

By: Representatives Robertson, Dickson,
Fredericks, Martinson, Thomas, Whittington

To: Public Health and
Welfare; Ways and Means

HOUSE BILL NO. 918

1 AN ACT TO BE KNOWN AS THE BREAST CANCER ACT OF 2003; TO
 2 ESTABLISH THE BREAST CANCER RESEARCH PROGRAM AT THE UNIVERSITY OF
 3 MISSISSIPPI MEDICAL CENTER TO SUPPORT RESEARCH EFFORTS INTO THE
 4 CAUSE, CURE, TREATMENT, EARLIER DETECTION, AND PREVENTION OF
 5 BREAST CANCER; TO CREATE THE OVERSIGHT COMMITTEE ON BREAST CANCER
 6 RESEARCH TO ESTABLISH RESEARCH PRIORITIES FOR RESEARCH GRANTS MADE
 7 UNDER THE PROGRAM; TO CREATE A SPECIAL FUND IN THE STATE TREASURY
 8 TO BE KNOWN AS THE BREAST CANCER RESEARCH FUND, WHICH SHALL BE
 9 EXPENDED EXCLUSIVELY FOR THE PROGRAM; TO ESTABLISH WITHIN THE
 10 STATE DEPARTMENT OF HEALTH THE BREAST CANCER CONTROL PROGRAM TO
 11 PROVIDE FOR THE EARLY DETECTION, DIAGNOSIS, AND TREATMENT OF
 12 BREAST CANCER; TO CREATE THE BREAST CANCER CONTROL ADVISORY BOARD,
 13 WHICH SHALL MAKE RECOMMENDATIONS TO THE STATE DEPARTMENT OF HEALTH
 14 ON EXPENDITURES FOR THE PROGRAM AND ESTABLISH THE SCOPE OF
 15 SERVICES AND PRIORITIES OF THE PROGRAM; TO CREATE A SPECIAL FUND
 16 IN THE STATE TREASURY TO BE KNOWN AS THE BREAST CANCER CONTROL
 17 FUND, WHICH SHALL BE EXPENDED EXCLUSIVELY FOR THE PROGRAM; TO
 18 AMEND SECTION 27-69-13, MISSISSIPPI CODE OF 1972, TO INCREASE THE
 19 EXCISE TAX ON TOBACCO PRODUCTS; TO SPECIFY THE AMOUNT OF THE
 20 DISCOUNT OR COMPENSATION ON THE ADDITIONAL FACE VALUE OF STAMPS
 21 PURCHASED BY DEALERS TO COMPLY WITH THE INCREASE IN TAXES PROVIDED
 22 FOR BY THIS ACT; TO AMEND SECTION 27-69-75, MISSISSIPPI CODE OF
 23 1972, TO PROVIDE THAT THE REVENUE DERIVED FROM THE INCREASE IN
 24 TAXES PROVIDED FOR BY THIS ACT SHALL BE DEPOSITED INTO THE BREAST
 25 CANCER RESEARCH FUND AND THE BREAST CANCER CONTROL FUND; TO AMEND
 26 SECTION 27-69-31, MISSISSIPPI CODE OF 1972, TO CONFORM TO THE
 27 PRECEDING PROVISIONS; TO PROVIDE THAT THE INCREASE IN TAXES
 28 PROVIDED FOR BY THIS ACT SHALL NOT BE LEVIED DURING ANY FISCAL
 29 YEAR FOR WHICH THE LEGISLATURE HAS APPROPRIATED CERTAIN SPECIFIED
 30 SUMS FROM GENERAL FUNDS TO THE BREAST CANCER RESEARCH FUND AND THE
 31 BREAST CANCER CONTROL FUND; AND FOR RELATED PURPOSES.

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

33 **SECTION 1.** This act shall be known and may be cited as "The
 34 Breast Cancer Act of 2003."

35 **SECTION 2.** The Legislature finds and declares as follows:

36 (a) Breast cancer is a significant threat to the health
 37 of women. Breast cancer is the most common form of cancer in
 38 women, and causes the death of a woman in the United States every
 39 twelve (12) minutes.

40 (b) The incidence of breast cancer continues to



41 increase at a dramatic rate. During the past decade, the
42 incidence has increased by thirty percent (30%).

43 (c) Breast cancer exacts an enormous economic toll on
44 our society, including over Two Billion Dollars
45 (\$2,000,000,000.00) in direct medical costs, and over Eight
46 Billion Dollars (\$8,000,000,000.00) in both direct medical and
47 indirect costs.

48 (d) Medical experts still do not know the cause of
49 breast cancer, or how to prevent breast cancer.

50 (e) The State of Mississippi must take the lead in
51 combating the increasingly rapid spread of breast cancer and the
52 current lack of knowledge with respect to breast cancer's cause
53 and cure, and effective methods of prevention.

54 (f) It is the intent of the Legislature in enacting
55 this act to fund essential research and services with respect to
56 the cause, cure, detection and prevention of breast cancer, and
57 breast cancer education.

58 **SECTION 3.** (1) There is established at the University of
59 Mississippi Medical Center the Breast Cancer Research Program.
60 This program shall support research efforts into the cause, cure,
61 treatment, earlier detection, and prevention of breast cancer and
62 shall be administered according to the following principles:

63 (a) The program shall fund innovative research and the
64 dissemination of successful research findings, with special
65 emphasis on research that complements, rather than duplicates the
66 research funded by the federal government and other entities.

67 (b) All research grants shall be awarded on the basis
68 of the research priorities established for the program and the
69 scientific merit of the proposed research as determined by a peer
70 review process governed by the Oversight Committee on Breast
71 Cancer Research. The committee shall consist of seven (7) members
72 appointed by the Governor. One (1) member shall represent the
73 Mississippi State Medical Association, one (1) member shall



74 represent the Mississippi Hospital Association, one (1) member
75 shall represent the medical oncology community, one (1) member
76 shall be a women's health advocate, and three (3) members shall
77 represent the state institutions of higher learning. At least one
78 (1) member of the committee shall be appointed from each of the
79 four (4) congressional districts. The initial members of the
80 committee shall be appointed to serve for terms as follows: the
81 terms of two (2) members shall expire on July 1, 2005; the terms
82 of two (2) members shall expire on July 1, 2006, and the terms of
83 three (3) members shall expire on July 1, 2007. After the
84 expiration of the initial terms, the members of the committee
85 shall serve for terms of four (4) years from the expiration date
86 of the previous term.

87 (c) The peer review process for the selection of
88 research grants awarded under this program shall be generally
89 modeled on that used by the National Institutes of Health in its
90 grant making process, and the peer review process may stipulate
91 that an applicant must have participated in an established grant
92 process before applying for a grant under this program.

93 (d) An awardee shall be awarded grants for the full or
94 partial cost of conducting the sponsored research grants and
95 contracts. All intellectual property assets developed under this
96 program shall be treated in accordance with state and federal law.

97 (2) (a) There is created in the State Treasury a special
98 fund to be known as the Breast Cancer Research Fund, which shall
99 be comprised of the monies required to be deposited into the fund
100 under Section 27-69-75(2)(a), and any other funds that may be made
101 available for the fund by the Legislature.

102 (b) Monies in the Breast Cancer Research Fund shall be
103 used exclusively for the purposes of the Breast Cancer Research
104 Program as set forth in this section. Monies in the fund shall be
105 expended by the University of Mississippi Medical Center, upon
106 appropriation by the Legislature, for the awarding of grants,



107 chairs and contracts to researchers for research with respect to
108 the cause, cure, treatment, prevention, and earlier detection of
109 breast cancer and for developing leadership in research in
110 Mississippi.

111 (c) Unexpended amounts remaining in the Breast Cancer
112 Research Fund at the end of a fiscal year shall not lapse into the
113 State General Fund, and any interest earned or investment earnings
114 on amounts in the fund shall be deposited to the credit of the
115 fund.

116 **SECTION 4.** (1) There is established within the State
117 Department of Health the Breast Cancer Control Program. This
118 program shall provide for the early detection, diagnosis, and
119 treatment of breast cancer. The program shall be administered
120 according to the following principles:

121 (a) The program shall provide for breast cancer
122 education and awareness so as to insure early detection and
123 conduct surveillance activities across the state.

124 (b) The program shall provide screening of women for
125 breast cancer, including mammography, as an early detection health
126 care measure.

127 (c) After screening, the program shall provide medical
128 referrals and financial assistance for services necessary for
129 definitive diagnosis, including nonradiological techniques and
130 biopsy.

131 (d) If a positive diagnosis is made, the program shall
132 provide the necessary advocacy and financial assistance to help
133 the person obtain necessary treatment.

134 (2) There is created a Breast Cancer Control Advisory Board,
135 which shall consist of eight (8) members appointed by the
136 Governor. One (1) member shall represent the Mississippi State
137 Medical Association, one (1) member shall represent the Central
138 Mississippi Affiliate of the Susan G. Komen Breast Cancer
139 Foundation, one (1) member shall represent the Mississippi



140 Hospital Association, one (1) member shall represent the American
141 Cancer Society, one (1) member shall represent the Mississippi
142 Nurses Association, one (1) member shall represent the medical
143 oncology community, one (1) member shall represent the radiation
144 oncology community, and one (1) member shall be a womens' health
145 advocate. At least one (1) member of the advisory board shall be
146 appointed from each of the four (4) congressional districts. The
147 initial members of the advisory board shall be appointed to serve
148 for terms as follows: the terms of two (2) members shall expire
149 on July 1, 2005; the terms of three (3) members shall expire on
150 July 1, 2006, and the terms of three (3) members shall expire on
151 July 1, 2007. After the expiration of the initial terms, the
152 members of the advisory board shall serve for terms of four (4)
153 years from the expiration date of the previous term.

154 (3) The duties of the Breast Cancer Control Advisory Board
155 shall be as follows:

156 (a) Make recommendations to the State Department of
157 Health on expenditures of monies in the Breast Cancer Control Fund
158 created in subsection (4) of this section.

159 (b) Establish the scope of services of the Breast
160 Cancer Control Program and programmatic priorities based on the
161 analysis of available information.

162 (c) Develop eligibility criterion to be applied in
163 evaluating requests for financial assistance from screened women
164 who are found to be in need of diagnostic and treatment services.

165 (d) Review contractual agreements with providers who
166 will be rendering services through the Breast Cancer Control
167 Program.

168 (4) (a) There is created in the State Treasury a special
169 fund to be known as the Breast Cancer Control Fund, which shall be
170 comprised of the monies required to be deposited into the fund
171 under Section 27-69-75(2)(b), and any other funds that may be made
172 available for the fund by the Legislature.



173 (b) Monies in the Breast Cancer Control Fund shall be
174 used exclusively for the purposes of the Breast Cancer Control
175 Program as set forth in this section. Monies in the fund shall be
176 expended by the State Department of Health, upon appropriation by
177 the Legislature, for the Breast Cancer Control Program in
178 accordance with the recommendations of the Breast Cancer Control
179 Advisory Board.

180 (c) Unexpended amounts remaining in the Breast Cancer
181 Control Fund at the end of a fiscal year shall not lapse into the
182 State General Fund, and any interest earned or investment earnings
183 on amounts in the fund shall be deposited to the credit of the
184 fund.

185 **SECTION 5.** Section 27-69-13, Mississippi Code of 1972, is
186 amended as follows:

187 27-69-13. (1) There is * * * imposed, levied and assessed,
188 to be collected and paid as hereinafter provided in this chapter,
189 an excise tax on each person or dealer in cigarettes, cigars,
190 stogies, snuff, chewing tobacco, and smoking tobacco, or
191 substitutes therefor, upon the sale, use, consumption, handling or
192 distribution in the State of Mississippi, as follows:

193 (a) On cigarettes, the rate of tax shall be
194 Eighteen-twentieths of One Cent (18/20 of 1¢) on each cigarette
195 sold with a maximum length of one hundred twenty (120)
196 millimeters; any cigarette in excess of this length shall be taxed
197 as if it were two (2) or more cigarettes. * * * However, if the
198 federal tax rate on cigarettes in effect on July 1, 1985, is
199 reduced, then the rate as provided in this paragraph (a) shall be
200 increased by the amount of the federal tax reduction. That tax
201 increase shall take effect on the first day of the month following
202 the effective date of the reduction in the federal tax rate.

203 (b) (i) In addition to the excise tax levied by
204 paragraph (a), there is levied an excise tax of One-eighth of One
205 Cent (1/8 of 1¢) on each cigarette sold with a maximum length of



206 one hundred twenty (120) millimeters; any cigarette in excess of
207 this length shall be taxed as if it were two (2) or more
208 cigarettes.

209 (ii) On or before the fifteenth of August 2003,
210 and each succeeding month thereafter, the revenue derived from the
211 excise tax on cigarettes that is levied by subparagraph (i) of
212 this paragraph shall be deposited into the proper funds in the
213 State Treasury as provided in Section 27-69-75(2).

214 (c) On cigars, cheroots, stogies, snuff, chewing and
215 smoking tobacco and all other tobacco products except cigarettes,
216 the rate of tax shall be fifteen percent (15%) of the
217 manufacturer's list price.

218 (d) (i) In addition to the excise tax levied by
219 paragraph (c), there is levied an excise tax of two percent (2%)
220 of the manufacturer's list price on cigars, cheroots, stogies,
221 snuff, chewing and smoking tobacco and all other tobacco products,
222 except cigarettes.

223 (ii) On or before the fifteenth day of August
224 2003, and each succeeding month thereafter, the revenue derived
225 from the excise tax on other tobacco products, except cigarettes,
226 that is levied by subparagraph (i) of this paragraph shall be
227 deposited into the proper funds in the State Treasury as provided
228 in Section 27-69-75(2).

229 (2) No stamp evidencing the tax * * * levied on cigarettes
230 by this section shall be of a denomination of less than One Cent
231 (1¢), and whenever the tax computed at the rates * * * prescribed
232 on cigarettes in this section shall be a specified amount, plus a
233 fractional part of One Cent (1¢), the package shall be stamped for
234 the next full cent. However, (a) the additional face value of
235 stamps purchased to comply with taxes imposed by subsection (1)(a)
236 and subsection (1)(c) of this section after June 1, 1985, shall be
237 subject to a four percent (4%) discount or compensation to dealers
238 for their services rather than the eight percent (8%) discount or



239 compensation allowed by Section 27-69-31; and (b) the additional
240 face value of stamps purchased to comply with taxes imposed by
241 subsection (1)(b) and subsection (1)(d) of this section after July
242 1, 2003, shall be subject to a three percent (3%) discount or
243 compensation to dealers for their services rather than the eight
244 percent (8%) discount or compensation allowed by Section 27-69-31.

245 (3) Every wholesaler shall purchase stamps as provided in
246 this chapter, and affix the same to all packages of cigarettes
247 handled by him as * * * provided in this section.

248 (4) The * * * tax levied by this chapter is levied upon the
249 sale, use, gift, possession, or consumption of tobacco within the
250 State of Mississippi, and the impact of the tax levied by this
251 chapter is * * * declared to be on the vendee, user, consumer, or
252 possessor of tobacco in this state * * * when the tax is paid by
253 any other person, the payment shall be considered as an advance
254 payment and shall thereafter be added to the price of the tobacco
255 and recovered from the ultimate consumer or user.

256 **SECTION 6.** Section 27-69-75, Mississippi Code of 1972, is
257 amended as follows:

258 27-69-75. (1) All taxes levied by this chapter shall be
259 payable to the commissioner in cash, or by personal check,
260 cashier's check, bank exchange, post office money order or express
261 money order, and shall be deposited by the commissioner in the
262 State Treasury on the same day collected. No remittance other
263 than cash shall be a final discharge of liability for the
264 tax * * * assessed and levied under this chapter, unless and until
265 it has been paid in cash to the commissioner.

266 (2) The revenue derived from the taxes levied in Sections
267 27-69-13(1)(b) and 27-69-13(1)(d) shall be deposited into the
268 State Treasury, as follows:

269 (a) Twenty percent (20%) of the revenue collected shall
270 be deposited to the credit of the Breast Cancer Research Fund that
271 is created by Section 3(2) of this act.



272 (b) Eighty percent (80%) of the revenue collected shall
273 be deposited to the credit of the Breast Cancer Control Fund that
274 is created by Section 4(4) of this act.

275 (3) All tobacco taxes collected, except for those revenues
276 required to be deposited into special funds as provided in
277 subsection (2) of this section, including tobacco license taxes,
278 shall be deposited into the State Treasury to the credit of the
279 General Fund.

280 (4) Wholesalers who are entitled to purchase stamps at a
281 discount, as provided by Section 27-69-31, may have consigned to
282 them, without advance payment, those stamps, if and when the
283 wholesaler * * * gives to the commissioner a good and sufficient
284 bond executed by some surety company authorized to do business in
285 this state, conditioned to secure the payment for the stamps so
286 consigned. The commissioner shall require payment for those
287 stamps not later than thirty (30) days from the date the stamps
288 were consigned.

289 **SECTION 7.** Section 27-69-31, Mississippi Code of 1972, is
290 amended as follows:

291 27-69-31. Dealers subject to the provisions of this chapter
292 shall be allowed, as compensation for their services in affixing
293 the stamps * * * required by this chapter, a sum equal to eight
294 percent (8%) of the face value of the stamps purchased by them,
295 except as otherwise provided in Section 27-69-13(2); however, the
296 commission shall allow no discount on the purchase of stamps by
297 wholesalers of an aggregate amount of less than One Hundred
298 Dollars (\$100.00), and by retailers of an aggregate amount of less
299 than Fifty Dollars (\$50.00) in any one order.

300 It is further provided that the commissioner may, in his
301 discretion, either reduce the compensation allowed, or disallow
302 any compensation for the affixing of stamps, for failure of the
303 dealer to comply with any provisions of the law or rules and
304 regulations promulgated by the commissioner.



305 **SECTION 8.** The taxes provided for in Section 27-69-13(1)(b)
306 and 27-69-13(1)(d) shall not be levied during any fiscal year for
307 which the Legislature has appropriated at least Eight Hundred
308 Thousand Dollars (\$800,000.00) from general funds to the Breast
309 Cancer Research Fund and at least Three Million Two Hundred
310 Thousand Dollars (\$3,200,000.00) from general funds to the Breast
311 Cancer Control Fund.

312 **SECTION 9.** This act shall take effect and be in force from
313 and after July 1, 2003.

