

House Amendments to Senate Bill No. 2764

TO THE SECRETARY OF THE SENATE:

THIS IS TO INFORM YOU THAT THE HOUSE HAS ADOPTED THE AMENDMENTS SET OUT BELOW:

AMENDMENT NO. 1

Amend by striking all after the enacting clause and inserting in lieu thereof the following:

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

43 41-3-20. (1) Sections 41-3-1 and 41-3-5, which create the
44 State Board of Health and the position of the Executive Officer of
45 the State Department of Health, shall stand repealed on June 30,
46 2007.

47 (2) Sections 41-3-1.1, 41-3-3, 41-3-4, 41-3-5.1, 41-3-6,
48 41-3-15, 41-3-16, 41-3-17, 41-3-18 and 41-3-19, which create the
49 reconstituted State Board of Health, establish the position of
50 Executive Officer of the State Department of Health and establish
51 the State Department of Health and prescribe its powers and
52 duties, shall stand repealed on June 30, 2010.

53 **SECTION 2.** The following shall be codified as Section
54 41-3-1.1, Mississippi Code of 1972:

55 41-3-1.1. (1) The State Board of Health is continued and
56 reconstituted as follows:

57 There is created the State Board of Health which, from and
58 after July 1, 2007, shall consist of nine (9) members appointed
59 with the advice and consent of the Senate, as follows:

60 (a) Three (3) members of the board shall be licensed
61 physicians of good professional standing who have had at least
62 seven (7) years' experience in the practice of medicine in this
63 state. Two (2) of those members shall be appointed by the
64 Governor and one (1) of those members shall be appointed by the
65 Attorney General, in the manner provided in paragraph (g) of this
66 subsection (1) and as follows: The Governor shall appoint one (1)

67 member each from a list of three (3) individuals recommended by
68 the Mississippi State Medical Association and a list of three (3)
69 individuals recommended by the Mississippi Medical and Surgical
70 Association. The Attorney General shall appoint one (1) member
71 from a list of three (3) individuals recommended by the
72 Mississippi Primary Health Care Association.

73 (b) One (1) member of the board shall be a licensed
74 nurse of good professional standing who has had at least seven (7)
75 years' experience in the practice of his or her profession in this
76 state. This member shall be appointed by the Lieutenant Governor
77 in the manner provided in paragraph (g) of this subsection (1)
78 from a list of three (3) individuals recommended by the
79 Mississippi Nurses' Association and a list of three (3)
80 individuals recommended by the Eliza Pillars Registered Nurses
81 Association.

82 (c) One (1) member of the board shall be a hospital
83 administrator of good professional standing who has had at least
84 seven (7) years' experience in hospital administration. This
85 member shall be appointed by the Governor in the manner provided
86 in paragraph (g) of this subsection (1) from a list of three (3)
87 individuals recommended by the Mississippi Hospital Association.

88 (d) One (1) member of the board shall be an individual
89 engaged professionally in rendering health care services who is
90 not a physician, nurse or hospital administrator and who has had
91 at least seven (7) years' experience in the practice of his or her
92 profession in this state. This member shall be appointed by the
93 Lieutenant Governor in the manner provided in paragraph (g) of
94 this subsection (1).

95 (e) Three (3) members of the board shall be consumer
96 representatives with an interest in public health who are not
97 direct providers of health care goods or services and who are not
98 health care providers licensed as such under state law. One (1)
99 consumer representative each shall be appointed by the Governor,
100 the Lieutenant Governor and the Attorney General, in the manner
101 provided in paragraph (g) of this subsection (1).

102 (f) The Governor, Lieutenant Governor and Attorney
103 General shall give due regard to geographic distribution, race and
104 gender in making their appointments to the board. It is the
105 intent of the Legislature that the membership of the board reflect
106 the population of the State of Mississippi. Of the Governor's
107 appointments, one (1) member of the board shall be appointed from
108 each of the four (4) congressional districts as constituted on
109 June 30, 2007. Of the Lieutenant Governor's appointments, one (1)
110 member of the board shall be appointed from each of the three (3)
111 Supreme Court districts as constituted on June 30, 2007. The
112 appointments of the Attorney General shall be made from the state
113 at large.

114 (g) The initial members of the board shall be appointed
115 for staggered terms, as follows: Of the Governor's appointments,
116 two (2) members shall be appointed for terms that end on June 30,
117 2010; one (1) member shall be appointed for a term that ends on
118 June 30, 2011; and one (1) member shall be appointed for a term
119 that ends on June 30, 2012. Of the Lieutenant Governor's
120 appointments, one (1) member shall be appointed for a term that
121 ends on June 30, 2010; one (1) member shall be appointed for a
122 term that ends on June 30, 2011; and one (1) member shall be
123 appointed for a term that ends on June 30, 2012. Of the Attorney
124 General's appointments, one (1) member shall be appointed for a
125 term that ends on June 30, 2011, and one (1) member shall be
126 appointed for a term that ends on June 30, 2012.

127 A member of the board serving before January 1, 2007, shall
128 be eligible for reappointment to the reconstituted board unless
129 the person is disqualified due to a failure to provide proper
130 notice regarding a conflict of interest.

131 (2) At the expiration of a term, members of the board shall
132 be appointed in the manner prescribed in subsection (1) of this
133 section for terms of five (5) years from the expiration of the
134 previous term and thereafter until his or her successor is duly
135 appointed. Vacancies in office shall be filled by appointment in
136 the same manner as the appointment to the position that becomes

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

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

159 (4) (a) All members of the State Board of Health shall
160 annually review, sign and file with the Mississippi Ethics
161 Commission before the first day of May each year, a statement
162 acknowledging the constitutional provisions, statutes and policies
163 concerning conflicts of interest. Additionally, each member of
164 the board shall file annually with the commission before the first
165 day of May each year, a supplemental statement of economic
166 interest, disclosing the name and address of every "business with
167 which he is associated," as that term is defined in Section
168 25-4-103. Failure to file either the statement of acknowledgement
169 and/or the supplemental statement of economic interest or failure
170 to disclose information as required in this paragraph (a) shall be

171 punishable as set forth in Section 25-4-31(3), whether or not that
172 failure is knowing and/or willful.

173 (b) No member of the board shall participate in any
174 action by the board or department if that action could have any
175 monetary effect on any business with which that member is
176 associated. For purposes of this paragraph (b), a business with
177 which a member is associated shall be any business required to be
178 reported on the supplemental statement of economic interest
179 required in paragraph (a).

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

194 (d) Upon a determination by the board or by any court
195 of competent jurisdiction that a member of the board has violated
196 the provisions of this subsection (2) regarding recusal, the
197 member shall be removed from office. Any member of the board who
198 violates the provisions of this section regarding recusal also
199 shall be subject to the penalties set forth in Sections 25-4-109
200 through 25-4-117. After removal from office, the member shall not
201 be eligible for appointment to any agency, board or commission of
202 the state for a period of two (2) years. Nothing in this section
203 shall be construed to limit the restrictions codified in Section
204 25-4-105.

205 (5) (a) No member of the State Board of Health, the State
206 Health Officer or any employee of the State Department of Health
207 shall knowingly accept, directly or indirectly, any gift, money,
208 service or other tangible or intangible thing having a value in
209 excess of One Hundred Dollars (\$100.00) from any person interested
210 as owner, agent or representative of any public or private entity
211 that is a contractor, subcontractor or vendor to the department or
212 that shall come under the jurisdiction or supervision of the
213 department.

214 (b) If any member of the board, the State Health
215 Officer or any employee of the department accepts, directly or
216 indirectly, any gift, money, service or other tangible or
217 intangible thing having a value in excess of Twenty-five Dollars
218 (\$25.00) but not exceeding One Hundred Dollars (\$100.00), from any
219 person interested as owner, agent or representative of any public
220 or private entity that is a contractor, subcontractor or vendor to
221 the department or that shall come under the jurisdiction or
222 supervision of the department, then the recipient of the gift,
223 money, service or other tangible or intangible thing shall, within
224 thirty (30) days of receipt, file with the Mississippi Ethics
225 Commission a report of gift received. The report shall contain a
226 description of each gift, the monetary value of each gift, the
227 name and address of the person or entity making the gift, the name
228 and address of the recipient of the gift, and the date the gift
229 was received.

230 (c) Upon a determination by the board or by any court
231 of competent jurisdiction that a member of the board or the State
232 Health Officer has violated the provisions of this subsection (5),
233 the person shall be removed from office. Upon a determination by
234 the State Health Officer that a nonstate service employee of the
235 department has violated the provisions of this subsection (5), the
236 employee shall be terminated. A violation of the provisions of
237 this subsection (5) by a state service employee of the department
238 shall constitute a group three offense, as set forth in the rules,
239 regulations and policies promulgated by the State Personnel Board.

240 Any person who violates the provisions of this subsection (5) also
241 shall be subject to the penalties set forth in Sections 25-4-109
242 through 25-4-117.

243 (6) The members of the State Board of Health and the State
244 Health Officer shall report any threat, coercion or intimidation
245 experienced by any of them regarding any matter under the
246 jurisdiction of the State Department of Health, to the Office of
247 the Attorney General, the Mississippi Ethics Commission and any
248 other appropriate oversight authorities.

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

251 41-3-3. Each person appointed as a member of the State Board
252 of Health shall immediately take the oath prescribed by Section
253 268 of the Constitution and file a certificate thereof in the
254 Office of the Secretary of State. Thereupon a commission shall be
255 issued to him under the terms as specified in Section 41-3-1.

256 **SECTION 4.** Section 41-3-4, Mississippi Code of 1972, is
257 reenacted and amended as follows:

258 41-3-4. (1) There shall be a chairman and vice chairman of
259 the State Board of Health elected by and from its membership at
260 the first meeting of the board; and the chairman shall be the
261 presiding officer of the board. The board shall adopt rules and
262 regulations governing times and places for meetings, and governing
263 the manner of conducting its business. The board shall meet not
264 less frequently than once every sixty (60) days, and at such other
265 times as determined to be necessary. The term of office of any
266 member who does not attend three (3) consecutive regular meetings
267 of the board shall be automatically terminated, and the position
268 shall be considered as vacant, except in cases of the serious
269 illness of a board member or of his or her immediate family
270 member. All meetings of the board shall be called by the chairman
271 or by a majority of the members of the board, except the first
272 meeting of the original appointees, which shall be called by the
273 Governor.

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

280 **SECTION 5.** The following shall be codified as Section
281 41-3-5.1, Mississippi Code of 1972:

282 41-3-5.1. The State Department of Health shall be headed by
283 an executive officer who shall be appointed by the State Board of
284 Health. The executive officer shall be either a physician who has
285 earned a graduate degree in public health or health care
286 administration, or a physician who in the opinion of the board is
287 fitted and equipped to execute the duties incumbent upon him by
288 law. The executive officer shall not engage in the private
289 practice of medicine. The executive officer shall serve at the
290 will and pleasure of the board, and he or she may be removed at
291 any time, with or without cause by majority vote of the members of
292 the board. The executive officer shall be subject to such rules
293 and regulations as may be prescribed by the State Board of Health.
294 The executive officer shall be the State Health Officer with such
295 authority and responsibility as is prescribed by law.

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

298 41-3-6. It shall be the duty of the State Board of Health to
299 review the statutes of the State of Mississippi affecting public
300 health and submit at least thirty (30) days prior to each regular
301 session of the Legislature any proposed legislation as may be
302 necessary to enhance the effective and efficient delivery of
303 public health services and to bring existing statutes into
304 compliance with modern technology and terminology. The board
305 shall formulate a plan for consolidating and reorganizing existing
306 state agencies having responsibilities in the field of public
307 health to eliminate any needless duplication in services which may
308 be found to exist. In carrying out the provisions of this

309 section, the State Board of Health shall cooperate with and may
310 utilize the services, facilities and personnel of any department
311 or agency of the state, any private citizen task force and the
312 committees on public health of both houses of the Legislature.
313 The State Board of Health is authorized to apply for and expend
314 funds made available to it by grant from any source in order to
315 perform its responsibilities under this section.

316 **SECTION 7.** Section 41-3-15, Mississippi Code of 1972, is
317 reenacted and amended as follows:

318 41-3-15. (1) (a) There shall be a State Department of
319 Health * * *.

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

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

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

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

334 (iv) To enter into, and to authorize the executive
335 officer to execute, contracts, grants and cooperative agreements
336 with any federal or state agency or subdivision thereof, or any
337 public or private institution located inside or outside the State
338 of Mississippi, or any person, corporation or association in
339 connection with carrying out the provisions of this chapter, if it
340 finds those actions to be in the public interest and the contracts
341 or agreements do not have a financial cost that exceeds the
342 amounts appropriated for those purposes by the Legislature. Each
343 contract or agreement entered into by the board shall be submitted

344 to the Joint Legislative Committee on Performance Evaluation and
345 Expenditure Review (PEER);

346 (v) To have sole authority to direct and oversee
347 the internal auditor for the State Department of Health; and

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

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

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

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

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

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

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

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

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

385 (viii) To prepare and deliver to the Chairmen of
386 the Public Health and Welfare/Human Services Committees of the
387 Senate and House on or before January 1 of each year, a plan for
388 monitoring infant mortality in Mississippi and a full report of
389 the work of the department on reducing Mississippi's infant
390 mortality and morbidity rates and improving the status of maternal
391 and infant health; and

392 (ix) To enter into contracts, grants and
393 cooperative agreements with any federal or state agency or
394 subdivision thereof, or any public or private institution located
395 inside or outside the State of Mississippi, or any person,
396 corporation or association in connection with carrying out the
397 provisions of this chapter, if he or she finds those actions to be
398 in the public interest and the contracts or agreements do not have
399 a financial cost that exceeds the amounts appropriated for those
400 purposes by the Legislature. Each contract or agreement entered
401 into by the executive officer shall be submitted to the board
402 before its next meeting and to the Joint Legislative Committee on
403 Performance Evaluation and Expenditure Review (PEER).

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

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

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

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

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

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

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

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

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

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

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

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

441 * * *

442 (e) To charge and collect reasonable fees for health
443 services, including immunizations, inspections and related
444 activities, and the board shall charge fees for those services
445 in amounts that are commensurate with the direct costs of
446 providing the services; * * * however, if it is determined that a

447 person receiving services is unable to pay the total fee, the
448 board shall collect any amount that the person is able to pay.

449 * * *

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

457 (ii) To require that a permit be obtained from the
458 Department of Health before those persons begin operation. If any
459 such person fails to obtain the permit required in this
460 subparagraph (ii), the State Board of Health, after due notice and
461 opportunity for a hearing, may impose a monetary penalty not to
462 exceed One Thousand Dollars (\$1,000.00) for each violation.
463 However, the department is not authorized to impose a monetary
464 penalty against any person whose gross annual prepared food sales
465 are less than Five Thousand Dollars (\$5,000.00). Money collected
466 by the board under this subparagraph (ii) shall be deposited to
467 the credit of the State General Fund of the State Treasury. * * *

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

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

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

482 * * *

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

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

489 (5) (a) The State Board of Health shall have the authority,
490 in its discretion, to establish programs to promote the public
491 health, to be administered by the State Department of Health.
492 Specifically, those programs may include, but shall not be limited
493 to, programs in the following areas:

494 (i) Maternal and child health;

495 (ii) Family planning;

496 (iii) Pediatric services;

497 (iv) Services to crippled and disabled children;

498 (v) Control of communicable and noncommunicable
499 disease;

500 (vi) Chronic disease;

501 (vii) Child care licensure;

502 (viii) Radiological health;

503 (ix) Dental health;

504 (x) Milk sanitation;

505 (xi) Occupational safety and health;

506 (xii) Food, vector control and general sanitation;

507 (xiii) Protection of drinking water;

508 (xiv) Sanitation in food handling establishments
509 open to the public;

510 (xv) Registration of births and deaths and other
511 vital events;

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

515 (xvii) Regulation of domestic and imported fish
516 for human consumption.

517 (b) The State Board of Health and State Department of
518 Health shall not be authorized to sell, transfer, alienate or
519 otherwise dispose of any of the home health agencies owned and
520 operated by the department on January 1, 1995, and shall not be
521 authorized to sell, transfer, assign, alienate or otherwise
522 dispose of the license of any of those home health agencies,
523 except upon the specific authorization of the Legislature by an
524 amendment to this section. However, this paragraph (b) shall not
525 prevent the board or the department from closing or terminating
526 the operation of any home health agency owned and operated by the
527 department, or closing or terminating any office, branch office or
528 clinic of any such home health agency, or otherwise discontinuing
529 the providing of home health services through any such home health
530 agency, office, branch office or clinic, if the board first
531 demonstrates that there are other providers of home health
532 services in the area being served by the department's home health
533 agency, office, branch office or clinic that will be able to
534 provide adequate home health services to the residents of the area
535 if the department's home health agency, office, branch office or
536 clinic is closed or otherwise discontinues the providing of home
537 health services. This demonstration by the board that there are
538 other providers of adequate home health services in the area shall
539 be spread at length upon the minutes of the board at a regular or
540 special meeting of the board at least thirty (30) days before a
541 home health agency, office, branch office or clinic is proposed to
542 be closed or otherwise discontinue the providing of home health
543 services.

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

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

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

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

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

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

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

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

573 41-3-16. (1) (a) There is established a local governments
574 and rural water systems improvements revolving loan and grant
575 program to be administered by the State Department of Health,
576 referred to in this section as "department," for the purpose of
577 assisting counties, incorporated municipalities, districts or
578 other water organizations that have been granted tax exempt status
579 under either federal or state law, in making improvements to their
580 water systems, including construction of new water systems or
581 expansion or repair of existing water systems. Loan and grant
582 proceeds may be used by the recipient for planning, professional
583 services, acquisition of interests in land, acquisition of
584 personal property, construction, construction-related services,
585 maintenance, and any other reasonable use which the board, in its

586 discretion, may allow. For purposes of this section, "water
587 systems" has the same meaning as the term "public water system"
588 under Section 41-26-3.

589 (b) (i) There is created a board to be known as the
590 "Local Governments and Rural Water Systems Improvements Board,"
591 referred to in this section as "board," to be composed of the
592 following nine (9) members: the State Health Officer, or his
593 designee, who shall serve as chairman of the board; the Executive
594 Director of the Mississippi Development Authority, or his
595 designee; the Executive Director of the Department of
596 Environmental Quality, or his designee; the Executive Director of
597 the Department of Finance and Administration, or his designee; the
598 Executive Director of the Mississippi Association of Supervisors,
599 or his designee; the Executive Director of the Mississippi
600 Municipal League, or his designee; the Executive Director of the
601 Consulting Engineers Council, or his designee; the State Director
602 of the United States Department of Agriculture, Rural Development,
603 or his designee; and a manager of a rural water system.

604 The Governor shall appoint a manager of a rural water system
605 from a list of candidates provided by the Executive Director of
606 the Mississippi Rural Water Association. The Executive Director
607 of the Mississippi Rural Water Association shall provide the
608 Governor a list of candidates which shall contain a minimum of
609 three (3) candidates for each appointment.

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

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

618 (c) The department, if requested by the board, shall
619 furnish the board with facilities and staff as needed to
620 administer this section. The department may contract, upon

621 approval by the board, for those facilities and staff needed to
622 administer this section, including routine management, as it deems
623 necessary. The board may advertise for or solicit proposals from
624 public or private sources, or both, for administration of this
625 section or any services required for administration of this
626 section or any portion thereof. It is the intent of the
627 Legislature that the board endeavor to ensure that the costs of
628 administration of this section are as low as possible in order to
629 provide the water consumers of Mississippi safe drinking water at
630 affordable prices.

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

634 (2) (a) There is created a special fund in the State
635 Treasury to be designated as the "Local Governments and Rural
636 Water Systems Improvements Revolving Loan Fund," referred to in
637 this section as "revolving fund," which fund shall consist of
638 those monies as provided in Sections 6 and 13 of Chapter 521, Laws
639 of 1995. The revolving fund may receive appropriations, bond
640 proceeds, grants, gifts, donations or funds from any source,
641 public or private. The revolving fund shall be credited with all
642 repayments of principal and interest derived from loans made from
643 the revolving fund. The monies in the revolving fund may be
644 expended only in amounts appropriated by the Legislature, and the
645 different amounts specifically provided for the loan program and
646 the grant program shall be so designated. Monies in the fund may
647 only be expended for the grant program from the amount designated
648 for such program. The revolving fund shall be maintained in
649 perpetuity for the purposes established in this section and
650 Sections 6 through 20 of Chapter 521, Laws of 1995. Unexpended
651 amounts remaining in the revolving fund at the end of a fiscal
652 year shall not lapse into the State General Fund, and any interest
653 earned on amounts in the revolving fund shall be deposited to the
654 credit of the fund. Monies in the revolving fund may not be used
655 or expended for any purpose except as authorized under this

656 section and Sections 6 through 20 of Chapter 521, Laws of 1995.
657 Any monies in the fund may be used to match any federal funds that
658 are available for the same or related purposes for which funds are
659 used and expended under this section and Sections 6 through 20 of
660 Chapter 521, Laws of 1995. Any federal funds shall be used and
661 expended only in accordance with federal laws, rules and
662 regulations governing the expenditure of those funds. No person
663 shall use any monies from the revolving fund for the acquisition
664 of real property or any interest in real property unless that
665 property is integral to the project funded under this section and
666 the purchase is made from a willing seller. No county,
667 incorporated municipality or district shall acquire any real
668 property or any interest in any real property for a project funded
669 through the revolving fund by condemnation. The board's
670 application of Sections 43-37-1 through 43-37-13 shall be no more
671 stringent or extensive in scope, coverage and effect than federal
672 property acquisition laws and regulations.

673 (b) There is created a special fund in the State
674 Treasury to be designated as the "Local Governments and Rural
675 Water Systems Emergency Loan Fund," hereinafter referred to as
676 "emergency fund," which fund shall consist of those monies as
677 provided in Sections 6 and 13 of Chapter 521, Laws of 1995. The
678 emergency fund may receive appropriations, bond proceeds, grants,
679 gifts, donations or funds from any source, public or private. The
680 emergency fund shall be credited with all repayments of principal
681 and interest derived from loans made from the emergency fund. The
682 monies in the emergency fund may be expended only in amounts
683 appropriated by the Legislature. The emergency fund shall be
684 maintained in perpetuity for the purposes established in this
685 section and Section 6 of Chapter 521, Laws of 1995. Unexpended
686 amounts remaining in the emergency fund at the end of a fiscal
687 year shall not lapse into the State General Fund. Any interest
688 earned on amounts in the emergency fund shall be deposited to the
689 credit of the fund. Monies in the emergency fund may not be used

690 or expended for any purpose except as authorized under this
691 section and Section 6 of Chapter 521, Laws of 1995.

692 (c) The board created in subsection (1) shall establish
693 loan and grant programs by which loans and grants may be made
694 available to counties, incorporated municipalities, districts or
695 other water organizations that have been granted tax exempt status
696 under either federal or state law, to assist those counties,
697 incorporated municipalities, districts or water organizations in
698 making water systems improvements, including the construction of
699 new water systems or expansion or repair of existing water
700 systems. Any entity eligible under this section may receive
701 either a loan or a grant, or both. No grant awarded under the
702 program established in this section may be made using funds from
703 the loan program. Grants may be awarded only when the Legislature
704 specifically appropriates funds for that particular purpose. The
705 interest rate on those loans may vary from time to time and from
706 loan to loan, and will be at or below market interest rates as
707 determined by the board. The board shall act as quickly as is
708 practicable and prudent in deciding on any loan request that it
709 receives. Loans from the revolving fund or emergency fund may be
710 made to counties, incorporated municipalities, districts or other
711 water organizations that have been granted tax exempt status under
712 either federal or state law, as set forth in a loan agreement in
713 amounts not to exceed one hundred percent (100%) of eligible
714 project costs as established by the board. The board may require
715 county, municipal, district or other water organization
716 participation or funding from other sources, or otherwise limit
717 the percentage of costs covered by loans from the revolving fund
718 or the emergency fund. The maximum amount for any loan from the
719 emergency fund shall be Five Hundred Thousand Dollars
720 (\$500,000.00), and the maximum amount for any loan from the
721 revolving fund shall be One Million Five Hundred Thousand Dollars
722 (\$1,500,000.00).

723 (d) A county that receives a loan from the revolving
724 fund or the emergency fund shall pledge for repayment of the loan

725 any part of the homestead exemption annual tax loss reimbursement
726 to which it may be entitled under Section 27-33-77, as may be
727 required to meet the repayment schedule contained in the loan
728 agreement. An incorporated municipality that receives a loan from
729 the revolving fund or the emergency fund shall pledge for
730 repayment of the loan any part of the sales tax revenue
731 distribution to which it may be entitled under Section 27-65-75,
732 as may be required to meet the repayment schedule contained in the
733 loan agreement. All recipients of such loans shall establish a
734 dedicated source of revenue for repayment of the loan. Before any
735 county or incorporated municipality shall receive any loan, it
736 shall have executed with the State Tax Commission and the board a
737 loan agreement evidencing that loan. The loan agreement shall not
738 be construed to prohibit any recipient from prepaying any part or
739 all of the funds received. The repayment schedule in each loan
740 agreement shall provide for (i) monthly payments, (ii) semiannual
741 payments or (iii) other periodic payments, the annual total of
742 which shall not exceed the annual total for any other year of the
743 loan by more than fifteen percent (15%). Except as otherwise
744 provided in subsection (4) of this section, the loan agreement
745 shall provide for the repayment of all funds received from the
746 revolving fund within not more than fifteen (15) years or a term
747 as otherwise allowed by the federal Safe Drinking Water Act, and
748 all funds received from the emergency fund within not more than
749 five (5) years from the date of project completion, and any
750 repayment shall commence not later than one (1) year after project
751 completion. The State Tax Commission shall withhold semiannually
752 from counties and monthly from incorporated municipalities from
753 the amount to be remitted to the county or municipality, a sum
754 equal to the next repayment as provided in the loan agreement.

755 (e) Any county, incorporated municipality, district or
756 other water organization desiring to construct a project approved
757 by the board which receives a loan from the state for that purpose
758 but which is not eligible to pledge for repayment under the
759 provisions of paragraph (d) of this subsection, shall repay that

760 loan by making payments each month to the State Treasurer through
761 the Department of Finance and Administration for and on behalf of
762 the board according to Section 7-7-15, to be credited to either
763 the revolving fund or the emergency fund, whichever is
764 appropriate, in lieu of pledging homestead exemption annual tax
765 loss reimbursement or sales tax revenue distribution.

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

769 (f) Any district created pursuant to Sections 19-5-151
770 through 19-5-207 that receives a loan from the revolving fund or
771 the emergency fund shall pledge for repayment of the loan any part
772 of the revenues received by that district pursuant to Sections
773 19-5-151 through 19-5-207, as may be required to meet the
774 repayment schedule contained in the loan agreement.

775 (g) The State Auditor, upon request of the board, shall
776 audit the receipts and expenditures of a county, an incorporated
777 municipality, district or other water organization whose loan
778 repayments appear to be in arrears, and if the Auditor finds that
779 the county, incorporated municipality, district or other water
780 organization is in arrears in those repayments, the Auditor shall
781 immediately notify the chairman of the board who may take any
782 action as may be necessary to enforce the terms of the loan
783 agreement, including liquidation and enforcement of the security
784 given for repayment of the loan, and the Executive Director of the
785 Department of Finance and Administration who shall withhold all
786 future payments to the county of homestead exemption annual tax
787 loss reimbursements under Section 27-33-77 and all sums allocated
788 to the county or the incorporated municipality under Section
789 27-65-75 until such time as the county or the incorporated
790 municipality is again current in its loan repayments as certified
791 by the board.

792 (h) All monies deposited in the revolving fund or the
793 emergency fund, including loan repayments and interest earned on
794 those repayments, shall be used only for providing loans or other

795 financial assistance to water systems as the board deems
796 appropriate. In addition, any amounts in the revolving fund or
797 the emergency fund may be used to defray the reasonable costs of
798 administering the revolving fund or the emergency fund and
799 conducting activities under this section and Sections 6 through 20
800 of Chapter 521, Laws of 1995, subject to any limitations
801 established in the federal Safe Drinking Water Act, as amended and
802 subject to annual appropriation by the Legislature. The
803 department is authorized, upon approval by the board, to use
804 amounts available to it from the revolving fund or the emergency
805 fund to contract for those facilities and staff needed to
806 administer and provide routine management for the funds and loan
807 program.

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

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

815 (b) To promulgate rules and regulations, to make
816 variances and exceptions thereto, and to establish procedures in
817 accordance with this section and Sections 6 through 20 of Chapter
818 521, Laws of 1995, for the implementation of the local governments
819 and rural water systems improvements revolving loan program;

820 (c) To require, at the board's discretion, any loan or
821 grant recipient to impose a per connection fee or surcharge or
822 amended water rate schedule or tariff on each customer or any
823 class of customers, benefiting from an improvement financed by a
824 loan or grant made under this section, for repayment of any loan
825 funds provided under this section and Sections 6 through 20 of
826 Chapter 521, Laws of 1995. The board may require any loan or
827 grant recipient to undergo a water system viability analysis and
828 may require a loan or grant recipient to implement any result of
829 the viability analysis. If the loan recipient fails to implement

830 any result of a viability analysis as required by the board, the
831 board may impose a monetary penalty or increase the interest rate
832 on the loan, or both. If the grant recipient fails to implement
833 any result of a viability analysis as required by the board, the
834 board may impose a monetary penalty on the grant;

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

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

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

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

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

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

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

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

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

888 41-3-17. The State Board of Health is authorized to make and
889 publish all reasonable rules and regulations necessary to enable
890 it to discharge its duties and powers and to carry out the
891 purposes and objectives of its creation. It is further authorized
892 to make reasonable sanitary rules and regulations, to be enforced
893 in the several counties by the county health officer under the
894 supervision and control of the State Board of Health. The State
895 Board of Health shall not make or enforce any rule or regulation
896 that prohibits consumers from providing their own containers for
897 the purpose of purchasing or accepting water from any vending
898 machine or device which filters or treats water that has already

899 been tested and determined to meet or exceed the minimum health
900 protection standards prescribed for drinking water under the
901 Mississippi Safe Drinking Water Law, if that vending machine or
902 device meets or exceeds United States Environmental Protection
903 Agency or national automatic merchandising standards.

904 **SECTION 10.** Section 41-3-18, Mississippi Code of 1972, is
905 reenacted and amended as follows:

906 41-3-18. The board shall assess fees in the following
907 amounts and for the following purposes:

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

910	Assessment Category 1.....	\$ <u>30.00</u>
911	Assessment Category 2.....	<u>100.00</u>
912	Assessment Category 3.....	<u>150.00</u>
913	Assessment Category 4	<u>200.00</u>

914 * * *

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

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

918 Assessment categories shall be based upon the factors to the
919 public health implications of the category and type of food
920 preparation being utilized by the food establishment, utilizing
921 the model Food Code of 1995, or as may be amended by the federal
922 Food and Drug Administration.

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

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

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

933 41-3-19. It is the duty of the State Board of Health to make
934 a report, in writing, to the Governor, on or before the first day
935 of December next preceding each session, not an extraordinary
936 session of the Legislature, upon the sanitary condition, prospect,
937 and needs of the state, setting forth the action of said board, of
938 its officers and agents, the names thereof, and all its
939 expenditures since the last preceding report, and such other
940 matters as it may deem proper for the promotion of health or the
941 prevention of disease. The report shall be laid before the
942 Legislature by the Governor at its ensuing term.

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

945 41-59-61. (1) The assessments that are collected under
946 subsections (1) and (2) of Section 99-19-73 shall be deposited in
947 a special fund that is created in the State Treasury to be
948 designated the "Emergency Medical Services Operating Fund." The
949 Legislature may make appropriations from the Emergency Medical
950 Services Operating Fund to the State Board of Health for the
951 purpose of defraying costs of administration of the Emergency
952 Medical Services Operating Fund (EMSOF) and for redistribution of
953 those funds to the counties, municipalities and organized medical
954 service districts (hereinafter referred to as "governmental
955 units") for the support of the Emergency Medical Services
956 programs. The State Board of Health, with the Emergency Medical
957 Services Advisory Council acting in an advisory capacity, shall
958 administer the disbursement to those governmental units of any
959 funds appropriated to the board from the Emergency Medical
960 Services Operating Fund and the utilization of those funds by the
961 governmental units.

962 (2) Funds appropriated from the Emergency Medical Services
963 Operating Fund to the State Board of Health shall be made
964 available to all such governmental units to support the Emergency
965 Medical Services programs therein, and those funds shall be
966 distributed to each governmental unit based upon its general
967 population relative to the total population of the state.

968 Disbursement of those funds shall be made on an annual basis at
969 the end of the fiscal year upon the request of each governmental
970 unit. Funds distributed to those governmental units shall be used
971 in addition to existing annual Emergency Medical Services budgets
972 of the governmental units, and no such funds shall be used for the
973 payment of any attorney's fees. The Director of the Emergency
974 Medical Services program or his appointed designee is * * *
975 authorized to require financial reports from the governmental
976 units utilizing these funds in order to provide satisfactory proof
977 of the maintenance of the funding effort by the governmental
978 units.

979 **SECTION 13.** (1) The Mississippi Legislature recognizes the
980 devastating impact that tobacco use has on the citizens of our
981 state. Tobacco use is the single most preventable cause of death
982 and disease in this country and this state. Each year, thousands
983 of Mississippians lose their lives to diseases caused by tobacco
984 use, and the cost to the state is hundreds of millions of dollars.
985 Tobacco use also is a large burden on the families and businesses
986 of Mississippi. It is therefore the intent of the Legislature
987 that there be developed, implemented and fully funded a
988 comprehensive and statewide tobacco education, prevention and
989 cessation program that is consistent with the Best Practices for
990 Tobacco Control Programs of the federal Centers for Disease
991 Control and Prevention, as periodically amended. It is also the
992 intent of the Legislature that all reasonable efforts be made to
993 maximize the amount of federal funds available for this program.

994 (2) The goals of the tobacco education, prevention and
995 cessation program include, but are not limited to, the following:

- 996 (a) Preventing the initiation of use of tobacco
997 products by youth;
- 998 (b) Encouraging and helping smokers to quit and
999 reducing the numbers of youth and adults who use tobacco products;
- 1000 (c) Assisting in the protection from secondhand smoke;
- 1001 (d) Supporting the enforcement of laws prohibiting
1002 youth access to tobacco products;

1003 (e) Eliminating the racial and cultural disparities
1004 related to use of tobacco products; and

1005 (f) Educating the public and changing the cultural
1006 perception of use of tobacco products in Mississippi.

1007 **SECTION 14.** (1) There is created the Mississippi Tobacco
1008 Control Commission, which shall consist of twenty-seven (27)
1009 members, fifteen (15) of which shall be voting members and twelve
1010 (12) of which shall be nonvoting members.

1011 (2) The fifteen (15) voting members of the commission shall
1012 consist of the following:

1013 (a) Five (5) members appointed by the Governor, with
1014 one (1) member each from a list of three (3) individuals
1015 recommended by the Mississippi Primary Health Care Association, a
1016 list of three (3) individuals recommended by the Mississippi State
1017 Medical Association, a list of three (3) individuals recommended
1018 by the Mississippi Nurses' Association, and a list of three (3)
1019 individuals recommended by the American Heart Association, and one
1020 (1) member who has experience in financial planning and
1021 accounting;

1022 (b) Four (4) members appointed by the Lieutenant
1023 Governor, with one (1) member each from a list of three (3)
1024 individuals recommended by the Mississippi Chapter of the American
1025 Lung Association, a list of three (3) individuals recommended by
1026 the Mississippi Chapter of the American Academy of Family Practice
1027 Physicians, a list of three (3) individuals recommended by the
1028 Mississippi Medical and Surgical Association, and a list of three
1029 (3) individuals recommended by the American Cancer Society;

1030 (c) One (1) member appointed by the Attorney General
1031 who has experience in law enforcement;

1032 (d) The State Health Officer or his or her designee;

1033 (e) The State Superintendent of Public Education or his
1034 or her designee;

1035 (f) The Vice Chancellor of Health Affairs of the
1036 University of Mississippi Medical Center or his or her designee;

1037 (g) The Dean of the College of Health at the University
1038 of Southern Mississippi or his or her designee; and

1039 (h) The Administrator of the School of Health Sciences
1040 of the College of Public Service at Jackson State University or
1041 his or her designee.

1042 (3) (a) Eight (8) of the nonvoting members of the
1043 commission shall be individuals who are not affiliated with the
1044 tobacco industry who possess knowledge, skill, and prior
1045 experience in scientifically proven smoking prevention, reduction
1046 and cessation programs, health care services or preventive health
1047 measures, and shall consist of the following:

1048 (i) One (1) member appointed by the Governor;

1049 (ii) One (1) member appointed by the Lieutenant
1050 Governor;

1051 (iii) Four (4) members appointed by the Speaker of
1052 the House of Representatives, with one (1) of those members being
1053 appointed from a list of three (3) individuals recommended by the
1054 Mississippi School Nurse Association; and

1055 (iv) Two (2) members appointed by the Attorney
1056 General.

1057 (b) Four (4) of the nonvoting members of the commission
1058 shall be members of the Legislature, as follows:

1059 (i) The Chairman of the House Public Health and
1060 Human Services Committee and one (1) other member of that
1061 committee appointed by the Speaker of the House of
1062 Representatives; and

1063 (ii) The Chairman of the Senate Public Health and
1064 Welfare Committee and one (1) other member of that committee
1065 appointed by the Lieutenant Governor.

1066 (4) For those members that are required to be appointed from
1067 lists of individuals recommended by certain nominating groups, if
1068 none of the recommended names are acceptable to the appointing
1069 official, then the nominating group shall submit another list of
1070 three (3) different individuals until an acceptable individual is
1071 submitted to the appointing official.

1072 (5) (a) Of the voting members appointed by the Governor,
1073 three (3) shall be appointed for terms ending on June 30, 2010,
1074 and two (2) shall be appointed for terms ending on June 30, 2012.
1075 Of the voting members appointed by the Lieutenant Governor, two
1076 (2) shall be appointed for terms ending on June 30, 2009, and two
1077 (2) shall be appointed for terms ending on June 30, 2011. The
1078 voting member appointed by the Attorney General shall be appointed
1079 for a term ending on June 30, 2009. After the expiration of the
1080 initial terms, all later appointments of the voting members shall
1081 be made by the original appointing officials for terms of five (5)
1082 years from the expiration date of the previous term. All
1083 appointed voting members shall serve until their successors are
1084 appointed and qualified.

1085 (b) The voting members who are state officials or
1086 university officials shall serve as members for as long as they
1087 hold the designated office or university position.

1088 (c) The nonvoting members shall serve for terms that
1089 are concurrent with the terms of the appointing officials, or
1090 until their successors are appointed and qualified.

1091 (d) Any vacancy in an appointed member position shall
1092 be filled within thirty (30) days of the vacancy by the original
1093 appointing official, and the individual appointed to fill the
1094 vacancy shall meet the same qualifications as required for the
1095 former member.

1096 (e) The initial appointments to the commission shall be
1097 made not later than forty-five (45) days after the effective date
1098 of this act, and the first meeting of the commission shall be held
1099 within sixty (60) days after the effective date of this act at a
1100 time, date and location specified by the Governor.

1101 (6) The commission shall annually elect a chairman from
1102 among its members. The commission shall meet at least quarterly.
1103 A quorum for meetings of the commission shall be a majority of the
1104 voting members of the commission. The members of the commission
1105 shall serve without compensation.

1106 **SECTION 15.** (1) The commission shall employ an executive
1107 director, who shall serve at the will and pleasure of the
1108 commission. The executive director shall be an individual who has
1109 knowledge and experience in public health, medical care, health
1110 care services, preventive health measures or tobacco use control.
1111 The executive director shall be the administrative officer of the
1112 commission, and shall perform the duties that are required of him
1113 or her by law and such other duties as may be assigned to him or
1114 her by the commission. The executive director shall receive such
1115 compensation as may be fixed by the commission, subject to the
1116 approval of the State Personnel Board.

1117 (2) The commission may employ such other persons as may be
1118 necessary to carry out the provisions of this act. The
1119 compensation and the terms and conditions of their employment
1120 shall be determined by the commission in accordance with
1121 applicable state law and rules and regulations of the State
1122 Personnel Board.

1123 **SECTION 16.** The commission shall perform the following
1124 duties:

1125 (a) Develop and implement appropriate policies and
1126 procedures for the operation of the tobacco education, prevention
1127 and cessation program;

1128 (b) Develop and implement a five-year strategic plan
1129 for the tobacco education, prevention and cessation program;

1130 (c) Develop and maintain an annual operating budget and
1131 oversee fiscal management of the tobacco education, prevention and
1132 cessation program;

1133 (d) Execute any contracts, agreements or other
1134 documents with any governmental agency or any person, corporation,
1135 association, partnership or other organization or entity that are
1136 necessary to accomplish the purposes of Sections 13 through 18 of
1137 this act;

1138 (e) Receive grants, bequeaths, gifts, donations or any
1139 other contributions made to the commission to be used for specific

1140 purposes related to the goals of Sections 13 through 18 of this
1141 act;

1142 (f) Submit an annual report to the Legislature
1143 regarding the operation of the commission;

1144 (g) Submit to the State Auditor any financial records
1145 that are necessary for the Auditor to perform an annual audit of
1146 the commission as required by law;

1147 (h) Adopt any rules or regulations that are necessary
1148 to carry out the purposes of Sections 13 through 18 of this act;
1149 and

1150 (i) Take any other actions that are necessary to carry
1151 out the purposes of Sections 13 through 18 of this act.

1152 **SECTION 17.** (1) The commission shall develop and implement
1153 a comprehensive and statewide tobacco education, prevention and
1154 cessation program that is consistent with the recommendations for
1155 effective program components and funding recommendations in the
1156 1999 Best Practices for Comprehensive Tobacco Control Programs of
1157 the federal Centers for Disease Control and Prevention, as those
1158 Best Practices may be periodically amended by the Centers for
1159 Disease Control and Prevention.

1160 (2) At a minimum, the program shall include the following
1161 components, and may include additional components that are
1162 contained within the Best Practices for Comprehensive Tobacco
1163 Control Programs of the federal Centers for Disease Control and
1164 Prevention, as periodically amended, and that based on scientific
1165 data and research have been shown to be effective at accomplishing
1166 the purposes of this section:

1167 (a) The use of mass media, including paid advertising
1168 and other communication tools to discourage the use of tobacco
1169 products and to educate people, especially youth, about the health
1170 hazards from the use of tobacco products, which shall be designed
1171 to be effective at achieving these goals and shall include, but
1172 need not be limited to, television, radio, and print advertising,
1173 as well as sponsorship, exhibits and other opportunities to raise
1174 awareness statewide;

1175 (b) Evidence-based curricula and programs implemented
1176 in schools to educate youth about tobacco and to discourage their
1177 use of tobacco products, including, but not limited to, programs
1178 that involve youth, educate youth about the health hazards from
1179 the use of tobacco products, help youth develop skills to refuse
1180 tobacco products, and demonstrate to youth how to stop using
1181 tobacco products;

1182 (c) Local community programs, including, but not
1183 limited to, youth-based partnerships that discourage the use of
1184 tobacco products and involve community based organizations in
1185 tobacco education, prevention and cessation programs in their
1186 communities;

1187 (d) Enforcement of laws, regulations and policies
1188 against the sale or other provision of tobacco products to minors,
1189 and the possession of tobacco products by minors;

1190 (e) Programs to assist and help people to stop using
1191 tobacco products; and

1192 (f) A surveillance and evaluation system that monitors
1193 program accountability and results, produces publicly available
1194 reports that review how monies expended for the program are spent,
1195 and includes an evaluation of the program's effectiveness in
1196 reducing and preventing the use of tobacco products, and annual
1197 recommendations for improvements to enhance the program's
1198 effectiveness.

1199 (3) All programs or activities funded by the commission
1200 through the tobacco education, prevention and cessation program,
1201 whether part of a component described in subsection (2) or an
1202 additional component, must be consistent with the Best Practices
1203 for Comprehensive Tobacco Control Programs of the federal Centers
1204 for Disease Control and Prevention, as periodically amended, and
1205 all funds received by any person or entity under any such program
1206 or activity must be expended for purposes that are consistent with
1207 those Best Practices.

1208 (4) Funding for the different components of the program
1209 shall be apportioned between the components based on the

1210 recommendations in the Best Practices for Comprehensive Tobacco
1211 Control Programs of the federal Centers for Disease Control and
1212 Prevention, as periodically amended, to provide adequate program
1213 development, implementation and evaluation for effective control
1214 of the use of tobacco products. While the commission shall
1215 develop annual budgets based on strategic planning, components of
1216 the program shall be funded using the following areas as
1217 guidelines for priority:

- 1218 (a) School programs;
- 1219 (b) Mass media (counter-marketing);
- 1220 (c) Cessation programs (including media promotions);
- 1221 (d) Community programs;
- 1222 (e) Surveillance and evaluation;
- 1223 (f) Law enforcement; and
- 1224 (g) Administration and management; however, not more
1225 than five percent (5%) of the total budget may be expended for
1226 administration and management purposes.

1227 (5) In funding the components of the program, the commission
1228 may provide funding for health care programs at the University of
1229 Mississippi Medical Center that are related to the prevention and
1230 cessation of the use of tobacco products and the treatment of
1231 illnesses that are related to the use of tobacco products.

1232 **SECTION 18.** No statewide, district, local, county or
1233 municipal elected official shall take part as a public official in
1234 mass media advertising under the provisions of Sections 13 through
1235 18 of this act.

1236 **SECTION 19.** This act shall take effect and be in force from
1237 and after June 30, 2007, except for Sections 13 through 18, which
1238 shall take effect and be in force from and after the passage of
1239 this act.

**Further, amend by striking the title in its entirety and
inserting in lieu thereof the following:**

1 AN ACT TO AMEND SECTION 41-3-20, MISSISSIPPI CODE OF 1972, TO
2 PROVIDE THAT THE SECTIONS CREATING THE STATE BOARD OF HEALTH AND
3 THE POSITION OF THE EXECUTIVE OFFICER OF THE STATE DEPARTMENT OF
4 HEALTH SHALL REPEAL ON JUNE 30, 2007, AND TO EXTEND UNTIL JUNE 30,

5 2010, THE REPEALER ON VARIOUS STATUTES THAT CREATE AND EMPOWER THE
6 STATE BOARD OF HEALTH AND THE STATE DEPARTMENT OF HEALTH AND
7 ESTABLISH THE POSITION OF EXECUTIVE OFFICER OF THE STATE
8 DEPARTMENT OF HEALTH; TO CODIFY SECTION 41-3-1.1, MISSISSIPPI CODE
9 OF 1972, TO RECONSTITUTE THE MEMBERSHIP OF THE STATE BOARD OF
10 HEALTH AND PROVIDE FOR THE NUMBER, QUALIFICATIONS, APPOINTMENT AND
11 TERMS OF NEW MEMBERS; TO PROVIDE FOR NONVOTING LEGISLATIVE MEMBERS
12 TO ATTEND BOARD MEETINGS; TO REQUIRE DISCLOSURE OF CERTAIN
13 CONFLICTS OF INTEREST BY MEMBERS OF THE BOARD; TO AMEND REENACTED
14 SECTION 41-3-4, MISSISSIPPI CODE OF 1972, TO REQUIRE THE STATE
15 BOARD OF HEALTH TO MEET AT LEAST ONCE EVERY SIXTY DAYS; TO CLARIFY
16 THAT THE TERM OF OFFICE OF ANY MEMBER OF THE BOARD WHO MISSES
17 THREE CONSECUTIVE MEETINGS SHALL BE TERMINATED; TO CODIFY SECTION
18 41-3-5.1, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR THE APPOINTMENT
19 OF THE EXECUTIVE OFFICER OF THE STATE DEPARTMENT OF HEALTH; TO
20 AMEND REENACTED SECTION 41-3-15, MISSISSIPPI CODE OF 1972, TO
21 CLARIFY THE GENERAL AUTHORITY OF THE STATE BOARD OF HEALTH AND THE
22 STATE HEALTH OFFICER; TO AMEND REENACTED SECTION 41-3-18,
23 MISSISSIPPI CODE OF 1972, TO REVISE CERTAIN FEES ASSESSED ON
24 RESTAURANTS BY THE STATE DEPARTMENT OF HEALTH; TO REENACT SECTIONS
25 41-3-3, 41-3-6, 41-3-16, 41-3-17, 41-3-18 AND 41-3-19, MISSISSIPPI
26 CODE OF 1972, WHICH CREATE AND EMPOWER THE STATE BOARD OF HEALTH
27 AND THE STATE DEPARTMENT OF HEALTH; TO AMEND SECTION 41-59-61,
28 MISSISSIPPI CODE OF 1972, TO CLARIFY THE AUTHORIZED ADMINISTRATIVE
29 COSTS THAT MAY BE PAID FROM THE EMERGENCY MEDICAL SERVICES
30 OPERATING FUND; TO PROVIDE FOR A COMPREHENSIVE AND STATEWIDE
31 TOBACCO EDUCATION, PREVENTION AND CESSATION PROGRAM THAT IS
32 CONSISTENT WITH FEDERAL GUIDELINES; TO CREATE THE MISSISSIPPI
33 TOBACCO CONTROL COMMISSION TO DEVELOP AND IMPLEMENT THE PROGRAM;
34 TO PROVIDE FOR THE APPOINTMENT OF THE MEMBERSHIP OF THE
35 COMMISSION; TO PROVIDE THAT THE COMMISSION SHALL EMPLOY AN
36 EXECUTIVE DIRECTOR; TO PROVIDE FOR THE DUTIES OF THE COMMISSION;
37 TO PRESCRIBE THE MINIMUM COMPONENTS OF THE PROGRAM; TO PROVIDE
38 GUIDELINES FOR PRIORITY FOR FUNDING THE COMPONENTS OF THE PROGRAM;
39 AND FOR RELATED PURPOSES.

HR40\SB2764PH.J

Don Richardson
Clerk of the House of Representatives