

1 State of Arkansas

2 80th General Assembly

3 Regular Session, 1995

A Bill

HOUSE BILL 1924

4 By: Representatives: Wilkins, Angel, Bennett, Booker, Brown, Bush, Ferguson,
5 Ferrell, Fletcher, Harris, Jones, Jordan, Lynn, Madison, McGee, McJunkin,
6 Newman, Pappas, Roberts, Schexnayder, Sheppard, J. Smith, Stalnaker,
7 Townsend,

8 Whorton, Willems and J. Wilson

9 Senators: Mahony, Bradford, Edwards, Walker, Lewellen, Malone, Keet and
10 Snyder

11

For An Act To Be Entitled

12 "THE BREAST CANCER ACT OF 1995."
13

14

Subtitle

15 ""THE BREAST CANCER ACT OF 1995."
16

17

18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

19

20 SECTION 1. This act shall be known and may be cited as "The Breast
21 Cancer Act of 1995".
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24 SECTION 2. The General Assembly finds and declares as follows:

25 (a) Breast cancer is a significant threat to the health of women.

26 Breast cancer is the most common form of cancer in women, and causes the
27 death of a woman in the United States every 12 minutes.

28 (b) The incidence of breast cancer continues to increase at a dramatic

29 rate. During the past decade, the incidence has increased by thirty percent

30 (30%). In 1960, one woman in 20 developed breast cancer over the course of

31 her lifetime. By 1992, the probability had increased to one woman in eight.

32 At the current rate of increase in the year 2000, one woman in six will

33 develop breast cancer over the course of her lifetime. Presently breast

34 cancer claims the lives of over four hundred (400) women in Arkansas each

35 year.

(c) Breast cancer exacts an enormous economic toll on our society,

1 including over two billion dollars (\$2,000,000,000) in direct medical costs,
2 and over eight billion dollars (\$8,000,000,000) in both direct medical and
3 indirect costs.

4 (d) Medical experts still do not know the cause of breast cancer, or
5 how to prevent breast cancer.

6 (e) The State of Arkansas must take the lead in combating the
7 increasingly rapid spread of breast cancer and the current lack of knowledge
8 with respect to breast cancer's cause and cure, and effective methods of
9 prevention.

10 (f) It is the intent of the legislature in enacting this act to fund
11 essential research and services with respect to the cause, cure, detection
12 and prevention of breast cancer, and breast cancer education.

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14 SECTION 3. (a) There is hereby established in the University of
15 Arkansas a Breast Cancer Research Program. This program shall support
16 research efforts into the cause, cure, treatment, earlier detection, and
17 prevention of breast cancer and shall be administered according to the
18 following principles:

19 (1) The program shall fund innovative research and the
20 dissemination of successful research findings, with special emphasis on
21 research that complements, rather than duplicates the research funded by the
22 federal government and other entities.

23 (2) All research grants shall be awarded on the basis of the
24 research priorities established for the program and the scientific merit of
25 the proposed research as determined by a peer review process governed by the
26 Oversight Committee on Breast Cancer Research. Said Committee shall consist
27 of seven members appointed by the Governor. One shall be appointed to
28 represent the Arkansas Chapter of the American Medical Society, one shall
29 represent the Arkansas Hospital Association, one shall represent medical
30 oncology community, one shall be a Women's Health Advocate and three shall
31 represent the University of Arkansas Systems. Each of the four Congressional
32 Districts shall be represented by at least one committee member. The members
33 of said committee shall serve for a period of four years; provided, that the
34 members draw lots to determine that the first members appointed serve as
35 follows: two until January 1, 1997; two until January 1, 1998, and three

1 until January 1, 1999.

2 (3) The peer review process for the selection of research grants
3 awarded under this program shall be generally modeled on that used by the
4 National Institute of Health in its grant making process and the peer review
5 process may stipulate that an applicant must have participated in an
6 established grant process prior to applying for a grant under this act.

7 (4) An awardee shall be awarded grants for the full or partial
8 cost of conducting the sponsored research grants and contracts. All
9 intellectual property assets developed under this program shall be treated in
10 accordance with state and federal law.

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12 *SECTION 4. (a) There is hereby established a Breast Cancer Control*
13 *Advisory Board which shall consist of seven (7) members appointed by the*
14 *Governor. One (1) member shall be appointed to represent the Arkansas*
15 *Chapter of the American Medical Society, one (1) member shall represent the*
16 *Arkansas Hospital Association, one (1) member shall represent the Arkansas*
17 *Division of the American Cancer Society, one (1) member shall represent the*
18 *Arkansas Nursing Association, one (1) member shall represent the medical*
19 *oncology community, one (1) member shall represent the radiation oncology*
20 *community and one (1) member shall be a Womens' Health Advocate. Each of the*
21 *four (4) congressional districts shall be represented by at least one (1)*
22 *committee member. The members of said committee shall serve for a period of*
23 *four (4) years, provided, that the members draw lots to determine that the*
24 *first members appointed shall serve as follows: two (2) members shall serve*
25 *until January 1, 1997; two (2) members shall serve until January 1, 1998; and*
26 *three (3) members shall serve until January 1, 1999.*

27 (b) *There is hereby established in the State Department of Health the*
28 *Breast Cancer Control Program. This program shall provide for the early*
29 *detection, diagnosis, and treatment of breast cancer. The program shall be*
30 *administered according to the following principles:*

31 (1) *The program shall provide for breast cancer education and*
32 *awareness so as to insure early detection and conduct surveillance activites*
33 *across the state.*

34 (2) *The program shall provide screening of women for breast*
35 *cancer, including mammography as an early detection health care measure.*

1 (3) *After screening, the program shall provide medical referrals*
2 *and financial assistance for services necessary for definitive diagnosis,*
3 *including nonradiological techniques and biopsy.*

4 (4) *If a positive diagnosis is made, the program shall provide*
5 *the necessary advocacy and financial assistance to help the person obtain*
6 *necessary treatment.*

7 SECTION 5. In addition to the excise or privilege taxes levied under
8 Ark. Code Ann. §§ 26-57-208 and 26-57-802 there is hereby levied a tax of one
9 dollar *twenty-five cents (\$1.25)* per one thousand (1000) cigarettes sold in
10 the state.

11

12 SECTION 6. In addition to the tax imposed by Ark. Code Ann.
13 §26-57-208(2), there is hereby imposed an additional excise or privilege tax
14 on tobacco products, other than cigarettes, on the first sale to wholesalers
15 or retailers within the state at two percent (2%) of the manufacturer's
16 selling price. The tax shall be computed on the actual manufacturer invoice
17 price before discounts and deals and shall be paid by the wholesaler, or by
18 the retailer if he purchases directly from the manufacturer.

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20 SECTION 7. Arkansas Code § 26-57-211(c) is amended to read as follows:

21 "*When the report is filed, the wholesaler shall remit therewith to the*
22 *director ninety-eight percent (98%) of the tax due under the applicable*
23 *provisions of this act as amended by § 26-57-803. Failure of the stamps*
24 *deputy to remit such tax on or before the fifteenth (15th) day of each*
25 *applicable month shall cause the wholesaler to forfeit his claim to the*
26 *discount, and he must remit to the director one hundred percent (100%) of the*
27 *amount of tax due, plus any penalty or interest due.*"

28

29 SECTION 8. Arkansas Code § 26-57-236(g) is amended to read as follows:

30 "*(g) A commission shall be paid by the director to stamp deputies for*
31 *the sale and collection of cigarette tax stamps and for affixing the said tax*
32 *stamps to each package of cigarettes. The commission shall not be less than*
33 *five percent (5%) of the total aggregate cigarette tax collected.*"

34

35 SECTION 9. *Twenty percent (20%) of all monies collected from the*

1 *additional tax levied in Sections 5 and 6 of this act shall be deposited in*
2 *the State Treasury as general revenues.*

3

4 SECTION 10. The additional taxes levied herein shall be reported and
5 remitted in the same manner and at the same time as other taxes levied on
6 cigarettes in the Arkansas Tobacco Products Tax Act, Arkansas Code 26-57-201
7 through 26-57-254.

8

9 SECTION 11. The tax levied herein shall be in effect on and after July
10 1, 1995 and shall not apply to any inventory or stocks of cigarettes or
11 tobacco products held by a wholesaler or retailer on that date.

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13 SECTION 12. (a) *Eighty percent (80%) of all monies collected from the*
14 *additional tax levied in Section 5 and 6 of this act shall be deposited in*
15 *the State Treasury as special revenues to be distributed as follows: (1)*
16 *Twenty percent (20%) shall be credited to the Breast Cancer Research Fund,*
17 *which is hereby created on the books of the State Treasurer, State Auditor*
18 *and the Chief Fiscal Officer of the State to be used exclusively for the*
19 *purposes set forth in Section 3; and (2) eighty percent (80%) shall be*
20 *credited to the Breast Cancer Control Fund which is hereby created on the*
21 *books of the State Treasurer, State Auditor and the Chief Fiscal Officer of*
22 *the State to be used exclusively for the purposes set forth in Section 4.*
23 *The Director of the Department of Health shall be the disbursing officer for*
24 *the Breast Cancer Control Fund and the Chancellor of the University of*
25 *Arkansas for Medical Sciences shall be the disbursing officer for the Breast*
26 *Cancer Research Fund.*

27 (b) The monies in the Breast Cancer Research Fund are to be allocated
28 to the Breast Cancer Research Program for the awarding of grants, chairs and
29 contracts to researchers for research with respect to the cause, cure,
30 treatment, prevention, and earlier detection of breast cancer and for
31 developing leadership in research in Arkansas.

32 (c) *The monies in the Breast Cancer Control Fund are to be allocated*
33 *according to the recommendations of the Breast Cancer Control Advisory Board*
34 *who shall establish the scope of services of the program and programmatic*
35 *priorities based on the analysis of available information. The Advisory*

1 Board shall also be responsible for developing eligibility criterion to be
2 applied in evaluating requests for financial assistance from screened women
3 who are found to be in need of diagnostic and treatment services. The
4 Advisory Board shall also review contractual agreements with providers who
5 will be rendering services through the Program.

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7 SECTION 13. The Department of Finance and Administration is hereby
8 authorized to promulgate regulations as necessary to implement the tax
9 provisions of this act.

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11 SECTION 14. All provisions of this act of a general and permanent
12 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas
13 Code Revision Commission shall incorporate the same in the Code.

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15 SECTION 15. If any provision of this act or the application thereof to
16 any person or circumstance is held invalid, such invalidity shall not affect
17 other provisions or applications of the act which can be given effect without
18 the invalid provision or application, and to this end the provisions of this
19 act are declared to be severable.

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21 SECTION 16. All laws and parts of laws in conflict with this act are
22 hereby repealed.

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24 SECTION 17. EMERGENCY CLAUSE. It is hereby found and determined that
25 cancer is a leading cause of death among Arkansans; that, of cancer deaths,
26 breast cancer claims more lives of women than any other type except lung
27 cancer; that there are nineteen hundred (1900) new cases of breast cancer
28 diagnosed each year; that breast cancer mortality rates have increased in
29 Arkansas in recent years; that presently breast cancer is claiming the lives
30 of over 400 women in Arkansas each year; that this number of deaths will
31 increase as our population grows older; that information barriers result in
32 women being unaware of the risk of breast cancer or the value of early
33 detection; that financial barriers prevent some women from taking advantage
34 of mammography; and that there is a lack of funding for breast cancer
35 research in the state; it is further found and determined that to reduce the

1 number of lives continuing to be needlessly lost, it is necessary to increase
2 the state tax on cigarettes and tobacco products to provide funding for
3 breast cancer, to provide for screening, diagnostic, and treatment services
4 for women at risk of developing breast cancer and to assure continuing
5 research with respect to the cause, cure and prevention of breast cancer.
6 This act will provide greatly needed revenues to fund essential research and
7 services with respect to the cause, cure, detection and prevention of breast
8 cancer, and breast cancer education in the state. Therefore, an emergency is
9 hereby declared to exist and this act being necessary for the preservation of
10 the public peace, health, and safety shall be in full force and effect from
11 and after July 1, 1995.

12 */s/Rep. Wilkins, et al*
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