

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

To: Appropriations

SENATE BILL NO. 2962

1 AN ACT TO AMEND SECTION 43-13-407, MISSISSIPPI CODE OF 1972,
2 TO REQUIRE ANY COURT-ORDERED TOBACCO LITIGATION SETTLEMENT PAYMENT
3 TO BE PAID INTO THE STATE TREASURY TO THE CREDIT OF THE HEALTH
4 CARE EXPENDABLE FUND CREATED BY THE LEGISLATURE; TO AMEND SECTIONS
5 27-103-103, 27-104-13 AND 31-17-123, MISSISSIPPI CODE OF 1972, TO
6 CLARIFY THAT COURT-ORDERED PAYMENTS TO ANY STATE AGENCY SHALL BE
7 CONSIDERED "STATE-SOURCE SPECIAL FUNDS" AND SUBJECT TO BUDGETING
8 AND LEGISLATIVE APPROPRIATION; AND FOR RELATED PURPOSES.

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

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

12 43-13-407. (1) In accordance with the purposes of this
13 article, there is established in the State Treasury the Health
14 Care Expendable Fund, into which shall be transferred from the
15 Health Care Trust Fund the following sums:

16 (a) In fiscal year 2000, Fifty Million Dollars
17 (\$50,000,000.00);

18 (b) In fiscal year 2001, Fifty-five Million Dollars
19 (\$55,000,000.00);

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

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

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

28 (2) In any fiscal year in which interest and dividends from
29 the investment of the funds in the Health Care Trust Fund are not

30 sufficient to fund the full amount of the annual transfer into the
31 Health Care Expendable Fund as required in subsection (1) of this
32 section, the State Treasurer shall transfer from tobacco
33 settlement installment payments an amount that is sufficient to
34 fully fund the amount of the annual transfer.

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

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

44 (5) The Attorney General of the State of Mississippi shall
45 not petition any court or other agency to order any portion of the
46 tobacco settlement monies to be diverted or deposited into any
47 account, person, agency or corporation other than into the State
48 Treasury to the credit of the Health Care Expendable Fund
49 established under this Section 43-13-407. From and after December
50 20, 2000, no chancellor or judge of this state shall order any
51 portion of the tobacco settlement monies to be diverted or
52 deposited into any account, person, agency or corporation other
53 than into the State Treasury to the credit of the Health Care
54 Expendable Fund established under this Section 43-13-407, and any
55 such order which is not in compliance with this subsection (5) is
56 hereby abated and of no effect.

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

59 27-103-103. (1) For the purpose of Sections 27-103-101
60 through 27-103-139 and 27-104-1 through 27-104-27, the term "state
61 general-fund agency" or "general-fund agency" shall mean any
62 agency, department, institution, board or commission of the State

63 of Mississippi which is supported in whole or in part by
64 appropriations from the General Fund; but such term shall not
65 include the Legislature.

66 (2) For the purposes of Sections 27-103-101 through
67 27-103-139 and 27-104-1 through 27-104-27, the term "state
68 special-fund agency" or "special-fund agency" shall mean any
69 agency, department, institution, board or commission of the State
70 of Mississippi which receives no appropriation from the General
71 Fund, but which is supported entirely from special fund sources,
72 by appropriation, or otherwise, but such term shall not include
73 the State Highway Department; nor shall such term include the
74 Mississippi Industries for the Blind.

75 (3) For the purposes of Sections 27-103-101 through
76 27-103-139 and 27-104-1 through 27-104-27, the term "state agency"
77 shall mean any general fund agency or special fund agency as
78 defined in this section, or the State Highway Department, or the
79 Division of State Aid Road Construction of the State Highway
80 Department as is evident from the context wherein it is used.

81 (4) For the purposes of Sections 27-103-101 through
82 27-103-139 and 27-104-1 through 27-104-27, the term "special
83 funds" shall mean all revenues and/or income other than
84 appropriations from the State General Fund which are received,
85 collected by, or available for the support of or expenditure by
86 any state general-fund agency or special-fund agency or the State
87 Highway Department or the Division of State Aid Road Construction
88 of the State Highway Department, whether such funds be derived
89 from taxes or fees collected by or for such general-fund agency or
90 special-fund agency or the State Highway Department or the
91 Division of State Aid Road Construction of the State Highway
92 Department, as the case may be, or from any other types of revenue
93 from any other source.

94 (5) For the purposes of Sections 27-103-101 through
95 27-103-139 and 27-104-1 through 27-104-27, the term "special

96 funds" shall include revolving funds and all funds received from
97 the United States government by any state general-fund agency or
98 special-fund agency, but shall not include any revolving fund
99 established prior to July 1, 1984, for the purpose of paying or
100 retiring any indebtedness as is authorized by statute.

101 (6) For the purposes of Sections 27-103-101 through
102 27-103-139 and 27-104-1 through 27-104-27, the term "special
103 funds" shall include any court-ordered settlement payments or
104 other payments received by any state general-fund agency or
105 special-fund agency as the result of litigation.

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

108 27-104-13. The State Fiscal Officer shall have the right to
109 disapprove or reduce and revise such estimates of general funds
110 and state-source special funds for any general fund or special
111 fund agency, and for the "administration and other expenses"
112 budget of the State Highway Department, in an amount not to exceed
113 five percent (5%) if he finds that funds will not be available
114 within the period for which the budget is drawn, or if he finds
115 that the requested expenditures, or any part thereof, are not
116 authorized by law, and such action shall be reported to the
117 Legislative Budget Office. The State Fiscal Officer may, upon his
118 determination of need based upon a finding that funds will not be
119 available within the period for which the budget is drawn,
120 transfer funds as provided in Section 27-103-203, from the Working
121 Cash-Stabilization Reserve Fund to the General Fund to supplement
122 the general fund revenue. In the event that the estimates of
123 general funds and state-source special funds of all general fund
124 and special fund agencies, and of the "administration and other
125 expenses" budget of the State Highway Department, have been
126 reduced by five percent (5%), additional reductions may be made
127 but shall consist of a uniform percentage reduction of general
128 funds and state-source special funds to all general fund and

129 special fund agencies, and to the "administration and other
130 expenses" budget of the State Highway Department. Any
131 state-source special funds reduced under the provisions of this
132 section shall be transferred to the State General Fund upon
133 requisitions for warrants signed by the respective agency head and
134 said transfer shall be made within a reasonable period to be
135 determined by the State Fiscal Officer.

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

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

159 31-17-123. The intent of the Legislature is to authorize
160 borrowing funds under the provisions of Sections 31-17-101 through
161 31-17-123 to offset any temporary cash flow deficiencies and

162 should not be construed to authorize the borrowing of any funds in
163 an amount which cannot be repaid during the fiscal year in which
164 such funds are borrowed. The State Tax Commission and University
165 Research Center, utilizing all available revenue forecast data,
166 shall annually develop a general fund revenue estimate to be
167 adopted by the Legislative Budget Office as of the date of sine
168 die adjournment. If, at the end of October, or at the end of any
169 month thereafter of any fiscal year, the revenues received for the
170 fiscal year shall fall below ninety-eight percent (98%) of the
171 Legislative Budget Office general fund revenue estimate at the
172 date of sine die adjournment, the State Fiscal Officer shall
173 reduce allocations of general funds and state-source special funds
174 to general fund and special fund agencies and to the
175 "administration and other expenses" budget of the State Highway
176 Department in an amount necessary to keep expenditures within the
177 sum of actual general fund receipts including any transfers to the
178 General Fund from the Working Cash-Stabilization Reserve Fund for
179 the fiscal year. The State Fiscal Officer may, upon his
180 determination of need based on the revenue shortfall, transfer
181 funds as provided in Section 27-103-203, from the Working
182 Cash-Stabilization Reserve Fund to the General Fund to supplement
183 the general fund revenue. State-source special funds in an amount
184 equal to any reduction made under the provisions of this section
185 shall be transferred to the State General Fund upon requisitions
186 for warrants signed by the respective agency head and such
187 transfer shall be made within a reasonable period to be determined
188 by the State Fiscal Officer. No agency's allocation shall be
189 reduced in an amount to exceed five percent (5%); however, in the
190 event that the allocations of general funds and state-source
191 special funds to all general fund and special fund agencies and to
192 the "administration and other expenses" budget of the State
193 Highway Department have been reduced by five percent (5%), any
194 additional reductions required to be made hereunder shall consist

195 of a uniform percentage reduction of general funds and
196 state-source special funds to all general fund and special fund
197 agencies, and to the "administration and other expenses" budget of
198 the State Highway Department. Any receipt from loans authorized
199 by Sections 31-17-101 through 31-17-123 shall not be included as
200 revenue receipts. The State Fiscal Officer shall immediately send
201 notice of any action taken under authority of this section to the
202 Legislative Budget Office.

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

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