MISSISSIPPI LEGISLATURE  
REGULAR SESSION 2001

By: Senator(s) Ross, Kirby, Johnson (19th), White (29th)

To: Appropriations

SENATE BILL NO. 2962

AN ACT TO AMEND SECTION 43-13-407, MISSISSIPPI CODE OF 1972, TO REQUIRE ANY COURT-ORDERED TOBACCO LITIGATION SETTLEMENT PAYMENT TO BE PAID INTO THE STATE TREASURY TO THE CREDIT OF THE HEALTH CARE EXPENDABLE FUND CREATED BY THE LEGISLATURE; TO AMEND SECTIONS 27-103-103, 27-104-13 AND 31-17-123, MISSISSIPPI CODE OF 1972, TO CLARIFY THAT COURT-ORDERED PAYMENTS TO ANY STATE AGENCY SHALL BE CONSIDERED "STATE-SOURCE SPECIAL FUNDS" AND SUBJECT TO BUDGETING AND LEGISLATIVE APPROPRIATION; AND FOR RELATED PURPOSES.

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

SECTION 1. Section 43-13-407, Mississippi Code of 1972, is amended as follows:

43-13-407. (1) In accordance with the purposes of this article, there is established in the State Treasury the Health Care Expendable Fund, into which shall be transferred from the Health Care Trust Fund the following sums:

(a) In fiscal year 2000, Fifty Million Dollars ($50,000,000.00);

(b) In fiscal year 2001, Fifty-five Million Dollars ($55,000,000.00);

(c) In fiscal year 2002, Sixty Million Five Hundred Thousand Dollars ($60,500,000.00);

(d) In fiscal year 2003, Sixty-six Million Five Hundred Fifty Thousand Dollars ($66,550,000.00);

(e) In fiscal year 2004 and each subsequent fiscal year, a sum equal to the average annual amount of the income from the investment of the funds in the Health Care Trust Fund since July 1, 1999.

(2) In any fiscal year in which interest and dividends from the investment of the funds in the Health Care Trust Fund are not
sufficient to fund the full amount of the annual transfer into the Health Care Expendable Fund as required in subsection (1) of this section, the State Treasurer shall transfer from tobacco settlement installment payments an amount that is sufficient to fully fund the amount of the annual transfer.

(3) All income from the investment of the funds in the Health Care Expendable Fund shall be credited to the account of the Health Care Expendable Fund at the end of a fiscal year shall not lapse into the State General Fund.

(4) The funds in the Health Care Expendable Fund shall be available for expenditure pursuant to specific appropriation by the Legislature beginning in fiscal year 2000, and shall be expended exclusively for health care purposes.

(5) The Attorney General of the State of Mississippi shall not petition any court or other agency to order any portion of the tobacco settlement monies to be diverted or deposited into any account, person, agency or corporation other than into the State Treasury to the credit of the Health Care Expendable Fund established under this Section 43-13-407. From and after December 20, 2000, no chancellor or judge of this state shall order any portion of the tobacco settlement monies to be diverted or deposited into any account, person, agency or corporation other than into the State Treasury to the credit of the Health Care Expendable Fund established under this Section 43-13-407, and any such order which is not in compliance with this subsection (5) is hereby abated and of no effect.

SECTION 2. Section 27-103-103, Mississippi Code of 1972, is amended as follows:

27-103-103. (1) For the purpose of Sections 27-103-101 through 27-103-139 and 27-104-1 through 27-104-27, the term "state general-fund agency" or "general-fund agency" shall mean any agency, department, institution, board or commission of the State
of Mississippi which is supported in whole or in part by
appropriations from the General Fund; but such term shall not
include the Legislature.

(2) For the purposes of Sections 27-103-101 through
27-103-139 and 27-104-1 through 27-104-27, the term "state
special-fund agency" or "special-fund agency" shall mean any
agency, department, institution, board or commission of the State
of Mississippi which receives no appropriation from the General
Fund, but which is supported entirely from special fund sources,
by appropriation, or otherwise, but such term shall not include
the State Highway Department; nor shall such term include the
Mississippi Industries for the Blind.

(3) For the purposes of Sections 27-103-101 through
27-103-139 and 27-104-1 through 27-104-27, the term "state agency"
shall mean any general fund agency or special fund agency as
defined in this section, or the State Highway Department, or the
Division of State Aid Road Construction of the State Highway
Department as is evident from the context wherein it is used.

(4) For the purposes of Sections 27-103-101 through
27-103-139 and 27-104-1 through 27-104-27, the term "special
funds" shall mean all revenues and/or income other than
appropriations from the State General Fund which are received,
collected by, or available for the support of or expenditure by
any state general-fund agency or special-fund agency or the State
Highway Department or the Division of State Aid Road Construction
of the State Highway Department, whether such funds be derived
from taxes or fees collected by or for such general-fund agency or
special-fund agency or the State Highway Department or the
Division of State Aid Road Construction of the State Highway
Department, as the case may be, or from any other types of revenue
from any other source.

(5) For the purposes of Sections 27-103-101 through
27-103-139 and 27-104-1 through 27-104-27, the term "special
funds" shall include revolving funds and all funds received from
the United States government by any state general-fund agency or
special-fund agency, but shall not include any revolving fund
established prior to July 1, 1984, for the purpose of paying or
retiring any indebtedness as is authorized by statute.

(6) For the purposes of Sections 27-103-101 through
27-103-139 and 27-104-1 through 27-104-27, the term "special
funds" shall include any court-ordered settlement payments or
other payments received by any state general-fund agency or
special-fund agency as the result of litigation.

SECTION 3. Section 27-104-13, Mississippi Code of 1972, is
amended as follows:

27-104-13. The State Fiscal Officer shall have the right to
disapprove or reduce and revise such estimates of general funds
and state-source special funds for any general fund or special
fund agency, and for the "administration and other expenses"
budget of the State Highway Department, in an amount not to exceed
five percent (5%) if he finds that funds will not be available
within the period for which the budget is drawn, or if he finds
that the requested expenditures, or any part thereof, are not
authorized by law, and such action shall be reported to the
Legislative Budget Office. The State Fiscal Officer may, upon his
determination of need based upon a finding that funds will not be
available within the period for which the budget is drawn,
transfer funds as provided in Section 27-103-203, from the Working
Cash-Stabilization Reserve Fund to the General Fund to supplement
the general fund revenue. In the event that the estimates of
general funds and state-source special funds of all general fund
and special fund agencies, and of the "administration and other
expenses" budget of the State Highway Department, have been
reduced by five percent (5%), additional reductions may be made
but shall consist of a uniform percentage reduction of general
funds and state-source special funds to all general fund and
special fund agencies, and to the "administration and other expenses" budget of the State Highway Department. Any state-source special funds reduced under the provisions of this section shall be transferred to the State General Fund upon requisitions for warrants signed by the respective agency head and said transfer shall be made within a reasonable period to be determined by the State Fiscal Officer.

For the purpose of this section, "state-source special funds" shall be construed to mean any special funds in any agency derived from any source, including any court-ordered settlement or other payments received by a state general-fund agency or special-fund agency as the result of litigation, but shall not include the following special funds: special funds derived from federal sources, from local or regional political subdivisions, or from donations; special funds held in a fiduciary capacity for the benefit of specific persons or classes of persons; self-generated special funds of the state institutions of higher learning or the state junior colleges; special funds of Mississippi Industries for the Blind, the State Port at Gulfport, Yellow Creek Inland Port, Pat Harrison Waterway District, Pearl River Basin Development District, Pearl River Valley Water Management District, Tombigbee River Valley Water Management District, Yellow Creek Watershed Authority, or Coast Coliseum Commission; special funds of the Department of Wildlife, Fisheries and Parks derived from the issuance of hunting or fishing licenses; and special funds generated by agencies whose primary function includes the establishment of standards and the issuance of licenses for the practice of a profession within the State of Mississippi.

SECTION 4. Section 31-17-123, Mississippi Code of 1972, is amended as follows:

31-17-123. The intent of the Legislature is to authorize borrowing funds under the provisions of Sections 31-17-101 through 31-17-123 to offset any temporary cash flow deficiencies and
should not be construed to authorize the borrowing of any funds in an amount which cannot be repaid during the fiscal year in which such funds are borrowed. The State Tax Commission and University Research Center, utilizing all available revenue forecast data, shall annually develop a general fund revenue estimate to be adopted by the Legislative Budget Office as of the date of sine die adjournment. If, at the end of October, or at the end of any month thereafter of any fiscal year, the revenues received for the fiscal year shall fall below ninety-eight percent (98%) of the Legislative Budget Office general fund revenue estimate at the date of sine die adjournment, the State Fiscal Officer shall reduce allocations of general funds and state-source special funds to general fund and special fund agencies and to the "administration and other expenses" budget of the State Highway Department in an amount necessary to keep expenditures within the sum of actual general fund receipts including any transfers to the General Fund from the Working Cash-Stabilization Reserve Fund for the fiscal year. The State Fiscal Officer may, upon his determination of need based on the revenue shortfall, transfer funds as provided in Section 27-103-203, from the Working Cash-Stabilization Reserve Fund to the General Fund to supplement the general fund revenue. State-source special funds in an amount equal to any reduction made under the provisions of this section shall be transferred to the State General Fund upon requisitions for warrants signed by the respective agency head and such transfer shall be made within a reasonable period to be determined by the State Fiscal Officer. No agency's allocation shall be reduced in an amount to exceed five percent (5%); however, in the event that the allocations of general funds and state-source special funds to all general fund and special fund agencies and to the "administration and other expenses" budget of the State Highway Department have been reduced by five percent (5%), any additional reductions required to be made hereunder shall consist...
of a uniform percentage reduction of general funds and
state-source special funds to all general fund and special fund
agencies, and to the "administration and other expenses" budget of
the State Highway Department. Any receipt from loans authorized
by Sections 31-17-101 through 31-17-123 shall not be included as
revenue receipts. The State Fiscal Officer shall immediately send
notice of any action taken under authority of this section to the
Legislative Budget Office.

For the purpose of this section, "state-source special funds"
shall be construed to mean any special funds in any agency derived
from any source, including any court-ordered settlement or other
payments received by a state general-fund agency or special-fund
agency as the result of litigation, but shall not include the
following special funds: special funds derived from federal
sources, from local or regional political subdivisions, or from
donations; special funds held in a fiduciary capacity for the
benefit of specific persons or classes of persons; self-generated
special funds of the state institutions of higher learning or the
state junior colleges; special funds of Mississippi Industries for
the Blind, the State Port at Gulfport, Yellow Creek Inland Port,
Pat Harrison Waterway District, Pearl River Basin Development
District, Pearl River Valley Water Management District, Tombigbee
River Valley Water Management District, Yellow Creek Watershed
Authority, or Coast Coliseum Commission; special funds of the
Department of Wildlife, Fisheries and Parks derived from the
issuance of hunting or fishing licenses; and special funds
generated by agencies whose primary function includes the
establishment of standards and the issuance of licenses for the
practice of a profession within the State of Mississippi.

SECTION 5. This act shall take effect and be in force from
and after its passage.