

By: Representatives Bondurant, Holland,  
Eaton, Evans, Fredericks, Gibbs, Hudson,  
Markham, Mayo, Espy, Montgomery

To: Public Health and Human  
Services; Appropriations

## HOUSE BILL NO. 349

1 AN ACT TO PROVIDE FOR A COMPREHENSIVE AND STATEWIDE TOBACCO  
2 EDUCATION, PREVENTION AND CESSATION PROGRAM THAT IS CONSISTENT  
3 WITH FEDERAL GUIDELINES; TO CREATE THE MISSISSIPPI TOBACCO CONTROL  
4 COMMISSION TO DEVELOP AND IMPLEMENT THE PROGRAM; TO PROVIDE FOR  
5 THE APPOINTMENT OF THE MEMBERSHIP OF THE COMMISSION; TO PROVIDE  
6 THAT THE COMMISSION SHALL EMPLOY AN EXECUTIVE DIRECTOR; TO PROVIDE  
7 FOR THE DUTIES OF THE COMMISSION; TO PRESCRIBE THE MINIMUM  
8 COMPONENTS OF THE PROGRAM; TO PROVIDE GUIDELINES FOR PRIORITY FOR  
9 FUNDING THE COMPONENTS OF THE PROGRAM; TO ESTABLISH IN THE STATE  
10 TREASURY A SPECIAL FUND TO BE KNOWN AS THE TOBACCO CONTROL  
11 COMMISSION FUND; TO PROVIDE THAT A CERTAIN AMOUNT FROM THE TOBACCO  
12 SETTLEMENT INSTALLMENT PAYMENTS RECEIVED BY THE STATE EACH YEAR  
13 SHALL BE DEPOSITED INTO THE SPECIAL FUND; TO PROVIDE THAT THE  
14 LEGISLATURE SHALL ANNUALLY APPROPRIATE THE FUNDS IN THE SPECIAL  
15 FUND TO THE COMMISSION, WHICH SHALL EXPEND THE FUNDS SOLELY FOR  
16 THE PURPOSES SPECIFIED IN THIS ACT; TO AMEND SECTION 43-13-405,  
17 MISSISSIPPI CODE OF 1972, TO CONFORM TO THE PRECEDING PROVISION;  
18 AND FOR RELATED PURPOSES.

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

20 **SECTION 1.** (1) The Mississippi Legislature recognizes the  
21 devastating impact that tobacco use has on the citizens of our  
22 state. Tobacco use is the single most preventable cause of death  
23 and disease in this country and this state. Each year, thousands  
24 of Mississippians lose their lives to diseases caused by tobacco  
25 use, and the cost to the state is hundreds of millions of dollars.  
26 Tobacco use also is a large burden on the families and businesses  
27 of Mississippi. It is therefore the intent of the Legislature  
28 that there be developed, implemented and fully funded a  
29 comprehensive and statewide tobacco education, prevention and  
30 cessation program that is consistent with the Best Practices for  
31 Tobacco Control Programs of the federal Centers for Disease  
32 Control and Prevention, as periodically amended. It is also the  
33 intent of the Legislature that all reasonable efforts be made to  
34 maximize the amount of federal funds available for this program.

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

37 (a) Preventing the initiation of use of tobacco  
38 products by youth;

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

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

42 (d) Supporting the enforcement of laws prohibiting  
43 youth access to tobacco products;

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

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

48 **SECTION 2.** (1) There is created the Mississippi Tobacco  
49 Control Commission, which shall consist of twenty-one (21)  
50 members, thirteen (13) of which shall be voting members and eight  
51 (8) of which shall be nonvoting members.

52 (2) The thirteen (13) voting members of the commission shall  
53 consist of the following:

54 (a) Four (4) members appointed by the Governor, with  
55 one (1) member each from a list of three (3) individuals  
56 recommended by the Mississippi Primary Health Care Association, a  
57 list of three (3) individuals recommended by the Mississippi State  
58 Medical Association, and a list of three (3) individuals  
59 recommended by the American Heart Association, and one (1) member  
60 who has experience in financial planning and accounting;

61 (b) Three (3) members appointed by the Lieutenant  
62 Governor, with one (1) member each from a list of three (3)  
63 individuals recommended by the Mississippi Chapter of the American  
64 Lung Association, a list of three (3) individuals recommended by  
65 the Mississippi Chapter of the American Academy of Family Practice  
66 Physicians, and a list of three (3) individuals recommended by the  
67 American Cancer Society;

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

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

71 (e) The State Superintendent of Public Education or his  
72 or her designee;

73 (f) The Vice-Chancellor of Health Affairs of the  
74 University of Mississippi Medical Center or his or her designee;

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

77 (h) The Administrator of the School of Health Sciences  
78 of the College of Public Service at Jackson State University or  
79 his or her designee.

80 (3) The eight (8) nonvoting members of the commission shall  
81 be individuals who are not affiliated with the tobacco industry  
82 who possess knowledge, skill, and prior experience in  
83 scientifically proven smoking prevention, reduction and cessation  
84 programs, health care services or preventive health measures, and  
85 shall consist of the following:

86 (a) One (1) member appointed by the Governor;

87 (b) One (1) member appointed by the Lieutenant  
88 Governor;

89 (c) Four (4) members appointed by the Speaker of the  
90 House of Representatives, with one (1) of those members being  
91 appointed from a list of three (3) individuals recommended by the  
92 Mississippi School Nurse Association; and

93 (d) Two (2) members appointed by the Attorney General.

94 (4) For those members that are required to be appointed from  
95 lists of individuals recommended by certain nominating groups, if  
96 none of the recommended names are acceptable to the appointing  
97 official, then the nominating group shall submit another list of  
98 three (3) different individuals until an acceptable individual is  
99 submitted to the appointing official.

100           (5) (a) Of the voting members appointed by the Governor,  
101 two (2) shall be appointed for terms ending on June 30, 2010, and  
102 two (2) shall be appointed for terms ending on June 30, 2012. Of  
103 the voting members appointed by the Lieutenant Governor, one (1)  
104 shall be appointed for a term ending on June 30, 2009, and two (2)  
105 shall be appointed for terms ending on June 30, 2011. The voting  
106 member appointed by the Attorney General shall be appointed for a  
107 term ending on June 30, 2009. After the expiration of the initial  
108 terms, all later appointments of the voting members shall be made  
109 by the original appointing officials for terms of five (5) years  
110 from the expiration date of the previous term. All appointed  
111 voting members shall serve until their successors are appointed  
112 and qualified.

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

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

119           (d) Any vacancy in an appointed member position shall  
120 be filled within thirty (30) days of the vacancy by the original  
121 appointing official, and the individual appointed to fill the  
122 vacancy shall meet the same qualifications as required for the  
123 former member.

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

129           (6) The commission shall annually elect a chairman from  
130 among its members. The commission shall meet at least quarterly.  
131 A quorum for meetings of the commission shall be a majority of the

132 voting members of the commission. The members of the commission  
133 shall serve without compensation.

134 **SECTION 3.** (1) The commission shall employ an executive  
135 director, who shall serve at the will and pleasure of the  
136 commission. The executive director shall be an individual who has  
137 knowledge and experience in public health, medical care, health  
138 care services, preventive health measures or tobacco use control.  
139 The executive director shall be the administrative officer of the  
140 commission, and shall perform the duties that are required of him  
141 or her by law and such other duties as may be assigned to him or  
142 her by the commission. The executive director shall receive such  
143 compensation as may be fixed by the commission, subject to the  
144 approval of the State Personnel Board.

145 (2) The commission may employ such other persons as may be  
146 necessary to carry out the provisions of this act. The  
147 compensation and the terms and conditions of their employment  
148 shall be determined by the commission in accordance with  
149 applicable state law and rules and regulations of the State  
150 Personnel Board.

151 **SECTION 4.** The commission shall perform the following  
152 duties:

153 (a) Develop and implement appropriate policies and  
154 procedures for the operation of the tobacco education, prevention  
155 and cessation program;

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

158 (c) Develop and maintain an annual operating budget and  
159 oversee fiscal management of the tobacco education, prevention and  
160 cessation program;

161 (d) Execute any contracts, agreements or other  
162 documents with any governmental agency or any person, corporation,  
163 association, partnership or other organization or entity that are  
164 necessary to accomplish the purposes of this act;

165 (e) Receive grants, bequeaths, gifts, donations or any  
166 other contributions made to the commission to be used for specific  
167 purposes related to the goals of this act;

168 (f) Submit an annual report to the Legislature  
169 regarding the operation of the commission;

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

173 (h) Adopt any rules or regulations that are necessary  
174 to carry out the purposes of this act; and

175 (i) Take any other actions that are necessary to carry  
176 out the purposes of this act.

177 **SECTION 5.** (1) The commission shall develop and implement a  
178 comprehensive and statewide tobacco education, prevention and  
179 cessation program that is consistent with the recommendations for  
180 effective program components and funding recommendations in the  
181 1999 Best Practices for Comprehensive Tobacco Control Programs of  
182 the federal Centers for Disease Control and Prevention, as those  
183 Best Practices may be periodically amended by the Centers for  
184 Disease Control and Prevention.

185 (2) At a minimum, the program shall include the following  
186 components, and may include additional components that are  
187 contained within the Best Practices for Comprehensive Tobacco  
188 Control Programs of the federal Centers for Disease Control and  
189 Prevention, as periodically amended, and that based on scientific  
190 data and research have been shown to be effective at accomplishing  
191 the purposes of this section:

192 (a) The use of mass media, including paid advertising  
193 and other communication tools to discourage the use of tobacco  
194 products and to educate people, especially youth, about the health  
195 hazards from the use of tobacco products, which shall be designed  
196 to be effective at achieving these goals and shall include, but  
197 need not be limited to, television, radio, and print advertising,

198 as well as sponsorship, exhibits and other opportunities to raise  
199 awareness statewide;

200 (b) Evidence-based curricula and programs implemented  
201 in schools to educate youth about tobacco and to discourage their  
202 use of tobacco products, including, but not limited to, programs  
203 that involve youth, educate youth about the health hazards from  
204 the use of tobacco products, help youth develop skills to refuse  
205 tobacco products, and demonstrate to youth how to stop using  
206 tobacco products;

207 (c) Local community programs, including, but not  
208 limited to, youth-based partnerships that discourage the use of  
209 tobacco products and involve community based organizations in  
210 tobacco education, prevention and cessation programs in their  
211 communities;

212 (d) Enforcement of laws, regulations and policies  
213 against the sale or other provision of tobacco products to minors,  
214 and the possession of tobacco products by minors;

215 (e) Programs to assist and help people to stop using  
216 tobacco products; and

217 (f) A surveillance and evaluation system that monitors  
218 program accountability and results, produces publicly available  
219 reports that review how monies expended for the program are spent,  
220 and includes an evaluation of the program's effectiveness in  
221 reducing and preventing the use of tobacco products, and annual  
222 recommendations for improvements to enhance the program's  
223 effectiveness.

224 (3) All programs or activities funded by the commission  
225 through the tobacco education, prevention and cessation program,  
226 whether part of a component described in subsection (2) or an  
227 additional component, must be consistent with the Best Practices  
228 for Comprehensive Tobacco Control Programs of the federal Centers  
229 for Disease Control and Prevention, as periodically amended, and  
230 all funds received by any person or entity under any such program

231 or activity must be expended for purposes that are consistent with  
232 those Best Practices.

233 (4) Funding for the different components of the program  
234 shall be apportioned between the components based on the  
235 recommendations in the Best Practices for Comprehensive Tobacco  
236 Control Programs of the federal Centers for Disease Control and  
237 Prevention, as periodically amended, to provide adequate program  
238 development, implementation and evaluation for effective control  
239 of the use of tobacco products. While the commission shall  
240 develop annual budgets based on strategic planning, components of  
241 the program shall be funded using the following areas as  
242 guidelines for priority:

- 243 (a) School programs;
- 244 (b) Mass media (counter-marketing);
- 245 (c) Cessation programs (including media promotions);
- 246 (d) Community programs;
- 247 (e) Surveillance and evaluation;
- 248 (f) Law enforcement; and
- 249 (g) Administration and management; however, not more  
250 than five percent (5%) of the total budget may be expended for  
251 administration and management purposes.

252 **SECTION 6.** (1) There is established in the State Treasury a  
253 special fund to be known as the Tobacco Control Commission Fund,  
254 which shall be comprised of the funds specified in subsection (2)  
255 of this section and any other funds that are authorized or  
256 required to be deposited into the special fund.

257 (2) From the tobacco settlement installment payments that  
258 the State of Mississippi receives during each calendar year, the  
259 sum of Twenty Million Dollars (\$20,000,000.00) shall be deposited  
260 into the special fund.

261 (3) The Legislature shall annually appropriate the funds in  
262 the special fund to the commission, which shall expend the funds  
263 solely for the purposes specified in Sections 1 through 5 of this



264 act. None of the funds in the special fund may be transferred to  
265 any other fund or appropriated or expended for any other purpose.

266 (4) All income from the investment of the funds in the  
267 special fund shall be credited to the account of the special fund.  
268 Any funds in the special fund at the end of a fiscal year shall  
269 not lapse into the State General Fund.

270 **SECTION 7.** Section 43-13-405, Mississippi Code of 1972, is  
271 amended as follows:

272 43-13-405. (1) In accordance with the purposes of this  
273 article, there is established in the State Treasury the Health  
274 Care Trust Fund, into which shall be deposited Two Hundred Eighty  
275 Million Dollars (\$280,000,000.00) of the funds received by the  
276 State of Mississippi as a result of the tobacco settlement as of  
277 the end of fiscal year 1999, and all tobacco settlement  
278 installment payments made in subsequent years for which the use or  
279 purpose for expenditure is not restricted by the terms of the  
280 settlement, except as otherwise provided in Section 43-13-407(2)  
281 and (3) and Section 6 of this act. All income from the investment  
282 of the funds in the Health Care Trust Fund shall be credited to  
283 the account of the Health Care Trust Fund. The funds in the  
284 Health Care Trust Fund at the end of a fiscal year shall not lapse  
285 into the State General Fund.

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

291 (a) The federal Centers for Medicare and Medicaid  
292 Services, or other agency of the federal government, is successful  
293 in recouping tobacco settlement funds from the State of  
294 Mississippi;

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

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

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

302           (3) This section shall stand repealed on July 1, 2010.

303           **SECTION 8.** This act shall take effect and be in force from  
304 and after its passage.