



General Assembly

Substitute Bill No. 61

February Session, 2004

* _____SB00061PRI__030504_____*

**AN ACT ESTABLISHING A HEALTHY CONNECTICUT FUND, A
MEDICAL MALPRACTICE REINSURANCE FUND AND A PERSONAL
TAX EXEMPTION FOR MEDICAL MALPRACTICE INSURANCE
PREMIUM COSTS.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective July 1, 2004*) (a) As used in this section:
2 (1) "Licensed health care provider" or "provider" means a physician or
3 surgeon; director, officer or trustee of a hospital or nursing home;
4 nurse; oral surgeon; dentist; pharmacist; chiropractor; optometrist;
5 podiatrist; hospital or nursing home; (2) "fund" means the Healthy
6 Connecticut Fund established in subsection (b) of this section; and (3)
7 "commissioner" means the Insurance Commissioner.

8 (b) There is established a Healthy Connecticut Fund for the purpose
9 of reimbursing any portion of a medical malpractice claim, settlement
10 or judgment which represents the deductible applicable to a provider's
11 coverage. The fund shall be liable only for (1) payment of such
12 deductibles pursuant to claims, settlements or judgments against
13 licensed health care providers who comply with the provisions of this
14 section where the claim, settlement or judgment arises from an event
15 that occurs on or after the effective date of the first plan of operation
16 established pursuant to subsection (g) of this section, and (2)
17 reasonable and necessary expenses incurred in payment of such
18 deductibles and the fund's administrative expenses. The fund may

19 contain any moneys required by law to be deposited in the fund and
20 shall be held by the State Treasurer separate and apart from all other
21 moneys, funds and accounts. The interest derived from the investment
22 of the fund shall be credited to the fund. Amounts in the fund may be
23 expended only at the direction of the Insurance Commissioner in
24 accordance with this section. Any balance remaining in the fund at the
25 end of any fiscal year shall be carried forward in the fund to the next
26 fiscal year.

27 (c) Any provider licensed in this state may participate in the fund if
28 (1) the provider's primary place of practice is in this state, and (2) the
29 provider meets the standards set forth in the plan of operation adopted
30 pursuant to subsection (g) of this section.

31 (d) (1) Any deficit in the fund shall be paid by the Tobacco
32 Settlement Fund in accordance with section 4-28e of the general
33 statutes, as amended by this act.

34 (2) Except as provided in subdivision (1) of this subsection, the state
35 shall not be responsible for any costs, expenses, liabilities, judgments
36 or other obligations of the fund.

37 (e) All books, records and audits of the fund shall be public records,
38 as defined in section 1-200 of the general statutes.

39 (f) On or before December thirty-first of each year the Auditors of
40 Public Accounts shall audit the records of the fund and shall furnish an
41 audited financial report to the commissioner, State Treasurer and the
42 General Assembly. The report to the General Assembly shall be
43 submitted in accordance with section 11-4a of the general statutes.

44 (g) The Insurance Commissioner shall adopt regulations, in
45 accordance with chapter 54 of the general statutes, to establish a plan
46 of operation for the fund.

47 Sec. 2. (NEW) (*Effective July 1, 2004*) The Insurance Commissioner
48 may approve professional liability insurance policies for providers

49 who participate in the Healthy Connecticut Fund established pursuant
50 to section 1 of this act that contain a deductible that does not exceed (1)
51 fifty thousand dollars with respect to a medical professional, and (2)
52 one hundred thousand dollars with respect to a medical entity,
53 including, but not limited to, a hospital. Such policies shall be subject
54 to title 38a of the general statutes.

55 Sec. 3. (NEW) (*Effective July 1, 2004*) (a) As used in this section: (1)
56 "Licensed health care provider" or "provider" means a physician or
57 surgeon; director, officer or trustee of a hospital or nursing home;
58 nurse; oral surgeon; dentist; pharmacist; chiropractor; optometrist;
59 podiatrist; hospital or nursing home; (2) "fund" means the Medical
60 Malpractice Reinsurance Fund established in subsection (b) of this
61 section; and (3) "commissioner" means the Insurance Commissioner.

62 (b) (1) There is established a Medical Malpractice Reinsurance Fund
63 for the purpose of paying fifty per cent of the portion of a medical
64 malpractice claim, settlement or judgment that exceeds (A) seven
65 hundred fifty thousand dollars with respect to an individual provider,
66 not to exceed one million seven hundred fifty thousand dollars for
67 each claim, settlement or judgment, or (B) one million five hundred
68 thousand dollars with respect to a hospital, not to exceed two million
69 five hundred thousand dollars for each claim, settlement or judgment.
70 Such provider or hospital shall remain liable for any other portion of a
71 medical malpractice claim, settlement or judgment.

72 (2) The fund shall be liable only for (A) payment of such amounts in
73 accordance with this section with respect to an event that occurs on or
74 after the effective date of the first plan of operation established
75 pursuant to subsection (g) of this section, and (B) reasonable and
76 necessary expenses incurred in payment of such amounts and the
77 fund's administrative expenses. The fund may contain any moneys
78 required by law to be deposited in the fund and shall be held by the
79 State Treasurer separate and apart from all other moneys, funds and
80 accounts. The interest derived from the investment of the fund shall be
81 credited to the fund. Amounts in the fund may be expended only at

82 the direction of the Insurance Commissioner in accordance with this
83 section. Any balance remaining in the fund at the end of any fiscal year
84 shall be carried forward in the fund to the next fiscal year.

85 (c) Any provider licensed in this state may participate in the fund if
86 (1) the provider's primary place of practice is in this state, and (2) the
87 provider meets the standards set forth in the plan of operation adopted
88 pursuant to subsection (g) of this section.

89 (d) (1) Any deficit in the fund shall be paid by the Tobacco
90 Settlement Fund in accordance with section 4-28e of the general
91 statutes, as amended by this act.

92 (2) Except as provided in subdivision (1) of this subsection, the state
93 shall not be responsible for any costs, expenses, liabilities, judgments
94 or other obligations of the fund.

95 (e) All books, records and audits of the fund shall be public records,
96 as defined in section 1-200 of the general statutes.

97 (f) On or before December thirty-first of each year the Auditors of
98 Public Accounts shall audit the records of the fund and shall furnish an
99 audited financial report to the commissioner, State Treasurer and the
100 General Assembly. The report to the General Assembly shall be
101 submitted in accordance with section 11-4a of the general statutes.

102 (g) The Insurance Commissioner shall adopt regulations, in
103 accordance with chapter 54 of the general statutes, to establish a plan
104 of operation for the fund.

105 Sec. 4. Subdivision (20) of subsection (a) of section 12-701 of the
106 general statutes, as amended by section 13 of public act 03-225, is
107 repealed and the following is substituted in lieu thereof (*Effective from*
108 *passage and applicable to taxable years commencing on or after January 1,*
109 *2004*):

110 (20) "Connecticut adjusted gross income" means adjusted gross
111 income, with the following modifications:

112 (A) There shall be added thereto (i) to the extent not properly
113 includable in gross income for federal income tax purposes, any
114 interest income from obligations issued by or on behalf of any state,
115 political subdivision thereof, or public instrumentality, state or local
116 authority, district or similar public entity, exclusive of such income
117 from obligations issued by or on behalf of the state of Connecticut, any
118 political subdivision thereof, or public instrumentality, state or local
119 authority, district or similar public entity created under the laws of the
120 state of Connecticut and exclusive of any such income with respect to
121 which taxation by any state is prohibited by federal law, (ii) any
122 exempt-interest dividends, as defined in Section 852(b)(5) of the
123 Internal Revenue Code, exclusive of such exempt-interest dividends
124 derived from obligations issued by or on behalf of the state of
125 Connecticut, any political subdivision thereof, or public
126 instrumentality, state or local authority, district or similar public entity
127 created under the laws of the state of Connecticut and exclusive of
128 such exempt-interest dividends derived from obligations, the income
129 with respect to which taxation by any state is prohibited by federal
130 law, (iii) any interest or dividend income on obligations or securities of
131 any authority, commission or instrumentality of the United States
132 which federal law exempts from federal income tax but does not
133 exempt from state income taxes, (iv) to the extent included in gross
134 income for federal income tax purposes for the taxable year, the total
135 taxable amount of a lump sum distribution for the taxable year
136 deductible from such gross income in calculating federal adjusted
137 gross income, (v) to the extent properly includable in determining the
138 net gain or loss from the sale or other disposition of capital assets for
139 federal income tax purposes, any loss from the sale or exchange of
140 obligations issued by or on behalf of the state of Connecticut, any
141 political subdivision thereof, or public instrumentality, state or local
142 authority, district or similar public entity created under the laws of the
143 state of Connecticut, in the income year such loss was recognized, (vi)
144 to the extent deductible in determining federal adjusted gross income,
145 any income taxes imposed by this state, (vii) to the extent deductible in
146 determining federal adjusted gross income, any interest on

147 indebtedness incurred or continued to purchase or carry obligations or
148 securities the interest on which is exempt from tax under this chapter,
149 (viii) expenses paid or incurred during the taxable year for the
150 production or collection of income which is exempt from taxation
151 under this chapter or the management, conservation or maintenance of
152 property held for the production of such income, and the amortizable
153 bond premium for the taxable year on any bond the interest on which
154 is exempt from tax under this chapter to the extent that such expenses
155 and premiums are deductible in determining federal adjusted gross
156 income, and (ix) for property placed in service after September 10,
157 2001, but prior to September 11, 2004, in taxable years ending after
158 September 10, 2001, any additional allowance for depreciation under
159 subsection (k) of Section 168 of the Internal Revenue Code, as provided
160 by Section 101 of the Job Creation and Worker Assistance Act of 2002,
161 to the extent deductible in determining federal adjusted gross income.

162 (B) There shall be subtracted therefrom (i) to the extent properly
163 includable in gross income for federal income tax purposes, any
164 income with respect to which taxation by any state is prohibited by
165 federal law, (ii) to the extent allowable under section 12-718, exempt
166 dividends paid by a regulated investment company, (iii) the amount of
167 any refund or credit for overpayment of income taxes imposed by this
168 state, or any other state of the United States or a political subdivision
169 thereof, or the District of Columbia, to the extent properly includable
170 in gross income for federal income tax purposes, (iv) to the extent
171 properly includable in gross income for federal income tax purposes
172 and not otherwise subtracted from federal adjusted gross income
173 pursuant to clause (x) of this subparagraph in computing Connecticut
174 adjusted gross income, any tier 1 railroad retirement benefits, (v) to the
175 extent any additional allowance for depreciation under Section 168(k)
176 of the Internal Revenue Code, as provided by Section 101 of the Job
177 Creation and Worker Assistance Act of 2002, for property placed in
178 service after December 31, 2001, but prior to September 10, 2004, was
179 added to federal adjusted gross income pursuant to subparagraph (A)
180 (ix) of this subdivision in computing Connecticut adjusted gross

181 income for a taxable year ending after December 31, 2001, twenty-five
182 per cent of such additional allowance for depreciation in each of the
183 four succeeding taxable years, (vi) to the extent properly includable in
184 gross income for federal income tax purposes, any interest income
185 from obligations issued by or on behalf of the state of Connecticut, any
186 political subdivision thereof, or public instrumentality, state or local
187 authority, district or similar public entity created under the laws of the
188 state of Connecticut, (vii) to the extent properly includable in
189 determining the net gain or loss from the sale or other disposition of
190 capital assets for federal income tax purposes, any gain from the sale
191 or exchange of obligations issued by or on behalf of the state of
192 Connecticut, any political subdivision thereof, or public
193 instrumentality, state or local authority, district or similar public entity
194 created under the laws of the state of Connecticut, in the income year
195 such gain was recognized, (viii) any interest on indebtedness incurred
196 or continued to purchase or carry obligations or securities the interest
197 on which is subject to tax under this chapter but exempt from federal
198 income tax, to the extent that such interest on indebtedness is not
199 deductible in determining federal adjusted gross income and is
200 attributable to a trade or business carried on by such individual, (ix)
201 ordinary and necessary expenses paid or incurred during the taxable
202 year for the production or collection of income which is subject to
203 taxation under this chapter but exempt from federal income tax, or the
204 management, conservation or maintenance of property held for the
205 production of such income, and the amortizable bond premium for the
206 taxable year on any bond the interest on which is subject to tax under
207 this chapter but exempt from federal income tax, to the extent that
208 such expenses and premiums are not deductible in determining federal
209 adjusted gross income and are attributable to a trade or business
210 carried on by such individual, (x) (I) for a person who files a return
211 under the federal income tax as an unmarried individual whose
212 federal adjusted gross income for such taxable year is less than fifty
213 thousand dollars, or as a married individual filing separately whose
214 federal adjusted gross income for such taxable year is less than fifty
215 thousand dollars, or for a husband and wife who file a return under

216 the federal income tax as married individuals filing jointly whose
217 federal adjusted gross income for such taxable year is less than sixty
218 thousand dollars or a person who files a return under the federal
219 income tax as a head of household whose federal adjusted gross
220 income for such taxable year is less than sixty thousand dollars, an
221 amount equal to the Social Security benefits includable for federal
222 income tax purposes; and (II) for a person who files a return under the
223 federal income tax as an unmarried individual whose federal adjusted
224 gross income for such taxable year is fifty thousand dollars or more, or
225 as a married individual filing separately whose federal adjusted gross
226 income for such taxable year is fifty thousand dollars or more, or for a
227 husband and wife who file a return under the federal income tax as
228 married individuals filing jointly whose federal adjusted gross income
229 from such taxable year is sixty thousand dollars or more or for a
230 person who files a return under the federal income tax as a head of
231 household whose federal adjusted gross income for such taxable year
232 is sixty thousand dollars or more, an amount equal to the difference
233 between the amount of Social Security benefits includable for federal
234 income tax purposes and the lesser of twenty-five per cent of the Social
235 Security benefits received during the taxable year, or twenty-five per
236 cent of the excess described in Section 86(b)(1) of the Internal Revenue
237 Code, (xi) to the extent properly includable in gross income for federal
238 income tax purposes, any amount rebated to a taxpayer pursuant to
239 section 12-746, (xii) to the extent properly includable in the gross
240 income for federal income tax purposes of a designated beneficiary,
241 any distribution to such beneficiary from any qualified state tuition
242 program, as defined in Section 529(b) of the Internal Revenue Code,
243 established and maintained by this state or any official, agency or
244 instrumentality of the state, (xiii) to the extent properly includable in
245 gross income for federal income tax purposes, the amount of any
246 Holocaust victims' settlement payment received in the taxable year by
247 a Holocaust victim, [and] (xiv) to the extent properly includable in
248 gross income for federal income tax purposes of an account holder, as
249 defined in section 31-51ww, interest earned on funds deposited in the
250 individual development account, as defined in section 31-51ww, of

251 such account holder, and (xv) any amount paid by a health care
252 provider for premiums on a professional liability insurance policy for
253 risks related to the provision of health care.

254 (C) With respect to a person who is the beneficiary of a trust or
255 estate, there shall be added or subtracted, as the case may be, from
256 adjusted gross income such person's share, as determined under
257 section 12-714, in the Connecticut fiduciary adjustment.

258 Sec. 5. Section 4-28e of the general statutes is repealed and the
259 following is substituted in lieu thereof (*Effective July 1, 2004*):

260 (a) There is created a Tobacco Settlement Fund which shall be a
261 separate nonlapsing fund. Any funds received by the state from the
262 Master Settlement Agreement executed November 23, 1998, shall be
263 deposited into the fund.

264 (b) (1) The Treasurer is authorized to invest all or any part of the
265 Tobacco Settlement Fund, all or any part of the Tobacco and Health
266 Trust Fund created in section 4-28f, as amended, and all or any part of
267 the Biomedical Research Trust Fund created in section 19a-32c. The
268 interest derived from any such investment shall be credited to the
269 resources of the fund from which the investment was made.

270 (2) Notwithstanding sections 3-13 to 3-13h, inclusive, the Treasurer
271 shall invest the amounts on deposit in the Tobacco Settlement Fund,
272 the Tobacco and Health Trust Fund and the Biomedical Research Trust
273 Fund in a manner reasonable and appropriate to achieve the objectives
274 of such funds, exercising the discretion and care of a prudent person in
275 similar circumstances with similar objectives. The Treasurer shall give
276 due consideration to rate of return, risk, term or maturity,
277 diversification of the total portfolio within such funds, liquidity, the
278 projected disbursements and expenditures, and the expected
279 payments, deposits, contributions and gifts to be received. The
280 Treasurer shall not be required to invest such funds directly in
281 obligations of the state or any political subdivision of the state or in
282 any investment or other fund administered by the Treasurer. The

283 assets of such funds shall be continuously invested and reinvested in a
284 manner consistent with the objectives of such funds until disbursed in
285 accordance with this section, section 4-28f, as amended, or section 19a-
286 32c.

287 (c) (1) For the fiscal year ending June 30, 2001, disbursements from
288 the Tobacco Settlement Fund shall be made as follows: (A) To the
289 General Fund in the amount identified as "Transfer from Tobacco
290 Settlement Fund" in the General Fund revenue schedule adopted by
291 the General Assembly; (B) to the Department of Mental Health and
292 Addiction Services for a grant to the regional action councils in the
293 amount of five hundred thousand dollars; and (C) to the Tobacco and
294 Health Trust Fund in an amount equal to nineteen million five
295 hundred thousand dollars.

296 (2) For the fiscal [year] years ending June 30, 2002, [and each fiscal
297 year thereafter] June 30, 2003, and June 30, 2004, disbursements from
298 the Tobacco Settlement Fund shall be made as follows: (A) To the
299 Tobacco and Health Trust Fund in an amount equal to twelve million
300 dollars; (B) to the Biomedical Research Trust Fund in an amount equal
301 to four million dollars; (C) to the General Fund in the amount
302 identified as "Transfer from Tobacco Settlement Fund" in the General
303 Fund revenue schedule adopted by the General Assembly; and (D) any
304 remainder to the Tobacco and Health Trust Fund.

305 (3) For the fiscal year ending June 30, 2005, and each fiscal year
306 thereafter, disbursements from the Tobacco Settlement Fund shall be
307 made as follows: (A) To the Tobacco and Health Trust Fund in an
308 amount equal to twelve million dollars; (B) to the Biomedical Research
309 Trust Fund in an amount equal to four million dollars; (C) to the
310 General Fund in the amount identified as "Transfer from Tobacco
311 Settlement Fund" in the General Fund revenue schedule adopted by
312 the General Assembly, which amount shall include, but not be limited
313 to, an amount equal to the total exemptions claimed by health care
314 providers for premiums on professional liability insurance policies
315 pursuant to subdivision (20) of subsection (a) of section 12-701, as

316 amended by this act; (D) to the Healthy Connecticut Fund in an
 317 amount identified as "Transfer from Tobacco Settlement Fund to
 318 Healthy Connecticut Fund" in the revenue schedule adopted by the
 319 General Assembly; (E) to the Medical Malpractice Reinsurance Fund in
 320 an amount identified as "Transfer from Tobacco Settlement Fund to
 321 Medical Malpractice Reinsurance Fund" in the revenue schedule
 322 adopted by the General Assembly; and (F) any remainder to the
 323 Tobacco and Health Trust Fund.

324 (d) For the fiscal year ending June 30, 2000, five million dollars shall
 325 be disbursed from the Tobacco Settlement Fund to a tobacco grant
 326 account to be established in the Office of Policy and Management.
 327 Such funds shall not lapse on June 30, 2000, and shall continue to be
 328 available for expenditure during the fiscal year ending June 30, 2001.

329 (e) Tobacco grants shall be made from the account established
 330 pursuant to subsection (d) of this section by the Secretary of the Office
 331 of Policy and Management in consultation with the speaker of the
 332 House of Representatives, the president pro tempore of the Senate, the
 333 majority leader of the House of Representatives, the majority leader of
 334 the Senate, the minority leader of the House of Representatives, the
 335 minority leader of the Senate, and the cochairpersons and ranking
 336 members of the joint standing committees of the General Assembly
 337 having cognizance of matters relating to public health and
 338 appropriations and the budgets of state agencies, or their designees.
 339 Such grants shall be used to reduce tobacco abuse through prevention,
 340 education, cessation, treatment, enforcement and health needs
 341 programs.

This act shall take effect as follows:	
Section 1	<i>July 1, 2004</i>
Sec. 2	<i>July 1, 2004</i>
Sec. 3	<i>July 1, 2004</i>
Sec. 4	<i>from passage and applicable to taxable years commencing on or after January 1, 2004</i>
Sec. 5	<i>July 1, 2004</i>

PRI *Joint Favorable Subst.*