

By: Senator(s) Clarke

To: Appropriations

SENATE BILL NO. 2567

1 AN ACT ENTITLED THE "MISSISSIPPI HEALTH AGENCY REORGANIZATION
2 ACT OF 2017"; TO PROVIDE THAT THE MISSISSIPPI DEPARTMENT OF MENTAL
3 HEALTH SHALL BE UNDER THE POLICY DIRECTION OF THE GOVERNOR; TO
4 PROVIDE THAT THE EXECUTIVE DIRECTOR OF THE MISSISSIPPI DEPARTMENT
5 OF MENTAL HEALTH SHALL BE APPOINTED BY AND SERVE AT THE WILL AND
6 PLEASURE OF THE GOVERNOR AND TO PROVIDE THAT THE EXECUTIVE
7 DIRECTOR SHALL ESTABLISH THE ORGANIZATIONAL STRUCTURE OF THE
8 DEPARTMENT; TO PROVIDE THAT THE STATE BOARD OF MENTAL HEALTH SHALL
9 BE AN ADVISORY BOARD TO THE DEPARTMENT; TO AMEND SECTIONS 41-4-1,
10 41-4-3, 41-4-5, 41-4-7, 41-4-9 AND 41-4-10, MISSISSIPPI CODE OF
11 1972, IN CONFORMITY; TO PROVIDE THAT THE MISSISSIPPI STATE
12 DEPARTMENT OF HEALTH SHALL BE UNDER THE POLICY DIRECTION OF THE
13 GOVERNOR; TO PROVIDE THAT THE EXECUTIVE DIRECTOR OF THE
14 MISSISSIPPI STATE DEPARTMENT OF HEALTH SHALL BE APPOINTED BY AND
15 SERVE AT THE WILL AND PLEASURE OF THE GOVERNOR AND TO PROVIDE THAT
16 THE EXECUTIVE DIRECTOR SHALL ESTABLISH THE ORGANIZATIONAL
17 STRUCTURE OF THE DEPARTMENT; TO PROVIDE THAT THE STATE BOARD OF
18 HEALTH SHALL BE AN ADVISORY BOARD TO THE DEPARTMENT; TO AMEND
19 SECTIONS 41-3-1.1, 41-3-3, 41-3-4, 41-3-5.1, 41-3-6, 41-3-15,
20 41-3-17, 41-3-18, 41-3-19, 41-3-20, 41-3-21, 41-3-51 AND 41-3-53,
21 MISSISSIPPI CODE OF 1972, IN CONFORMITY; TO PROVIDE THAT THE STATE
22 DEPARTMENT OF REHABILITATION SERVICES SHALL BE UNDER THE POLICY
23 DIRECTION OF THE GOVERNOR; TO PROVIDE THAT THE EXECUTIVE DIRECTOR
24 OF THE STATE DEPARTMENT OF REHABILITATION SERVICES SHALL BE
25 APPOINTED BY AND SERVE AT THE WILL AND PLEASURE OF THE GOVERNOR
26 AND TO PROVIDE THAT THE EXECUTIVE DIRECTOR SHALL ESTABLISH THE
27 ORGANIZATIONAL STRUCTURE OF THE DEPARTMENT; TO PROVIDE THAT THE
28 STATE BOARD OF REHABILITATION SERVICES SHALL BE AN ADVISORY BOARD
29 TO THE DEPARTMENT; TO AMEND SECTIONS 37-33-151, 37-33-153,
30 37-33-155, 37-33-157, 37-33-159, 37-33-161, 37-33-163, 37-33-201,
31 37-33-205, 37-33-207 AND 37-33-253, MISSISSIPPI CODE OF 1972, IN
32 CONFORMITY; TO AMEND SECTIONS 43-13-105, 43-13-107, 43-13-109,
33 43-13-111, 43-13-113, 43-13-116 AND 43-13-121, MISSISSIPPI CODE OF
34 1972, TO CHANGE THE NAME OF THE DIVISION OF MEDICAID IN THE OFFICE



35 OF GOVERNOR TO THE "DEPARTMENT" OF MEDICAID IN THE OFFICE OF
36 GOVERNOR AND TO PROVIDE FOR THE QUALIFICATIONS FOR THE EXECUTIVE
37 DIRECTOR OF THE DEPARTMENT OF MEDICAID; TO AMEND SECTION 25-9-127,
38 MISSISSIPPI CODE OF 1972, TO EXEMPT EMPLOYEE POSITIONS AFFECTED BY
39 THIS REORGANIZATION FROM THE REGULATIONS OF THE STATE PERSONNEL
40 BOARD; AND FOR RELATED PURPOSES.

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

42 **SECTION 1.** This act shall be known and may be cited as the
43 "Mississippi Health Agency Reorganization Act of 2017."

44 **SECTION 2.** (1) On July 1, 2017, the Mississippi Department
45 of Mental Health shall be under the policy direction of the
46 Governor and shall retain all powers and duties as granted to the
47 former Mississippi Department of Mental Health or State Board of
48 Mental Health. Wherever the term "Mississippi Department of
49 Mental Health" or "State Board of Mental Health" appears in any
50 law or regulation, the same shall mean the Department of Mental
51 Health, under the policy direction of the Governor. The Executive
52 Director of the Department of Mental Health may assign to the
53 appropriate offices such powers and duties deemed appropriate to
54 carry out the lawful functions of the department.

55 (2) The Executive Director of the Department of Mental
56 Health shall be authorized to combine or abolish employee
57 positions as necessary to carry out the provisions of this act,
58 and the Executive Director is authorized to reorganize such
59 offices, services, programs or other activities so as to achieve
60 economy and efficiency and if he finds such action to be in the
61 public interest.



62 **SECTION 3.** Section 41-4-1, Mississippi Code of 1972, is
63 amended as follows:

64 41-4-1. (1) The goal of the Rose Isabel Williams Mental
65 Health Reform Act of 2011 is to reform the current Mississippi
66 mental health delivery system so that necessary services, supports
67 and operational structures for all its citizens with mental
68 illness and/or alcohol and drug dependence and/or comorbidity,
69 whether children, youth or adults, are accessible and delivered
70 preferably in the communities where these citizens live. To
71 accomplish this goal, this act provides that initially certain
72 core services as defined in subsection (2) of this section should
73 be available to residents of each county in the state. These
74 services may be provided by community mental health/intellectual
75 disability centers. In order to determine what services are
76 available, the State Department of Mental Health, under the policy
77 direction of the Governor, is directed to survey the community
78 mental health/intellectual disability centers, and the community
79 mental health/intellectual disability centers are directed to
80 report what services they are currently providing in each county.
81 This act does not require any community mental health/intellectual
82 disability center to provide any service. This act is not
83 independent authority for any program not otherwise authorized.

84 (2) The * * * Department of Mental Health, under the policy
85 direction of the Governor, is authorized and empowered to
86 promulgate regulations to ensure that core adult mental health



87 services, child mental health services, intellectual/developmental
88 disability services, and substance abuse prevention and
89 treatment/rehabilitation services are provided throughout the
90 state through the regional mental health/intellectual disability
91 commissions and centers or through other providers. The * * *
92 Department of Mental Health is directed to give priority to crisis
93 services and crisis stabilization unit services provided
94 twenty-four (24) hours a day, seven (7) days a week, where trained
95 emergency-crisis response staff triage referrals and respond in a
96 timely and adequate manner to diffuse a current personal crisis
97 situation.

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

100 41-4-3. (1) From and after July 1, 2017, there is created a
101 State Advisory Board * * * on Mental Health, referred to in this
102 chapter as "board," consisting of nine (9) members, to be
103 appointed by the Governor, with the advice and consent of the
104 Senate, each of whom shall be a qualified elector. One (1) member
105 shall be appointed from each congressional district as presently
106 constituted; and four (4) members shall be appointed from the
107 state at large, one (1) of whom shall be a licensed medical doctor
108 who is a psychiatrist, one (1) of whom shall hold a Ph.D. degree
109 and be a licensed clinical psychologist, one (1) of whom shall be
110 a licensed medical doctor, and one (1) of whom shall be a social
111 worker with experience in the mental health field.



112 No more than two (2) members of the board shall be appointed
113 from any one (1) congressional district as presently constituted.

114 Each member of the initial board shall serve for a term of
115 years represented by the number of his congressional district; two
116 (2) state-at-large members shall serve for a term of six (6)
117 years; two (2) state at large members shall serve for a term of
118 seven (7) years; subsequent appointments shall be for seven-year
119 terms and the Governor shall fill any vacancy for the unexpired
120 term.

121 The board shall elect a chairman whose term of office shall
122 be one (1) year and until his successor shall be elected.

123 (2) Each board member shall be entitled to a per diem as is
124 authorized by law and all actual and necessary expenses, including
125 mileage as provided by law, incurred in the discharge of official
126 duties.

127 (3) The board shall hold regular meetings quarterly and such
128 special meetings deemed necessary, except that no action shall be
129 taken unless there is present a quorum of at least five (5)
130 members.

131 (4) The board shall advise the Executive Director of the
132 Department of Mental Health, under the policy direction of the
133 Governor, regarding any regulation or matter relating to the
134 delivery of mental health services in the State of Mississippi.

135 **SECTION 5.** Section 41-4-5, Mississippi Code of 1972, is
136 amended as follows:



137 41-4-5. There is created the State Department of Mental
138 Health, herein referred to as "department," which shall consist of
139 four (4) or more divisions, among them the Division of
140 Intellectual Disabilities, the Division of Alcohol and Drug
141 Misuse, the Division of Mental Health, and the Division of
142 Administration, Planning and Coordination, and such other
143 divisions as the * * * Executive Director deems appropriate.

144 **SECTION 6.** Section 41-4-7, Mississippi Code of 1972, is
145 amended as follows:

146 41-4-7. The * * * Mississippi Department of Mental Health,
147 under the policy direction of the Governor, shall have the
148 following powers and duties:

149 (a) * * * The Governor shall appoint a full-time
150 Executive Director of the Department of Mental Health, with the
151 advice and consent of the Senate, who shall * * * serve at the
152 will and pleasure of the Governor. The * * * Executive Director
153 shall be a duly licensed physician with special interest and
154 competence in psychiatry, and shall possess a minimum of three (3)
155 years' experience in clinical and administrative psychiatry * * *,
156 or shall possess at least a master's degree or its equivalent, and
157 shall possess at least ten (10) years' administrative experience
158 in the field of mental health * * *;

159 (b) * * * The Executive Director of the Mississippi
160 Department of Mental Health shall appoint a medical director for
161 the department * * *. The medical director shall provide clinical



162 oversight in the implementation of evidence-based and best
163 practices; provide clinical leadership in the integration of
164 mental health, intellectual disability and addiction services with
165 community partners in the public and private sectors; and provide
166 oversight regarding standards of care. The medical director shall
167 serve at the will and pleasure of the * * * director, and will
168 undergo an annual review of job performance and future service to
169 the department;

170 (c) To cooperate with the Strategic Planning and Best
171 Practices Committee created in Section 41-4-10, Mississippi Code
172 of 1972, in establishing and implementing its state strategic
173 plan;

174 (d) To develop a strategic plan for the development of
175 services for persons with mental illness, persons with
176 developmental disabilities and other clients of the public mental
177 health system. Such strategic planning program shall require that
178 the board, acting through the Strategic Planning and Best
179 Practices Committee, perform the following functions respecting
180 the delivery of services:

181 (i) Establish measures for determining the
182 efficiency and effectiveness of the services specified in Section
183 41-4-1(2);

184 (ii) Conducting studies of community-based care in
185 other jurisdictions to determine which services offered in these
186 jurisdictions have the potential to provide the citizens of



187 Mississippi with more effective and efficient community-based
188 care;

189 (iii) Evaluating the efficiency and effectiveness
190 of the services specified in Section 41-4-1(2);

191 (iv) Recommending to the Legislature by January 1,
192 2014, any necessary additions, deletions or other changes
193 necessary to the services specified in Section 41-4-1(2);

194 (v) Implementing by July 1, 2012, a system of
195 performance measures for the services specified in Section
196 41-4-1(2);

197 (vi) Recommending to the Legislature any changes
198 that the department believes are necessary to the current laws
199 addressing civil commitment;

200 (vii) Conducting any other activities necessary to
201 the evaluation and study of the services specified in Section
202 41-4-1(2);

203 (viii) Assisting in conducting all necessary
204 strategic planning for the delivery of all other services of the
205 department. Such planning shall be conducted so as to produce a
206 single strategic plan for the services delivered by the public
207 mental health system and shall establish appropriate mission
208 statements, goals, objectives and performance indicators for all
209 programs and services of the public mental health system. For
210 services other than those specified in Section 41-4-1(2), the



211 committee shall recommend to the State Board of Mental Health a
212 strategic plan that the board may adopt or modify;

213 (e) To set up state plans for the purpose of
214 controlling and treating any and all forms of mental and emotional
215 illness, alcoholism, drug misuse and developmental disabilities;

216 (f) To supervise, coordinate and establish standards
217 for all operations and activities of the state related to mental
218 health and providing mental health services. Nothing in this
219 chapter shall preclude the services of a psychiatric/mental health
220 nurse practitioner in accordance with an established nurse
221 practitioner/physician protocol. A physician, licensed
222 psychologist, psychiatric/mental health nurse practitioner in
223 accordance with an established nurse practitioner/physician
224 protocol, physician assistant, licensed professional counselor,
225 licensed marriage and family therapists, or licensed clinical
226 social worker shall certify each client's record annually after
227 seeing the client in person or by telemedicine, and more often if
228 medically indicated by physically visiting the client and
229 certifying same in the record. The * * * department shall have
230 the authority to develop and implement all standards and plans and
231 shall have the authority to establish appropriate actions,
232 including financially punitive actions, to ensure enforcement of
233 these established standards, in accordance with the Administrative
234 Procedures Law (Section 25-43-1.101 et seq.). The regional
235 community mental health/intellectual disability centers shall



236 comply with all of the * * * department's established standards
237 that are applicable to those centers, and the * * * department may
238 withhold any state funds that otherwise would be allocated or paid
239 to any of those centers that does not comply with the * * *
240 department's established standards. This paragraph (f) shall
241 stand repealed on July 1, * * * 2018;

242 (g) To enter into contracts with any other state or
243 federal agency, or with any private person, organization or group
244 capable of contracting, if it finds such action to be in the
245 public interest;

246 (h) To collect reasonable fees for its services;
247 however, if it is determined that a person receiving services is
248 unable to pay the total fee, the department shall collect any
249 amount such person is able to pay;

250 (i) To certify, coordinate and establish minimum
251 standards and establish minimum required services, as specified in
252 Section 41-4-1(2), for regional mental health and intellectual
253 disability commissions and other community service providers for
254 community or regional programs and services in adult mental
255 health, children and youth mental health, intellectual
256 disabilities, alcoholism, drug misuse, developmental disabilities,
257 compulsive gambling, addictive disorders and related programs
258 throughout the state. Such regional mental health and
259 intellectual disability commissions and other community service
260 providers shall, on or before July 1 of each year, submit an



261 annual operational plan to the State Department of Mental Health
262 for approval or disapproval based on the minimum standards and
263 minimum required services established by the department for
264 certification and itemize the services specified in Section
265 41-4-1(2). As part of the annual operation plan required by this
266 paragraph (i) submitted by any regional community mental health
267 center or by any other reasonable certification deemed acceptable
268 by the department, the community mental health center shall state
269 those services specified in Section 41-4-1(2) that it will provide
270 and also those services that it will not provide. If the
271 department finds deficiencies in the plan of any regional
272 commission or community service provider based on the minimum
273 standards and minimum required services established for
274 certification, the department shall give the regional commission
275 or community service provider a six-month probationary period to
276 bring its standards and services up to the established minimum
277 standards and minimum required services. After the six-month
278 probationary period, if the department determines that the
279 regional commission or community service provider still does not
280 meet the minimum standards and minimum required services
281 established for certification, the department may remove the
282 certification of the commission or provider and from and after
283 July 1, 2011, the commission or provider shall be ineligible for
284 state funds from Medicaid reimbursement or other funding sources
285 for those services. However, the department shall not mandate a



286 standard or service, or decertify a regional commission or
287 community service provider for not meeting a standard or service,
288 if the standard or service does not have funding appropriated by
289 the Legislature or have a state, federal or local funding source
290 identified by the department. No county shall be required to levy
291 millage to provide a mandated standard or service above the
292 minimum rate required by Section 41-19-39. After the six-month
293 probationary period, the department may identify an appropriate
294 community service provider to provide any core services in that
295 county that are not provided by a community mental health center.
296 However, the department shall not offer reimbursement or other
297 accommodations to a community service provider of core services
298 that were not offered to the decertified community mental health
299 center for the same or similar services. The * * * Department of
300 Mental Health shall promulgate rules and regulations necessary to
301 implement the provisions of this paragraph (i), in accordance with
302 the Administrative Procedures Law (Section 25-43-1.101 et seq.);

303 (j) To establish and promulgate reasonable minimum
304 standards for the construction and operation of state and all
305 Department of Mental Health certified facilities, including
306 reasonable minimum standards for the admission, diagnosis, care,
307 treatment, transfer of patients and their records, and also
308 including reasonable minimum standards for providing day care,
309 outpatient care, emergency care, inpatient care and follow-up
310 care, when such care is provided for persons with mental or



311 emotional illness, an intellectual disability, alcoholism, drug
312 misuse and developmental disabilities;

313 (k) To implement best practices for all services
314 specified in Section 41-4-1(2), and to establish and implement all
315 other services delivered by the Department of Mental Health. To
316 carry out this responsibility, the * * * department shall require
317 the department to establish a division responsible for developing
318 best practices based on a comprehensive analysis of the mental
319 health environment to determine what the best practices for each
320 service are. In developing best practices, the * * * department
321 shall consider the cost and benefits associated with each practice
322 with a goal of implementing only those practices that are
323 cost-effective practices for service delivery. Such best
324 practices shall be utilized by the * * * department in
325 establishing performance standards and evaluations of the
326 community mental health centers' services required by paragraph
327 (d) of this section;

328 (l) To assist community or regional programs consistent
329 with the purposes of this chapter by making grants and contracts
330 from available funds;

331 (m) To establish and collect reasonable fees for
332 necessary inspection services incidental to certification or
333 compliance;

334 (n) To accept gifts, trusts, bequests, grants,
335 endowments or transfers of property of any kind;



336 (o) To receive monies coming to it by way of fees for
337 services or by appropriations;

338 (p) To serve as the single state agency in receiving
339 and administering any and all funds available from any source for
340 the purpose of service delivery, training, research and education
341 in regard to all forms of mental illness, intellectual
342 disabilities, alcoholism, drug misuse and developmental
343 disabilities, unless such funds are specifically designated to a
344 particular agency or institution by the federal government, the
345 Mississippi Legislature or any other grantor;

346 (q) To establish mental health holding centers for the
347 purpose of providing short-term emergency mental health treatment,
348 places for holding persons awaiting commitment proceedings or
349 awaiting placement in a state mental health facility following
350 commitment, and for diverting placement in a state mental health
351 facility. These mental health holding facilities shall be readily
352 accessible, available statewide, and be in compliance with
353 emergency services' minimum standards. They shall be
354 comprehensive and available to triage and make appropriate
355 clinical disposition, including the capability to access inpatient
356 services or less restrictive alternatives, as needed, as
357 determined by medical staff. Such facility shall have medical,
358 nursing and behavioral services available on a
359 twenty-four-hour-a-day basis. The * * * department may provide
360 for all or part of the costs of establishing and operating the



361 holding centers in each district from such funds as may be
362 appropriated to the * * * department for such use, and may
363 participate in any plan or agreement with any public or private
364 entity under which the entity will provide all or part of the
365 costs of establishing and operating a holding center in any
366 district;

367 (r) To certify/license case managers, mental health
368 therapists, intellectual disability therapists, mental
369 health/intellectual disability program administrators, addiction
370 counselors and others as deemed appropriate by the * * *
371 department. Persons already professionally licensed by another
372 state board or agency are not required to be certified/licensed
373 under this section by the Department of Mental Health. The
374 department shall not use professional titles in its
375 certification/licensure process for which there is an independent
376 licensing procedure. Such certification/licensure shall be valid
377 only in the state mental health system, in programs funded and/or
378 certified by the Department of Mental Health and/or in programs
379 certified/licensed by the State Department of Health that are
380 operated by the state mental health system serving persons with
381 mental illness, an intellectual disability, a developmental
382 disability or addictions, and shall not be transferable;

383 (s) To develop formal mental health worker
384 qualifications for regional mental health and intellectual
385 disability commissions and other community service providers. The



386 State Personnel Board shall develop and promulgate a recommended
387 salary scale and career ladder for all regional mental
388 health/intellectual disability center therapists and case managers
389 who work directly with clients. The State Personnel Board shall
390 also develop and promulgate a career ladder for all direct care
391 workers employed by the State Department of Mental Health;

392 (t) The employees of the department shall be governed
393 by personnel merit system rules and regulations, the same as other
394 employees in state services;

395 (u) To establish such rules and regulations as may be
396 necessary in carrying out the provisions of this chapter,
397 including the establishment of a formal grievance procedure to
398 investigate and attempt to resolve consumer complaints;

399 (v) To grant easements for roads, utilities and any
400 other purpose it finds to be in the public interest;

401 (w) To survey statutory designations, building markers
402 and the names given to mental health/intellectual disability
403 facilities and proceedings in order to recommend deletion of
404 obsolete and offensive terminology relative to the mental
405 health/intellectual disability system. Based upon a
406 recommendation of the Executive Director, the * * * department
407 shall have the authority to name/rename any facility operated
408 under the auspices of the Department of Mental Health for the sole
409 purpose of deleting such terminology;



410 (x) To ensure an effective case management system
411 directed at persons who have been discharged from state and
412 private psychiatric hospitals to ensure their continued well-being
413 in the community;

414 (y) To develop formal service delivery standards
415 designed to measure the quality of services delivered to community
416 clients, as well as the timeliness of services to community
417 clients provided by regional mental health/intellectual disability
418 commissions and other community services providers;

419 (z) To establish regional state offices to provide
420 mental health crisis intervention centers and services available
421 throughout the state to be utilized on a case-by-case emergency
422 basis. The regional services director, other staff and delivery
423 systems shall meet the minimum standards of the Department of
424 Mental Health;

425 (aa) To require performance contracts with community
426 mental health/intellectual disability service providers to contain
427 performance indicators to measure successful outcomes, including
428 diversion of persons from inpatient psychiatric hospitals,
429 rapid/timely response to emergency cases, client satisfaction with
430 services and other relevant performance measures;

431 (bb) To enter into interagency agreements with other
432 state agencies, school districts and other local entities as
433 determined necessary by the department to ensure that local mental



434 health service entities are fulfilling their responsibilities to
435 the overall state plan for behavioral services;

436 (cc) To establish and maintain a toll-free grievance
437 reporting telephone system for the receipt and referral for
438 investigation of all complaints by clients of state and community
439 mental health/intellectual disability facilities;

440 (dd) To establish a peer review/quality assurance
441 evaluation system that assures that appropriate assessment,
442 diagnosis and treatment is provided according to established
443 professional criteria and guidelines;

444 (ee) To develop and implement state plans for the
445 purpose of assisting with the care and treatment of persons with
446 Alzheimer's disease and other dementia. This plan shall include
447 education and training of service providers, caregivers in the
448 home setting and others who deal with persons with Alzheimer's
449 disease and other dementia, and development of adult day care,
450 family respite care and counseling programs to assist families who
451 maintain persons with Alzheimer's disease and other dementia in
452 the home setting. No agency shall be required to provide any
453 services under this section until such time as sufficient funds
454 have been appropriated or otherwise made available by the
455 Legislature specifically for the purposes of the treatment of
456 persons with Alzheimer's and other dementia;

457 (ff) Working with the advice and consent of the
458 administration of Ellisville State School, to enter into



459 negotiations with the Economic Development Authority of Jones
460 County for the purpose of negotiating the possible exchange, lease
461 or sale of lands owned by Ellisville State School to the Economic
462 Development Authority of Jones County. It is the intent of the
463 Mississippi Legislature that such negotiations shall ensure that
464 the financial interest of the persons with an intellectual
465 disability served by Ellisville State School will be held
466 paramount in the course of these negotiations. The Legislature
467 also recognizes the importance of economic development to the
468 citizens of the State of Mississippi and Jones County, and
469 encourages fairness to the Economic Development Authority of Jones
470 County. Any negotiations proposed which would result in the
471 recommendation for exchange, lease or sale of lands owned by
472 Ellisville State School must have the approval of the State Board
473 of Mental Health. The * * * Department of Mental Health may and
474 has the final authority as to whether or not these negotiations
475 result in the exchange, lease or sale of the properties it
476 currently holds in trust for persons with an intellectual
477 disability served at Ellisville State School.

478 If the * * * Department of Mental Health authorizes the sale
479 of lands owned by Ellisville State School, as provided for under
480 this paragraph (ff), the monies derived from the sale shall be
481 placed into a special fund that is created in the State Treasury
482 to be known as the "Ellisville State School Client's Trust Fund."
483 The principal of the trust fund shall remain inviolate and shall



484 never be expended. Any interest earned on the principal may be
485 expended solely for the benefits of clients served at Ellisville
486 State School. The State Treasurer shall invest the monies of the
487 trust fund in any of the investments authorized for the
488 Mississippi Prepaid Affordable College Tuition Program under
489 Section 37-155-9, and those investments shall be subject to the
490 limitations prescribed by Section 37-155-9. Unexpended amounts
491 remaining in the trust fund at the end of a fiscal year shall not
492 lapse into the State General Fund, and any interest earned on
493 amounts in the trust fund shall be deposited to the credit of the
494 trust fund. The administration of Ellisville State School may use
495 any interest earned on the principal of the trust fund, upon
496 appropriation by the Legislature, as needed for services or
497 facilities by the clients of Ellisville State School. Ellisville
498 State School shall make known to the Legislature, through the
499 Legislative Budget Committee and the respective Appropriations
500 Committees of the House and Senate, its proposed use of interest
501 earned on the principal of the trust fund for any fiscal year in
502 which it proposes to make expenditures thereof. The State
503 Treasurer shall provide Ellisville State School with an annual
504 report on the Ellisville State School Client's Trust Fund to
505 indicate the total monies in the trust fund, interest earned
506 during the year, expenses paid from the trust fund and such other
507 related information.



508 Nothing in this section shall be construed as applying to or
509 affecting mental health/intellectual disability services provided
510 by hospitals as defined in Section 41-9-3(a), and/or their
511 subsidiaries and divisions, which hospitals, subsidiaries and
512 divisions are licensed and regulated by the Mississippi State
513 Department of Mental Health unless such hospitals, subsidiaries or
514 divisions voluntarily request certification by the Mississippi
515 State Department of Mental Health.

516 All new programs authorized under this section shall be
517 subject to the availability of funds appropriated therefor by the
518 Legislature;

519 (gg) Working with the advice and consent of the
520 administration of Boswell Regional Center, to enter into
521 negotiations with the Economic Development Authority of Simpson
522 County for the purpose of negotiating the possible exchange, lease
523 or sale of lands owned by Boswell Regional Center to the Economic
524 Development Authority of Simpson County. It is the intent of the
525 Mississippi Legislature that such negotiations shall ensure that
526 the financial interest of the persons with an intellectual
527 disability served by Boswell Regional Center will be held
528 paramount in the course of these negotiations. The Legislature
529 also recognizes the importance of economic development to the
530 citizens of the State of Mississippi and Simpson County, and
531 encourages fairness to the Economic Development Authority of
532 Simpson County. Any negotiations proposed which would result in



533 the recommendation for exchange, lease or sale of lands owned by
534 Boswell Regional Center must have the approval of the State Board
535 of Mental Health. The * * * Department of Mental Health may and
536 has the final authority as to whether or not these negotiations
537 result in the exchange, lease or sale of the properties it
538 currently holds in trust for persons with an intellectual
539 disability served at Boswell Regional Center. In any such
540 exchange, lease or sale of such lands owned by Boswell Regional
541 Center, title to all minerals, oil and gas on such lands shall be
542 reserved, together with the right of ingress and egress to remove
543 same, whether such provisions be included in the terms of any such
544 exchange, lease or sale or not.

545 If the * * * Department of Mental Health authorizes the sale
546 of lands owned by Boswell Regional Center, as provided for under
547 this paragraph (gg), the monies derived from the sale shall be
548 placed into a special fund that is created in the State Treasury
549 to be known as the "Boswell Regional Center Client's Trust Fund."
550 The principal of the trust fund shall remain inviolate and shall
551 never be expended. Any earnings on the principal may be expended
552 solely for the benefits of clients served at Boswell Regional
553 Center. The State Treasurer shall invest the monies of the trust
554 fund in any of the investments authorized for the Mississippi
555 Prepaid Affordable College Tuition Program under Section 37-155-9,
556 and those investments shall be subject to the limitations
557 prescribed by Section 37-155-9. Unexpended amounts remaining in



558 the trust fund at the end of a fiscal year shall not lapse into
559 the State General Fund, and any earnings on amounts in the trust
560 fund shall be deposited to the credit of the trust fund. The
561 administration of Boswell Regional Center may use any earnings on
562 the principal of the trust fund, upon appropriation by the
563 Legislature, as needed for services or facilities by the clients
564 of Boswell Regional Center. Boswell Regional Center shall make
565 known to the Legislature, through the Legislative Budget Committee
566 and the respective Appropriations Committees of the House and
567 Senate, its proposed use of the earnings on the principal of the
568 trust fund for any fiscal year in which it proposes to make
569 expenditures thereof. The State Treasurer shall provide Boswell
570 Regional Center with an annual report on the Boswell Regional
571 Center Client's Trust Fund to indicate the total monies in the
572 trust fund, interest and other income earned during the year,
573 expenses paid from the trust fund and such other related
574 information.

575 Nothing in this section shall be construed as applying to or
576 affecting mental health/intellectual disability services provided
577 by hospitals as defined in Section 41-9-3(a), and/or their
578 subsidiaries and divisions, which hospitals, subsidiaries and
579 divisions are licensed and regulated by the Mississippi State
580 Department of Health unless such hospitals, subsidiaries or
581 divisions voluntarily request certification by the Mississippi
582 State Department of Mental Health.



583 All new programs authorized under this section shall be
584 subject to the availability of funds appropriated therefor by the
585 Legislature;

586 (hh) Notwithstanding any other section of the code, the
587 Board of Mental Health shall be authorized to fingerprint and
588 perform a criminal history record check on every employee or
589 volunteer. Every employee and volunteer shall provide a valid
590 current social security number and/or driver's license number
591 which shall be furnished to conduct the criminal history record
592 check. If no disqualifying record is identified at the state
593 level, fingerprints shall be forwarded to the Federal Bureau of
594 Investigation for a national criminal history record check;

595 (ii) The Department of Mental Health shall have the
596 authority for the development of a consumer friendly single point
597 of intake and referral system within its service areas for persons
598 with mental illness, an intellectual disability, developmental
599 disabilities or alcohol or substance abuse who need assistance
600 identifying or accessing appropriate services. The department
601 will develop and implement a comprehensive evaluation procedure
602 ensuring that, where appropriate, the affected person or their
603 parent or legal guardian will be involved in the assessment and
604 planning process. The department, as the point of intake and as
605 service provider, shall have the authority to determine the
606 appropriate institutional, hospital or community care setting for
607 persons who have been diagnosed with mental illness, an



608 intellectual disability, developmental disabilities and/or alcohol
609 or substance abuse, and may provide for the least restrictive
610 placement if the treating professional believes such a setting is
611 appropriate, if the person affected or their parent or legal
612 guardian wants such services, and if the department can do so with
613 a reasonable modification of the program without creating a
614 fundamental alteration of the program. The least restrictive
615 setting could be an institution, hospital or community setting,
616 based upon the needs of the affected person or their parent or
617 legal guardian;

618 (jj) To have the sole power and discretion to enter
619 into, sign, execute and deliver long-term or multiyear leases of
620 real and personal property owned by the Department of Mental
621 Health to and from other state and federal agencies and private
622 entities deemed to be in the public's best interest. Any monies
623 derived from such leases shall be deposited into the funds of the
624 Department of Mental Health for its exclusive use. Leases to
625 private entities shall be approved by the Department of Finance
626 and Administration and all leases shall be filed with the
627 Secretary of State;

628 (kk) To certify and establish minimum standards and
629 minimum required services for county facilities used for housing,
630 feeding and providing medical treatment for any person who has
631 been involuntarily ordered admitted to a treatment center by a
632 court of competent jurisdiction. The minimum standard for the



633 initial assessment of those persons being housed in county
634 facilities is for the assessment to be performed by a physician,
635 preferably a psychiatrist, or by a nurse practitioner, preferably
636 a psychiatric nurse practitioner. If the department finds
637 deficiencies in any such county facility or its provider based on
638 the minimum standards and minimum required services established
639 for certification, the department shall give the county or its
640 provider a six-month probationary period to bring its standards
641 and services up to the established minimum standards and minimum
642 required services. After the six-month probationary period, if
643 the department determines that the county or its provider still
644 does not meet the minimum standards and minimum required services,
645 the department may remove the certification of the county or
646 provider and require the county to contract with another county
647 having a certified facility to hold those persons for that period
648 of time pending transportation and admission to a state treatment
649 facility. Any cost incurred by a county receiving an
650 involuntarily committed person from a county with a decertified
651 holding facility shall be reimbursed by the home county to the
652 receiving county.

653 **SECTION 7.** Section 41-4-9, Mississippi Code of 1972, is
654 amended as follows:

655 41-4-9. The * * * Department of Mental Health is hereby
656 authorized and directed to create advisory councils to assist



657 the * * * department in the performance and discharge of their
658 duties.

659 **SECTION 8.** Section 41-4-10, Mississippi Code of 1972, is
660 amended as follows:

661 41-4-10. There is hereby established a Strategic Planning
662 and Best Practices Committee (committee) for the purpose of
663 improving and coordinating mental health services in the state.
664 The committee shall consist of eleven (11) members appointed by
665 the Governor as follows:

666 (a) Two (2) members * * * representing the Department
667 of Mental Health;

668 (b) The Chairman of the Department of Psychiatry at the
669 University of Mississippi Medical Center;

670 (c) The Executive Director of the Division of Medicaid
671 in the Office of the Governor;

672 (d) Two (2) directors of community mental health
673 centers that are members of the Mississippi Association of
674 Community Mental Health Centers * * *;

675 (e) One (1) representative of a nonprofit mental health
676 advocacy group;

677 (f) One (1) consumer or family member of a consumer of
678 mental health services;

679 (g) One (1) representative from a separate, private,
680 nonprofit provider of a continuum of mental health services;



681 (h) Two (2) individuals knowledgeable in the field of
682 mental health and/or with experience in business management or
683 public administration.

684 All appointed members of the Strategic Planning and Best
685 Practices Committee shall be appointed to three-year terms and may
686 be reappointed.

687 The committee shall meet and elect a chairman, who shall not
688 be * * * an employee of the Department of Mental Health or the
689 State Board of Health. The committee shall meet upon the call of
690 the chair.

691 The Lieutenant Governor may designate one (1) Senator and the
692 Speaker of the House of Representatives may designate one (1)
693 Representative to attend any meeting of the Strategic Planning and
694 Best Practices Committee. The appointing authorities may
695 designate alternate members from their respective houses to serve
696 when the regular designees are unable to attend the meetings of
697 the committee.

698 The committee shall work with the * * * Department of Mental
699 Health and the Regional Community Mental Health and Intellectual
700 Disability Commissions to produce the state strategic plan as
701 required in Section 41-4-7(d).

702 The Department of Mental Health shall provide professional
703 and technical support to the committee, including the services of
704 the department's medical director, and its planning staff.
705 Additionally, the committee shall be authorized to seek grants



706 from public and private sources to conduct the necessary studies
707 and evaluations to support the committee in carrying out its
708 responsibilities. The committee may also seek the assistance of
709 the state institutions of higher learning, the State Department of
710 Health, the Division of Medicaid, the State Department of
711 Education, any community mental health center, and any other state
712 agency whose expertise may be helpful to the committee.

713 This section shall stand repealed from and after July
714 1, * * * 2018.

715 **SECTION 9.** (1) On July 1, 2017, the Mississippi Department
716 of Health, under the policy direction of the Governor, shall
717 retain all powers and duties as granted to the former Mississippi
718 State Department of Health or State Board of Health. Wherever the
719 term "Mississippi State Department of Health" or "State Board of
720 Health" appears in any law or regulation, the same shall mean the
721 Department of Health, under the policy direction of the Governor.

722 (2) The Executive Director of the Department of Health may
723 assign to the appropriate offices such powers and duties deemed
724 appropriate to carry out the lawful functions of the department.
725 The Executive Director of the Department of Health shall be
726 authorized to combine or abolish employee positions as necessary
727 to carry out the provisions of this act, and the Executive
728 Director is authorized to reorganize such offices, services,
729 programs or other activities so as to achieve economy and



730 efficiency and if he finds such action to be in the public
731 interest.

732 **SECTION 10.** Section 41-3-1.1, Mississippi Code of 1972, is
733 amended as follows:

734 41-3-1.1. (1) The State Board of Health is continued and
735 reconstituted as an advisory board as follows:

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

740 (a) Five (5) members of the board shall be currently
741 licensed physicians of good professional standing who have had at
742 least seven (7) years' experience in the practice of medicine in
743 this state. Three (3) members shall be appointed by the Governor,
744 one (1) member shall be appointed by the Lieutenant Governor, and
745 one (1) member shall be appointed by the Attorney General, in the
746 manner provided in paragraph (d) of this subsection (1).

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



755 (c) The Governor, Lieutenant Governor and Attorney
756 General shall give due regard to geographic distribution, race and
757 gender in making their appointments to the board. It is the
758 intent of the Legislature that the membership of the board reflect
759 the population of the State of Mississippi. Of the Governor's
760 appointments, one (1) member of the board shall be appointed from
761 each of the four (4) congressional districts as constituted on
762 June 30, 2007, and one (1) member of the board shall be appointed
763 from each of the three (3) Supreme Court districts as constituted
764 on June 30, 2007. Of the Lieutenant Governor's appointments, one
765 (1) member of the board shall be appointed from the First
766 Congressional District and one (1) member of the board shall be
767 appointed from the Fourth Congressional District as constituted on
768 June 30, 2007. Of the Attorney General's appointments, one (1)
769 member of the board shall be appointed from the Second
770 Congressional District and one (1) member of the board shall be
771 appointed from the Third Congressional District as constituted on
772 June 30, 2007.

773 (d) The initial members of the board shall be appointed
774 for staggered terms, as follows: Of the Governor's appointments,
775 two (2) members shall be appointed for terms that end on June 30,
776 2009; two (2) members shall be appointed for terms that end on
777 June 30, 2011; and three (3) members shall be appointed for terms
778 that end on June 30, 2013. Of the Lieutenant Governor's
779 appointments, one (1) member shall be appointed for a term that



780 ends on June 30, 2009; and one (1) member shall be appointed for a
781 term that ends on June 30, 2013. Of the Attorney General's
782 appointments, one (1) member shall be appointed for a term that
783 ends on June 30, 2009; and one (1) member shall be appointed for a
784 term that ends on June 30, 2011.

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

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

800 (3) The Lieutenant Governor may designate one (1) Senator
801 and the Speaker of the House of Representatives may designate one
802 (1) Representative to attend any meeting of the State Board of
803 Health. The appointing authorities may designate alternate
804 members from their respective houses to serve when the regular



805 designees are unable to attend the meetings of the board. Those
806 legislative designees shall have no jurisdiction or vote on any
807 matter within the jurisdiction of the board. For attending
808 meetings of the board, the legislators shall receive per diem and
809 expenses, which shall be paid from the contingent expense funds of
810 their respective houses in the same amounts as provided for
811 committee meetings when the Legislature is not in session;
812 however, no per diem and expenses for attending meetings of the
813 board will be paid while the Legislature is in session. No per
814 diem and expenses will be paid except for attending meetings of
815 the board without prior approval of the proper committee in their
816 respective houses.

817 (4) * * * The State Board of Health Advisors shall advise
818 the Executive Director of the Department of Health, under the
819 policy direction of the Governor, regarding any regulation or
820 matter relating to the delivery of public health services in the
821 State of Mississippi.

822 * * *

823 **SECTION 11.** Section 41-3-3, Mississippi Code of 1972, is
824 amended as follows:

825 41-3-3. Each person appointed as a member of the State Board
826 of Health Advisors shall immediately take the oath prescribed by
827 Section 268 of the Constitution and file a certificate thereof in
828 the Office of the Secretary of State. Thereupon a commission



829 shall be issued to him under the terms as specified in Section
830 41-3-1.

831 **SECTION 12.** Section 41-3-4, Mississippi Code of 1972, is
832 amended as follows:

833 41-3-4. (1) There shall be a Chairman and Vice Chairman of
834 the State Board of Health Advisors elected by and from its
835 membership at the first meeting of the board; and the chairman
836 shall be the presiding officer of the board. The chairman shall
837 always be a physician member of the board. The board shall adopt
838 rules and regulations governing times and places for meetings, and
839 governing the manner of conducting its business. The board shall
840 meet not less frequently than once each quarter, and at such other
841 times as determined to be necessary. The term of office of any
842 member who does not attend three (3) consecutive regular meetings
843 of the board shall be automatically terminated, and the position
844 shall be considered as vacant, except in cases of the serious
845 illness of a board member or of his or her immediate family
846 member. All meetings of the board shall be called by the chairman
847 or by a majority of the members of the board, except the first
848 meeting of the initial members of the reconstituted board, which
849 shall be called by the Governor.

850 (2) The members of the board shall receive no annual salary
851 but shall receive per diem compensation as is authorized by law
852 for each day devoted to the discharge of official board duties and
853 shall be entitled to reimbursement for all actual and necessary



854 expenses incurred in the discharge of their duties, including
855 mileage as authorized by Section 25-3-41.

856 **SECTION 13.** Section 41-3-5.1, Mississippi Code of 1972, is
857 amended as follows:

858 41-3-5.1. The State Department of Health, under the policy
859 direction of the Governor, shall be headed by an Executive Officer
860 who shall be appointed by the * * * Governor, with the advice and
861 consent of the Senate, who shall serve at the will and pleasure of
862 the Governor. The Executive Officer shall be either a physician
863 who has earned a graduate degree in public health or health care
864 administration, or a physician who in the opinion of the Governor
865 board is fitted and equipped to execute the duties incumbent upon
866 him or her by law. The Executive Officer shall not engage in the
867 private practice of medicine. * * * The Executive Officer shall
868 be the State Health Officer with such authority and responsibility
869 as is prescribed by law.

870 **SECTION 14.** Section 41-3-6, Mississippi Code of 1972, is
871 amended as follows:

872 41-3-6. It shall be the duty of the State Board of Health
873 Advisors to review the statutes of the State of Mississippi
874 affecting public health and submit at least thirty (30) days prior
875 to each regular session of the Legislature any proposed
876 legislation as may be necessary to enhance the effective and
877 efficient delivery of public health services and to bring existing
878 statutes into compliance with modern technology and terminology.



879 The board shall formulate a plan for consolidating and
880 reorganizing existing state agencies having responsibilities in
881 the field of public health to eliminate any needless duplication
882 in services which may be found to exist. In carrying out the
883 provisions of this section, the State Board of Health Advisors
884 shall cooperate with and may utilize the services, facilities and
885 personnel of any department or agency of the state, any private
886 citizen task force and the committees on public health of both
887 houses of the Legislature. The State Board of Health Advisors is
888 authorized to apply for and expend funds made available to it by
889 grant from any source in order to perform its responsibilities
890 under this section.

891 **SECTION 15.** Section 41-3-15, Mississippi Code of 1972, is
892 amended as follows:

893 41-3-15. (1) (a) There shall be a State Department of
894 Health, under the policy direction of the Governor.

895 (b) The * * * Department of Health shall have the
896 following powers and duties:

897 (i) To formulate the policy of the State
898 Department of Health with the advice of the Board of Health
899 Advisors regarding public health matters within the jurisdiction
900 of the department;

901 (ii) To adopt, modify, repeal and promulgate,
902 after due notice and hearing, and enforce rules and regulations
903 implementing or effectuating the powers and duties of the



904 department with the advice of the Board of Health Advisors under
905 any and all statutes within the department's jurisdiction, and as
906 the board may deem necessary;

907 (iii) To apply for, receive, accept and expend any
908 federal or state funds or contributions, gifts, trusts, devises,
909 bequests, grants, endowments or funds from any other source or
910 transfers of property of any kind;

911 (iv) To enter into, and to authorize the executive
912 officer to execute contracts, grants and cooperative agreements
913 with any federal or state agency or subdivision thereof, or any
914 public or private institution located inside or outside the State
915 of Mississippi, or any person, corporation or association in
916 connection with carrying out the provisions of this chapter, if it
917 finds those actions to be in the public interest and the contracts
918 or agreements do not have a financial cost that exceeds the
919 amounts appropriated for those purposes by the Legislature;

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

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



929 (c) The Executive Officer of the State Department of
930 Health, under the policy direction of the Governor, shall have the
931 following powers and duties:

932 (i) To administer the policies of the * * *
933 Department of Health;

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

938 (iii) To organize the administrative units of the
939 department * * *, alter the organizational plan, and reassign
940 responsibilities as he or she may deem necessary to carry out the
941 policies of the * * * department;

942 (iv) To coordinate the activities of the various
943 offices of the department;

944 (v) To employ, subject to regulations of the State
945 Personnel Board, qualified professional personnel in the subject
946 matter or fields of each office, and such other technical and
947 clerical staff as may be required for the operation of the
948 department. The executive officer shall be the appointing
949 authority for the department, and shall have the power to delegate
950 the authority to appoint or dismiss employees to appropriate
951 subordinates, subject to the rules and regulations of the State
952 Personnel Board;



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

957 (vii) To prepare and deliver to the Legislature
958 and the Governor on or before January 1 of each year, and at such
959 other times as may be required by the Legislature or Governor, a
960 full report of the work of the department and the offices thereof,
961 including a detailed statement of expenditures of the
962 department * * *;

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

970 (ix) To enter into contracts, grants and
971 cooperative agreements with any federal or state agency or
972 subdivision thereof, or any public or private institution located
973 inside or outside the State of Mississippi, or any person,
974 corporation or association in connection with carrying out the
975 provisions of this chapter, if he or she finds those actions to be
976 in the public interest and the contracts or agreements do not have



977 a financial cost that exceeds the amounts appropriated for those
978 purposes by the Legislature. * * *

979 (2) The * * * Department of Health shall have the authority
980 to establish an Office of Rural Health within the department. The
981 duties and responsibilities of this office shall include the
982 following:

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

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

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

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

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

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

998 (4) The * * * Department of Health shall have authority:

999 (a) To make investigations and inquiries with respect
1000 to the causes of disease and death, and to investigate the effect
1001 of environment, including conditions of employment and other



1002 conditions that may affect health, and to make such other
1003 investigations as it may deem necessary for the preservation and
1004 improvement of health.

1005 (b) To make such sanitary investigations as it may,
1006 from time to time, deem necessary for the protection and
1007 improvement of health and to investigate nuisance questions that
1008 affect the security of life and health within the state.

1009 (c) To direct and control sanitary and quarantine
1010 measures for dealing with all diseases within the state possible
1011 to suppress same and prevent their spread.

1012 (d) To obtain, collect and preserve such information
1013 relative to mortality, morbidity, disease and health as may be
1014 useful in the discharge of its duties or may contribute to the
1015 prevention of disease or the promotion of health in this state.

1016 (e) To charge and collect reasonable fees for health
1017 services, including immunizations, inspections and related
1018 activities, and the board shall charge fees for those services;
1019 however, if it is determined that a person receiving services is
1020 unable to pay the total fee, the * * * department shall collect
1021 any amount that the person is able to pay. Any increase in the
1022 fees charged by the * * * department under this paragraph shall be
1023 in accordance with the provisions of Section 41-3-65.

1024 (f) (i) To establish standards for, issue permits and
1025 exercise control over, any cafes, restaurants, food or drink
1026 stands, sandwich manufacturing establishments, and all other



1027 establishments, other than churches, church-related and private
1028 schools, and other nonprofit or charitable organizations, where
1029 food or drink is regularly prepared, handled and served for pay;
1030 and

1031 (ii) To require that a permit be obtained from the
1032 Department of Health before those persons begin operation. If any
1033 such person fails to obtain the permit required in this
1034 subparagraph (ii), the * * * Department of Health, after due
1035 notice and opportunity for a hearing, may impose a monetary
1036 penalty not to exceed One Thousand Dollars (\$1,000.00) for each
1037 violation. However, the department is not authorized to impose a
1038 monetary penalty against any person whose gross annual prepared
1039 food sales are less than Five Thousand Dollars (\$5,000.00). Money
1040 collected by the * * * department under this subparagraph (ii)
1041 shall be deposited to the credit of the State General Fund of the
1042 State Treasury.

1043 (g) To promulgate rules and regulations and exercise
1044 control over the production and sale of milk pursuant to the
1045 provisions of Sections 75-31-41 through 75-31-49.

1046 (h) On presentation of proper authority, to enter into
1047 and inspect any public place or building where the State Health
1048 Officer or his representative deems it necessary and proper to
1049 enter for the discovery and suppression of disease and for the
1050 enforcement of any health or sanitary laws and regulations in the
1051 state.



1052 (i) To conduct investigations, inquiries and hearings,
1053 and to issue subpoenas for the attendance of witnesses and the
1054 production of books and records at any hearing when authorized and
1055 required by statute to be conducted by the State Health
1056 Officer * * *.

1057 (j) To promulgate rules and regulations, and to collect
1058 data and information, on (i) the delivery of services through the
1059 practice of telemedicine; and (ii) the use of electronic records
1060 for the delivery of telemedicine services.

1061 (k) To enforce and regulate domestic and imported fish
1062 as authorized under Section 69-7-601 et seq.

1063 (5) (a) The * * * Department of Health, under the policy
1064 direction of the Governor, shall have the authority, in its
1065 discretion, to establish programs to promote the public health, to
1066 be administered by the State Department of Health. Specifically,
1067 those programs may include, but shall not be limited to, programs
1068 in the following areas:

- 1069 (i) Maternal and child health;
- 1070 (ii) Family planning;
- 1071 (iii) Pediatric services;
- 1072 (iv) Services to crippled and disabled children;
- 1073 (v) Control of communicable and noncommunicable
1074 disease;
- 1075 (vi) Chronic disease;
- 1076 (vii) Accidental deaths and injuries;



1077 (viii) Child care licensure;
1078 (ix) Radiological health;
1079 (x) Dental health;
1080 (xi) Milk sanitation;
1081 (xii) Occupational safety and health;
1082 (xiii) Food, vector control and general
1083 sanitation;
1084 (xiv) Protection of drinking water;
1085 (xv) Sanitation in food handling establishments
1086 open to the public;
1087 (xvi) Registration of births and deaths and other
1088 vital events;
1089 (xvii) Such public health programs and services as
1090 may be assigned to the * * * Department of Health by the
1091 Legislature or by executive order; and
1092 (xviii) Regulation of domestic and imported fish
1093 for human consumption.

1094 (b) The * * * State Department of Health shall not be
1095 authorized to sell, transfer, alienate or otherwise dispose of any
1096 of the home health agencies owned and operated by the department
1097 on January 1, 1995, and shall not be authorized to sell, transfer,
1098 assign, alienate or otherwise dispose of the license of any of
1099 those home health agencies, except upon the specific authorization
1100 of the Legislature by an amendment to this section. However, this
1101 paragraph (b) shall not prevent the * * * department from closing



1102 or terminating the operation of any home health agency owned and
1103 operated by the department, or closing or terminating any office,
1104 branch office or clinic of any such home health agency, or
1105 otherwise discontinuing the providing of home health services
1106 through any such home health agency, office, branch office or
1107 clinic, if the * * * department first demonstrates that there are
1108 other providers of home health services in the area being served
1109 by the department's home health agency, office, branch office or
1110 clinic that will be able to provide adequate home health services
1111 to the residents of the area if the department's home health
1112 agency, office, branch office or clinic is closed or otherwise
1113 discontinues the providing of home health services. * * *

1114 (c) The State Department of Health may undertake such
1115 technical programs and activities as may be required for the
1116 support and operation of those programs, including maintaining
1117 physical, chemical, bacteriological and radiological laboratories,
1118 and may make such diagnostic tests for diseases and tests for the
1119 evaluation of health hazards as may be deemed necessary for the
1120 protection of the people of the state.

1121 (6) (a) The * * * Department of Health shall administer the
1122 local governments and rural water systems improvements loan
1123 program in accordance with the provisions of Section 41-3-16.

1124 (b) The * * * Department of Health shall have
1125 authority:



1126 (i) To enter into capitalization grant agreements
1127 with the United States Environmental Protection Agency, or any
1128 successor agency thereto;

1129 (ii) To accept capitalization grant awards made
1130 under the federal Safe Drinking Water Act, as amended;

1131 (iii) To provide annual reports and audits to the
1132 United States Environmental Protection Agency, as may be required
1133 by federal capitalization grant agreements; and

1134 (iv) To establish and collect fees to defray the
1135 reasonable costs of administering the revolving fund or emergency
1136 fund if the * * * Department of Health determines that those costs
1137 will exceed the limitations established in the federal Safe
1138 Drinking Water Act, as amended. The administration fees may be
1139 included in loan amounts to loan recipients for the purpose of
1140 facilitating payment to the * * * department; however, those fees
1141 may not exceed five percent (5%) of the loan amount.

1142 (7) Notwithstanding any other provision to the contrary, the
1143 State Department of Health shall have the following specific
1144 powers: The department shall issue a license to Alexander Milne
1145 Home for Women, Inc., a 501(c)(3) nonprofit corporation, for the
1146 construction, conversion, expansion and operation of not more than
1147 forty-five (45) beds for developmentally disabled adults who have
1148 been displaced from New Orleans, Louisiana, with the beds to be
1149 located in a certified ICF-MR facility in the City of Laurel,
1150 Mississippi. There shall be no prohibition or restrictions on



1151 participation in the Medicaid program for the person receiving the
1152 license under this subsection (7). The license described in this
1153 subsection shall expire five (5) years from the date of its issue.
1154 The license authorized by this subsection shall be issued upon the
1155 initial payment by the licensee of an application fee of
1156 Sixty-seven Thousand Dollars (\$67,000.00) and a monthly fee of
1157 Sixty-seven Thousand Dollars (\$67,000.00) after the issuance of
1158 the license, to be paid as long as the licensee continues to
1159 operate. The initial and monthly licensing fees shall be
1160 deposited by the State Department of Health into the special fund
1161 created under Section 41-7-188.

1162 (8) Notwithstanding any other provision to the contrary, the
1163 State Department of Health shall have the following specific
1164 powers: The State Department of Health is authorized to issue a
1165 license to an existing home health agency for the transfer of a
1166 county from that agency to another existing home health agency,
1167 and to charge a fee for reviewing and making a determination on
1168 the application for such transfer not to exceed one-half (1/2) of
1169 the authorized fee assessed for the original application for the
1170 home health agency, with the revenue to be deposited by the State
1171 Department of Health into the special fund created under Section
1172 41-7-188.

1173 (9) Notwithstanding any other provision to the contrary, the
1174 State Department of Health shall have the following specific
1175 powers: For the period beginning July 1, 2010, through July 1,



1176 2017, the State Department of Health is authorized and empowered
1177 to assess a fee in addition to the fee prescribed in Section
1178 41-7-188 for reviewing applications for certificates of need in an
1179 amount not to exceed twenty-five one-hundredths of one percent
1180 (.25 of 1%) of the amount of a proposed capital expenditure, but
1181 shall be not less than Two Hundred Fifty Dollars (\$250.00)
1182 regardless of the amount of the proposed capital expenditure, and
1183 the maximum additional fee permitted shall not exceed Fifty
1184 Thousand Dollars (\$50,000.00). Provided that the total
1185 assessments of fees for certificate of need applications under
1186 Section 41-7-188 and this section shall not exceed the actual cost
1187 of operating the certificate of need program.

1188 (10) Notwithstanding any other provision to the contrary,
1189 the State Department of Health shall have the following specific
1190 powers: The State Department of Health is authorized to extend
1191 and renew any certificate of need that has expired, and to charge
1192 a fee for reviewing and making a determination on the application
1193 for such action not to exceed one-half (1/2) of the authorized fee
1194 assessed for the original application for the certificate of need,
1195 with the revenue to be deposited by the State Department of Health
1196 into the special fund created under Section 41-7-188.

1197 (11) Notwithstanding any other provision to the contrary,
1198 the State Department of Health shall have the following specific
1199 powers: The State Department of Health is authorized and
1200 empowered, to revoke, immediately, the license and require closure



1201 of any institution for the aged or infirm, including any other
1202 remedy less than closure to protect the health and safety of the
1203 residents of said institution or the health and safety of the
1204 general public.

1205 (12) Notwithstanding any other provision to the contrary,
1206 the State Department of Health shall have the following specific
1207 powers: The State Department of Health is authorized and
1208 empowered, to require the temporary detainment of individuals for
1209 disease control purposes based upon violation of any order of the
1210 State Health Officer, as provided in Section 41-23-5. For the
1211 purpose of enforcing such orders of the State Health Officer,
1212 persons employed by the department as investigators shall have
1213 general arrest powers. All law enforcement officers are
1214 authorized and directed to assist in the enforcement of such
1215 orders of the State Health Officer.

1216 **SECTION 16.** Section 41-3-17, Mississippi Code of 1972, is
1217 amended as follows:

1218 41-3-17. The * * * Department of Health, under the policy
1219 direction of the Governor, is authorized to make and publish all
1220 reasonable rules and regulations necessary to enable it to
1221 discharge its duties and powers and to carry out the purposes and
1222 objectives of its creation. It is further authorized to make
1223 reasonable sanitary rules and regulations, to be enforced in the
1224 several counties by the county health officer under the
1225 supervision and control of the * * * department. The * * *



1226 department shall not make or enforce any rule or regulation that
1227 prohibits consumers from providing their own containers for the
1228 purpose of purchasing or accepting water from any vending machine
1229 or device which filters or treats water that has already been
1230 tested and determined to meet or exceed the minimum health
1231 protection standards prescribed for drinking water under the
1232 Mississippi Safe Drinking Water Law, if that vending machine or
1233 device meets or exceeds United States Environmental Protection
1234 Agency or national automatic merchandising standards.

1235 **SECTION 17.** Section 41-3-18, Mississippi Code of 1972, is
1236 amended as follows:

1237 41-3-18. (1) The * * * Department of Health shall assess
1238 fees in the following amounts and for the following purposes:

1239 (a) Food establishment annual permit fee, based on the
1240 assessment factors of the establishment as follows:

1241	Assessment Category 1.....	\$ 30.00
1242	Assessment Category 2.....	100.00
1243	Assessment Category 3.....	150.00
1244	Assessment Category 4.....	200.00

1245 (b) Private water supply approval fee.....\$ 10.00

1246 The * * * department may develop such reasonable standards,
1247 rules and regulations to clearly define each assessment category.
1248 Assessment categories shall be based upon the factors to the
1249 public health implications of the category and type of food
1250 preparation being utilized by the food establishment, utilizing



1251 the model Food Code of 1995, or as may be amended by the federal
1252 Food and Drug Administration.

1253 Any increase in the fees charged by the * * * department
1254 under this subsection shall be in accordance with the provisions
1255 of Section 41-3-65.

1256 (2) The fee authorized under subsection (1) (a) of this
1257 section shall not be assessed for:

1258 (a) Food establishments operated by public schools,
1259 public junior and community colleges, or state agencies or
1260 institutions, including, without limitation, the state
1261 institutions of higher learning and the State Penitentiary; and

1262 (b) Persons who make infrequent casual sales of honey
1263 and who pack or sell less than five hundred (500) gallons of honey
1264 per year, and those persons shall not be inspected by the * * *
1265 department unless requested by the producer.

1266 (3) The fee authorized under subsection (1) (b) of this
1267 section shall not be assessed for private water supplies used by
1268 foster homes licensed by the Department of Human Services.

1269 **SECTION 18.** Section 41-3-19, Mississippi Code of 1972, is
1270 amended as follows:

1271 41-3-19. It is the duty of the * * * Department of Health to
1272 make a report, in writing, to the Governor, on or before the first
1273 day of December next preceding each session, not an extraordinary
1274 session of the Legislature, upon the sanitary condition, prospect,
1275 and needs of the state, setting forth the action of said board, of



1276 its officers and agents, the names thereof, and all its
1277 expenditures since the last preceding report, and such other
1278 matters as it may deem proper for the promotion of health or the
1279 prevention of disease. The report shall be laid before the
1280 Legislature by the Governor at its ensuing term.

1281 **SECTION 19.** Section 41-3-20, Mississippi Code of 1972, is
1282 amended as follows:

1283 41-3-20. Sections 41-3-1.1, 41-3-3, 41-3-4, 41-3-5.1,
1284 41-3-6, 41-3-15, 41-3-16, 41-3-17, 41-3-18 and 41-3-19, which
1285 create the reconstituted State Board of Health Advisors, establish
1286 the position of Executive Officer of the State Department of
1287 Health and establish the State Department of Health, under the
1288 policy direction of the Governor, and prescribe its powers and
1289 duties, shall stand repealed on July 1, * * * 2021.

1290 **SECTION 20.** Section 41-3-21, Mississippi Code of 1972, is
1291 amended as follows:

1292 41-3-21. (1) There is hereby established the Mississippi
1293 Public Health Laboratory in the Mississippi State Department of
1294 Health.

1295 (2) The Mississippi Public Health Laboratory shall have the
1296 following powers and duties:

1297 (a) To perform such laboratory tests and procedures as
1298 shall be determined beneficial to the health of the people of
1299 Mississippi;



1300 (b) To apply for and maintain any and all necessary
1301 federal or other certifications and/or licenses for the
1302 performance of its duties, unless such authority shall be
1303 otherwise assigned by official action of the State Board of
1304 Health;

1305 (c) The Mississippi Public Health Laboratory shall be
1306 under the management of a director, who shall be appointed by the
1307 State Health Officer. The responsibility for the laboratory shall
1308 be vested in the director. The director shall be the
1309 administrative officer of the Mississippi Public Health Laboratory
1310 and shall perform the duties as may be assigned to him or her by
1311 the * * * Department of Health. The director shall receive
1312 compensation as may be fixed by the * * * Department of Health,
1313 subject to the approval of the State Personnel Board. The State
1314 Health Officer may employ such other persons as may be necessary
1315 to carry out the provisions of this section. The compensation and
1316 the terms and conditions of their employment shall be determined
1317 by the * * * Executive Director of the Department of Health in
1318 accordance with applicable state law and rules and regulations of
1319 the State Personnel Board.

1320 **SECTION 21.** Section 41-3-51, Mississippi Code of 1972, is
1321 amended as follows:

1322 41-3-51. The director appointed pursuant to Section 41-3-43
1323 of any county or district shall keep an accurate record of all
1324 activities of the Department of Health of the county or district



1325 which he serves for use of the public and for information to
1326 the * * * Department of Health, and such reports as required by
1327 the * * * department shall be made to it. All officers and
1328 employees of the county or district department of health shall be
1329 subject to the jurisdiction and regulations of the * * *
1330 Department of Health or its Executive * * * Director.

1331 **SECTION 22.** Section 41-3-53, Mississippi Code of 1972, is
1332 amended as follows:

1333 41-3-53. The board of supervisors shall be authorized to
1334 make such appropriations for the Department of Health as may be
1335 necessary to pay the salary of the director, and the salaries of
1336 all necessary sanitary inspectors, nurses, and such other
1337 employees as may be employed for carrying on the work. The board
1338 shall be authorized to pay all necessary traveling expenses of
1339 said employees in the performance of their duties. The board
1340 shall be authorized to pay for all necessary medicine, materials
1341 and supplies. The board shall provide an office for its health
1342 department, and furnish said office, and its employees, with all
1343 necessary record books, stationery, stamps, tables, chairs,
1344 furniture and all other necessary articles. The board is also
1345 authorized to do any and all things necessary and proper to
1346 maintain and support a health department. Where two (2) or more
1347 counties shall unite in having a Department of Health, the amount
1348 contributed by each for maintaining and supporting the work shall
1349 be agreed upon by the respective counties, subject to the approval



1350 of the * * * Department of Health, or its executive committee, and
1351 all salaries to be paid shall be recommended by the * * *
1352 Department of Health, or its executive committee to the board of
1353 supervisors of the county or counties for which the officers or
1354 employees are to act. All employees shall be recommended by
1355 the * * * Department of Health, under the policy direction of the
1356 Governor, or its Executive * * * Director, and all salaries shall
1357 be recommended in the same way.

1358 **SECTION 23.** (1) On July 1, 2017, the Mississippi Department
1359 of Rehabilitation Services shall be under the policy direction of
1360 the Governor and shall retain all powers and duties as granted to
1361 the former State Department of Rehabilitation Services or the
1362 State Board of Rehabilitation Services. Wherever the term "State
1363 Department of Rehabilitation Services " or "State Board for
1364 Rehabilitation Services" appears in any law or regulation, the
1365 same shall mean the Department of Rehabilitation Services, under
1366 the policy direction of the Governor.

1367 (2) The Executive Director of the Department of
1368 Rehabilitation Services may assign to the appropriate offices such
1369 powers and duties deemed appropriate to carry out the lawful
1370 functions of the department. The Executive Director of the
1371 Department of Rehabilitation Services shall be authorized to
1372 combine or abolish employee positions as necessary to carry out
1373 the provisions of this act, and the Executive Director is
1374 authorized to reorganize such offices, services, programs or other



1375 activities so as to achieve economy and efficiency and if he finds
1376 such action to be in the public interest.

1377 **SECTION 24.** Section 37-33-151, Mississippi Code of 1972, is
1378 amended as follows:

1379 37-33-151. The following terms shall have the meanings
1380 ascribed herein, unless the context shall otherwise require:

1381 (a) * * * (Deleted)

1382 (b) "Executive Director" means the Executive Director
1383 of the State Department of Rehabilitation Services, under the
1384 policy direction of the Governor.

1385 (c) "Department" means the State Department of
1386 Rehabilitation Services, under the policy direction of the
1387 Governor.

1388 * * *

1389 (* * * d) "Office" means an administrative subdivision
1390 of the department.

1391 **SECTION 25.** Section 37-33-153, Mississippi Code of 1972, is
1392 amended as follows:

1393 37-33-153. In order to provide for rehabilitation,
1394 habilitation and other services to eligible individuals with
1395 disabilities, their families and the community, there is created
1396 the State Department of Rehabilitation Services, under the policy
1397 direction of the Governor. The department shall be composed of
1398 the following offices:

1399 (a) The Office of Vocational Rehabilitation;



1400 (b) The Office of Disability Determination Services;
1401 (c) The Office of Special Disability Programs; and
1402 (d) The Office of Vocational Rehabilitation for the
1403 Blind.

1404 **SECTION 26.** Section 37-33-155, Mississippi Code of 1972, is
1405 amended as follows:

1406 37-33-155. (1) There is created the State Advisory
1407 Board * * * for Rehabilitation Services, which shall consist of
1408 two (2) appointed members and the following five (5) officials:
1409 the Executive Officer of the State Department of Health; the
1410 Executive Director of the State Department of Mental Health; the
1411 State Superintendent of Public Education, or his designee; the
1412 Director of the Division of Vocational and Technical Education of
1413 the State Department of Education; and the Executive Director of
1414 the Department of Human Services.

1415 Of the two (2) appointed members, one (1) shall be either an
1416 individual who is a client of vocational rehabilitation services
1417 or a parent of an individual who is a client of vocational
1418 rehabilitation services, and the other shall be either an
1419 individual who is visually impaired or a parent of an individual
1420 who is visually impaired. The appointed members shall be
1421 appointed by the Governor from the state at large, with one (1)
1422 appointed for a term to expire on July 1, 1994, and the other
1423 appointed for a term to expire on July 1, 1996. Upon the
1424 expiration of the initial terms, the members shall be appointed



1425 for terms of five (5) years from the expiration date of the
1426 previous term. All original and subsequent appointments shall be
1427 with the advice and consent of the Senate. An appointment to fill
1428 a vacancy, other than by expiration of a term of office, shall be
1429 made for the balance of the unexpired term. No board appointee
1430 shall be an employee or elected official of the State of
1431 Mississippi or a political subdivision thereof, or an employee of
1432 the former State Department of Rehabilitation Services before July
1433 1, 1989, or an employee of the Division of Rehabilitation Services
1434 of the Department of Human Services or any subordinate
1435 administrative unit of the division before July 1, 1991, or an
1436 employee of the State Department of Rehabilitation Services after
1437 June 30, 1991.

1438 (2) The Advisory Board shall elect a chairperson from its
1439 membership at the first meeting of the original board members and
1440 every two (2) years thereafter on July 15 of the year. A majority
1441 of the membership of the board shall constitute a quorum for the
1442 transaction of any business, and the board shall meet at least
1443 quarterly and hold other meetings as are necessary for the purpose
1444 of conducting required business. All meetings of the board shall
1445 be called by the chairperson, except the first meeting of the
1446 original board members, which shall be called by the Governor.

1447 (3) The appointed members of the board shall be compensated
1448 at a per diem rate as authorized by Section 25-3-69, plus actual
1449 and necessary expenses as authorized by Section 25-3-41. Members



1450 of the board appointed before July 1, 1991, shall be paid
1451 compensation and expenses under this subsection from funds
1452 available to the Division of Rehabilitation Services of the
1453 Department of Human Services.

1454 (4) The Advisory Board shall advise the Executive Director
1455 of the Department of Rehabilitation Services, under the policy
1456 direction of the Governor, regarding any regulation or matter
1457 relating to the delivery of rehabilitation or disability services
1458 in the State of Mississippi.

1459 **SECTION 27.** Section 37-33-157, Mississippi Code of 1972, is
1460 amended as follows:

1461 37-33-157. The Department of Rehabilitation Services, under
1462 the policy direction of the Governor, shall provide the
1463 rehabilitation services authorized by law and by the rules,
1464 regulations and policies of the * * * department to every
1465 individual determined to be eligible therefor, and in carrying out
1466 the purposes of this chapter the department is authorized, when
1467 consistent with * * * its rules, regulations and policies * * *:

1468 (a) To expend funds received either by appropriation or
1469 directly from federal or private sources.

1470 (b) To cooperate with other departments, agencies and
1471 institutions, both public and private, in providing the services
1472 authorized by this chapter to disabled individuals, in studying
1473 the problems involved therein, and in establishing, developing and
1474 providing in conformity with the purposes of this chapter, such



1475 programs, facilities and services as may be necessary or
1476 desirable.

1477 (c) To enter into reciprocal agreements with other
1478 states to provide for the services authorized by this chapter to
1479 residents of the states concerned.

1480 (d) To conduct research and compile statistics relating
1481 to the provision of services to or the need of services by
1482 disabled individuals.

1483 (e) To enter into contractual arrangements with the
1484 federal government and with other authorized public agencies or
1485 persons for performance of services related to rehabilitation.

1486 (f) To contract with schools, hospitals and other
1487 agencies, and with doctors, optometrists, nurses, technicians and
1488 other persons, for training, physical restoration, transportation
1489 and other rehabilitation services.

1490 (g) To take such action as may be necessary to enable
1491 the department to apply for, accept and receive for the state and
1492 its residents the full benefits available under the federal
1493 Vocational Rehabilitation Act, and any amendments thereto, and
1494 under any other federal legislation or program having as its
1495 purpose the providing of, improvement or extension of, vocational
1496 rehabilitation services.

1497 (h) To establish an Office on the Deaf and Hard of
1498 Hearing to provide services and activities authorized under
1499 Section 37-33-171.



1500 (i) To own in the name of the State of Mississippi
1501 certain real property described in Section 7 of Chapter 512, Laws
1502 of 2005, and to construct, renovate or repair under the
1503 supervision of the Department of Finance and Administration any
1504 buildings on such property.

1505 (j) To borrow money from the Mississippi Development
1506 Bank or other financial institution for the purpose of
1507 construction, repair and renovation, furnishing or equipping
1508 facilities owned or under the supervision of the department;
1509 however, the department shall certify the following to the
1510 Mississippi Development Bank or other financial institution prior
1511 to entering into any loan:

1512 (i) The available revenue that the department
1513 intends to utilize to repay the loan; and

1514 (ii) That the department does not intend to
1515 request an additional appropriation from state source funding to
1516 pay debt service on any loan entered into under this paragraph.

1517 (k) To fingerprint and perform a current criminal
1518 history record check, child abuse registry check, sex offender
1519 registry check, and vulnerable adult abuse or neglect check on any
1520 person performing services for or on behalf of the department
1521 including, but not limited to, every employee, volunteer,
1522 contractual worker, and independent contractor.

1523 (l) To use the results of the fingerprinting and
1524 background checks performed under paragraph (k) for the purposes



1525 of employment decisions and/or actions and service provision to
1526 consumers of the department's services. The department and its
1527 agents, officers, employees, attorneys and representatives shall
1528 be exempt from liability for any findings, recommendations or
1529 actions taken under this paragraph.

1530 **SECTION 28.** Section 37-33-159, Mississippi Code of 1972, is
1531 amended as follows:

1532 37-33-159. The * * * Governor shall appoint an Executive
1533 Director of the State Department of Rehabilitation Services, with
1534 the advice and consent of the Senate, in accordance with standards
1535 established by the State Personnel Board and on the basis of his
1536 education, training, experience and demonstrated ability. The
1537 Executive Director * * * of the Department of Rehabilitation
1538 Services shall serve at the will and pleasure of the * * *
1539 Governor. The salary of the Executive Director shall be set by
1540 the * * * Governor, subject to the approval of the State Personnel
1541 Board, and shall be provided for out of any funds made available
1542 for such purpose by the Legislature, the federal government or
1543 other gifts or grants. The Executive Director of the Department
1544 of Rehabilitation Services shall be responsible * * * for the
1545 proper administration of the programs of rehabilitation provided
1546 under this chapter in conformity with the policies * * * of the
1547 department and shall be responsible for appointing directors of
1548 offices and any necessary supervisors, assistants and employees.
1549 The salary and compensation of such employees shall be subject to



1550 the rules and regulations adopted and promulgated by the State
1551 Personnel Board as created under Section 25-9-101 et seq.

1552 **SECTION 29.** Section 37-33-161, Mississippi Code of 1972, is
1553 amended as follows:

1554 37-33-161. In carrying out his duties under this chapter,
1555 the Executive Director of the State Department of Rehabilitation
1556 Services:

1557 (a) Shall * * * promulgate regulations governing
1558 personnel standards, the protection of records and confidential
1559 information, the manner and form of filing applications,
1560 eligibility and investigation and determination therefor, for
1561 vocational rehabilitation and other rehabilitation services,
1562 procedures for fair hearings and such other regulations as he
1563 finds necessary to carry out the purposes of this chapter and in
1564 conformity with federal law;

1565 (b) Shall * * * establish appropriate subordinate
1566 administrative units within the department;

1567 (c) Shall prepare and submit to * * * the Legislature
1568 annual reports of activities and expenditures and, before each
1569 regular session of the Legislature, coordinate budget requests
1570 required for carrying out this chapter and estimates of the
1571 amounts to be made available for this purpose from all sources;

1572 (d) Shall be empowered to exercise executive and
1573 administrative supervision over all institutions, offices,



1574 programs and services now existing or hereafter acquired or
1575 created under the jurisdiction of the department;

1576 (e) Shall make certification for disbursement, in
1577 accordance with regulations, of funds available, for implementing
1578 the purposes of this chapter;

1579 (f) Shall * * * take such other action as he deems
1580 necessary or appropriate to effectuate the purposes of this
1581 chapter;

1582 (g) May * * * delegate to any officer or employee of
1583 the department such of his powers and duties as he finds necessary
1584 to effectuate the purposes of this chapter.

1585 **SECTION 30.** Section 37-33-163, Mississippi Code of 1972, is
1586 amended as follows:

1587 37-33-163. The Office of Disability Determination Services
1588 established by Section 37-33-153 shall be administered by a
1589 director appointed by the Executive Director of the State
1590 Department of Rehabilitation Services, under the policy direction
1591 of the Governor. The director shall devote his full time to the
1592 proper administration of the office. In carrying out his duties
1593 under this chapter, the director:

1594 (a) Shall enter into agreements on behalf of the State
1595 Department of Rehabilitation Services and the State of Mississippi
1596 with the federal Social Security Administration or its successor
1597 in order to implement the provisions of the federal Social
1598 Security Act relating to the determination of disabilities under



1599 Title II and Title XVI, and shall enter into contracts necessary
1600 to provide such disability determination functions as allowed
1601 under applicable federal regulation;

1602 (b) Shall, with the approval of the Executive Director,
1603 make regulations governing Mississippi applications for disability
1604 benefits under Title II and Title XVI of the federal Social
1605 Security Act, and make such other regulations as are found
1606 necessary to implement the functions of the office prescribed
1607 under this chapter;

1608 (c) Shall, with the approval of the Executive Director,
1609 establish appropriate subordinate administrative units within the
1610 office;

1611 (d) Shall, with the approval of the Executive Director,
1612 be responsible for appointing supervisors, assistants, physicians,
1613 and other employees or entering into purchase of service
1614 contracts, as are necessary for the efficient performance of the
1615 functions of the office, subject to the rules and regulations
1616 adopted and promulgated by the State Personnel Board as created
1617 under Section 25-9-101 et seq.;

1618 (e) Shall prepare and submit to * * * the Executive
1619 Director annual reports of activities and expenditures, and
1620 estimates of the amounts to be made available to the office from
1621 all sources; and



1622 (f) Shall, with the approval of the Executive
1623 Director * * *, take such other action as he deems necessary or
1624 appropriate to implement the functions of the office.

1625 **SECTION 31.** Section 37-33-201, Mississippi Code of 1972, is
1626 amended as follows:

1627 37-33-201. All powers, duties and functions * * * that are
1628 being exercised or performed by the Division of Rehabilitation
1629 Services and the Division of Vocational Rehabilitation for the
1630 Blind of the Department of Human Services on June 30, 1991, and by
1631 the former State Department of Rehabilitation Services on July 30,
1632 2017, are transferred to the State Department of Rehabilitation
1633 Services * * *, under the policy direction of the Governor, on
1634 July 1, * * * 2017. All records, property and contractual rights
1635 and obligations of, and unexpended balances of appropriations and
1636 any other allocations to, the Department of Human Services and the
1637 Board of Human Services that relate to the powers, duties and
1638 functions exercised or performed by the Division of Rehabilitation
1639 Services and the Division of Vocational Rehabilitation for the
1640 Blind of the Department of Human Services or by the former State
1641 Department of Rehabilitation Services on June 30, * * * 2017,
1642 shall be transferred to the State Department of Rehabilitation
1643 Services * * *, under the policy direction of the Governor, on or
1644 before July 1, * * * 2017. * * * Any positions of the former
1645 State Department of Rehabilitation Services and the former
1646 Rehabilitation Agency for the Blind that were transferred to the



1647 Department of Human Services * * * prior to June 30, 2017, whose
1648 duties primarily involved the providing of rehabilitation services
1649 or the providing of related administrative or support services
1650 shall be transferred to the State Department of Rehabilitation
1651 Services, under the policy direction of the Governor, on July
1652 1, * * * 2017, at a level commensurate with the level of each
1653 respective position on June 30, * * * 2017. The former Department
1654 of * * * Rehabilitation Services shall assist the State Department
1655 of Rehabilitation Services, under the policy direction of the
1656 Governor, with the greatest degree of cooperation to carry out the
1657 intent and purpose of this act * * * to accomplish an orderly
1658 transition. * * *

1659 **SECTION 32.** Section 37-33-205, Mississippi Code of 1972, is
1660 amended as follows:

1661 37-33-205. (a) "Department" or "agency" means the State
1662 Department of Rehabilitation Services * * *, under the policy
1663 direction of the Governor.

1664 * * *

1665 (* * * b) "Executive Director" means the Executive Director
1666 of the State Department of Rehabilitation Services * * *.

1667 (* * * c) "Independent living services" includes, but is not
1668 limited to, the following services in accordance with definitions
1669 in the most current amendment of the Rehabilitation Act: (i)
1670 information and referral services, independent living skills
1671 training, peer counseling including cross-disability peer



1672 counseling, and individual and systems advocacy; (ii) counseling
1673 services, including psychological, psychotherapeutic and related
1674 services; (iii) services related to securing housing or shelter,
1675 including services related to community group living, and
1676 supportive of the purposes of the Rehabilitation Act and of the
1677 titles of the Rehabilitation Act, and adaptive housing services
1678 (including appropriate accommodations to and modifications of any
1679 space used to serve, or occupied by, individuals with
1680 disabilities); (iv) rehabilitation technology; (v) mobility
1681 training; (vi) services and training for individuals with
1682 cognitive and sensory disabilities, including life skills
1683 training, and interpreter and reader services; (vii) personal
1684 assistance services, including attendant care and the training of
1685 personnel providing such services; (viii) surveys, directories,
1686 and other activities to identify appropriate housing, recreation
1687 opportunities, and accessible transportation and other support
1688 services; (ix) consumer information programs on rehabilitation and
1689 independent living services available under the Rehabilitation
1690 Act, especially for minorities and other individuals with
1691 disabilities who have traditionally been unserved or underserved
1692 by programs under the Rehabilitation Act; (x) education and
1693 training necessary for living in a community and participating in
1694 community activities; (xi) supported living; (xii) transportation,
1695 including referral and assistance for that transportation and
1696 training in the use of public transportation vehicles and systems;



1697 (xiii) physical rehabilitation; (xiv) therapeutic treatment; (xv)
1698 provision of needed prostheses and other appliances and devices;
1699 (xvi) individual and group social and recreational services;
1700 (xvii) training to develop skills specifically designed for youths
1701 who are individuals with disabilities to promote self-awareness
1702 and esteem, develop advocacy and self-empowerment skills, and
1703 explore career options; (xviii) services for children; (xix)
1704 services under other federal, state or local programs designed to
1705 provide resources, training, counseling or other assistance, of
1706 substantial benefit in enhancing the independence, productivity
1707 and quality of life of individuals with disabilities; (xx)
1708 appropriate preventive services to decrease the need of
1709 individuals assisted under the Rehabilitation Act for similar
1710 services in the future; (xxi) community awareness programs to
1711 enhance the understanding and integration into society of
1712 individuals with disabilities; and (xxii) such other services as
1713 may be necessary and not inconsistent with the provisions of the
1714 most current amendment of the Rehabilitation Act * * * .

1715 (* * * d) "Special disability services" includes, but not be
1716 limited to those services otherwise provided as independent living
1717 services * * * .

1718 (* * * e) "Office" means the Office of Special Disability
1719 Programs * * * .

1720 (* * * f) "Regulations" means regulations * * * of the
1721 Executive Director of the Department of Rehabilitation Services,



1722 under the policy direction of the Governor, pertaining to special
1723 disability services * * *.

1724 (* * *g) "Rehabilitation engineering" means the systematic
1725 application of technologies, engineering methodologies, or
1726 scientific principles to meet the needs of and address the
1727 barriers confronted by individuals with disabilities in areas that
1728 include education, rehabilitation, employment, transportation,
1729 independent living and recreation * * *.

1730 (* * *h) "Rehabilitation engineering services" means
1731 applying engineering principles to the design, modification,
1732 customization and/or fabrication of assistive technology for
1733 individuals with disabilities. An assistive technology device is
1734 any item, piece of equipment or product system, whether acquired
1735 commercially off the shelf, modified or customized, that is used
1736 to increase or improve functional capabilities of individuals with
1737 disabilities. The areas of practice for rehabilitation
1738 engineering typically encompasses job accommodations, computer
1739 access, vehicle modifications, architectural modifications and
1740 home modifications, augmentative/alternative communications,
1741 environmental controls, positioning devices, seating and mobility,
1742 sensory aids and learning accommodations * * *.

1743 * * *

1744 **SECTION 33.** Section 37-33-207, Mississippi Code of 1972, is
1745 amended as follows:



1746 37-33-207. The Office of Special Disability Programs
1747 established by Section 37-33-153 shall be administered by a
1748 director appointed by the Executive Director * * * of the
1749 Department of Rehabilitation Services, under the policy direction
1750 of the Governor. In carrying out his or her other duties under
1751 the Special Disability Programs Law, the director:

1752 (a) Shall, with the approval of the Executive Director
1753 of the Division of Rehabilitation Services, under the policy
1754 direction of the Governor, make regulations governing the
1755 protection of records and confidential information, the manner and
1756 form of filing applications, eligibility and investigations and
1757 determinations thereof for rehabilitation services through special
1758 disability programs, procedures for fair hearings and such other
1759 regulations as are found necessary to carry out the purposes of
1760 that law;

1761 (b) Shall, with the approval of the Executive Director,
1762 establish appropriate subordinate administrative units within the
1763 office;

1764 (c) Shall, with the approval of the Executive Director,
1765 recommend for appointment such personnel as may be necessary for
1766 the efficient performance of the functions of the office;

1767 (d) Shall prepare and submit to * * * the Executive
1768 Director * * * annual reports of activities and expenditures and,
1769 before each regular session of the Legislature, shall submit
1770 estimates of sums required for carrying out the Special Disability



1771 Programs Law and estimates of the amounts to be made available for
1772 this purpose from all sources;

1773 (e) Shall, if the Executive Director so authorizes,
1774 make certifications on behalf of the Executive Director for the
1775 disbursement of funds available for rehabilitation services;

1776 (f) Shall, with the approval of the Executive Director,
1777 appoint boards to serve as the governing authority of centers for
1778 independent living or other entities as required by federal law
1779 and regulations;

1780 (g) Shall, with the approval of the Executive Director,
1781 take such other action as he or she deems necessary or appropriate
1782 to carry out the purposes of the Special Disability Programs Law;

1783 (h) May, with the approval of the Executive Director,
1784 delegate to any officer or employee of the office such of his or
1785 her powers and duties, except the making of regulations and the
1786 making of recommendations for appointment of personnel, as he or
1787 she finds necessary to carry out the purposes of the Special
1788 Disability Programs Law.

1789 **SECTION 34.** Section 37-33-253, Mississippi Code of 1972, is
1790 amended as follows:

1791 37-33-253. As used in this act:

1792 (a) "Department" means the State Department of
1793 Rehabilitation Services, under the policy direction of the
1794 Governor.



1795 (b) "Rehabilitation center" means a facility which
1796 provides intermediate care and stresses rehabilitation for persons
1797 with spinal cord injuries or traumatic brain injuries.

1798 (c) "Transitional living facility" means a facility
1799 which provides a temporary, structured residential environment for
1800 those individuals with spinal cord injuries or traumatic brain
1801 injuries in a training or educational program, in order to prepare
1802 such individuals to live independently.

1803 (d) "Traumatic brain injury" means an insult to the
1804 skull, brain, or its covering, resulting from external trauma
1805 which produces an altered state of consciousness or anatomic,
1806 motor, sensory or cognitive/behavioral deficits.

1807 (e) "Spinal cord injury" means an acute traumatic
1808 insult to the spinal cord, not of a degenerative or congenital
1809 nature, but caused by an external trauma resulting in any degree
1810 of motor or sensory deficit.

1811 **SECTION 35.** On July 1, 2017, the Division of Medicaid in the
1812 Office of the Governor as created by Sections 43-13-101 et seq.,
1813 Mississippi Code of 1972, shall be renamed the Department of
1814 Medicaid in the Office of the Governor and shall retain all powers
1815 and duties as granted to the former Division of Medicaid.
1816 Wherever the term "Division of Medicaid" appears in any law or
1817 regulation, the same shall mean the Department of Medicaid in the
1818 Office of the Governor.



1819 **SECTION 36.** Section 43-13-105, Mississippi Code of 1972, is
1820 amended as follows:

1821 43-13-105. When used in this article, the following
1822 definitions shall apply, unless the context requires otherwise:

1823 (a) "Administering agency" means the * * * Department
1824 of Medicaid in the Office of the Governor as created by this
1825 article.

1826 (b) " * * * Department" or " * * * Department of
1827 Medicaid" means the * * * Department of Medicaid in the Office of
1828 the Governor.

1829 (c) "Medical assistance" means payment of part or all
1830 of the costs of medical and remedial care provided under the terms
1831 of this article and in accordance with provisions of Titles XIX
1832 and XXI of the Social Security Act, as amended.

1833 (d) "Applicant" means a person who applies for
1834 assistance under Titles IV, XVI, XIX or XXI of the Social Security
1835 Act, as amended, and under the terms of this article.

1836 (e) "Recipient" means a person who is eligible for
1837 assistance under Title XIX or XXI of the Social Security Act, as
1838 amended and under the terms of this article.

1839 (f) "State health agency" means any agency, department,
1840 institution, board or commission of the State of Mississippi,
1841 except the University of Mississippi Medical School, which is
1842 supported in whole or in part by any public funds, including funds
1843 directly appropriated from the State Treasury, funds derived by



1844 taxes, fees levied or collected by statutory authority, or any
1845 other funds used by "state health agencies" derived from federal
1846 sources, when any funds available to such agency are expended
1847 either directly or indirectly in connection with, or in support
1848 of, any public health, hospital, hospitalization or other public
1849 programs for the preventive treatment or actual medical treatment
1850 of persons with a physical disability, mental illness or an
1851 intellectual disability.

1852 (g) "Mississippi Medicaid Commission" or "Medicaid
1853 Commission," wherever they appear in the laws of the State of
1854 Mississippi, means the * * * Department of Medicaid in the Office
1855 of the Governor.

1856 **SECTION 37.** Section 43-13-107, Mississippi Code of 1972, is
1857 amended as follows:

1858 43-13-107. (1) The * * * Department of Medicaid is created
1859 in the Office of the Governor and established to administer this
1860 article and perform such other duties as are prescribed by law.

1861 (2) (a) The Governor shall appoint a full-time Executive
1862 Director, with the advice and consent of the Senate, who shall be
1863 either (i) * * * a person holding a graduate degree in medical
1864 care administration, public health, hospital administration, or
1865 the equivalent, or (* * * ii) a person holding a bachelor's degree
1866 in business administration or hospital administration, with at
1867 least ten (10) years' experience in management-level
1868 administration of Medicaid programs. The Executive Director shall



1869 be the official secretary and legal custodian of the records of
1870 the * * * department; shall be the agent of the division for the
1871 purpose of receiving all service of process, summons and notices
1872 directed to the * * * department; shall perform such other duties
1873 as the Governor may prescribe from time to time; and shall perform
1874 all other duties that are now or may be imposed upon him or her by
1875 law.

1876 (b) The Executive Director shall serve at the will and
1877 pleasure of the Governor.

1878 (c) The Executive Director shall, before entering upon
1879 the discharge of the duties of the office, take and subscribe to
1880 the oath of office prescribed by the Mississippi Constitution and
1881 shall file the same in the Office of the Secretary of State, and
1882 shall execute a bond in some surety company authorized to do
1883 business in the state in the penal sum of One Hundred Thousand
1884 Dollars (\$100,000.00), conditioned for the faithful and impartial
1885 discharge of the duties of the office. The premium on the bond
1886 shall be paid as provided by law out of funds appropriated to
1887 the * * * Department of Medicaid for contractual services.

1888 (d) The Executive Director, with the approval of the
1889 Governor and subject to the rules and regulations of the State
1890 Personnel Board, shall employ such professional, administrative,
1891 stenographic, secretarial, clerical and technical assistance as
1892 may be necessary to perform the duties required in administering
1893 this article and fix the compensation for those persons, all in



1894 accordance with a state merit system meeting federal requirements.
1895 When the salary of the executive director is not set by law, that
1896 salary shall be set by the State Personnel Board. No employees of
1897 the * * * Department of Medicaid shall be considered to be staff
1898 members of the immediate Office of the Governor; however, Section
1899 25-9-107(c) (xv) shall apply to the executive director and other
1900 administrative heads of the * * * department.

1901 (3) (a) There is established a Medical Care Advisory
1902 Committee, which shall be the committee that is required by
1903 federal regulation to advise the * * * Department of Medicaid
1904 about health and medical care services.

1905 (b) The advisory committee shall consist of not less
1906 than eleven (11) members, as follows:

1907 (i) The Governor shall appoint five (5) members,
1908 one (1) from each congressional district and one (1) from the
1909 state at large;

1910 (ii) The Lieutenant Governor shall appoint three
1911 (3) members, one (1) from each Supreme Court district;

1912 (iii) The Speaker of the House of Representatives
1913 shall appoint three (3) members, one (1) from each Supreme Court
1914 district.

1915 All members appointed under this paragraph shall either be
1916 health care providers or consumers of health care services. One
1917 (1) member appointed by each of the appointing authorities shall
1918 be a board-certified physician.



1919 (c) The respective Chairmen of the House Medicaid
1920 Committee, the House Public Health and Human Services Committee,
1921 the House Appropriations Committee, the Senate Public Health and
1922 Welfare Committee and the Senate Appropriations Committee, or
1923 their designees, two (2) members of the State Senate appointed by
1924 the Lieutenant Governor and one (1) member of the House of
1925 Representatives appointed by the Speaker of the House, shall serve
1926 as ex officio nonvoting members of the advisory committee.

1927 (d) In addition to the committee members required by
1928 paragraph (b), the advisory committee shall consist of such other
1929 members as are necessary to meet the requirements of the federal
1930 regulation applicable to the advisory committee, who shall be
1931 appointed as provided in the federal regulation.

1932 (e) The chairmanship of the advisory committee shall be
1933 elected by the voting members of the committee annually and shall
1934 not serve more than two (2) consecutive years as chairman.

1935 (f) The members of the advisory committee specified in
1936 paragraph (b) shall serve for terms that are concurrent with the
1937 terms of members of the Legislature, and any member appointed
1938 under paragraph (b) may be reappointed to the advisory committee.
1939 The members of the advisory committee specified in paragraph (b)
1940 shall serve without compensation, but shall receive reimbursement
1941 to defray actual expenses incurred in the performance of committee
1942 business as authorized by law. Legislators shall receive per diem
1943 and expenses, which may be paid from the contingent expense funds



1944 of their respective houses in the same amounts as provided for
1945 committee meetings when the Legislature is not in session.

1946 (g) The advisory committee shall meet not less than
1947 quarterly, and advisory committee members shall be furnished
1948 written notice of the meetings at least ten (10) days before the
1949 date of the meeting.

1950 (h) The executive director shall submit to the advisory
1951 committee all amendments, modifications and changes to the state
1952 plan for the operation of the Medicaid program, for review by the
1953 advisory committee before the amendments, modifications or changes
1954 may be implemented by the * * * department.

1955 (i) The advisory committee, among its duties and
1956 responsibilities, shall:

1957 (i) Advise the * * * department with respect to
1958 amendments, modifications and changes to the state plan for the
1959 operation of the Medicaid program;

1960 (ii) Advise the * * * department with respect to
1961 issues concerning receipt and disbursement of funds and
1962 eligibility for Medicaid;

1963 (iii) Advise the * * * department with respect to
1964 determining the quantity, quality and extent of medical care
1965 provided under this article;

1966 (iv) Communicate the views of the medical care
1967 professions to the * * * department and communicate the views of
1968 the division to the medical care professions;



1969 (v) Gather information on reasons that medical
1970 care providers do not participate in the Medicaid program and
1971 changes that could be made in the program to encourage more
1972 providers to participate in the Medicaid program, and advise the
1973 division with respect to encouraging physicians and other medical
1974 care providers to participate in the Medicaid program;

1975 (vi) Provide a written report on or before
1976 November 30 of each year to the Governor, Lieutenant Governor and
1977 Speaker of the House of Representatives.

1978 (4) (a) There is established a Drug Use Review Board, which
1979 shall be the board that is required by federal law to:

1980 (i) Review and initiate retrospective drug use,
1981 review including ongoing periodic examination of claims data and
1982 other records in order to identify patterns of fraud, abuse, gross
1983 overuse, or inappropriate or medically unnecessary care, among
1984 physicians, pharmacists and individuals receiving Medicaid
1985 benefits or associated with specific drugs or groups of drugs.

1986 (ii) Review and initiate ongoing interventions for
1987 physicians and pharmacists, targeted toward therapy problems or
1988 individuals identified in the course of retrospective drug use
1989 reviews.

1990 (iii) On an ongoing basis, assess data on drug use
1991 against explicit predetermined standards using the compendia and
1992 literature set forth in federal law and regulations.



1993 (b) The board shall consist of not less than twelve
1994 (12) members appointed by the Governor, or his designee.

1995 (c) The board shall meet at least quarterly, and board
1996 members shall be furnished written notice of the meetings at least
1997 ten (10) days before the date of the meeting.

1998 (d) The board meetings shall be open to the public,
1999 members of the press, legislators and consumers. Additionally,
2000 all documents provided to board members shall be available to
2001 members of the Legislature in the same manner, and shall be made
2002 available to others for a reasonable fee for copying. However,
2003 patient confidentiality and provider confidentiality shall be
2004 protected by blinding patient names and provider names with
2005 numerical or other anonymous identifiers. The board meetings
2006 shall be subject to the Open Meetings Act (Sections 25-41-1
2007 through 25-41-17). Board meetings conducted in violation of this
2008 section shall be deemed unlawful.

2009 (5) (a) There is established a Pharmacy and Therapeutics
2010 Committee, which shall be appointed by the Governor, or his
2011 designee.

2012 (b) The committee shall meet as often as needed to
2013 fulfill its responsibilities and obligations as set forth in this
2014 section, and committee members shall be furnished written notice
2015 of the meetings at least ten (10) days before the date of the
2016 meeting.



2017 (c) The committee meetings shall be open to the public,
2018 members of the press, legislators and consumers. Additionally,
2019 all documents provided to committee members shall be available to
2020 members of the Legislature in the same manner, and shall be made
2021 available to others for a reasonable fee for copying. However,
2022 patient confidentiality and provider confidentiality shall be
2023 protected by blinding patient names and provider names with
2024 numerical or other anonymous identifiers. The committee meetings
2025 shall be subject to the Open Meetings Act (Sections 25-41-1
2026 through 25-41-17). Committee meetings conducted in violation of
2027 this section shall be deemed unlawful.

2028 (d) After a thirty-day public notice, the executive
2029 director, or his or her designee, shall present the * * *
2030 department's recommendation regarding prior approval for a
2031 therapeutic class of drugs to the committee. However, in
2032 circumstances where the division deems it necessary for the health
2033 and safety of Medicaid beneficiaries, the * * * department may
2034 present to the committee its recommendations regarding a
2035 particular drug without a thirty-day public notice. In making
2036 that presentation, the * * * department shall state to the
2037 committee the circumstances that precipitate the need for the
2038 committee to review the status of a particular drug without a
2039 thirty-day public notice. The committee may determine whether or
2040 not to review the particular drug under the circumstances stated
2041 by the division without a thirty-day public notice. If the



2042 committee determines to review the status of the particular drug,
2043 it shall make its recommendations to the division, after which
2044 the * * * department shall file those recommendations for a
2045 thirty-day public comment under Section 25-43-7(1).

2046 (e) Upon reviewing the information and recommendations,
2047 the committee shall forward a written recommendation approved by a
2048 majority of the committee to the executive director, or his or her
2049 designee. The decisions of the committee regarding any
2050 limitations to be imposed on any drug or its use for a specified
2051 indication shall be based on sound clinical evidence found in
2052 labeling, drug compendia, and peer reviewed clinical literature
2053 pertaining to use of the drug in the relevant population.

2054 (f) Upon reviewing and considering all recommendations
2055 including recommendations of the committee, comments, and data,
2056 the executive director shall make a final determination whether to
2057 require prior approval of a therapeutic class of drugs, or modify
2058 existing prior approval requirements for a therapeutic class of
2059 drugs.

2060 (g) At least thirty (30) days before the executive
2061 director implements new or amended prior authorization decisions,
2062 written notice of the executive director's decision shall be
2063 provided to all prescribing Medicaid providers, all Medicaid
2064 enrolled pharmacies, and any other party who has requested the
2065 notification. However, notice given under Section 25-43-7(1) will



2066 substitute for and meet the requirement for notice under this
2067 subsection.

2068 (h) Members of the committee shall dispose of matters
2069 before the committee in an unbiased and professional manner. If a
2070 matter being considered by the committee presents a real or
2071 apparent conflict of interest for any member of the committee,
2072 that member shall disclose the conflict in writing to the
2073 committee chair and recuse himself or herself from any discussions
2074 and/or actions on the matter.

2075 **SECTION 38.** Section 43-13-109, Mississippi Code of 1972, is
2076 amended as follows:

2077 43-13-109. The director, with the approval of the Governor
2078 and pursuant to the rules and regulations of the State Personnel
2079 Board, may adopt reasonable rules and regulations to provide for
2080 an open, competitive or qualifying examination for all employees
2081 of the * * * department other than the director, part-time
2082 consultants and professional staff members.

2083 **SECTION 39.** Section 43-13-111, Mississippi Code of 1972, is
2084 amended as follows:

2085 43-13-111. Every state health agency, as defined in Section
2086 43-13-105, shall obtain an appropriation of state funds from the
2087 State Legislature for all medical assistance programs rendered by
2088 the agency and shall organize its programs and budgets in such a
2089 manner as to secure maximum federal funding through the * * *



2090 Department of Medicaid under Title XIX or Title XXI of the federal
2091 Social Security Act, as amended.

2092 **SECTION 40.** Section 43-13-113, Mississippi Code of 1972, is
2093 amended as follows:

2094 43-13-113. (1) The State Treasurer shall receive on behalf
2095 of the state, and execute all instruments incidental thereto,
2096 federal and other funds to be used for financing the medical
2097 assistance plan or program adopted pursuant to this article, and
2098 place all such funds in a special account to the credit of the
2099 Governor's Office- * * * Department of Medicaid, which funds shall
2100 be expended by the * * * department for the purposes and under the
2101 provisions of this article, and shall be paid out by the State
2102 Treasurer as funds appropriated to carry out the provisions of
2103 this article are paid out by him.

2104 The * * * department shall issue all checks or electronic
2105 transfers for administrative expenses, and for medical assistance
2106 under the provisions of this article. All such checks or
2107 electronic transfers shall be drawn upon funds made available to
2108 the division by the State Auditor, upon requisition of the
2109 director. It is the purpose of this section to provide that the
2110 State Auditor shall transfer, in lump sums, amounts to the * * *
2111 department for disbursement under the regulations which shall be
2112 made by the director with the approval of the Governor; however,
2113 the * * * department, or its fiscal agent in behalf of the * * *
2114 department, shall be authorized in maintaining separate accounts



2115 with a Mississippi bank to handle claim payments, refund
2116 recoveries and related Medicaid program financial transactions, to
2117 aggressively manage the float in these accounts while awaiting
2118 clearance of checks or electronic transfers and/or other
2119 disposition so as to accrue maximum interest advantage of the
2120 funds in the account, and to retain all earned interest on these
2121 funds to be applied to match federal funds for Medicaid program
2122 operations.

2123 (2) The * * * department is authorized to obtain a line of
2124 credit through the State Treasurer from the Working
2125 Cash-Stabilization Fund or any other special source funds
2126 maintained in the State Treasury in an amount not exceeding One
2127 Hundred Fifty Million Dollars (\$150,000,000.00) to fund shortfalls
2128 which, from time to time, may occur due to decreases in state
2129 matching fund cash flow. The length of indebtedness under this
2130 provision shall not carry past the end of the quarter following
2131 the loan origination. Loan proceeds shall be received by the
2132 State Treasurer and shall be placed in a Medicaid designated
2133 special fund account. Loan proceeds shall be expended only for
2134 health care services provided under the Medicaid program.
2135 The * * * department may pledge as security for such interim
2136 financing future funds that will be received by the * * *
2137 department. Any such loans shall be repaid from the first
2138 available funds received by the * * * department in the manner of
2139 and subject to the same terms provided in this section.



2140 In the event the State Treasurer makes a determination that
2141 special source funds are not sufficient to cover a line of credit
2142 for the * * * Department of Medicaid, the * * * department is
2143 authorized to obtain a line of credit, in an amount not exceeding
2144 One Hundred Fifty Million Dollars (\$150,000,000.00), from a
2145 commercial lender or a consortium of lenders. The length of
2146 indebtedness under this provision shall not carry past the end of
2147 the quarter following the loan origination. The * * * department
2148 shall obtain a minimum of two (2) written quotes that shall be
2149 presented to the State Fiscal Officer and State Treasurer, who
2150 shall jointly select a lender. Loan proceeds shall be received by
2151 the State Treasurer and shall be placed in a Medicaid designated
2152 special fund account. Loan proceeds shall be expended only for
2153 health care services provided under the Medicaid program.
2154 The * * * department may pledge as security for such interim
2155 financing future funds that will be received by the * * *
2156 department. Any such loans shall be repaid from the first
2157 available funds received by the * * * department in the manner of
2158 and subject to the same terms provided in this section.

2159 (3) Disbursement of funds to providers shall be made as
2160 follows:

2161 (a) All providers must submit all claims to the * * *
2162 Department of Medicaid's fiscal agent no later than twelve (12)
2163 months from the date of service.



2164 (b) The * * * Department of Medicaid's fiscal agent
2165 must pay ninety percent (90%) of all clean claims within thirty
2166 (30) days of the date of receipt.

2167 (c) The * * * Department of Medicaid's fiscal agent
2168 must pay ninety-nine percent (99%) of all clean claims within
2169 ninety (90) days of the date of receipt.

2170 (d) The * * * Department of Medicaid's fiscal agent
2171 must pay all other claims within twelve (12) months of the date of
2172 receipt.

2173 (e) If a claim is neither paid nor denied for valid and
2174 proper reasons by the end of the time periods as specified above,
2175 the * * * Department of Medicaid's fiscal agent must pay the
2176 provider interest on the claim at the rate of one and one-half
2177 percent (1-1/2%) per month on the amount of such claim until it is
2178 finally settled or adjudicated.

2179 (4) The date of receipt is the date the fiscal agent
2180 receives the claim as indicated by its date stamp on the claim or,
2181 for those claims filed electronically, the date of receipt is the
2182 date of transmission.

2183 (5) The date of payment is the date of the check or, for
2184 those claims paid by electronic funds transfer, the date of the
2185 transfer.

2186 (6) The above specified time limitations do not apply in the
2187 following circumstances:



2188 (a) Retroactive adjustments paid to providers
2189 reimbursed under a retrospective payment system;

2190 (b) If a claim for payment under Medicare has been
2191 filed in a timely manner, the fiscal agent may pay a Medicaid
2192 claim relating to the same services within six (6) months after
2193 it, or the provider, receives notice of the disposition of the
2194 Medicare claim;

2195 (c) Claims from providers under investigation for fraud
2196 or abuse; and

2197 (d) The * * * Department of Medicaid and/or its fiscal
2198 agent may make payments at any time in accordance with a court
2199 order, to carry out hearing decisions or corrective actions taken
2200 to resolve a dispute, or to extend the benefits of a hearing
2201 decision, corrective action, or court order to others in the same
2202 situation as those directly affected by it.

2203 (7) Repealed.

2204 (8) If sufficient funds are appropriated therefor by the
2205 Legislature, the * * * Department of Medicaid may contract with
2206 the Mississippi Dental Association, or an approved designee, to
2207 develop and operate a Donated Dental Services (DDS) program
2208 through which volunteer dentists will treat needy disabled, aged
2209 and medically-compromised individuals who are non-Medicaid
2210 eligible recipients.

2211 **SECTION 41.** Section 43-13-116, Mississippi Code of 1972, is
2212 amended as follows:



2213 43-13-116. (1) It shall be the duty of the * * * Department
2214 of Medicaid to fully implement and carry out the administrative
2215 functions of determining the eligibility of those persons who
2216 qualify for medical assistance under Section 43-13-115.

2217 (2) In determining Medicaid eligibility, the * * *
2218 Department of Medicaid is authorized to enter into an agreement
2219 with the Secretary of the Department of Health and Human Services
2220 for the purpose of securing the transfer of eligibility
2221 information from the Social Security Administration on those
2222 individuals receiving supplemental security income benefits under
2223 the federal Social Security Act and any other information
2224 necessary in determining Medicaid eligibility. The * * *
2225 Department of Medicaid is further empowered to enter into
2226 contractual arrangements with its fiscal agent or with the State
2227 Department of Human Services in securing electronic data
2228 processing support as may be necessary.

2229 (3) Administrative hearings shall be available to any
2230 applicant who requests it because his or her claim of eligibility
2231 for services is denied or is not acted upon with reasonable
2232 promptness or by any recipient who requests it because he or she
2233 believes the agency has erroneously taken action to deny, reduce,
2234 or terminate benefits. The agency need not grant a hearing if the
2235 sole issue is a federal or state law requiring an automatic change
2236 adversely affecting some or all recipients. Eligibility
2237 determinations that are made by other agencies and certified to



2238 the * * * Department of Medicaid pursuant to Section 43-13-115 are
2239 not subject to the administrative hearing procedures of the * * *
2240 Department of Medicaid but are subject to the administrative
2241 hearing procedures of the agency that determined eligibility.

2242 (a) A request may be made either for a local regional
2243 office hearing or a state office hearing when the local regional
2244 office has made the initial decision that the claimant seeks to
2245 appeal or when the regional office has not acted with reasonable
2246 promptness in making a decision on a claim for eligibility or
2247 services. The only exception to requesting a local hearing is
2248 when the issue under appeal involves either (i) a disability or
2249 blindness denial, or termination, or (ii) a level of care denial
2250 or termination for a disabled child living at home. An appeal
2251 involving disability, blindness or level of care must be handled
2252 as a state level hearing. The decision from the local hearing may
2253 be appealed to the state office for a state hearing. A decision
2254 to deny, reduce or terminate benefits that is initially made at
2255 the state office may be appealed by requesting a state hearing.

2256 (b) A request for a hearing, either state or local,
2257 must be made in writing by the claimant or claimant's legal
2258 representative. "Legal representative" includes the claimant's
2259 authorized representative, an attorney retained by the claimant or
2260 claimant's family to represent the claimant, a paralegal
2261 representative with a legal aid services, a parent of a minor
2262 child if the claimant is a child, a legal guardian or conservator



2263 or an individual with power of attorney for the claimant. The
2264 claimant may also be represented by anyone that he or she so
2265 designates but must give the designation to the Medicaid regional
2266 office or state office in writing, if the person is not the legal
2267 representative, legal guardian, or authorized representative.

2268 (c) The claimant may make a request for a hearing in
2269 person at the regional office but an oral request must be put into
2270 written form. Regional office staff will determine from the
2271 claimant if a local or state hearing is requested and assist the
2272 claimant in completing and signing the appropriate form. Regional
2273 office staff may forward a state hearing request to the
2274 appropriate division in the state office or the claimant may mail
2275 the form to the address listed on the form. The claimant may make
2276 a written request for a hearing by letter. A simple statement
2277 requesting a hearing that is signed by the claimant or legal
2278 representative is sufficient; however, if possible, the claimant
2279 should state the reason for the request. The letter may be mailed
2280 to the regional office or it may be mailed to the state office. If
2281 the letter does not specify the type of hearing desired, local or
2282 state, Medicaid staff will attempt to contact the claimant to
2283 determine the level of hearing desired. If contact cannot be made
2284 within three (3) days of receipt of the request, the request will
2285 be assumed to be for a local hearing and scheduled accordingly. A
2286 hearing will not be scheduled until either a letter or the
2287 appropriate form is received by the regional or state office.



2288 (d) When both members of a couple wish to appeal an
2289 action or inaction by the agency that affects both applications or
2290 cases similarly and arose from the same issue, one or both may
2291 file the request for hearing, both may present evidence at the
2292 hearing, and the agency's decision will be applicable to both. If
2293 both file a request for hearing, two (2) hearings will be
2294 registered but they will be conducted on the same day and in the
2295 same place, either consecutively or jointly, as the couple wishes.
2296 If they so desire, only one of the couple need attend the hearing.

2297 (e) The procedure for administrative hearings shall be
2298 as follows:

2299 (i) The claimant has thirty (30) days from the
2300 date the agency mails the appropriate notice to the claimant of
2301 its decision regarding eligibility, services, or benefits to
2302 request either a state or local hearing. This time period may be
2303 extended if the claimant can show good cause for not filing within
2304 thirty (30) days. Good cause includes, but may not be limited to,
2305 illness, failure to receive the notice, being out of state, or
2306 some other reasonable explanation. If good cause can be shown, a
2307 late request may be accepted provided the facts in the case remain
2308 the same. If a claimant's circumstances have changed or if good
2309 cause for filing a request beyond thirty (30) days is not shown, a
2310 hearing request will not be accepted. If the claimant wishes to
2311 have eligibility reconsidered, he or she may reapply.



2312 (ii) If a claimant or representative requests a
2313 hearing in writing during the advance notice period before
2314 benefits are reduced or terminated, benefits must be continued or
2315 reinstated to the benefit level in effect before the effective
2316 date of the adverse action. Benefits will continue at the
2317 original level until the final hearing decision is rendered. Any
2318 hearing requested after the advance notice period will not be
2319 accepted as a timely request in order for continuation of benefits
2320 to apply.

2321 (iii) Upon receipt of a written request for a
2322 hearing, the request will be acknowledged in writing within twenty
2323 (20) days and a hearing scheduled. The claimant or representative
2324 will be given at least five (5) days' advance notice of the
2325 hearing date. The local and/or state level hearings will be held
2326 by telephone unless, at the hearing officer's discretion, it is
2327 determined that an in-person hearing is necessary. If a local
2328 hearing is requested, the regional office will notify the claimant
2329 or representative in writing of the time of the local hearing. If
2330 a state hearing is requested, the state office will notify the
2331 claimant or representative in writing of the time of the state
2332 hearing. If an in-person hearing is necessary, local hearings
2333 will be held at the regional office and state hearings will be
2334 held at the state office unless other arrangements are
2335 necessitated by the claimant's inability to travel.



2336 (iv) All persons attending a hearing will attend
2337 for the purpose of giving information on behalf of the claimant or
2338 rendering the claimant assistance in some other way, or for the
2339 purpose of representing the * * * Department of Medicaid.

2340 (v) A state or local hearing request may be
2341 withdrawn at any time before the scheduled hearing, or after the
2342 hearing is held but before a decision is rendered. The withdrawal
2343 must be in writing and signed by the claimant or representative.
2344 A hearing request will be considered abandoned if the claimant or
2345 representative fails to appear at a scheduled hearing without good
2346 cause. If no one appears for a hearing, the appropriate office
2347 will notify the claimant in writing that the hearing is dismissed
2348 unless good cause is shown for not attending. The proposed agency
2349 action will be taken on the case following failure to appear for a
2350 hearing if the action has not already been effected.

2351 (vi) The claimant or his representative has the
2352 following rights in connection with a local or state hearing:

2353 (A) The right to examine at a reasonable time
2354 before the date of the hearing and during the hearing the content
2355 of the claimant's case record;

2356 (B) The right to have legal representation at
2357 the hearing and to bring witnesses;

2358 (C) The right to produce documentary evidence
2359 and establish all facts and circumstances concerning eligibility,
2360 services, or benefits;



2361 (D) The right to present an argument without
2362 undue interference;

2363 (E) The right to question or refute any
2364 testimony or evidence including an opportunity to confront and
2365 cross-examine adverse witnesses.

2366 (vii) When a request for a local hearing is
2367 received by the regional office or if the regional office is
2368 notified by the state office that a local hearing has been
2369 requested, the Medicaid specialist supervisor in the regional
2370 office will review the case record, reexamine the action taken on
2371 the case, and determine if policy and procedures have been
2372 followed. If any adjustments or corrections should be made, the
2373 Medicaid specialist supervisor will ensure that corrective action
2374 is taken. If the request for hearing was timely made such that
2375 continuation of benefits applies, the Medicaid specialist
2376 supervisor will ensure that benefits continue at the level before
2377 the proposed adverse action that is the subject of the appeal.
2378 The Medicaid specialist supervisor will also ensure that all
2379 needed information, verification, and evidence is in the case
2380 record for the hearing.

2381 (viii) When a state hearing is requested that
2382 appeals the action or inaction of a regional office, the regional
2383 office will prepare copies of the case record and forward it to
2384 the appropriate division in the state office no later than five
2385 (5) days after receipt of the request for a state hearing. The



2386 original case record will remain in the regional office. Either
2387 the original case record in the regional office or the copy
2388 forwarded to the state office will be available for inspection by
2389 the claimant or claimant's representative a reasonable time before
2390 the date of the hearing.

2391 (ix) The Medicaid specialist supervisor will serve
2392 as the hearing officer for a local hearing unless the Medicaid
2393 specialist supervisor actually participated in the eligibility,
2394 benefits, or services decision under appeal, in which case the
2395 Medicaid specialist supervisor must appoint a Medicaid specialist
2396 in the regional office who did not actually participate in the
2397 decision under appeal to serve as hearing officer. The local
2398 hearing will be an informal proceeding in which the claimant or
2399 representative may present new or additional information, may
2400 question the action taken on the client's case, and will hear an
2401 explanation from agency staff as to the regulations and
2402 requirements that were applied to claimant's case in making the
2403 decision.

2404 (x) After the hearing, the hearing officer will
2405 prepare a written summary of the hearing procedure and file it
2406 with the case record. The hearing officer will consider the facts
2407 presented at the local hearing in reaching a decision. The
2408 claimant will be notified of the local hearing decision on the
2409 appropriate form that will state clearly the reason for the
2410 decision, the policy that governs the decision, the claimant's



2411 right to appeal the decision to the state office, and, if the
2412 original adverse action is upheld, the new effective date of the
2413 reduction or termination of benefits or services if continuation
2414 of benefits applied during the hearing process. The new effective
2415 date of the reduction or termination of benefits or services must
2416 be at the end of the fifteen-day advance notice period from the
2417 mailing date of the notice of hearing decision. The notice to
2418 claimant will be made part of the case record.

2419 (xi) The claimant has the right to appeal a local
2420 hearing decision by requesting a state hearing in writing within
2421 fifteen (15) days of the mailing date of the notice of local
2422 hearing decision. The state hearing request should be made to the
2423 regional office. If benefits have been continued pending the
2424 local hearing process, then benefits will continue throughout the
2425 fifteen-day advance notice period for an adverse local hearing
2426 decision. If a state hearing is timely requested within the
2427 fifteen-day period, then benefits will continue pending the state
2428 hearing process. State hearings requested after the fifteen-day
2429 local hearing advance notice period will not be accepted unless
2430 the initial thirty-day period for filing a hearing request has not
2431 expired because the local hearing was held early, in which case a
2432 state hearing request will be accepted as timely within the number
2433 of days remaining of the unexpired initial thirty-day period in
2434 addition to the fifteen-day time period. Continuation of benefits
2435 during the state hearing process, however, will only apply if the



2436 state hearing request is received within the fifteen-day advance
2437 notice period.

2438 (xii) When a request for a state hearing is
2439 received in the regional office, the request will be made part of
2440 the case record and the regional office will prepare the case
2441 record and forward it to the appropriate division in the state
2442 office within five (5) days of receipt of the state hearing
2443 request. A request for a state hearing received in the state
2444 office will be forwarded to the regional office for inclusion in
2445 the case record and the regional office will prepare the case
2446 record and forward it to the appropriate division in the state
2447 office within five (5) days of receipt of the state hearing
2448 request.

2449 (xiii) Upon receipt of the hearing record, an
2450 impartial hearing officer will be assigned to hear the case either
2451 by the Executive Director of the * * * Department of Medicaid or
2452 his or her designee. Hearing officers will be individuals with
2453 appropriate expertise employed by the * * * department and who
2454 have not been involved in any way with the action or decision on
2455 appeal in the case. The hearing officer will review the case
2456 record and if the review shows that an error was made in the
2457 action of the agency or in the interpretation of policy, or that a
2458 change of policy has been made, the hearing officer will discuss
2459 these matters with the appropriate agency personnel and request
2460 that an appropriate adjustment be made. Appropriate agency



2461 personnel will discuss the matter with the claimant and if the
2462 claimant is agreeable to the adjustment of the claim, then agency
2463 personnel will request in writing dismissal of the hearing and the
2464 reason therefor, to be placed in the case record. If the hearing
2465 is to go forward, it shall be scheduled by the hearing officer in
2466 the manner set forth in subparagraph (iii) of this paragraph (e).

2467 (xiv) In conducting the hearing, the state hearing
2468 officer will inform those present of the following:

2469 (A) That the hearing will be recorded on tape
2470 and that a transcript of the proceedings will be typed for the
2471 record;

2472 (B) The action taken by the agency which
2473 prompted the appeal;

2474 (C) An explanation of the claimant's rights
2475 during the hearing as outlined in subparagraph (vi) of this
2476 paragraph (e);

2477 (D) That the purpose of the hearing is for
2478 the claimant to express dissatisfaction and present additional
2479 information or evidence;

2480 (E) That the case record is available for
2481 review by the claimant or representative during the hearing;

2482 (F) That the final hearing decision will be
2483 rendered by the Executive Director of the Division of Medicaid on
2484 the basis of facts presented at the hearing and the case record



2485 and that the claimant will be notified by letter of the final
2486 decision.

2487 (xv) During the hearing, the claimant and/or
2488 representative will be allowed an opportunity to make a full
2489 statement concerning the appeal and will be assisted, if
2490 necessary, in disclosing all information on which the claim is
2491 based. All persons representing the claimant and those
2492 representing the * * * Department of Medicaid will have the
2493 opportunity to state all facts pertinent to the appeal. The
2494 hearing officer may recess or continue the hearing for a
2495 reasonable time should additional information or facts be required
2496 or if some change in the claimant's circumstances occurs during
2497 the hearing process which impacts the appeal. When all
2498 information has been presented, the hearing officer will close the
2499 hearing and stop the recorder.

2500 (xvi) Immediately following the hearing the
2501 hearing tape will be transcribed and a copy of the transcription
2502 forwarded to the regional office for filing in the case record.
2503 As soon as possible, the hearing officer shall review the evidence
2504 and record of the proceedings, testimony, exhibits, and other
2505 supporting documents, prepare a written summary of the facts as
2506 the hearing officer finds them, and prepare a written
2507 recommendation of action to be taken by the agency, citing
2508 appropriate policy and regulations that govern the recommendation.
2509 The decision cannot be based on any material, oral or written, not



2510 available to the claimant before or during the hearing. The
2511 hearing officer's recommendation will become part of the case
2512 record which will be submitted to the Executive Director of
2513 the * * * Department of Medicaid for further review and decision.

2514 (xvii) The Executive Director of the * * *
2515 Department of Medicaid, upon review of the recommendation,
2516 proceedings and the record, may sustain the recommendation of the
2517 hearing officer, reject the same, or remand the matter to the
2518 hearing officer to take additional testimony and evidence, in
2519 which case, the hearing officer thereafter shall submit to the
2520 Executive Director a new recommendation. The Executive Director
2521 shall prepare a written decision summarizing the facts and
2522 identifying policies and regulations that support the decision,
2523 which shall be mailed to the claimant and the representative, with
2524 a copy to the regional office if appropriate, as soon as possible
2525 after submission of a recommendation by the hearing officer. The
2526 decision notice will specify any action to be taken by the agency,
2527 specify any revised eligibility dates or, if continuation of
2528 benefits applies, will notify the claimant of the new effective
2529 date of reduction or termination of benefits or services, which
2530 will be fifteen (15) days from the mailing date of the notice of
2531 decision. The decision rendered by the Executive Director of
2532 the * * * Department of Medicaid is final and binding. The
2533 claimant is entitled to seek judicial review in a court of proper
2534 jurisdiction.



2535 (xviii) The * * * Department of Medicaid must take
2536 final administrative action on a hearing, whether state or local,
2537 within ninety (90) days from the date of the initial request for a
2538 hearing.

2539 (xix) A group hearing may be held for a number of
2540 claimants under the following circumstances:

2541 (A) The * * * Department of Medicaid may
2542 consolidate the cases and conduct a single group hearing when the
2543 only issue involved is one (1) of a single law or agency policy;

2544 (B) The claimants may request a group hearing
2545 when there is one (1) issue of agency policy common to all of
2546 them.

2547 In all group hearings, whether initiated by the Division of
2548 Medicaid or by the claimants, the policies governing fair hearings
2549 must be followed. Each claimant in a group hearing must be
2550 permitted to present his or her own case and be represented by his
2551 or her own representative, or to withdraw from the group hearing
2552 and have his or her appeal heard individually. As in individual
2553 hearings, the hearing will be conducted only on the issue being
2554 appealed, and each claimant will be expected to keep individual
2555 testimony within a reasonable time frame as a matter of
2556 consideration to the other claimants involved.

2557 (xx) Any specific matter necessitating an
2558 administrative hearing not otherwise provided under this article
2559 or agency policy shall be afforded under the hearing procedures as



2560 outlined above. If the specific time frames of such a unique
2561 matter relating to requesting, granting, and concluding of the
2562 hearing is contrary to the time frames as set out in the hearing
2563 procedures above, the specific time frames will govern over the
2564 time frames as set out within these procedures.

2565 (4) The Executive Director of the * * * Department of
2566 Medicaid, with the approval of the Governor, shall be authorized
2567 to employ eligibility, technical, clerical and supportive staff as
2568 may be required in carrying out and fully implementing the
2569 determination of Medicaid eligibility, including conducting
2570 quality control reviews and the investigation of the improper
2571 receipt of medical assistance. Staffing needs will be set forth
2572 in the annual appropriation act for the * * * department.
2573 Additional office space as needed in performing eligibility,
2574 quality control and investigative functions shall be obtained by
2575 the * * * department.

2576 **SECTION 42.** Section 43-13-121, Mississippi Code of 1972, is
2577 amended as follows:

2578 43-13-121. (1) The * * * department shall administer the
2579 Medicaid program under the provisions of this article, and may do
2580 the following:

2581 (a) Adopt and promulgate reasonable rules, regulations
2582 and standards, with approval of the Governor, and in accordance
2583 with the Administrative Procedures Law, Section 25-43-1.101 et
2584 seq.:



2585 (i) Establishing methods and procedures as may be
2586 necessary for the proper and efficient administration of this
2587 article;

2588 (ii) Providing Medicaid to all qualified
2589 recipients under the provisions of this article as the * * *
2590 department may determine and within the limits of appropriated
2591 funds;

2592 (iii) Establishing reasonable fees, charges and
2593 rates for medical services and drugs; in doing so, the * * *
2594 department shall fix all of those fees, charges and rates at the
2595 minimum levels absolutely necessary to provide the medical
2596 assistance authorized by this article, and shall not change any of
2597 those fees, charges or rates except as may be authorized in
2598 Section 43-13-117;

2599 (iv) Providing for fair and impartial hearings;

2600 (v) Providing safeguards for preserving the
2601 confidentiality of records; and

2602 (vi) For detecting and processing fraudulent
2603 practices and abuses of the program;

2604 (b) Receive and expend state, federal and other funds
2605 in accordance with court judgments or settlements and agreements
2606 between the State of Mississippi and the federal government, the
2607 rules and regulations promulgated by the * * * department, with
2608 the approval of the Governor, and within the limitations and



2609 restrictions of this article and within the limits of funds
2610 available for that purpose;

2611 (c) Subject to the limits imposed by this article, to
2612 submit a Medicaid plan to the United States Department of Health
2613 and Human Services for approval under the provisions of the
2614 federal Social Security Act, to act for the state in making
2615 negotiations relative to the submission and approval of that plan,
2616 to make such arrangements, not inconsistent with the law, as may
2617 be required by or under federal law to obtain and retain that
2618 approval and to secure for the state the benefits of the
2619 provisions of that law.

2620 No agreements, specifically including the general plan for
2621 the operation of the Medicaid program in this state, shall be made
2622 by and between the * * * department and the United States
2623 Department of Health and Human Services unless the Attorney
2624 General of the State of Mississippi has reviewed the agreements,
2625 specifically including the operational plan, and has certified in
2626 writing to the Governor and to the Executive Director of the * * *
2627 department that the agreements, including the plan of operation,
2628 have been drawn strictly in accordance with the terms and
2629 requirements of this article;

2630 (d) In accordance with the purposes and intent of this
2631 article and in compliance with its provisions, provide for aged
2632 persons otherwise eligible for the benefits provided under Title



2633 XVIII of the federal Social Security Act by expenditure of funds
2634 available for those purposes;

2635 (e) To make reports to the United States Department of
2636 Health and Human Services as from time to time may be required by
2637 that federal department and to the Mississippi Legislature as
2638 provided in this section;

2639 (f) Define and determine the scope, duration and amount
2640 of Medicaid that may be provided in accordance with this article
2641 and establish priorities therefor in conformity with this article;

2642 (g) Cooperate and contract with other state agencies
2643 for the purpose of coordinating Medicaid provided under this
2644 article and eliminating duplication and inefficiency in the
2645 Medicaid program;

2646 (h) Adopt and use an official seal of the * * *
2647 department;

2648 (i) Sue in its own name on behalf of the State of
2649 Mississippi and employ legal counsel on a contingency basis with
2650 the approval of the Attorney General;

2651 (j) To recover any and all payments incorrectly made by
2652 the * * * department to a recipient or provider from the recipient
2653 or provider receiving the payments. The * * * department shall be
2654 authorized to collect any overpayments to providers sixty (60)
2655 days after the conclusion of any administrative appeal unless the
2656 matter is appealed to a court of proper jurisdiction and bond is
2657 posted. Any appeal filed after July 1, 2015, shall be to the



2658 Chancery Court of the First Judicial District of Hinds County,
2659 Mississippi, within sixty (60) days after the date that the * * *
2660 department has notified the provider by certified mail sent to the
2661 proper address of the provider on file with the division and the
2662 provider has signed for the certified mail notice, or sixty (60)
2663 days after the date of the final decision if the provider does not
2664 sign for the certified mail notice. To recover those payments,
2665 the * * * department may use the following methods, in addition to
2666 any other methods available to the * * * department:

2667 (i) The * * * department shall report to the
2668 Department of Revenue the name of any current or former Medicaid
2669 recipient who has received medical services rendered during a
2670 period of established Medicaid ineligibility and who has not
2671 reimbursed the * * * department for the related medical service
2672 payment(s). The Department of Revenue shall withhold from the
2673 state tax refund of the individual, and pay to the division, the
2674 amount of the payment(s) for medical services rendered to the
2675 ineligible individual that have not been reimbursed to the * * *
2676 department for the related medical service payment(s).

2677 (ii) The * * * department shall report to the
2678 Department of Revenue the name of any Medicaid provider to whom
2679 payments were incorrectly made that the * * * department has not
2680 been able to recover by other methods available to the * * *
2681 department. The Department of Revenue shall withhold from the
2682 state tax refund of the provider, and pay to the * * * department,



2683 the amount of the payments that were incorrectly made to the
2684 provider that have not been recovered by other available methods;

2685 (k) To recover any and all payments by the * * *
2686 department fraudulently obtained by a recipient or provider.
2687 Additionally, if recovery of any payments fraudulently obtained by
2688 a recipient or provider is made in any court, then, upon motion of
2689 the Governor, the judge of the court may award twice the payments
2690 recovered as damages;

2691 (l) Have full, complete and plenary power and authority
2692 to conduct such investigations as it may deem necessary and
2693 requisite of alleged or suspected violations or abuses of the
2694 provisions of this article or of the regulations adopted under
2695 this article, including, but not limited to, fraudulent or
2696 unlawful act or deed by applicants for Medicaid or other benefits,
2697 or payments made to any person, firm or corporation under the
2698 terms, conditions and authority of this article, to suspend or
2699 disqualify any provider of services, applicant or recipient for
2700 gross abuse, fraudulent or unlawful acts for such periods,
2701 including permanently, and under such conditions as the * * *
2702 department deems proper and just, including the imposition of a
2703 legal rate of interest on the amount improperly or incorrectly
2704 paid. Recipients who are found to have misused or abused Medicaid
2705 benefits may be locked into one (1) physician and/or one (1)
2706 pharmacy of the recipient's choice for a reasonable amount of time
2707 in order to educate and promote appropriate use of medical



2708 services, in accordance with federal regulations. If an
2709 administrative hearing becomes necessary, the * * * department
2710 may, if the provider does not succeed in his or her defense, tax
2711 the costs of the administrative hearing, including the costs of
2712 the court reporter or stenographer and transcript, to the
2713 provider. The convictions of a recipient or a provider in a state
2714 or federal court for abuse, fraudulent or unlawful acts under this
2715 chapter shall constitute an automatic disqualification of the
2716 recipient or automatic disqualification of the provider from
2717 participation under the Medicaid program.

2718 A conviction, for the purposes of this chapter, shall include
2719 a judgment entered on a plea of nolo contendere or a
2720 nonadjudicated guilty plea and shall have the same force as a
2721 judgment entered pursuant to a guilty plea or a conviction
2722 following trial. A certified copy of the judgment of the court of
2723 competent jurisdiction of the conviction shall constitute prima
2724 facie evidence of the conviction for disqualification purposes;

2725 (m) Establish and provide such methods of
2726 administration as may be necessary for the proper and efficient
2727 operation of the Medicaid program, fully utilizing computer
2728 equipment as may be necessary to oversee and control all current
2729 expenditures for purposes of this article, and to closely monitor
2730 and supervise all recipient payments and vendors rendering
2731 services under this article. Notwithstanding any other provision
2732 of state law, the * * * department is authorized to enter into a



2733 ten-year contract(s) with a vendor(s) to provide services
2734 described in this paragraph (m). Notwithstanding any provision of
2735 law to the contrary, the * * * department is authorized to extend
2736 its Medicaid Management Information Systems, including all related
2737 components and services, and Decision Support System, including
2738 all related components and services, contracts expiring on June
2739 30, 2015, for a period not to exceed five (5) years without
2740 complying with the requirements provided in Section 25-9-120 and
2741 the Personal Service Contract Review Board procurement
2742 regulations;

2743 (n) To cooperate and contract with the federal
2744 government for the purpose of providing Medicaid to Vietnamese and
2745 Cambodian refugees, under the provisions of Public Law 94-23 and
2746 Public Law 94-24, including any amendments to those laws, only to
2747 the extent that the Medicaid assistance and the administrative
2748 cost related thereto are one hundred percent (100%) reimbursable
2749 by the federal government. For the purposes of Section 43-13-117,
2750 persons receiving Medicaid under Public Law 94-23 and Public Law
2751 94-24, including any amendments to those laws, shall not be
2752 considered a new group or category of recipient; and

2753 (o) The * * * department shall impose penalties upon
2754 Medicaid only, Title XIX participating long-term care facilities
2755 found to be in noncompliance with * * * department and
2756 certification standards in accordance with federal and state
2757 regulations, including interest at the same rate calculated by the



2758 United States Department of Health and Human Services and/or the
2759 Centers for Medicare and Medicaid Services (CMS) under federal
2760 regulations.

2761 (2) The * * * department also shall exercise such additional
2762 powers and perform such other duties as may be conferred upon
2763 the * * * department by act of the Legislature.

2764 (3) The * * * department, and the State Department of Health
2765 as the agency for licensure of health care facilities and
2766 certification and inspection for the Medicaid and/or Medicare
2767 programs, shall contract for or otherwise provide for the
2768 consolidation of on-site inspections of health care facilities
2769 that are necessitated by the respective programs and functions of
2770 the * * * departments.

2771 (4) The * * * department and its hearing officers shall have
2772 power to preserve and enforce order during hearings; to issue
2773 subpoenas for, to administer oaths to and to compel the attendance
2774 and testimony of witnesses, or the production of books, papers,
2775 documents and other evidence, or the taking of depositions before
2776 any designated individual competent to administer oaths; to
2777 examine witnesses; and to do all things conformable to law that
2778 may be necessary to enable them effectively to discharge the
2779 duties of their office. In compelling the attendance and
2780 testimony of witnesses, or the production of books, papers,
2781 documents and other evidence, or the taking of depositions, as
2782 authorized by this section, the * * * department or its hearing



2783 officers may designate an individual employed by the * * *
2784 department or some other suitable person to execute and return
2785 that process, whose action in executing and returning that process
2786 shall be as lawful as if done by the sheriff or some other proper
2787 officer authorized to execute and return process in the county
2788 where the witness may reside. In carrying out the investigatory
2789 powers under the provisions of this article, the executive
2790 director or other designated person or persons may examine,
2791 obtain, copy or reproduce the books, papers, documents, medical
2792 charts, prescriptions and other records relating to medical care
2793 and services furnished by the provider to a recipient or
2794 designated recipients of Medicaid services under investigation.
2795 In the absence of the voluntary submission of the books, papers,
2796 documents, medical charts, prescriptions and other records, the
2797 Governor, the Executive Director, or other designated person may
2798 issue and serve subpoenas instantly upon the provider, his or her
2799 agent, servant or employee for the production of the books,
2800 papers, documents, medical charts, prescriptions or other records
2801 during an audit or investigation of the provider. If any provider
2802 or his or her agent, servant or employee refuses to produce the
2803 records after being duly subpoenaed, the executive director may
2804 certify those facts and institute contempt proceedings in the
2805 manner, time and place as authorized by law for administrative
2806 proceedings. As an additional remedy, the * * * department may
2807 recover all amounts paid to the provider covering the period of



2808 the audit or investigation, inclusive of a legal rate of interest
2809 and a reasonable attorney's fee and costs of court if suit becomes
2810 necessary. * * * Department staff shall have immediate access to
2811 the provider's physical location, facilities, records, documents,
2812 books, and any other records relating to medical care and services
2813 rendered to recipients during regular business hours.

2814 (5) If any person in proceedings before the * * * department
2815 disobeys or resists any lawful order or process, or misbehaves
2816 during a hearing or so near the place thereof as to obstruct the
2817 hearing, or neglects to produce, after having been ordered to do
2818 so, any pertinent book, paper or document, or refuses to appear
2819 after having been subpoenaed, or upon appearing refuses to take
2820 the oath as a witness, or after having taken the oath refuses to
2821 be examined according to law, the executive director shall certify
2822 the facts to any court having jurisdiction in the place in which
2823 it is sitting, and the court shall thereupon, in a summary manner,
2824 hear the evidence as to the acts complained of, and if the
2825 evidence so warrants, punish that person in the same manner and to
2826 the same extent as for a contempt committed before the court, or
2827 commit that person upon the same condition as if the doing of the
2828 forbidden act had occurred with reference to the process of, or in
2829 the presence of, the court.

2830 (6) In suspending or terminating any provider from
2831 participation in the Medicaid program, the * * * department shall
2832 preclude the provider from submitting claims for payment, either



2833 personally or through any clinic, group, corporation or other
2834 association to the * * * department or its fiscal agents for any
2835 services or supplies provided under the Medicaid program except
2836 for those services or supplies provided before the suspension or
2837 termination. No clinic, group, corporation or other association
2838 that is a provider of services shall submit claims for payment to
2839 the * * * department or its fiscal agents for any services or
2840 supplies provided by a person within that organization who has
2841 been suspended or terminated from participation in the Medicaid
2842 program except for those services or supplies provided before the
2843 suspension or termination. When this provision is violated by a
2844 provider of services that is a clinic, group, corporation or other
2845 association, the * * * department may suspend or terminate that
2846 organization from participation. Suspension may be applied by
2847 the * * * department to all known affiliates of a provider,
2848 provided that each decision to include an affiliate is made on a
2849 case-by-case basis after giving due regard to all relevant facts
2850 and circumstances. The violation, failure or inadequacy of
2851 performance may be imputed to a person with whom the provider is
2852 affiliated where that conduct was accomplished within the course
2853 of his or her official duty or was effectuated by him or her with
2854 the knowledge or approval of that person.

2855 (7) The * * * department may deny or revoke enrollment in
2856 the Medicaid program to a provider if any of the following are
2857 found to be applicable to the provider, his or her agent, a



2858 managing employee or any person having an ownership interest equal
2859 to five percent (5%) or greater in the provider:

2860 (a) Failure to truthfully or fully disclose any and all
2861 information required, or the concealment of any and all
2862 information required, on a claim, a provider application or a
2863 provider agreement, or the making of a false or misleading
2864 statement to the * * * department relative to the Medicaid
2865 program.

2866 (b) Previous or current exclusion, suspension,
2867 termination from or the involuntary withdrawing from participation
2868 in the Medicaid program, any other state's Medicaid program,
2869 Medicare or any other public or private health or health insurance
2870 program. If the * * * department ascertains that a provider has
2871 been convicted of a felony under federal or state law for an
2872 offense that the * * * department determines is detrimental to the
2873 best interest of the program or of Medicaid beneficiaries,
2874 the * * * department may refuse to enter into an agreement with
2875 that provider, or may terminate or refuse to renew an existing
2876 agreement.

2877 (c) Conviction under federal or state law of a criminal
2878 offense relating to the delivery of any goods, services or
2879 supplies, including the performance of management or
2880 administrative services relating to the delivery of the goods,
2881 services or supplies, under the Medicaid program, any other



2882 state's Medicaid program, Medicare or any other public or private
2883 health or health insurance program.

2884 (d) Conviction under federal or state law of a criminal
2885 offense relating to the neglect or abuse of a patient in
2886 connection with the delivery of any goods, services or supplies.

2887 (e) Conviction under federal or state law of a criminal
2888 offense relating to the unlawful manufacture, distribution,
2889 prescription or dispensing of a controlled substance.

2890 (f) Conviction under federal or state law of a criminal
2891 offense relating to fraud, theft, embezzlement, breach of
2892 fiduciary responsibility or other financial misconduct.

2893 (g) Conviction under federal or state law of a criminal
2894 offense punishable by imprisonment of a year or more that involves
2895 moral turpitude, or acts against the elderly, children or infirm.

2896 (h) Conviction under federal or state law of a criminal
2897 offense in connection with the interference or obstruction of any
2898 investigation into any criminal offense listed in paragraphs (c)
2899 through (i) of this subsection.

2900 (i) Sanction for a violation of federal or state laws
2901 or rules relative to the Medicaid program, any other state's
2902 Medicaid program, Medicare or any other public health care or
2903 health insurance program.

2904 (j) Revocation of license or certification.



2905 (k) Failure to pay recovery properly assessed or
2906 pursuant to an approved repayment schedule under the Medicaid
2907 program.

2908 (l) Failure to meet any condition of enrollment.

2909 **SECTION 43.** Section 25-9-127, Mississippi Code of 1972, is
2910 amended as follows:

2911 25-9-127. (1) No employee of any department, agency or
2912 institution who is included under this chapter or hereafter
2913 included under its authority, and who is subject to the rules and
2914 regulations prescribed by the state personnel system, may be
2915 dismissed or otherwise adversely affected as to compensation or
2916 employment status except for inefficiency or other good cause, and
2917 after written notice and hearing within the department, agency or
2918 institution as shall be specified in the rules and regulations of
2919 the State Personnel Board complying with due process of law; and
2920 any employee who has by written notice of dismissal or action
2921 adversely affecting his compensation or employment status shall,
2922 on hearing and on any appeal of any decision made in such action,
2923 be required to furnish evidence that the reasons stated in the
2924 notice of dismissal or action adversely affecting his compensation
2925 or employment status are not true or are not sufficient grounds
2926 for the action taken; provided, however, that this provision shall
2927 not apply (a) to persons separated from any department, agency or
2928 institution due to curtailment of funds or reduction in staff when
2929 such separation is in accordance with rules and regulations of the



2930 state personnel system; (b) during the probationary period of
2931 state service of twelve (12) months; and (c) to an executive
2932 officer of any state agency who serves at the will and pleasure of
2933 the Governor, board, commission or other appointing authority.

2934 (2) The operation of a state-owned motor vehicle without a
2935 valid Mississippi driver's license by an employee of any
2936 department, agency or institution that is included under this
2937 chapter and that is subject to the rules and regulations of the
2938 state personnel system shall constitute good cause for dismissal
2939 of such person from employment.

2940 (3) Beginning July 1, 1999, every male between the ages of
2941 eighteen (18) and twenty-six (26) who is required to register
2942 under the federal Military Selective Service Act, 50 USCS App.
2943 453, and who is an employee of the state shall not be promoted to
2944 any higher position of employment with the state until he submits
2945 to the person, commission, board or agency by which he is employed
2946 satisfactory documentation of his compliance with the draft
2947 registration requirements of the Military Selective Service Act.
2948 The documentation shall include a signed affirmation under penalty
2949 of perjury that the male employee has complied with the
2950 requirements of the Military Selective Service Act.

2951 (4) For a period of two (2) years beginning July 1, 2014,
2952 the provisions of subsection (1) shall not apply to the personnel
2953 actions of the State Department of Education that are subject to
2954 the rules and regulations of the State Personnel Board, and all



2955 employees of the department shall be classified as nonstate
2956 service during that period. However, any employee hired after
2957 July 1, 2014, by the department shall meet the criteria of the
2958 State Personnel Board as it presently exists for employment. The
2959 State Superintendent of Public Education and the State Board of
2960 Education shall consult with the Office of the Attorney General
2961 before taking personnel actions authorized by this section to
2962 review those actions for compliance with applicable state and
2963 federal law.

2964 It is not the intention or effect of this section to include
2965 any school attendance officer in any exemption from coverage under
2966 the State Personnel Board policy or regulations, including, but
2967 not limited to, termination and conditions of employment.

2968 (5) (a) For a period of two (2) years beginning July 1,
2969 2015, the provisions of subsection (1) shall not apply to the
2970 personnel actions of the Department of Corrections, and all
2971 employees of the department shall be classified as nonstate
2972 service during that period. However, any employee hired after
2973 July 1, 2015, by the department shall meet the criteria of the
2974 State Personnel Board as it presently exists for employment.

2975 (b) Additionally, for a period of one (1) year
2976 beginning July 1, 2016, the personnel actions of the Commissioner
2977 of the Department of Corrections shall be exempt from State
2978 Personnel Board rules, regulations and procedures in order to give



2979 the commissioner flexibility in making an orderly, effective and
2980 timely reorganization and realignment of the department.

2981 (c) The Commissioner of Corrections shall consult with
2982 the Office of the Attorney General before personnel actions
2983 authorized by this section to review those actions for compliance
2984 with applicable state and federal law.

2985 (6) Through July 1, 2019, the provisions of subsection (1)
2986 of this section shall not apply to the personnel actions of the
2987 Department of Human Services that are subject to the rules and
2988 regulations of the State Personnel Board, and all employees of the
2989 department shall be classified as nonstate service during that
2990 period. Any employee hired on or after July 1, 2019, by the
2991 department shall meet the criteria of the State Personnel Board as
2992 it presently exists for employment. The Executive Director of
2993 Human Services shall consult with the Office of the Attorney
2994 General before taking personnel actions authorized by this section
2995 to review those actions for compliance with applicable state and
2996 federal law.

2997 (7) Through July 1, 2019, the provisions of subsection (1)
2998 of this section shall not apply to the personnel actions of the
2999 Department of Child Protection Services that are subject to the
3000 rules and regulations of the State Personnel Board, and all
3001 employees of the department shall be classified as nonstate
3002 service during that period. Any employee hired on or after July
3003 1, 2019, by the division shall meet the criteria of the State



3004 Personnel Board as it presently exists for employment. The
3005 Commissioner of Child Protection Services shall consult with the
3006 Office of the Attorney General before taking personnel actions
3007 authorized by this section to review those actions for compliance
3008 with applicable state and federal law.

3009 (8) Any state agency whose personnel actions are exempted in
3010 this section from the rules, regulations and procedures of the
3011 State Personnel Board shall file with the Lieutenant Governor, the
3012 Speaker of the House of Representatives, and the members of the
3013 Senate and House Accountability, Efficiency * * * and Transparency
3014 Committees an annual report no later than July 1, 2016, and each
3015 year thereafter while under the exemption. Such annual report
3016 shall contain the following information:

3017 (a) The number of current employees who received an
3018 increase in salary during the past fiscal year and the amount of
3019 the increase;

3020 (b) The number of employees who were dismissed from the
3021 agency or otherwise adversely affected as to compensation or
3022 employment status during the past fiscal year, including a
3023 description of such adverse effects; and

3024 (c) The number of new employees hired during the past
3025 fiscal year and the starting salaries of each new employee.

3026 (9) For a period of one (1) year beginning July 1, 2017, the
3027 provisions of subsection (1) of this section shall not apply to
3028 the personnel actions of the Department of Mental Health, the



3029 Department of Health or the Department of Rehabilitation Services,
3030 under the policy direction of the Governor, established under this
3031 act, and all employees of the said departments shall be classified
3032 as nonstate service during that period. However, any employee
3033 hired after July 1, 2017, by the said departments shall meet the
3034 criteria of the State Personnel Board as it presently exists for
3035 employment. The Executive Directors of the said departments shall
3036 consult with the Office of Attorney General before taking
3037 personnel actions authorized by this section to review those
3038 actions for compliance with applicable state and federal law. It
3039 is the intent of the Legislature that any personnel actions of the
3040 Executive Directors of the said departments initiated as a result
3041 of the transfer of agencies shall be exempt from State Personnel
3042 Board rules, regulations and procedures in order to give the
3043 Executive Directors flexibility in making an orderly, effective
3044 and timely reorganization of the programs of the said departments.

3045 **SECTION 44.** This act shall take effect and be in force from
3046 and after July 1, 2017.

