

Senate Amendments to House Bill No. 160

TO THE CLERK OF THE HOUSE:

THIS IS TO INFORM YOU THAT THE SENATE HAS ADOPTED THE AMENDMENTS SET OUT BELOW:

AMENDMENT NO. 1

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

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

21 41-3-1.1. (1) The State Board of Health is continued and
22 reconstituted as follows:

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

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

33 (b) Six (6) members of the board shall be individuals
34 who have a background in public health or an interest in public
35 health who are not currently or formerly licensed physicians.

36 Four (4) of those members shall be appointed by the Governor, one
37 (1) of those members shall be appointed by the Lieutenant
38 Governor, and one (1) of those members shall be appointed by the
39 Attorney General, in the manner provided in paragraph (d) of this
40 subsection (1).

41 (c) The Governor, Lieutenant Governor and Attorney
42 General shall give due regard to geographic distribution, race and
43 gender in making their appointments to the board. It is the
44 intent of the Legislature that the membership of the board reflect
45 the population of the State of Mississippi. Of the Governor's
46 appointments, one (1) member of the board shall be appointed from
47 each of the four (4) congressional districts as constituted on
48 June 30, 2007, and one (1) member of the board shall be appointed
49 from each of the three (3) Supreme Court districts as constituted
50 on June 30, 2007. Of the Lieutenant Governor's appointments, one
51 (1) member of the board shall be appointed from the First
52 Congressional District and one (1) member of the board shall be
53 appointed from the Fourth Congressional District as constituted on
54 June 30, 2007. Of the Attorney General's appointments, one (1)
55 member of the board shall be appointed from the Second
56 Congressional District and one (1) member of the board shall be
57 appointed from the Third Congressional District as constituted on
58 June 30, 2007.

59 (d) The initial members of the board shall be appointed
60 for staggered terms, as follows: Of the Governor's appointments,
61 two (2) members shall be appointed for terms that end on June 30,

62 2009; two (2) members shall be appointed for terms that end on
63 June 30, 2011; and three (3) members shall be appointed for terms
64 that end on June 30, 2013. Of the Lieutenant Governor's
65 appointments, one (1) member shall be appointed for a term that
66 ends on June 30, 2009; and one (1) member shall be appointed for a
67 term that ends on June 30, 2013. Of the Attorney General's
68 appointments, one (1) member shall be appointed for a term that
69 ends on June 30, 2009; and one (1) member shall be appointed for a
70 term that ends on June 30, 2011.

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

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

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

88 (1) Representative to attend any meeting of the State Board of
89 Health. The appointing authorities may designate alternate
90 members from their respective houses to serve when the regular
91 designees are unable to attend the meetings of the board. Those
92 legislative designees shall have no jurisdiction or vote on any
93 matter within the jurisdiction of the board. For attending
94 meetings of the board, the legislators shall receive per diem and
95 expenses, which shall be paid from the contingent expense funds of
96 their respective houses in the same amounts as provided for
97 committee meetings when the Legislature is not in session;
98 however, no per diem and expenses for attending meetings of the
99 board will be paid while the Legislature is in session. No per
100 diem and expenses will be paid except for attending meetings of
101 the board without prior approval of the proper committee in their
102 respective houses.

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

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

111 (c) When any matter in which a member may not
112 participate comes before the board or department, that member must
113 fully recuse himself or herself from the entire matter. The

114 member shall avoid debating, discussing or taking action on the
115 subject matter during official meetings or deliberations by
116 leaving the meeting room before the matter comes before the board
117 and by returning only after the discussion, vote or other action
118 is completed. The member shall not discuss the matter with other
119 members, department staff or any other person. Any minutes or
120 other record of the meeting shall accurately reflect the recusal.
121 If a member is uncertain whether recusal is required, the member
122 shall follow the determination of the Mississippi Ethics
123 Commission. The commission may delegate that determination to its
124 executive director.

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

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

138 41-3-3. Each person appointed as a member of the State Board
139 of Health shall immediately take the oath prescribed by Section

140 268 of the Constitution and file a certificate thereof in the
141 Office of the Secretary of State. Thereupon a commission shall be
142 issued to him under the terms as specified in Section 41-3-1.

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

145 41-3-4. (1) There shall be a Chairman and Vice Chairman of
146 the State Board of Health elected by and from its membership at
147 the first meeting of the board; and the chairman shall be the
148 presiding officer of the board. The chairman shall always be a
149 physician member of the board. The board shall adopt rules and
150 regulations governing times and places for meetings, and governing
151 the manner of conducting its business. The board shall meet not
152 less frequently than once each quarter, and at such other times as
153 determined to be necessary. The term of office of any member who
154 does not attend three (3) consecutive regular meetings of the
155 board shall be automatically terminated, and the position shall be
156 considered as vacant, except in cases of the serious illness of a
157 board member or of his or her immediate family member. All
158 meetings of the board shall be called by the chairman or by a
159 majority of the members of the board, except the first meeting of
160 the initial members of the reconstituted board, which shall be
161 called by the Governor.

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

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

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

170 41-3-5.1. The State Department of Health shall be headed by
171 an executive officer who shall be appointed by the State Board of
172 Health. The executive officer shall be either a physician who has
173 earned a graduate degree in public health or health care
174 administration, or a physician who in the opinion of the board is
175 fitted and equipped to execute the duties incumbent upon him or
176 her by law. The executive officer shall not engage in the private
177 practice of medicine. The term of office of the executive officer
178 shall be six (6) years, and the executive officer may be removed
179 for cause by majority vote of the members of the board. The
180 executive officer shall be subject to such rules and regulations
181 as may be prescribed by the State Board of Health. The executive
182 officer shall be the State Health Officer with such authority and
183 responsibility as is prescribed by law.

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

186 41-3-6. It shall be the duty of the State Board of Health to
187 review the statutes of the State of Mississippi affecting public
188 health and submit at least thirty (30) days prior to each regular
189 session of the Legislature any proposed legislation as may be
190 necessary to enhance the effective and efficient delivery of
191 public health services and to bring existing statutes into

192 compliance with modern technology and terminology. The board
193 shall formulate a plan for consolidating and reorganizing existing
194 state agencies having responsibilities in the field of public
195 health to eliminate any needless duplication in services which may
196 be found to exist. In carrying out the provisions of this
197 section, the State Board of Health shall cooperate with and may
198 utilize the services, facilities and personnel of any department
199 or agency of the state, any private citizen task force and the
200 committees on public health of both houses of the Legislature.
201 The State Board of Health is authorized to apply for and expend
202 funds made available to it by grant from any source in order to
203 perform its responsibilities under this section.

204 **SECTION 6.** Section 41-3-15, Mississippi Code of 1972, is
205 reenacted as follows:

206 41-3-15. (1) (a) There shall be a State Department of
207 Health.

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

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

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

218 (iii) To apply for, receive, accept and expend any
219 federal or state funds or contributions, gifts, trusts, devises,
220 bequests, grants, endowments or funds from any other source or
221 transfers of property of any kind;

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

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

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

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

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

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

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

253 (iv) To coordinate the activities of the various
254 offices of the department;

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

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

268 (vii) To prepare and deliver to the Legislature
269 and the Governor on or before January 1 of each year, and at such

270 other times as may be required by the Legislature or Governor, a
271 full report of the work of the department and the offices thereof,
272 including a detailed statement of expenditures of the department
273 and any recommendations the board may have;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

329 (e) To charge and collect reasonable fees for health
330 services, including immunizations, inspections and related
331 activities, and the board shall charge fees for those services;
332 however, if it is determined that a person receiving services is
333 unable to pay the total fee, the board shall collect any amount
334 that the person is able to pay. Any increase in the fees charged
335 by the board under this paragraph shall be in accordance with the
336 provisions of Section 41-3-65.

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

344 (ii) To require that a permit be obtained from the
345 Department of Health before those persons begin operation. If any
346 such person fails to obtain the permit required in this
347 subparagraph (ii), the State Board of Health, after due notice and

348 opportunity for a hearing, may impose a monetary penalty not to
349 exceed One Thousand Dollars (\$1,000.00) for each violation.
350 However, the department is not authorized to impose a monetary
351 penalty against any person whose gross annual prepared food sales
352 are less than Five Thousand Dollars (\$5,000.00). Money collected
353 by the board under this subparagraph (ii) shall be deposited to
354 the credit of the State General Fund of the State Treasury.

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

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

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

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

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

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

- 380 (i) Maternal and child health;
- 381 (ii) Family planning;
- 382 (iii) Pediatric services;
- 383 (iv) Services to crippled and disabled children;
- 384 (v) Control of communicable and noncommunicable
385 disease;
- 386 (vi) Chronic disease;
- 387 (vii) Accidental deaths and injuries;
- 388 (viii) Child care licensure;
- 389 (ix) Radiological health;
- 390 (x) Dental health;
- 391 (xi) Milk sanitation;
- 392 (xii) Occupational safety and health;
- 393 (xiii) Food, vector control and general
394 sanitation;
- 395 (xiv) Protection of drinking water;
- 396 (xv) Sanitation in food handling establishments
397 open to the public;

398 (xvi) Registration of births and deaths and other
399 vital events;

400 (xvii) Such public health programs and services as
401 may be assigned to the State Board of Health by the Legislature or
402 by executive order; and

403 (xviii) Regulation of domestic and imported fish
404 for human consumption.

405 (b) The State Board of Health and State Department of
406 Health shall not be authorized to sell, transfer, alienate or
407 otherwise dispose of any of the home health agencies owned and
408 operated by the department on January 1, 1995, and shall not be
409 authorized to sell, transfer, assign, alienate or otherwise
410 dispose of the license of any of those home health agencies,
411 except upon the specific authorization of the Legislature by an
412 amendment to this section. However, this paragraph (b) shall not
413 prevent the board or the department from closing or terminating
414 the operation of any home health agency owned and operated by the
415 department, or closing or terminating any office, branch office or
416 clinic of any such home health agency, or otherwise discontinuing
417 the providing of home health services through any such home health
418 agency, office, branch office or clinic, if the board first
419 demonstrates that there are other providers of home health
420 services in the area being served by the department's home health
421 agency, office, branch office or clinic that will be able to
422 provide adequate home health services to the residents of the area
423 if the department's home health agency, office, branch office or

424 clinic is closed or otherwise discontinues the providing of home
425 health services. This demonstration by the board that there are
426 other providers of adequate home health services in the area shall
427 be spread at length upon the minutes of the board at a regular or
428 special meeting of the board at least thirty (30) days before a
429 home health agency, office, branch office or clinic is proposed to
430 be closed or otherwise discontinue the providing of home health
431 services.

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

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

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

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

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

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

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

459 (7) Notwithstanding any other provision to the contrary, the
460 State Department of Health shall have the following specific
461 powers: The department shall issue a license to Alexander Milne
462 Home for Women, Inc., a 501(c)(3) nonprofit corporation, for the
463 construction, conversion, expansion and operation of not more than
464 forty-five (45) beds for developmentally disabled adults who have
465 been displaced from New Orleans, Louisiana, with the beds to be
466 located in a certified ICF-MR facility in the City of Laurel,
467 Mississippi. There shall be no prohibition or restrictions on
468 participation in the Medicaid program for the person receiving the
469 license under this subsection (7). The license described in this
470 subsection shall expire five (5) years from the date of its issue.
471 The license authorized by this subsection shall be issued upon the
472 initial payment by the licensee of an application fee of
473 Sixty-seven Thousand Dollars (\$67,000.00) and a monthly fee of

474 Sixty-seven Thousand Dollars (\$67,000.00) after the issuance of
475 the license, to be paid as long as the licensee continues to
476 operate. The initial and monthly licensing fees shall be
477 deposited by the State Department of Health into the special fund
478 created under Section 41-7-188.

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

490 (9) Notwithstanding any other provision to the contrary, the
491 State Department of Health shall have the following specific
492 powers: For the period beginning July 1, 2010, through July 1,
493 2017, the State Department of Health is authorized and empowered
494 to assess a fee in addition to the fee prescribed in Section
495 41-7-188 for reviewing applications for certificates of need in an
496 amount not to exceed twenty-five one-hundredths of one percent
497 (.25 of 1%) of the amount of a proposed capital expenditure, but
498 shall be not less than Two Hundred Fifty Dollars (\$250.00)
499 regardless of the amount of the proposed capital expenditure, and

500 the maximum additional fee permitted shall not exceed Fifty
501 Thousand Dollars (\$50,000.00). Provided that the total
502 assessments of fees for certificate of need applications under
503 Section 41-7-188 and this section shall not exceed the actual cost
504 of operating the certificate of need program.

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

514 (11) Notwithstanding any other provision to the contrary,
515 the State Department of Health shall have the following specific
516 powers: The State Department of Health is authorized and
517 empowered, to revoke, immediately, the license and require closure
518 of any institution for the aged or infirm, including any other
519 remedy less than closure to protect the health and safety of the
520 residents of said institution or the health and safety of the
521 general public.

522 (12) Notwithstanding any other provision to the contrary,
523 the State Department of Health shall have the following specific
524 powers: The State Department of Health is authorized and
525 empowered, to require the temporary detainment of individuals for

526 disease control purposes based upon violation of any order of the
527 State Health Officer, as provided in Section 41-23-5. For the
528 purpose of enforcing such orders of the State Health Officer,
529 persons employed by the department as investigators shall have
530 general arrest powers. All law enforcement officers are
531 authorized and directed to assist in the enforcement of such
532 orders of the State Health Officer.

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

535 41-3-16. (1) (a) There is established a local governments
536 and rural water systems improvements revolving loan and grant
537 program to be administered by the State Department of Health,
538 referred to in this section as "department," for the purpose of
539 assisting counties, incorporated municipalities, districts or
540 other water organizations that have been granted tax-exempt status
541 under either federal or state law, in making improvements to their
542 water systems, including construction of new water systems or
543 expansion or repair of existing water systems. Loan and grant
544 proceeds may be used by the recipient for planning, professional
545 services, acquisition of interests in land, acquisition of
546 personal property, construction, construction-related services,
547 maintenance, and any other reasonable use which the board, in its
548 discretion, may allow. For purposes of this section, "water
549 systems" has the same meaning as the term "public water system"
550 under Section 41-26-3.

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

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

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

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

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

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

597 (2) (a) There is created a special fund in the State
598 Treasury to be designated as the "Local Governments and Rural
599 Water Systems Improvements Revolving Loan Fund," referred to in
600 this section as "revolving fund," which fund shall consist of
601 those monies as provided in Sections 6 and 13 of Chapter 521, Laws

602 of 1995. The revolving fund may receive appropriations, bond
603 proceeds, grants, gifts, donations or funds from any source,
604 public or private. Except as otherwise provided in this section,
605 the revolving fund shall be credited with all repayments of
606 principal and interest derived from loans made from the revolving
607 fund. Except as otherwise provided in this section, the monies in
608 the revolving fund may be expended only in amounts appropriated by
609 the Legislature, and the different amounts specifically provided
610 for the loan program and the grant program shall be so designated.
611 Except as otherwise provided in this section, monies in the fund
612 may only be expended for the grant program from the amount
613 designated for such program. The revolving fund shall be
614 maintained in perpetuity for the purposes established in this
615 section and Sections 6 through 20 of Chapter 521, Laws of 1995.
616 Unexpended amounts remaining in the revolving fund at the end of a
617 fiscal year shall not lapse into the State General Fund, and any
618 interest earned on amounts in the revolving fund shall be
619 deposited to the credit of the fund. Monies in the revolving fund
620 may not be used or expended for any purpose except as authorized
621 under this section and Sections 6 through 20 of Chapter 521, Laws
622 of 1995. Any monies in the fund may be used to match any federal
623 funds that are available for the same or related purposes for
624 which funds are used and expended under this section and Sections
625 6 through 20 of Chapter 521, Laws of 1995. Any federal funds
626 shall be used and expended only in accordance with federal laws,
627 rules and regulations governing the expenditure of those funds.

628 No person shall use any monies from the revolving fund for the
629 acquisition of real property or any interest in real property
630 unless that property is integral to the project funded under this
631 section and the purchase is made from a willing seller. No
632 county, incorporated municipality or district shall acquire any
633 real property or any interest in any real property for a project
634 funded through the revolving fund by condemnation. The board's
635 application of Sections 43-37-1 through 43-37-13 shall be no more
636 stringent or extensive in scope, coverage and effect than federal
637 property acquisition laws and regulations.

638 (b) There is created a special fund in the State
639 Treasury to be designated as the "Local Governments and Rural
640 Water Systems Emergency Loan Fund," hereinafter referred to as
641 "emergency fund," which fund shall consist of those monies as
642 provided in Sections 6 and 13 of Chapter 521, Laws of 1995. The
643 emergency fund may receive appropriations, bond proceeds, grants,
644 gifts, donations or funds from any source, public or private.
645 Except as otherwise provided in this section, the emergency fund
646 shall be credited with all repayments of principal and interest
647 derived from loans made from the emergency fund. Except as
648 otherwise provided in this section, the monies in the emergency
649 fund may be expended only in amounts appropriated by the
650 Legislature. The emergency fund shall be maintained in perpetuity
651 for the purposes established in this section and Section 6 of
652 Chapter 521, Laws of 1995. Unexpended amounts remaining in the
653 emergency fund at the end of a fiscal year shall not lapse into

654 the State General Fund. Any interest earned on amounts in the
655 emergency fund shall be deposited to the credit of the fund.
656 Monies in the emergency fund may not be used or expended for any
657 purpose except as authorized under this section and Section 6 of
658 Chapter 521, Laws of 1995.

659 (c) The board created in subsection (1) shall establish
660 loan and grant programs by which loans and grants may be made
661 available to counties, incorporated municipalities, districts or
662 other water organizations that have been granted tax-exempt status
663 under either federal or state law, to assist those counties,
664 incorporated municipalities, districts or water organizations in
665 making water systems improvements, including the construction of
666 new water systems or expansion or repair of existing water
667 systems. Any entity eligible under this section may receive
668 either a loan or a grant, or both. No grant awarded under the
669 program established in this section may be made using funds from
670 the loan program. Grants may be awarded only when the Legislature
671 specifically appropriates funds for that particular purpose. The
672 interest rate on those loans may vary from time to time and from
673 loan to loan, and will be at or below market interest rates as
674 determined by the board. The board shall act as quickly as is
675 practicable and prudent in deciding on any loan request that it
676 receives. Loans from the revolving fund or emergency fund may be
677 made to counties, incorporated municipalities, districts or other
678 water organizations that have been granted tax-exempt status under
679 either federal or state law, as set forth in a loan agreement in

680 amounts not to exceed one hundred percent (100%) of eligible
681 project costs as established by the board. The board may require
682 county, municipal, district or other water organization
683 participation or funding from other sources, or otherwise limit
684 the percentage of costs covered by loans from the revolving fund
685 or the emergency fund. The board may establish a maximum amount
686 for any loan from the revolving fund or emergency fund in order to
687 provide for broad and equitable participation in the programs.

688 (d) A county that receives a loan from the revolving
689 fund or the emergency fund shall pledge for repayment of the loan
690 any part of the homestead exemption annual tax loss reimbursement
691 to which it may be entitled under Section 27-33-77, as may be
692 required to meet the repayment schedule contained in the loan
693 agreement. An incorporated municipality that receives a loan from
694 the revolving fund or the emergency fund shall pledge for
695 repayment of the loan any part of the sales tax revenue
696 distribution to which it may be entitled under Section 27-65-75,
697 as may be required to meet the repayment schedule contained in the
698 loan agreement. All recipients of such loans shall establish a
699 dedicated source of revenue for repayment of the loan. Before any
700 county or incorporated municipality shall receive any loan, it
701 shall have executed with the Department of Revenue and the board a
702 loan agreement evidencing that loan. The loan agreement shall not
703 be construed to prohibit any recipient from prepaying any part or
704 all of the funds received. The repayment schedule in each loan
705 agreement shall provide for (i) monthly payments, (ii) semiannual

706 payments, or (iii) other periodic payments, the annual total of
707 which shall not exceed the annual total for any other year of the
708 loan by more than fifteen percent (15%). Except as otherwise
709 provided in subsection (4) of this section, the loan agreement
710 shall provide for the repayment of all funds received from the
711 revolving fund within not more than fifteen (15) years or a term
712 as otherwise allowed by the federal Safe Drinking Water Act, and
713 all funds received from the emergency fund within not more than
714 five (5) years from the date of project completion, and any
715 repayment shall commence not later than one (1) year after project
716 completion. The Department of Revenue shall withhold semiannually
717 from counties and monthly from incorporated municipalities from
718 the amount to be remitted to the county or municipality, a sum
719 equal to the next repayment as provided in the loan agreement.

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

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

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

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

757 (h) Except as otherwise provided in this section, all
758 monies deposited in the revolving fund or the emergency fund,
759 including loan repayments and interest earned on those repayments,
760 shall be used only for providing loans or other financial
761 assistance to water systems as the board deems appropriate. In
762 addition, any amounts in the revolving fund or the emergency fund
763 may be used to defray the reasonable costs of administering the
764 revolving fund or the emergency fund and conducting activities
765 under this section and Sections 6 through 20 of Chapter 521, Laws
766 of 1995, subject to any limitations established in the federal
767 Safe Drinking Water Act, as amended and subject to annual
768 appropriation by the Legislature. The department is authorized,
769 upon approval by the board, to use amounts available to it from
770 the revolving fund or the emergency fund to contract for those
771 facilities and staff needed to administer and provide routine
772 management for the funds and loan program. However,
773 notwithstanding any other provision of law to the contrary, all or
774 any portion of repayments of principal and interest derived from
775 the fund uses described in this section may be designated or
776 pledged for repayment of a loan as provided for in Section
777 31-25-28 in connection with a loan from the Mississippi
778 Development Bank.

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

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

786 (b) To promulgate rules and regulations, to make
787 variances and exceptions thereto, and to establish procedures in
788 accordance with this section and Sections 6 through 20 of Chapter
789 521, Laws of 1995, for the implementation of the local governments
790 and rural water systems improvements revolving loan program;

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

806 (d) To review and certify all projects for which funds
807 are authorized to be made available under this section and

808 Sections 6 through 20 of Chapter 521, Laws of 1995, for local
809 governments and rural water systems improvements;

810 (e) To requisition monies in the Local Governments and
811 Rural Water Systems Improvements Revolving Loan Fund and the Local
812 Governments and Rural Water Systems Emergency Loan Fund and
813 distribute those monies on a project-by-project basis in
814 accordance with this section;

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

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

828 (h) To establish policies, procedures and requirements
829 concerning viability and financial capability to repay loans that
830 may be used in approving loans available under this section,
831 including a requirement that all loan recipients have a rate
832 structure which will be sufficient to cover the costs of

833 operation, maintenance, major equipment replacement and repayment
834 of any loans made under this section; and

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

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

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

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

859 41-3-17. The State Board of Health is authorized to make and
860 publish all reasonable rules and regulations necessary to enable
861 it to discharge its duties and powers and to carry out the
862 purposes and objectives of its creation. It is further authorized
863 to make reasonable sanitary rules and regulations, to be enforced
864 in the several counties by the county health officer under the
865 supervision and control of the State Board of Health. The State
866 Board of Health shall not make or enforce any rule or regulation
867 that prohibits consumers from providing their own containers for
868 the purpose of purchasing or accepting water from any vending
869 machine or device which filters or treats water that has already
870 been tested and determined to meet or exceed the minimum health
871 protection standards prescribed for drinking water under the
872 Mississippi Safe Drinking Water Law, if that vending machine or
873 device meets or exceeds United States Environmental Protection
874 Agency or national automatic merchandising standards.

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

877 41-3-18. (1) The board shall assess fees in the following
878 amounts and for the following purposes:

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

881	Assessment Category 1.....	\$ 30.00
882	Assessment Category 2.....	100.00
883	Assessment Category 3.....	150.00
884	Assessment Category 4.....	200.00

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

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

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

893 Any increase in the fees charged by the board under this
894 subsection shall be in accordance with the provisions of Section
895 41-3-65.

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

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

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

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

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

911 41-3-19. It is the duty of the State Board of Health to make
912 a report, in writing, to the Governor, on or before the first day
913 of December next preceding each session, not an extraordinary
914 session of the Legislature, upon the sanitary condition, prospect,
915 and needs of the state, setting forth the action of said board, of
916 its officers and agents, the names thereof, and all its
917 expenditures since the last preceding report, and such other
918 matters as it may deem proper for the promotion of health or the
919 prevention of disease. The report shall be laid before the
920 Legislature by the Governor at its ensuing term.

921 **SECTION 11.** Section 41-3-20, Mississippi Code of 1972, is
922 amended as follows:

923 41-3-20. Sections 41-3-1.1, 41-3-3, 41-3-4, 41-3-5.1,
924 41-3-6, 41-3-15, 41-3-16, 41-3-17, 41-3-18 and 41-3-19, which
925 create the * * * State Board of Health, establish the position of
926 Executive Officer of the State Department of Health and establish
927 the State Department of Health and prescribe its powers and
928 duties, shall stand repealed on July 1, * * * 2024.

929 **SECTION 12.** Section 41-7-191, Mississippi Code of 1972, is
930 amended as follows:

931 41-7-191. (1) No person shall engage in any of the
932 following activities without obtaining the required certificate of
933 need:

934 (a) The construction, development or other
935 establishment of a new health care facility, which establishment

936 shall include the reopening of a health care facility that has
937 ceased to operate for a period of sixty (60) months or more;

938 (b) The relocation of a health care facility or portion
939 thereof, or major medical equipment, unless such relocation of a
940 health care facility or portion thereof, or major medical
941 equipment, which does not involve a capital expenditure by or on
942 behalf of a health care facility, is within five thousand two
943 hundred eighty (5,280) feet from the main entrance of the health
944 care facility;

945 (c) Any change in the existing bed complement of any
946 health care facility through the addition or conversion of any
947 beds or the alteration, modernizing or refurbishing of any unit or
948 department in which the beds may be located; however, if a health
949 care facility has voluntarily delicensed some of its existing bed
950 complement, it may later relicense some or all of its delicensed
951 beds without the necessity of having to acquire a certificate of
952 need. The State Department of Health shall maintain a record of
953 the delicensing health care facility and its voluntarily
954 delicensed beds and continue counting those beds as part of the
955 state's total bed count for health care planning purposes. If a
956 health care facility that has voluntarily delicensed some of its
957 beds later desires to relicense some or all of its voluntarily
958 delicensed beds, it shall notify the State Department of Health of
959 its intent to increase the number of its licensed beds. The State
960 Department of Health shall survey the health care facility within
961 thirty (30) days of that notice and, if appropriate, issue the

962 health care facility a new license reflecting the new contingent
963 of beds. However, in no event may a health care facility that has
964 voluntarily delicensed some of its beds be reissued a license to
965 operate beds in excess of its bed count before the voluntary
966 delicensure of some of its beds without seeking certificate of
967 need approval;

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

- 972 (i) Open-heart surgery services;
- 973 (ii) Cardiac catheterization services;
- 974 (iii) Comprehensive inpatient rehabilitation
975 services;
- 976 (iv) Licensed psychiatric services;
- 977 (v) Licensed chemical dependency services;
- 978 (vi) Radiation therapy services;
- 979 (vii) Diagnostic imaging services of an invasive
980 nature, i.e. invasive digital angiography;
- 981 (viii) Nursing home care as defined in
982 subparagraphs (iv), (vi) and (viii) of Section 41-7-173(h);
- 983 (ix) Home health services;
- 984 (x) Swing-bed services;
- 985 (xi) Ambulatory surgical services;
- 986 (xii) Magnetic resonance imaging services;
- 987 (xiii) [Deleted]

988 (xiv) Long-term care hospital services;

989 (xv) Positron emission tomography (PET) services;

990 (e) The relocation of one or more health services from

991 one physical facility or site to another physical facility or

992 site, unless such relocation, which does not involve a capital

993 expenditure by or on behalf of a health care facility, (i) is to a

994 physical facility or site within five thousand two hundred eighty

995 (5,280) feet from the main entrance of the health care facility

996 where the health care service is located, or (ii) is the result of

997 an order of a court of appropriate jurisdiction or a result of

998 pending litigation in such court, or by order of the State

999 Department of Health, or by order of any other agency or legal

1000 entity of the state, the federal government, or any political

1001 subdivision of either, whose order is also approved by the State

1002 Department of Health;

1003 (f) The acquisition or otherwise control of any major

1004 medical equipment for the provision of medical services; however,

1005 (i) the acquisition of any major medical equipment used only for

1006 research purposes, and (ii) the acquisition of major medical

1007 equipment to replace medical equipment for which a facility is

1008 already providing medical services and for which the State

1009 Department of Health has been notified before the date of such

1010 acquisition shall be exempt from this paragraph; an acquisition

1011 for less than fair market value must be reviewed, if the

1012 acquisition at fair market value would be subject to review;

1013 (g) Changes of ownership of existing health care
1014 facilities in which a notice of intent is not filed with the State
1015 Department of Health at least thirty (30) days prior to the date
1016 such change of ownership occurs, or a change in services or bed
1017 capacity as prescribed in paragraph (c) or (d) of this subsection
1018 as a result of the change of ownership; an acquisition for less
1019 than fair market value must be reviewed, if the acquisition at
1020 fair market value would be subject to review;

1021 (h) The change of ownership of any health care facility
1022 defined in subparagraphs (iv), (vi) and (viii) of Section
1023 41-7-173(h), in which a notice of intent as described in paragraph
1024 (g) has not been filed and if the Executive Director, Division of
1025 Medicaid, Office of the Governor, has not certified in writing
1026 that there will be no increase in allowable costs to Medicaid from
1027 revaluation of the assets or from increased interest and
1028 depreciation as a result of the proposed change of ownership;

1029 (i) Any activity described in paragraphs (a) through
1030 (h) if undertaken by any person if that same activity would
1031 require certificate of need approval if undertaken by a health
1032 care facility;

1033 (j) Any capital expenditure or deferred capital
1034 expenditure by or on behalf of a health care facility not covered
1035 by paragraphs (a) through (h);

1036 (k) The contracting of a health care facility as
1037 defined in subparagraphs (i) through (viii) of Section 41-7-173(h)
1038 to establish a home office, subunit, or branch office in the space

1039 operated as a health care facility through a formal arrangement
1040 with an existing health care facility as defined in subparagraph
1041 (ix) of Section 41-7-173(h);

1042 (l) The replacement or relocation of a health care
1043 facility designated as a critical access hospital shall be exempt
1044 from subsection (1) of this section so long as the critical access
1045 hospital complies with all applicable federal law and regulations
1046 regarding such replacement or relocation;

1047 (m) Reopening a health care facility that has ceased to
1048 operate for a period of sixty (60) months or more, which reopening
1049 requires a certificate of need for the establishment of a new
1050 health care facility.

1051 (2) The State Department of Health shall not grant approval
1052 for or issue a certificate of need to any person proposing the new
1053 construction of, addition to, or expansion of any health care
1054 facility defined in subparagraphs (iv) (skilled nursing facility)
1055 and (vi) (intermediate care facility) of Section 41-7-173(h) or
1056 the conversion of vacant hospital beds to provide skilled or
1057 intermediate nursing home care, except as hereinafter authorized:

1058 (a) The department may issue a certificate of need to
1059 any person proposing the new construction of any health care
1060 facility defined in subparagraphs (iv) and (vi) of Section
1061 41-7-173(h) as part of a life care retirement facility, in any
1062 county bordering on the Gulf of Mexico in which is located a
1063 National Aeronautics and Space Administration facility, not to
1064 exceed forty (40) beds. From and after July 1, 1999, there shall

1065 be no prohibition or restrictions on participation in the Medicaid
1066 program (Section 43-13-101 et seq.) for the beds in the health
1067 care facility that were authorized under this paragraph (a).

1068 (b) The department may issue certificates of need in
1069 Harrison County to provide skilled nursing home care for
1070 Alzheimer's disease patients and other patients, not to exceed one
1071 hundred fifty (150) beds. From and after July 1, 1999, there
1072 shall be no prohibition or restrictions on participation in the
1073 Medicaid program (Section 43-13-101 et seq.) for the beds in the
1074 nursing facilities that were authorized under this paragraph (b).

1075 (c) The department may issue a certificate of need for
1076 the addition to or expansion of any skilled nursing facility that
1077 is part of an existing continuing care retirement community
1078 located in Madison County, provided that the recipient of the
1079 certificate of need agrees in writing that the skilled nursing
1080 facility will not at any time participate in the Medicaid program
1081 (Section 43-13-101 et seq.) or admit or keep any patients in the
1082 skilled nursing facility who are participating in the Medicaid
1083 program. This written agreement by the recipient of the
1084 certificate of need shall be fully binding on any subsequent owner
1085 of the skilled nursing facility, if the ownership of the facility
1086 is transferred at any time after the issuance of the certificate
1087 of need. Agreement that the skilled nursing facility will not
1088 participate in the Medicaid program shall be a condition of the
1089 issuance of a certificate of need to any person under this
1090 paragraph (c), and if such skilled nursing facility at any time

1091 after the issuance of the certificate of need, regardless of the
1092 ownership of the facility, participates in the Medicaid program or
1093 admits or keeps any patients in the facility who are participating
1094 in the Medicaid program, the State Department of Health shall
1095 revoke the certificate of need, if it is still outstanding, and
1096 shall deny or revoke the license of the skilled nursing facility,
1097 at the time that the department determines, after a hearing
1098 complying with due process, that the facility has failed to comply
1099 with any of the conditions upon which the certificate of need was
1100 issued, as provided in this paragraph and in the written agreement
1101 by the recipient of the certificate of need. The total number of
1102 beds that may be authorized under the authority of this paragraph
1103 (c) shall not exceed sixty (60) beds.

1104 (d) The State Department of Health may issue a
1105 certificate of need to any hospital located in DeSoto County for
1106 the new construction of a skilled nursing facility, not to exceed
1107 one hundred twenty (120) beds, in DeSoto County. From and after
1108 July 1, 1999, there shall be no prohibition or restrictions on
1109 participation in the Medicaid program (Section 43-13-101 et seq.)
1110 for the beds in the nursing facility that were authorized under
1111 this paragraph (d).

1112 (e) The State Department of Health may issue a
1113 certificate of need for the construction of a nursing facility or
1114 the conversion of beds to nursing facility beds at a personal care
1115 facility for the elderly in Lowndes County that is owned and
1116 operated by a Mississippi nonprofit corporation, not to exceed

1117 sixty (60) beds. From and after July 1, 1999, there shall be no
1118 prohibition or restrictions on participation in the Medicaid
1119 program (Section 43-13-101 et seq.) for the beds in the nursing
1120 facility that were authorized under this paragraph (e).

1121 (f) The State Department of Health may issue a
1122 certificate of need for conversion of a county hospital facility
1123 in Itawamba County to a nursing facility, not to exceed sixty (60)
1124 beds, including any necessary construction, renovation or
1125 expansion. From and after July 1, 1999, there shall be no
1126 prohibition or restrictions on participation in the Medicaid
1127 program (Section 43-13-101 et seq.) for the beds in the nursing
1128 facility that were authorized under this paragraph (f).

1129 (g) The State Department of Health may issue a
1130 certificate of need for the construction or expansion of nursing
1131 facility beds or the conversion of other beds to nursing facility
1132 beds in either Hinds, Madison or Rankin County, not to exceed
1133 sixty (60) beds. From and after July 1, 1999, there shall be no
1134 prohibition or restrictions on participation in the Medicaid
1135 program (Section 43-13-101 et seq.) for the beds in the nursing
1136 facility that were authorized under this paragraph (g).

1137 (h) The State Department of Health may issue a
1138 certificate of need for the construction or expansion of nursing
1139 facility beds or the conversion of other beds to nursing facility
1140 beds in either Hancock, Harrison or Jackson County, not to exceed
1141 sixty (60) beds. From and after July 1, 1999, there shall be no
1142 prohibition or restrictions on participation in the Medicaid

1143 program (Section 43-13-101 et seq.) for the beds in the facility
1144 that were authorized under this paragraph (h).

1145 (i) The department may issue a certificate of need for
1146 the new construction of a skilled nursing facility in Leake
1147 County, provided that the recipient of the certificate of need
1148 agrees in writing that the skilled nursing facility will not at
1149 any time participate in the Medicaid program (Section 43-13-101 et
1150 seq.) or admit or keep any patients in the skilled nursing
1151 facility who are participating in the Medicaid program. This
1152 written agreement by the recipient of the certificate of need
1153 shall be fully binding on any subsequent owner of the skilled
1154 nursing facility, if the ownership of the facility is transferred
1155 at any time after the issuance of the certificate of need.
1156 Agreement that the skilled nursing facility will not participate
1157 in the Medicaid program shall be a condition of the issuance of a
1158 certificate of need to any person under this paragraph (i), and if
1159 such skilled nursing facility at any time after the issuance of
1160 the certificate of need, regardless of the ownership of the
1161 facility, participates in the Medicaid program or admits or keeps
1162 any patients in the facility who are participating in the Medicaid
1163 program, the State Department of Health shall revoke the
1164 certificate of need, if it is still outstanding, and shall deny or
1165 revoke the license of the skilled nursing facility, at the time
1166 that the department determines, after a hearing complying with due
1167 process, that the facility has failed to comply with any of the
1168 conditions upon which the certificate of need was issued, as

1169 provided in this paragraph and in the written agreement by the
1170 recipient of the certificate of need. The provision of Section
1171 41-7-193(1) regarding substantial compliance of the projection of
1172 need as reported in the current State Health Plan is waived for
1173 the purposes of this paragraph. The total number of nursing
1174 facility beds that may be authorized by any certificate of need
1175 issued under this paragraph (i) shall not exceed sixty (60) beds.
1176 If the skilled nursing facility authorized by the certificate of
1177 need issued under this paragraph is not constructed and fully
1178 operational within eighteen (18) months after July 1, 1994, the
1179 State Department of Health, after a hearing complying with due
1180 process, shall revoke the certificate of need, if it is still
1181 outstanding, and shall not issue a license for the skilled nursing
1182 facility at any time after the expiration of the eighteen-month
1183 period.

1184 (j) The department may issue certificates of need to
1185 allow any existing freestanding long-term care facility in
1186 Tishomingo County and Hancock County that on July 1, 1995, is
1187 licensed with fewer than sixty (60) beds. For the purposes of
1188 this paragraph (j), the provisions of Section 41-7-193(1)
1189 requiring substantial compliance with the projection of need as
1190 reported in the current State Health Plan are waived. From and
1191 after July 1, 1999, there shall be no prohibition or restrictions
1192 on participation in the Medicaid program (Section 43-13-101 et
1193 seq.) for the beds in the long-term care facilities that were
1194 authorized under this paragraph (j).

1195 (k) The department may issue a certificate of need for
1196 the construction of a nursing facility at a continuing care
1197 retirement community in Lowndes County. The total number of beds
1198 that may be authorized under the authority of this paragraph (k)
1199 shall not exceed sixty (60) beds. From and after July 1, 2001,
1200 the prohibition on the facility participating in the Medicaid
1201 program (Section 43-13-101 et seq.) that was a condition of
1202 issuance of the certificate of need under this paragraph (k) shall
1203 be revised as follows: The nursing facility may participate in
1204 the Medicaid program from and after July 1, 2001, if the owner of
1205 the facility on July 1, 2001, agrees in writing that no more than
1206 thirty (30) of the beds at the facility will be certified for
1207 participation in the Medicaid program, and that no claim will be
1208 submitted for Medicaid reimbursement for more than thirty (30)
1209 patients in the facility in any month or for any patient in the
1210 facility who is in a bed that is not Medicaid-certified. This
1211 written agreement by the owner of the facility shall be a
1212 condition of licensure of the facility, and the agreement shall be
1213 fully binding on any subsequent owner of the facility if the
1214 ownership of the facility is transferred at any time after July 1,
1215 2001. After this written agreement is executed, the Division of
1216 Medicaid and the State Department of Health shall not certify more
1217 than thirty (30) of the beds in the facility for participation in
1218 the Medicaid program. If the facility violates the terms of the
1219 written agreement by admitting or keeping in the facility on a
1220 regular or continuing basis more than thirty (30) patients who are

1221 participating in the Medicaid program, the State Department of
1222 Health shall revoke the license of the facility, at the time that
1223 the department determines, after a hearing complying with due
1224 process, that the facility has violated the written agreement.

1225 (1) Provided that funds are specifically appropriated
1226 therefor by the Legislature, the department may issue a
1227 certificate of need to a rehabilitation hospital in Hinds County
1228 for the construction of a sixty-bed long-term care nursing
1229 facility dedicated to the care and treatment of persons with
1230 severe disabilities including persons with spinal cord and
1231 closed-head injuries and ventilator dependent patients. The
1232 provisions of Section 41-7-193(1) regarding substantial compliance
1233 with projection of need as reported in the current State Health
1234 Plan are waived for the purpose of this paragraph.

1235 (m) The State Department of Health may issue a
1236 certificate of need to a county-owned hospital in the Second
1237 Judicial District of Panola County for the conversion of not more
1238 than seventy-two (72) hospital beds to nursing facility beds,
1239 provided that the recipient of the certificate of need agrees in
1240 writing that none of the beds at the nursing facility will be
1241 certified for participation in the Medicaid program (Section
1242 43-13-101 et seq.), and that no claim will be submitted for
1243 Medicaid reimbursement in the nursing facility in any day or for
1244 any patient in the nursing facility. This written agreement by
1245 the recipient of the certificate of need shall be a condition of
1246 the issuance of the certificate of need under this paragraph, and

1247 the agreement shall be fully binding on any subsequent owner of
1248 the nursing facility if the ownership of the nursing facility is
1249 transferred at any time after the issuance of the certificate of
1250 need. After this written agreement is executed, the Division of
1251 Medicaid and the State Department of Health shall not certify any
1252 of the beds in the nursing facility for participation in the
1253 Medicaid program. If the nursing facility violates the terms of
1254 the written agreement by admitting or keeping in the nursing
1255 facility on a regular or continuing basis any patients who are
1256 participating in the Medicaid program, the State Department of
1257 Health shall revoke the license of the nursing facility, at the
1258 time that the department determines, after a hearing complying
1259 with due process, that the nursing facility has violated the
1260 condition upon which the certificate of need was issued, as
1261 provided in this paragraph and in the written agreement. If the
1262 certificate of need authorized under this paragraph is not issued
1263 within twelve (12) months after July 1, 2001, the department shall
1264 deny the application for the certificate of need and shall not
1265 issue the certificate of need at any time after the twelve-month
1266 period, unless the issuance is contested. If the certificate of
1267 need is issued and substantial construction of the nursing
1268 facility beds has not commenced within eighteen (18) months after
1269 July 1, 2001, the State Department of Health, after a hearing
1270 complying with due process, shall revoke the certificate of need
1271 if it is still outstanding, and the department shall not issue a
1272 license for the nursing facility at any time after the

1273 eighteen-month period. However, if the issuance of the
1274 certificate of need is contested, the department shall require
1275 substantial construction of the nursing facility beds within six
1276 (6) months after final adjudication on the issuance of the
1277 certificate of need.

1278 (n) The department may issue a certificate of need for
1279 the new construction, addition or conversion of skilled nursing
1280 facility beds in Madison County, provided that the recipient of
1281 the certificate of need agrees in writing that the skilled nursing
1282 facility will not at any time participate in the Medicaid program
1283 (Section 43-13-101 et seq.) or admit or keep any patients in the
1284 skilled nursing facility who are participating in the Medicaid
1285 program. This written agreement by the recipient of the
1286 certificate of need shall be fully binding on any subsequent owner
1287 of the skilled nursing facility, if the ownership of the facility
1288 is transferred at any time after the issuance of the certificate
1289 of need. Agreement that the skilled nursing facility will not
1290 participate in the Medicaid program shall be a condition of the
1291 issuance of a certificate of need to any person under this
1292 paragraph (n), and if such skilled nursing facility at any time
1293 after the issuance of the certificate of need, regardless of the
1294 ownership of the facility, participates in the Medicaid program or
1295 admits or keeps any patients in the facility who are participating
1296 in the Medicaid program, the State Department of Health shall
1297 revoke the certificate of need, if it is still outstanding, and
1298 shall deny or revoke the license of the skilled nursing facility,

1299 at the time that the department determines, after a hearing
1300 complying with due process, that the facility has failed to comply
1301 with any of the conditions upon which the certificate of need was
1302 issued, as provided in this paragraph and in the written agreement
1303 by the recipient of the certificate of need. The total number of
1304 nursing facility beds that may be authorized by any certificate of
1305 need issued under this paragraph (n) shall not exceed sixty (60)
1306 beds. If the certificate of need authorized under this paragraph
1307 is not issued within twelve (12) months after July 1, 1998, the
1308 department shall deny the application for the certificate of need
1309 and shall not issue the certificate of need at any time after the
1310 twelve-month period, unless the issuance is contested. If the
1311 certificate of need is issued and substantial construction of the
1312 nursing facility beds has not commenced within eighteen (18)
1313 months after July 1, 1998, the State Department of Health, after a
1314 hearing complying with due process, shall revoke the certificate
1315 of need if it is still outstanding, and the department shall not
1316 issue a license for the nursing facility at any time after the
1317 eighteen-month period. However, if the issuance of the
1318 certificate of need is contested, the department shall require
1319 substantial construction of the nursing facility beds within six
1320 (6) months after final adjudication on the issuance of the
1321 certificate of need.

1322 (o) The department may issue a certificate of need for
1323 the new construction, addition or conversion of skilled nursing
1324 facility beds in Leake County, provided that the recipient of the

1325 certificate of need agrees in writing that the skilled nursing
1326 facility will not at any time participate in the Medicaid program
1327 (Section 43-13-101 et seq.) or admit or keep any patients in the
1328 skilled nursing facility who are participating in the Medicaid
1329 program. This written agreement by the recipient of the
1330 certificate of need shall be fully binding on any subsequent owner
1331 of the skilled nursing facility, if the ownership of the facility
1332 is transferred at any time after the issuance of the certificate
1333 of need. Agreement that the skilled nursing facility will not
1334 participate in the Medicaid program shall be a condition of the
1335 issuance of a certificate of need to any person under this
1336 paragraph (o), and if such skilled nursing facility at any time
1337 after the issuance of the certificate of need, regardless of the
1338 ownership of the facility, participates in the Medicaid program or
1339 admits or keeps any patients in the facility who are participating
1340 in the Medicaid program, the State Department of Health shall
1341 revoke the certificate of need, if it is still outstanding, and
1342 shall deny or revoke the license of the skilled nursing facility,
1343 at the time that the department determines, after a hearing
1344 complying with due process, that the facility has failed to comply
1345 with any of the conditions upon which the certificate of need was
1346 issued, as provided in this paragraph and in the written agreement
1347 by the recipient of the certificate of need. The total number of
1348 nursing facility beds that may be authorized by any certificate of
1349 need issued under this paragraph (o) shall not exceed sixty (60)
1350 beds. If the certificate of need authorized under this paragraph

1351 is not issued within twelve (12) months after July 1, 2001, the
1352 department shall deny the application for the certificate of need
1353 and shall not issue the certificate of need at any time after the
1354 twelve-month period, unless the issuance is contested. If the
1355 certificate of need is issued and substantial construction of the
1356 nursing facility beds has not commenced within eighteen (18)
1357 months after July 1, 2001, the State Department of Health, after a
1358 hearing complying with due process, shall revoke the certificate
1359 of need if it is still outstanding, and the department shall not
1360 issue a license for the nursing facility at any time after the
1361 eighteen-month period. However, if the issuance of the
1362 certificate of need is contested, the department shall require
1363 substantial construction of the nursing facility beds within six
1364 (6) months after final adjudication on the issuance of the
1365 certificate of need.

1366 (p) The department may issue a certificate of need for
1367 the construction of a municipally owned nursing facility within
1368 the Town of Belmont in Tishomingo County, not to exceed sixty (60)
1369 beds, provided that the recipient of the certificate of need
1370 agrees in writing that the skilled nursing facility will not at
1371 any time participate in the Medicaid program (Section 43-13-101 et
1372 seq.) or admit or keep any patients in the skilled nursing
1373 facility who are participating in the Medicaid program. This
1374 written agreement by the recipient of the certificate of need
1375 shall be fully binding on any subsequent owner of the skilled
1376 nursing facility, if the ownership of the facility is transferred

1377 at any time after the issuance of the certificate of need.
1378 Agreement that the skilled nursing facility will not participate
1379 in the Medicaid program shall be a condition of the issuance of a
1380 certificate of need to any person under this paragraph (p), and if
1381 such skilled nursing facility at any time after the issuance of
1382 the certificate of need, regardless of the ownership of the
1383 facility, participates in the Medicaid program or admits or keeps
1384 any patients in the facility who are participating in the Medicaid
1385 program, the State Department of Health shall revoke the
1386 certificate of need, if it is still outstanding, and shall deny or
1387 revoke the license of the skilled nursing facility, at the time
1388 that the department determines, after a hearing complying with due
1389 process, that the facility has failed to comply with any of the
1390 conditions upon which the certificate of need was issued, as
1391 provided in this paragraph and in the written agreement by the
1392 recipient of the certificate of need. The provision of Section
1393 41-7-193(1) regarding substantial compliance of the projection of
1394 need as reported in the current State Health Plan is waived for
1395 the purposes of this paragraph. If the certificate of need
1396 authorized under this paragraph is not issued within twelve (12)
1397 months after July 1, 1998, the department shall deny the
1398 application for the certificate of need and shall not issue the
1399 certificate of need at any time after the twelve-month period,
1400 unless the issuance is contested. If the certificate of need is
1401 issued and substantial construction of the nursing facility beds
1402 has not commenced within eighteen (18) months after July 1, 1998,

1403 the State Department of Health, after a hearing complying with due
1404 process, shall revoke the certificate of need if it is still
1405 outstanding, and the department shall not issue a license for the
1406 nursing facility at any time after the eighteen-month period.
1407 However, if the issuance of the certificate of need is contested,
1408 the department shall require substantial construction of the
1409 nursing facility beds within six (6) months after final
1410 adjudication on the issuance of the certificate of need.

1411 (q) (i) Beginning on July 1, 1999, the State
1412 Department of Health shall issue certificates of need during each
1413 of the next four (4) fiscal years for the construction or
1414 expansion of nursing facility beds or the conversion of other beds
1415 to nursing facility beds in each county in the state having a need
1416 for fifty (50) or more additional nursing facility beds, as shown
1417 in the fiscal year 1999 State Health Plan, in the manner provided
1418 in this paragraph (q). The total number of nursing facility beds
1419 that may be authorized by any certificate of need authorized under
1420 this paragraph (q) shall not exceed sixty (60) beds.

1421 (ii) Subject to the provisions of subparagraph
1422 (v), during each of the next four (4) fiscal years, the department
1423 shall issue six (6) certificates of need for new nursing facility
1424 beds, as follows: During fiscal years 2000, 2001 and 2002, one
1425 (1) certificate of need shall be issued for new nursing facility
1426 beds in the county in each of the four (4) Long-Term Care Planning
1427 Districts designated in the fiscal year 1999 State Health Plan
1428 that has the highest need in the district for those beds; and two

1429 (2) certificates of need shall be issued for new nursing facility
1430 beds in the two (2) counties from the state at large that have the
1431 highest need in the state for those beds, when considering the
1432 need on a statewide basis and without regard to the Long-Term Care
1433 Planning Districts in which the counties are located. During
1434 fiscal year 2003, one (1) certificate of need shall be issued for
1435 new nursing facility beds in any county having a need for fifty
1436 (50) or more additional nursing facility beds, as shown in the
1437 fiscal year 1999 State Health Plan, that has not received a
1438 certificate of need under this paragraph (q) during the three (3)
1439 previous fiscal years. During fiscal year 2000, in addition to
1440 the six (6) certificates of need authorized in this subparagraph,
1441 the department also shall issue a certificate of need for new
1442 nursing facility beds in Amite County and a certificate of need
1443 for new nursing facility beds in Carroll County.

1444 (iii) Subject to the provisions of subparagraph
1445 (v), the certificate of need issued under subparagraph (ii) for
1446 nursing facility beds in each Long-Term Care Planning District
1447 during each fiscal year shall first be available for nursing
1448 facility beds in the county in the district having the highest
1449 need for those beds, as shown in the fiscal year 1999 State Health
1450 Plan. If there are no applications for a certificate of need for
1451 nursing facility beds in the county having the highest need for
1452 those beds by the date specified by the department, then the
1453 certificate of need shall be available for nursing facility beds
1454 in other counties in the district in descending order of the need

1455 for those beds, from the county with the second highest need to
1456 the county with the lowest need, until an application is received
1457 for nursing facility beds in an eligible county in the district.

1458 (iv) Subject to the provisions of subparagraph
1459 (v), the certificate of need issued under subparagraph (ii) for
1460 nursing facility beds in the two (2) counties from the state at
1461 large during each fiscal year shall first be available for nursing
1462 facility beds in the two (2) counties that have the highest need
1463 in the state for those beds, as shown in the fiscal year 1999
1464 State Health Plan, when considering the need on a statewide basis
1465 and without regard to the Long-Term Care Planning Districts in
1466 which the counties are located. If there are no applications for
1467 a certificate of need for nursing facility beds in either of the
1468 two (2) counties having the highest need for those beds on a
1469 statewide basis by the date specified by the department, then the
1470 certificate of need shall be available for nursing facility beds
1471 in other counties from the state at large in descending order of
1472 the need for those beds on a statewide basis, from the county with
1473 the second highest need to the county with the lowest need, until
1474 an application is received for nursing facility beds in an
1475 eligible county from the state at large.

1476 (v) If a certificate of need is authorized to be
1477 issued under this paragraph (q) for nursing facility beds in a
1478 county on the basis of the need in the Long-Term Care Planning
1479 District during any fiscal year of the four-year period, a
1480 certificate of need shall not also be available under this

1481 paragraph (q) for additional nursing facility beds in that county
1482 on the basis of the need in the state at large, and that county
1483 shall be excluded in determining which counties have the highest
1484 need for nursing facility beds in the state at large for that
1485 fiscal year. After a certificate of need has been issued under
1486 this paragraph (q) for nursing facility beds in a county during
1487 any fiscal year of the four-year period, a certificate of need
1488 shall not be available again under this paragraph (q) for
1489 additional nursing facility beds in that county during the
1490 four-year period, and that county shall be excluded in determining
1491 which counties have the highest need for nursing facility beds in
1492 succeeding fiscal years.

1493 (vi) If more than one (1) application is made for
1494 a certificate of need for nursing home facility beds available
1495 under this paragraph (q), in Yalobusha, Newton or Tallahatchie
1496 County, and one (1) of the applicants is a county-owned hospital
1497 located in the county where the nursing facility beds are
1498 available, the department shall give priority to the county-owned
1499 hospital in granting the certificate of need if the following
1500 conditions are met:

1501 1. The county-owned hospital fully meets all
1502 applicable criteria and standards required to obtain a certificate
1503 of need for the nursing facility beds; and

1504 2. The county-owned hospital's qualifications
1505 for the certificate of need, as shown in its application and as
1506 determined by the department, are at least equal to the

1507 qualifications of the other applicants for the certificate of
1508 need.

1509 (r) (i) Beginning on July 1, 1999, the State
1510 Department of Health shall issue certificates of need during each
1511 of the next two (2) fiscal years for the construction or expansion
1512 of nursing facility beds or the conversion of other beds to
1513 nursing facility beds in each of the four (4) Long-Term Care
1514 Planning Districts designated in the fiscal year 1999 State Health
1515 Plan, to provide care exclusively to patients with Alzheimer's
1516 disease.

1517 (ii) Not more than twenty (20) beds may be
1518 authorized by any certificate of need issued under this paragraph
1519 (r), and not more than a total of sixty (60) beds may be
1520 authorized in any Long-Term Care Planning District by all
1521 certificates of need issued under this paragraph (r). However,
1522 the total number of beds that may be authorized by all
1523 certificates of need issued under this paragraph (r) during any
1524 fiscal year shall not exceed one hundred twenty (120) beds, and
1525 the total number of beds that may be authorized in any Long-Term
1526 Care Planning District during any fiscal year shall not exceed
1527 forty (40) beds. Of the certificates of need that are issued for
1528 each Long-Term Care Planning District during the next two (2)
1529 fiscal years, at least one (1) shall be issued for beds in the
1530 northern part of the district, at least one (1) shall be issued
1531 for beds in the central part of the district, and at least one (1)
1532 shall be issued for beds in the southern part of the district.

1533 (iii) The State Department of Health, in
1534 consultation with the Department of Mental Health and the Division
1535 of Medicaid, shall develop and prescribe the staffing levels,
1536 space requirements and other standards and requirements that must
1537 be met with regard to the nursing facility beds authorized under
1538 this paragraph (r) to provide care exclusively to patients with
1539 Alzheimer's disease.

1540 (s) The State Department of Health may issue a
1541 certificate of need to a nonprofit skilled nursing facility using
1542 the Green House model of skilled nursing care and located in Yazoo
1543 City, Yazoo County, Mississippi, for the construction, expansion
1544 or conversion of not more than nineteen (19) nursing facility
1545 beds. For purposes of this paragraph (s), the provisions of
1546 Section 41-7-193(1) requiring substantial compliance with the
1547 projection of need as reported in the current State Health Plan
1548 and the provisions of Section 41-7-197 requiring a formal
1549 certificate of need hearing process are waived. There shall be no
1550 prohibition or restrictions on participation in the Medicaid
1551 program for the person receiving the certificate of need
1552 authorized under this paragraph (s).

1553 (t) The State Department of Health shall issue
1554 certificates of need to the owner of a nursing facility in
1555 operation at the time of Hurricane Katrina in Hancock County that
1556 was not operational on December 31, 2005, because of damage
1557 sustained from Hurricane Katrina to authorize the following: (i)
1558 the construction of a new nursing facility in Harrison County;

1559 (ii) the relocation of forty-nine (49) nursing facility beds from
1560 the Hancock County facility to the new Harrison County facility;
1561 (iii) the establishment of not more than twenty (20) non-Medicaid
1562 nursing facility beds at the Hancock County facility; and (iv) the
1563 establishment of not more than twenty (20) non-Medicaid beds at
1564 the new Harrison County facility. The certificates of need that
1565 authorize the non-Medicaid nursing facility beds under
1566 subparagraphs (iii) and (iv) of this paragraph (t) shall be
1567 subject to the following conditions: The owner of the Hancock
1568 County facility and the new Harrison County facility must agree in
1569 writing that no more than fifty (50) of the beds at the Hancock
1570 County facility and no more than forty-nine (49) of the beds at
1571 the Harrison County facility will be certified for participation
1572 in the Medicaid program, and that no claim will be submitted for
1573 Medicaid reimbursement for more than fifty (50) patients in the
1574 Hancock County facility in any month, or for more than forty-nine
1575 (49) patients in the Harrison County facility in any month, or for
1576 any patient in either facility who is in a bed that is not
1577 Medicaid-certified. This written agreement by the owner of the
1578 nursing facilities shall be a condition of the issuance of the
1579 certificates of need under this paragraph (t), and the agreement
1580 shall be fully binding on any later owner or owners of either
1581 facility if the ownership of either facility is transferred at any
1582 time after the certificates of need are issued. After this
1583 written agreement is executed, the Division of Medicaid and the
1584 State Department of Health shall not certify more than fifty (50)

1585 of the beds at the Hancock County facility or more than forty-nine
1586 (49) of the beds at the Harrison County facility for participation
1587 in the Medicaid program. If the Hancock County facility violates
1588 the terms of the written agreement by admitting or keeping in the
1589 facility on a regular or continuing basis more than fifty (50)
1590 patients who are participating in the Medicaid program, or if the
1591 Harrison County facility violates the terms of the written
1592 agreement by admitting or keeping in the facility on a regular or
1593 continuing basis more than forty-nine (49) patients who are
1594 participating in the Medicaid program, the State Department of
1595 Health shall revoke the license of the facility that is in
1596 violation of the agreement, at the time that the department
1597 determines, after a hearing complying with due process, that the
1598 facility has violated the agreement.

1599 (u) The State Department of Health shall issue a
1600 certificate of need to a nonprofit venture for the establishment,
1601 construction and operation of a skilled nursing facility of not
1602 more than sixty (60) beds to provide skilled nursing care for
1603 ventilator dependent or otherwise medically dependent pediatric
1604 patients who require medical and nursing care or rehabilitation
1605 services to be located in a county in which an academic medical
1606 center and a children's hospital are located, and for any
1607 construction and for the acquisition of equipment related to those
1608 beds. The facility shall be authorized to keep such ventilator
1609 dependent or otherwise medically dependent pediatric patients
1610 beyond age twenty-one (21) in accordance with regulations of the

1611 State Board of Health. For purposes of this paragraph (u), the
1612 provisions of Section 41-7-193(1) requiring substantial compliance
1613 with the projection of need as reported in the current State
1614 Health Plan are waived, and the provisions of Section 41-7-197
1615 requiring a formal certificate of need hearing process are waived.
1616 The beds authorized by this paragraph shall be counted as
1617 pediatric skilled nursing facility beds for health planning
1618 purposes under Section 41-7-171 et seq. There shall be no
1619 prohibition of or restrictions on participation in the Medicaid
1620 program for the person receiving the certificate of need
1621 authorized by this paragraph.

1622 (3) The State Department of Health may grant approval for
1623 and issue certificates of need to any person proposing the new
1624 construction of, addition to, conversion of beds of or expansion
1625 of any health care facility defined in subparagraph (x)
1626 (psychiatric residential treatment facility) of Section
1627 41-7-173(h). The total number of beds which may be authorized by
1628 such certificates of need shall not exceed three hundred
1629 thirty-four (334) beds for the entire state.

1630 (a) Of the total number of beds authorized under this
1631 subsection, the department shall issue a certificate of need to a
1632 privately owned psychiatric residential treatment facility in
1633 Simpson County for the conversion of sixteen (16) intermediate
1634 care facility for the mentally retarded (ICF-MR) beds to
1635 psychiatric residential treatment facility beds, provided that
1636 facility agrees in writing that the facility shall give priority

1637 for the use of those sixteen (16) beds to Mississippi residents
1638 who are presently being treated in out-of-state facilities.

1639 (b) Of the total number of beds authorized under this
1640 subsection, the department may issue a certificate or certificates
1641 of need for the construction or expansion of psychiatric
1642 residential treatment facility beds or the conversion of other
1643 beds to psychiatric residential treatment facility beds in Warren
1644 County, not to exceed sixty (60) psychiatric residential treatment
1645 facility beds, provided that the facility agrees in writing that
1646 no more than thirty (30) of the beds at the psychiatric
1647 residential treatment facility will be certified for participation
1648 in the Medicaid program (Section 43-13-101 et seq.) for the use of
1649 any patients other than those who are participating only in the
1650 Medicaid program of another state, and that no claim will be
1651 submitted to the Division of Medicaid for Medicaid reimbursement
1652 for more than thirty (30) patients in the psychiatric residential
1653 treatment facility in any day or for any patient in the
1654 psychiatric residential treatment facility who is in a bed that is
1655 not Medicaid-certified. This written agreement by the recipient
1656 of the certificate of need shall be a condition of the issuance of
1657 the certificate of need under this paragraph, and the agreement
1658 shall be fully binding on any subsequent owner of the psychiatric
1659 residential treatment facility if the ownership of the facility is
1660 transferred at any time after the issuance of the certificate of
1661 need. After this written agreement is executed, the Division of
1662 Medicaid and the State Department of Health shall not certify more

1663 than thirty (30) of the beds in the psychiatric residential
1664 treatment facility for participation in the Medicaid program for
1665 the use of any patients other than those who are participating
1666 only in the Medicaid program of another state. If the psychiatric
1667 residential treatment facility violates the terms of the written
1668 agreement by admitting or keeping in the facility on a regular or
1669 continuing basis more than thirty (30) patients who are
1670 participating in the Mississippi Medicaid program, the State
1671 Department of Health shall revoke the license of the facility, at
1672 the time that the department determines, after a hearing complying
1673 with due process, that the facility has violated the condition
1674 upon which the certificate of need was issued, as provided in this
1675 paragraph and in the written agreement.

1676 The State Department of Health, on or before July 1, 2002,
1677 shall transfer the certificate of need authorized under the
1678 authority of this paragraph (b), or reissue the certificate of
1679 need if it has expired, to River Region Health System.

1680 (c) Of the total number of beds authorized under this
1681 subsection, the department shall issue a certificate of need to a
1682 hospital currently operating Medicaid-certified acute psychiatric
1683 beds for adolescents in DeSoto County, for the establishment of a
1684 forty-bed psychiatric residential treatment facility in DeSoto
1685 County, provided that the hospital agrees in writing (i) that the
1686 hospital shall give priority for the use of those forty (40) beds
1687 to Mississippi residents who are presently being treated in
1688 out-of-state facilities, and (ii) that no more than fifteen (15)

1689 of the beds at the psychiatric residential treatment facility will
1690 be certified for participation in the Medicaid program (Section
1691 43-13-101 et seq.), and that no claim will be submitted for
1692 Medicaid reimbursement for more than fifteen (15) patients in the
1693 psychiatric residential treatment facility in any day or for any
1694 patient in the psychiatric residential treatment facility who is
1695 in a bed that is not Medicaid-certified. This written agreement
1696 by the recipient of the certificate of need shall be a condition
1697 of the issuance of the certificate of need under this paragraph,
1698 and the agreement shall be fully binding on any subsequent owner
1699 of the psychiatric residential treatment facility if the ownership
1700 of the facility is transferred at any time after the issuance of
1701 the certificate of need. After this written agreement is
1702 executed, the Division of Medicaid and the State Department of
1703 Health shall not certify more than fifteen (15) of the beds in the
1704 psychiatric residential treatment facility for participation in
1705 the Medicaid program. If the psychiatric residential treatment
1706 facility violates the terms of the written agreement by admitting
1707 or keeping in the facility on a regular or continuing basis more
1708 than fifteen (15) patients who are participating in the Medicaid
1709 program, the State Department of Health shall revoke the license
1710 of the facility, at the time that the department determines, after
1711 a hearing complying with due process, that the facility has
1712 violated the condition upon which the certificate of need was
1713 issued, as provided in this paragraph and in the written
1714 agreement.

1715 (d) Of the total number of beds authorized under this
1716 subsection, the department may issue a certificate or certificates
1717 of need for the construction or expansion of psychiatric
1718 residential treatment facility beds or the conversion of other
1719 beds to psychiatric treatment facility beds, not to exceed thirty
1720 (30) psychiatric residential treatment facility beds, in either
1721 Alcorn, Tishomingo, Prentiss, Lee, Itawamba, Monroe, Chickasaw,
1722 Pontotoc, Calhoun, Lafayette, Union, Benton or Tippah County.

1723 (e) Of the total number of beds authorized under this
1724 subsection (3) the department shall issue a certificate of need to
1725 a privately owned, nonprofit psychiatric residential treatment
1726 facility in Hinds County for an eight-bed expansion of the
1727 facility, provided that the facility agrees in writing that the
1728 facility shall give priority for the use of those eight (8) beds
1729 to Mississippi residents who are presently being treated in
1730 out-of-state facilities.

1731 (f) The department shall issue a certificate of need to
1732 a one-hundred-thirty-four-bed specialty hospital located on
1733 twenty-nine and forty-four one-hundredths (29.44) commercial acres
1734 at 5900 Highway 39 North in Meridian (Lauderdale County),
1735 Mississippi, for the addition, construction or expansion of
1736 child/adolescent psychiatric residential treatment facility beds
1737 in Lauderdale County. As a condition of issuance of the
1738 certificate of need under this paragraph, the facility shall give
1739 priority in admissions to the child/adolescent psychiatric
1740 residential treatment facility beds authorized under this

1741 paragraph to patients who otherwise would require out-of-state
1742 placement. The Division of Medicaid, in conjunction with the
1743 Department of Human Services, shall furnish the facility a list of
1744 all out-of-state patients on a quarterly basis. Furthermore,
1745 notice shall also be provided to the parent, custodial parent or
1746 guardian of each out-of-state patient notifying them of the
1747 priority status granted by this paragraph. For purposes of this
1748 paragraph, the provisions of Section 41-7-193(1) requiring
1749 substantial compliance with the projection of need as reported in
1750 the current State Health Plan are waived. The total number of
1751 child/adolescent psychiatric residential treatment facility beds
1752 that may be authorized under the authority of this paragraph shall
1753 be sixty (60) beds. There shall be no prohibition or restrictions
1754 on participation in the Medicaid program (Section 43-13-101 et
1755 seq.) for the person receiving the certificate of need authorized
1756 under this paragraph or for the beds converted pursuant to the
1757 authority of that certificate of need.

1758 (4) (a) From and after * * * passage of this act, the
1759 department * * * may issue a certificate of need to any person for
1760 the new construction of any hospital, psychiatric hospital or
1761 chemical dependency hospital that will contain any
1762 child/adolescent psychiatric or child/adolescent chemical
1763 dependency beds, or for the conversion of any other health care
1764 facility to a hospital, psychiatric hospital or chemical
1765 dependency hospital that will contain any child/adolescent
1766 psychiatric or child/adolescent chemical dependency beds * * *.

1767 There shall be no prohibition or restrictions on participation in
1768 the Medicaid program (Section 43-13-101 et seq.) for the person(s)
1769 receiving the certificate(s) of need authorized under this
1770 paragraph (a) or for the beds converted pursuant to the authority
1771 of that certificate of need. In issuing any new certificate of
1772 need for any child/adolescent psychiatric or child/adolescent
1773 chemical dependency beds, either by new construction or conversion
1774 of beds of another category, the department shall give preference
1775 to beds which will be located in an area of the state which does
1776 not have such beds located in it, and to a location more than
1777 sixty-five (65) miles from existing beds. Upon receiving 2020
1778 census data, the department may amend the State Health Plan
1779 regarding child/adolescent psychiatric and child/adolescent
1780 chemical dependency beds to reflect the need based on new census
1781 data.

1782 (i) * * * [Deleted]

1783 (ii) The department may issue a certificate of
1784 need for the conversion of existing beds in a county hospital in
1785 Choctaw County from acute care beds to child/adolescent chemical
1786 dependency beds. For purposes of this subparagraph (ii), the
1787 provisions of Section 41-7-193(1) requiring substantial compliance
1788 with the projection of need as reported in the current State
1789 Health Plan are waived. The total number of beds that may be
1790 authorized under authority of this subparagraph shall not exceed
1791 twenty (20) beds. There shall be no prohibition or restrictions
1792 on participation in the Medicaid program (Section 43-13-101 et

1793 seq.) for the hospital receiving the certificate of need
1794 authorized under this subparagraph or for the beds converted
1795 pursuant to the authority of that certificate of need.

1796 (iii) The department may issue a certificate or
1797 certificates of need for the construction or expansion of
1798 child/adolescent psychiatric beds or the conversion of other beds
1799 to child/adolescent psychiatric beds in Warren County. For
1800 purposes of this subparagraph (iii), the provisions of Section
1801 41-7-193(1) requiring substantial compliance with the projection
1802 of need as reported in the current State Health Plan are waived.
1803 The total number of beds that may be authorized under the
1804 authority of this subparagraph shall not exceed twenty (20) beds.
1805 There shall be no prohibition or restrictions on participation in
1806 the Medicaid program (Section 43-13-101 et seq.) for the person
1807 receiving the certificate of need authorized under this
1808 subparagraph or for the beds converted pursuant to the authority
1809 of that certificate of need.

1810 If by January 1, 2002, there has been no significant
1811 commencement of construction of the beds authorized under this
1812 subparagraph (iii), or no significant action taken to convert
1813 existing beds to the beds authorized under this subparagraph, then
1814 the certificate of need that was previously issued under this
1815 subparagraph shall expire. If the previously issued certificate
1816 of need expires, the department may accept applications for
1817 issuance of another certificate of need for the beds authorized
1818 under this subparagraph, and may issue a certificate of need to

1819 authorize the construction, expansion or conversion of the beds
1820 authorized under this subparagraph.

1821 (iv) The department shall issue a certificate of
1822 need to the Region 7 Mental Health/Retardation Commission for the
1823 construction or expansion of child/adolescent psychiatric beds or
1824 the conversion of other beds to child/adolescent psychiatric beds
1825 in any of the counties served by the commission. For purposes of
1826 this subparagraph (iv), the provisions of Section 41-7-193(1)
1827 requiring substantial compliance with the projection of need as
1828 reported in the current State Health Plan are waived. The total
1829 number of beds that may be authorized under the authority of this
1830 subparagraph shall not exceed twenty (20) beds. There shall be no
1831 prohibition or restrictions on participation in the Medicaid
1832 program (Section 43-13-101 et seq.) for the person receiving the
1833 certificate of need authorized under this subparagraph or for the
1834 beds converted pursuant to the authority of that certificate of
1835 need.

1836 (v) The department may issue a certificate of need
1837 to any county hospital located in Leflore County for the
1838 construction or expansion of adult psychiatric beds or the
1839 conversion of other beds to adult psychiatric beds, not to exceed
1840 twenty (20) beds, provided that the recipient of the certificate
1841 of need agrees in writing that the adult psychiatric beds will not
1842 at any time be certified for participation in the Medicaid program
1843 and that the hospital will not admit or keep any patients who are
1844 participating in the Medicaid program in any of such adult

1845 psychiatric beds. This written agreement by the recipient of the
1846 certificate of need shall be fully binding on any subsequent owner
1847 of the hospital if the ownership of the hospital is transferred at
1848 any time after the issuance of the certificate of need. Agreement
1849 that the adult psychiatric beds will not be certified for
1850 participation in the Medicaid program shall be a condition of the
1851 issuance of a certificate of need to any person under this
1852 subparagraph (v), and if such hospital at any time after the
1853 issuance of the certificate of need, regardless of the ownership
1854 of the hospital, has any of such adult psychiatric beds certified
1855 for participation in the Medicaid program or admits or keeps any
1856 Medicaid patients in such adult psychiatric beds, the State
1857 Department of Health shall revoke the certificate of need, if it
1858 is still outstanding, and shall deny or revoke the license of the
1859 hospital at the time that the department determines, after a
1860 hearing complying with due process, that the hospital has failed
1861 to comply with any of the conditions upon which the certificate of
1862 need was issued, as provided in this subparagraph and in the
1863 written agreement by the recipient of the certificate of need.

1864 (vi) The department may issue a certificate or
1865 certificates of need for the expansion of child psychiatric beds
1866 or the conversion of other beds to child psychiatric beds at the
1867 University of Mississippi Medical Center. For purposes of this
1868 subparagraph (vi), the provisions of Section 41-7-193(1) requiring
1869 substantial compliance with the projection of need as reported in
1870 the current State Health Plan are waived. The total number of

1871 beds that may be authorized under the authority of this
1872 subparagraph shall not exceed fifteen (15) beds. There shall be
1873 no prohibition or restrictions on participation in the Medicaid
1874 program (Section 43-13-101 et seq.) for the hospital receiving the
1875 certificate of need authorized under this subparagraph or for the
1876 beds converted pursuant to the authority of that certificate of
1877 need.

1878 (b) From and after July 1, 1990, no hospital,
1879 psychiatric hospital or chemical dependency hospital shall be
1880 authorized to add any child/adolescent psychiatric or
1881 child/adolescent chemical dependency beds or convert any beds of
1882 another category to child/adolescent psychiatric or
1883 child/adolescent chemical dependency beds without a certificate of
1884 need under the authority of subsection (1)(c) and subsection
1885 (4)(a) of this section.

1886 (5) The department may issue a certificate of need to a
1887 county hospital in Winston County for the conversion of fifteen
1888 (15) acute care beds to geriatric psychiatric care beds.

1889 (6) The State Department of Health shall issue a certificate
1890 of need to a Mississippi corporation qualified to manage a
1891 long-term care hospital as defined in Section 41-7-173(h)(xii) in
1892 Harrison County, not to exceed eighty (80) beds, including any
1893 necessary renovation or construction required for licensure and
1894 certification, provided that the recipient of the certificate of
1895 need agrees in writing that the long-term care hospital will not
1896 at any time participate in the Medicaid program (Section 43-13-101

1897 et seq.) or admit or keep any patients in the long-term care
1898 hospital who are participating in the Medicaid program. This
1899 written agreement by the recipient of the certificate of need
1900 shall be fully binding on any subsequent owner of the long-term
1901 care hospital, if the ownership of the facility is transferred at
1902 any time after the issuance of the certificate of need. Agreement
1903 that the long-term care hospital will not participate in the
1904 Medicaid program shall be a condition of the issuance of a
1905 certificate of need to any person under this subsection (6), and
1906 if such long-term care hospital at any time after the issuance of
1907 the certificate of need, regardless of the ownership of the
1908 facility, participates in the Medicaid program or admits or keeps
1909 any patients in the facility who are participating in the Medicaid
1910 program, the State Department of Health shall revoke the
1911 certificate of need, if it is still outstanding, and shall deny or
1912 revoke the license of the long-term care hospital, at the time
1913 that the department determines, after a hearing complying with due
1914 process, that the facility has failed to comply with any of the
1915 conditions upon which the certificate of need was issued, as
1916 provided in this subsection and in the written agreement by the
1917 recipient of the certificate of need. For purposes of this
1918 subsection, the provisions of Section 41-7-193(1) requiring
1919 substantial compliance with the projection of need as reported in
1920 the current State Health Plan are waived.

1921 (7) The State Department of Health may issue a certificate
1922 of need to any hospital in the state to utilize a portion of its

1923 beds for the "swing-bed" concept. Any such hospital must be in
1924 conformance with the federal regulations regarding such swing-bed
1925 concept at the time it submits its application for a certificate
1926 of need to the State Department of Health, except that such
1927 hospital may have more licensed beds or a higher average daily
1928 census (ADC) than the maximum number specified in federal
1929 regulations for participation in the swing-bed program. Any
1930 hospital meeting all federal requirements for participation in the
1931 swing-bed program which receives such certificate of need shall
1932 render services provided under the swing-bed concept to any
1933 patient eligible for Medicare (Title XVIII of the Social Security
1934 Act) who is certified by a physician to be in need of such
1935 services, and no such hospital shall permit any patient who is
1936 eligible for both Medicaid and Medicare or eligible only for
1937 Medicaid to stay in the swing beds of the hospital for more than
1938 thirty (30) days per admission unless the hospital receives prior
1939 approval for such patient from the Division of Medicaid, Office of
1940 the Governor. Any hospital having more licensed beds or a higher
1941 average daily census (ADC) than the maximum number specified in
1942 federal regulations for participation in the swing-bed program
1943 which receives such certificate of need shall develop a procedure
1944 to insure that before a patient is allowed to stay in the swing
1945 beds of the hospital, there are no vacant nursing home beds
1946 available for that patient located within a fifty-mile radius of
1947 the hospital. When any such hospital has a patient staying in the
1948 swing beds of the hospital and the hospital receives notice from a

1949 nursing home located within such radius that there is a vacant bed
1950 available for that patient, the hospital shall transfer the
1951 patient to the nursing home within a reasonable time after receipt
1952 of the notice. Any hospital which is subject to the requirements
1953 of the two (2) preceding sentences of this subsection may be
1954 suspended from participation in the swing-bed program for a
1955 reasonable period of time by the State Department of Health if the
1956 department, after a hearing complying with due process, determines
1957 that the hospital has failed to comply with any of those
1958 requirements.

1959 (8) The Department of Health shall not grant approval for or
1960 issue a certificate of need to any person proposing the new
1961 construction of, addition to or expansion of a health care
1962 facility as defined in subparagraph (viii) of Section 41-7-173(h),
1963 except as hereinafter provided: The department may issue a
1964 certificate of need to a nonprofit corporation located in Madison
1965 County, Mississippi, for the construction, expansion or conversion
1966 of not more than twenty (20) beds in a community living program
1967 for developmentally disabled adults in a facility as defined in
1968 subparagraph (viii) of Section 41-7-173(h). For purposes of this
1969 subsection (8), the provisions of Section 41-7-193(1) requiring
1970 substantial compliance with the projection of need as reported in
1971 the current State Health Plan and the provisions of Section
1972 41-7-197 requiring a formal certificate of need hearing process
1973 are waived. There shall be no prohibition or restrictions on

1974 participation in the Medicaid program for the person receiving the
1975 certificate of need authorized under this subsection (8).

1976 (9) The Department of Health shall not grant approval for or
1977 issue a certificate of need to any person proposing the
1978 establishment of, or expansion of the currently approved territory
1979 of, or the contracting to establish a home office, subunit or
1980 branch office within the space operated as a health care facility
1981 as defined in Section 41-7-173(h) (i) through (viii) by a health
1982 care facility as defined in subparagraph (ix) of Section
1983 41-7-173(h).

1984 (10) Health care facilities owned and/or operated by the
1985 state or its agencies are exempt from the restraints in this
1986 section against issuance of a certificate of need if such addition
1987 or expansion consists of repairing or renovation necessary to
1988 comply with the state licensure law. This exception shall not
1989 apply to the new construction of any building by such state
1990 facility. This exception shall not apply to any health care
1991 facilities owned and/or operated by counties, municipalities,
1992 districts, unincorporated areas, other defined persons, or any
1993 combination thereof.

1994 (11) The new construction, renovation or expansion of or
1995 addition to any health care facility defined in subparagraph (ii)
1996 (psychiatric hospital), subparagraph (iv) (skilled nursing
1997 facility), subparagraph (vi) (intermediate care facility),
1998 subparagraph (viii) (intermediate care facility for the mentally
1999 retarded) and subparagraph (x) (psychiatric residential treatment

2000 facility) of Section 41-7-173(h) which is owned by the State of
2001 Mississippi and under the direction and control of the State
2002 Department of Mental Health, and the addition of new beds or the
2003 conversion of beds from one category to another in any such
2004 defined health care facility which is owned by the State of
2005 Mississippi and under the direction and control of the State
2006 Department of Mental Health, shall not require the issuance of a
2007 certificate of need under Section 41-7-171 et seq.,
2008 notwithstanding any provision in Section 41-7-171 et seq. to the
2009 contrary.

2010 (12) The new construction, renovation or expansion of or
2011 addition to any veterans homes or domiciliaries for eligible
2012 veterans of the State of Mississippi as authorized under Section
2013 35-1-19 shall not require the issuance of a certificate of need,
2014 notwithstanding any provision in Section 41-7-171 et seq. to the
2015 contrary.

2016 (13) The repair or the rebuilding of an existing, operating
2017 health care facility that sustained significant damage from a
2018 natural disaster that occurred after April 15, 2014, in an area
2019 that is proclaimed a disaster area or subject to a state of
2020 emergency by the Governor or by the President of the United States
2021 shall be exempt from all of the requirements of the Mississippi
2022 Certificate of Need Law (Section 41-7-171 et seq.) and any and all
2023 rules and regulations promulgated under that law, subject to the
2024 following conditions:

2025 (a) The repair or the rebuilding of any such damaged
2026 health care facility must be within one (1) mile of the
2027 pre-disaster location of the campus of the damaged health care
2028 facility, except that any temporary post-disaster health care
2029 facility operating location may be within five (5) miles of the
2030 pre-disaster location of the damaged health care facility;

2031 (b) The repair or the rebuilding of the damaged health
2032 care facility (i) does not increase or change the complement of
2033 its bed capacity that it had before the Governor's or the
2034 President's proclamation, (ii) does not increase or change its
2035 levels and types of health care services that it provided before
2036 the Governor's or the President's proclamation, and (iii) does not
2037 rebuild in a different county; however, this paragraph does not
2038 restrict or prevent a health care facility from decreasing its bed
2039 capacity that it had before the Governor's or the President's
2040 proclamation, or from decreasing the levels of or decreasing or
2041 eliminating the types of health care services that it provided
2042 before the Governor's or the President's proclamation, when the
2043 damaged health care facility is repaired or rebuilt;

2044 (c) The exemption from Certificate of Need Law provided
2045 under this subsection (13) is valid for only five (5) years from
2046 the date of the Governor's or the President's proclamation. If
2047 actual construction has not begun within that five-year period,
2048 the exemption provided under this subsection is inapplicable; and

2049 (d) The Division of Health Facilities Licensure and
2050 Certification of the State Department of Health shall provide the

2051 same oversight for the repair or the rebuilding of the damaged
2052 health care facility that it provides to all health care facility
2053 construction projects in the state.

2054 For the purposes of this subsection (13), "significant
2055 damage" to a health care facility means damage to the health care
2056 facility requiring an expenditure of at least One Million Dollars
2057 (\$1,000,000.00).

2058 (14) The State Department of Health shall issue a
2059 certificate of need to any hospital which is currently licensed
2060 for two hundred fifty (250) or more acute care beds and is located
2061 in any general hospital service area not having a comprehensive
2062 cancer center, for the establishment and equipping of such a
2063 center which provides facilities and services for outpatient
2064 radiation oncology therapy, outpatient medical oncology therapy,
2065 and appropriate support services including the provision of
2066 radiation therapy services. The provisions of Section 41-7-193(1)
2067 regarding substantial compliance with the projection of need as
2068 reported in the current State Health Plan are waived for the
2069 purpose of this subsection.

2070 (15) The State Department of Health may authorize the
2071 transfer of hospital beds, not to exceed sixty (60) beds, from the
2072 North Panola Community Hospital to the South Panola Community
2073 Hospital. The authorization for the transfer of those beds shall
2074 be exempt from the certificate of need review process.

2075 (16) The State Department of Health shall issue any
2076 certificates of need necessary for Mississippi State University

2077 and a public or private health care provider to jointly acquire
2078 and operate a linear accelerator and a magnetic resonance imaging
2079 unit. Those certificates of need shall cover all capital
2080 expenditures related to the project between Mississippi State
2081 University and the health care provider, including, but not
2082 limited to, the acquisition of the linear accelerator, the
2083 magnetic resonance imaging unit and other radiological modalities;
2084 the offering of linear accelerator and magnetic resonance imaging
2085 services; and the cost of construction of facilities in which to
2086 locate these services. The linear accelerator and the magnetic
2087 resonance imaging unit shall be (a) located in the City of
2088 Starkville, Oktibbeha County, Mississippi; (b) operated jointly by
2089 Mississippi State University and the public or private health care
2090 provider selected by Mississippi State University through a
2091 request for proposals (RFP) process in which Mississippi State
2092 University selects, and the Board of Trustees of State
2093 Institutions of Higher Learning approves, the health care provider
2094 that makes the best overall proposal; (c) available to Mississippi
2095 State University for research purposes two-thirds (2/3) of the
2096 time that the linear accelerator and magnetic resonance imaging
2097 unit are operational; and (d) available to the public or private
2098 health care provider selected by Mississippi State University and
2099 approved by the Board of Trustees of State Institutions of Higher
2100 Learning one-third (1/3) of the time for clinical, diagnostic and
2101 treatment purposes. For purposes of this subsection, the
2102 provisions of Section 41-7-193(1) requiring substantial compliance

2103 with the projection of need as reported in the current State
2104 Health Plan are waived.

2105 (17) The State Department of Health shall issue a
2106 certificate of need for the construction of an acute care hospital
2107 in Kemper County, not to exceed twenty-five (25) beds, which shall
2108 be named the "John C. Stennis Memorial Hospital." In issuing the
2109 certificate of need under this subsection, the department shall
2110 give priority to a hospital located in Lauderdale County that has
2111 two hundred fifteen (215) beds. For purposes of this subsection,
2112 the provisions of Section 41-7-193(1) requiring substantial
2113 compliance with the projection of need as reported in the current
2114 State Health Plan and the provisions of Section 41-7-197 requiring
2115 a formal certificate of need hearing process are waived. There
2116 shall be no prohibition or restrictions on participation in the
2117 Medicaid program (Section 43-13-101 et seq.) for the person or
2118 entity receiving the certificate of need authorized under this
2119 subsection or for the beds constructed under the authority of that
2120 certificate of need.

2121 (18) The planning, design, construction, renovation,
2122 addition, furnishing and equipping of a clinical research unit at
2123 any health care facility defined in Section 41-7-173(h) that is
2124 under the direction and control of the University of Mississippi
2125 Medical Center and located in Jackson, Mississippi, and the
2126 addition of new beds or the conversion of beds from one (1)
2127 category to another in any such clinical research unit, shall not
2128 require the issuance of a certificate of need under Section

2129 41-7-171 et seq., notwithstanding any provision in Section
2130 41-7-171 et seq. to the contrary.

2131 (19) [Repealed]

2132 (20) Nothing in this section or in any other provision of
2133 Section 41-7-171 et seq. shall prevent any nursing facility from
2134 designating an appropriate number of existing beds in the facility
2135 as beds for providing care exclusively to patients with
2136 Alzheimer's disease.

2137 (21) Nothing in this section or any other provision of
2138 Section 41-7-171 et seq. shall prevent any health care facility
2139 from the new construction, renovation, conversion or expansion of
2140 new beds in the facility designated as intensive care units,
2141 negative pressure rooms, or isolation rooms pursuant to the
2142 provisions of Sections 41-14-1 through 41-14-11. For purposes of
2143 this subsection, the provisions of Section 41-7-193(1) requiring
2144 substantial compliance with the projection of need as reported in
2145 the current State Health Plan and the provisions of Section
2146 41-7-197 requiring a formal certificate of need hearing process
2147 are waived.

2148 **SECTION 13.** On or before December 1, 2021, each existing
2149 health care facility with child/adolescent psychiatric or
2150 child/adolescent chemical dependency beds shall file with the
2151 Mississippi Department of Health, the Mississippi Department of
2152 Mental Health and the Coordinator of Mental Health Accessibility a
2153 description of their plan to help their patients remain in
2154 noninstitutional settings when practical. This plan may include

2155 coordination with the community mental health centers and other
2156 providers. The plan need not be detailed or lengthy, but it shall
2157 set forth efforts to ensure the facility is coordinating with
2158 other entities.

2159 **SECTION 14.** This act shall take effect and be in force from
2160 and after its passage.

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

1 AN ACT TO REENACT SECTIONS 41-3-1.1, 41-3-3, 41-3-4,
2 41-3-5.1, 41-3-6, 41-3-15, 41-3-16, 41-3-17, 41-3-18 AND 41-3-19,
3 MISSISSIPPI CODE OF 1972, WHICH CREATE THE STATE BOARD OF HEALTH,
4 ESTABLISH THE POSITION OF EXECUTIVE OFFICER OF THE STATE
5 DEPARTMENT OF HEALTH, AND ESTABLISH AND PRESCRIBE THE POWERS AND
6 DUTIES OF THE STATE DEPARTMENT OF HEALTH; TO AMEND SECTION
7 41-3-20, MISSISSIPPI CODE OF 1972, TO EXTEND THE DATE OF THE
8 REPEALER ON THOSE REENACTED STATUTES; TO AMEND SECTION 41-7-191,
9 MISSISSIPPI CODE OF 1972, TO DELETE THE MORATORIUM ON THE
10 AUTHORITY OF THE STATE DEPARTMENT OF HEALTH TO ISSUE A HEALTH CARE
11 CERTIFICATE OF NEED FOR THE CONSTRUCTION OR CONVERSION OF
12 CHILD/ADOLESCENT PSYCHIATRIC OR CHEMICAL DEPENDENCY BEDS
13 PARTICIPATING IN THE MEDICAID PROGRAM AND TO DELETE CERTAIN
14 RESTRICTIONS ON MEDICAID REIMBURSEMENT FOR SUCH BEDS AND TO PLACE
15 CERTAIN STANDARDS ON THE DEPARTMENT IN ISSUING SUCH CERTIFICATES;
16 TO SET FORTH STATE POLICY REGARDING THE TREATMENT OF CERTAIN
17 MENTAL HEALTH PATIENTS; AND FOR RELATED PURPOSES.

SS26\HB160A.1J

Eugene S. Clarke
Secretary of the Senate