

By: The Entire Membership

To: Public Health and
Welfare;
AppropriationsHOUSE BILL NO. 519
(As Sent to Governor)

1 AN ACT TO ESTABLISH A HEALTH CARE TRUST FUND IN THE STATE
2 TREASURY INTO WHICH SHALL BE DEPOSITED THE FUNDS FROM THE
3 SETTLEMENT OF THE LAWSUIT AGAINST TOBACCO COMPANIES BY THE STATE
4 OF MISSISSIPPI, INCLUDING INCOME FROM THE INVESTMENT OF THOSE
5 FUNDS; TO PROVIDE THAT THE TRUST FUND SHALL REMAIN INVIOLE AND
6 SHALL NEVER BE EXPENDED, WITH CERTAIN EXCEPTIONS; TO ESTABLISH A
7 HEALTH CARE EXPENDABLE FUND IN THE STATE TREASURY INTO WHICH SHALL
8 BE TRANSFERRED ANNUALLY CERTAIN MONIES IN THE HEALTH CARE TRUST
9 FUND; TO PROVIDE THAT THE FUNDS IN THE HEALTH CARE EXPENDABLE FUND
10 SHALL BE AVAILABLE FOR APPROPRIATION BY THE LEGISLATURE, AND SHALL
11 BE EXPENDED EXCLUSIVELY FOR HEALTH CARE PURPOSES; TO ESTABLISH A
12 BOARD OF DIRECTORS TO INVEST THE FUNDS IN THE HEALTH CARE TRUST
13 FUND AND THE HEALTH CARE EXPENDABLE FUND; TO PROVIDE FOR THE
14 MEMBERSHIP OF THE BOARD AND PRESCRIBE ITS POWERS AND DUTIES; TO
15 PROVIDE THAT THE BOARD SHALL INVEST THE FUNDS IN THE HEALTH CARE
16 TRUST FUND AND THE HEALTH CARE EXPENDABLE FUND IN ANY OF THE
17 INVESTMENTS AUTHORIZED FOR THE MISSISSIPPI PREPAID AFFORDABLE
18 COLLEGE TUITION PROGRAM; AND FOR RELATED PURPOSES.

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

20 SECTION 1. It is declared by the Legislature that the funds
21 received by the State of Mississippi from tobacco companies in
22 settlement of a certain lawsuit brought against those companies by
23 the State of Mississippi, or as a result of the settlement of any
24 lawsuit brought against tobacco companies by another state, should
25 be applied toward improving the health and health care of the
26 citizens and residents of the state. It is the intent of the
27 Legislature by this article to provide the manner and means
28 necessary to carry out those purposes.

29 SECTION 2. When used in this article, the following
30 definitions shall apply, unless the context requires otherwise:

31 (a) "Health Care Trust Fund" means the trust fund
32 established by Section 3 of this act for the deposit of the funds
33 received by the State of Mississippi as a result of the tobacco
34 settlement, including income from the investment of those funds.

35 (b) "Health Care Expendable Fund" means the fund
36 established by Section 4 of this act for the annual transfer of
37 certain funds from the Health Care Trust Fund that are available
38 for appropriation by the Legislature.

39 (c) "Income" means all interest and dividends derived
40 from the investment of any tobacco settlement funds and any
41 capital gains from the sale or exchange of those investments.

42 (d) "Tobacco settlement" means the settlement of the
43 case of Mike Moore, Attorney General ex rel. State of Mississippi
44 v. The American Tobacco Company et al. (Chancery Court of Jackson
45 County, Mississippi, Cause No. 94-1429) and the settlement of any
46 case brought against tobacco companies by another state.

47 SECTION 3. (1) In accordance with the purposes of this
48 article, there is established in the State Treasury the Health
49 Care Trust Fund, into which shall be deposited Two Hundred Eighty
50 Million Dollars (\$280,000,000.00) of the funds received by the
51 State of Mississippi as a result of the tobacco settlement as of
52 the end of fiscal year 1999, and all tobacco settlement
53 installment payments made in subsequent years for which the use or
54 purpose for expenditure is not restricted by the terms of the
55 settlement, except as otherwise provided in Section 4(2) of this
56 act. All income from the investment of the funds in the Health
57 Care Trust Fund shall be credited to the account of the Health
58 Care Trust Fund. The funds in the Health Care Trust Fund at the
59 end of a fiscal year shall not lapse into the State General Fund.

60 (2) The Health Care Trust Fund shall remain inviolate and
61 shall never be expended, except as provided in this article. The
62 Legislature shall appropriate from the Health Care Trust Fund such
63 sums as are necessary to recoup any funds lost as a result of any
64 of the following actions:

65 (a) The federal Health Care Finance Administration, or
66 other agency of the federal government, is successful in recouping
67 tobacco settlement funds from the State of Mississippi;

68 (b) The federal share of funds for the support of the
69 Mississippi Medicaid Program is reduced directly or indirectly as
70 a result of the tobacco settlement;

71 (c) Federal funding for any other program is reduced as
72 a result of the tobacco settlement; or

73 (d) Tobacco cessation programs are mandated by the
74 federal government or court order.

75 SECTION 4. (1) In accordance with the purposes of this
76 article, there is established in the State Treasury the Health
77 Care Expendable Fund, into which shall be transferred from the
78 Health Care Trust Fund the following sums:

79 (a) In fiscal year 2000, Fifty Million Dollars
80 (\$50,000,000.00);

81 (b) In fiscal year 2001, Fifty-five Million Dollars
82 (\$55,000,000.00);

83 (c) In fiscal year 2002, Sixty Million Five Hundred
84 Thousand Dollars (\$60,500,000.00);

85 (d) In fiscal year 2003, Sixty-six Million Five Hundred
86 Fifty Thousand Dollars (\$66,550,000.00);

87 (e) In fiscal year 2004 and each subsequent fiscal
88 year, a sum equal to the average annual amount of the income from
89 the investment of the funds in the Health Care Trust Fund since
90 July 1, 1999.

91 (2) In any fiscal year in which interest and dividends from
92 the investment of the funds in the Health Care Trust Fund are not
93 sufficient to fund the full amount of the annual transfer into the
94 Health Care Expendable Fund as required in subsection (1) of this
95 section, the State Treasurer shall transfer from tobacco
96 settlement installment payments an amount that is sufficient to
97 fully fund the amount of the annual transfer.

98 (3) All income from the investment of the funds in the
99 Health Care Expendable Fund shall be credited to the account of
100 the Health Care Expendable Fund. Any funds in the Health Care

101 Expendable Fund at the end of a fiscal year shall not lapse into
102 the State General Fund.

103 (4) The funds in the Health Care Expendable Fund shall be
104 available for expenditure pursuant to specific appropriation by
105 the Legislature beginning in fiscal year 2000, and shall be
106 expended exclusively for health care purposes.

107 SECTION 5. (1) There is established a board of directors
108 to invest the funds in the Health Care Trust Fund and the Health
109 Care Expendable Fund. The board of directors shall consist of
110 thirteen (13) members as follows:

111 (a) Seven (7) voting members as follows: the State
112 Treasurer or his designee, the Attorney General or his designee,
113 and one (1) member from each congressional district to be
114 appointed by the Governor with the advice and consent of the
115 Senate. Of the members appointed by the Governor, one (1) member
116 shall be appointed for an initial term that expires on March 1,
117 2000; one (1) member shall be appointed for an initial term that
118 expires on March 1, 2001; one (1) member shall be appointed for an
119 initial term that expires on March 1, 2002; one (1) member shall
120 be appointed for an initial term that expires on March 1, 2003;
121 and one (1) member shall be appointed for an initial term that
122 expires on March 1, 2004. Upon the expiration of any of the
123 initial terms of office, the Governor shall appoint successors by
124 and with the advice and consent of the Senate for terms of five
125 (5) years from the expiration date of the previous term. Any
126 member appointed by the Governor shall be eligible for
127 reappointment. Each member appointed by the Governor shall
128 possess knowledge, skill and experience in business or financial
129 matters commensurate with the duties and responsibilities of the
130 board of directors in administering the Health Care Trust Fund and
131 the Health Care Expendable Fund.

132 (b) Two (2) nonvoting, advisory members of the Senate
133 shall be appointed by the Lieutenant Governor, and one (1)

134 nonvoting, advisory representative of the health care community
135 shall be appointed by the Lieutenant Governor, who shall serve for
136 the length of the term of the appointing official and shall be
137 eligible for reappointment.

138 (c) Two (2) nonvoting, advisory members of the House of
139 Representatives shall be appointed by the Speaker of the House,
140 and one (1) nonvoting, advisory representative of the health care
141 community shall be appointed by the Speaker of the House, who
142 shall serve for the length of the term of the appointing official
143 and shall be eligible for reappointment.

144 (d) Any person appointed to fill a vacancy on the board
145 of directors shall be appointed in the same manner as for a
146 regular appointment and shall serve for the remainder of the
147 unexpired term only.

148 (2) Nonlegislative members of the board of directors shall
149 serve without compensation, but shall be reimbursed for each day's
150 official duties of the board at the same per diem as established
151 by Section 25-3-69, and actual travel and lodging expenses as
152 established by Section 25-3-41. Legislative members of the board
153 of directors shall receive the same per diem and expense
154 reimbursement as for attending committee meetings when the
155 Legislature is not in regular session.

156 (3) The State Treasurer shall be the chairman of the board
157 of directors. The board of directors shall annually elect one (1)
158 member to serve as vice chairman of the board. The vice chairman
159 shall act as chairman in the absence of or upon the disability of
160 the chairman or if there is a vacancy in the office of chairman.

161 (4) All expenses of the board of directors in carrying out
162 its duties and responsibilities under this article, including the
163 payment of per diem and expenses of the nonlegislative members of
164 the board, shall be paid from funds appropriated to the State
165 Treasurer's Office for that purpose.

166 (5) The board of directors shall invest the funds in the

167 Health Care Trust Fund and the Health Care Expendable Fund in any
168 of the investments authorized for the Mississippi Prepaid
169 Affordable College Tuition Program under Section 37-155-9, and
170 those investments shall be subject to the limitations prescribed
171 by Section 37-155-9.

172 (6) In furtherance of the powers granted under subsection
173 (5) of this section, the board of directors shall have such powers
174 as necessary or convenient to carry out the purposes and
175 provisions of this article, including, but not limited to, the
176 following express powers:

177 (a) To contract for necessary goods and services, to
178 employ necessary personnel, and to engage the services of
179 consultants for administrative and technical assistance in
180 carrying out its duties and responsibilities in administering the
181 Health Care Trust Fund and the Health Care Expendable Fund;

182 (b) To administer the Health Care Trust Fund and the
183 Health Care Expendable Fund in a manner that is sufficiently
184 actuarially sound to meet the obligations of this article and to
185 establish a comprehensive investment plan for the purposes of this
186 article, which shall specify the investment policies to be
187 utilized by the board of directors in administering the funds;

188 (c) Subject to the terms, conditions, limitations and
189 restrictions specified in Section 37-155-9, the board of directors
190 shall have power to sell, assign, transfer and dispose of any of
191 the securities and investments of the Health Care Trust Fund and
192 the Health Care Expendable Fund, provided that any such sale,
193 assignment or transfer has the majority approval of the entire
194 board; and

195 (d) To annually prepare or cause to be prepared a
196 report setting forth in appropriate detail an accounting of the
197 Health Care Trust Fund and the Health Care Expendable Fund and a
198 description of the financial condition of the funds at the close
199 of each fiscal year, including any recommendations for legislation

200 regarding the investment authority of the board of directors over
201 the funds. The report shall be submitted to the Governor and the
202 Legislative Budget Office on or before September 1 of each fiscal
203 year.

204 SECTION 6. Sections 1 through 5 of this act shall be
205 inserted as a new article in Title 43, Chapter 13, Mississippi
206 Code of 1972.

207 SECTION 7. This act shall take effect and be in force from
208 and after its passage.