

By: Senator(s) Dearing

To: Appropriations

SENATE BILL NO. 2023

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

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

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

11 43-13-409. (1) There is established a board of directors to
12 invest the funds in the Health Care Trust Fund and the Health Care
13 Expendable Fund. The board of directors shall consist of thirteen
14 (13) members as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

119 **SECTION 2.** This act shall take effect and be in force from
120 and after July 1, 2005.