

**Adopted
COMMITTEE AMENDMENT NO 1 PROPOSED TO**

Senate Bill No. 2764

BY: Committee

**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45 the State Department of Health, shall stand repealed on June 30,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52 duties, shall stand repealed on June 30, 2010.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, or a person who has a Ph.D in public health administration,
289 hospital administration or a similarly related health care program
290 administration and who has had at least seven (7) years of
291 experience working in that profession. The executive officer
292 shall not engage in the private practice of medicine. The
293 executive officer shall serve at the will and pleasure of the
294 board, and he or she may be removed at any time, with or without
295 cause by majority vote of the members of the board. The executive
296 officer shall be subject to such rules and regulations as may be
297 prescribed by the State Board of Health. The executive officer
298 shall be the State Health Officer with such authority and
299 responsibility as is prescribed by law.

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

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

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

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

322 41-3-15. (1) (a) There shall be a State Department of
323 Health * * *.

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

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

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

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

338 (iv) To enter into, and to authorize the executive
339 officer to execute, contracts, grants and cooperative agreements
340 with any federal or state agency or subdivision thereof, or any
341 public or private institution located inside or outside the State
342 of Mississippi, or any person, corporation or association in
343 connection with carrying out the provisions of this chapter, if it
344 finds those actions to be in the public interest and the contracts
345 or agreements do not have a financial cost that exceeds the

346 amounts appropriated for those purposes by the Legislature. Each
347 contract or agreement entered into by the board shall be submitted
348 to the Joint Legislative Committee on Performance Evaluation and
349 Expenditure Review (PEER);

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

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

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

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

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

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

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

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

377 subordinates, subject to the rules and regulations of the State
378 Personnel Board;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

445 * * *

446 (e) To charge and collect reasonable fees for health
447 services, including immunizations, inspections and related
448 activities, and the board shall charge fees for those services
449 in amounts that are commensurate with the direct costs of
450 providing the services; * * * however, if it is determined that a
451 person receiving services is unable to pay the total fee, the
452 board shall collect any amount that the person is able to pay.

453 * * *

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

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

470 by the board under this subparagraph (ii) shall be deposited to
471 the credit of the State General Fund of the State Treasury. * * *

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

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

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

486 * * *

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

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

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

498 (i) Maternal and child health;

499 (ii) Family planning;

500 (iii) Pediatric services;

501 (iv) Services to crippled and disabled children;

502 (v) Control of communicable and noncommunicable
503 disease;
504 (vi) Chronic disease;
505 (vii) Child care licensure;
506 (viii) Radiological health;
507 (ix) Dental health;
508 (x) Milk sanitation;
509 (xi) Occupational safety and health;
510 (xii) Food, vector control and general sanitation;
511 (xiii) Protection of drinking water;
512 (xiv) Sanitation in food handling establishments
513 open to the public;
514 (xv) Registration of births and deaths and other
515 vital events;
516 (xvi) Such public health programs and services as
517 may be assigned to the State Board of Health by the Legislature or
518 by executive order; and
519 (xvii) Regulation of domestic and imported fish
520 for human consumption.

521 (b) The State Board of Health and State Department of
522 Health shall not be authorized to sell, transfer, alienate or
523 otherwise dispose of any of the home health agencies owned and
524 operated by the department on January 1, 1995, and shall not be
525 authorized to sell, transfer, assign, alienate or otherwise
526 dispose of the license of any of those home health agencies,
527 except upon the specific authorization of the Legislature by an
528 amendment to this section. However, this paragraph (b) shall not
529 prevent the board or the department from closing or terminating
530 the operation of any home health agency owned and operated by the
531 department, or closing or terminating any office, branch office or
532 clinic of any such home health agency, or otherwise discontinuing
533 the providing of home health services through any such home health

534 agency, office, branch office or clinic, if the board first
535 demonstrates that there are other providers of home health
536 services in the area being served by the department's home health
537 agency, office, branch office or clinic that will be able to
538 provide adequate home health services to the residents of the area
539 if the department's home health agency, office, branch office or
540 clinic is closed or otherwise discontinues the providing of home
541 health services. This demonstration by the board that there are
542 other providers of adequate home health services in the area shall
543 be spread at length upon the minutes of the board at a regular or
544 special meeting of the board at least thirty (30) days before a
545 home health agency, office, branch office or clinic is proposed to
546 be closed or otherwise discontinue the providing of home health
547 services.

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

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

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

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

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

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

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

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

577 41-3-16. (1) (a) There is established a local governments
578 and rural water systems improvements revolving loan and grant
579 program to be administered by the State Department of Health,
580 referred to in this section as "department," for the purpose of
581 assisting counties, incorporated municipalities, districts or
582 other water organizations that have been granted tax exempt status
583 under either federal or state law, in making improvements to their
584 water systems, including construction of new water systems or
585 expansion or repair of existing water systems. Loan and grant
586 proceeds may be used by the recipient for planning, professional
587 services, acquisition of interests in land, acquisition of
588 personal property, construction, construction-related services,
589 maintenance, and any other reasonable use which the board, in its
590 discretion, may allow. For purposes of this section, "water
591 systems" has the same meaning as the term "public water system"
592 under Section 41-26-3.

593 (b) (i) There is created a board to be known as the
594 "Local Governments and Rural Water Systems Improvements Board,"
595 referred to in this section as "board," to be composed of the

596 following nine (9) members: the State Health Officer, or his
597 designee, who shall serve as chairman of the board; the Executive
598 Director of the Mississippi Development Authority, or his
599 designee; the Executive Director of the Department of
600 Environmental Quality, or his designee; the Executive Director of
601 the Department of Finance and Administration, or his designee; the
602 Executive Director of the Mississippi Association of Supervisors,
603 or his designee; the Executive Director of the Mississippi
604 Municipal League, or his designee; the Executive Director of the
605 Consulting Engineers Council, or his designee; the State Director
606 of the United States Department of Agriculture, Rural Development,
607 or his designee; and a manager of a rural water system.

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

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

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

622 (c) The department, if requested by the board, shall
623 furnish the board with facilities and staff as needed to
624 administer this section. The department may contract, upon
625 approval by the board, for those facilities and staff needed to
626 administer this section, including routine management, as it deems
627 necessary. The board may advertise for or solicit proposals from

628 public or private sources, or both, for administration of this
629 section or any services required for administration of this
630 section or any portion thereof. It is the intent of the
631 Legislature that the board endeavor to ensure that the costs of
632 administration of this section are as low as possible in order to
633 provide the water consumers of Mississippi safe drinking water at
634 affordable prices.

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

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

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

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

692 earned on amounts in the emergency fund shall be deposited to the
693 credit of the fund. Monies in the emergency fund may not be used
694 or expended for any purpose except as authorized under this
695 section and Section 6 of Chapter 521, Laws of 1995.

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

724 (\$500,000.00), and the maximum amount for any loan from the
725 revolving fund shall be One Million Five Hundred Thousand Dollars
726 (\$1,500,000.00).

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

756 from counties and monthly from incorporated municipalities from
757 the amount to be remitted to the county or municipality, a sum
758 equal to the next repayment as provided in the loan agreement.

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

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

773 (f) Any district created pursuant to Sections 19-5-151
774 through 19-5-207 that receives a loan from the revolving fund or
775 the emergency fund shall pledge for repayment of the loan any part
776 of the revenues received by that district pursuant to Sections
777 19-5-151 through 19-5-207, as may be required to meet the
778 repayment schedule contained in the loan agreement.

779 (g) The State Auditor, upon request of the board, shall
780 audit the receipts and expenditures of a county, an incorporated
781 municipality, district or other water organization whose loan
782 repayments appear to be in arrears, and if the Auditor finds that
783 the county, incorporated municipality, district or other water
784 organization is in arrears in those repayments, the Auditor shall
785 immediately notify the chairman of the board who may take any
786 action as may be necessary to enforce the terms of the loan
787 agreement, including liquidation and enforcement of the security

788 given for repayment of the loan, and the Executive Director of the
789 Department of Finance and Administration who shall withhold all
790 future payments to the county of homestead exemption annual tax
791 loss reimbursements under Section 27-33-77 and all sums allocated
792 to the county or the incorporated municipality under Section
793 27-65-75 until such time as the county or the incorporated
794 municipality is again current in its loan repayments as certified
795 by the board.

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

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

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

819 (b) To promulgate rules and regulations, to make
820 variances and exceptions thereto, and to establish procedures in
821 accordance with this section and Sections 6 through 20 of Chapter
822 521, Laws of 1995, for the implementation of the local governments
823 and rural water systems improvements revolving loan program;

824 (c) To require, at the board's discretion, any loan or
825 grant recipient to impose a per connection fee or surcharge or
826 amended water rate schedule or tariff on each customer or any
827 class of customers, benefiting from an improvement financed by a
828 loan or grant made under this section, for repayment of any loan
829 funds provided under this section and Sections 6 through 20 of
830 Chapter 521, Laws of 1995. The board may require any loan or
831 grant recipient to undergo a water system viability analysis and
832 may require a loan or grant recipient to implement any result of
833 the viability analysis. If the loan recipient fails to implement
834 any result of a viability analysis as required by the board, the
835 board may impose a monetary penalty or increase the interest rate
836 on the loan, or both. If the grant recipient fails to implement
837 any result of a viability analysis as required by the board, the
838 board may impose a monetary penalty on the grant;

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

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

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

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

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

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

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

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

879 (4) The board may, on a case-by-case basis and to the extent
880 allowed by federal law, renegotiate the payment of principal and
881 interest on loans made under this section to the six (6) most
882 southern counties of the state covered by the Presidential

883 Declaration of Major Disaster for the State of Mississippi
884 (FEMA-1604-DR) dated August 29, 2005, and to incorporated
885 municipalities, districts or other water organizations located in
886 such counties; however, the interest on the loans shall not be
887 forgiven for a period of more than twenty-four (24) months and the
888 maturity of the loans shall not be extended for a period of more
889 than forty-eight (48) months.

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

892 41-3-17. The State Board of Health is authorized to make and
893 publish all reasonable rules and regulations necessary to enable
894 it to discharge its duties and powers and to carry out the
895 purposes and objectives of its creation. It is further authorized
896 to make reasonable sanitary rules and regulations, to be enforced
897 in the several counties by the county health officer under the
898 supervision and control of the State Board of Health. The State
899 Board of Health shall not make or enforce any rule or regulation
900 that prohibits consumers from providing their own containers for
901 the purpose of purchasing or accepting water from any vending
902 machine or device which filters or treats water that has already
903 been tested and determined to meet or exceed the minimum health
904 protection standards prescribed for drinking water under the
905 Mississippi Safe Drinking Water Law, if that vending machine or
906 device meets or exceeds United States Environmental Protection
907 Agency or national automatic merchandising standards.

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

910 41-3-18. The board shall assess fees in the following
911 amounts and for the following purposes:

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

914 Assessment Category 1..... \$ 30.00

915	Assessment Category 2.....	<u>100.00</u>
916	Assessment Category 3.....	<u>150.00</u>
917	Assessment Category 4	<u>200.00</u>

918 * * *

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

920 The board may develop such reasonable standards, rules and
921 regulations to clearly define each assessment category.
922 Assessment categories shall be based upon the factors to the
923 public health implications of the category and type of food
924 preparation being utilized by the food establishment, utilizing
925 the model Food Code of 1995, or as may be amended by the federal
926 Food and Drug Administration.

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

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

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

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

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

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

966 (2) Funds appropriated from the Emergency Medical Services
967 Operating Fund to the State Board of Health shall be made
968 available to all such governmental units to support the Emergency
969 Medical Services programs therein, and those funds shall be
970 distributed to each governmental unit based upon its general
971 population relative to the total population of the state.
972 Disbursement of those funds shall be made on an annual basis at
973 the end of the fiscal year upon the request of each governmental
974 unit. Funds distributed to those governmental units shall be used
975 in addition to existing annual Emergency Medical Services budgets
976 of the governmental units, and no such funds shall be used for the
977 payment of any attorney's fees. The Director of the Emergency
978 Medical Services program or his appointed designee is * * *

979 authorized to require financial reports from the governmental
980 units utilizing these funds in order to provide satisfactory proof
981 of the maintenance of the funding effort by the governmental
982 units.

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

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

1000 (a) Preventing the initiation of use of tobacco
1001 products by youth;

1002 (b) Encouraging and helping smokers to quit and
1003 reducing the numbers of youth and adults who use tobacco products;

1004 (c) Assisting in the protection from secondhand smoke;

1005 (d) Supporting the enforcement of laws prohibiting
1006 youth access to tobacco products;

1007 (e) Eliminating the racial and cultural disparities
1008 related to use of tobacco products; and

1009 (f) Educating the public and changing the cultural
1010 perception of use of tobacco products in Mississippi.

1011 **SECTION 14.** (1) There is created the Mississippi Tobacco
1012 Control Commission, which shall consist of twenty-seven (27)
1013 members, fifteen (15) of which shall be voting members and twelve
1014 (12) of which shall be nonvoting members.

1015 (2) The fifteen (15) voting members of the commission shall
1016 consist of the following:

1017 (a) Five (5) members appointed by the Governor, with
1018 one (1) member each from a list of three (3) individuals
1019 recommended by the Mississippi Primary Health Care Association, a
1020 list of three (3) individuals recommended by the Mississippi State
1021 Medical Association, a list of three (3) individuals recommended
1022 by the Mississippi Nurses' Association, and a list of three (3)
1023 individuals recommended by the American Heart Association, and one
1024 (1) member who has experience in financial planning and
1025 accounting;

1026 (b) Four (4) members appointed by the Lieutenant
1027 Governor, with one (1) member each from a list of three (3)
1028 individuals recommended by the Mississippi Chapter of the American
1029 Lung Association, a list of three (3) individuals recommended by
1030 the Mississippi Chapter of the American Academy of Family Practice
1031 Physicians, a list of three (3) individuals recommended by the
1032 Mississippi Medical and Surgical Association, and a list of three
1033 (3) individuals recommended by the American Cancer Society;

1034 (c) One (1) member appointed by the Attorney General
1035 who has experience in law enforcement;

1036 (d) The State Health Officer or his or her designee;

1037 (e) The State Superintendent of Public Education or his
1038 or her designee;

1039 (f) The Vice Chancellor of Health Affairs of the
1040 University of Mississippi Medical Center or his or her designee;

1041 (g) The Dean of the College of Health at the University
1042 of Southern Mississippi or his or her designee; and

1043 (h) The Administrator of the School of Health Sciences
1044 of the College of Public Service at Jackson State University or
1045 his or her designee.

1046 (3) (a) Eight (8) of the nonvoting members of the
1047 commission shall be individuals who are not affiliated with the
1048 tobacco industry who possess knowledge, skill, and prior
1049 experience in scientifically proven smoking prevention, reduction
1050 and cessation programs, health care services or preventive health
1051 measures, and shall consist of the following:

1052 (i) One (1) member appointed by the Governor;

1053 (ii) One (1) member appointed by the Lieutenant
1054 Governor;

1055 (iii) Four (4) members appointed by the Speaker of
1056 the House of Representatives, with one (1) of those members being
1057 appointed from a list of three (3) individuals recommended by the
1058 Mississippi School Nurse Association; and

1059 (iv) Two (2) members appointed by the Attorney
1060 General.

1061 (b) Four (4) of the nonvoting members of the commission
1062 shall be members of the Legislature, as follows:

1063 (i) The Chairman of the House Public Health and
1064 Human Services Committee and one (1) other member of that
1065 committee appointed by the Speaker of the House of
1066 Representatives; and

1067 (ii) The Chairman of the Senate Public Health and
1068 Welfare Committee and one (1) other member of that committee
1069 appointed by the Lieutenant Governor.

1070 (4) For those members that are required to be appointed from
1071 lists of individuals recommended by certain nominating groups, if
1072 none of the recommended names are acceptable to the appointing
1073 official, then the nominating group shall submit another list of

1074 three (3) different individuals until an acceptable individual is
1075 submitted to the appointing official.

1076 (5) (a) Of the voting members appointed by the Governor,
1077 three (3) shall be appointed for terms ending on June 30, 2010,
1078 and two (2) shall be appointed for terms ending on June 30, 2012.
1079 Of the voting members appointed by the Lieutenant Governor, two
1080 (2) shall be appointed for terms ending on June 30, 2009, and two
1081 (2) shall be appointed for terms ending on June 30, 2011. The
1082 voting member appointed by the Attorney General shall be appointed
1083 for a term ending on June 30, 2009. After the expiration of the
1084 initial terms, all later appointments of the voting members shall
1085 be made by the original appointing officials for terms of five (5)
1086 years from the expiration date of the previous term. All
1087 appointed voting members shall serve until their successors are
1088 appointed and qualified.

1089 (b) The voting members who are state officials or
1090 university officials shall serve as members for as long as they
1091 hold the designated office or university position.

1092 (c) The nonvoting members shall serve for terms that
1093 are concurrent with the terms of the appointing officials, or
1094 until their successors are appointed and qualified.

1095 (d) Any vacancy in an appointed member position shall
1096 be filled within thirty (30) days of the vacancy by the original
1097 appointing official, and the individual appointed to fill the
1098 vacancy shall meet the same qualifications as required for the
1099 former member.

1100 (e) The initial appointments to the commission shall be
1101 made not later than forty-five (45) days after the effective date
1102 of this act, and the first meeting of the commission shall be held
1103 within sixty (60) days after the effective date of this act at a
1104 time, date and location specified by the Governor.

1105 (6) The commission shall annually elect a chairman from
1106 among its members. The commission shall meet at least quarterly.
1107 A quorum for meetings of the commission shall be a majority of the
1108 voting members of the commission. The members of the commission
1109 shall serve without compensation.

1110 **SECTION 15.** (1) The commission shall employ an executive
1111 director, who shall serve at the will and pleasure of the
1112 commission. The executive director shall be an individual who has
1113 knowledge and experience in public health, medical care, health
1114 care services, preventive health measures or tobacco use control.
1115 The executive director shall be the administrative officer of the
1116 commission, and shall perform the duties that are required of him
1117 or her by law and such other duties as may be assigned to him or
1118 her by the commission. The executive director shall receive such
1119 compensation as may be fixed by the commission, subject to the
1120 approval of the State Personnel Board.

1121 (2) The commission may employ such other persons as may be
1122 necessary to carry out the provisions of this act. The
1123 compensation and the terms and conditions of their employment
1124 shall be determined by the commission in accordance with
1125 applicable state law and rules and regulations of the State
1126 Personnel Board.

1127 **SECTION 16.** The commission shall perform the following
1128 duties:

1129 (a) Develop and implement appropriate policies and
1130 procedures for the operation of the tobacco education, prevention
1131 and cessation program;

1132 (b) Develop and implement a five-year strategic plan
1133 for the tobacco education, prevention and cessation program;

1134 (c) Develop and maintain an annual operating budget and
1135 oversee fiscal management of the tobacco education, prevention and
1136 cessation program;

1137 (d) Execute any contracts, agreements or other
1138 documents with any governmental agency or any person, corporation,
1139 association, partnership or other organization or entity that are
1140 necessary to accomplish the purposes of Sections 13 through 18 of
1141 this act;

1142 (e) Receive grants, bequeaths, gifts, donations or any
1143 other contributions made to the commission to be used for specific
1144 purposes related to the goals of Sections 13 through 18 of this
1145 act;

1146 (f) Submit an annual report to the Legislature
1147 regarding the operation of the commission;

1148 (g) Submit to the State Auditor any financial records
1149 that are necessary for the Auditor to perform an annual audit of
1150 the commission as required by law;

1151 (h) Adopt any rules or regulations that are necessary
1152 to carry out the purposes of Sections 13 through 18 of this act;
1153 and

1154 (i) Take any other actions that are necessary to carry
1155 out the purposes of Sections 13 through 18 of this act.

1156 **SECTION 17.** (1) The commission shall develop and implement
1157 a comprehensive and statewide tobacco education, prevention and
1158 cessation program that is consistent with the recommendations for
1159 effective program components and funding recommendations in the
1160 1999 Best Practices for Comprehensive Tobacco Control Programs of
1161 the federal Centers for Disease Control and Prevention, as those
1162 Best Practices may be periodically amended by the Centers for
1163 Disease Control and Prevention.

1164 (2) At a minimum, the program shall include the following
1165 components, and may include additional components that are
1166 contained within the Best Practices for Comprehensive Tobacco
1167 Control Programs of the federal Centers for Disease Control and
1168 Prevention, as periodically amended, and that based on scientific

1169 data and research have been shown to be effective at accomplishing
1170 the purposes of this section:

1171 (a) The use of mass media, including paid advertising
1172 and other communication tools to discourage the use of tobacco
1173 products and to educate people, especially youth, about the health
1174 hazards from the use of tobacco products, which shall be designed
1175 to be effective at achieving these goals and shall include, but
1176 need not be limited to, television, radio, and print advertising,
1177 as well as sponsorship, exhibits and other opportunities to raise
1178 awareness statewide;

1179 (b) Evidence-based curricula and programs implemented
1180 in schools to educate youth about tobacco and to discourage their
1181 use of tobacco products, including, but not limited to, programs
1182 that involve youth, educate youth about the health hazards from
1183 the use of tobacco products, help youth develop skills to refuse
1184 tobacco products, and demonstrate to youth how to stop using
1185 tobacco products;

1186 (c) Local community programs, including, but not
1187 limited to, youth-based partnerships that discourage the use of
1188 tobacco products and involve community based organizations in
1189 tobacco education, prevention and cessation programs in their
1190 communities;

1191 (d) Enforcement of laws, regulations and policies
1192 against the sale or other provision of tobacco products to minors,
1193 and the possession of tobacco products by minors;

1194 (e) Programs to assist and help people to stop using
1195 tobacco products; and

1196 (f) A surveillance and evaluation system that monitors
1197 program accountability and results, produces publicly available
1198 reports that review how monies expended for the program are spent,
1199 and includes an evaluation of the program's effectiveness in
1200 reducing and preventing the use of tobacco products, and annual

1201 recommendations for improvements to enhance the program's
1202 effectiveness.

1203 (3) All programs or activities funded by the commission
1204 through the tobacco education, prevention and cessation program,
1205 whether part of a component described in subsection (2) or an
1206 additional component, must be consistent with the Best Practices
1207 for Comprehensive Tobacco Control Programs of the federal Centers
1208 for Disease Control and Prevention, as periodically amended, and
1209 all funds received by any person or entity under any such program
1210 or activity must be expended for purposes that are consistent with
1211 those Best Practices.

1212 (4) Funding for the different components of the program
1213 shall be apportioned between the components based on the
1214 recommendations in the Best Practices for Comprehensive Tobacco
1215 Control Programs of the federal Centers for Disease Control and
1216 Prevention, as periodically amended, to provide adequate program
1217 development, implementation and evaluation for effective control
1218 of the use of tobacco products. While the commission shall
1219 develop annual budgets based on strategic planning, components of
1220 the program shall be funded using the following areas as
1221 guidelines for priority:

1222 (a) School programs;
1223 (b) Mass media (counter-marketing);
1224 (c) Cessation programs (including media promotions);
1225 (d) Community programs;
1226 (e) Surveillance and evaluation;
1227 (f) Law enforcement; and
1228 (g) Administration and management; however, not more
1229 than five percent (5%) of the total budget may be expended for
1230 administration and management purposes.

1231 (5) In funding the components of the program, the commission
1232 may provide funding for health care programs at the University of

1233 Mississippi Medical Center that are related to the prevention and
1234 cessation of the use of tobacco products and the treatment of
1235 illnesses that are related to the use of tobacco products.

1236 **SECTION 18.** No statewide, district, local, county or
1237 municipal elected official shall take part as a public official in
1238 mass media advertising under the provisions of Sections 13 through
1239 18 of this act.

1240 **SECTION 19.** This act shall take effect and be in force from
1241 and after June 30, 2007, except for Sections 13 through 18, which
1242 shall take effect and be in force from and after the passage of
1243 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.