By: Representative Shanks

To: Public Health and Human Services

HOUSE BILL NO. 764

AN ACT TO REENACT SECTIONS 41-3-1.1, 41-3-3, 41-3-4, 41-3-5.1, 41-3-6, 41-3-15, 41-3-16, 41-3-17, 41-3-18 AND 41-3-19, MISSISSIPPI CODE OF 1972, WHICH CREATE THE STATE BOARD OF HEALTH, ESTABLISH THE POSITION OF EXECUTIVE OFFICER OF THE STATE DEPARTMENT OF HEALTH, AND ESTABLISH AND PRESCRIBE THE POWERS AND DUTIES OF THE STATE DEPARTMENT OF HEALTH; TO AMEND SECTION 41-3-20, MISSISSIPPI CODE OF 1972, TO EXTEND THE DATE OF THE REPEALER ON THOSE REENACTED STATUTES; AND FOR RELATED PURPOSES.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) Maternal and child health;

(ii) Family planning;

(iii) Pediatric services;

(iv) Services to crippled and disabled children;

(v) Control of communicable and noncommunicable disease;

(vi) Chronic disease;

(vii) Accidental deaths and injuries;

(viii) Child care licensure;

(ix) Radiological health;

(x) Dental health;

(xi) Milk sanitation;

(xii) Occupational safety and health;

(xiii) Food, vector control and general sanitation;

(xiv) Protection of drinking water;

(xv) Sanitation in food handling establishments open to the public;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Assessment Category 1.....$ 30.00

Assessment Category 2..... 100.00

Assessment Category 3..... 150.00

Assessment Category 4..... 200.00

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

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

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

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

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

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

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

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

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

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

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

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

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

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