

By: Representative Shanks

To: Public Health and Human Services

HOUSE BILL NO. 764

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; AND FOR RELATED PURPOSES.

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

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

12 41-3-1.1. (1) The State Board of Health is continued and  
 13 reconstituted as follows:

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

17 (a) Five (5) members of the board shall be currently  
 18 licensed physicians of good professional standing who have had at  
 19 least seven (7) years' experience in the practice of medicine in  
 20 this state. Three (3) members shall be appointed by the Governor,  
 21 one (1) member shall be appointed by the Lieutenant Governor, and



22 one (1) member shall be appointed by the Attorney General, in the  
23 manner provided in paragraph (d) of this subsection (1).

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

32 (c) The Governor, Lieutenant Governor and Attorney  
33 General shall give due regard to geographic distribution, race and  
34 gender in making their appointments to the board. It is the  
35 intent of the Legislature that the membership of the board reflect  
36 the population of the State of Mississippi. Of the Governor's  
37 appointments, one (1) member of the board shall be appointed from  
38 each of the four (4) congressional districts as constituted on  
39 June 30, 2007, and one (1) member of the board shall be appointed  
40 from each of the three (3) Supreme Court districts as constituted  
41 on June 30, 2007. Of the Lieutenant Governor's appointments, one  
42 (1) member of the board shall be appointed from the First  
43 Congressional District and one (1) member of the board shall be  
44 appointed from the Fourth Congressional District as constituted on  
45 June 30, 2007. Of the Attorney General's appointments, one (1)  
46 member of the board shall be appointed from the Second



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

50 (d) The initial members of the board shall be appointed  
51 for staggered terms, as follows: Of the Governor's appointments,  
52 two (2) members shall be appointed for terms that end on June 30,  
53 2009; two (2) members shall be appointed for terms that end on  
54 June 30, 2011; and three (3) members shall be appointed for terms  
55 that end on June 30, 2013. Of the Lieutenant Governor's  
56 appointments, one (1) member shall be appointed for a term that  
57 ends on June 30, 2009; and one (1) member shall be appointed for a  
58 term that ends on June 30, 2013. Of the Attorney General's  
59 appointments, one (1) member shall be appointed for a term that  
60 ends on June 30, 2009; and one (1) member shall be appointed for a  
61 term that ends on June 30, 2011.

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

65 (2) At the expiration of the terms of the initial members,  
66 all members of the board shall be appointed by the Governor, in  
67 the same manner and from the same districts prescribed in  
68 subsection (1) of this section, for terms of six (6) years from  
69 the expiration of the previous term and thereafter until his or  
70 her successor is duly appointed. Vacancies in office shall be  
71 filled by appointment in the same manner as the appointment to the



72 position that becomes vacant, subject to the advice and consent of  
73 the Senate at the next regular session of the Legislature. An  
74 appointment to fill a vacancy other than by expiration of a term  
75 of office shall be for the balance of the unexpired term and  
76 thereafter until his or her successor is duly appointed.

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

94 (4) (a) All members of the State Board of Health shall file  
95 with the Mississippi Ethics Commission, before the first day of



96 May each year, the statement of economic interest as required by  
97 Sections 25-4-25 through 25-4-29.

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

102 (c) When any matter in which a member may not  
103 participate comes before the board or department, that member must  
104 fully recuse himself or herself from the entire matter. The  
105 member shall avoid debating, discussing or taking action on the  
106 subject matter during official meetings or deliberations by  
107 leaving the meeting room before the matter comes before the board  
108 and by returning only after the discussion, vote or other action  
109 is completed. The member shall not discuss the matter with other  
110 members, department staff or any other person. Any minutes or  
111 other record of the meeting shall accurately reflect the recusal.  
112 If a member is uncertain whether recusal is required, the member  
113 shall follow the determination of the Mississippi Ethics  
114 Commission. The commission may delegate that determination to its  
115 executive director.

116 (d) Upon a determination by the board or by any court  
117 of competent jurisdiction that a member of the board has violated  
118 the provisions of this subsection (4) regarding recusal, the  
119 member shall be removed from office. Any member of the board who  
120 violates the provisions of this section regarding recusal also



121 shall be subject to the penalties set forth in Sections 25-4-109  
122 through 25-4-117. After removal from office, the member shall not  
123 be eligible for appointment to any agency, board or commission of  
124 the state for a period of two (2) years. Nothing in this section  
125 shall be construed to limit the restrictions codified in Section  
126 25-4-105.

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

129         41-3-3. Each person appointed as a member of the State Board  
130 of Health shall immediately take the oath prescribed by Section  
131 268 of the Constitution and file a certificate thereof in the  
132 Office of the Secretary of State. Thereupon a commission shall be  
133 issued to him under the terms as specified in Section 41-3-1.

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

136         41-3-4. (1) There shall be a Chairman and Vice Chairman of  
137 the State Board of Health elected by and from its membership at  
138 the first meeting of the board; and the chairman shall be the  
139 presiding officer of the board. The chairman shall always be a  
140 physician member of the board. The board shall adopt rules and  
141 regulations governing times and places for meetings, and governing  
142 the manner of conducting its business. The board shall meet not  
143 less frequently than once each quarter, and at such other times as  
144 determined to be necessary. The term of office of any member who  
145 does not attend three (3) consecutive regular meetings of the



146 board shall be automatically terminated, and the position shall be  
147 considered as vacant, except in cases of the serious illness of a  
148 board member or of his or her immediate family member. All  
149 meetings of the board shall be called by the chairman or by a  
150 majority of the members of the board, except the first meeting of  
151 the initial members of the reconstituted board, which shall be  
152 called by the Governor.

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

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

161 41-3-5.1. The State Department of Health shall be headed by  
162 an executive officer who shall be appointed by the State Board of  
163 Health. The executive officer shall be either a physician who has  
164 earned a graduate degree in public health or health care  
165 administration, or a physician who in the opinion of the board is  
166 fitted and equipped to execute the duties incumbent upon him or  
167 her by law. The executive officer shall not engage in the private  
168 practice of medicine. The term of office of the executive officer  
169 shall be six (6) years, and the executive officer may be removed  
170 for cause by majority vote of the members of the board. The



171 executive officer shall be subject to such rules and regulations  
172 as may be prescribed by the State Board of Health. The executive  
173 officer shall be the State Health Officer with such authority and  
174 responsibility as is prescribed by law.

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

177 41-3-6. It shall be the duty of the State Board of Health to  
178 review the statutes of the State of Mississippi affecting public  
179 health and submit at least thirty (30) days prior to each regular  
180 session of the Legislature any proposed legislation as may be  
181 necessary to enhance the effective and efficient delivery of  
182 public health services and to bring existing statutes into  
183 compliance with modern technology and terminology. The board  
184 shall formulate a plan for consolidating and reorganizing existing  
185 state agencies having responsibilities in the field of public  
186 health to eliminate any needless duplication in services which may  
187 be found to exist. In carrying out the provisions of this  
188 section, the State Board of Health shall cooperate with and may  
189 utilize the services, facilities and personnel of any department  
190 or agency of the state, any private citizen task force and the  
191 committees on public health of both houses of the Legislature.  
192 The State Board of Health is authorized to apply for and expend  
193 funds made available to it by grant from any source in order to  
194 perform its responsibilities under this section.





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

197           41-3-15. (1) (a) There shall be a State Department of  
198 Health.

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

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

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

209                           (iii) To apply for, receive, accept and expend any  
210 federal or state funds or contributions, gifts, trusts, devises,  
211 bequests, grants, endowments or funds from any other source or  
212 transfers of property of any kind;

213                           (iv) To enter into, and to authorize the executive  
214 officer to execute contracts, grants and cooperative agreements  
215 with any federal or state agency or subdivision thereof, or any  
216 public or private institution located inside or outside the State  
217 of Mississippi, or any person, corporation or association in  
218 connection with carrying out the provisions of this chapter, if it  
219 finds those actions to be in the public interest and the contracts



220 or agreements do not have a financial cost that exceeds the  
221 amounts appropriated for those purposes by the Legislature;

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

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

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

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

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

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



244 (iv) To coordinate the activities of the various  
245 offices of the department;

246 (v) To employ, subject to regulations of the State  
247 Personnel Board, qualified professional personnel in the subject  
248 matter or fields of each office, and such other technical and  
249 clerical staff as may be required for the operation of the  
250 department. The executive officer shall be the appointing  
251 authority for the department, and shall have the power to delegate  
252 the authority to appoint or dismiss employees to appropriate  
253 subordinates, subject to the rules and regulations of the State  
254 Personnel Board;

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

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

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



269 the work of the department on reducing Mississippi's infant  
270 mortality and morbidity rates and improving the status of maternal  
271 and infant health; and

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

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

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

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

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



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

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

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

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

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

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

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

316 (d) To obtain, collect and preserve such information  
317 relative to mortality, morbidity, disease and health as may be



318 useful in the discharge of its duties or may contribute to the  
319 prevention of disease or the promotion of health in this state.

320 (e) To charge and collect reasonable fees for health  
321 services, including immunizations, inspections and related  
322 activities, and the board shall charge fees for those services;  
323 however, if it is determined that a person receiving services is  
324 unable to pay the total fee, the board shall collect any amount  
325 that the person is able to pay. Any increase in the fees charged  
326 by the board under this paragraph shall be in accordance with the  
327 provisions of Section 41-3-65.

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

335 (ii) To require that a permit be obtained from the  
336 Department of Health before those persons begin operation. If any  
337 such person fails to obtain the permit required in this  
338 subparagraph (ii), the State Board of Health, after due notice and  
339 opportunity for a hearing, may impose a monetary penalty not to  
340 exceed One Thousand Dollars (\$1,000.00) for each violation.  
341 However, the department is not authorized to impose a monetary  
342 penalty against any person whose gross annual prepared food sales



343 are less than Five Thousand Dollars (\$5,000.00). Money collected  
344 by the board under this subparagraph (ii) shall be deposited to  
345 the credit of the State General Fund of the State Treasury.

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

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

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

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

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

366 (5) (a) The State Board of Health shall have the authority,  
367 in its discretion, to establish programs to promote the public



368 health, to be administered by the State Department of Health.  
369 Specifically, those programs may include, but shall not be limited  
370 to, programs in the following areas:

- 371 (i) Maternal and child health;
- 372 (ii) Family planning;
- 373 (iii) Pediatric services;
- 374 (iv) Services to crippled and disabled children;
- 375 (v) Control of communicable and noncommunicable  
376 disease;
- 377 (vi) Chronic disease;
- 378 (vii) Accidental deaths and injuries;
- 379 (viii) Child care licensure;
- 380 (ix) Radiological health;
- 381 (x) Dental health;
- 382 (xi) Milk sanitation;
- 383 (xii) Occupational safety and health;
- 384 (xiii) Food, vector control and general  
385 sanitation;
- 386 (xiv) Protection of drinking water;
- 387 (xv) Sanitation in food handling establishments  
388 open to the public;
- 389 (xvi) Registration of births and deaths and other  
390 vital events;





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

394                   (xviii) Regulation of domestic and imported fish  
395 for human consumption.

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



416 health services. This demonstration by the board that there are  
417 other providers of adequate home health services in the area shall  
418 be spread at length upon the minutes of the board at a regular or  
419 special meeting of the board at least thirty (30) days before a  
420 home health agency, office, branch office or clinic is proposed to  
421 be closed or otherwise discontinue the providing of home health  
422 services.

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

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

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

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

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



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

442 (iv) To establish and collect fees to defray the  
443 reasonable costs of administering the revolving fund or emergency  
444 fund if the State Board of Health determines that those costs will  
445 exceed the limitations established in the federal Safe Drinking  
446 Water Act, as amended. The administration fees may be included in  
447 loan amounts to loan recipients for the purpose of facilitating  
448 payment to the board; however, those fees may not exceed five  
449 percent (5%) of the loan amount.

450 (7) Notwithstanding any other provision to the contrary, the  
451 State Department of Health shall have the following specific  
452 powers: The department shall issue a license to Alexander Milne  
453 Home for Women, Inc., a 501(c)(3) nonprofit corporation, for the  
454 construction, conversion, expansion and operation of not more than  
455 forty-five (45) beds for developmentally disabled adults who have  
456 been displaced from New Orleans, Louisiana, with the beds to be  
457 located in a certified ICF-MR facility in the City of Laurel,  
458 Mississippi. There shall be no prohibition or restrictions on  
459 participation in the Medicaid program for the person receiving the  
460 license under this subsection (7). The license described in this  
461 subsection shall expire five (5) years from the date of its issue.  
462 The license authorized by this subsection shall be issued upon the  
463 initial payment by the licensee of an application fee of



464 Sixty-seven Thousand Dollars (\$67,000.00) and a monthly fee of  
465 Sixty-seven Thousand Dollars (\$67,000.00) after the issuance of  
466 the license, to be paid as long as the licensee continues to  
467 operate. The initial and monthly licensing fees shall be  
468 deposited by the State Department of Health into the special fund  
469 created under Section 41-7-188.

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

481 (9) Notwithstanding any other provision to the contrary, the  
482 State Department of Health shall have the following specific  
483 powers: For the period beginning July 1, 2010, through July 1,  
484 2017, the State Department of Health is authorized and empowered  
485 to assess a fee in addition to the fee prescribed in Section  
486 41-7-188 for reviewing applications for certificates of need in an  
487 amount not to exceed twenty-five one-hundredths of one percent  
488 (.25 of 1%) of the amount of a proposed capital expenditure, but



489 shall be not less than Two Hundred Fifty Dollars (\$250.00)  
490 regardless of the amount of the proposed capital expenditure, and  
491 the maximum additional fee permitted shall not exceed Fifty  
492 Thousand Dollars (\$50,000.00). Provided that the total  
493 assessments of fees for certificate of need applications under  
494 Section 41-7-188 and this section shall not exceed the actual cost  
495 of operating the certificate of need program.

496 (10) Notwithstanding any other provision to the contrary,  
497 the State Department of Health shall have the following specific  
498 powers: The State Department of Health is authorized to extend  
499 and renew any certificate of need that has expired, and to charge  
500 a fee for reviewing and making a determination on the application  
501 for such action not to exceed one-half (1/2) of the authorized fee  
502 assessed for the original application for the certificate of need,  
503 with the revenue to be deposited by the State Department of Health  
504 into the special fund created under Section 41-7-188.

505 (11) 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 and  
508 empowered, to revoke, immediately, the license and require closure  
509 of any institution for the aged or infirm, including any other  
510 remedy less than closure to protect the health and safety of the  
511 residents of said institution or the health and safety of the  
512 general public.



513 (12) Notwithstanding any other provision to the contrary,  
514 the State Department of Health shall have the following specific  
515 powers: The State Department of Health is authorized and  
516 empowered, to require the temporary detainment of individuals for  
517 disease control purposes based upon violation of any order of the  
518 State Health Officer, as provided in Section 41-23-5. For the  
519 purpose of enforcing such orders of the State Health Officer,  
520 persons employed by the department as investigators shall have  
521 general arrest powers. All law enforcement officers are  
522 authorized and directed to assist in the enforcement of such  
523 orders of the State Health Officer.

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

526 41-3-16. (1) (a) There is established a local governments  
527 and rural water systems improvements revolving loan and grant  
528 program to be administered by the State Department of Health,  
529 referred to in this section as "department," for the purpose of  
530 assisting counties, incorporated municipalities, districts or  
531 other water organizations that have been granted tax-exempt status  
532 under either federal or state law, in making improvements to their  
533 water systems, including construction of new water systems or  
534 expansion or repair of existing water systems. Loan and grant  
535 proceeds may be used by the recipient for planning, professional  
536 services, acquisition of interests in land, acquisition of  
537 personal property, construction, construction-related services,



538 maintenance, and any other reasonable use which the board, in its  
539 discretion, may allow. For purposes of this section, "water  
540 systems" has the same meaning as the term "public water system"  
541 under Section 41-26-3.

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

558 The Governor shall appoint a manager of a rural water system  
559 from a list of candidates provided by the Executive Director of  
560 the Mississippi Rural Water Association. The Executive Director  
561 of the Mississippi Rural Water Association shall provide the



562 Governor a list of candidates which shall contain a minimum of  
563 three (3) candidates for each appointment.

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

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

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





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

588 (2) (a) There is created a special fund in the State  
589 Treasury to be designated as the "Local Governments and Rural  
590 Water Systems Improvements Revolving Loan Fund," referred to in  
591 this section as "revolving fund," which fund shall consist of  
592 those monies as provided in Sections 6 and 13 of Chapter 521, Laws  
593 of 1995. The revolving fund may receive appropriations, bond  
594 proceeds, grants, gifts, donations or funds from any source,  
595 public or private. Except as otherwise provided in this section,  
596 the revolving fund shall be credited with all repayments of  
597 principal and interest derived from loans made from the revolving  
598 fund. Except as otherwise provided in this section, the monies in  
599 the revolving fund may be expended only in amounts appropriated by  
600 the Legislature, and the different amounts specifically provided  
601 for the loan program and the grant program shall be so designated.  
602 Except as otherwise provided in this section, monies in the fund  
603 may only be expended for the grant program from the amount  
604 designated for such program. The revolving fund shall be  
605 maintained in perpetuity for the purposes established in this  
606 section and Sections 6 through 20 of Chapter 521, Laws of 1995.  
607 Unexpended amounts remaining in the revolving fund at the end of a  
608 fiscal year shall not lapse into the State General Fund, and any  
609 interest earned on amounts in the revolving fund shall be



610 deposited to the credit of the fund. Monies in the revolving fund  
611 may not be used or expended for any purpose except as authorized  
612 under this section and Sections 6 through 20 of Chapter 521, Laws  
613 of 1995. Any monies in the fund may be used to match any federal  
614 funds that are available for the same or related purposes for  
615 which funds are used and expended under this section and Sections  
616 6 through 20 of Chapter 521, Laws of 1995. Any federal funds  
617 shall be used and expended only in accordance with federal laws,  
618 rules and regulations governing the expenditure of those funds.  
619 No person shall use any monies from the revolving fund for the  
620 acquisition of real property or any interest in real property  
621 unless that property is integral to the project funded under this  
622 section and the purchase is made from a willing seller. No  
623 county, incorporated municipality or district shall acquire any  
624 real property or any interest in any real property for a project  
625 funded through the revolving fund by condemnation. The board's  
626 application of Sections 43-37-1 through 43-37-13 shall be no more  
627 stringent or extensive in scope, coverage and effect than federal  
628 property acquisition laws and regulations.

629           (b) There is created a special fund in the State  
630 Treasury to be designated as the "Local Governments and Rural  
631 Water Systems Emergency Loan Fund," hereinafter referred to as  
632 "emergency fund," which fund shall consist of those monies as  
633 provided in Sections 6 and 13 of Chapter 521, Laws of 1995. The  
634 emergency fund may receive appropriations, bond proceeds, grants,



635 gifts, donations or funds from any source, public or private.  
636 Except as otherwise provided in this section, the emergency fund  
637 shall be credited with all repayments of principal and interest  
638 derived from loans made from the emergency fund. Except as  
639 otherwise provided in this section, the monies in the emergency  
640 fund may be expended only in amounts appropriated by the  
641 Legislature. The emergency fund shall be maintained in perpetuity  
642 for the purposes established in this section and Section 6 of  
643 Chapter 521, Laws of 1995. Unexpended amounts remaining in the  
644 emergency fund at the end of a fiscal year shall not lapse into  
645 the State General Fund. Any interest earned on amounts in the  
646 emergency fund shall be deposited to the credit of the fund.  
647 Monies in the emergency fund may not be used or expended for any  
648 purpose except as authorized under this section and Section 6 of  
649 Chapter 521, Laws of 1995.

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



660 program established in this section may be made using funds from  
661 the loan program. Grants may be awarded only when the Legislature  
662 specifically appropriates funds for that particular purpose. The  
663 interest rate on those loans may vary from time to time and from  
664 loan to loan, and will be at or below market interest rates as  
665 determined by the board. The board shall act as quickly as is  
666 practicable and prudent in deciding on any loan request that it  
667 receives. Loans from the revolving fund or emergency fund may be  
668 made to counties, incorporated municipalities, districts or other  
669 water organizations that have been granted tax-exempt status under  
670 either federal or state law, as set forth in a loan agreement in  
671 amounts not to exceed one hundred percent (100%) of eligible  
672 project costs as established by the board. The board may require  
673 county, municipal, district or other water organization  
674 participation or funding from other sources, or otherwise limit  
675 the percentage of costs covered by loans from the revolving fund  
676 or the emergency fund. The board may establish a maximum amount  
677 for any loan from the revolving fund or emergency fund in order to  
678 provide for broad and equitable participation in the programs.

679 (d) A county that receives a loan from the revolving  
680 fund or the emergency fund shall pledge for repayment of the loan  
681 any part of the homestead exemption annual tax loss reimbursement  
682 to which it may be entitled under Section 27-33-77, as may be  
683 required to meet the repayment schedule contained in the loan  
684 agreement. An incorporated municipality that receives a loan from



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



709 the amount to be remitted to the county or municipality, a sum  
710 equal to the next repayment as provided in the loan agreement.

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

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

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

731 (g) The State Auditor, upon request of the board, shall  
732 audit the receipts and expenditures of a county, an incorporated  
733 municipality, district or other water organization whose loan



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

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



759 appropriation by the Legislature. The department is authorized,  
760 upon approval by the board, to use amounts available to it from  
761 the revolving fund or the emergency fund to contract for those  
762 facilities and staff needed to administer and provide routine  
763 management for the funds and loan program. However,  
764 notwithstanding any other provision of law to the contrary, all or  
765 any portion of repayments of principal and interest derived from  
766 the fund uses described in this section may be designated or  
767 pledged for repayment of a loan as provided for in Section  
768 31-25-28 in connection with a loan from the Mississippi  
769 Development Bank.

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

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

777 (b) To promulgate rules and regulations, to make  
778 variances and exceptions thereto, and to establish procedures in  
779 accordance with this section and Sections 6 through 20 of Chapter  
780 521, Laws of 1995, for the implementation of the local governments  
781 and rural water systems improvements revolving loan program;

782 (c) To require, at the board's discretion, any loan or  
783 grant recipient to impose a per connection fee or surcharge or





784 amended water rate schedule or tariff on each customer or any  
785 class of customers, benefiting from an improvement financed by a  
786 loan or grant made under this section, for repayment of any loan  
787 funds provided under this section and Sections 6 through 20 of  
788 Chapter 521, Laws of 1995. The board may require any loan or  
789 grant recipient to undergo a water system viability analysis and  
790 may require a loan or grant recipient to implement any result of  
791 the viability analysis. If the loan recipient fails to implement  
792 any result of a viability analysis as required by the board, the  
793 board may impose a monetary penalty or increase the interest rate  
794 on the loan, or both. If the grant recipient fails to implement  
795 any result of a viability analysis as required by the board, the  
796 board may impose a monetary penalty on the grant;

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

801 (e) To requisition monies in the Local Governments and  
802 Rural Water Systems Improvements Revolving Loan Fund and the Local  
803 Governments and Rural Water Systems Emergency Loan Fund and  
804 distribute those monies on a project-by-project basis in  
805 accordance with this section;

806 (f) To ensure that the funds made available under this  
807 section and Sections 6 through 20 of Chapter 521, Laws of 1995, to  
808 a county, an incorporated municipality, a district or a water



809 organization that has been granted tax-exempt status under either  
810 federal or state law provide for a distribution of projects and  
811 funds among the entities under a priority system established by  
812 the board;

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

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

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



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

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

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

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



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

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

868       41-3-18. (1) The board shall assess fees in the following  
869 amounts and for the following purposes:

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

872	Assessment Category 1.....	\$ 30.00
873	Assessment Category 2.....	100.00
874	Assessment Category 3.....	150.00
875	Assessment Category 4.....	200.00

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

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

879 Assessment categories shall be based upon the factors to the  
880 public health implications of the category and type of food  
881 preparation being utilized by the food establishment, utilizing



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

884 Any increase in the fees charged by the board under this  
885 subsection shall be in accordance with the provisions of Section  
886 41-3-65.

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

889 (a) Food establishments operated by public schools,  
890 public junior and community colleges, or state agencies or  
891 institutions, including, without limitation, the state  
892 institutions of higher learning and the State Penitentiary; and

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

897 (3) The fee authorized under subsection (1)(b) of this  
898 section shall not be assessed for private water supplies used by  
899 foster homes licensed by the Department of Child Protection  
900 Services.

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

903 41-3-19. It is the duty of the State Board of Health to make  
904 a report, in writing, to the Governor, on or before the first day  
905 of December next preceding each session, not an extraordinary  
906 session of the Legislature, upon the sanitary condition, prospect,



907 and needs of the state, setting forth the action of said board, of  
908 its officers and agents, the names thereof, and all its  
909 expenditures since the last preceding report, and such other  
910 matters as it may deem proper for the promotion of health or the  
911 prevention of disease. The report shall be laid before the  
912 Legislature by the Governor at its ensuing term.

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

915       41-3-20. Sections 41-3-1.1, 41-3-3, 41-3-4, 41-3-5.1,  
916 41-3-6, 41-3-15, 41-3-16, 41-3-17, 41-3-18 and 41-3-19, which  
917 create the State Board of Health, establish the position of  
918 Executive Officer of the State Department of Health and establish  
919 the State Department of Health and prescribe its powers and  
920 duties, shall stand repealed on July 1, \* \* \* 2027.

921       **SECTION 12.** This act shall take effect and be in force from  
922 and after July 1, 2024.

