

By: Representatives Stevens, Frierson, Clarke, Chism, Davis, Denny, Ellington, Fillingane, Formby, Hamilton (6th), Janus, Jennings, Lott, Mayhall, Moore, Nicholson, Wells-Smith

To: Appropriations

HOUSE BILL NO. 545

1 AN ACT TO AMEND SECTION 43-13-409, MISSISSIPPI CODE OF 1972,
2 TO REVISE THE MEMBERSHIP OF THE BOARD OF DIRECTORS OF THE HEALTH
3 CARE TRUST FUND; TO AUTHORIZE THE BOARD TO HIRE INDEPENDENT
4 COUNSEL TO RECOVER ANY FUNDS DIVERTED OR DIRECTED FROM THE TRUST
5 FUND; TO AUTHORIZE THE BOARD TO BRING ANY OTHER CIVIL ACTION
6 AGAINST ANY PERSON OR PERSONS WHO CAUSED OR PARTICIPATED IN
7 DIRECTING OR DIVERTING FUNDS FROM THE TRUST FUND; AND FOR RELATED
8 PURPOSES.

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

10 **SECTION 1.** Section 43-13-409, Mississippi Code of 1972, is
11 amended as follows:

12 43-13-409. (1) There is established a board of directors to
13 invest the funds in the Health Care Trust Fund and the Health Care
14 Expendable Fund. The board of directors shall consist of thirteen
15 (13) members as follows:

16 (a) Seven (7) voting members as follows: the State
17 Treasurer, or his designee, the Executive Director of the
18 Department of Finance and Administration, or his designee, and one
19 (1) member from each congressional district to be appointed by the
20 Governor with the advice and consent of the Senate. Of the
21 members appointed by the Governor, one (1) member shall be
22 appointed for an initial term that expires on March 1, 2000; one
23 (1) member shall be appointed for an initial term that expires on
24 March 1, 2001; one (1) member shall be appointed for an initial
25 term that expires on March 1, 2002; one (1) member shall be
26 appointed for an initial term that expires on March 1, 2003; and
27 one (1) member shall be appointed for an initial term that expires
28 on March 1, 2004. Upon the expiration of any of the initial terms
29 of office, the Governor shall appoint successors by and with the
30 advice and consent of the Senate for terms of five (5) years from

31 the expiration date of the previous term. Any member appointed by
32 the Governor shall be eligible for reappointment. Each member
33 appointed by the Governor shall possess knowledge, skill and
34 experience in business or financial matters commensurate with the
35 duties and responsibilities of the board of directors in
36 administering the Health Care Trust Fund and the Health Care
37 Expendable Fund.

38 (b) Two (2) nonvoting, advisory members of the Senate
39 shall be appointed by the Lieutenant Governor, and one (1)
40 nonvoting, advisory representative of the health care community
41 shall be appointed by the Lieutenant Governor, who shall serve for
42 the length of the term of the appointing official and shall be
43 eligible for reappointment.

44 (c) Two (2) nonvoting, advisory members of the House of
45 Representatives shall be appointed by the Speaker of the House,
46 and one (1) nonvoting, advisory representative of the health care
47 community shall be appointed by the Speaker of the House, who
48 shall serve for the length of the term of the appointing official
49 and shall be eligible for reappointment.

50 (d) Any person appointed to fill a vacancy on the board
51 of directors shall be appointed in the same manner as for a
52 regular appointment and shall serve for the remainder of the
53 unexpired term only.

54 (2) Nonlegislative members of the board of directors shall
55 serve without compensation, but shall be reimbursed for each day's
56 official duties of the board at the same per diem as established
57 by Section 25-3-69, and actual travel and lodging expenses as
58 established by Section 25-3-41. Legislative members of the board
59 of directors shall receive the same per diem and expense
60 reimbursement as for attending committee meetings when the
61 Legislature is not in regular session.

62 (3) The State Treasurer shall be the chairman of the board
63 of directors. The board of directors shall annually elect one (1)

64 member to serve as vice chairman of the board. The vice chairman
65 shall act as chairman in the absence of or upon the disability of
66 the chairman or if there is a vacancy in the office of chairman.

67 (4) All expenses of the board of directors in carrying out
68 its duties and responsibilities under this article, including the
69 payment of per diem and expenses of the nonlegislative members of
70 the board, shall be paid from funds appropriated to the State
71 Treasurer's office for that purpose.

72 (5) The board of directors shall invest the funds in the
73 Health Care Trust Fund and the Health Care Expendable Fund in any
74 of the investments authorized for the Mississippi Prepaid
75 Affordable College Tuition Program under Section 37-155-9, and
76 those investments shall be subject to the limitations prescribed
77 by Section 37-155-9.

78 (6) In furtherance of the powers granted under subsection
79 (5) of this section, the board of directors shall have such powers
80 as necessary or convenient to carry out the purposes and
81 provisions of this article, including, but not limited to, the
82 following express powers:

83 (a) To contract for necessary goods and services, to
84 employ necessary personnel, and to engage the services of
85 consultants for administrative and technical assistance in
86 carrying out its duties and responsibilities in administering the
87 Health Care Trust Fund and the Health Care Expendable Fund;

88 (b) To administer the Health Care Trust Fund and the
89 Health Care Expendable Fund in a manner that is sufficiently
90 actuarially sound to meet the obligations of this article and to
91 establish a comprehensive investment plan for the purposes of this
92 article, which shall specify the investment policies to be
93 utilized by the board of directors in administering the funds;

94 (c) Subject to the terms, conditions, limitations and
95 restrictions specified in Section 37-155-9, the board of directors
96 shall have power to sell, assign, transfer and dispose of any of

97 the securities and investments of the Health Care Trust Fund and
98 the Health Care Expendable Fund, provided that any such sale,
99 assignment or transfer has the majority approval of the entire
100 board; and

101 (d) To annually prepare or cause to be prepared a
102 report setting forth in appropriate detail an accounting of the
103 Health Care Trust Fund and the Health Care Expendable Fund and a
104 description of the financial condition of the funds at the close
105 of each fiscal year, including any recommendations for legislation
106 regarding the investment authority of the board of directors over
107 the funds. The report shall be submitted to the Governor and the
108 Legislative Budget Office on or before September 1 of each fiscal
109 year.

110 (e) To hire independent counsel to bring any suit
111 necessary to recover for the Health Care Trust Fund any trust
112 funds that have been diverted or otherwise directed to persons,
113 entities, or accounts other than the Health Care Trust Fund, and
114 to bring any other civil action the board deems appropriate
115 against any person who caused or participated in any action that
116 resulted in the directing or diverting of trust funds to a person,
117 entity, or account other than the Health Care Trust Fund. The
118 board shall have the exclusive authority to hire that counsel
119 without approval or oversight from any other person or officer.

120 **SECTION 2.** This act shall take effect and be in force from
121 and after July 1, 2004.