

By: Senator(s) Burton

To: Public Health and
Welfare; Accountability,
Efficiency, Transparency

COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 2015

1 AN ACT TO REENACT SECTIONS 41-3-1.1, 41-3-3, 41-3-4,
2 41-3-5.1, 41-3-6, 41-3-16, 41-3-17, 41-3-18 AND 41-3-19,
3 MISSISSIPPI CODE OF 1972, WHICH CREATE THE STATE BOARD OF HEALTH,
4 ESTABLISH THE POSITION OF EXECUTIVE OFFICER OF THE STATE
5 DEPARTMENT OF HEALTH AND ESTABLISH THE STATE DEPARTMENT OF HEALTH
6 AND PRESCRIBE ITS POWERS AND DUTIES; TO AMEND SECTION 41-3-15,
7 MISSISSIPPI CODE OF 1972, TO EXTEND THE REPEALER ON THE FEE FOR
8 REVIEWING APPLICATIONS FOR CERTIFICATES OF NEED; TO AMEND SECTION
9 43-11-13, MISSISSIPPI CODE OF 1972, TO EXTEND THE REPEALER ON
10 CERTAIN REQUIREMENTS FOR THE OPERATION AND LICENSURE OF PERSONAL
11 CARE HOMES IN THE STATE OF MISSISSIPPI; TO AMEND SECTION 41-3-20,
12 MISSISSIPPI CODE OF 1972, TO EXTEND THE AUTOMATIC REPEALER ON
13 THOSE STATUTES WHICH CREATE THE STATE BOARD OF HEALTH, ESTABLISH
14 THE POSITION OF EXECUTIVE OFFICER OF THE STATE DEPARTMENT OF
15 HEALTH AND ESTABLISH THE STATE DEPARTMENT OF HEALTH AND PRESCRIBE
16 ITS POWERS AND DUTIES; TO PROVIDE FOR ANNUAL HEALTH ACTION PLANS
17 PREPARED BY THE STATE DEPARTMENT OF HEALTH; TO PROVIDE FOR A
18 DIABETES ANNUAL ACTION PLAN; TO PROVIDE FOR AN OBESITY ANNUAL
19 ACTION PLAN; TO PROVIDE FOR THE PREPARATION AND SUBMISSION
20 REQUIREMENTS; TO PROVIDE FOR THE REQUIRED CONTENT OF THE ACTION
21 PLANS TO AUTHORIZE THE STATE DEPARTMENT OF HEALTH TO ACCEPT GRANTS
22 TO IMPLEMENT THIS ACT; AND FOR RELATED PURPOSES.

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

24 **SECTION 1.** Section 41-3-1.1, Mississippi Code of 1972, is
25 reenacted as follows:

26 41-3-1.1. (1) The State Board of Health is continued and
27 reconstituted as follows:



28 There is created the State Board of Health which, from and
29 after March 30, 2007, shall consist of eleven (11) members
30 appointed with the advice and consent of the Senate, as follows:

31 (a) Five (5) members of the board shall be currently
32 licensed physicians of good professional standing who have had at
33 least seven (7) years' experience in the practice of medicine in
34 this state. Three (3) members shall be appointed by the Governor,
35 one (1) member shall be appointed by the Lieutenant Governor, and
36 one (1) member shall be appointed by the Attorney General, in the
37 manner provided in paragraph (d) of this subsection (1).

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

46 (c) The Governor, Lieutenant Governor and Attorney
47 General shall give due regard to geographic distribution, race and
48 gender in making their appointments to the board. It is the
49 intent of the Legislature that the membership of the board reflect
50 the population of the State of Mississippi. Of the Governor's
51 appointments, one (1) member of the board shall be appointed from
52 each of the four (4) congressional districts as constituted on



53 June 30, 2007, and one (1) member of the board shall be appointed
54 from each of the three (3) Supreme Court districts as constituted
55 on June 30, 2007. Of the Lieutenant Governor's appointments, one
56 (1) member of the board shall be appointed from the First
57 Congressional District and one (1) member of the board shall be
58 appointed from the Fourth Congressional District as constituted on
59 June 30, 2007. Of the Attorney General's appointments, one (1)
60 member of the board shall be appointed from the Second
61 Congressional District and one (1) member of the board shall be
62 appointed from the Third Congressional District as constituted on
63 June 30, 2007.

64 (d) The initial members of the board shall be appointed
65 for staggered terms, as follows: Of the Governor's appointments,
66 two (2) members shall be appointed for terms that end on June 30,
67 2009; two (2) members shall be appointed for terms that end on
68 June 30, 2011; and three (3) members shall be appointed for terms
69 that end on June 30, 2013. Of the Lieutenant Governor's
70 appointments, one (1) member shall be appointed for a term that
71 ends on June 30, 2009; and one (1) member shall be appointed for a
72 term that ends on June 30, 2013. Of the Attorney General's
73 appointments, one (1) member shall be appointed for a term that
74 ends on June 30, 2009; and one (1) member shall be appointed for a
75 term that ends on June 30, 2011.



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

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

91 (3) The Lieutenant Governor may designate one (1) Senator
92 and the Speaker of the House of Representatives may designate one
93 (1) Representative to attend any meeting of the State Board of
94 Health. The appointing authorities may designate alternate
95 members from their respective houses to serve when the regular
96 designees are unable to attend the meetings of the board. Those
97 legislative designees shall have no jurisdiction or vote on any
98 matter within the jurisdiction of the board. For attending
99 meetings of the board, the legislators shall receive per diem and
100 expenses, which shall be paid from the contingent expense funds of



101 their respective houses in the same amounts as provided for
102 committee meetings when the Legislature is not in session;
103 however, no per diem and expenses for attending meetings of the
104 board will be paid while the Legislature is in session. No per
105 diem and expenses will be paid except for attending meetings of
106 the board without prior approval of the proper committee in their
107 respective houses.

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

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

116 (c) When any matter in which a member may not
117 participate comes before the board or department, that member must
118 fully recuse himself or herself from the entire matter. The
119 member shall avoid debating, discussing or taking action on the
120 subject matter during official meetings or deliberations by
121 leaving the meeting room before the matter comes before the board
122 and by returning only after the discussion, vote or other action
123 is completed. The member shall not discuss the matter with other
124 members, department staff or any other person. Any minutes or
125 other record of the meeting shall accurately reflect the recusal.



126 If a member is uncertain whether recusal is required, the member
127 shall follow the determination of the Mississippi Ethics
128 Commission. The commission may delegate that determination to its
129 executive director.

130 (d) Upon a determination by the board or by any court
131 of competent jurisdiction that a member of the board has violated
132 the provisions of this subsection (4) regarding recusal, the
133 member shall be removed from office. Any member of the board who
134 violates the provisions of this section regarding recusal also
135 shall be subject to the penalties set forth in Sections 25-4-109
136 through 25-4-117. After removal from office, the member shall not
137 be eligible for appointment to any agency, board or commission of
138 the state for a period of two (2) years. Nothing in this section
139 shall be construed to limit the restrictions codified in Section
140 25-4-105.

141 **SECTION 2.** Section 41-3-3, Mississippi Code of 1972, is
142 reenacted as follows:

143 41-3-3. Each person appointed as a member of the State Board
144 of Health shall immediately take the oath prescribed by Section
145 268 of the Constitution and file a certificate thereof in the
146 Office of the Secretary of State. Thereupon a commission shall be
147 issued to him under the terms as specified in Section 41-3-1.

148 **SECTION 3.** Section 41-3-4, Mississippi Code of 1972, is
149 reenacted as follows:



150 41-3-4. (1) There shall be a Chairman and Vice Chairman of
151 the State Board of Health elected by and from its membership at
152 the first meeting of the board; and the chairman shall be the
153 presiding officer of the board. The chairman shall always be a
154 physician member of the board. The board shall adopt rules and
155 regulations governing times and places for meetings, and governing
156 the manner of conducting its business. The board shall meet not
157 less frequently than once each quarter, and at such other times as
158 determined to be necessary. The term of office of any member who
159 does not attend three (3) consecutive regular meetings of the
160 board shall be automatically terminated, and the position shall be
161 considered as vacant, except in cases of the serious illness of a
162 board member or of his or her immediate family member. All
163 meetings of the board shall be called by the chairman or by a
164 majority of the members of the board, except the first meeting of
165 the initial members of the reconstituted board, which shall be
166 called by the Governor.

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

173 **SECTION 4.** Section 41-3-5.1, Mississippi Code of 1972, is
174 reenacted as follows:



175 41-3-5.1. The State Department of Health shall be headed by
176 an executive officer who shall be appointed by the State Board of
177 Health. The executive officer shall be either a physician who has
178 earned a graduate degree in public health or health care
179 administration, or a physician who in the opinion of the board is
180 fitted and equipped to execute the duties incumbent upon him or
181 her by law. The executive officer shall not engage in the private
182 practice of medicine. The term of office of the executive officer
183 shall be six (6) years, and the executive officer may be removed
184 for cause by majority vote of the members of the board. The
185 executive officer shall be subject to such rules and regulations
186 as may be prescribed by the State Board of Health. The executive
187 officer shall be the State Health Officer with such authority and
188 responsibility as is prescribed by law.

189 **SECTION 5.** Section 41-3-6, Mississippi Code of 1972, is
190 reenacted as follows:

191 41-3-6. It shall be the duty of the State Board of Health to
192 review the statutes of the State of Mississippi affecting public
193 health and submit at least thirty (30) days prior to each regular
194 session of the Legislature any proposed legislation as may be
195 necessary to enhance the effective and efficient delivery of
196 public health services and to bring existing statutes into
197 compliance with modern technology and terminology. The board
198 shall formulate a plan for consolidating and reorganizing existing
199 state agencies having responsibilities in the field of public



200 health to eliminate any needless duplication in services which may
201 be found to exist. In carrying out the provisions of this
202 section, the State Board of Health shall cooperate with and may
203 utilize the services, facilities and personnel of any department
204 or agency of the state, any private citizen task force and the
205 committees on public health of both houses of the Legislature.
206 The State Board of Health is authorized to apply for and expend
207 funds made available to it by grant from any source in order to
208 perform its responsibilities under this section.

209 **SECTION 6.** Section 41-3-15, Mississippi Code of 1972, is
210 reenacted and amended as follows:

211 41-3-15. (1) (a) There shall be a State Department of
212 Health.

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

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

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

223 (iii) To apply for, receive, accept and expend any
224 federal or state funds or contributions, gifts, trusts, devises,



225 bequests, grants, endowments or funds from any other source or
226 transfers of property of any kind;

227 (iv) To enter into, and to authorize the executive
228 officer to execute contracts, grants and cooperative agreements
229 with any federal or state agency or subdivision thereof, or any
230 public or private institution located inside or outside the State
231 of Mississippi, or any person, corporation or association in
232 connection with carrying out the provisions of this chapter, if it
233 finds those actions to be in the public interest and the contracts
234 or agreements do not have a financial cost that exceeds the
235 amounts appropriated for those purposes by the Legislature;

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

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

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

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



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

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

258 (iv) To coordinate the activities of the various
259 offices of the department;

260 (v) To employ, subject to regulations of the State
261 Personnel Board, qualified professional personnel in the subject
262 matter or fields of each office, and such other technical and
263 clerical staff as may be required for the operation of the
264 department. The executive officer shall be the appointing
265 authority for the department, and shall have the power to delegate
266 the authority to appoint or dismiss employees to appropriate
267 subordinates, subject to the rules and regulations of the State
268 Personnel Board;

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



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

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

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



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

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

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

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

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

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

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

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

317 (a) To make investigations and inquiries with respect
318 to the causes of disease and death, and to investigate the effect
319 of environment, including conditions of employment and other
320 conditions that may affect health, and to make such other



321 investigations as it may deem necessary for the preservation and
322 improvement of health.

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

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

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

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

340 (f) (i) To establish standards for, issue permits and
341 exercise control over, any cafes, restaurants, food or drink
342 stands, sandwich manufacturing establishments, and all other
343 establishments, other than churches, church-related and private
344 schools, and other nonprofit or charitable organizations, where



345 food or drink is regularly prepared, handled and served for pay;
346 and

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

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

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

367 (i) To conduct investigations, inquiries and hearings,
368 and to issue subpoenas for the attendance of witnesses and the
369 production of books and records at any hearing when authorized and



370 required by statute to be conducted by the State Health Officer or
371 the State Board of Health.

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

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

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

383 (i) Maternal and child health;

384 (ii) Family planning;

385 (iii) Pediatric services;

386 (iv) Services to crippled and disabled children;

387 (v) Control of communicable and noncommunicable
388 disease;

389 (vi) Chronic disease;

390 (vii) Accidental deaths and injuries;

391 (viii) Child care licensure;

392 (ix) Radiological health;

393 (x) Dental health;

394 (xi) Milk sanitation;



395 (xii) Occupational safety and health;
396 (xiii) Food, vector control and general
397 sanitation;
398 (xiv) Protection of drinking water;
399 (xv) Sanitation in food handling establishments
400 open to the public;
401 (xvi) Registration of births and deaths and other
402 vital events;
403 (xvii) Such public health programs and services as
404 may be assigned to the State Board of Health by the Legislature or
405 by executive order; and
406 (xviii) Regulation of domestic and imported fish
407 for human consumption.
408 (b) The State Board of Health and State Department of
409 Health shall not be authorized to sell, transfer, alienate or
410 otherwise dispose of any of the home health agencies owned and
411 operated by the department on January 1, 1995, and shall not be
412 authorized to sell, transfer, assign, alienate or otherwise
413 dispose of the license of any of those home health agencies,
414 except upon the specific authorization of the Legislature by an
415 amendment to this section. However, this paragraph (b) shall not
416 prevent the board or the department from closing or terminating
417 the operation of any home health agency owned and operated by the
418 department, or closing or terminating any office, branch office or
419 clinic of any such home health agency, or otherwise discontinuing



420 the providing of home health services through any such home health
421 agency, office, branch office or clinic, if the board first
422 demonstrates that there are other providers of home health
423 services in the area being served by the department's home health
424 agency, office, branch office or clinic that will be able to
425 provide adequate home health services to the residents of the area
426 if the department's home health agency, office, branch office or
427 clinic is closed or otherwise discontinues the providing of home
428 health services. This demonstration by the board that there are
429 other providers of adequate home health services in the area shall
430 be spread at length upon the minutes of the board at a regular or
431 special meeting of the board at least thirty (30) days before a
432 home health agency, office, branch office or clinic is proposed to
433 be closed or otherwise discontinue the providing of home health
434 services.

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

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



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

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

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

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

454 (iv) To establish and collect fees to defray the
455 reasonable costs of administering the revolving fund or emergency
456 fund if the State Board of Health determines that those costs will
457 exceed the limitations established in the federal Safe Drinking
458 Water Act, as amended. The administration fees may be included in
459 loan amounts to loan recipients for the purpose of facilitating
460 payment to the board; however, those fees may not exceed five
461 percent (5%) of the loan amount.

462 (7) Notwithstanding any other provision to the contrary, the
463 State Department of Health shall have the following specific
464 powers: The department shall issue a license to Alexander Milne
465 Home for Women, Inc., a 501(c)(3) nonprofit corporation, for the
466 construction, conversion, expansion and operation of not more than
467 forty-five (45) beds for developmentally disabled adults who have
468 been displaced from New Orleans, Louisiana, with the beds to be
469 located in a certified ICF-MR facility in the City of Laurel,



470 Mississippi. There shall be no prohibition or restrictions on
471 participation in the Medicaid program for the person receiving the
472 license under this subsection (7). The license described in this
473 subsection shall expire five (5) years from the date of its issue.
474 The license authorized by this subsection shall be issued upon the
475 initial payment by the licensee of an application fee of
476 Sixty-seven Thousand Dollars (\$67,000.00) and a monthly fee of
477 Sixty-seven Thousand Dollars (\$67,000.00) after the issuance of
478 the license, to be paid as long as the licensee continues to
479 operate. The initial and monthly licensing fees shall be
480 deposited by the State Department of Health into the special fund
481 created under Section 41-7-188.

482 (8) Notwithstanding any other provision to the contrary, the
483 State Department of Health shall have the following specific
484 powers: The State Department of Health is authorized to issue a
485 license to an existing home health agency for the transfer of a
486 county from that agency to another existing home health agency,
487 and to charge a fee for reviewing and making a determination on
488 the application for such transfer not to exceed one-half (1/2) of
489 the authorized fee assessed for the original application for the
490 home health agency, with the revenue to be deposited by the State
491 Department of Health into the special fund created under Section
492 41-7-188.

493 (9) Notwithstanding any other provision to the contrary, the
494 State Department of Health shall have the following specific



495 powers: For the period beginning July 1, 2010, through * * * July
496 1, 2017, the State Department of Health is authorized and
497 empowered to assess a fee in addition to the fee prescribed in
498 Section 41-7-188 for reviewing applications for certificates of
499 need in an amount not to exceed twenty-five one-hundredths of one
500 percent (.25 of 1%) of the amount of a proposed capital
501 expenditure, but shall be not less than Two Hundred Fifty Dollars
502 (\$250.00) regardless of the amount of the proposed capital
503 expenditure, and the maximum additional fee permitted shall not
504 exceed Fifty Thousand Dollars (\$50,000.00). Provided that the
505 total assessments of fees for certificate of need applications
506 under Section 41-7-188 and this section shall not exceed the
507 actual cost of operating the certificate of need program.

508 (10) Notwithstanding any other provision to the contrary,
509 the State Department of Health shall have the following specific
510 powers: The State Department of Health is authorized to extend
511 and renew any certificate of need that has expired, and to charge
512 a fee for reviewing and making a determination on the application
513 for such action not to exceed one-half (1/2) of the authorized fee
514 assessed for the original application for the certificate of need,
515 with the revenue to be deposited by the State Department of Health
516 into the special fund created under Section 41-7-188.

517 (11) Notwithstanding any other provision to the contrary,
518 the State Department of Health shall have the following specific
519 powers: The State Department of Health is authorized and



520 empowered, to revoke, immediately, the license and require closure
521 of any institution for the aged or infirm, including any other
522 remedy less than closure to protect the health and safety of the
523 residents of said institution or the health and safety of the
524 general public.

525 (12) Notwithstanding any other provision to the contrary,
526 the State Department of Health shall have the following specific
527 powers: The State Department of Health is authorized and
528 empowered, to require the temporary detainment of individuals for
529 disease control purposes based upon violation of any order of the
530 State Health Officer, as provided in Section 41-23-5. For the
531 purpose of enforcing such orders of the State Health Officer,
532 persons employed by the department as investigators shall have
533 general arrest powers. All law enforcement officers are
534 authorized and directed to assist in the enforcement of such
535 orders of the State Health Officer.

536 **SECTION 7.** Section 41-3-16, Mississippi Code of 1972, is
537 reenacted as follows:

538 41-3-16. (1) (a) There is established a local governments
539 and rural water systems improvements revolving loan and grant
540 program to be administered by the State Department of Health,
541 referred to in this section as "department," for the purpose of
542 assisting counties, incorporated municipalities, districts or
543 other water organizations that have been granted tax-exempt status
544 under either federal or state law, in making improvements to their



545 water systems, including construction of new water systems or
546 expansion or repair of existing water systems. Loan and grant
547 proceeds may be used by the recipient for planning, professional
548 services, acquisition of interests in land, acquisition of
549 personal property, construction, construction-related services,
550 maintenance, and any other reasonable use which the board, in its
551 discretion, may allow. For purposes of this section, "water
552 systems" has the same meaning as the term "public water system"
553 under Section 41-26-3.

554 (b) (i) There is created a board to be known as the
555 "Local Governments and Rural Water Systems Improvements Board,"
556 referred to in this section as "board," to be composed of the
557 following nine (9) members: the State Health Officer, or his
558 designee, who shall serve as chairman of the board; the Executive
559 Director of the Mississippi Development Authority, or his
560 designee; the Executive Director of the Department of
561 Environmental Quality, or his designee; the Executive Director of
562 the Department of Finance and Administration, or his designee; the
563 Executive Director of the Mississippi Association of Supervisors,
564 or his designee; the Executive Director of the Mississippi
565 Municipal League, or his designee; the Executive Director of the
566 American Council of Engineering Companies of Mississippi, or his
567 designee; the State Director of the United States Department of
568 Agriculture, Rural Development, or his designee; and a manager of
569 a rural water system.



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

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

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

584 (c) The department, if requested by the board, shall
585 furnish the board with facilities and staff as needed to
586 administer this section. The department may contract, upon
587 approval by the board, for those facilities and staff needed to
588 administer this section, including routine management, as it deems
589 necessary. The board may advertise for or solicit proposals from
590 public or private sources, or both, for administration of this
591 section or any services required for administration of this
592 section or any portion thereof. It is the intent of the
593 Legislature that the board endeavor to ensure that the costs of
594 administration of this section are as low as possible in order to



595 provide the water consumers of Mississippi safe drinking water at
596 affordable prices.

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

600 (2) (a) There is created a special fund in the State
601 Treasury to be designated as the "Local Governments and Rural
602 Water Systems Improvements Revolving Loan Fund," referred to in
603 this section as "revolving fund," which fund shall consist of
604 those monies as provided in Sections 6 and 13 of Chapter 521, Laws
605 of 1995. The revolving fund may receive appropriations, bond
606 proceeds, grants, gifts, donations or funds from any source,
607 public or private. Except as otherwise provided in this section,
608 the revolving fund shall be credited with all repayments of
609 principal and interest derived from loans made from the revolving
610 fund. Except as otherwise provided in this section, the monies in
611 the revolving fund may be expended only in amounts appropriated by
612 the Legislature, and the different amounts specifically provided
613 for the loan program and the grant program shall be so designated.
614 Except as otherwise provided in this section, monies in the fund
615 may only be expended for the grant program from the amount
616 designated for such program. The revolving fund shall be
617 maintained in perpetuity for the purposes established in this
618 section and Sections 6 through 20 of Chapter 521, Laws of 1995.
619 Unexpended amounts remaining in the revolving fund at the end of a



620 fiscal year shall not lapse into the State General Fund, and any
621 interest earned on amounts in the revolving fund shall be
622 deposited to the credit of the fund. Monies in the revolving fund
623 may not be used or expended for any purpose except as authorized
624 under this section and Sections 6 through 20 of Chapter 521, Laws
625 of 1995. Any monies in the fund may be used to match any federal
626 funds that are available for the same or related purposes for
627 which funds are used and expended under this section and Sections
628 6 through 20 of Chapter 521, Laws of 1995. Any federal funds
629 shall be used and expended only in accordance with federal laws,
630 rules and regulations governing the expenditure of those funds.
631 No person shall use any monies from the revolving fund for the
632 acquisition of real property or any interest in real property
633 unless that property is integral to the project funded under this
634 section and the purchase is made from a willing seller. No
635 county, incorporated municipality or district shall acquire any
636 real property or any interest in any real property for a project
637 funded through the revolving fund by condemnation. The board's
638 application of Sections 43-37-1 through 43-37-13 shall be no more
639 stringent or extensive in scope, coverage and effect than federal
640 property acquisition laws and regulations.

641 (b) There is created a special fund in the State
642 Treasury to be designated as the "Local Governments and Rural
643 Water Systems Emergency Loan Fund," hereinafter referred to as
644 "emergency fund," which fund shall consist of those monies as



645 provided in Sections 6 and 13 of Chapter 521, Laws of 1995. The
646 emergency fund may receive appropriations, bond proceeds, grants,
647 gifts, donations or funds from any source, public or private.
648 Except as otherwise provided in this section, the emergency fund
649 shall be credited with all repayments of principal and interest
650 derived from loans made from the emergency fund. Except as
651 otherwise provided in this section, the monies in the emergency
652 fund may be expended only in amounts appropriated by the
653 Legislature. The emergency fund shall be maintained in perpetuity
654 for the purposes established in this section and Section 6 of
655 Chapter 521, Laws of 1995. Unexpended amounts remaining in the
656 emergency fund at the end of a fiscal year shall not lapse into
657 the State General Fund. Any interest earned on amounts in the
658 emergency fund shall be deposited to the credit of the fund.
659 Monies in the emergency fund may not be used or expended for any
660 purpose except as authorized under this section and Section 6 of
661 Chapter 521, Laws of 1995.

662 (c) The board created in subsection (1) shall establish
663 loan and grant programs by which loans and grants may be made
664 available to counties, incorporated municipalities, districts or
665 other water organizations that have been granted tax-exempt status
666 under either federal or state law, to assist those counties,
667 incorporated municipalities, districts or water organizations in
668 making water systems improvements, including the construction of
669 new water systems or expansion or repair of existing water



670 systems. Any entity eligible under this section may receive
671 either a loan or a grant, or both. No grant awarded under the
672 program established in this section may be made using funds from
673 the loan program. Grants may be awarded only when the Legislature
674 specifically appropriates funds for that particular purpose. The
675 interest rate on those loans may vary from time to time and from
676 loan to loan, and will be at or below market interest rates as
677 determined by the board. The board shall act as quickly as is
678 practicable and prudent in deciding on any loan request that it
679 receives. Loans from the revolving fund or emergency fund may be
680 made to counties, incorporated municipalities, districts or other
681 water organizations that have been granted tax-exempt status under
682 either federal or state law, as set forth in a loan agreement in
683 amounts not to exceed one hundred percent (100%) of eligible
684 project costs as established by the board. The board may require
685 county, municipal, district or other water organization
686 participation or funding from other sources, or otherwise limit
687 the percentage of costs covered by loans from the revolving fund
688 or the emergency fund. The board may establish a maximum amount
689 for any loan from the revolving fund or emergency fund in order to
690 provide for broad and equitable participation in the programs.

691 (d) A county that receives a loan from the revolving
692 fund or the emergency fund shall pledge for repayment of the loan
693 any part of the homestead exemption annual tax loss reimbursement
694 to which it may be entitled under Section 27-33-77, as may be



695 required to meet the repayment schedule contained in the loan
696 agreement. An incorporated municipality that receives a loan from
697 the revolving fund or the emergency fund shall pledge for
698 repayment of the loan any part of the sales tax revenue
699 distribution to which it may be entitled under Section 27-65-75,
700 as may be required to meet the repayment schedule contained in the
701 loan agreement. All recipients of such loans shall establish a
702 dedicated source of revenue for repayment of the loan. Before any
703 county or incorporated municipality shall receive any loan, it
704 shall have executed with the * * * Department of Revenue and the
705 board a loan agreement evidencing that loan. The loan agreement
706 shall not be construed to prohibit any recipient from prepaying
707 any part or all of the funds received. The repayment schedule in
708 each loan agreement shall provide for (i) monthly payments, (ii)
709 semiannual payments, or (iii) other periodic payments, the annual
710 total of which shall not exceed the annual total for any other
711 year of the loan by more than fifteen percent (15%). Except as
712 otherwise provided in subsection (4) of this section, the loan
713 agreement shall provide for the repayment of all funds received
714 from the revolving fund within not more than fifteen (15) years or
715 a term as otherwise allowed by the federal Safe Drinking Water
716 Act, and all funds received from the emergency fund within not
717 more than five (5) years from the date of project completion, and
718 any repayment shall commence not later than one (1) year after
719 project completion. The * * * Department of Revenue shall



720 withhold semiannually from counties and monthly from incorporated
721 municipalities from the amount to be remitted to the county or
722 municipality, a sum equal to the next repayment as provided in the
723 loan agreement.

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

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

738 (f) Any district created pursuant to Sections 19-5-151
739 through 19-5-207 that receives a loan from the revolving fund or
740 the emergency fund shall pledge for repayment of the loan any part
741 of the revenues received by that district pursuant to Sections
742 19-5-151 through 19-5-207, as may be required to meet the
743 repayment schedule contained in the loan agreement.



744 (g) The State Auditor, upon request of the board, shall
745 audit the receipts and expenditures of a county, an incorporated
746 municipality, district or other water organization whose loan
747 repayments appear to be in arrears, and if the Auditor finds that
748 the county, incorporated municipality, district or other water
749 organization is in arrears in those repayments, the Auditor shall
750 immediately notify the chairman of the board who may take any
751 action as may be necessary to enforce the terms of the loan
752 agreement, including liquidation and enforcement of the security
753 given for repayment of the loan, and the Executive Director of the
754 Department of Finance and Administration who shall withhold all
755 future payments to the county of homestead exemption annual tax
756 loss reimbursements under Section 27-33-77 and all sums allocated
757 to the county or the incorporated municipality under Section
758 27-65-75 until such time as the county or the incorporated
759 municipality is again current in its loan repayments as certified
760 by the board.

761 (h) Except as otherwise provided in this section, all
762 monies deposited in the revolving fund or the emergency fund,
763 including loan repayments and interest earned on those repayments,
764 shall be used only for providing loans or other financial
765 assistance to water systems as the board deems appropriate. In
766 addition, any amounts in the revolving fund or the emergency fund
767 may be used to defray the reasonable costs of administering the
768 revolving fund or the emergency fund and conducting activities



769 under this section and Sections 6 through 20 of Chapter 521, Laws
770 of 1995, subject to any limitations established in the federal
771 Safe Drinking Water Act, as amended and subject to annual
772 appropriation by the Legislature. The department is authorized,
773 upon approval by the board, to use amounts available to it from
774 the revolving fund or the emergency fund to contract for those
775 facilities and staff needed to administer and provide routine
776 management for the funds and loan program. However,
777 notwithstanding any other provision of law to the contrary, all or
778 any portion of repayments of principal and interest derived from
779 the fund uses described in this section may be designated or
780 pledged for repayment of a loan as provided for in Section
781 31-25-28 in connection with a loan from the Mississippi
782 Development Bank.

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

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

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



793 521, Laws of 1995, for the implementation of the local governments
794 and rural water systems improvements revolving loan program;

795 (c) To require, at the board's discretion, any loan or
796 grant recipient to impose a per connection fee or surcharge or
797 amended water rate schedule or tariff on each customer or any
798 class of customers, benefiting from an improvement financed by a
799 loan or grant made under this section, for repayment of any loan
800 funds provided under this section and Sections 6 through 20 of
801 Chapter 521, Laws of 1995. The board may require any loan or
802 grant recipient to undergo a water system viability analysis and
803 may require a loan or grant recipient to implement any result of
804 the viability analysis. If the loan recipient fails to implement
805 any result of a viability analysis as required by the board, the
806 board may impose a monetary penalty or increase the interest rate
807 on the loan, or both. If the grant recipient fails to implement
808 any result of a viability analysis as required by the board, the
809 board may impose a monetary penalty on the grant;

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

814 (e) To requisition monies in the Local Governments and
815 Rural Water Systems Improvements Revolving Loan Fund and the Local
816 Governments and Rural Water Systems Emergency Loan Fund and



817 distribute those monies on a project-by-project basis in
818 accordance with this section;

819 (f) To ensure that the funds made available under this
820 section and Sections 6 through 20 of Chapter 521, Laws of 1995, to
821 a county, an incorporated municipality, a district or a water
822 organization that has been granted tax-exempt status under either
823 federal or state law provide for a distribution of projects and
824 funds among the entities under a priority system established by
825 the board;

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

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

839 (i) To file annually with the Legislature a report
840 detailing how monies in the Local Governments and Rural Water
841 Systems Improvements Revolving Loan Fund and the Local Governments



842 and Rural Water Systems Emergency Loan Fund were spent during the
843 preceding fiscal year in each county, incorporated municipality,
844 district or other water organization, the number of projects
845 approved and constructed, and the cost of each project.

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

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

861 **SECTION 8.** Section 41-3-17, Mississippi Code of 1972, is
862 reenacted as follows:

863 41-3-17. The State Board of Health is authorized to make and
864 publish all reasonable rules and regulations necessary to enable
865 it to discharge its duties and powers and to carry out the
866 purposes and objectives of its creation. It is further authorized



867 to make reasonable sanitary rules and regulations, to be enforced
868 in the several counties by the county health officer under the
869 supervision and control of the State Board of Health. The State
870 Board of Health shall not make or enforce any rule or regulation
871 that prohibits consumers from providing their own containers for
872 the purpose of purchasing or accepting water from any vending
873 machine or device which filters or treats water that has already
874 been tested and determined to meet or exceed the minimum health
875 protection standards prescribed for drinking water under the
876 Mississippi Safe Drinking Water Law, if that vending machine or
877 device meets or exceeds United States Environmental Protection
878 Agency or national automatic merchandising standards.

879 **SECTION 9.** Section 41-3-18, Mississippi Code of 1972, is
880 reenacted as follows:

881 41-3-18. (1) The board shall assess fees in the following
882 amounts and for the following purposes:

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

885	Assessment Category 1.....	\$ 30.00
886	Assessment Category 2.....	100.00
887	Assessment Category 3.....	150.00
888	Assessment Category 4.....	200.00

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

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



892 Assessment categories shall be based upon the factors to the
893 public health implications of the category and type of food
894 preparation being utilized by the food establishment, utilizing
895 the model Food Code of 1995, or as may be amended by the federal
896 Food and Drug Administration.

897 (2) The fee authorized under subsection (1) (a) of this
898 section shall not be assessed for:

899 (a) Food establishments operated by public schools,
900 public junior and community colleges, or state agencies or
901 institutions, including, without limitation, the state
902 institutions of higher learning and the State Penitentiary; and

903 (b) Persons who make infrequent casual sales of honey
904 and who pack or sell less than five hundred (500) gallons of honey
905 per year, and those persons shall not be inspected by the State
906 Department of Health unless requested by the producer.

907 (3) The fee authorized under subsection (1) (b) of this
908 section shall not be assessed for private water supplies used by
909 foster homes licensed by the Department of Human Services.

910 **SECTION 10.** Section 41-3-19, Mississippi Code of 1972, is
911 reenacted as follows:

912 41-3-19. It is the duty of the State Board of Health to make
913 a report, in writing, to the Governor, on or before the first day
914 of December next preceding each session, not an extraordinary
915 session of the Legislature, upon the sanitary condition, prospect,
916 and needs of the state, setting forth the action of said board, of



917 its officers and agents, the names thereof, and all its
918 expenditures since the last preceding report, and such other
919 matters as it may deem proper for the promotion of health or the
920 prevention of disease. The report shall be laid before the
921 Legislature by the Governor at its ensuing term.

922 **SECTION 11.** Section 43-11-13, Mississippi Code of 1972, is
923 amended as follows:

924 43-11-13. (1) The licensing agency shall adopt, amend,
925 promulgate and enforce such rules, regulations and standards,
926 including classifications, with respect to all institutions for
927 the aged or infirm to be licensed under this chapter as may be
928 designed to further the accomplishment of the purpose of this
929 chapter in promoting adequate care of individuals in those
930 institutions in the interest of public health, safety and welfare.
931 Those rules, regulations and standards shall be adopted and
932 promulgated by the licensing agency and shall be recorded and
933 indexed in a book to be maintained by the licensing agency in its
934 main office in the State of Mississippi, entitled "Rules,
935 Regulations and Minimum Standards for Institutions for the Aged or
936 Infirm" and the book shall be open and available to all
937 institutions for the aged or infirm and the public generally at
938 all reasonable times. Upon the adoption of those rules,
939 regulations and standards, the licensing agency shall mail copies
940 thereof to all those institutions in the state that have filed
941 with the agency their names and addresses for this purpose, but



942 the failure to mail the same or the failure of the institutions to
943 receive the same shall in no way affect the validity thereof. The
944 rules, regulations and standards may be amended by the licensing
945 agency, from time to time, as necessary to promote the health,
946 safety and welfare of persons living in those institutions.

947 (2) The licensee shall keep posted in a conspicuous place on
948 the licensed premises all current rules, regulations and minimum
949 standards applicable to fire protection measures as adopted by the
950 licensing agency. The licensee shall furnish to the licensing
951 agency at least once each six (6) months a certificate of approval
952 and inspection by state or local fire authorities. Failure to
953 comply with state laws and/or municipal ordinances and current
954 rules, regulations and minimum standards as adopted by the
955 licensing agency, relative to fire prevention measures, shall be
956 prima facie evidence for revocation of license.

957 (3) The State Board of Health shall promulgate rules and
958 regulations restricting the storage, quantity and classes of drugs
959 allowed in personal care homes and adult foster care facilities.
960 Residents requiring administration of Schedule II Narcotics as
961 defined in the Uniform Controlled Substances Law may be admitted
962 to a personal care home. Schedule drugs may only be allowed in a
963 personal care home if they are administered or stored utilizing
964 proper procedures under the direct supervision of a licensed
965 physician or nurse.



966 (4) (a) Notwithstanding any determination by the licensing
967 agency that skilled nursing services would be appropriate for a
968 resident of a personal care home, that resident, the resident's
969 guardian or the legally recognized responsible party for the
970 resident may consent in writing for the resident to continue to
971 reside in the personal care home, if approved in writing by a
972 licensed physician. However, no personal care home shall allow
973 more than two (2) residents, or ten percent (10%) of the total
974 number of residents in the facility, whichever is greater, to
975 remain in the personal care home under the provisions of this
976 subsection (4). This consent shall be deemed to be appropriately
977 informed consent as described in the regulations promulgated by
978 the licensing agency. After that written consent has been
979 obtained, the resident shall have the right to continue to reside
980 in the personal care home for as long as the resident meets the
981 other conditions for residing in the personal care home. A copy
982 of the written consent and the physician's approval shall be
983 forwarded by the personal care home to the licensing agency.

984 (b) The State Board of Health shall promulgate rules
985 and regulations restricting the handling of a resident's personal
986 deposits by the director of a personal care home. Any funds given
987 or provided for the purpose of supplying extra comforts,
988 conveniences or services to any resident in any personal care
989 home, and any funds otherwise received and held from, for or on
990 behalf of any such resident, shall be deposited by the director or



991 other proper officer of the personal care home to the credit of
992 that resident in an account that shall be known as the Resident's
993 Personal Deposit Fund. No more than one (1) month's charge for
994 the care, support, maintenance and medical attention of the
995 resident shall be applied from the account at any one time. After
996 the death, discharge or transfer of any resident for whose benefit
997 any such fund has been provided, any unexpended balance remaining
998 in his personal deposit fund shall be applied for the payment of
999 care, cost of support, maintenance and medical attention that is
1000 accrued. If any unexpended balance remains in that resident's
1001 personal deposit fund after complete reimbursement has been made
1002 for payment of care, support, maintenance and medical attention,
1003 and the director or other proper officer of the personal care home
1004 has been or shall be unable to locate the person or persons
1005 entitled to the unexpended balance, the director or other proper
1006 officer may, after the lapse of one (1) year from the date of that
1007 death, discharge or transfer, deposit the unexpended balance to
1008 the credit of the personal care home's operating fund.

1009 (c) The State Board of Health shall promulgate rules
1010 and regulations requiring personal care homes to maintain records
1011 relating to health condition, medicine dispensed and administered,
1012 and any reaction to that medicine. The director of the personal
1013 care home shall be responsible for explaining the availability of
1014 those records to the family of the resident at any time upon
1015 reasonable request.



1016 (d) This subsection (4) shall stand repealed on * * *
1017 July 1, 2017.

1018 (5) (a) For the purposes of this subsection (5):

1019 (i) "Licensed entity" means a hospital, nursing
1020 home, personal care home, home health agency, hospice or adult
1021 foster care facility;

1022 (ii) "Covered entity" means a licensed entity or a
1023 health care professional staffing agency;

1024 (iii) "Employee" means any individual employed by
1025 a covered entity, and also includes any individual who by contract
1026 provides to the patients, residents or clients being served by the
1027 covered entity direct, hands-on, medical patient care in a
1028 patient's, resident's or client's room or in treatment or recovery
1029 rooms. The term "employee" does not include health care
1030 professional/vocational technical students, as defined in Section
1031 37-29-232, performing clinical training in a licensed entity under
1032 contracts between their schools and the licensed entity, and does
1033 not include students at high schools located in Mississippi who
1034 observe the treatment and care of patients in a licensed entity as
1035 part of the requirements of an allied-health course taught in the
1036 high school, if:

1037 1. The student is under the supervision of a
1038 licensed health care provider; and

1039 2. The student has signed an affidavit that
1040 is on file at the student's school stating that he or she has not



1041 been convicted of or pleaded guilty or nolo contendere to a felony
1042 listed in paragraph (d) of this subsection (5), or that any such
1043 conviction or plea was reversed on appeal or a pardon was granted
1044 for the conviction or plea. Before any student may sign such an
1045 affidavit, the student's school shall provide information to the
1046 student explaining what a felony is and the nature of the felonies
1047 listed in paragraph (d) of this subsection (5).

1048 However, the health care professional/vocational technical
1049 academic program in which the student is enrolled may require the
1050 student to obtain criminal history record checks under the
1051 provisions of Section 37-29-232.

1052 (b) Under regulations promulgated by the State Board of
1053 Health, the licensing agency shall require to be performed a
1054 criminal history record check on (i) every new employee of a
1055 covered entity who provides direct patient care or services and
1056 who is employed on or after July 1, 2003, and (ii) every employee
1057 of a covered entity employed before July 1, 2003, who has a
1058 documented disciplinary action by his or her present employer. In
1059 addition, the licensing agency shall require the covered entity to
1060 perform a disciplinary check with the professional licensing
1061 agency of each employee, if any, to determine if any disciplinary
1062 action has been taken against the employee by that agency.

1063 Except as otherwise provided in paragraph (c) of this
1064 subsection (5), no such employee hired on or after July 1, 2003,
1065 shall be permitted to provide direct patient care until the



1066 results of the criminal history record check have revealed no
1067 disqualifying record or the employee has been granted a waiver.
1068 In order to determine the employee applicant's suitability for
1069 employment, the applicant shall be fingerprinted. Fingerprints
1070 shall be submitted to the licensing agency from scanning, with the
1071 results processed through the Department of Public Safety's
1072 Criminal Information Center. If no disqualifying record is
1073 identified at the state level, the fingerprints shall be forwarded
1074 by the Department of Public Safety to the Federal Bureau of
1075 Investigation for a national criminal history record check. The
1076 licensing agency shall notify the covered entity of the results of
1077 an employee applicant's criminal history record check. If the
1078 criminal history record check discloses a felony conviction,
1079 guilty plea or plea of nolo contendere to a felony of possession
1080 or sale of drugs, murder, manslaughter, armed robbery, rape,
1081 sexual battery, sex offense listed in Section 45-33-23(h), child
1082 abuse, arson, grand larceny, burglary, gratification of lust or
1083 aggravated assault, or felonious abuse and/or battery of a
1084 vulnerable adult that has not been reversed on appeal or for which
1085 a pardon has not been granted, the employee applicant shall not be
1086 eligible to be employed by the covered entity.

1087 (c) Any such new employee applicant may, however, be
1088 employed on a temporary basis pending the results of the criminal
1089 history record check, but any employment contract with the new
1090 employee shall be voidable if the new employee receives a



1091 disqualifying criminal history record check and no waiver is
1092 granted as provided in this subsection (5).

1093 (d) Under regulations promulgated by the State Board of
1094 Health, the licensing agency shall require every employee of a
1095 covered entity employed before July 1, 2003, to sign an affidavit
1096 stating that he or she has not been convicted of or pleaded guilty
1097 or nolo contendere to a felony of possession or sale of drugs,
1098 murder, manslaughter, armed robbery, rape, sexual battery, any sex
1099 offense listed in Section 45-33-23(h), child abuse, arson, grand
1100 larceny, burglary, gratification of lust, aggravated assault, or
1101 felonious abuse and/or battery of a vulnerable adult, or that any
1102 such conviction or plea was reversed on appeal or a pardon was
1103 granted for the conviction or plea. No such employee of a covered
1104 entity hired before July 1, 2003, shall be permitted to provide
1105 direct patient care until the employee has signed the affidavit
1106 required by this paragraph (d). All such existing employees of
1107 covered entities must sign the affidavit required by this
1108 paragraph (d) within six (6) months of the final adoption of the
1109 regulations promulgated by the State Board of Health. If a person
1110 signs the affidavit required by this paragraph (d), and it is
1111 later determined that the person actually had been convicted of or
1112 pleaded guilty or nolo contendere to any of the offenses listed in
1113 this paragraph (d) and the conviction or plea has not been
1114 reversed on appeal or a pardon has not been granted for the
1115 conviction or plea, the person is guilty of perjury. If the



1116 offense that the person was convicted of or pleaded guilty or nolo
1117 contendere to was a violent offense, the person, upon a conviction
1118 of perjury under this paragraph, shall be punished as provided in
1119 Section 97-9-61. If the offense that the person was convicted of
1120 or pleaded guilty or nolo contendere to was a nonviolent offense,
1121 the person, upon a conviction of perjury under this paragraph,
1122 shall be punished by a fine of not more than Five Hundred Dollars
1123 (\$500.00), or by imprisonment in the county jail for not more than
1124 six (6) months, or by both such fine and imprisonment.

1125 (e) The covered entity may, in its discretion, allow
1126 any employee who is unable to sign the affidavit required by
1127 paragraph (d) of this subsection (5) or any employee applicant
1128 aggrieved by an employment decision under this subsection (5) to
1129 appear before the covered entity's hiring officer, or his or her
1130 designee, to show mitigating circumstances that may exist and
1131 allow the employee or employee applicant to be employed by the
1132 covered entity. The covered entity, upon report and
1133 recommendation of the hiring officer, may grant waivers for those
1134 mitigating circumstances, which shall include, but not be limited
1135 to: (i) age at which the crime was committed; (ii) circumstances
1136 surrounding the crime; (iii) length of time since the conviction
1137 and criminal history since the conviction; (iv) work history; (v)
1138 current employment and character references; and (vi) other
1139 evidence demonstrating the ability of the individual to perform
1140 the employment responsibilities competently and that the



1141 individual does not pose a threat to the health or safety of the
1142 patients of the covered entity.

1143 (f) The licensing agency may charge the covered entity
1144 submitting the fingerprints a fee not to exceed Fifty Dollars
1145 (\$50.00), which covered entity may, in its discretion, charge the
1146 same fee, or a portion thereof, to the employee applicant. Any
1147 costs incurred by a covered entity implementing this subsection
1148 (5) shall be reimbursed as an allowable cost under Section
1149 43-13-116.

1150 (g) If the results of an employee applicant's criminal
1151 history record check reveals no disqualifying event, then the
1152 covered entity shall, within two (2) weeks of the notification of
1153 no disqualifying event, provide the employee applicant with a
1154 notarized letter signed by the chief executive officer of the
1155 covered entity, or his or her authorized designee, confirming the
1156 employee applicant's suitability for employment based on his or
1157 her criminal history record check. An employee applicant may use
1158 that letter for a period of two (2) years from the date of the
1159 letter to seek employment with any covered entity without the
1160 necessity of an additional criminal history record check. Any
1161 covered entity presented with the letter may rely on the letter
1162 with respect to an employee applicant's criminal background and is
1163 not required for a period of two (2) years from the date of the
1164 letter to conduct or have conducted a criminal history record
1165 check as required in this subsection (5).



1166 (h) The licensing agency, the covered entity, and their
1167 agents, officers, employees, attorneys and representatives, shall
1168 be presumed to be acting in good faith for any employment decision
1169 or action taken under this subsection (5). The presumption of
1170 good faith may be overcome by a preponderance of the evidence in
1171 any civil action. No licensing agency, covered entity, nor their
1172 agents, officers, employees, attorneys and representatives shall
1173 be held liable in any employment decision or action based in whole
1174 or in part on compliance with or attempts to comply with the
1175 requirements of this subsection (5).

1176 (i) The licensing agency shall promulgate regulations
1177 to implement this subsection (5).

1178 (j) The provisions of this subsection (5) shall not
1179 apply to:

1180 (i) Applicants and employees of the University of
1181 Mississippi Medical Center for whom criminal history record checks
1182 and fingerprinting are obtained in accordance with Section
1183 37-115-41; or

1184 (ii) Health care professional/vocational technical
1185 students for whom criminal history record checks and
1186 fingerprinting are obtained in accordance with Section 37-29-232.

1187 (6) The State Board of Health shall promulgate rules,
1188 regulations and standards regarding the operation of adult foster
1189 care facilities.



1190 **SECTION 12. Health action plans.** (1) Diabetes annual
1191 action plan; submission; content. The State Department of Health
1192 shall submit an action plan to the Senate Committee on Public
1193 Health and Welfare and the House Committee on Public Health and
1194 Human Services no later than February 1 of each year on the
1195 following:

1196 (a) The financial impact and reach diabetes of all
1197 types is having on the State of Mississippi and its residents.
1198 Items in this assessment shall include the number of lives with
1199 diabetes covered by the State Department of Health, its contracted
1200 partners and other stakeholders, the number of lives with diabetes
1201 impacted by the prevention and diabetes control programs
1202 implemented by the department and its contracted partners, the
1203 financial cost diabetes and its complications places on the
1204 department and its contracted partners, and the financial cost
1205 diabetes and its complications places on the department and its
1206 contracted partners in comparison to other chronic diseases and
1207 conditions for which the state collects data.

1208 (b) An assessment of the benefits of implemented
1209 programs and activities aimed at controlling diabetes and
1210 preventing the disease.

1211 (c) A description of the level of coordination existing
1212 between the State Department of Health, its contracted partners,
1213 and other stakeholders on activities, programmatic activities, and



1214 the level of communication on managing, treating or preventing all
1215 forms of diabetes and its complications.

1216 (d) The development of a detailed action plan for
1217 battling diabetes with a range of actionable items. The plan
1218 shall identify proposed action steps to reduce the impact of
1219 diabetes, prediabetes, and related diabetes complications. The
1220 plan shall identify expected outcomes of the action steps proposed
1221 while establishing benchmarks for controlling and preventing
1222 diabetes.

1223 (e) The development of a detailed budget blueprint
1224 identifying needs, costs, and resources to implement the plan
1225 identified in paragraph (d) of this subsection.

1226 The State Department of Health shall develop a voluntary
1227 protocol for practitioners consisting of clinical quality and
1228 performance measures for the treatment of patients with diabetes.
1229 The clinical quality and performance measures shall include A1c
1230 control, low density lipoprotein control, high blood pressure
1231 control, hypoglycemia control and tobacco nonuse.

1232 (2) Obesity annual action plan; submission; content. The
1233 State Department of Health shall submit an action plan to the
1234 Senate Committee on Public Health and Welfare and the House
1235 Committee on Health and Human Services no later than February 1 of
1236 each year on the following:

1237 (a) The financial impact and reach obesity is having on
1238 the State of Mississippi and its residents. Items included in



1239 this assessment shall include the number of lives with obesity
1240 covered by the State Department of Health and its contracted
1241 partners and other stakeholders, the number of lives with obesity
1242 impacted by the prevention and control programs implemented by the
1243 State Department of Health and its contracted partners, the
1244 financial cost obesity and its complications places on the State
1245 Department of Health and its contracted partners, and the
1246 financial cost obesity and its complications places on the State
1247 Department of Health and its contracted partners in comparison to
1248 other chronic diseases and conditions for which the state collects
1249 data.

1250 (b) An assessment of the benefits of implemented
1251 programs and activities aimed at controlling obesity and
1252 preventing the disease.

1253 (c) A description of the level of coordination existing
1254 between the State Department of Health, its contracted partners,
1255 and other stakeholders on activities, programmatic activities, and
1256 the level of communication on managing, treating or preventing
1257 obesity and its complications.

1258 (d) The development of a detailed action plan for
1259 battling obesity with a range of actionable items. The plan shall
1260 identify proposed action steps to reduce the impact of obesity and
1261 related obesity complications. The plan shall identify expected
1262 outcomes of the action steps proposed while establishing
1263 benchmarks for controlling and preventing obesity.



1264 (e) The development of a detailed budget blueprint
1265 identifying needs, costs and resources to implement the plan
1266 identified in paragraph (d) of this subsection (2).

1267 (3) The State Department of Health is authorized and
1268 empowered to accept and expend monetary or in-kind contributions,
1269 gifts and grants to carry out the provisions of this act. Such
1270 contributions, gifts and grants shall be deposited into a special
1271 fund, hereby established in the State Treasury, to be known as the
1272 "Health Action Plan Contribution Fund."

1273 **SECTION 13.** Section 41-3-20, Mississippi Code of 1972, is
1274 amended as follows:

1275 41-3-20. Sections 41-3-1.1, 41-3-3, 41-3-4, 41-3-5.1,
1276 41-3-6, 41-3-15, 41-3-16, 41-3-17, 41-3-18 and 41-3-19, which
1277 create the reconstituted State Board of Health, establish the
1278 position of Executive Officer of the State Department of Health
1279 and establish the State Department of Health and prescribe its
1280 powers and duties, shall stand repealed on * * * July 1, 2017.

1281 **SECTION 14.** This act shall take effect and be in force from
1282 and after July 1, 2014.

