis by the date specified by the department, then the
1828 certificate of need shall be available for nursing facility beds
1829 in other counties from the state at large in descending order of
1830 the need for those beds on a statewide basis, from the county with
1831 the second highest need to the county with the lowest need, until
1832 an application is received for nursing facility beds in an
1833 eligible county from the state at large.

1834 (v) If a certificate of need is authorized to be
1835 issued under this paragraph (q) for nursing facility beds in a
1836 county on the basis of the need in the Long-Term Care Planning

1837 District during any fiscal year of the four-year period, a
1838 certificate of need shall not also be available under this
1839 paragraph (q) for additional nursing facility beds in that county
1840 on the basis of the need in the state at large, and that county
1841 shall be excluded in determining which counties have the highest
1842 need for nursing facility beds in the state at large for that
1843 fiscal year. After a certificate of need has been issued under
1844 this paragraph (q) for nursing facility beds in a county during
1845 any fiscal year of the four-year period, a certificate of need
1846 shall not be available again under this paragraph (q) for
1847 additional nursing facility beds in that county during the
1848 four-year period, and that county shall be excluded in determining
1849 which counties have the highest need for nursing facility beds in
1850 succeeding fiscal years.

1851 (vi) If more than one (1) application is made for
1852 a certificate of need for nursing home facility beds available
1853 under this paragraph (q), in Yalobusha, Newton or Tallahatchie
1854 County, and one (1) of the applicants is a county-owned hospital
1855 located in the county where the nursing facility beds are
1856 available, the department shall give priority to the county-owned
1857 hospital in granting the certificate of need if the following
1858 conditions are met:

1859 1. The county-owned hospital fully meets all
1860 applicable criteria and standards required to obtain a certificate
1861 of need for the nursing facility beds; and

1862 2. The county-owned hospital's qualifications
1863 for the certificate of need, as shown in its application and as
1864 determined by the department, are at least equal to the
1865 qualifications of the other applicants for the certificate of
1866 need.

1867 (r) (i) Beginning on July 1, 1999, the State
1868 Department of Health shall issue certificates of need during each

1869 of the next two (2) fiscal years for the construction or expansion
1870 of nursing facility beds or the conversion of other beds to
1871 nursing facility beds in each of the four (4) Long-Term Care
1872 Planning Districts designated in the fiscal year 1999 State Health
1873 Plan, to provide care exclusively to patients with Alzheimer's
1874 disease.

1875 (ii) Not more than twenty (20) beds may be
1876 authorized by any certificate of need issued under this paragraph
1877 (r), and not more than a total of sixty (60) beds may be
1878 authorized in any Long-Term Care Planning District by all
1879 certificates of need issued under this paragraph (r). However,
1880 the total number of beds that may be authorized by all
1881 certificates of need issued under this paragraph (r) during any
1882 fiscal year shall not exceed one hundred twenty (120) beds, and
1883 the total number of beds that may be authorized in any Long-Term
1884 Care Planning District during any fiscal year shall not exceed
1885 forty (40) beds. Of the certificates of need that are issued for
1886 each Long-Term Care Planning District during the next two (2)
1887 fiscal years, at least one (1) shall be issued for beds in the
1888 northern part of the district, at least one (1) shall be issued
1889 for beds in the central part of the district, and at least one (1)
1890 shall be issued for beds in the southern part of the district.

1891 (iii) The State Department of Health, in
1892 consultation with the Department of Mental Health and the Division
1893 of Medicaid, shall develop and prescribe the staffing levels,
1894 space requirements and other standards and requirements that must
1895 be met with regard to the nursing facility beds authorized under
1896 this paragraph (r) to provide care exclusively to patients with
1897 Alzheimer's disease.

1898 (s) The State Department of Health may issue a
1899 certificate of need to a nonprofit skilled nursing facility using
1900 the Green House model of skilled nursing care and located in Yazoo

1901 City, Yazoo County, Mississippi, for the construction, expansion
1902 or conversion of not more than nineteen (19) nursing facility
1903 beds. For purposes of this paragraph (s), the provisions of
1904 Section 41-7-193(1) requiring substantial compliance with the
1905 projection of need as reported in the current State Health Plan
1906 and the provisions of Section 41-7-197 requiring a formal
1907 certificate of need hearing process are waived. There shall be no
1908 prohibition or restrictions on participation in the Medicaid
1909 program for the person receiving the certificate of need
1910 authorized under this paragraph (s).

1911 (t) The State Department of Health shall issue
1912 certificates of need to the owner of a nursing facility in
1913 operation at the time of Hurricane Katrina in Hancock County that
1914 was not operational on December 31, 2005, because of damage
1915 sustained from Hurricane Katrina to authorize the following: (i)
1916 the construction of a new nursing facility in Harrison County;
1917 (ii) the relocation of forty-nine (49) nursing facility beds from
1918 the Hancock County facility to the new Harrison County facility;
1919 (iii) the establishment of not more than twenty (20) non-Medicaid
1920 nursing facility beds at the Hancock County facility; and (iv) the
1921 establishment of not more than twenty (20) non-Medicaid beds at
1922 the new Harrison County facility. The certificates of need that
1923 authorize the non-Medicaid nursing facility beds under
1924 subparagraphs (iii) and (iv) of this paragraph (t) shall be
1925 subject to the following conditions: The owner of the Hancock
1926 County facility and the new Harrison County facility must agree in
1927 writing that no more than fifty (50) of the beds at the Hancock
1928 County facility and no more than forty-nine (49) of the beds at
1929 the Harrison County facility will be certified for participation
1930 in the Medicaid program, and that no claim will be submitted for
1931 Medicaid reimbursement for more than fifty (50) patients in the
1932 Hancock County facility in any month, or for more than forty-nine

1933 (49) patients in the Harrison County facility in any month, or for
1934 any patient in either facility who is in a bed that is not
1935 Medicaid-certified. This written agreement by the owner of the
1936 nursing facilities shall be a condition of the issuance of the
1937 certificates of need under this paragraph (t), and the agreement
1938 shall be fully binding on any later owner or owners of either
1939 facility if the ownership of either facility is transferred at any
1940 time after the certificates of need are issued. After this
1941 written agreement is executed, the Division of Medicaid and the
1942 State Department of Health shall not certify more than fifty (50)
1943 of the beds at the Hancock County facility or more than forty-nine
1944 (49) of the beds at the Harrison County facility for participation
1945 in the Medicaid program. If the Hancock County facility violates
1946 the terms of the written agreement by admitting or keeping in the
1947 facility on a regular or continuing basis more than fifty (50)
1948 patients who are participating in the Medicaid program, or if the
1949 Harrison County facility violates the terms of the written
1950 agreement by admitting or keeping in the facility on a regular or
1951 continuing basis more than forty-nine (49) patients who are
1952 participating in the Medicaid program, the State Department of
1953 Health shall revoke the license of the facility that is in
1954 violation of the agreement, at the time that the department
1955 determines, after a hearing complying with due process, that the
1956 facility has violated the agreement.

1957 (3) The State Department of Health may grant approval for
1958 and issue certificates of need to any person proposing the new
1959 construction of, addition to, conversion of beds of or expansion
1960 of any health care facility defined in subparagraph (x)
1961 (psychiatric residential treatment facility) of Section
1962 41-7-173(h). The total number of beds which may be authorized by
1963 such certificates of need shall not exceed three hundred
1964 thirty-four (334) beds for the entire state.

1965 (a) Of the total number of beds authorized under this
1966 subsection, the department shall issue a certificate of need to a
1967 privately-owned psychiatric residential treatment facility in
1968 Simpson County for the conversion of sixteen (16) intermediate
1969 care facility for the mentally retarded (ICF-MR) beds to
1970 psychiatric residential treatment facility beds, provided that
1971 facility agrees in writing that the facility shall give priority
1972 for the use of those sixteen (16) beds to Mississippi residents
1973 who are presently being treated in out-of-state facilities.

1974 (b) Of the total number of beds authorized under this
1975 subsection, the department may issue a certificate or certificates
1976 of need for the construction or expansion of psychiatric
1977 residential treatment facility beds or the conversion of other
1978 beds to psychiatric residential treatment facility beds in Warren
1979 County, not to exceed sixty (60) psychiatric residential treatment
1980 facility beds, provided that the facility agrees in writing that
1981 no more than thirty (30) of the beds at the psychiatric
1982 residential treatment facility will be certified for participation
1983 in the Medicaid program (Section 43-13-101 et seq.) for the use of
1984 any patients other than those who are participating only in the
1985 Medicaid program of another state, and that no claim will be
1986 submitted to the Division of Medicaid for Medicaid reimbursement
1987 for more than thirty (30) patients in the psychiatric residential
1988 treatment facility in any day or for any patient in the
1989 psychiatric residential treatment facility who is in a bed that is
1990 not Medicaid-certified. This written agreement by the recipient
1991 of the certificate of need shall be a condition of the issuance of
1992 the certificate of need under this paragraph, and the agreement
1993 shall be fully binding on any subsequent owner of the psychiatric
1994 residential treatment facility if the ownership of the facility is
1995 transferred at any time after the issuance of the certificate of
1996 need. After this written agreement is executed, the Division of

1997 Medicaid and the State Department of Health shall not certify more
1998 than thirty (30) of the beds in the psychiatric residential
1999 treatment facility for participation in the Medicaid program for
2000 the use of any patients other than those who are participating
2001 only in the Medicaid program of another state. If the psychiatric
2002 residential treatment facility violates the terms of the written
2003 agreement by admitting or keeping in the facility on a regular or
2004 continuing basis more than thirty (30) patients who are
2005 participating in the Mississippi Medicaid program, the State
2006 Department of Health shall revoke the license of the facility, at
2007 the time that the department determines, after a hearing complying
2008 with due process, that the facility has violated the condition
2009 upon which the certificate of need was issued, as provided in this
2010 paragraph and in the written agreement.

2011 The State Department of Health, on or before July 1, 2002,
2012 shall transfer the certificate of need authorized under the
2013 authority of this paragraph (b), or reissue the certificate of
2014 need if it has expired, to River Region Health System.

2015 (c) Of the total number of beds authorized under this
2016 subsection, the department shall issue a certificate of need to a
2017 hospital currently operating Medicaid-certified acute psychiatric
2018 beds for adolescents in DeSoto County, for the establishment of a
2019 forty-bed psychiatric residential treatment facility in DeSoto
2020 County, provided that the hospital agrees in writing (i) that the
2021 hospital shall give priority for the use of those forty (40) beds
2022 to Mississippi residents who are presently being treated in
2023 out-of-state facilities, and (ii) that no more than fifteen (15)
2024 of the beds at the psychiatric residential treatment facility will
2025 be certified for participation in the Medicaid program (Section
2026 43-13-101 et seq.), and that no claim will be submitted for
2027 Medicaid reimbursement for more than fifteen (15) patients in the
2028 psychiatric residential treatment facility in any day or for any

2029 patient in the psychiatric residential treatment facility who is
2030 in a bed that is not Medicaid-certified. This written agreement
2031 by the recipient of the certificate of need shall be a condition
2032 of the issuance of the certificate of need under this paragraph,
2033 and the agreement shall be fully binding on any subsequent owner
2034 of the psychiatric residential treatment facility if the ownership
2035 of the facility is transferred at any time after the issuance of
2036 the certificate of need. After this written agreement is
2037 executed, the Division of Medicaid and the State Department of
2038 Health shall not certify more than fifteen (15) of the beds in the
2039 psychiatric residential treatment facility for participation in
2040 the Medicaid program. If the psychiatric residential treatment
2041 facility violates the terms of the written agreement by admitting
2042 or keeping in the facility on a regular or continuing basis more
2043 than fifteen (15) patients who are participating in the Medicaid
2044 program, the State Department of Health shall revoke the license
2045 of the facility, at the time that the department determines, after
2046 a hearing complying with due process, that the facility has
2047 violated the condition upon which the certificate of need was
2048 issued, as provided in this paragraph and in the written
2049 agreement.

2050 (d) Of the total number of beds authorized under this
2051 subsection, the department may issue a certificate or certificates
2052 of need for the construction or expansion of psychiatric
2053 residential treatment facility beds or the conversion of other
2054 beds to psychiatric treatment facility beds, not to exceed thirty
2055 (30) psychiatric residential treatment facility beds, in either
2056 Alcorn, Tishomingo, Prentiss, Lee, Itawamba, Monroe, Chickasaw,
2057 Pontotoc, Calhoun, Lafayette, Union, Benton or Tippah County.

2058 (e) Of the total number of beds authorized under this
2059 subsection (3) the department shall issue a certificate of need to
2060 a privately-owned, nonprofit psychiatric residential treatment

2061 facility in Hinds County for an eight-bed expansion of the
2062 facility, provided that the facility agrees in writing that the
2063 facility shall give priority for the use of those eight (8) beds
2064 to Mississippi residents who are presently being treated in
2065 out-of-state facilities.

2066 (f) The department shall issue a certificate of need to
2067 a one-hundred-thirty-four-bed specialty hospital located on
2068 twenty-nine and forty-four one-hundredths (29.44) commercial acres
2069 at 5900 Highway 39 North in Meridian (Lauderdale County),
2070 Mississippi, for the addition, construction or expansion of
2071 child/adolescent psychiatric residential treatment facility beds
2072 in Lauderdale County. As a condition of issuance of the
2073 certificate of need under this paragraph, the facility shall give
2074 priority in admissions to the child/adolescent psychiatric
2075 residential treatment facility beds authorized under this
2076 paragraph to patients who otherwise would require out-of-state
2077 placement. The Division of Medicaid, in conjunction with the
2078 Department of Human Services, shall furnish the facility a list of
2079 all out-of-state patients on a quarterly basis. Furthermore,
2080 notice shall also be provided to the parent, custodial parent or
2081 guardian of each out-of-state patient notifying them of the
2082 priority status granted by this paragraph. For purposes of this
2083 paragraph, the provisions of Section 41-7-193(1) requiring
2084 substantial compliance with the projection of need as reported in
2085 the current State Health Plan are waived. The total number of
2086 child/adolescent psychiatric residential treatment facility beds
2087 that may be authorized under the authority of this paragraph shall
2088 be sixty (60) beds. There shall be no prohibition or restrictions
2089 on participation in the Medicaid program (Section 43-13-101 et
2090 seq.) for the person receiving the certificate of need authorized
2091 under this paragraph or for the beds converted pursuant to the
2092 authority of that certificate of need.

2093 (4) (a) From and after July 1, 1993, the department shall
2094 not issue a certificate of need to any person for the new
2095 construction of any hospital, psychiatric hospital or chemical
2096 dependency hospital that will contain any child/adolescent
2097 psychiatric or child/adolescent chemical dependency beds, or for
2098 the conversion of any other health care facility to a hospital,
2099 psychiatric hospital or chemical dependency hospital that will
2100 contain any child/adolescent psychiatric or child/adolescent
2101 chemical dependency beds, or for the addition of any
2102 child/adolescent psychiatric or child/adolescent chemical
2103 dependency beds in any hospital, psychiatric hospital or chemical
2104 dependency hospital, or for the conversion of any beds of another
2105 category in any hospital, psychiatric hospital or chemical
2106 dependency hospital to child/adolescent psychiatric or
2107 child/adolescent chemical dependency beds, except as hereinafter
2108 authorized:

2109 (i) The department may issue certificates of need
2110 to any person for any purpose described in this subsection,
2111 provided that the hospital, psychiatric hospital or chemical
2112 dependency hospital does not participate in the Medicaid program
2113 (Section 43-13-101 et seq.) at the time of the application for the
2114 certificate of need and the owner of the hospital, psychiatric
2115 hospital or chemical dependency hospital agrees in writing that
2116 the hospital, psychiatric hospital or chemical dependency hospital
2117 will not at any time participate in the Medicaid program or admit
2118 or keep any patients who are participating in the Medicaid program
2119 in the hospital, psychiatric hospital or chemical dependency
2120 hospital. This written agreement by the recipient of the
2121 certificate of need shall be fully binding on any subsequent owner
2122 of the hospital, psychiatric hospital or chemical dependency
2123 hospital, if the ownership of the facility is transferred at any
2124 time after the issuance of the certificate of need. Agreement

2125 that the hospital, psychiatric hospital or chemical dependency
2126 hospital will not participate in the Medicaid program shall be a
2127 condition of the issuance of a certificate of need to any person
2128 under this subparagraph * * * (i), and if such hospital,
2129 psychiatric hospital or chemical dependency hospital at any time
2130 after the issuance of the certificate of need, regardless of the
2131 ownership of the facility, participates in the Medicaid program or
2132 admits or keeps any patients in the hospital, psychiatric hospital
2133 or chemical dependency hospital who are participating in the
2134 Medicaid program, the State Department of Health shall revoke the
2135 certificate of need, if it is still outstanding, and shall deny or
2136 revoke the license of the hospital, psychiatric hospital or
2137 chemical dependency hospital, at the time that the department
2138 determines, after a hearing complying with due process, that the
2139 hospital, psychiatric hospital or chemical dependency hospital has
2140 failed to comply with any of the conditions upon which the
2141 certificate of need was issued, as provided in this subparagraph
2142 (i) and in the written agreement by the recipient of the
2143 certificate of need.

2144 (ii) The department may issue a certificate of
2145 need for the conversion of existing beds in a county hospital in
2146 Choctaw County from acute care beds to child/adolescent chemical
2147 dependency beds. For purposes of this subparagraph (ii), the
2148 provisions of Section 41-7-193(1) requiring substantial compliance
2149 with the projection of need as reported in the current State
2150 Health Plan is waived. The total number of beds that may be
2151 authorized under authority of this subparagraph shall not exceed
2152 twenty (20) beds. There shall be no prohibition or restrictions
2153 on participation in the Medicaid program (Section 43-13-101 et
2154 seq.) for the hospital receiving the certificate of need
2155 authorized under this subparagraph * * * or for the beds converted
2156 pursuant to the authority of that certificate of need.

2157 (iii) The department may issue a certificate or
2158 certificates of need for the construction or expansion of
2159 child/adolescent psychiatric beds or the conversion of other beds
2160 to child/adolescent psychiatric beds in Warren County. For
2161 purposes of this subparagraph (iii), the provisions of Section
2162 41-7-193(1) requiring substantial compliance with the projection
2163 of need as reported in the current State Health Plan are waived.
2164 The total number of beds that may be authorized under the
2165 authority of this subparagraph shall not exceed twenty (20) beds.
2166 There shall be no prohibition or restrictions on participation in
2167 the Medicaid program (Section 43-13-101 et seq.) for the person
2168 receiving the certificate of need authorized under this
2169 subparagraph * * * or for the beds converted pursuant to the
2170 authority of that certificate of need.

2171 If by January 1, 2002, there has been no significant
2172 commencement of construction of the beds authorized under this
2173 subparagraph * * * (iii), or no significant action taken to
2174 convert existing beds to the beds authorized under this
2175 subparagraph, then the certificate of need that was previously
2176 issued under this subparagraph shall expire. If the previously
2177 issued certificate of need expires, the department may accept
2178 applications for issuance of another certificate of need for the
2179 beds authorized under this subparagraph, and may issue a
2180 certificate of need to authorize the construction, expansion or
2181 conversion of the beds authorized under this subparagraph.

2182 (iv) The department shall issue a certificate of
2183 need to the Region 7 Mental Health/Retardation Commission for the
2184 construction or expansion of child/adolescent psychiatric beds or
2185 the conversion of other beds to child/adolescent psychiatric beds
2186 in any of the counties served by the commission. For purposes of
2187 this subparagraph (iv), the provisions of Section 41-7-193(1)
2188 requiring substantial compliance with the projection of need as

2189 reported in the current State Health Plan is waived. The total
2190 number of beds that may be authorized under the authority of this
2191 subparagraph shall not exceed twenty (20) beds. There shall be no
2192 prohibition or restrictions on participation in the Medicaid
2193 program (Section 43-13-101 et seq.) for the person receiving the
2194 certificate of need authorized under this subparagraph * * * or
2195 for the beds converted pursuant to the authority of that
2196 certificate of need.

2197 (v) The department may issue a certificate of need
2198 to any county hospital located in Leflore County for the
2199 construction or expansion of adult psychiatric beds or the
2200 conversion of other beds to adult psychiatric beds, not to exceed
2201 twenty (20) beds, provided that the recipient of the certificate
2202 of need agrees in writing that the adult psychiatric beds will not
2203 at any time be certified for participation in the Medicaid program
2204 and that the hospital will not admit or keep any patients who are
2205 participating in the Medicaid program in any of such adult
2206 psychiatric beds. This written agreement by the recipient of the
2207 certificate of need shall be fully binding on any subsequent owner
2208 of the hospital if the ownership of the hospital is transferred at
2209 any time after the issuance of the certificate of need. Agreement
2210 that the adult psychiatric beds will not be certified for
2211 participation in the Medicaid program shall be a condition of the
2212 issuance of a certificate of need to any person under this
2213 subparagraph * * * (v), and if such hospital at any time after the
2214 issuance of the certificate of need, regardless of the ownership
2215 of the hospital, has any of such adult psychiatric beds certified
2216 for participation in the Medicaid program or admits or keeps any
2217 Medicaid patients in such adult psychiatric beds, the State
2218 Department of Health shall revoke the certificate of need, if it
2219 is still outstanding, and shall deny or revoke the license of the
2220 hospital at the time that the department determines, after a

2221 hearing complying with due process, that the hospital has failed
2222 to comply with any of the conditions upon which the certificate of
2223 need was issued, as provided in this subparagraph and in the
2224 written agreement by the recipient of the certificate of need.

2225 (vi) The department may issue a certificate or
2226 certificates of need for the expansion of child psychiatric beds
2227 or the conversion of other beds to child psychiatric beds at the
2228 University of Mississippi Medical Center. For purposes of this
2229 subparagraph * * * (vi), the provision of Section 41-7-193(1)
2230 requiring substantial compliance with the projection of need as
2231 reported in the current State Health Plan is waived. The total
2232 number of beds that may be authorized under the authority of this
2233 subparagraph * * * shall not exceed fifteen (15) beds. There
2234 shall be no prohibition or restrictions on participation in the
2235 Medicaid program (Section 43-13-101 et seq.) for the hospital
2236 receiving the certificate of need authorized under this
2237 subparagraph * * * or for the beds converted pursuant to the
2238 authority of that certificate of need.

2239 (b) From and after July 1, 1990, no hospital,
2240 psychiatric hospital or chemical dependency hospital shall be
2241 authorized to add any child/adolescent psychiatric or
2242 child/adolescent chemical dependency beds or convert any beds of
2243 another category to child/adolescent psychiatric or
2244 child/adolescent chemical dependency beds without a certificate of
2245 need under the authority of subsection (1)(c) of this section.

2246 (5) The department may issue a certificate of need to a
2247 county hospital in Winston County for the conversion of fifteen
2248 (15) acute care beds to geriatric psychiatric care beds.

2249 (6) The State Department of Health shall issue a certificate
2250 of need to a Mississippi corporation qualified to manage a
2251 long-term care hospital as defined in Section 41-7-173(h)(xii) in
2252 Harrison County, not to exceed eighty (80) beds, including any

2253 necessary renovation or construction required for licensure and
2254 certification, provided that the recipient of the certificate of
2255 need agrees in writing that the long-term care hospital will not
2256 at any time participate in the Medicaid program (Section 43-13-101
2257 et seq.) or admit or keep any patients in the long-term care
2258 hospital who are participating in the Medicaid program. This
2259 written agreement by the recipient of the certificate of need
2260 shall be fully binding on any subsequent owner of the long-term
2261 care hospital, if the ownership of the facility is transferred at
2262 any time after the issuance of the certificate of need. Agreement
2263 that the long-term care hospital will not participate in the
2264 Medicaid program shall be a condition of the issuance of a
2265 certificate of need to any person under this subsection (6), and
2266 if such long-term care hospital at any time after the issuance of
2267 the certificate of need, regardless of the ownership of the
2268 facility, participates in the Medicaid program or admits or keeps
2269 any patients in the facility who are participating in the Medicaid
2270 program, the State Department of Health shall revoke the
2271 certificate of need, if it is still outstanding, and shall deny or
2272 revoke the license of the long-term care hospital, at the time
2273 that the department determines, after a hearing complying with due
2274 process, that the facility has failed to comply with any of the
2275 conditions upon which the certificate of need was issued, as
2276 provided in this subsection and in the written agreement by the
2277 recipient of the certificate of need. For purposes of this
2278 subsection, the provision of Section 41-7-193(1) requiring
2279 substantial compliance with the projection of need as reported in
2280 the current State Health Plan is hereby waived.

2281 (7) The State Department of Health may issue a certificate
2282 of need to any hospital in the state to utilize a portion of its
2283 beds for the "swing-bed" concept. Any such hospital must be in
2284 conformance with the federal regulations regarding such swing-bed

2285 concept at the time it submits its application for a certificate
2286 of need to the State Department of Health, except that such
2287 hospital may have more licensed beds or a higher average daily
2288 census (ADC) than the maximum number specified in federal
2289 regulations for participation in the swing-bed program. Any
2290 hospital meeting all federal requirements for participation in the
2291 swing-bed program which receives such certificate of need shall
2292 render services provided under the swing-bed concept to any
2293 patient eligible for Medicare (Title XVIII of the Social Security
2294 Act) who is certified by a physician to be in need of such
2295 services, and no such hospital shall permit any patient who is
2296 eligible for both Medicaid and Medicare or eligible only for
2297 Medicaid to stay in the swing beds of the hospital for more than
2298 thirty (30) days per admission unless the hospital receives prior
2299 approval for such patient from the Division of Medicaid, Office of
2300 the Governor. Any hospital having more licensed beds or a higher
2301 average daily census (ADC) than the maximum number specified in
2302 federal regulations for participation in the swing-bed program
2303 which receives such certificate of need shall develop a procedure
2304 to insure that before a patient is allowed to stay in the swing
2305 beds of the hospital, there are no vacant nursing home beds
2306 available for that patient located within a fifty-mile radius of
2307 the hospital. When any such hospital has a patient staying in the
2308 swing beds of the hospital and the hospital receives notice from a
2309 nursing home located within such radius that there is a vacant bed
2310 available for that patient, the hospital shall transfer the
2311 patient to the nursing home within a reasonable time after receipt
2312 of the notice. Any hospital which is subject to the requirements
2313 of the two (2) preceding sentences of this subsection may be
2314 suspended from participation in the swing-bed program for a
2315 reasonable period of time by the State Department of Health if the
2316 department, after a hearing complying with due process, determines

2317 that the hospital has failed to comply with any of those
2318 requirements.

2319 (8) The Department of Health shall not grant approval for or
2320 issue a certificate of need to any person proposing the new
2321 construction of, addition to or expansion of a health care
2322 facility as defined in subparagraph (viii) of Section 41-7-173(h),
2323 except as hereinafter provided: The department may issue a
2324 certificate of need to a nonprofit corporation located in Madison
2325 County, Mississippi, for the construction, expansion or conversion
2326 of not more than twenty (20) beds in a community living program
2327 for developmentally disabled adults in a facility as defined in
2328 subparagraph (viii) of Section 41-7-173(h). For purposes of this
2329 subsection (8), the provisions of Section 41-7-193(1) requiring
2330 substantial compliance with the projection of need as reported in
2331 the current State Health Plan and the provisions of Section
2332 41-7-197 requiring a formal certificate of need hearing process
2333 are waived. There shall be no prohibition or restrictions on
2334 participation in the Medicaid program for the person receiving the
2335 certificate of need authorized under this subsection (8).

2336 (9) The Department of Health shall not grant approval for or
2337 issue a certificate of need to any person proposing the
2338 establishment of, or expansion of the currently approved territory
2339 of, or the contracting to establish a home office, subunit or
2340 branch office within the space operated as a health care facility
2341 as defined in Section 41-7-173(h)(i) through (viii) by a health
2342 care facility as defined in subparagraph (ix) of Section
2343 41-7-173(h).

2344 (10) Health care facilities owned and/or operated by the
2345 state or its agencies are exempt from the restraints in this
2346 section against issuance of a certificate of need if such addition
2347 or expansion consists of repairing or renovation necessary to
2348 comply with the state licensure law. This exception shall not

2349 apply to the new construction of any building by such state
2350 facility. This exception shall not apply to any health care
2351 facilities owned and/or operated by counties, municipalities,
2352 districts, unincorporated areas, other defined persons, or any
2353 combination thereof.

2354 (11) The new construction, renovation or expansion of or
2355 addition to any health care facility defined in subparagraph (ii)
2356 (psychiatric hospital), subparagraph (iv) (skilled nursing
2357 facility), subparagraph (vi) (intermediate care facility),
2358 subparagraph (viii) (intermediate care facility for the mentally
2359 retarded) and subparagraph (x) (psychiatric residential treatment
2360 facility) of Section 41-7-173(h) which is owned by the State of
2361 Mississippi and under the direction and control of the State
2362 Department of Mental Health, and the addition of new beds or the
2363 conversion of beds from one category to another in any such
2364 defined health care facility which is owned by the State of
2365 Mississippi and under the direction and control of the State
2366 Department of Mental Health, shall not require the issuance of a
2367 certificate of need under Section 41-7-171 et seq.,
2368 notwithstanding any provision in Section 41-7-171 et seq. to the
2369 contrary.

2370 (12) The new construction, renovation or expansion of or
2371 addition to any veterans homes or domiciliaries for eligible
2372 veterans of the State of Mississippi as authorized under Section
2373 35-1-19 shall not require the issuance of a certificate of need,
2374 notwithstanding any provision in Section 41-7-171 et seq. to the
2375 contrary.

2376 (13) The new construction of a nursing facility or nursing
2377 facility beds or the conversion of other beds to nursing facility
2378 beds shall not require the issuance of a certificate of need,
2379 notwithstanding any provision in Section 41-7-171 et seq. to the
2380 contrary, if the conditions of this subsection are met.

2381 (a) Before any construction or conversion may be
2382 undertaken without a certificate of need, the owner of the nursing
2383 facility, in the case of an existing facility, or the applicant to
2384 construct a nursing facility, in the case of new construction,
2385 first must file a written notice of intent and sign a written
2386 agreement with the State Department of Health that the entire
2387 nursing facility will not at any time participate in or have any
2388 beds certified for participation in the Medicaid program (Section
2389 43-13-101 et seq.), will not admit or keep any patients in the
2390 nursing facility who are participating in the Medicaid program,
2391 and will not submit any claim for Medicaid reimbursement for any
2392 patient in the facility. This written agreement by the owner or
2393 applicant shall be a condition of exercising the authority under
2394 this subsection without a certificate of need, and the agreement
2395 shall be fully binding on any subsequent owner of the nursing
2396 facility if the ownership of the facility is transferred at any
2397 time after the agreement is signed. After the written agreement
2398 is signed, the Division of Medicaid and the State Department of
2399 Health shall not certify any beds in the nursing facility for
2400 participation in the Medicaid program. If the nursing facility
2401 violates the terms of the written agreement by participating in
2402 the Medicaid program, having any beds certified for participation
2403 in the Medicaid program, admitting or keeping any patient in the
2404 facility who is participating in the Medicaid program, or
2405 submitting any claim for Medicaid reimbursement for any patient in
2406 the facility, the State Department of Health shall revoke the
2407 license of the nursing facility at the time that the department
2408 determines, after a hearing complying with due process, that the
2409 facility has violated the terms of the written agreement.

2410 (b) For the purposes of this subsection, participation
2411 in the Medicaid program by a nursing facility includes Medicaid
2412 reimbursement of coinsurance and deductibles for recipients who

2413 are qualified Medicare beneficiaries and/or those who are dually
2414 eligible. Any nursing facility exercising the authority under
2415 this subsection may not bill or submit a claim to the Division of
2416 Medicaid for services to qualified Medicare beneficiaries and/or
2417 those who are dually eligible.

2418 (c) The new construction of a nursing facility or
2419 nursing facility beds or the conversion of other beds to nursing
2420 facility beds described in this section must be either a part of a
2421 completely new continuing care retirement community, as described
2422 in the latest edition of the Mississippi State Health Plan, or an
2423 addition to existing personal care and independent living
2424 components, and so that the completed project will be a continuing
2425 care retirement community, containing (i) independent living
2426 accommodations, (ii) personal care beds, and (iii) the nursing
2427 home facility beds. The three (3) components must be located on a
2428 single site and be operated as one (1) inseparable facility. The
2429 nursing facility component must contain a minimum of thirty (30)
2430 beds. Any nursing facility beds authorized by this section will
2431 not be counted against the bed need set forth in the State Health
2432 Plan, as identified in Section 41-7-171 et seq.

2433 This subsection (13) shall stand repealed from and after July
2434 1, 2005.

2435 (14) The State Department of Health shall issue a
2436 certificate of need to any hospital which is currently licensed
2437 for two hundred fifty (250) or more acute care beds and is located
2438 in any general hospital service area not having a comprehensive
2439 cancer center, for the establishment and equipping of such a
2440 center which provides facilities and services for outpatient
2441 radiation oncology therapy, outpatient medical oncology therapy,
2442 and appropriate support services including the provision of
2443 radiation therapy services. The provision of Section 41-7-193(1)
2444 regarding substantial compliance with the projection of need as

2445 reported in the current State Health Plan is waived for the
2446 purpose of this subsection.

2447 (15) The State Department of Health may authorize the
2448 transfer of hospital beds, not to exceed sixty (60) beds, from the
2449 North Panola Community Hospital to the South Panola Community
2450 Hospital. The authorization for the transfer of those beds shall
2451 be exempt from the certificate of need review process.

2452 (16) The State Department of Health shall issue any
2453 certificates of need necessary for Mississippi State University
2454 and a public or private health care provider to jointly acquire
2455 and operate a linear accelerator and a magnetic resonance imaging
2456 unit. Those certificates of need shall cover all capital
2457 expenditures related to the project between Mississippi State
2458 University and the health care provider, including, but not
2459 limited to, the acquisition of the linear accelerator, the
2460 magnetic resonance imaging unit and other radiological modalities;
2461 the offering of linear accelerator and magnetic resonance imaging
2462 services; and the cost of construction of facilities in which to
2463 locate these services. The linear accelerator and the magnetic
2464 resonance imaging unit shall be (a) located in the City of
2465 Starkville, Oktibbeha County, Mississippi; (b) operated jointly by
2466 Mississippi State University and the public or private health care
2467 provider selected by Mississippi State University through a
2468 request for proposals (RFP) process in which Mississippi State
2469 University selects, and the Board of Trustees of State
2470 Institutions of Higher Learning approves, the health care provider
2471 that makes the best overall proposal; (c) available to Mississippi
2472 State University for research purposes two-thirds (2/3) of the
2473 time that the linear accelerator and magnetic resonance imaging
2474 unit are operational; and (d) available to the public or private
2475 health care provider selected by Mississippi State University and
2476 approved by the Board of Trustees of State Institutions of Higher

2477 Learning one-third (1/3) of the time for clinical, diagnostic and
2478 treatment purposes. For purposes of this subsection, the
2479 provisions of Section 41-7-193(1) requiring substantial compliance
2480 with the projection of need as reported in the current State
2481 Health Plan are waived.

2482 (17) The State Department of Health shall issue a
2483 certificate of need for the construction of an acute care hospital
2484 in Kemper County, not to exceed twenty-five (25) beds, which shall
2485 be named the "John C. Stennis Memorial Hospital." In issuing the
2486 certificate of need under this subsection, the department shall
2487 give priority to a hospital located in Lauderdale County that has
2488 two hundred fifteen (215) beds. For purposes of this subsection,
2489 the provisions of Section 41-7-193(1) requiring substantial
2490 compliance with the projection of need as reported in the current
2491 State Health Plan and the provisions of Section 41-7-197 requiring
2492 a formal certificate of need hearing process are waived. There
2493 shall be no prohibition or restrictions on participation in the
2494 Medicaid program (Section 43-13-101 et seq.) for the person or
2495 entity receiving the certificate of need authorized under this
2496 subsection or for the beds constructed under the authority of that
2497 certificate of need.

2498 (18) Nothing in this section or in any other provision of
2499 Section 41-7-171 et seq. shall prevent any nursing facility from
2500 designating an appropriate number of existing beds in the facility
2501 as beds for providing care exclusively to patients with
2502 Alzheimer's disease.

2503 **SECTION 22.** This act shall take effect and be in force from
2504 and after June 30, 2007, except for Sections 1 and 2 and Sections
2505 13 through 18, which shall take effect and be in force from and
2506 after the passage of this act.

**Further, amend by striking the title in its entirety and
inserting in lieu thereof the following:**

1 AN ACT TO AMEND SECTION 41-3-20, MISSISSIPPI CODE OF 1972, TO
2 PROVIDE THAT THE SECTION CREATING THE STATE BOARD OF HEALTH SHALL
3 REPEAL ON THE EFFECTIVE DATE OF THIS ACT AND THE SECTION CREATING
4 THE POSITION OF THE EXECUTIVE OFFICER OF THE STATE DEPARTMENT OF
5 HEALTH SHALL REPEAL ON JUNE 30, 2007; TO EXTEND UNTIL JUNE 30,
6 2010, THE REPEALER ON VARIOUS STATUTES THAT CREATE AND EMPOWER THE
7 STATE BOARD OF HEALTH AND THE STATE DEPARTMENT OF HEALTH AND
8 ESTABLISH THE POSITION OF EXECUTIVE OFFICER OF THE STATE
9 DEPARTMENT OF HEALTH; TO CODIFY SECTION 41-3-1.1, MISSISSIPPI CODE
10 OF 1972, TO RECONSTITUTE THE MEMBERSHIP OF THE STATE BOARD OF
11 HEALTH AND PROVIDE FOR THE NUMBER, QUALIFICATIONS, APPOINTMENT AND
12 TERMS OF NEW MEMBERS; TO PROVIDE FOR NONVOTING LEGISLATIVE MEMBERS
13 TO ATTEND BOARD MEETINGS; TO PROHIBIT MEMBERS OF THE BOARD FROM
14 PARTICIPATING IN ACTIONS HAVING A MONETARY EFFECT ON THE MEMBER'S
15 BUSINESS; TO REQUIRE BOARD MEMBERS TO RECUSE THEMSELVES FROM
16 MATTERS BEFORE THE BOARD IN WHICH THEY MAY NOT PARTICIPATE; TO
17 AMEND REENACTED SECTION 41-3-4, MISSISSIPPI CODE OF 1972, TO
18 REQUIRE THE STATE BOARD OF HEALTH TO MEET AT LEAST ONCE EACH
19 QUARTER; TO CLARIFY THAT THE TERM OF OFFICE OF ANY MEMBER OF THE
20 BOARD WHO MISSES THREE CONSECUTIVE MEETINGS SHALL BE TERMINATED;
21 TO CODIFY SECTION 41-3-5.1, MISSISSIPPI CODE OF 1972, TO PROVIDE
22 FOR THE APPOINTMENT OF THE EXECUTIVE OFFICER OF THE STATE
23 DEPARTMENT OF HEALTH; TO AMEND REENACTED SECTION 41-3-15,
24 MISSISSIPPI CODE OF 1972, AS AMENDED BY HOUSE BILL NO. 553, 2007
25 REGULAR SESSION, TO CLARIFY THE GENERAL AUTHORITY OF THE STATE
26 BOARD OF HEALTH AND THE STATE HEALTH OFFICER; TO AMEND REENACTED
27 SECTION 41-3-18, MISSISSIPPI CODE OF 1972, TO REVISE CERTAIN FEES
28 ASSESSED ON RESTAURANTS BY THE STATE DEPARTMENT OF HEALTH; TO
29 REENACT SECTIONS 41-3-3, 41-3-6, 41-3-16, 41-3-17, 41-3-18 AND
30 41-3-19, MISSISSIPPI CODE OF 1972, WHICH CREATE AND EMPOWER THE
31 STATE BOARD OF HEALTH AND THE STATE DEPARTMENT OF HEALTH; TO AMEND
32 SECTION 41-59-61, MISSISSIPPI CODE OF 1972, TO CLARIFY THE
33 AUTHORIZED ADMINISTRATIVE COSTS THAT MAY BE PAID FROM THE
34 EMERGENCY MEDICAL SERVICES OPERATING FUND; TO PROVIDE FOR A
35 COMPREHENSIVE AND STATEWIDE TOBACCO EDUCATION, PREVENTION AND
36 CESSATION PROGRAM THAT IS CONSISTENT WITH FEDERAL GUIDELINES; TO
37 ESTABLISH THE OFFICE OF TOBACCO CONTROL IN THE STATE DEPARTMENT OF
38 HEALTH; TO CREATE THE MISSISSIPPI TOBACCO CONTROL ADVISORY COUNCIL
39 TO ADVISE ON THE IMPLEMENTATION OF THE PROGRAM; TO PROVIDE FOR THE
40 APPOINTMENT OF THE MEMBERSHIP OF THE ADVISORY COUNCIL; TO PROVIDE
41 FOR A DIRECTOR OF THE OFFICE; TO PRESCRIBE THE MINIMUM COMPONENTS
42 OF THE PROGRAM; TO PROVIDE GUIDELINES FOR PRIORITY FOR FUNDING THE
43 COMPONENTS OF THE PROGRAM; TO ESTABLISH IN THE STATE TREASURY A
44 SPECIAL FUND TO BE KNOWN AS THE TOBACCO CONTROL FUND; TO PROVIDE
45 THAT A CERTAIN AMOUNT FROM THE TOBACCO SETTLEMENT INSTALLMENT
46 PAYMENTS RECEIVED BY THE STATE EACH YEAR SHALL BE DEPOSITED INTO
47 THE SPECIAL FUND; TO PROVIDE THAT THE FUNDS IN THE SPECIAL FUND
48 SHALL BE EXPENDED SOLELY FOR THE PURPOSES SPECIFIED IN THIS ACT;
49 TO AMEND SECTION 43-13-405, MISSISSIPPI CODE OF 1972, TO CONFORM
50 TO THE PRECEDING PROVISION; TO CODIFY NEW SECTION 41-57-31,
51 MISSISSIPPI CODE OF 1972, TO PROVIDE FOR THE ISSUANCE OF A
52 "CERTIFICATE OF BIRTH RESULTING IN STILLBIRTH" BY THE BUREAU OF
53 VITAL STATISTICS OF THE STATE DEPARTMENT OF HEALTH UPON THE
54 REQUEST OF A PARENT OF A STILLBORN CHILD; TO PROVIDE THAT A PARENT
55 MAY REQUEST THE ISSUANCE OF THIS CERTIFICATE WITHOUT REGARD TO
56 WHETHER THE DEATH OCCURRED BEFORE OR AFTER THE EFFECTIVE DATE OF
57 THIS ACT; TO PROVIDE THAT THE PERSON WHO IS REQUIRED TO FILE A
58 DEATH CERTIFICATE SHALL ADVISE THE PARENT OR PARENTS OF A
59 STILLBORN CHILD ABOUT THE AVAILABILITY OF THIS CERTIFICATE AND HOW
60 TO REQUEST THE ISSUANCE OF THE CERTIFICATE; TO PROVIDE THAT THE
61 STATE DEPARTMENT OF HEALTH SHALL PRESCRIBE THE FORM AND CONTENT OF
62 THE CERTIFICATE AND SPECIFY THE INFORMATION NECESSARY TO PREPARE
63 THE CERTIFICATE; TO AUTHORIZE THE STATE BOARD OF HEALTH TO ADOPT

64 ANY RULES OR REGULATIONS NECESSARY TO ADMINISTER THIS SECTION; TO
65 AMEND SECTION 41-7-191, MISSISSIPPI CODE OF 1972, TO DIRECT THE
66 STATE DEPARTMENT OF HEALTH TO ISSUE A CERTIFICATE OF NEED FOR THE
67 CONSTRUCTION OF AN ACUTE CARE HOSPITAL IN KEMPER COUNTY, NOT TO
68 EXCEED 25 BEDS, WHICH SHALL BE NAMED THE "JOHN C. STENNIS MEMORIAL
69 HOSPITAL"; AND FOR RELATED PURPOSES.

CONFEREES FOR THE SENATE

X (SIGNED)
Nunnelee

X (SIGNED)
Gordon

X (SIGNED)
Moffatt

CONFEREES FOR THE HOUSE

X (SIGNED)
Holland

X (SIGNED)
Fredericks

X (SIGNED)
Bondurant