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To: Public Health and
Welfare; Appropriations

COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 2764

1 AN ACT TO AMEND SECTION 41-3-20, MISSISSIPPI CODE OF 1972, TO
2 EXTEND THE AUTOMATIC REPEALER ON THOSE STATUTES WHICH CREATE AND
3 EMPOWER THE STATE BOARD OF HEALTH AND THE STATE DEPARTMENT OF
4 HEALTH; TO REENACT SECTIONS 41-3-1 THROUGH 41-3-19, MISSISSIPPI
5 CODE OF 1972, WHICH CREATE AND EMPOWER THE STATE BOARD OF HEALTH
6 AND THE STATE DEPARTMENT OF HEALTH; TO AMEND SECTION 41-3-1,
7 MISSISSIPPI CODE OF 1972, TO RECONSTITUTE THE MEMBERSHIP OF THE
8 STATE BOARD OF HEALTH, PROVIDE FOR THE NUMBER, QUALIFICATIONS,
9 APPOINTMENT AND TERMS OF NEW MEMBERS, TO PROHIBIT CERTAIN
10 CONFLICTS OF INTEREST BY MEMBERS OF THE BOARD AND TO PROVIDE FOR
11 NONVOTING LEGISLATIVE MEMBERS TO ATTEND BOARD MEETINGS; TO AMEND
12 SECTION 41-3-4, MISSISSIPPI CODE OF 1972, TO CLARIFY THAT THE TERM
13 OF OFFICE OF ANY MEMBER OF THE STATE BOARD OF HEALTH WHO MISSES
14 THREE CONSECUTIVE MEETINGS SHALL BE TERMINATED AND TO PROVIDE FOR
15 A STANDING EXECUTIVE COMMITTEE OF THE STATE BOARD OF HEALTH TO
16 MAKE FINAL DECISIONS ON CERTIFICATE OF NEED MATTERS; TO AMEND
17 SECTION 41-3-15, MISSISSIPPI CODE OF 1972, TO CLARIFY THE GENERAL
18 AUTHORITY OF THE STATE BOARD OF HEALTH AND THE STATE HEALTH
19 OFFICER, TO AUTHORIZE THE STATE DEPARTMENT OF HEALTH TO PROVIDE
20 FOR AND IMPLEMENT A COMPREHENSIVE STATEWIDE TOBACCO EDUCATION,
21 PREVENTION AND CESSATION PROGRAM THAT IS CONSISTENT WITH FEDERAL
22 GUIDELINES, AND TO EXTEND THE AUTOMATIC REPEALER ON THE
23 ADMINISTRATIVE PENALTY ASSESSED ON RESTAURANTS BY THE STATE
24 DEPARTMENT OF HEALTH; TO AMEND SECTION 41-59-61, MISSISSIPPI CODE
25 OF 1972, TO CLARIFY THE AUTHORIZED ADMINISTRATIVE COSTS WHICH MAY
26 BE PAID FROM THE EMERGENCY MEDICAL SERVICES OPERATING FUND; TO
27 AMEND SECTION 41-79-5, MISSISSIPPI CODE OF 1972, TO PROVIDE THE
28 COMPONENTS OF THE TOBACCO EDUCATION, PREVENTION AND CESSATION
29 PROGRAM IMPLEMENTED BY THE STATE DEPARTMENT OF HEALTH; TO AMEND
30 SECTIONS 41-7-197, 41-7-201 AND 41-7-205, MISSISSIPPI CODE OF
31 1972, TO PROVIDE THAT THE STATE BOARD OF HEALTH ACTING THROUGH A
32 STANDING EXECUTIVE COMMITTEE SHALL HAVE THE POWER AND
33 RESPONSIBILITY TO RENDER FINAL DECISIONS ON APPLICATIONS FOR
34 CERTIFICATES OF NEED AND TO PROVIDE FOR INDEPENDENT HEARING
35 OFFICERS AND TO CLARIFY THE STATUS OF CERTIFICATE OF NEED
36 DECISIONS PENDING JUDICIAL APPEAL; TO CODIFY SECTION 41-57-8,
37 MISSISSIPPI CODE OF 1972, TO AUTHORIZE AND DIRECT THE BUREAU OF
38 VITAL STATISTICS OF THE STATE DEPARTMENT OF HEALTH TO OFFER AND
39 ISSUE CERTIFICATES OF BIRTH RESULTING IN STILLBIRTH TO A MOTHER
40 AFTER THE OCCURRENCE OF ANY STILLBIRTH; TO DEFINE "STILLBIRTH" FOR
41 PURPOSES OF THE ISSUANCE OF SUCH CERTIFICATES; TO PROVIDE THAT
42 SUCH CERTIFICATES MAY BE ISSUED RETROACTIVELY; TO AMEND SECTION
43 41-57-11, MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE DEPARTMENT TO
44 CHARGE FEES FOR THE ISSUANCE OF SUCH CERTIFICATES; AND FOR RELATED
45 PURPOSES.

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

47 **SECTION 1.** Section 41-3-20, Mississippi Code of 1972, is
48 amended as follows:

49 41-3-20. Sections 41-3-1 through 41-3-19, which create the
50 State Board of Health and the State Department of Health and
51 prescribe their powers and duties, shall stand repealed on June
52 30, 2010.

53 **SECTION 2.** Section 41-3-1, Mississippi Code of 1972, is
54 amended as follows:

55 41-3-1. (1) The term of office of the members of the State
56 Board of Health serving on January 1, 2007, shall be terminated
57 upon passage of this act. The * * * State Board of Health * * *
58 is hereby continued and reconstituted as follows:

59 There is hereby created the State Board of Health which from
60 and after passage of this act shall consist of two (2) officials
61 and seven (7) members appointed * * * with the advice and consent
62 of the Senate, as hereinafter set forth:

63 (a) The Vice Chancellor for Health Affairs of the
64 University of Mississippi Medical Center, who shall serve in an ex
65 officio capacity with full voting authority;

66 (b) The Executive Director of the Mississippi
67 Department of Mental Health, who shall serve in an ex officio
68 capacity with full voting authority;

69 (c) Two (2) members of the board shall be licensed
70 physicians of good professional standing who shall have had at
71 least seven (7) years' experience in the practice of their
72 profession in this state, appointed by the Governor, one (1) to be
73 appointed from the First Mississippi Supreme Court District for an
74 initial term to expire on July 1, 2010, and one (1) to be
75 appointed from the Third Mississippi Supreme Court District for an
76 initial term to expire on July 1, 2012.

77 (d) One (1) member of the board shall be a licensed
78 physician of good professional standing who shall have had at
79 least seven (7) years' experience in the practice of his
80 profession in this state, appointed by the Lieutenant Governor

81 from the Second Mississippi Supreme Court District, for an initial
82 term to expire on July 1, 2012.

83 (e) One (1) member shall be engaged professionally in
84 rendering health services who shall have had at least seven (7)
85 years' experience in the practice of his profession in this state,
86 appointed by the Governor from the Second Mississippi Supreme
87 Court District, for an initial term to expire on July 1, 2011.

88 (f) Two (2) members shall be engaged professionally in
89 rendering health services who shall have had at least seven (7)
90 years' experience in the practice of his profession in this state,
91 appointed by the Lieutenant Governor, one (1) to be appointed from
92 the First Mississippi Supreme Court District for an initial term
93 to expire on July 1, 2011, and one (1) to be appointed from the
94 Third Mississippi Supreme Court District for an initial term to
95 expire on July 1, 2012.

96 (g) One (1) member shall be a consumer representative
97 with an interest in public health who is not a direct provider of
98 health care goods or services, appointed by the Governor from the
99 state at large for an initial term to expire on July 1, 2010.

100 A member of the board serving prior to January 1, 2007, shall
101 be eligible for reappointment to the reconstituted board unless
102 such person is disqualified due to a conflict of interest. No
103 person shall be eligible for appointment or reappointment to the
104 reconstituted board if related by blood or marriage within the
105 first degree computed by the rule of civil law to another person
106 who is an employee of the State Department of Health.

107 It is the intent of the Legislature that the membership of
108 the board reflect the population of the State of Mississippi.

109 (2) At the expiration of a term of an appointed member,
110 succeeding members of the board shall be appointed in the manner
111 prescribed in subsection (1) of this section for terms of five (5)
112 years from the expiration of the previous term and thereafter
113 until his or her successor is duly appointed. Vacancies in office

114 shall be filled by appointment of the Governor or the Lieutenant
115 Governor, as the case may be, in the same manner as the
116 appointment to the position which becomes vacant, subject to the
117 advice and consent of the Senate at the next regular session of
118 the Legislature. An appointment to fill a vacancy other than by
119 expiration of a term of office shall be for the balance of the
120 unexpired term and thereafter until his or her successor is duly
121 appointed.

122 (3) All members of the State Board of Health shall annually
123 review and sign a statement acknowledging the statutes and
124 policies concerning conflicts of interest. For purposes of this
125 subsection, the term "direct interest" means a material financial
126 interest in a legal entity or employment by a legal entity that is
127 under the jurisdiction or regulatory authority of the State Board
128 of Health, or a material financial interest in a business or
129 employment by a business which is a contractor, subcontractor or
130 vendor with the State Board of Health. The term "indirect
131 interest" means an interest which is less than a direct interest.
132 Any member, upon determining that a matter scheduled for
133 consideration by the State Board of Health results in a conflict
134 with a direct interest, shall immediately notify the Executive
135 Officer of the State Board of Health and shall be recused from any
136 deliberation of the matter, from making any recommendation, from
137 testifying concerning the matter, or from voting on the matter.
138 The member shall join the public during the proceedings. Any
139 member of the State Board of Health with an indirect interest in a
140 matter shall publicly acknowledge such interest. All members
141 shall make every reasonable effort to avoid the appearance of a
142 conflict of interest in conducting board business. If a member is
143 uncertain whether the relationship justifies recusal, the member
144 shall follow the determination of the Mississippi Ethics
145 Commission.

146 A determination by the State Board of Health or any court
147 that (a) a member of the board with a direct interest failed to
148 provide notice and be recused from deliberation of the matter,
149 from making any recommendation, from testifying concerning the
150 matter, or from voting on the matter, or (b) a member of the board
151 is related by blood or marriage within the first degree computed
152 by the rule of civil law to another person who is an employee of
153 the State Department of Health, such determination shall result in
154 a member's automatic termination from the board and the position
155 shall be considered vacant. The member shall not be eligible for
156 appointment to any agency, board or commission of the state for a
157 period of two (2) years.

158 (4) The Lieutenant Governor may designate one (1) Senator
159 and the Speaker of the House of Representatives may designate one
160 (1) Representative to attend any meeting of the State Board of
161 Health. The appointing authorities may designate alternate
162 members from their respective houses to serve when the regular
163 designees are unable to attend such meetings of the board. Such
164 legislative designees shall have no jurisdiction or vote on any
165 matter within the jurisdiction of the board. For attending
166 meetings of the board, such legislators shall receive per diem and
167 expenses which shall be paid from the contingent expense funds of
168 their respective houses in the same amounts as provided for
169 committee meetings when the Legislature is not in session;
170 however, no per diem and expenses for attending meetings of the
171 board will be paid while the Legislature is in session. No per
172 diem and expenses will be paid except for attending meetings of
173 the board without prior approval of the proper committee in their
174 respective houses.

175 (5) It shall be unlawful for any employee of the State
176 Department of Health, to knowingly accept any gift, money or other
177 pecuniary benefit whatsoever, either directly or indirectly, from
178 any person interested as owner, agent or representative of any

179 public or private entity that shall come under the jurisdiction or
180 supervision of the State Department of Health. Any person found
181 guilty of violating the provisions of this subsection shall
182 immediately forfeit his or her office or position and, upon
183 conviction, shall be fined not less than Ten Thousand Dollars
184 (\$10,000.00), or imprisoned in the State Penitentiary for not less
185 than one (1) year, or both.

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

188 41-3-3. Each person appointed as a member of the State Board
189 of Health shall immediately take the oath prescribed by Section
190 268 of the Constitution and file a certificate thereof in the
191 Office of the Secretary of State. Thereupon a commission shall be
192 issued to him under the terms as specified in Section 41-3-1.

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

195 41-3-4. (1) There shall be a chairman and vice chairman of
196 the State Board of Health elected by and from its membership at
197 the first meeting of the board; and the chairman shall be the
198 presiding officer of the board. The board shall adopt rules and
199 regulations governing times and places for meetings, and governing
200 the manner of conducting its business. The term of office of any
201 member who shall not attend three (3) consecutive regular meetings
202 of the board shall be automatically terminated, and the position
203 shall be considered as vacant. All meetings of the board shall be
204 called by the chairman or by a majority of the members of the
205 board, except the first meeting of the original appointees which
206 shall be called by the Governor. All meetings of the Executive
207 Committee established in subsection (3) shall be called by the
208 chairman in accordance with the open meetings law.

209 (2) The members of the board shall receive no annual salary
210 but shall receive per diem compensation as is authorized by law
211 for each day devoted to the discharge of official board duties and

212 shall be entitled to reimbursement for all actual and necessary
213 expenses incurred in the discharge of their duties, including
214 mileage as authorized by Section 25-3-41.

215 (3) There shall be a standing Executive Committee of the
216 State Board of Health, consisting of the chairman and four (4)
217 members of the board appointed by the chairman on an annual
218 rotating basis, one (1) to be appointed from each of the four (4)
219 Mississippi congressional districts. The Executive Committee
220 shall be responsible for rendering final decisions on the issuance
221 of health care facility certificate of need applications as
222 provided in Section 41-7-197 and shall also meet in any month in
223 which there is not a regular meeting of the full State Board of
224 Health in order to monitor the operation of the department.

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

227 41-3-5. The board shall proceed to elect an executive
228 officer who shall be a physician having earned a graduate degree
229 in public health or health care administration or, in the
230 alternative, be a physician who in the opinion of the board is
231 fitted and equipped to execute the duties incumbent upon him by
232 law. The executive officer shall not engage in the private
233 practice of medicine. His term of office shall be six (6) years.
234 The executive officer shall be vested with all the authority of
235 the board when it is not in session, and he shall be subject to
236 such rules and regulations as may be prescribed by the State Board
237 of Health. The executive officer shall be the State Health
238 Officer with such authority and responsibility as is prescribed by
239 law. The executive officer may be removed for cause by majority
240 vote of the members of the board.

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

243 41-3-6. It shall be the duty of the State Board of Health to
244 review the statutes of the State of Mississippi affecting public

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

261 **SECTION 7.** Section 41-3-15, Mississippi Code of 1972, is
262 amended as follows:

263 41-3-15. (1) (a) There shall be a State Department of
264 Health * * *.

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

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

270 (ii) To adopt, modify, repeal and promulgate,
271 after due notice and hearing, and where not otherwise prohibited
272 by federal or state law, to make exceptions to and grant
273 exemptions and variances from, and to enforce rules and
274 regulations implementing or effectuating the powers and duties of
275 the department under any and all statutes within the department's
276 jurisdiction, and as the board may deem necessary;

277 (iii) To apply for, receive and expend any federal
278 or state funds or contributions, gifts, devises, bequests or funds
279 from any other source;

280 (iv) To enter into, and to authorize the executive
281 officer to execute, with the approval of the board, contracts,
282 grants and cooperative agreements with any federal or state agency
283 or subdivision thereof, or any public or private institution
284 located inside or outside the State of Mississippi, or any person,
285 corporation or association in connection with carrying out the
286 provisions of this chapter; and

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

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

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

294 (ii) To supervise and direct all administrative
295 and technical activities of the department;

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

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

303 (v) To employ qualified professional personnel in
304 the subject matter or fields of each office, and such other
305 technical and clerical staff as may be required for the operation
306 of the department;

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

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

316 (viii) To prepare and deliver to the Chairmen of
317 the Public Health and Welfare/Human Services Committees of the
318 Senate and House on or before January 1 of each year, a plan for
319 monitoring infant mortality in Mississippi and a full report of
320 the work of the department on reducing Mississippi's infant
321 mortality and morbidity rates and improving the status of maternal
322 and infant health; and

323 (ix) With the approval of the board, to enter into
324 contracts, grants and cooperative agreements with any federal or
325 state agency or subdivision thereof, or any public or private
326 institution located inside or outside the State of Mississippi, or
327 any person, corporation or association in connection with carrying
328 out the provisions of this chapter, provided the agreements do not
329 have a financial cost in excess of the amounts appropriated for
330 such purposes by the Legislature.

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

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

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

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

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

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

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

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

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

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

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

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

368 (e) To enter into contracts or agreements with any
369 other state or federal agency, or with any private person,
370 organization or group capable of contracting, if it finds such
371 action to be in the public interest.

372 (f) To charge and collect reasonable fees for health
373 services, including immunizations, inspections and related
374 activities, and the board shall charge fees for such services;

375 provided, however, if it is determined that a person receiving
376 services is unable to pay the total fee, the board shall collect
377 any amount such person is able to pay.

378 (g) To accept gifts, trusts, bequests, grants,
379 endowments or transfers of property of any kind.

380 (h) To receive monies coming to it by way of fees for
381 services or by appropriations.

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

389 (ii) To require that a permit be obtained from the
390 Department of Health before such persons begin operation. If any
391 such person fails to obtain the permit required herein, the State
392 Board of Health, after due notice and opportunity for a hearing,
393 may impose a monetary penalty not to exceed One Thousand Dollars
394 (\$1,000.00) for each violation. However, the department is not
395 authorized to impose a monetary penalty against any person whose
396 gross annual prepared food sales are less than Five Thousand
397 Dollars (\$5,000.00). Money collected by the board under this item
398 shall be deposited to the credit of the State General Fund of the
399 State Treasury. This subparagraph (ii) shall stand repealed on
400 July 1, 2010.

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

404 (k) On presentation of proper authority, to enter into
405 and inspect any public place or building where the State Health
406 Officer or his representative deems it necessary and proper to
407 enter for the discovery and suppression of disease and for the

408 enforcement of any health or sanitary laws and regulations in the
409 state.

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

415 (m) To employ, subject to the regulations of the State
416 Personnel Board, qualified professional personnel in the subject
417 matter or fields of each bureau, and such other technical and
418 clerical staff as may be required for the operation of the
419 department. The executive officer shall be the appointing
420 authority for the department, and shall have the power to delegate
421 the authority to appoint or dismiss employees to appropriate
422 subordinates, subject to the rules and regulations of the State
423 Personnel Board.

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

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

430 (5) (a) The State Board of Health shall have the authority,
431 in its discretion, to establish programs to promote the public
432 health, to be administered by the State Department of Health.
433 Specifically, such programs may include, but shall not be limited
434 to, programs in the following areas:

- 435 (i) Maternal and child health;
- 436 (ii) Family planning;
- 437 (iii) Pediatric services;
- 438 (iv) Services to crippled and disabled children;
- 439 (v) Control of communicable and noncommunicable
440 disease;

- 441 (vi) Child care licensure;
442 (vii) Radiological health;
443 (viii) Dental health;
444 (ix) Milk sanitation;
445 (x) Occupational safety and health;
446 (xi) Food, vector control and general sanitation;
447 (xii) Protection of drinking water;
448 (xiii) Sanitation in food handling establishments
449 open to the public;
450 (xiv) Registration of births and deaths and other
451 vital events;
452 (xv) Such public health programs and services as
453 may be assigned to the State Board of Health by the Legislature or
454 by executive order; and
455 (xvi) Regulation of domestic and imported fish for
456 human consumption.

457 (b) The State Board of Health and State Department of
458 Health shall not be authorized to sell, transfer, alienate or
459 otherwise dispose of any of the home health agencies owned and
460 operated by the department on January 1, 1995, and shall not be
461 authorized to sell, transfer, assign, alienate or otherwise
462 dispose of the license of any of those home health agencies,
463 except upon the specific authorization of the Legislature by an
464 amendment to this section. However, this paragraph (b) shall not
465 prevent the board or the department from closing or terminating
466 the operation of any home health agency owned and operated by the
467 department, or closing or terminating any office, branch office or
468 clinic of any such home health agency, or otherwise discontinuing
469 the providing of home health services through any such home health
470 agency, office, branch office or clinic, if the board first
471 demonstrates that there are other providers of home health
472 services in the area being served by the department's home health
473 agency, office, branch office or clinic that will be able to

474 provide adequate home health services to the residents of the area
475 if the department's home health agency, office, branch office or
476 clinic is closed or otherwise discontinues the providing of home
477 health services. This demonstration by the board that there are
478 other providers of adequate home health services in the area shall
479 be spread at length upon the minutes of the board at a regular or
480 special meeting of the board at least thirty (30) days before a
481 home health agency, office, branch office or clinic is proposed to
482 be closed or otherwise discontinue the providing of home health
483 services.

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

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

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

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

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

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

503 (iv) To establish and collect fees to defray the
504 reasonable costs of administering the revolving fund or emergency
505 fund if the State Board of Health determines that such costs will
506 exceed the limitations established in the federal Safe Drinking

507 Water Act, as amended. The administration fees may be included in
508 loan amounts to loan recipients for the purpose of facilitating
509 payment to the board; however, such fees may not exceed five
510 percent (5%) of the loan amount.

511 (7) The department shall perform the following duties
512 relating to tobacco education, prevention and cessation:

513 (a) Develop and implement appropriate policies and
514 procedures for the operation of the tobacco education, prevention
515 and cessation program;

516 (b) Develop and implement a five-year strategic plan
517 for the tobacco education, prevention and cessation program;

518 (c) Develop and maintain an annual operating budget and
519 oversee fiscal management of the tobacco education, prevention and
520 cessation program;

521 (d) Execute any contracts, agreements or other
522 documents with any public school district, governmental agency or
523 any person, corporation, association, partnership or other
524 nonprofit organization or entity that are necessary to accomplish
525 the purposes of this subsection;

526 (e) Receive appropriations, grants, bequeaths, gifts,
527 donations or any other contributions made to the department to be
528 used for specific purposes related to the goals of this
529 subsection;

530 (f) Receive grant applications and provide funds to
531 public school districts or nonprofit entities to be used for
532 specific purposes relative to the goals of this subsection;

533 (g) Receive grant applications and provide funds to the
534 Mississippi Bureau of Narcotics for the purpose of hiring agents
535 and supporting efforts to reduce drug crime;

536 (h) Submit an annual report to the Legislature
537 regarding the operation of the department;

538 (i) Submit to the State Auditor any financial records
539 that are necessary for the Auditor to perform an annual audit of
540 the department as required by law;

541 (j) Adopt any rules or regulations that are necessary
542 to carry out the purposes of this subsection; and

543 (k) Take any other actions that are necessary to carry
544 out the purposes of this subsection.

545 **SECTION 8.** Section 41-3-16, Mississippi Code of 1972, is
546 reenacted as follows:

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

563 (b) (i) There is created a board to be known as the
564 "Local Governments and Rural Water Systems Improvements Board,"
565 referred to in this section as "board," to be composed of the
566 following nine (9) members: the State Health Officer, or his
567 designee, who shall serve as chairman of the board; the Executive
568 Director of the Mississippi Development Authority, or his
569 designee; the Executive Director of the Department of
570 Environmental Quality, or his designee; the Executive Director of

571 the Department of Finance and Administration, or his designee; the
572 Executive Director of the Mississippi Association of Supervisors,
573 or his designee; the Executive Director of the Mississippi
574 Municipal League, or his designee; the Executive Director of the
575 Consulting Engineers Council, or his designee; the State Director
576 of the United States Department of Agriculture, Rural Development,
577 or his designee; and a manager of a rural water system.

578 The Governor shall appoint a manager of a rural water system
579 from a list of candidates provided by the Executive Director of
580 the Mississippi Rural Water Association. The Executive Director
581 of the Mississippi Rural Water Association shall provide the
582 Governor a list of candidates which shall contain a minimum of
583 three (3) candidates for each appointment.

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

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

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

603 provide the water consumers of Mississippi safe drinking water at
604 affordable prices.

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

608 (2) (a) There is created a special fund in the State
609 Treasury to be designated as the "Local Governments and Rural
610 Water Systems Improvements Revolving Loan Fund," referred to in
611 this section as "revolving fund," which fund shall consist of
612 those monies as provided in Sections 6 and 13 of Chapter 521, Laws
613 of 1995. The revolving fund may receive appropriations, bond
614 proceeds, grants, gifts, donations or funds from any source,
615 public or private. The revolving fund shall be credited with all
616 repayments of principal and interest derived from loans made from
617 the revolving fund. The monies in the revolving fund may be
618 expended only in amounts appropriated by the Legislature, and the
619 different amounts specifically provided for the loan program and
620 the grant program shall be so designated. Monies in the fund may
621 only be expended for the grant program from the amount designated
622 for such program. The revolving fund shall be maintained in
623 perpetuity for the purposes established in this section and
624 Sections 6 through 20 of Chapter 521, Laws of 1995. Unexpended
625 amounts remaining in the revolving fund at the end of a fiscal
626 year shall not lapse into the State General Fund, and any interest
627 earned on amounts in the revolving fund shall be deposited to the
628 credit of the fund. Monies in the revolving fund may not be used
629 or expended for any purpose except as authorized under this
630 section and Sections 6 through 20 of Chapter 521, Laws of 1995.
631 Any monies in the fund may be used to match any federal funds that
632 are available for the same or related purposes for which funds are
633 used and expended under this section and Sections 6 through 20 of
634 Chapter 521, Laws of 1995. Any federal funds shall be used and
635 expended only in accordance with federal laws, rules and

636 regulations governing the expenditure of those funds. No person
637 shall use any monies from the revolving fund for the acquisition
638 of real property or any interest in real property unless that
639 property is integral to the project funded under this section and
640 the purchase is made from a willing seller. No county,
641 incorporated municipality or district shall acquire any real
642 property or any interest in any real property for a project funded
643 through the revolving fund by condemnation. The board's
644 application of Sections 43-37-1 through 43-37-13 shall be no more
645 stringent or extensive in scope, coverage and effect than federal
646 property acquisition laws and regulations.

647 (b) There is created a special fund in the State
648 Treasury to be designated as the "Local Governments and Rural
649 Water Systems Emergency Loan Fund," hereinafter referred to as
650 "emergency fund," which fund shall consist of those monies as
651 provided in Sections 6 and 13 of Chapter 521, Laws of 1995. The
652 emergency fund may receive appropriations, bond proceeds, grants,
653 gifts, donations or funds from any source, public or private. The
654 emergency fund shall be credited with all repayments of principal
655 and interest derived from loans made from the emergency fund. The
656 monies in the emergency fund may be expended only in amounts
657 appropriated by the Legislature. The emergency fund shall be
658 maintained in perpetuity for the purposes established in this
659 section and Section 6 of Chapter 521, Laws of 1995. Unexpended
660 amounts remaining in the emergency fund at the end of a fiscal
661 year shall not lapse into the State General Fund. Any interest
662 earned on amounts in the emergency fund shall be deposited to the
663 credit of the fund. Monies in the emergency fund may not be used
664 or expended for any purpose except as authorized under this
665 section and Section 6 of Chapter 521, Laws of 1995.

666 (c) The board created in subsection (1) shall establish
667 loan and grant programs by which loans and grants may be made
668 available to counties, incorporated municipalities, districts or

669 other water organizations that have been granted tax exempt status
670 under either federal or state law, to assist those counties,
671 incorporated municipalities, districts or water organizations in
672 making water systems improvements, including the construction of
673 new water systems or expansion or repair of existing water
674 systems. Any entity eligible under this section may receive
675 either a loan or a grant, or both. No grant awarded under the
676 program established in this section may be made using funds from
677 the loan program. Grants may be awarded only when the Legislature
678 specifically appropriates funds for that particular purpose. The
679 interest rate on those loans may vary from time to time and from
680 loan to loan, and will be at or below market interest rates as
681 determined by the board. The board shall act as quickly as is
682 practicable and prudent in deciding on any loan request that it
683 receives. Loans from the revolving fund or emergency fund may be
684 made to counties, incorporated municipalities, districts or other
685 water organizations that have been granted tax exempt status under
686 either federal or state law, as set forth in a loan agreement in
687 amounts not to exceed one hundred percent (100%) of eligible
688 project costs as established by the board. The board may require
689 county, municipal, district or other water organization
690 participation or funding from other sources, or otherwise limit
691 the percentage of costs covered by loans from the revolving fund
692 or the emergency fund. The maximum amount for any loan from the
693 emergency fund shall be Five Hundred Thousand Dollars
694 (\$500,000.00), and the maximum amount for any loan from the
695 revolving fund shall be One Million Five Hundred Thousand Dollars
696 (\$1,500,000.00).

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

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

729 (e) Any county, incorporated municipality, district or
730 other water organization desiring to construct a project approved
731 by the board which receives a loan from the state for that purpose
732 but which is not eligible to pledge for repayment under the
733 provisions of paragraph (d) of this subsection, shall repay that
734 loan by making payments each month to the State Treasurer through

735 the Department of Finance and Administration for and on behalf of
736 the board according to Section 7-7-15, to be credited to either
737 the revolving fund or the emergency fund, whichever is
738 appropriate, in lieu of pledging homestead exemption annual tax
739 loss reimbursement or sales tax revenue distribution.

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

743 (f) Any district created pursuant to Sections 19-5-151
744 through 19-5-207 that receives a loan from the revolving fund or
745 the emergency fund shall pledge for repayment of the loan any part
746 of the revenues received by that district pursuant to Sections
747 19-5-151 through 19-5-207, as may be required to meet the
748 repayment schedule contained in the loan agreement.

749 (g) The State Auditor, upon request of the board, shall
750 audit the receipts and expenditures of a county, an incorporated
751 municipality, district or other water organization whose loan
752 repayments appear to be in arrears, and if the Auditor finds that
753 the county, incorporated municipality, district or other water
754 organization is in arrears in those repayments, the Auditor shall
755 immediately notify the chairman of the board who may take any
756 action as may be necessary to enforce the terms of the loan
757 agreement, including liquidation and enforcement of the security
758 given for repayment of the loan, and the Executive Director of the
759 Department of Finance and Administration who shall withhold all
760 future payments to the county of homestead exemption annual tax
761 loss reimbursements under Section 27-33-77 and all sums allocated
762 to the county or the incorporated municipality under Section
763 27-65-75 until such time as the county or the incorporated
764 municipality is again current in its loan repayments as certified
765 by the board.

766 (h) All monies deposited in the revolving fund or the
767 emergency fund, including loan repayments and interest earned on

768 those repayments, shall be used only for providing loans or other
769 financial assistance to water systems as the board deems
770 appropriate. In addition, any amounts in the revolving fund or
771 the emergency fund may be used to defray the reasonable costs of
772 administering the revolving fund or the emergency fund and
773 conducting activities under this section and Sections 6 through 20
774 of Chapter 521, Laws of 1995, subject to any limitations
775 established in the federal Safe Drinking Water Act, as amended and
776 subject to annual appropriation by the Legislature. The
777 department is authorized, upon approval by the board, to use
778 amounts available to it from the revolving fund or the emergency
779 fund to contract for those facilities and staff needed to
780 administer and provide routine management for the funds and loan
781 program.

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

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

789 (b) To promulgate rules and regulations, to make
790 variances and exceptions thereto, and to establish procedures in
791 accordance with this section and Sections 6 through 20 of Chapter
792 521, Laws of 1995, for the implementation of the local governments
793 and rural water systems improvements revolving loan program;

794 (c) To require, at the board's discretion, any loan or
795 grant recipient to impose a per connection fee or surcharge or
796 amended water rate schedule or tariff on each customer or any
797 class of customers, benefiting from an improvement financed by a
798 loan or grant made under this section, for repayment of any loan
799 funds provided under this section and Sections 6 through 20 of
800 Chapter 521, Laws of 1995. The board may require any loan or

801 grant recipient to undergo a water system viability analysis and
802 may require a loan or grant recipient to implement any result of
803 the viability analysis. If the loan recipient fails to implement
804 any result of a viability analysis as required by the board, the
805 board may impose a monetary penalty or increase the interest rate
806 on the loan, or both. If the grant recipient fails to implement
807 any result of a viability analysis as required by the board, the
808 board may impose a monetary penalty on the grant;

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

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

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

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

831 (h) To establish policies, procedures and requirements
832 concerning viability and financial capability to repay loans that
833 may be used in approving loans available under this section,

834 including a requirement that all loan recipients have a rate
835 structure which will be sufficient to cover the costs of
836 operation, maintenance, major equipment replacement and repayment
837 of any loans made under this section; and

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

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

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

860 **SECTION 9.** Section 41-3-17, Mississippi Code of 1972, is
861 reenacted as follows:

862 41-3-17. The State Board of Health is authorized to make and
863 publish all reasonable rules and regulations necessary to enable
864 it to discharge its duties and powers and to carry out the
865 purposes and objectives of its creation. It is further authorized
866 to make reasonable sanitary rules and regulations, to be enforced

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

878 **SECTION 10.** Section 41-3-18, Mississippi Code of 1972, is
879 reenacted as follows:

880 41-3-18. The board shall assess fees in the following
881 amounts and for the following purposes:

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

884	Assessment Category 1.....	\$ 15.00
885	Assessment Category 2.....	30.00
886	Assessment Category 3.....	70.00
887	Assessment Category 4	100.00
888	Assessment Category 5	150.00

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

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

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

897 The fee authorized under paragraph (a) of this section shall
898 not be assessed for food establishments operated by public
899 schools, public junior and community colleges, or state agencies

900 or institutions, including without limitation, the state
901 institutions of higher learning and the State Penitentiary.

902 The fee authorized under paragraph (b) of this section shall
903 not be assessed for private water supplies used by foster homes
904 licensed by the Department of Human Services.

905 **SECTION 11.** Section 41-3-19, Mississippi Code of 1972, is
906 reenacted as follows:

907 41-3-19. It is the duty of the State Board of Health to make
908 a report, in writing, to the Governor, on or before the first day
909 of December next preceding each session, not an extraordinary
910 session of the Legislature, upon the sanitary condition, prospect,
911 and needs of the state, setting forth the action of said board, of
912 its officers and agents, the names thereof, and all its
913 expenditures since the last preceding report, and such other
914 matters as it may deem proper for the promotion of health or the
915 prevention of disease. The report shall be laid before the
916 Legislature by the Governor at its ensuing term.

917 **SECTION 12.** Section 41-59-61, Mississippi Code of 1972, is
918 amended as follows:

919 41-59-61. (1) Such assessments as are collected under
920 subsections (1) and (2) of Section 99-19-73 shall be deposited in
921 a special fund hereby created in the State Treasury to be
922 designated the "Emergency Medical Services Operating Fund." The
923 Legislature may make appropriations from the Emergency Medical
924 Services Operating Fund to the State Board of Health for the
925 purpose of defraying costs of administration of the Emergency
926 Medical Services Operating Fund (EMSOF) and for redistribution of
927 such funds to the counties, municipalities and organized medical
928 service districts (hereinafter referred to as "governmental
929 units") for the support of the Emergency Medical Services
930 programs. The State Board of Health * * * shall administer the
931 disbursement to such governmental units of any funds appropriated

932 to the board from the Emergency Medical Services Operating Fund
933 and the utilization of such funds by the governmental units.

934 (2) Funds appropriated from the Emergency Medical Services
935 Operating Fund to the State Board of Health shall be made
936 available to all such governmental units to support the Emergency
937 Medical Services programs therein, and such funds shall be
938 distributed to each governmental unit based upon its general
939 population relative to the total population of the state.
940 Disbursement of such funds shall be made on an annual basis at the
941 end of the fiscal year upon the request of each governmental unit.
942 Funds distributed to such governmental units shall be used in
943 addition to existing annual Emergency Medical Services budgets of
944 the governmental units, and no such funds shall be used for the
945 payment of any attorney's fees. The Director of the Emergency
946 Medical Services program or his appointed designee is hereby
947 authorized to require financial reports from the governmental
948 units utilizing these funds in order to provide satisfactory proof
949 of the maintenance of the funding effort by the governmental
950 units.

951 **SECTION 13.** Section 41-79-5, Mississippi Code of 1972, is
952 amended as follows:

953 41-79-5. (1) There is hereby established within the State
954 Department of Health a school nurse intervention program,
955 available to all public school districts in the state.

956 (2) By the school year 1998-1999, each public school
957 district shall have employed a school nurse, to be known as a
958 Health Service Coordinator, pursuant to the school nurse
959 intervention program prescribed under this section. The school
960 nurse intervention program shall offer any of the following
961 specific preventive services, and other additional services
962 appropriate to each grade level and the age and maturity of the
963 pupils:

- 964 (a) Reproductive health education and referral to
965 prevent teen pregnancy and sexually transmitted diseases, which
966 education shall include abstinence;
- 967 (b) Child abuse and neglect identification;
- 968 (c) Statutory rape counseling;
- 969 (d) Hearing and vision screening to detect problems
970 which can lead to serious sensory losses and behavioral and
971 academic problems;
- 972 (e) Alcohol, tobacco and drug abuse education to reduce
973 abuse of these substances;
- 974 (f) Scoliosis screening to detect this condition so
975 that costly and painful surgery and lifelong disability can be
976 prevented;
- 977 (g) Coordination of services for handicapped children
978 to ensure that these children receive appropriate medical
979 assistance and are able to remain in public school;
- 980 (h) Nutrition education and counseling to prevent
981 obesity and/or other eating disorders which may lead to
982 life-threatening conditions, for example, hypertension;
- 983 (i) Early detection and treatment of head lice to
984 prevent the spread of the parasite and to reduce absenteeism;
- 985 (j) Emergency treatment of injury and illness to
986 include controlling bleeding, managing fractures, bruises or
987 contusions and cardiopulmonary resuscitation (CPR);
- 988 (k) Applying appropriate theory as the basis for
989 decision making in nursing practice;
- 990 (l) Establishing and maintaining a comprehensive school
991 health program;
- 992 (m) Developing individualized health plans;
- 993 (n) Assessing, planning, implementing and evaluating
994 programs and other school health activities, in collaboration with
995 other professionals;

996 (o) Providing health education to assist students,
997 families and groups to achieve optimal levels of wellness;

998 (p) Participating in peer review and other means of
999 evaluation to assure quality of nursing care provided for students
1000 and assuming responsibility for continuing education and
1001 professional development for self while contributing to the
1002 professional growth of others;

1003 (q) Participating with other key members of the
1004 community responsible for assessing, planning, implementing and
1005 evaluating school health services and community services that
1006 include the broad continuum or promotion of primary, secondary and
1007 tertiary prevention; and

1008 (r) Contributing to nursing and school health through
1009 innovations in theory and practice and participation in research.

1010 (3) Public school nurses shall be specifically prohibited
1011 from providing abortion counseling to any student or referring any
1012 student to abortion counseling or abortion clinics. Any violation
1013 of this subsection shall disqualify the school district employing
1014 such public school nurse from receiving any state administered
1015 funds under this section.

1016 (4) The State Department of Health shall develop and
1017 implement a comprehensive and statewide tobacco education,
1018 prevention and cessation program that is consistent with the
1019 recommendations for effective program components and funding
1020 recommendations in the 1999 Best Practices for Comprehensive
1021 Tobacco Control Programs of the federal Centers for Disease
1022 Control and Prevention, as those Best Practices may be
1023 periodically amended by the Centers for Disease Control and
1024 Prevention. At a minimum, the program shall include the following
1025 components, and may include additional components that are
1026 contained within the Best Practices for Comprehensive Tobacco
1027 Control Programs of the federal Centers for Disease Control and
1028 Prevention, as periodically amended, and that based on scientific

1029 data and research have been shown to be effective at accomplishing
1030 the purposes of this subsection:

1031 (a) The employment of school nurses by public school
1032 districts;

1033 (b) The use of mass media, including paid advertising
1034 and other communication tools to discourage the use of tobacco
1035 products and to educate people, especially youth, about the health
1036 hazards from the use of tobacco products, which shall be designed
1037 to be effective at achieving these goals and shall include, but
1038 need not be limited to, television, radio, and print advertising,
1039 as well as sponsorship, exhibits and other opportunities to raise
1040 awareness statewide;

1041 (c) Evidence-based curricula and programs implemented
1042 in schools to educate youth about tobacco and to discourage their
1043 use of tobacco products, including, but not limited to, programs
1044 that involve youth, educate youth about the health hazards from
1045 the use of tobacco products, help youth develop skills to refuse
1046 tobacco products, and demonstrate to youth how to stop using
1047 tobacco products;

1048 (d) Local community programs, including, but not
1049 limited to, youth-based partnerships that discourage the use of
1050 tobacco products and involve community-based organizations in
1051 tobacco education, prevention and cessation programs in their
1052 communities;

1053 (e) Enforcement of laws, regulations and policies
1054 against the sale or other provision of tobacco products to minors,
1055 and the possession of tobacco products by minors;

1056 (f) Programs to assist and help people to stop using
1057 tobacco products;

1058 (g) Programs to support the misdemeanor of narcotics in
1059 hiring agents to reduce drug crime; and

1060 (h) A surveillance and evaluation system that monitors
1061 program accountability and results, produces publicly available

1062 reports that review how monies expended for the program are spent,
1063 and includes an evaluation of the program's effectiveness in
1064 reducing and preventing the use of tobacco products, and annual
1065 recommendations for improvements to enhance the program's
1066 effectiveness.

1067 Funding for the different components of the program shall be
1068 pursuant to specific appropriation by the Legislature and
1069 apportioned between the components based on the recommendations in
1070 the Best Practices for Comprehensive Tobacco Control Programs of
1071 the federal Centers for Disease Control and Prevention, as
1072 periodically amended, to provide adequate program development,
1073 implementation and evaluation for effective control of the use of
1074 tobacco products. Funds appropriated for tobacco education and
1075 cessation program shall not be commingled with other program funds
1076 of the department. While the department shall develop annual
1077 budgets based on strategic planning, components of the program
1078 shall be funded using the following areas as guidelines for
1079 priority:

- 1080 (a) School nurses;
- 1081 (b) School programs;
- 1082 (c) Narcotics agents;
- 1083 (d) Law enforcement;
- 1084 (e) Mass media (counter-marketing);
- 1085 (f) Cessation programs (including media promotions);
- 1086 (g) Community programs;
- 1087 (h) Surveillance and evaluation; and
- 1088 (i) Administration and management; however, not more
1089 than five percent (5%) of the total budget may be expended for
1090 administration and management purposes.

1091 (5) Beginning with the 1997-1998 school year, to the extent
1092 that federal or state funds are available therefor and pursuant to
1093 appropriation therefor by the Legislature, in addition to the
1094 school nurse intervention program funds administered under

1095 subsection (4), the State Department of Health shall establish and
1096 implement a Prevention of Teen Pregnancy Pilot Program to be
1097 located in the public school districts with the highest numbers of
1098 teen pregnancies. The Teen Pregnancy Pilot Program shall provide
1099 the following education services directly through public school
1100 nurses in the pilot school districts: health education sessions
1101 in local schools, where contracted for or invited to provide,
1102 which target issues including reproductive health, teen pregnancy
1103 prevention and sexually transmitted diseases, including syphilis,
1104 HIV and AIDS. When these services are provided by a school nurse,
1105 training and counseling on abstinence shall be included.

1106 (6) In addition to the school nurse intervention program
1107 funds administered under subsection (4) and the Teen Pregnancy
1108 Pilot Program funds administered under subsection (5), to the
1109 extent that federal or state funds are available therefor and
1110 pursuant to appropriation therefor by the Legislature, the State
1111 Department of Health shall establish and implement an Abstinence
1112 Education Pilot Program to provide abstinence education,
1113 mentoring, counseling and adult supervision to promote abstinence
1114 from sexual activity, with a focus on those groups which are most
1115 likely to bear children out of wedlock. Such abstinence education
1116 services shall be provided by the State Department of Health
1117 through its clinics, public health nurses, school nurses and
1118 through contracts with rural and community health centers in order
1119 to reach a larger number of targeted clients. For purposes of
1120 this subsection, the term "abstinence education" means an
1121 educational or motivational program which:

1122 (a) Has as its exclusive purpose, teaching the social,
1123 psychological and health gains to be realized by abstaining from
1124 sexual activity;

1125 (b) Teaches abstinence from sexual activity outside
1126 marriage as the expected standard for all school-age children;

1127 (c) Teaches that abstinence from sexual activity is the
1128 only certain way to avoid out-of-wedlock pregnancy, sexually
1129 transmitted diseases and other associated health problems;

1130 (d) Teaches that a mutually faithful monogamous
1131 relationship in context of marriage is the expected standard of
1132 human sexual activity;

1133 (e) Teaches that sexual activity outside of the context
1134 of marriage is likely to have harmful psychological and physical
1135 effects;

1136 (f) Teaches that bearing children out of wedlock is
1137 likely to have harmful consequences for the child, the child's
1138 parents and society;

1139 (g) Teaches young people how to reject sexual advances
1140 and how alcohol and drug use increase vulnerability to sexual
1141 advances; and

1142 (h) Teaches the importance of attaining
1143 self-sufficiency before engaging in sexual activity.

1144 (7) Beginning with the 1998-1999 school year and pursuant to
1145 appropriation therefor by the Legislature, in addition to other
1146 funds allotted under the minimum education program, each school
1147 district shall be allotted an additional teacher unit per every
1148 one hundred (100) teacher units, for the purpose of employing
1149 qualified public school nurses in such school district, which in
1150 no event shall be less than one (1) teacher unit per school
1151 district, for such purpose. In the event the Legislature provides
1152 less funds than the total state funds needed for the public school
1153 nurse allotment, those school districts with fewer teacher units
1154 shall be the first funded for such purpose, to the extent of funds
1155 available.

1156 (8) Prior to the 1998-1999 school year, nursing staff
1157 assigned to the program shall be employed through the local county
1158 health department and shall be subject to the supervision of the
1159 State Department of Health with input from local school officials.

1160 Local county health departments may contract with any
1161 comprehensive private primary health care facilities within their
1162 county to employ and utilize additional nursing staff. Beginning
1163 with the 1998-1999 school year, nursing staff assigned to the
1164 program shall be employed by the local school district and shall
1165 be designated as "health service coordinators," and shall be
1166 required to possess a bachelor's degree in nursing as a minimum
1167 qualification.

1168 (9) Upon each student's enrollment, the parent or guardian
1169 shall be provided with information regarding the scope of the
1170 school nurse intervention program. The parent or guardian may
1171 provide the school administration with a written statement
1172 refusing all or any part of the nursing service. No child shall
1173 be required to undergo hearing and vision or scoliosis screening
1174 or any other physical examination or tests whose parent objects
1175 thereto on the grounds such screening, physical examination or
1176 tests are contrary to his sincerely held religious beliefs.

1177 (10) A consent form for reproductive health education shall
1178 be sent to the parent or guardian of each student upon his
1179 enrollment. If a response from the parent or guardian is not
1180 received within seven (7) days after the consent form is sent, the
1181 school shall send a letter to the student's home notifying the
1182 parent or guardian of the consent form. If the parent or guardian
1183 fails to respond to the letter within ten (10) days after it is
1184 sent, then the school principal shall be authorized to allow the
1185 student to receive reproductive health education. Reproductive
1186 health education shall include the teaching of total abstinence
1187 from premarital sex and, wherever practicable, reproductive health
1188 education should be taught in classes divided according to gender.
1189 All materials used in the reproductive health education program
1190 shall be placed in a convenient and easily accessible location for
1191 parental inspection. School nurses shall not dispense birth
1192 control pills or contraceptive devices in the school. Dispensing

1193 of such shall be the responsibility of the State Department of
1194 Health on a referral basis only.

1195 (11) No provision of this section shall be construed as
1196 prohibiting local school districts from accepting financial
1197 assistance of any type from the State of Mississippi or any other
1198 governmental entity, or any contribution, donation, gift, decree
1199 or bequest from any source which may be utilized for the
1200 maintenance or implementation of a school nurse intervention
1201 program in a public school system of this state.

1202 **SECTION 14.** Section 41-7-197, Mississippi Code of 1972, is
1203 amended as follows:

1204 41-7-197. (1) The State Board of Health shall adopt and
1205 utilize procedures for conducting certificate of need reviews.
1206 Such procedures shall include, inter alia, the following: (a)
1207 written notification to the applicant; (b) written notification to
1208 health care facilities in the same health service area as the
1209 proposed service; (c) written notification to other persons who
1210 prior to the receipt of the application have filed a formal notice
1211 of intent to provide the proposed services in the same service
1212 area; * * * (d) notification to members of the public who reside
1213 in the service area where the service is proposed, which may be
1214 provided through newspapers or public information channels; and
1215 (e) the establishment of a five-member Committee of the State
1216 Board of Health to render final decisions on the record for
1217 applications for health care facility certificate of need
1218 applications. The committee shall be the Executive Committee of
1219 the State Board of Health appointed by the chairman in the manner
1220 provided in Section 41-3-4(3), Mississippi Code of 1972.

1221 (2) All notices provided shall include, inter alia, the
1222 following: (a) the proposed schedule for the review; (b) written
1223 notification of the period within which a public hearing during
1224 the course of the review may be requested in writing by one or
1225 more affected persons, such request to be made within twenty (20)

1226 days of said notification; and (c) the manner in which
1227 notification will be provided of the time and place of any hearing
1228 so requested. Any such hearing shall be conducted by an
1229 independent hearing officer, who is not an employee of the
1230 department, designated by the State Board of Health. At such
1231 hearing, the hearing officer and any person affected by the
1232 proposal being reviewed may conduct reasonable questioning of
1233 persons who make relevant factual allegations concerning the
1234 proposal. The hearing officer shall require that all persons be
1235 sworn before they may offer any testimony at the hearing, and the
1236 hearing officer is authorized to administer oaths. Any person so
1237 choosing may be represented by counsel at the hearing. A record
1238 of the hearing shall be made, which shall consist of a transcript
1239 of all testimony received, all documents and other material
1240 introduced by any interested person, the staff report and
1241 recommendation and such other material as the hearing officer
1242 considers relevant, including his own recommendation, which he
1243 shall make within a reasonable period of time after the hearing is
1244 closed and after he has had an opportunity to review, study and
1245 analyze the evidence presented during the hearing. The completed
1246 record shall be certified to the State Board of Health * * *,
1247 which shall consider only the record in making its decision, and
1248 shall not consider any evidence or material which is not included
1249 therein. All final decisions regarding the issuance of a
1250 certificate of need shall be made by the standing Executive
1251 Committee of the State Board of Health * * * at its next regularly
1252 scheduled meeting. The State Board of Health, acting through its
1253 standing Executive Committee, * * * shall make its written
1254 findings and issue its order after reviewing said record. The
1255 findings and decision of the standing Executive Committee of the
1256 State Board of Health * * * shall not be deferred to any later
1257 date, and any deferral shall result in an automatic order of
1258 approval.

1259 (3) If review by the State Board of Health concerning the
1260 issuance of a certificate of need is not complete within the time
1261 specified by rule or regulation, which shall not, to the extent
1262 practicable, exceed ninety (90) days, the certificate of need
1263 shall not be granted. The proponent of the proposal may, within
1264 thirty (30) days, after the expiration of the specified time for
1265 review, commence such legal action as is necessary, in the
1266 Chancery Court of the First Judicial District of Hinds County or
1267 in the chancery court of the county in which the new institutional
1268 health service is proposed to be provided, to compel the State
1269 Board of Health * * * to issue written findings and written order
1270 approving or disapproving the proposal in question.

1271 **SECTION 15.** Section 41-7-201, Mississippi Code of 1972, is
1272 amended as follows:

1273 41-7-201. (1) The provisions of this subsection (1) shall
1274 apply to any party appealing any final order of the State Board of
1275 Health pertaining to a certificate of need for a home health
1276 agency, as defined in Section 41-7-173(h)(ix):

1277 (a) In addition to other remedies now available at law
1278 or in equity, any party aggrieved by any such final order of the
1279 State Board of Health shall have the right of appeal to the
1280 Chancery Court of the First Judicial District of Hinds County,
1281 Mississippi, which appeal must be filed within thirty (30) days
1282 after the date of the final order. Provided, however, that any
1283 appeal of an order disapproving an application for such a
1284 certificate of need may be made to the chancery court of the
1285 county where the proposed construction, expansion or alteration
1286 was to be located or the new service or purpose of the capital
1287 expenditure was to be located. Such appeal must be filed in
1288 accordance with the thirty (30) days for filing as heretofore
1289 provided. Any appeal shall state briefly the nature of the
1290 proceedings before the State Board of Health and shall specify the
1291 order complained of. Any person whose rights may be materially

1292 affected by the action of the State Board of Health may appear and
1293 become a party or the court may, upon motion, order that any such
1294 person, organization or entity be joined as a necessary party.

1295 (b) Upon the filing of such an appeal, the clerk of the
1296 chancery court shall serve notice thereof upon the State Board of
1297 Health, whereupon the State Department of Health shall, within
1298 fifty (50) days or within such additional time as the court may by
1299 order for cause allow from the service of such notice, certify to
1300 the chancery court the record in the case, which records shall
1301 include a transcript of all testimony, together with all exhibits
1302 or copies thereof, all pleadings, proceedings, orders, findings
1303 and opinions entered in the case; provided, however, that the
1304 parties and the State Department of Health may stipulate that a
1305 specified portion only of the record shall be certified to the
1306 court as the record on appeal.

1307 (c) No new or additional evidence shall be introduced
1308 in the chancery court but the case shall be determined upon the
1309 record certified to the court.

1310 (d) The court may dispose of the appeal in termtime or
1311 vacation and may sustain or dismiss the appeal, modify or vacate
1312 the order complained of in whole or in part as the case may be;
1313 but in case the order is wholly or partly vacated, the court may
1314 also, in its discretion, remand the matter to the State Department
1315 of Health for such further proceedings, not inconsistent with the
1316 court's order, as, in the opinion of the court, justice may
1317 require. The order shall not be vacated or set aside, either in
1318 whole or in part, except for errors of law, unless the court finds
1319 that the order of the State Board of Health is not supported by
1320 substantial evidence, is contrary to the manifest weight of the
1321 evidence, is in excess of the statutory authority or jurisdiction
1322 of the State Board of Health, or violates any vested
1323 constitutional rights of any party involved in the appeal.

1324 Provided, however, an order of the chancery court reversing the

1325 denial of a certificate of need by the State Board of Health shall
1326 not entitle the applicant to effectuate the certificate of need
1327 until either:

1328 (i) Such order of the chancery court has become
1329 final and has not been appealed to the Supreme Court; or

1330 (ii) The Supreme Court has entered a final order
1331 affirming the chancery court.

1332 (e) Appeals in accordance with law may be had to the
1333 Supreme Court of the State of Mississippi from any final judgment
1334 of the chancery court.

1335 (2) The provisions of this subsection (2) shall apply to any
1336 party appealing any final order of the State Board of Health
1337 pertaining to a certificate of need for any health care facility
1338 as defined in Section 41-7-173(h), with the exception of any home
1339 health agency as defined in Section 41-7-173(h)(ix):

1340 (a) There shall be a "stay of proceedings" of any final
1341 order issued by the State Board of Health pertaining to the
1342 issuance of a certificate of need for the establishment,
1343 construction, expansion or replacement of a health care facility
1344 for a period of thirty (30) days from the date of the order, if an
1345 existing provider located in the same service area where the
1346 health care facility is or will be located has requested a hearing
1347 during the course of review in opposition to the issuance of the
1348 certificate of need. The stay of proceedings shall expire at the
1349 termination of thirty (30) days; however, no construction,
1350 renovation or other capital expenditure that is the subject of the
1351 order shall be undertaken, no license to operate any facility that
1352 is the subject of the order shall be issued by the licensing
1353 agency, and no certification to participate in the Title XVIII or
1354 Title XIX programs of the Social Security Act shall be granted,
1355 until all statutory appeals have been exhausted or the time for
1356 such appeals has expired. Notwithstanding the foregoing, the
1357 filing of an appeal from a final order of the State Board of

1358 Health or the chancery court for the issuance of a certificate of
1359 need shall not prevent the purchase of medical equipment or
1360 development or offering of institutional health services granted
1361 in a certificate of need issued by the State Board of Health.

1362 (b) In addition to other remedies now available at law
1363 or in equity, any party aggrieved by any such final order of the
1364 State Board of Health shall have the right of appeal to the
1365 Chancery Court of the First Judicial District of Hinds County,
1366 Mississippi, which appeal must be filed within twenty (20) days
1367 after the date of the final order. Provided, however, that any
1368 appeal of an order disapproving an application for such a
1369 certificate of need may be made to the chancery court of the
1370 county where the proposed construction, expansion or alteration
1371 was to be located or the new service or purpose of the capital
1372 expenditure was to be located. Such appeal must be filed in
1373 accordance with the twenty (20) days for filing as heretofore
1374 provided. Any appeal shall state briefly the nature of the
1375 proceedings before the State Board of Health and shall specify the
1376 order complained of.

1377 (c) Upon the filing of such an appeal, the clerk of the
1378 chancery court shall serve notice thereof upon the State Board of
1379 Health, whereupon the State Department of Health shall, within
1380 thirty (30) days of the date of the filing of the appeal, certify
1381 to the chancery court the record in the case, which records shall
1382 include a transcript of all testimony, together with all exhibits
1383 or copies thereof, all pleadings, proceedings, orders, findings
1384 and opinions entered in the case; provided, however, that the
1385 parties and the State Department of Health may stipulate that a
1386 specified portion only of the record shall be certified to the
1387 court as the record on appeal. The chancery court shall give
1388 preference to any such appeal from a final order by the State
1389 Board of Health in a certificate of need proceeding, and shall
1390 render a final order regarding such appeal no later than one

1391 hundred twenty (120) days from the date of the final order by the
1392 State Board of Health. If the chancery court has not rendered a
1393 final order within this 120-day period, then the final order of
1394 the State Board of Health shall be deemed to have been affirmed by
1395 the chancery court, and any party to the appeal shall have the
1396 right to appeal from the chancery court to the Supreme Court on
1397 the record certified by the State Department of Health as
1398 otherwise provided in paragraph (g) of this subsection. In the
1399 event the chancery court has not rendered a final order within the
1400 120-day period and an appeal is made to the Supreme Court as
1401 provided herein, the Supreme Court shall remand the case to the
1402 chancery court to make an award of costs, fees, reasonable
1403 expenses and attorney's fees incurred in favor of appellee payable
1404 by the appellant(s) should the Supreme Court affirm the order of
1405 the State Board of Health.

1406 (d) Any appeal of a final order by the State Board of
1407 Health in a certificate of need proceeding shall require the
1408 giving of a bond by the appellant(s) sufficient to secure the
1409 appellee against the loss of costs, fees, expenses and attorney's
1410 fees incurred in defense of the appeal, approved by the chancery
1411 court within five (5) days of the date of filing the appeal.

1412 (e) No new or additional evidence shall be introduced
1413 in the chancery court but the case shall be determined upon the
1414 record certified to the court.

1415 (f) The court may dispose of the appeal in termtime or
1416 vacation and may sustain or dismiss the appeal, modify or vacate
1417 the order complained of in whole or in part and may make an award
1418 of costs, fees, expenses and attorney's fees, as the case may be;
1419 but in case the order is wholly or partly vacated, the court may
1420 also, in its discretion, remand the matter to the State Board of
1421 Health for such further proceedings, not inconsistent with the
1422 court's order, as, in the opinion of the court, justice may
1423 require. The court, as part of the final order, shall make an

1424 award of costs, fees, reasonable expenses and attorney's fees
1425 incurred in favor of appellee payable by the appellant(s) should
1426 the court affirm the order of the State Board of Health. The
1427 order shall not be vacated or set aside, either in whole or in
1428 part, except for errors of law, unless the court finds that the
1429 order of the State Board of Health is not supported by substantial
1430 evidence, is contrary to the manifest weight of the evidence, is
1431 in excess of the statutory authority or jurisdiction of the State
1432 Board of Health, or violates any vested constitutional rights of
1433 any party involved in the appeal. Provided, however, an order of
1434 the chancery court reversing the denial of a certificate of need
1435 by the State Board of Health shall not entitle the applicant to
1436 effectuate the certificate of need until either:

1437 (i) Such order of the chancery court has become
1438 final and has not been appealed to the Supreme Court; or

1439 (ii) The Supreme Court has entered a final order
1440 affirming the chancery court.

1441 (g) Appeals in accordance with law may be had to the
1442 Supreme Court of the State of Mississippi from any final judgment
1443 of the chancery court.

1444 (h) Within thirty (30) days from the date of a final
1445 order by the Supreme Court or a final order of the chancery court
1446 not appealed to the Supreme Court that modifies or wholly or
1447 partly vacates the final order of the State Board of Health
1448 granting a certificate of need, the State Board of Health shall
1449 issue another order in conformity with the final order of the
1450 Supreme Court, or the final order of the chancery court not
1451 appealed to the Supreme Court.

1452 **SECTION 16.** Section 41-7-205, Mississippi Code of 1972, is
1453 amended as follows:

1454 41-7-205. The State Department of Health shall provide an
1455 expedited review for those projects which it determines to warrant
1456 such action. All requests for such an expedited review by the

1457 applicant must be made in writing to the State Department of
1458 Health. The State Board of Health shall make a determination as
1459 to whether expedited review is appropriate within fifteen (15)
1460 days after receipt of a written request. The State Board of
1461 Health shall render its decision concerning the issuance of a
1462 certificate of need within ninety (90) days after the receipt of a
1463 completed application. A project is subject to expedited review
1464 only if it meets one (1) of the following criteria:

1465 (a) A transfer or change of ownership of a health care
1466 facility wherein the facility continues to operate under the same
1467 category of license or permit as it possessed prior to the date of
1468 the proposed change of ownership and none of the other activities
1469 described in Section 41-7-191(1) take place in conjunction with
1470 such transfer;

1471 (b) Replacement of equipment with used equipment of
1472 similar capability if the equipment is included in the facility's
1473 annual capital expenditure budget or plan;

1474 (c) A request for project cost overruns that exceed the
1475 rate of inflation as determined by the State Department of Health;

1476 (d) A request for relocation of services or facilities
1477 if the relocation of such services or facilities (i) involves a
1478 capital expenditure by or on behalf of a health care facility, or
1479 (ii) is more than one thousand three hundred twenty (1,320) feet
1480 from the main entrance of the health care facility or the facility
1481 where the service is located;

1482 (e) A request for a certificate of need to comply with
1483 duly recognized fire, building, or life safety codes, or to comply
1484 with state licensure standards or accreditation standards required
1485 for reimbursements.

1486 **SECTION 17.** The following provision shall be codified as
1487 Section 41-57-8, Mississippi Code of 1972:

1488 41-57-8. (1) For purposes of this section, the term
1489 "stillborn child" shall be defined as "an intrauterine death that

1490 occurs after the twentieth week of gestation through the moment of
1491 birth."

1492 (2) The Bureau of Vital Statistics of the State Department
1493 of Health shall develop a form for the registration of a
1494 Certificate of Birth Resulting in Stillbirth for any stillborn
1495 child in Mississippi. The Certificate of Birth Resulting in
1496 Stillbirth shall be offered to a mother after the occurrence of
1497 any stillbirth. If such mother decides not to place a name on the
1498 Certificate of Birth Resulting in Stillbirth, the person preparing
1499 the certificate shall leave this option on the certificate blank.
1500 The option of registering a Certificate of Birth Resulting in
1501 Stillbirth shall be available to any parent of a stillborn child
1502 wherein the stillbirth occurred in Mississippi on or after July 1,
1503 2005, provided that the burden of applying and supplying medical
1504 verification of such stillbirth occurring prior to the effective
1505 date of this act shall be with the parent(s) requesting the
1506 issuance and registration of such certificate.

1507 (3) The State Board of Health shall formulate and promulgate
1508 rules and regulations for the proper reporting and registration of
1509 Certificates of Birth Resulting in Stillbirth.

1510 **SECTION 18.** Section 41-57-11, Mississippi Code of 1972, is
1511 amended as follows:

1512 41-57-11. (1) Each local registrar shall be paid the sum of
1513 One Dollar (\$1.00) for each birth and each death certificate and
1514 each Certificate of Birth Resulting in Stillbirth properly made
1515 out, and in the manner and on the form required by the State Board
1516 of Health. Such sum shall be paid by the board of supervisors of
1517 the county in which the births and deaths occurred, upon
1518 certification made monthly to the board of supervisors by the
1519 state registrar.

1520 However, any local registrar shall receive only Fifty Cents
1521 (50¢) for each birth, each death certificate and each certificate
1522 of stillbirth sent in to the Bureau of Vital Statistics improperly

1523 completed or sent in at a later time than that fixed by the
1524 regulations of the State Board of Health.

1525 (2) In addition to any fees established and collected by the
1526 State Board of Health for the issuance of original and copies of
1527 birth certificates and Certificates of Birth Resulting in
1528 Stillbirth, there shall be charged a fee of One Dollar (\$1.00) for
1529 each original and each copy of a birth certificate. This
1530 additional fee shall be deposited into the Mississippi Children's
1531 Trust Fund created by Section 93-21-305 and shall be used only as
1532 set forth in Sections 93-21-301 through 93-21-311. This
1533 additional fee shall not be added to birth certificates furnished
1534 free as provided in Sections 35-3-9 and 41-57-25.

1535 **SECTION 19.** This act shall take effect and be in force from
1536 and after its passage.