

By: Representatives Bondurant, Holland,
Eaton, Evans, Fredericks, Gibbs, Hudson,
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Brown, Clarke

To: Public Health and Human
Services; Appropriations

HOUSE BILL NO. 349
(As Passed the House)

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-seven (27)
50 members, fifteen (15) of which shall be voting members and twelve
51 (12) of which shall be nonvoting members.

52 (2) The fifteen (15) voting members of the commission shall
53 consist of the following:

54 (a) Five (5) members appointed by the Governor, with
55 one (1) member each from a list of three (3) individuals
56 recommended by the Mississippi Primary Care Association, a list of
57 three (3) individuals recommended by the Mississippi State Medical
58 Association, a list of three (3) individuals recommended by the
59 Mississippi Nurses' Association, and a list of three (3)
60 individuals recommended by the American Heart Association, and one
61 (1) member who has experience in financial planning and
62 accounting;

63 (b) Four (4) members appointed by the Lieutenant
64 Governor, with one (1) member each from a list of three (3)
65 individuals recommended by the Mississippi Chapter of the American
66 Lung Association, a list of three (3) individuals recommended by
67 the Mississippi Chapter of the American Academy of Family Practice

68 Physicians, a list of three (3) individuals recommended by the
69 Mississippi Medical and Surgical Association, and a list of three
70 (3) individuals recommended by the American Cancer Society;

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

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

74 (e) The State Superintendent of Public Education or his
75 or her designee;

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

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

80 (h) The Administrator of the School of Health Sciences
81 of the College of Public Service at Jackson State University or
82 his or her designee.

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

89 (i) One (1) member appointed by the Governor;

90 (ii) One (1) member appointed by the Lieutenant
91 Governor;

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

96 (iv) Two (2) members appointed by the Attorney
97 General.

98 (b) Four (4) of the nonvoting members of the commission
99 shall be members of the Legislature, as follows:

100 (i) The Chairman of the House Public Health and
101 Human Services Committee and one (1) other member of that
102 committee appointed by the Speaker of the House of
103 Representatives; and

104 (ii) The Chairman of the Senate Public Health and
105 Welfare Committee and one (1) other member of that committee
106 appointed by the Lieutenant Governor.

107 (4) For those members that are required to be appointed from
108 lists of individuals recommended by certain nominating groups, if
109 none of the recommended names are acceptable to the appointing
110 official, then the nominating group shall submit another list of
111 three (3) different individuals until an acceptable individual is
112 submitted to the appointing official.

113 (5) (a) Of the voting members appointed by the Governor,
114 three (3) shall be appointed for terms ending on June 30, 2010,
115 and two (2) shall be appointed for terms ending on June 30, 2012.
116 Of the voting members appointed by the Lieutenant Governor, two
117 (2) shall be appointed for terms ending on June 30, 2009, and two
118 (2) shall be appointed for terms ending on June 30, 2011. The
119 voting member appointed by the Attorney General shall be appointed
120 for a term ending on June 30, 2009. After the expiration of the
121 initial terms, all later appointments of the voting members shall
122 be made by the original appointing officials for terms of five (5)
123 years from the expiration date of the previous term. All
124 appointed voting members shall serve until their successors are
125 appointed and qualified.

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

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

132 (d) Any vacancy in an appointed member position shall
133 be filled within thirty (30) days of the vacancy by the original
134 appointing official, and the individual appointed to fill the
135 vacancy shall meet the same qualifications as required for the
136 former member.

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

142 (6) The commission shall annually elect a chairman from
143 among its members. The commission shall meet at least quarterly.
144 A quorum for meetings of the commission shall be a majority of the
145 voting members of the commission. The members of the commission
146 shall serve without compensation.

147 **SECTION 3.** (1) The commission shall employ an executive
148 director, who shall serve at the will and pleasure of the
149 commission. The executive director shall be an individual who has
150 knowledge and experience in public health, medical care, health
151 care services, preventive health measures or tobacco use control.
152 The executive director shall be the administrative officer of the
153 commission, and shall perform the duties that are required of him
154 or her by law and such other duties as may be assigned to him or
155 her by the commission. The executive director shall receive such
156 compensation as may be fixed by the commission, subject to the
157 approval of the State Personnel Board.

158 (2) The commission may employ such other persons as may be
159 necessary to carry out the provisions of this act. The
160 compensation and the terms and conditions of their employment
161 shall be determined by the commission in accordance with
162 applicable state law and rules and regulations of the State
163 Personnel Board.

164 **SECTION 4.** The commission shall perform the following
165 duties:

166 (a) Develop and implement appropriate policies and
167 procedures for the operation of the tobacco education, prevention
168 and cessation program;

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

171 (c) Develop and maintain an annual operating budget and
172 oversee fiscal management of the tobacco education, prevention and
173 cessation program;

174 (d) Execute any contracts, agreements or other
175 documents with any governmental agency or any person, corporation,
176 association, partnership or other organization or entity that are
177 necessary to accomplish the purposes of this act;

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

181 (f) Submit an annual report to the Legislature
182 regarding the operation of the commission;

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

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

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

190 **SECTION 5.** (1) The commission shall develop and implement a
191 comprehensive and statewide tobacco education, prevention and
192 cessation program that is consistent with the recommendations for
193 effective program components and funding recommendations in the
194 1999 Best Practices for Comprehensive Tobacco Control Programs of
195 the federal Centers for Disease Control and Prevention, as those

196 Best Practices may be periodically amended by the Centers for
197 Disease Control and Prevention.

198 (2) At a minimum, the program shall include the following
199 components, and may include additional components that are
200 contained within the Best Practices for Comprehensive Tobacco
201 Control Programs of the federal Centers for Disease Control and
202 Prevention, as periodically amended, and that based on scientific
203 data and research have been shown to be effective at accomplishing
204 the purposes of this section:

205 (a) The use of mass media, including paid advertising
206 and other communication tools to discourage the use of tobacco
207 products and to educate people, especially youth, about the health
208 hazards from the use of tobacco products, which shall be designed
209 to be effective at achieving these goals and shall include, but
210 need not be limited to, television, radio, and print advertising,
211 as well as sponsorship, exhibits and other opportunities to raise
212 awareness statewide;

213 (b) Evidence-based curricula and programs implemented
214 in schools to educate youth about tobacco and to discourage their
215 use of tobacco products, including, but not limited to, programs
216 that involve youth, educate youth about the health hazards from
217 the use of tobacco products, help youth develop skills to refuse
218 tobacco products, and demonstrate to youth how to stop using
219 tobacco products;

220 (c) Local community programs, including, but not
221 limited to, youth-based partnerships that discourage the use of
222 tobacco products and involve community based organizations in
223 tobacco education, prevention and cessation programs in their
224 communities;

225 (d) Enforcement of laws, regulations and policies
226 against the sale or other provision of tobacco products to minors,
227 and the possession of tobacco products by minors;

228 (e) Programs to assist and help people to stop using
229 tobacco products; and

230 (f) A surveillance and evaluation system that monitors
231 program accountability and results, produces publicly available
232 reports that review how monies expended for the program are spent,
233 and includes an evaluation of the program's effectiveness in
234 reducing and preventing the use of tobacco products, and annual
235 recommendations for improvements to enhance the program's
236 effectiveness.

237 (3) All programs or activities funded by the commission
238 through the tobacco education, prevention and cessation program,
239 whether part of a component described in subsection (2) or an
240 additional component, must be consistent with the Best Practices
241 for Comprehensive Tobacco Control Programs of the federal Centers
242 for Disease Control and Prevention, as periodically amended, and
243 all funds received by any person or entity under any such program
244 or activity must be expended for purposes that are consistent with
245 those Best Practices.

246 (4) Funding for the different components of the program
247 shall be apportioned between the components based on the
248 recommendations in the Best Practices for Comprehensive Tobacco
249 Control Programs of the federal Centers for Disease Control and
250 Prevention, as periodically amended, to provide adequate program
251 development, implementation and evaluation for effective control
252 of the use of tobacco products. While the commission shall
253 develop annual budgets based on strategic planning, components of
254 the program shall be funded using the following areas as
255 guidelines for priority:

- 256 (a) School programs;
- 257 (b) Mass media (counter-marketing);
- 258 (c) Cessation programs (including media promotions);
- 259 (d) Community programs;
- 260 (e) Surveillance and evaluation;

261 (f) Law enforcement; and
262 (g) Administration and management; however, not more
263 than five percent (5%) of the total budget may be expended for
264 administration and management purposes.

265 (5) In funding the components of the program, the commission
266 may provide funding for health care programs at the University of
267 Mississippi Medical Center that are related to the prevention and
268 cessation of the use of tobacco products and the treatment of
269 illnesses that are related to the use of tobacco products.

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

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

279 (3) The Legislature shall annually appropriate the funds in
280 the special fund to the commission, which shall expend the funds
281 solely for the purposes specified in Sections 1 through 5 of this
282 act. None of the funds in the special fund may be transferred to
283 any other fund or appropriated or expended for any other purpose.

284 (4) All income from the investment of the funds in the
285 special fund shall be credited to the account of the special fund.
286 Any funds in the special fund at the end of a fiscal year shall
287 not lapse into the State General Fund.

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

290 43-13-405. (1) In accordance with the purposes of this
291 article, there is established in the State Treasury the Health
292 Care Trust Fund, into which shall be deposited Two Hundred Eighty
293 Million Dollars (\$280,000,000.00) of the funds received by the

294 State of Mississippi as a result of the tobacco settlement as of
295 the end of fiscal year 1999, and all tobacco settlement
296 installment payments made in subsequent years for which the use or
297 purpose for expenditure is not restricted by the terms of the
298 settlement, except as otherwise provided in Section 43-13-407(2)
299 and (3) and Section 6 of this act. All income from the investment
300 of the funds in the Health Care Trust Fund shall be credited to
301 the account of the Health Care Trust Fund. The funds in the
302 Health Care Trust Fund at the end of a fiscal year shall not lapse
303 into the State General Fund.

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

309 (a) The federal Centers for Medicare and Medicaid
310 Services, or other agency of the federal government, is successful
311 in recouping tobacco settlement funds from the State of
312 Mississippi;

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

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

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

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

321 **SECTION 8.** No statewide, district, local, county or
322 municipal elected official shall take part as a public official in
323 mass media advertising under the provisions of this act.

324 **SECTION 9.** This act shall take effect and be in force from
325 and after its passage.