HOUSE BILL NO. 970

AN ACT TO AMEND SECTION 43-1-2, MISSISSIPPI CODE OF 1972, TO CREATE THE STATE BOARD OF HUMAN SERVICES TO PROVIDE THE POLICY DIRECTION FOR THE STATE DEPARTMENT OF HUMAN SERVICES; TO PROVIDE FOR THE MEMBERSHIP AND APPOINTMENT OF THE BOARD; TO PROVIDE THAT THE EXECUTIVE DIRECTOR OF HUMAN SERVICES SHALL BE APPOINTED BY THE BOARD; TO AUTHORIZE THE JOINT OVERSIGHT COMMITTEE OF THE DEPARTMENT AND INDIVIDUAL MEMBERS OF THE COMMITTEE TO ATTEND ANY MEETING OF THE BOARD AND TO PARTICIPATE IN ANY BOARD DISCUSSIONS; TO SPECIFY THE MINIMAL ORGANIZATIONAL UNITS OF THE DEPARTMENT; TO PROVIDE THAT THE HEADS OF OFFICES OF THE DEPARTMENT SHALL SERVE AT THE WILL AND PLEASURE OF THE EXECUTIVE DIRECTOR; TO PROVIDE THAT THE HEADS OF BUREAUS AND DIVISIONS OF THE DEPARTMENT SHALL BE STATE SERVICE EMPLOYEES; TO EXTEND THE REPEALER DATE ON THE DEPARTMENT OF HUMAN SERVICES; TO AMEND SECTION 43-1-4, TO PROVIDE ADDITIONAL DUTIES OF THE BOARD; TO AMEND SECTIONS 43-1-1, 43-1-3, 43-1-5, 43-1-6, 43-1-9 AND 25-9-107, MISSISSIPPI CODE OF 1972, TO CONFORM TO THE PRECEDING PROVISIONS; AND FOR RELATED PURPOSES.

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

SECTION 1. Section 43-1-2, Mississippi Code of 1972, is amended as follows:

43-1-2. (1) There is created the State Department of Human Services, whose offices shall be located in Jackson, Mississippi, and which shall be under the policy direction of the State Board of Human Services created in subsection (2) of this section.

(2) (a) There is created the State Board of Human Services, which shall consist of nine (9) members appointed by the Governor. All initial and subsequent appointments to the board shall be with the advice and consent of the Senate. The board shall be in place by July 1, 2003.

(b) The board shall be composed of persons with extensive knowledge of or practical experience with the Department of Human Services. No board member shall be an elected official of the State of Mississippi or a political subdivision of the state. One (1) member shall be appointed from each congressional
district as constituted on January 1, 2003; one (1) of these shall be an individual who has received services from the Department of Human Services in the past, one (1) may have knowledge of federal and state funding issues, one (1) may have experience with the youth court system and one (1) may have knowledge of welfare to work programs. Five (5) members shall be appointed from the state at large. Three (3) of these must hold a current or past license as a masters level social worker and have some experience with vulnerable adults and children; one (1) may be a medical doctor; one (1) may be an attorney with background in human services issues.

(c) The initial members of the board shall be appointed for staggered terms, as follows: Two (2) members shall be appointed for terms that end on June 30, 2004; two (2) members shall be appointed for terms that end on June 30, 2005; three (3) members shall be appointed for terms that end on June 30, 2006; and two (2) members shall be appointed for terms that end on June 30, 2007. All subsequent appointments to the board shall be for terms of four (4) years from the expiration date of the previous term. No person shall be appointed to the board for more than two (2) consecutive terms.

(d) Any vacancy on the board before the expiration of a term shall be filled by appointment of the Governor, with the advice and consent of the Senate. The person appointed to fill the vacancy shall serve for the remainder of the unexpired term and must fulfill the requirements in paragraph (b) of this section.

(e) The members of the board shall select one (1) member to serve as chairman of the board at the first meeting. The board shall select a chairman once every two (2) years, and any person who has previously served as chairman may be reelected as chairman, but not for more than two (2) consecutive terms.
(f) Five (5) members of the board shall constitute a quorum for the transaction of any business of the board. The board shall hold regular monthly meetings, and other meetings as may be necessary for the purpose of conducting such business as may be required. All meetings shall be called by the chairman or by a majority of the members of the board, except the first meeting, which shall be called by the Governor. Any member who does not attend three (3) consecutive regular meetings of the board, except for illness, shall be subject to removal by a majority vote of the members of the board.

(g) Members of the board shall receive the per diem authorized under Section 25-3-69 for each day spent actually discharging their official duties, and shall receive reimbursement for mileage and necessary travel expenses incurred as provided in Section 25-3-41.

(3) (a) The chief administrative officer of the department shall be the Executive Director of Human Services. The executive director shall be appointed by the board and shall serve at the will and pleasure of the board.

(b) The executive director shall possess the following qualifications which shall be certified by the State Personnel Board:

(i) Strong administrative ability;

(ii) Knowledge related to the fields of services provided by DHS;

(iii) Understanding of the legislative process;

and

(iv) Knowledge of state and federal funding streams.

(c) The executive director shall serve as secretary and executive officer of the board. The executive director shall be vested with all the authority of the board when it is not in session, and shall be subject to such rules and regulations as may
be prescribed by the board. The executive director shall be responsible to the board for the proper administration of all programs under the jurisdiction of the department. Whenever the executive director is given any duty or authority by law, the executive director shall exercise that duty or authority in accordance with the rules, regulations and policies adopted by the board.

(d) The salary of the executive director shall be set by the board, not to exceed the maximum amount set by the Legislature.

(e) The provision of paragraphs (a), (b) and (d) of this subsection shall not be applicable until the board is in place, which shall not be later than July 1, 2003, and a search for the executive director has been finalized, which shall be not later than January 1, 2004.

* * *

(4) (a) There shall be a Joint Oversight Committee of the Department of Human Services composed of the respective Chairmen of the Senate Public Health and Welfare Committee, the Senate Appropriations Committee, the House Public Health and Welfare Committee and the House Appropriations Committee, two (2) members of the Senate appointed by the Lieutenant Governor to serve at the will and pleasure of the Lieutenant Governor, and two (2) members of the House of Representatives appointed by the Speaker of the House to serve at the will and pleasure of the Speaker. The chairmanship of the committee shall alternate for twelve-month periods between the Senate members and the House members, with the Chairman of the Senate Public Health and Welfare Committee serving as the first chairman.

(b) The committee shall meet once each month, or upon the call of the chairman at such times as he deems necessary or advisable. The committee or any individual member of the committee may attend any meetings of the State Board of Human
Services. The committee may make recommendations to the Legislature pertaining to any matter within the jurisdiction of the * * * department * * *.

(c) The appointing authorities may designate an alternate member from their respective houses to serve when the regular designee is unable to attend the meetings of the * * * committee.

(d) For attending meetings of the * * * committee, the legislator shall receive per diem and expenses which shall be paid from the contingent expense funds of their respective houses in the same amounts as provided for committee meetings when the Legislature is not in session; however, no per diem and expenses for attending meetings of the committee will be paid while the Legislature is in session. No per diem and expenses will be paid except for attending meetings of the * * * committee without prior approval of the proper committee in their respective houses.

(5) The * * * department, under the policy direction of the board, shall provide the services authorized by law to every individual determined to be eligible therefor. In carrying out the purposes of the department, the board is authorized:

(a) To appoint a full-time Executive Director of Human Services who shall be employed by the board and shall serve as executive secretary of the board;

(b) To formulate the policy of the department regarding human services within the jurisdiction of the department;

(c) To adopt, modify, repeal and promulgate, after due notice and hearing, * * * rules and regulations implementing or effectuating the powers and duties of the department under any and all statutes within the department's jurisdiction, and to enforce those rules and regulations and where not otherwise prohibited by state or federal law, to make exceptions to and grant exemptions and variances from those rules and regulations; all of which shall
be binding upon the state, regional and county departments of human services;

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

(e) Except as limited by Section 43-1-3, to enter into and to authorize the executive director to execute, with approval of the board, contracts, grants and cooperative agreements with any federal or state agency or subdivision thereof, or any public or private institution located inside or outside the State of Mississippi, or any person, corporation or association in connection with carrying out the programs of the department; and

(f) To discharge such other duties, responsibilities and powers as are necessary to implement the programs of the department.

(6) The executive director, with the approval of the board, shall establish the organizational structure of the department, which shall include the creation of any units necessary to implement the duties assigned to the department and consistent with specific requirements of law, including, but not limited to:

(a) Office of Family and Children's Services;
(b) Office of Youth Services;
(c) Office of Economic Assistance;
(d) Office of Child Support Enforcement;
(e) Office of Aging and Adult Services;
(f) Office for Children and Youth;
(g) Office of Community Services.

(7) (a) The executive director shall appoint the heads of all offices, bureaus and divisions of the department, as defined in Section 7-17-11, and any necessary supervisors, assistants and employees of the department.
(b) Beginning on March 1, 2004, deputy directors of the department shall be appointed by the executive director. These directors must have expertise in the programmatic area or areas that they are to oversee.

(c) The heads of all bureaus and divisions of the department shall be state service employees, and the employment and termination of the heads of bureaus and divisions shall be in accordance with the rules and regulations of the State Personnel Board.

(d) The salary and compensation of the office, bureau and division heads and other employees of the department shall be subject to the rules and regulations of the State Personnel Board.

(e) The executive director may have the authority to organize offices as deemed appropriate to carry out the responsibilities of the department. The organization charts of the department shall be presented annually with the budget request of the department for review by the Legislature.

[8] This section shall stand repealed on July 1, 2007.

SECTION 2. Section 43-1-4, Mississippi Code of 1972, is amended as follows:

43-1-4. (1) The State Department of Human Services, under the policy direction of the State Board of Human Services, shall have the following powers and duties:

(a) To provide basic services and assistance statewide to needy and disadvantaged individuals and families.

(b) To promote integration of the many services and programs within its jurisdiction at the client level thus improving the efficiency and effectiveness of service delivery and providing easier access to clients.

(c) To develop a statewide comprehensive service delivery plan in coordination with the Board of Health, the Board of Mental Health, the Division of Medicaid and the Department of
Finance and Administration. The plan shall be developed and presented to the Governor by July 1, 2005.

(d) To employ personnel and expend funds appropriated to the department to carry out the duties and responsibilities assigned to the department by law.

(2) The State Board of Human Services shall establish and implement the following:

(a) Establish a review process to measure outcomes for children and families who receive or formerly received benefits or services for the department, in order to provide timely, appropriate and cost-effective benefits and services to children and families. This process shall include selected tracking studies of children and their families who receive benefits or services from the department, and those who formerly received benefits or services from the department, to determine the effects on their lives of receiving those benefits or services, and the effects on their lives after no longer receiving those benefits or services.

(b) Establish a comprehensive approach to services to determine the total needs of all individuals being served, in order to ensure that the funds available for human services in different programs and state agencies will follow the individual receiving the services. This structure shall be designed to assist moving families from welfare to work and reducing the number and complexity of the forms that are used for individuals receiving the services to access different services provided by the department or by other agencies.

(c) Set continuing education standards for all direct service workers and assure these workers as well as supervisors and department heads receive on-going training.

(d) Establish productivity standards for all employees including county, regional and state employees of the department. These standards are to be reviewed annually.
(e) Create advisory councils as needed to assist the board and department in the performance and discharge of their duties.

(f) Monitor agency-wide compliance with federal and state regulations and licensing standards, including all contractual agreements.

(g) Set fair standards and procedures for the letting of all grants and contracts made by each office, division and bureau of the department.

(h) Carefully monitor the financial issues by:

(i) Ensuring that the budget and finance offices of the department have experienced personnel who can deal with federal and state funding streams.

(ii) Establishing a process designed to maximize and utilize, to the greatest extent possible, all federal funds that are available for programs administered by the department or benefits and services provided by the department. It is the intent of the Legislature that the board, the department and the executive director will take whatever actions are necessary to obtain the maximum amount of federal funds that are available for department programs, benefits and services, and will expend all federal funds received by the department for those programs, benefits and services.

(iii) Carefully study the flow of dollars through the department and make whatever adjustments are necessary in accounting practices to reduce complexity and assure accurate bookkeeping of each individual program.

SECTION 3. Section 43-1-1, Mississippi Code of 1972, is amended as follows:

43-1-1. (1) The Department of Human Services shall be the State Department of Public Welfare and shall retain all powers and duties as granted to the State Department of Public Welfare. The State Board of Human Services shall be the State Board of Public
Welfare and shall retain all powers and duties as granted to the
State Board of Public Welfare. Wherever the term "State
Department of Public Welfare" or "State Board of Public Welfare"
appears in any law, the term shall mean the Department of Human
Services or the State Board of Human Services, respectively. The
Executive Director of the Department of Human Services may assign
to the appropriate offices such powers and duties deemed
appropriate to carry out the lawful functions of the department.

(2) This section shall stand repealed on July 1, 2007.

SECTION 4. Section 43-1-3, Mississippi Code of 1972, is
amended as follows:

43-1-3. Notwithstanding the authority granted under
subsection (5)(e) of Section 43-1-2, the State Board of Human
Services, the State Department of Human Services or the Executive
Director of Human Services shall not be authorized to delegate,
privatize or otherwise enter into a contract with a private entity
for the operation of any office, bureau or division of the
department, as defined in Section 7-17-11, without specific
authority to do so by general act of the Legislature. However,
nothing in this section shall be construed to invalidate: (a) any
existing contract of the department that is in place as of July 1,
2003, which must be honored for the life of the contract; or (b)
the continued renewal of any such contract with the same entity
upon the expiration of the contract; or (c) the execution of a
contract with another legal entity as a replacement of any such
contract that is expiring, provided that the replacement contract
is substantially the same as the expiring contract. * * *

This section shall stand repealed on July 1, 2007.

SECTION 5. Section 43-1-5, Mississippi Code of 1972, is
amended as follows:

43-1-5. It shall be the duty of the State Department of
Human Services to:
(a) Establish and maintain programs not inconsistent with the terms of this chapter and the rules, regulations and policies of the State Board of Human Services, and publish the rules and regulations of the board pertaining to those programs.

(b) Make such reports in such form and containing such information as the federal government may, from time to time, require, and comply with such provisions as the federal government may, from time to time, find necessary to assure the correctness and verification of those reports.

(c) Within ninety (90) days after the end of each fiscal year, and at each regular session of the Legislature, make and publish one (1) report to the Governor, to the Legislature, and to the general public showing for the period of time covered, in each county and for the state as a whole:

(i) The total number of recipients;

(ii) The total amount paid to them in cash;

(iii) The maximum and the minimum amount paid to any recipients in any one (1) month;

(iv) The total number of applications;

(v) The number granted;

(vi) The number denied;

(vii) The number cancelled;

(viii) The amount expended for administration of the provisions of this chapter;

(ix) The amount of money received from the federal government, if any;

(x) The listing of all contracts in which each office of the department engages;

(xi) The amount of money received from recipients of assistance and from their estates and the disposition of same;

(xii) Such other information and recommendations as the Governor or the Legislature may require or as the department may deem advisable;
(xiii) The number of state-owned automobiles purchased and operated during the year by the department, the number purchased and operated out of funds appropriated by the Legislature, the number purchased and operated out of any other public funds, the miles traveled per automobile, the total miles traveled, the average cost per mile and depreciation estimate on each automobile;

(xiv) The cost per mile and total number of miles traveled by department employees in privately owned automobiles, for which reimbursement is made out of state funds;

(xv) How the money appropriated to the institutions under the jurisdiction of the department has been expended during the preceding year, beginning and ending with the fiscal year of each institution, exhibiting the salaries paid to officers and employees of the institutions, and each and every item of receipt and expenditure;

(xvi) The activities of each office of the department, as defined in Section 7-17-11, and recommendations for improvement of the services to be performed by each office.

Each report shall be balanced and shall begin with the balance at the end of the preceding fiscal year, and if any property belonging to the state or the institution is used for profit, the report shall show the expenses incurred in managing the property and the amount received from the same. Those reports shall also show a summary of the gross receipts and gross disbursements for each fiscal year and shall show the money on hand at the beginning of the fiscal period of each office of the department.

This section shall stand repealed on July 1, 2007.

SECTION 6. Section 43-1-6, Mississippi Code of 1972, is amended as follows:

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43-1-6. The following programs within the Division of Federal-State Programs, Office of the Governor, shall be transferred to the State Department of Human Services:

(a) Office of Energy and Community Services;
(b) Juvenile Justice Advisory Committee; and
(c) Mississippi Council on Aging.

All authority to implement those programs shall be vested in the State Department of Human Services.

This section shall stand repealed on July 1, 2007.

SECTION 7. Section 43-1-9, Mississippi Code of 1972, is amended as follows:

43-1-9. (1) There is created in each county of the state a county department of human services, which shall consist of a county director of human services, and such other personnel as may be necessary for the efficient performance of the duties of the county department. It shall be the duty of the board of supervisors of each county to provide office space for the county department.

(2) County director. The Executive Director of Human Services shall designate, in accordance with the rules and regulations of the State Personnel Board, a county director of human services who shall serve as the executive and administrative officer of the county department and shall be responsible to the state department for its management. The director shall be a resident citizen of the county and shall not hold any political office of the state, county, municipality or subdivision thereof. However, in cases of emergency, the Executive Director of Human Services may appoint a county director of human services who is a nonresident of that county, to serve during the period of emergency only.

(3) The county department of human services shall administer within the county all forms of public assistance and welfare services. The county department shall comply with such
regulations and submit such reports as may be established or
required by the state department. Noncompliance may be cause for
dismissal. Subject to the approval of the state department, the
county department shall cooperate with other departments, agencies
and institutions, state and local, when so requested, in
performing services in conformity with the provisions of this
chapter.

(4) In counties having two (2) judicial districts, the
Executive Director of Human Services may create and establish in
each of the judicial districts a separate county department of
human services, which shall consist of a county director of human
services and such other personnel as may be necessary for the
efficient performance of the duties of the department thus
established. In those cases the two (2) departments so
established shall be dealt with as though each is a separate and
distinct county department of human services, and each of the
departments and each of the directors shall operate and have
jurisdiction coextensive with the boundaries of the judicial
district in which it is established. In addition, in those cases
the words "county" and "director of human services" when used in
this chapter shall, where applicable, mean each judicial district,
and the director of human services appointed. Where the board of
supervisors is authorized to appropriate funds or provide office
space or like assistance for one (1) county * * * department or
director of human services, the board may, as the case may be,
appropriate the amount specified by law or render the assistance
required by law to each of the departments or directors. * * *
However, * * * the Executive Director of Human Services shall not
create and establish a separate county department of human
services under this paragraph in any county in which a separate
county department of public welfare or county department of human
services is not in existence on January 1, 1983. In addition, in
any county having two (2) county departments of public welfare or
county departments of human services on January 1, 1983, but only
one (1) county director of public welfare or director of human
services on that date, the Executive Director of Human Services
shall not authorize and establish the second position of county
director of human services in that county.

(5) In any county not having two (2) judicial districts that
is greater than fifty (50) miles in length, the Executive Director
of Human Services may establish one (1) branch office of the
county department of human services, which shall be staffed with
existing employees and administrative staff of the county
department for not less than four (4) days per week.

SECTION 8. Section 25-9-107, Mississippi Code of 1972, is
amended as follows:

25-9-107. The following terms, when used in this chapter,
unless a different meaning is plainly required by the context,
shall have the following meanings:

(a) "Board" * * * means the Department of Human
Services Board created under the provisions of this chapter.

(b) "State service" * * * means all employees of state
departments, agencies and institutions as defined in this section,
except those officers and employees excluded by this chapter.

(c) "Nonstate service" * * * means the following
officers and employees excluded from the state service by this
chapter. The following are excluded from the state service:

(i) Members of the state Legislature, their staffs
and other employees of the legislative branch;

(ii) The Governor and staff members of the
immediate Office of the Governor;

(iii) Justices and judges of the judicial branch
or members of appeals boards on a per diem basis;

(iv) The Lieutenant Governor, staff members of the
immediate Office of the Lieutenant Governor and officers and
employees directly appointed by the Lieutenant Governor;
(v) Officers and officials elected by popular vote and persons appointed to fill vacancies in elective offices;
(vi) Members of boards and commissioners appointed by the Governor, Lieutenant Governor or the State Legislature;
(vii) All academic officials, members of the teaching staffs and employees of the state institutions of higher learning, the State Board for Community and Junior Colleges, and community and junior colleges;
(viii) Officers and enlisted members of the National Guard of the state;
(ix) Prisoners, inmates, student or patient help working in or about institutions;
(x) Contract personnel; however, any agency that employs state service employees may enter into contracts for personal and professional services only if those contracts are approved in compliance with the rules and regulations promulgated by the State Personal Service Contract Review Board under Section 25-9-120(3). Before paying any warrant for those contractual services in excess of One Hundred Thousand Dollars ($100,000.00), the State Fiscal Officer shall determine whether the contract involved was for personal or professional services, and, if so, was approved by the State Personal Service Contract Review Board;
(xi) Part-time employees; * * * however, part-time employees shall only be hired into authorized employment positions classified by the board, shall meet minimum qualifications as set by the board, and shall be paid in accordance with the Variable Compensation Plan as certified by the board;
(xii) Persons appointed on an emergency basis for the duration of the emergency; the effective date of the emergency appointments shall not be earlier than the date approved by the State Personnel Director, and shall be limited to thirty (30) working days. Emergency appointments may be extended to sixty (60) working days by the State Personnel Board;
(xiii) Physicians, dentists, veterinarians, nurse practitioners and attorneys, while serving in their professional capacities in authorized employment positions who are required by statute to be licensed, registered or otherwise certified as such, provided that the State Personnel Director shall verify that the statutory qualifications are met before issuance of a payroll warrant by the State Fiscal Officer;

(xiv) Personnel who are employed and paid from funds received from a federal grant program that has been approved by the Legislature or the Department of Finance and Administration whose length of employment has been determined to be time-limited in nature. This subparagraph shall apply to personnel employed under the provisions of the Comprehensive Employment and Training Act of 1973, as amended, and other special federal grant programs that are not a part of regular federally funded programs in which appropriations and employment positions are appropriated by the Legislature. Those employees shall be paid in accordance with the Variable Compensation Plan and shall meet all qualifications required by federal statutes or by the Mississippi Classification Plan;

(xv) The administrative head who is in charge of any state department, agency, institution, board or commission, in which the statute specifically authorizes the Governor, board, commission or other authority to appoint the administrative head; however, the salary of that administrative head shall be determined by the State Personnel Board in accordance with the Variable Compensation Plan unless otherwise fixed by statute;

(xvi) The State Personnel Board shall exclude top level positions if the incumbents determine and publicly advocate substantive program policy and report directly to the agency head, or the incumbents are required to maintain a direct confidential working relationship with a key excluded official.
written job classification shall be approved by the board for each
such position, and positions so excluded shall be paid in
conformity with the Variable Compensation Plan. However, this
subparagraph (xvi) shall not apply to any position of the State
Department of Human Services that is specifically included in the
state service by law;

(xvii) Employees whose employment is solely in
connection with an agency’s contract to produce, store or
transport goods, and whose compensation is derived therefrom;

(xviii) Repealed;

(xix) The associate director, deputy directors and
bureau directors within the Department of Agriculture and
Commerce;

(xx) Personnel employed by the Mississippi
Industries for the Blind; however, any agency may enter into
contracts for the personal services of MIB employees without the
prior approval of the State Personnel Board or the State Personal
Service Contract Review Board; however, any agency contracting for
the personal services of an MIB employee shall provide the MIB
employee with not less than the entry level compensation and
benefits that the agency would provide to a full-time employee of
the agency who performs the same services.

(d) "Agency" means any state board, commission,
committee, council, department or unit thereof created by the
Constitution or statutes if the board, commission, committee,
council, department, unit or the head thereof, is authorized to
appoint subordinate staff by the Constitution or statute, except a
legislative or judicial board, commission, committee, council,
department or unit thereof.

SECTION 9. This act shall take effect and be in force from
and after July 1, 2003; however, in order to provide for an
orderly transition, subsection (2) of Section 1 of this act, which
provides for the appointment of the State Board of Human Services,
shall take effect and be in force from and after the passage of this act.