

By: Senator(s) Nunnelee, King, Chassaniol,
White, Williamson, Browning, Dawkins, Morgan,
Pickering, Jackson (11th), Flowers, Lee
(35th), Moffatt, Hyde-Smith, Burton, Jordan,
Fillingane, Frazier, Clarke, Harden, Gordon,
Horhn, Thomas, Little, Chaney

To: Public Health and
Welfare; Appropriations

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 CREATE A
11 JOINT OVERSIGHT COMMITTEE OF THE STATE DEPARTMENT OF HEALTH; TO
12 AMEND SECTION 41-3-4, MISSISSIPPI CODE OF 1972, TO CLARIFY THAT
13 THE TERM OF OFFICE OF ANY MEMBER OF THE STATE BOARD OF HEALTH WHO
14 MISSES THREE CONSECUTIVE MEETINGS SHALL BE TERMINATED; TO AMEND
15 SECTION 41-3-5, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR THE
16 APPOINTMENT OF THE EXECUTIVE OFFICER OF THE STATE BOARD OF HEALTH;
17 TO AMEND SECTION 41-3-15, MISSISSIPPI CODE OF 1972, TO CLARIFY THE
18 GENERAL AUTHORITY OF THE STATE BOARD OF HEALTH AND THE STATE
19 HEALTH OFFICER, TO AUTHORIZE THE STATE DEPARTMENT OF HEALTH TO
20 PROVIDE FOR AND IMPLEMENT A COMPREHENSIVE STATEWIDE TOBACCO
21 EDUCATION, PREVENTION AND CESSATION PROGRAM THAT IS CONSISTENT
22 WITH FEDERAL GUIDELINES, AND TO EXTEND THE AUTOMATIC REPEALER ON
23 THE 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 SHALL HAVE THE
32 POWER AND RESPONSIBILITY TO RENDER FINAL DECISIONS ON APPLICATIONS
33 FOR CERTIFICATES OF NEED AND TO PROVIDE FOR INDEPENDENT HEARING
34 OFFICERS AND TO CLARIFY THE STATUS OF CERTIFICATE OF NEED
35 DECISIONS PENDING JUDICIAL APPEAL; TO CODIFY SECTION 41-57-8,
36 MISSISSIPPI CODE OF 1972, TO AUTHORIZE AND DIRECT THE BUREAU OF
37 VITAL STATISTICS OF THE STATE DEPARTMENT OF HEALTH TO OFFER AND
38 ISSUE CERTIFICATES OF BIRTH RESULTING IN STILLBIRTH TO A MOTHER
39 AFTER THE OCCURRENCE OF ANY STILLBIRTH; TO DEFINE "STILLBIRTH" FOR
40 PURPOSES OF THE ISSUANCE OF SUCH CERTIFICATES; TO PROVIDE THAT
41 SUCH CERTIFICATES MAY BE ISSUED RETROACTIVELY; TO AMEND SECTION
42 41-57-11, MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE DEPARTMENT TO
43 CHARGE FEES FOR THE ISSUANCE OF SUCH CERTIFICATES; AND FOR RELATED
44 PURPOSES.

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

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

48 41-3-20. Sections 41-3-1 through 41-3-19, which create the
49 State Board of Health and the State Department of Health and
50 prescribe their powers and duties, shall stand repealed on June
51 30, 2010.

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

54 41-3-1. (1) The term of office of the members of the State
55 Board of Health serving on January 1, 2007, shall be terminated
56 upon passage of this act. The * * * State Board of Health * * *
57 is hereby continued and reconstituted as follows:

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

62 (a) Two (2) * * * members of the board shall be
63 licensed physicians of good professional standing who shall have
64 had at least seven (7) years' experience in the practice of their
65 profession in this state, appointed by the Governor, one (1) to be
66 appointed from the First Mississippi Supreme Court District for an
67 initial term to expire on July 1, 2010, and one (1) to be
68 appointed from the Third Mississippi Supreme Court District for an
69 initial term to expire on July 1, 2012.

70 (b) One (1) member of the board shall be a licensed
71 physician of good professional standing who shall have had at
72 least seven (7) years' experience in the practice of his
73 profession in this state, appointed by the Lieutenant Governor
74 from the Second Mississippi Supreme Court District, for an initial
75 term to expire on July 1, 2012.

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

81 (d) Two (2) members shall be engaged professionally in
82 rendering health services who shall have had at least seven (7)
83 years' experience in the practice of his profession in this state,
84 appointed by the Lieutenant Governor, one (1) to be appointed from
85 the First Mississippi Supreme Court District for an initial term
86 to expire on July 1, 2011, and one (1) to be appointed from the
87 Third Mississippi Supreme Court District for an initial term to
88 expire on July 1, 2012.

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

93 A member of the board serving prior to January 1, 2007, shall
94 be eligible for reappointment to the reconstituted board unless
95 such person is disqualified due to a conflict of interest. No
96 person shall be eligible for appointment or reappointment to the
97 reconstituted board if related by blood or marriage within the
98 first degree computed by the rule of civil law to another person
99 who is an employee of the State Department of Health.

100 It is the intent of the Legislature that the membership of
101 the board reflect the population of the State of Mississippi.

102 All members of the State Board of Health shall annually
103 review and sign a statement acknowledging the statutes and
104 policies concerning conflicts of interest. For purposes of this
105 subsection, the term "direct interest" means a material financial
106 interest in a legal entity or employment by a legal entity that is
107 under the jurisdiction or regulatory authority of the State Board
108 of Health, or a material financial interest in a business or
109 employment by a business which is a contractor, subcontractor or
110 vendor with the State Board of Health. The term "indirect
111 interest" means an interest which is less than a direct interest.
112 Any member, upon determining that a matter scheduled for
113 consideration by the State Board of Health results in a conflict

114 with a direct interest, shall immediately notify the Executive
115 Officer of the State Board of Health and shall be recused from any
116 deliberation of the matter, from making any recommendation, from
117 testifying concerning the matter, or from voting on the matter.
118 The member shall join the public during the proceedings. Any
119 member of the State Board of Health with an indirect interest in a
120 matter shall publicly acknowledge such interest. All members
121 shall make every reasonable effort to avoid the appearance of a
122 conflict of interest in conducting board business. If a member is
123 uncertain whether the relationship justifies recusal, the member
124 shall follow the determination of the Mississippi Ethics
125 Commission.

126 A determination by the State Board of Health or any court
127 that (a) a member of the board with a direct interest failed to
128 provide notice and be recused from deliberation of the matter,
129 from making any recommendation, from testifying concerning the
130 matter, or from voting on the matter, or (b) a member of the board
131 is related by blood or marriage within the first degree computed
132 by the rule of civil law to another person who is an employee of
133 the State Department of Health, such determination shall result in
134 a member's automatic termination from the board and the position
135 shall be considered vacant. The member shall not be eligible for
136 appointment to any agency, board or commission of the state for a
137 period of two (2) years.

138 (2) At the expiration of a term, members of the board shall
139 be appointed in the manner prescribed in subsection (1) of this
140 section for terms of five (5) years from the expiration of the
141 previous term and thereafter until his or her successor is duly
142 appointed. Vacancies in office shall be filled by appointment of
143 the Governor or the Lieutenant Governor, as the case may be, in
144 the same manner as the appointment to the position which becomes
145 vacant, subject to the advice and consent of the Senate at the
146 next regular session of the Legislature. An appointment to fill a

147 vacancy other than by expiration of a term of office shall be for
148 the balance of the unexpired term and thereafter until his or her
149 successor is duly appointed.

150 (3) There shall be a Joint Oversight Committee of the
151 Mississippi State Department of Health composed of the respective
152 chairmen of the Senate Public Health and Welfare Committee, the
153 Senate Appropriations Committee, the House Public Health and Human
154 Services Committee and the House Appropriations Committee, two (2)
155 members of the Senate appointed by the Lieutenant Governor to
156 serve at the will and pleasure of the Lieutenant Governor, and two
157 (2) members of the House of Representatives appointed by the
158 Speaker of the House to serve at the will and pleasure of the
159 Speaker. The chairmanship of the committee shall alternate for
160 twelve-month periods between the Senate members and House members,
161 with the Chairman of the Senate Public Health and Welfare
162 Committee serving as the first chairman. The committee shall meet
163 once each month, or upon the call of the chairman at such times as
164 he deems necessary or advisable, and may make recommendations to
165 the Legislature pertaining to any matter within the jurisdiction
166 of the Mississippi State Department of Health. The appointing
167 authorities may designate an alternate member from their
168 respective houses to serve when the regular designee is unable to
169 attend such meetings of the oversight committee. For attending
170 meetings of the oversight committee, such legislators shall
171 receive per diem and expenses which shall be paid from the
172 contingent expense funds of their respective houses in the same
173 amounts as provided for committee meetings when the Legislature is
174 not in session; however, no per diem and expenses for attending
175 meetings of the oversight committee will be paid while the
176 Legislature is in session, and without prior approval of the
177 proper committee in their respective houses.

178 (4) It shall be unlawful for any employee of the State
179 Department of Health, to knowingly accept any gift, money or other

180 pecuniary benefit whatsoever, either directly or indirectly, from
181 any person interested as owner, agent or representative of any
182 public or private entity that shall come under the jurisdiction or
183 supervision of the State Department of Health. Any person found
184 guilty of violating the provisions of this subsection shall
185 immediately forfeit his or her office or position and, upon
186 conviction, shall be fined not less than Ten Thousand Dollars
187 (\$10,000.00), or imprisoned in the State Penitentiary for not less
188 than one (1) year, or both.

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

191 41-3-3. Each person appointed as a member of the State Board
192 of Health shall immediately take the oath prescribed by Section
193 268 of the Constitution and file a certificate thereof in the
194 Office of the Secretary of State. Thereupon a commission shall be
195 issued to him under the terms as specified in Section 41-3-1.

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

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

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

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

216 **SECTION 5.** Section 41-3-5, Mississippi Code of 1972, is
217 amended as follows:

218 41-3-5. (1) The State Department of Health shall be headed
219 by an executive officer who shall be a physician having earned a
220 graduate degree in public health or health care administration or,
221 in the alternative, be a physician who in the opinion of the
222 Governor is fitted and equipped to execute the duties incumbent
223 upon him by law. The executive officer shall not engage in the
224 private practice of medicine. The executive officer shall be
225 appointed by the Governor, with the advice and consent of the
226 Senate, and he shall serve at the will and pleasure of the
227 Governor. * * * The executive officer shall be the State Health
228 Officer with such authority and responsibility as is prescribed by
229 law. * * *

230 (2) The term of office of the State Health Officer serving
231 on January 1, 2007, shall be automatically terminated and be
232 considered as vacant upon passage of this act, unless such
233 individual resigns or his employment is terminated by the State
234 Board of Health prior to the passage of this act. The State
235 Health Officer serving on January 1, 2007, shall not be eligible
236 for reappointment to the position of State Health Officer, and
237 shall not be eligible to be employed in any state service or
238 nonstate service position in the State of Mississippi.

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

241 41-3-6. It shall be the duty of the State Board of Health to
242 review the statutes of the State of Mississippi affecting public
243 health and submit at least thirty (30) days prior to each regular
244 session of the Legislature any proposed legislation as may be
245 necessary to enhance the effective and efficient delivery of

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

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

261 41-3-15. (1) (a) There shall be a State Department of
262 Health * * *.

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

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

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

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

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

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

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

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

292 (ii) To supervise and direct all administrative
293 and technical activities of the department;

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

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

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

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

308 (vii) To prepare and deliver to the Legislature
309 and the Governor on or before January 1 of each year, and at such
310 other times as may be required by the Legislature or Governor, a

311 full report of the work of the department and the offices thereof,
312 including a detailed statement of expenditures of the department
313 and any recommendations the board may have; and

314 (viii) With the approval of the board, to enter
315 into contracts, grants and cooperative agreements with any federal
316 or state agency or subdivision thereof, or any public or private
317 institution located inside or outside the State of Mississippi, or
318 any person, corporation or association in connection with carrying
319 out the provisions of this chapter, provided the agreements do not
320 have a financial cost in excess of the amounts appropriated for
321 such purposes by the Legislature.

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

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

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

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

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

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

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

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

342 (a) To make investigations and inquiries with respect
343 to the causes of disease and death, and to investigate the effect

344 of environment, including conditions of employment and other
345 conditions which may affect health, and to make such other
346 investigations as it may deem necessary for the preservation and
347 improvement of health.

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

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

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

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

363 (f) To charge and collect reasonable fees for health
364 services, including immunizations, inspections and related
365 activities, and the board shall charge fees for such services;
366 provided, however, if it is determined that a person receiving
367 services is unable to pay the total fee, the board shall collect
368 any amount such person is able to pay.

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

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

373 (i) (i) To establish standards for, issue permits and
374 exercise control over, any cafes, restaurants, food or drink
375 stands, sandwich manufacturing establishments, and all other
376 establishments, other than churches, church-related and private

377 schools, and other nonprofit or charitable organizations, where
378 food or drink is regularly prepared, handled and served for pay;
379 and

380 (ii) To require that a permit be obtained from the
381 Department of Health before such persons begin operation. If any
382 such person fails to obtain the permit required herein, the State
383 Board of Health, after due notice and opportunity for a hearing,
384 may impose a monetary penalty not to exceed One Thousand Dollars
385 (\$1,000.00) for each violation. However, the department is not
386 authorized to impose a monetary penalty against any person whose
387 gross annual prepared food sales are less than Five Thousand
388 Dollars (\$5,000.00). Money collected by the board under this item
389 shall be deposited to the credit of the State General Fund of the
390 State Treasury. This subparagraph (ii) shall stand repealed on
391 July 1, 2010.

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

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

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

406 (m) To employ, subject to the regulations of the State
407 Personnel Board, qualified professional personnel in the subject
408 matter or fields of each bureau, and such other technical and
409 clerical staff as may be required for the operation of the

410 department. The executive officer shall be the appointing
411 authority for the department, and shall have the power to delegate
412 the authority to appoint or dismiss employees to appropriate
413 subordinates, subject to the rules and regulations of the State
414 Personnel Board.

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

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

421 (5) (a) The State Board of Health shall have the authority,
422 in its discretion, to establish programs to promote the public
423 health, to be administered by the State Department of Health.
424 Specifically, such programs may include, but shall not be limited
425 to, programs in the following areas:

426 (i) Maternal and child health;

427 (ii) Family planning;

428 (iii) Pediatric services;

429 (iv) Services to crippled and disabled children;

430 (v) Control of communicable and noncommunicable

431 disease;

432 (vi) Child care licensure;

433 (vii) Radiological health;

434 (viii) Dental health;

435 (ix) Milk sanitation;

436 (x) Occupational safety and health;

437 (xi) Food, vector control and general sanitation;

438 (xii) Protection of drinking water;

439 (xiii) Sanitation in food handling establishments

440 open to the public;

441 (xiv) Registration of births and deaths and other

442 vital events;

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

446 (xvi) Regulation of domestic and imported fish for
447 human consumption.

448 (b) The State Board of Health and State Department of
449 Health shall not be authorized to sell, transfer, alienate or
450 otherwise dispose of any of the home health agencies owned and
451 operated by the department on January 1, 1995, and shall not be
452 authorized to sell, transfer, assign, alienate or otherwise
453 dispose of the license of any of those home health agencies,
454 except upon the specific authorization of the Legislature by an
455 amendment to this section. However, this paragraph (b) shall not
456 prevent the board or the department from closing or terminating
457 the operation of any home health agency owned and operated by the
458 department, or closing or terminating any office, branch office or
459 clinic of any such home health agency, or otherwise discontinuing
460 the providing of home health services through any such home health
461 agency, office, branch office or clinic, if the board first
462 demonstrates that there are other providers of home health
463 services in the area being served by the department's home health
464 agency, office, branch office or clinic that will be able to
465 provide adequate home health services to the residents of the area
466 if the department's home health agency, office, branch office or
467 clinic is closed or otherwise discontinues the providing of home
468 health services. This demonstration by the board that there are
469 other providers of adequate home health services in the area shall
470 be spread at length upon the minutes of the board at a regular or
471 special meeting of the board at least thirty (30) days before a
472 home health agency, office, branch office or clinic is proposed to
473 be closed or otherwise discontinue the providing of home health
474 services.

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

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

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

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

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

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

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

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

504 (a) Develop and implement appropriate policies and
505 procedures for the operation of the tobacco education, prevention
506 and cessation program;

- 507 (b) Develop and implement a five-year strategic plan
508 for the tobacco education, prevention and cessation program;
- 509 (c) Develop and maintain an annual operating budget and
510 oversee fiscal management of the tobacco education, prevention and
511 cessation program;
- 512 (d) Execute any contracts, agreements or other
513 documents with any public school district, governmental agency or
514 any person, corporation, association, partnership or other
515 nonprofit organization or entity that are necessary to accomplish
516 the purposes of this subsection;
- 517 (e) Receive appropriations, grants, bequeaths, gifts,
518 donations or any other contributions made to the department to be
519 used for specific purposes related to the goals of this
520 subsection;
- 521 (f) Receive grant applications and provide funds to
522 public school districts or nonprofit entities to be used for
523 specific purposes relative to the goals of this subsection;
- 524 (g) Receive grant applications and provide funds to the
525 Mississippi Bureau of Narcotics for the purpose of hiring agents
526 and supporting efforts to reduce drug crime;
- 527 (h) Submit an annual report to the Legislature
528 regarding the operation of the department;
- 529 (i) Submit to the State Auditor any financial records
530 that are necessary for the Auditor to perform an annual audit of
531 the department as required by law;
- 532 (j) Adopt any rules or regulations that are necessary
533 to carry out the purposes of this subsection; and
- 534 (k) Take any other actions that are necessary to carry
535 out the purposes of this subsection.

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

538 41-3-16. (1) (a) There is established a local governments
539 and rural water systems improvements revolving loan and grant

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

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

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

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

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

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

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

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

599 (2) (a) There is created a special fund in the State
600 Treasury to be designated as the "Local Governments and Rural
601 Water Systems Improvements Revolving Loan Fund," referred to in
602 this section as "revolving fund," which fund shall consist of
603 those monies as provided in Sections 6 and 13 of Chapter 521, Laws
604 of 1995. The revolving fund may receive appropriations, bond
605 proceeds, grants, gifts, donations or funds from any source,

606 public or private. The revolving fund shall be credited with all
607 repayments of principal and interest derived from loans made from
608 the revolving fund. The monies in the revolving fund may be
609 expended only in amounts appropriated by the Legislature, and the
610 different amounts specifically provided for the loan program and
611 the grant program shall be so designated. Monies in the fund may
612 only be expended for the grant program from the amount designated
613 for such program. The revolving fund shall be maintained in
614 perpetuity for the purposes established in this section and
615 Sections 6 through 20 of Chapter 521, Laws of 1995. Unexpended
616 amounts remaining in the revolving fund at the end of a fiscal
617 year shall not lapse into the State General Fund, and any interest
618 earned on amounts in the revolving fund shall be deposited to the
619 credit of the fund. Monies in the revolving fund may not be used
620 or expended for any purpose except as authorized under this
621 section and Sections 6 through 20 of Chapter 521, Laws of 1995.
622 Any monies in the fund may be used to match any federal funds that
623 are available for the same or related purposes for which funds are
624 used and expended under this section and Sections 6 through 20 of
625 Chapter 521, Laws of 1995. Any federal funds shall be used and
626 expended only in accordance with federal laws, rules and
627 regulations governing the expenditure of those funds. No person
628 shall use any monies from the revolving fund for the acquisition
629 of real property or any interest in real property unless that
630 property is integral to the project funded under this section and
631 the purchase is made from a willing seller. No county,
632 incorporated municipality or district shall acquire any real
633 property or any interest in any real property for a project funded
634 through the revolving fund by condemnation. The board's
635 application of Sections 43-37-1 through 43-37-13 shall be no more
636 stringent or extensive in scope, coverage and effect than federal
637 property acquisition laws and regulations.

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

657 (c) The board created in subsection (1) shall establish
658 loan and grant programs by which loans and grants may be made
659 available to counties, incorporated municipalities, districts or
660 other water organizations that have been granted tax exempt status
661 under either federal or state law, to assist those counties,
662 incorporated municipalities, districts or water organizations in
663 making water systems improvements, including the construction of
664 new water systems or expansion or repair of existing water
665 systems. Any entity eligible under this section may receive
666 either a loan or a grant, or both. No grant awarded under the
667 program established in this section may be made using funds from
668 the loan program. Grants may be awarded only when the Legislature
669 specifically appropriates funds for that particular purpose. The
670 interest rate on those loans may vary from time to time and from

671 loan to loan, and will be at or below market interest rates as
672 determined by the board. The board shall act as quickly as is
673 practicable and prudent in deciding on any loan request that it
674 receives. Loans from the revolving fund or emergency fund may be
675 made to counties, incorporated municipalities, districts or other
676 water organizations that have been granted tax exempt status under
677 either federal or state law, as set forth in a loan agreement in
678 amounts not to exceed one hundred percent (100%) of eligible
679 project costs as established by the board. The board may require
680 county, municipal, district or other water organization
681 participation or funding from other sources, or otherwise limit
682 the percentage of costs covered by loans from the revolving fund
683 or the emergency fund. The maximum amount for any loan from the
684 emergency fund shall be Five Hundred Thousand Dollars
685 (\$500,000.00), and the maximum amount for any loan from the
686 revolving fund shall be One Million Five Hundred Thousand Dollars
687 (\$1,500,000.00).

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

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

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

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

734 (f) Any district created pursuant to Sections 19-5-151
735 through 19-5-207 that receives a loan from the revolving fund or
736 the emergency fund shall pledge for repayment of the loan any part

737 of the revenues received by that district pursuant to Sections
738 19-5-151 through 19-5-207, as may be required to meet the
739 repayment schedule contained in the loan agreement.

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

757 (h) All monies deposited in the revolving fund or the
758 emergency fund, including loan repayments and interest earned on
759 those repayments, shall be used only for providing loans or other
760 financial assistance to water systems as the board deems
761 appropriate. In addition, any amounts in the revolving fund or
762 the emergency fund may be used to defray the reasonable costs of
763 administering the revolving fund or the emergency fund and
764 conducting activities under this section and Sections 6 through 20
765 of Chapter 521, Laws of 1995, subject to any limitations
766 established in the federal Safe Drinking Water Act, as amended and
767 subject to annual appropriation by the Legislature. The
768 department is authorized, upon approval by the board, to use
769 amounts available to it from the revolving fund or the emergency

770 fund to contract for those facilities and staff needed to
771 administer and provide routine management for the funds and loan
772 program.

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

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

780 (b) To promulgate rules and regulations, to make
781 variances and exceptions thereto, and to establish procedures in
782 accordance with this section and Sections 6 through 20 of Chapter
783 521, Laws of 1995, for the implementation of the local governments
784 and rural water systems improvements revolving loan program;

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

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

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

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

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

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

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

829 (i) To file annually with the Legislature a report
830 detailing how monies in the Local Governments and Rural Water
831 Systems Improvements Revolving Loan Fund and the Local Governments
832 and Rural Water Systems Emergency Loan Fund were spent during the
833 preceding fiscal year in each county, incorporated municipality,

834 district or other water organization, the number of projects
835 approved and constructed, and the cost of each project.

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

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

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

853 41-3-17. The State Board of Health is authorized to make and
854 publish all reasonable rules and regulations necessary to enable
855 it to discharge its duties and powers and to carry out the
856 purposes and objectives of its creation. It is further authorized
857 to make reasonable sanitary rules and regulations, to be enforced
858 in the several counties by the county health officer under the
859 supervision and control of the State Board of Health. The State
860 Board of Health shall not make or enforce any rule or regulation
861 that prohibits consumers from providing their own containers for
862 the purpose of purchasing or accepting water from any vending
863 machine or device which filters or treats water that has already
864 been tested and determined to meet or exceed the minimum health
865 protection standards prescribed for drinking water under the
866 Mississippi Safe Drinking Water Law, if that vending machine or

867 device meets or exceeds United States Environmental Protection
868 Agency or national automatic merchandising standards.

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

871 41-3-18. The board shall assess fees in the following
872 amounts and for the following purposes:

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

875	Assessment Category 1.....	\$ 15.00
876	Assessment Category 2.....	30.00
877	Assessment Category 3.....	70.00
878	Assessment Category 4	100.00
879	Assessment Category 5	150.00

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

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

883 Assessment categories shall be based upon the factors to the
884 public health implications of the category and type of food
885 preparation being utilized by the food establishment, utilizing
886 the model Food Code of 1995, or as may be amended by the federal
887 Food and Drug Administration.

888 The fee authorized under paragraph (a) of this section shall
889 not be assessed for food establishments operated by public
890 schools, public junior and community colleges, or state agencies
891 or institutions, including without limitation, the state
892 institutions of higher learning and the State Penitentiary.

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

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

898 41-3-19. It is the duty of the State Board of Health to make
899 a report, in writing, to the Governor, on or before the first day

900 of December next preceding each session, not an extraordinary
901 session of the Legislature, upon the sanitary condition, prospect,
902 and needs of the state, setting forth the action of said board, of
903 its officers and agents, the names thereof, and all its
904 expenditures since the last preceding report, and such other
905 matters as it may deem proper for the promotion of health or the
906 prevention of disease. The report shall be laid before the
907 Legislature by the Governor at its ensuing term.

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

910 41-59-61. (1) Such assessments as are collected under
911 subsections (1) and (2) of Section 99-19-73 shall be deposited in
912 a special fund hereby created in the State Treasury to be
913 designated the "Emergency Medical Services Operating Fund." The
914 Legislature may make appropriations from the Emergency Medical
915 Services Operating Fund to the State Board of Health for the
916 purpose of defraying costs of administration of the Emergency
917 Medical Services Operating Fund (EMSOF) and for redistribution of
918 such funds to the counties, municipalities and organized medical
919 service districts (hereinafter referred to as "governmental
920 units") for the support of the Emergency Medical Services
921 programs. The State Board of Health, with the Emergency Medical
922 Services Advisory Council acting in an advisory capacity, shall
923 administer the disbursement to such governmental units of any
924 funds appropriated to the board from the Emergency Medical
925 Services Operating Fund and the utilization of such funds by the
926 governmental units.

927 (2) Funds appropriated from the Emergency Medical Services
928 Operating Fund to the State Board of Health shall be made
929 available to all such governmental units to support the Emergency
930 Medical Services programs therein, and such funds shall be
931 distributed to each governmental unit based upon its general
932 population relative to the total population of the state.

933 Disbursement of such funds shall be made on an annual basis at the
934 end of the fiscal year upon the request of each governmental unit.
935 Funds distributed to such governmental units shall be used in
936 addition to existing annual Emergency Medical Services budgets of
937 the governmental units, and no such funds shall be used for the
938 payment of any attorney's fees. The Director of the Emergency
939 Medical Services program or his appointed designee is hereby
940 authorized to require financial reports from the governmental
941 units utilizing these funds in order to provide satisfactory proof
942 of the maintenance of the funding effort by the governmental
943 units.

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

946 41-79-5. (1) There is hereby established within the State
947 Department of Health a school nurse intervention program,
948 available to all public school districts in the state.

949 (2) By the school year 1998-1999, each public school
950 district shall have employed a school nurse, to be known as a
951 Health Service Coordinator, pursuant to the school nurse
952 intervention program prescribed under this section. The school
953 nurse intervention program shall offer any of the following
954 specific preventive services, and other additional services
955 appropriate to each grade level and the age and maturity of the
956 pupils:

957 (a) Reproductive health education and referral to
958 prevent teen pregnancy and sexually transmitted diseases, which
959 education shall include abstinence;

960 (b) Child abuse and neglect identification;

961 (c) Hearing and vision screening to detect problems
962 which can lead to serious sensory losses and behavioral and
963 academic problems;

964 (d) Alcohol, tobacco and drug abuse education to reduce
965 abuse of these substances;

966 (e) Scoliosis screening to detect this condition so
967 that costly and painful surgery and lifelong disability can be
968 prevented;

969 (f) Coordination of services for handicapped children
970 to ensure that these children receive appropriate medical
971 assistance and are able to remain in public school;

972 (g) Nutrition education and counseling to prevent
973 obesity and/or other eating disorders which may lead to
974 life-threatening conditions, for example, hypertension;

975 (h) Early detection and treatment of head lice to
976 prevent the spread of the parasite and to reduce absenteeism;

977 (i) Emergency treatment of injury and illness to
978 include controlling bleeding, managing fractures, bruises or
979 contusions and cardiopulmonary resuscitation (CPR);

980 (j) Applying appropriate theory as the basis for
981 decision making in nursing practice;

982 (k) Establishing and maintaining a comprehensive school
983 health program;

984 (l) Developing individualized health plans;

985 (m) Assessing, planning, implementing and evaluating
986 programs and other school health activities, in collaboration with
987 other professionals;

988 (n) Providing health education to assist students,
989 families and groups to achieve optimal levels of wellness;

990 (o) Participating in peer review and other means of
991 evaluation to assure quality of nursing care provided for students
992 and assuming responsibility for continuing education and
993 professional development for self while contributing to the
994 professional growth of others;

995 (p) Participating with other key members of the
996 community responsible for assessing, planning, implementing and
997 evaluating school health services and community services that

998 include the broad continuum or promotion of primary, secondary and
999 tertiary prevention; and

1000 (q) Contributing to nursing and school health through
1001 innovations in theory and practice and participation in research.

1002 (3) Public school nurses shall be specifically prohibited
1003 from providing abortion counseling to any student or referring any
1004 student to abortion counseling or abortion clinics. Any violation
1005 of this subsection shall disqualify the school district employing
1006 such public school nurse from receiving any state administered
1007 funds under this section.

1008 (4) The State Department of Health shall develop and
1009 implement a comprehensive and statewide tobacco education,
1010 prevention and cessation program that is consistent with the
1011 recommendations for effective program components and funding
1012 recommendations in the 1999 Best Practices for Comprehensive
1013 Tobacco Control Programs of the federal Centers for Disease
1014 Control and Prevention, as those Best Practices may be
1015 periodically amended by the Centers for Disease Control and
1016 Prevention. At a minimum, the program shall include the following
1017 components, and may include additional components that are
1018 contained within the Best Practices for Comprehensive Tobacco
1019 Control Programs of the federal Centers for Disease Control and
1020 Prevention, as periodically amended, and that based on scientific
1021 data and research have been shown to be effective at accomplishing
1022 the purposes of this subsection:

1023 (a) The employment of school nurses by public school
1024 districts;

1025 (b) The use of mass media, including paid advertising
1026 and other communication tools to discourage the use of tobacco
1027 products and to educate people, especially youth, about the health
1028 hazards from the use of tobacco products, which shall be designed
1029 to be effective at achieving these goals and shall include, but
1030 need not be limited to, television, radio, and print advertising,

1031 as well as sponsorship, exhibits and other opportunities to raise
1032 awareness statewide;

1033 (c) Evidence-based curricula and programs implemented
1034 in schools to educate youth about tobacco and to discourage their
1035 use of tobacco products, including, but not limited to, programs
1036 that involve youth, educate youth about the health hazards from
1037 the use of tobacco products, help youth develop skills to refuse
1038 tobacco products, and demonstrate to youth how to stop using
1039 tobacco products;

1040 (d) Local community programs, including, but not
1041 limited to, youth-based partnerships that discourage the use of
1042 tobacco products and involve community-based organizations in
1043 tobacco education, prevention and cessation programs in their
1044 communities;

1045 (e) Enforcement of laws, regulations and policies
1046 against the sale or other provision of tobacco products to minors,
1047 and the possession of tobacco products by minors;

1048 (f) Programs to assist and help people to stop using
1049 tobacco products;

1050 (g) Programs to support the misdemeanor of narcotics in
1051 hiring agents to reduce drug crime; and

1052 (h) A surveillance and evaluation system that monitors
1053 program accountability and results, produces publicly available
1054 reports that review how monies expended for the program are spent,
1055 and includes an evaluation of the program's effectiveness in
1056 reducing and preventing the use of tobacco products, and annual
1057 recommendations for improvements to enhance the program's
1058 effectiveness.

1059 Funding for the different components of the program shall be
1060 pursuant to specific appropriation by the Legislature and
1061 apportioned between the components based on the recommendations in
1062 the Best Practices for Comprehensive Tobacco Control Programs of
1063 the federal Centers for Disease Control and Prevention, as

1064 periodically amended, to provide adequate program development,
1065 implementation and evaluation for effective control of the use of
1066 tobacco products. Funds appropriated for tobacco education and
1067 cessation program shall not be commingled with other program funds
1068 of the department. While the department shall develop annual
1069 budgets based on strategic planning, components of the program
1070 shall be funded using the following areas as guidelines for
1071 priority:

1072 (a) School nurses;
1073 (b) School programs;
1074 (c) Narcotics agents;
1075 (d) Law enforcement;
1076 (e) Mass media (counter-marketing);
1077 (f) Cessation programs (including media promotions);
1078 (g) Community programs;
1079 (h) Surveillance and evaluation; and
1080 (i) Administration and management; however, not more
1081 than five percent (5%) of the total budget may be expended for
1082 administration and management purposes.

1083 (5) Beginning with the 1997-1998 school year, to the extent
1084 that federal or state funds are available therefor and pursuant to
1085 appropriation therefor by the Legislature, in addition to the
1086 school nurse intervention program funds administered under
1087 subsection (4), the State Department of Health shall establish and
1088 implement a Prevention of Teen Pregnancy Pilot Program to be
1089 located in the public school districts with the highest numbers of
1090 teen pregnancies. The Teen Pregnancy Pilot Program shall provide
1091 the following education services directly through public school
1092 nurses in the pilot school districts: health education sessions
1093 in local schools, where contracted for or invited to provide,
1094 which target issues including reproductive health, teen pregnancy
1095 prevention and sexually transmitted diseases, including syphilis,

1096 HIV and AIDS. When these services are provided by a school nurse,
1097 training and counseling on abstinence shall be included.

1098 (6) In addition to the school nurse intervention program
1099 funds administered under subsection (4) and the Teen Pregnancy
1100 Pilot Program funds administered under subsection (5), to the
1101 extent that federal or state funds are available therefor and
1102 pursuant to appropriation therefor by the Legislature, the State
1103 Department of Health shall establish and implement an Abstinence
1104 Education Pilot Program to provide abstinence education,
1105 mentoring, counseling and adult supervision to promote abstinence
1106 from sexual activity, with a focus on those groups which are most
1107 likely to bear children out of wedlock. Such abstinence education
1108 services shall be provided by the State Department of Health
1109 through its clinics, public health nurses, school nurses and
1110 through contracts with rural and community health centers in order
1111 to reach a larger number of targeted clients. For purposes of
1112 this subsection, the term "abstinence education" means an
1113 educational or motivational program which:

1114 (a) Has as its exclusive purpose, teaching the social,
1115 psychological and health gains to be realized by abstaining from
1116 sexual activity;

1117 (b) Teaches abstinence from sexual activity outside
1118 marriage as the expected standard for all school-age children;

1119 (c) Teaches that abstinence from sexual activity is the
1120 only certain way to avoid out-of-wedlock pregnancy, sexually
1121 transmitted diseases and other associated health problems;

1122 (d) Teaches that a mutually faithful monogamous
1123 relationship in context of marriage is the expected standard of
1124 human sexual activity;

1125 (e) Teaches that sexual activity outside of the context
1126 of marriage is likely to have harmful psychological and physical
1127 effects;

1128 (f) Teaches that bearing children out of wedlock is
1129 likely to have harmful consequences for the child, the child's
1130 parents and society;

1131 (g) Teaches young people how to reject sexual advances
1132 and how alcohol and drug use increase vulnerability to sexual
1133 advances; and

1134 (h) Teaches the importance of attaining
1135 self-sufficiency before engaging in sexual activity.

1136 (7) Beginning with the 1998-1999 school year and pursuant to
1137 appropriation therefor by the Legislature, in addition to other
1138 funds allotted under the minimum education program, each school
1139 district shall be allotted an additional teacher unit per every
1140 one hundred (100) teacher units, for the purpose of employing
1141 qualified public school nurses in such school district, which in
1142 no event shall be less than one (1) teacher unit per school
1143 district, for such purpose. In the event the Legislature provides
1144 less funds than the total state funds needed for the public school
1145 nurse allotment, those school districts with fewer teacher units
1146 shall be the first funded for such purpose, to the extent of funds
1147 available.

1148 (8) Prior to the 1998-1999 school year, nursing staff
1149 assigned to the program shall be employed through the local county
1150 health department and shall be subject to the supervision of the
1151 State Department of Health with input from local school officials.
1152 Local county health departments may contract with any
1153 comprehensive private primary health care facilities within their
1154 county to employ and utilize additional nursing staff. Beginning
1155 with the 1998-1999 school year, nursing staff assigned to the
1156 program shall be employed by the local school district and shall
1157 be designated as "health service coordinators," and shall be
1158 required to possess a bachelor's degree in nursing as a minimum
1159 qualification.

1160 (9) Upon each student's enrollment, the parent or guardian
1161 shall be provided with information regarding the scope of the
1162 school nurse intervention program. The parent or guardian may
1163 provide the school administration with a written statement
1164 refusing all or any part of the nursing service. No child shall
1165 be required to undergo hearing and vision or scoliosis screening
1166 or any other physical examination or tests whose parent objects
1167 thereto on the grounds such screening, physical examination or
1168 tests are contrary to his sincerely held religious beliefs.

1169 (10) A consent form for reproductive health education shall
1170 be sent to the parent or guardian of each student upon his
1171 enrollment. If a response from the parent or guardian is not
1172 received within seven (7) days after the consent form is sent, the
1173 school shall send a letter to the student's home notifying the
1174 parent or guardian of the consent form. If the parent or guardian
1175 fails to respond to the letter within ten (10) days after it is
1176 sent, then the school principal shall be authorized to allow the
1177 student to receive reproductive health education. Reproductive
1178 health education shall include the teaching of total abstinence
1179 from premarital sex and, wherever practicable, reproductive health
1180 education should be taught in classes divided according to gender.
1181 All materials used in the reproductive health education program
1182 shall be placed in a convenient and easily accessible location for
1183 parental inspection. School nurses shall not dispense birth
1184 control pills or contraceptive devices in the school. Dispensing
1185 of such shall be the responsibility of the State Department of
1186 Health on a referral basis only.

1187 (11) No provision of this section shall be construed as
1188 prohibiting local school districts from accepting financial
1189 assistance of any type from the State of Mississippi or any other
1190 governmental entity, or any contribution, donation, gift, decree
1191 or bequest from any source which may be utilized for the

1192 maintenance or implementation of a school nurse intervention
1193 program in a public school system of this state.

1194 **SECTION 14.** Section 41-7-197, Mississippi Code of 1972, is
1195 amended as follows:

1196 41-7-197. (1) The State Board of Health shall adopt and
1197 utilize procedures for conducting certificate of need reviews.
1198 Such procedures shall include, inter alia, the following: (a)
1199 written notification to the applicant; (b) written notification to
1200 health care facilities in the same health service area as the
1201 proposed service; (c) written notification to other persons who
1202 prior to the receipt of the application have filed a formal notice
1203 of intent to provide the proposed services in the same service
1204 area; and (d) notification to members of the public who reside in
1205 the service area where the service is proposed, which may be
1206 provided through newspapers or public information channels.

1207 (2) All notices provided shall include, inter alia, the
1208 following: (a) the proposed schedule for the review; (b) written
1209 notification of the period within which a public hearing during
1210 the course of the review may be requested in writing by one or
1211 more affected persons, such request to be made within twenty (20)
1212 days of said notification; and (c) the manner in which
1213 notification will be provided of the time and place of any hearing
1214 so requested. Any such hearing shall be conducted by an
1215 independent hearing officer, who is not an employee of the
1216 department, designated by the State Board of Health. At such
1217 hearing, the hearing officer and any person affected by the
1218 proposal being reviewed may conduct reasonable questioning of
1219 persons who make relevant factual allegations concerning the
1220 proposal. The hearing officer shall require that all persons be
1221 sworn before they may offer any testimony at the hearing, and the
1222 hearing officer is authorized to administer oaths. Any person so
1223 choosing may be represented by counsel at the hearing. A record
1224 of the hearing shall be made, which shall consist of a transcript

1225 of all testimony received, all documents and other material
1226 introduced by any interested person, the staff report and
1227 recommendation and such other material as the hearing officer
1228 considers relevant, including his own recommendation, which he
1229 shall make within a reasonable period of time after the hearing is
1230 closed and after he has had an opportunity to review, study and
1231 analyze the evidence presented during the hearing. The completed
1232 record shall be certified to the State Board of Health * * *,
1233 which shall consider only the record in making its decision, and
1234 shall not consider any evidence or material which is not included
1235 therein. All final decisions regarding the issuance of a
1236 certificate of need shall be made by the State Board of
1237 Health * * * at its next regularly scheduled meeting, and may not
1238 be delegated to a subcommittee of the board. The State Board of
1239 Health * * * shall make its written findings and issue its order
1240 after reviewing said record. The findings and decision of the
1241 State Board of Health * * * shall not be deferred to any later
1242 date, and any deferral shall result in an automatic order of
1243 approval.

1244 (3) If review by the State Board of Health concerning the
1245 issuance of a certificate of need is not complete within the time
1246 specified by rule or regulation, which shall not, to the extent
1247 practicable, exceed ninety (90) days, the certificate of need
1248 shall not be granted. The proponent of the proposal may, within
1249 thirty (30) days, after the expiration of the specified time for
1250 review, commence such legal action as is necessary, in the
1251 Chancery Court of the First Judicial District of Hinds County or
1252 in the chancery court of the county in which the new institutional
1253 health service is proposed to be provided, to compel the State
1254 Board of Health * * * to issue written findings and written order
1255 approving or disapproving the proposal in question.

1256 **SECTION 15.** Section 41-7-201, Mississippi Code of 1972, is
1257 amended as follows:

1258 41-7-201. (1) The provisions of this subsection (1) shall
1259 apply to any party appealing any final order of the State Board of
1260 Health pertaining to a certificate of need for a home health
1261 agency, as defined in Section 41-7-173(h)(ix):

1262 (a) In addition to other remedies now available at law
1263 or in equity, any party aggrieved by any such final order of the
1264 State Board of Health shall have the right of appeal to the
1265 Chancery Court of the First Judicial District of Hinds County,
1266 Mississippi, which appeal must be filed within thirty (30) days
1267 after the date of the final order. Provided, however, that any
1268 appeal of an order disapproving an application for such a
1269 certificate of need may be made to the chancery court of the
1270 county where the proposed construction, expansion or alteration
1271 was to be located or the new service or purpose of the capital
1272 expenditure was to be located. Such appeal must be filed in
1273 accordance with the thirty (30) days for filing as heretofore
1274 provided. Any appeal shall state briefly the nature of the
1275 proceedings before the State Board of Health and shall specify the
1276 order complained of. Any person whose rights may be materially
1277 affected by the action of the State Board of Health may appear and
1278 become a party or the court may, upon motion, order that any such
1279 person, organization or entity be joined as a necessary party.

1280 (b) Upon the filing of such an appeal, the clerk of the
1281 chancery court shall serve notice thereof upon the State Board of
1282 Health, whereupon the State Department of Health shall, within
1283 fifty (50) days or within such additional time as the court may by
1284 order for cause allow from the service of such notice, certify to
1285 the chancery court the record in the case, which records shall
1286 include a transcript of all testimony, together with all exhibits
1287 or copies thereof, all pleadings, proceedings, orders, findings
1288 and opinions entered in the case; provided, however, that the
1289 parties and the State Department of Health may stipulate that a

1290 specified portion only of the record shall be certified to the
1291 court as the record on appeal.

1292 (c) No new or additional evidence shall be introduced
1293 in the chancery court but the case shall be determined upon the
1294 record certified to the court.

1295 (d) The court may dispose of the appeal in termtime or
1296 vacation and may sustain or dismiss the appeal, modify or vacate
1297 the order complained of in whole or in part as the case may be;
1298 but in case the order is wholly or partly vacated, the court may
1299 also, in its discretion, remand the matter to the State Department
1300 of Health for such further proceedings, not inconsistent with the
1301 court's order, as, in the opinion of the court, justice may
1302 require. The order shall not be vacated or set aside, either in
1303 whole or in part, except for errors of law, unless the court finds
1304 that the order of the State Board of Health is not supported by
1305 substantial evidence, is contrary to the manifest weight of the
1306 evidence, is in excess of the statutory authority or jurisdiction
1307 of the State Board of Health, or violates any vested
1308 constitutional rights of any party involved in the appeal.
1309 Provided, however, an order of the chancery court reversing the
1310 denial of a certificate of need by the State Board of Health shall
1311 not entitle the applicant to effectuate the certificate of need
1312 until either:

1313 (i) Such order of the chancery court has become
1314 final and has not been appealed to the Supreme Court; or

1315 (ii) The Supreme Court has entered a final order
1316 affirming the chancery court.

1317 (e) Appeals in accordance with law may be had to the
1318 Supreme Court of the State of Mississippi from any final judgment
1319 of the chancery court.

1320 (2) The provisions of this subsection (2) shall apply to any
1321 party appealing any final order of the State Board of Health
1322 pertaining to a certificate of need for any health care facility

1323 as defined in Section 41-7-173(h), with the exception of any home
1324 health agency as defined in Section 41-7-173(h)(ix):

1325 (a) There shall be a "stay of proceedings" of any final
1326 order issued by the State Board of Health pertaining to the
1327 issuance of a certificate of need for the establishment,
1328 construction, expansion or replacement of a health care facility
1329 for a period of thirty (30) days from the date of the order, if an
1330 existing provider located in the same service area where the
1331 health care facility is or will be located has requested a hearing
1332 during the course of review in opposition to the issuance of the
1333 certificate of need. The stay of proceedings shall expire at the
1334 termination of thirty (30) days; however, no construction,
1335 renovation or other capital expenditure that is the subject of the
1336 order shall be undertaken, no license to operate any facility that
1337 is the subject of the order shall be issued by the licensing
1338 agency, and no certification to participate in the Title XVIII or
1339 Title XIX programs of the Social Security Act shall be granted,
1340 until all statutory appeals have been exhausted or the time for
1341 such appeals has expired. Notwithstanding the foregoing, the
1342 filing of an appeal from a final order of the State Board of
1343 Health or the chancery court for the issuance of a certificate of
1344 need shall not prevent the purchase of medical equipment or
1345 development or offering of institutional health services granted
1346 in a certificate of need issued by the State Board of Health.

1347 (b) In addition to other remedies now available at law
1348 or in equity, any party aggrieved by any such final order of the
1349 State Board of Health shall have the right of appeal to the
1350 Chancery Court of the First Judicial District of Hinds County,
1351 Mississippi, which appeal must be filed within twenty (20) days
1352 after the date of the final order. Provided, however, that any
1353 appeal of an order disapproving an application for such a
1354 certificate of need may be made to the chancery court of the
1355 county where the proposed construction, expansion or alteration

1356 was to be located or the new service or purpose of the capital
1357 expenditure was to be located. Such appeal must be filed in
1358 accordance with the twenty (20) days for filing as heretofore
1359 provided. Any appeal shall state briefly the nature of the
1360 proceedings before the State Board of Health and shall specify the
1361 order complained of.

1362 (c) Upon the filing of such an appeal, the clerk of the
1363 chancery court shall serve notice thereof upon the State Board of
1364 Health, whereupon the State Department of Health shall, within
1365 thirty (30) days of the date of the filing of the appeal, certify
1366 to the chancery court the record in the case, which records shall
1367 include a transcript of all testimony, together with all exhibits
1368 or copies thereof, all pleadings, proceedings, orders, findings
1369 and opinions entered in the case; provided, however, that the
1370 parties and the State Department of Health may stipulate that a
1371 specified portion only of the record shall be certified to the
1372 court as the record on appeal. The chancery court shall give
1373 preference to any such appeal from a final order by the State
1374 Board of Health in a certificate of need proceeding, and shall
1375 render a final order regarding such appeal no later than one
1376 hundred twenty (120) days from the date of the final order by the
1377 State Board of Health. If the chancery court has not rendered a
1378 final order within this 120-day period, then the final order of
1379 the State Board of Health shall be deemed to have been affirmed by
1380 the chancery court, and any party to the appeal shall have the
1381 right to appeal from the chancery court to the Supreme Court on
1382 the record certified by the State Department of Health as
1383 otherwise provided in paragraph (g) of this subsection. In the
1384 event the chancery court has not rendered a final order within the
1385 120-day period and an appeal is made to the Supreme Court as
1386 provided herein, the Supreme Court shall remand the case to the
1387 chancery court to make an award of costs, fees, reasonable
1388 expenses and attorney's fees incurred in favor of appellee payable

1389 by the appellant(s) should the Supreme Court affirm the order of
1390 the State Board of Health.

1391 (d) Any appeal of a final order by the State Board of
1392 Health in a certificate of need proceeding shall require the
1393 giving of a bond by the appellant(s) sufficient to secure the
1394 appellee against the loss of costs, fees, expenses and attorney's
1395 fees incurred in defense of the appeal, approved by the chancery
1396 court within five (5) days of the date of filing the appeal.

1397 (e) No new or additional evidence shall be introduced
1398 in the chancery court but the case shall be determined upon the
1399 record certified to the court.

1400 (f) The court may dispose of the appeal in termtime or
1401 vacation and may sustain or dismiss the appeal, modify or vacate
1402 the order complained of in whole or in part and may make an award
1403 of costs, fees, expenses and attorney's fees, as the case may be;
1404 but in case the order is wholly or partly vacated, the court may
1405 also, in its discretion, remand the matter to the State Board of
1406 Health for such further proceedings, not inconsistent with the
1407 court's order, as, in the opinion of the court, justice may
1408 require. The court, as part of the final order, shall make an
1409 award of costs, fees, reasonable expenses and attorney's fees
1410 incurred in favor of appellee payable by the appellant(s) should
1411 the court affirm the order of the State Board of Health. The
1412 order shall not be vacated or set aside, either in whole or in
1413 part, except for errors of law, unless the court finds that the
1414 order of the State Board of Health is not supported by substantial
1415 evidence, is contrary to the manifest weight of the evidence, is
1416 in excess of the statutory authority or jurisdiction of the State
1417 Board of Health, or violates any vested constitutional rights of
1418 any party involved in the appeal. Provided, however, an order of
1419 the chancery court reversing the denial of a certificate of need
1420 by the State Board of Health shall not entitle the applicant to
1421 effectuate the certificate of need until either:

1422 (i) Such order of the chancery court has become
1423 final and has not been appealed to the Supreme Court; or

1424 (ii) The Supreme Court has entered a final order
1425 affirming the chancery court.

1426 (g) Appeals in accordance with law may be had to the
1427 Supreme Court of the State of Mississippi from any final judgment
1428 of the chancery court.

1429 (h) Within thirty (30) days from the date of a final
1430 order by the Supreme Court or a final order of the chancery court
1431 not appealed to the Supreme Court that modifies or wholly or
1432 partly vacates the final order of the State Board of Health
1433 granting a certificate of need, the State Board of Health shall
1434 issue another order in conformity with the final order of the
1435 Supreme Court, or the final order of the chancery court not
1436 appealed to the Supreme Court.

1437 **SECTION 16.** Section 41-7-205, Mississippi Code of 1972, is
1438 amended as follows:

1439 41-7-205. The State Department of Health shall provide an
1440 expedited review for those projects which it determines to warrant
1441 such action. All requests for such an expedited review by the
1442 applicant must be made in writing to the State Department of
1443 Health. The State Board of Health shall make a determination as
1444 to whether expedited review is appropriate within fifteen (15)
1445 days after receipt of a written request. The State Board of
1446 Health shall render its decision concerning the issuance of a
1447 certificate of need within ninety (90) days after the receipt of a
1448 completed application. A project is subject to expedited review
1449 only if it meets one (1) of the following criteria:

1450 (a) A transfer or change of ownership of a health care
1451 facility wherein the facility continues to operate under the same
1452 category of license or permit as it possessed prior to the date of
1453 the proposed change of ownership and none of the other activities

1454 described in Section 41-7-191(1) take place in conjunction with
1455 such transfer;

1456 (b) Replacement of equipment with used equipment of
1457 similar capability if the equipment is included in the facility's
1458 annual capital expenditure budget or plan;

1459 (c) A request for project cost overruns that exceed the
1460 rate of inflation as determined by the State Department of Health;

1461 (d) A request for relocation of services or facilities
1462 if the relocation of such services or facilities (i) involves a
1463 capital expenditure by or on behalf of a health care facility, or
1464 (ii) is more than one thousand three hundred twenty (1,320) feet
1465 from the main entrance of the health care facility or the facility
1466 where the service is located;

1467 (e) A request for a certificate of need to comply with
1468 duly recognized fire, building, or life safety codes, or to comply
1469 with state licensure standards or accreditation standards required
1470 for reimbursements.

1471 **SECTION 17.** The following provision shall be codified as
1472 Section 41-57-8, Mississippi Code of 1972:

1473 41-57-8. (1) For purposes of this section, the term
1474 "stillborn child" shall be defined as "an intrauterine death that
1475 occurs after the twentieth week of gestation through the moment of
1476 birth."

1477 (2) The Bureau of Vital Statistics of the State Department
1478 of Health shall develop a form for the registration of a
1479 Certificate of Birth Resulting in Stillbirth for any stillborn
1480 child in Mississippi. The Certificate of Birth Resulting in
1481 Stillbirth shall be offered to a mother after the occurrence of
1482 any stillbirth. If such mother decides not to place a name on the
1483 Certificate of Birth Resulting in Stillbirth, the person preparing
1484 the certificate shall leave this option on the certificate blank.
1485 The option of registering a Certificate of Birth Resulting in
1486 Stillbirth shall be available to any parent of a stillborn child

1487 wherein the stillbirth occurred in Mississippi on or after July 1,
1488 2005, provided that the burden of applying and supplying medical
1489 verification of such stillbirth occurring prior to the effective
1490 date of this act shall be with the parent(s) requesting the
1491 issuance and registration of such certificate.

1492 (3) The State Board of Health shall formulate and promulgate
1493 rules and regulations for the proper reporting and registration of
1494 Certificates of Birth Resulting in Stillbirth.

1495 **SECTION 18.** Section 41-57-11, Mississippi Code of 1972, is
1496 amended as follows:

1497 41-57-11. (1) Each local registrar shall be paid the sum of
1498 One Dollar (\$1.00) for each birth and each death certificate and
1499 each Certificate of Birth Resulting in Stillbirth properly made
1500 out, and in the manner and on the form required by the State Board
1501 of Health. Such sum shall be paid by the board of supervisors of
1502 the county in which the births and deaths occurred, upon
1503 certification made monthly to the board of supervisors by the
1504 state registrar.

1505 However, any local registrar shall receive only Fifty Cents
1506 (50¢) for each birth, each death certificate and each certificate
1507 of stillbirth sent in to the Bureau of Vital Statistics improperly
1508 completed or sent in at a later time than that fixed by the
1509 regulations of the State Board of Health.

1510 (2) In addition to any fees established and collected by the
1511 State Board of Health for the issuance of original and copies of
1512 birth certificates and Certificates of Birth Resulting in
1513 Stillbirth, there shall be charged a fee of One Dollar (\$1.00) for
1514 each original and each copy of a birth certificate. This
1515 additional fee shall be deposited into the Mississippi Children's
1516 Trust Fund created by Section 93-21-305 and shall be used only as
1517 set forth in Sections 93-21-301 through 93-21-311. This
1518 additional fee shall not be added to birth certificates furnished
1519 free as provided in Sections 35-3-9 and 41-57-25.

1520 **SECTION 19.** This act shall take effect and be in force from
1521 and after its passage.