

By: Representative Chism

To: Appropriations

HOUSE BILL NO. 508

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) (a) On March 6, 2002, the State Treasurer shall
36 transfer the sum of Eighty-seven Million Dollars (\$87,000,000.00)
37 from the Health Care Trust Fund into the Health Care Expendable
38 Fund. In addition, at the time the State of Mississippi receives
39 the 2002 calendar year tobacco settlement installment payment, the
40 State Treasurer shall deposit the full amount of that installment
41 payment into the Health Care Expendable Fund.

42 (b) If during any fiscal year after March 6, 2002, the
43 general fund revenues received by the state exceed the general
44 fund revenues received during the previous fiscal year by more
45 than five percent (5%), the Legislature shall repay to the Health
46 Care Trust Fund one-third (1/3) of the amount of the general fund
47 revenues that exceed the five percent (5%) growth in general fund
48 revenues. The repayment required by this paragraph shall continue
49 in each fiscal year in which there is more than five percent (5%)
50 growth in general fund revenues, until the full amount of the
51 funds that were transferred and deposited into the Health Care
52 Expendable Fund under the provisions of paragraph (a) of this
53 subsection have been repaid to the Health Care Trust Fund.

54 (4) All income from the investment of the funds in the
55 Health Care Expendable Fund shall be credited to the account of
56 the Health Care Expendable Fund. Any funds in the Health Care
57 Expendable Fund at the end of a fiscal year shall not lapse into
58 the State General Fund.

59 (5) The funds in the Health Care Expendable Fund shall be
60 available for expenditure under specific appropriation by the
61 Legislature beginning in fiscal year 2000, and shall be expended
62 exclusively for health care purposes.



63 (6) The Attorney General of the State of Mississippi shall
64 not petition any court or other agency to order any portion of the
65 tobacco settlement monies to be diverted or deposited into any
66 account, person, agency or corporation other than into the State
67 Treasury to the credit of the Health Care Expendable Fund
68 established under this section. No chancellor or judge of this
69 state shall order any portion of the tobacco settlement monies to
70 be diverted or deposited into any account, person, agency or
71 corporation other than into the State Treasury to the credit of
72 the Health Care Expendable Fund established under this section.

73 (7) Subsections (1), (2), (4) and (5) of this section shall
74 stand repealed on July 1, 2004.

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

77 27-103-103. (1) For the purpose of Sections 27-103-101
78 through 27-103-139 and 27-104-1 through 27-104-27, the term "state
79 general-fund agency" or "general-fund agency" shall mean any
80 agency, department, institution, board or commission of the State
81 of Mississippi which is supported in whole or in part by
82 appropriations from the General Fund; but such term shall not
83 include the Legislature.

84 (2) For the purposes of Sections 27-103-101 through
85 27-103-139 and 27-104-1 through 27-104-27, the term "state
86 special-fund agency" or "special-fund agency" shall mean any
87 agency, department, institution, board or commission of the State
88 of Mississippi which receives no appropriation from the General
89 Fund, but which is supported entirely from special-fund sources,
90 by appropriation, or otherwise, but such term shall not include
91 the State Highway Department; nor shall such term include the
92 Mississippi Industries for the Blind.

93 (3) For the purposes of Sections 27-103-101 through
94 27-103-139 and 27-104-1 through 27-104-27, the term "state agency"
95 shall mean any general-fund agency or special-fund agency as



96 defined in this section, or the State Highway Department, or the
97 Division of State Aid Road Construction of the State Highway
98 Department as is evident from the context wherein it is used.

99 (4) For the purposes of Sections 27-103-101 through
100 27-103-139 and 27-104-1 through 27-104-27, the term "special
101 funds" shall mean all revenues and/or income other than
102 appropriations from the State General Fund which are received,
103 collected by, or available for the support of or expenditure by
104 any state general-fund agency or special-fund agency or the State
105 Highway Department or the Division of State Aid Road Construction
106 of the State Highway Department, whether such funds be derived
107 from taxes or fees collected by or for such general-fund agency or
108 special-fund agency or the State Highway Department or the
109 Division of State Aid Road Construction of the State Highway
110 Department, as the case may be, or from any other types of revenue
111 from any other source.

112 (5) For the purposes of Sections 27-103-101 through
113 27-103-139 and 27-104-1 through 27-104-27, the term "special
114 funds" shall include revolving funds and all funds received from
115 the United States Government by any state general-fund agency or
116 special-fund agency, but shall not include any revolving fund
117 established prior to July 1, 1984, for the purpose of paying or
118 retiring any indebtedness as is authorized by statute.

119 (6) For the purposes of Sections 27-103-101 through
120 27-103-139 and 27-104-1 through 27-104-27, the term "special
121 funds" shall include any court-ordered settlement payments or
122 other payments received by any state general-fund agency or
123 special-fund agency as the result of litigation.

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

126 27-104-13. The State Fiscal Officer shall have the right to
127 disapprove or reduce and revise such estimates of general funds
128 and state-source special funds for any general-fund or



129 special-fund agency, and for the "administration and other
130 expenses" budget of the State Highway Department, in an amount not
131 to exceed five percent (5%) if he finds that funds will not be
132 available within the period for which the budget is drawn, or if
133 he finds that the requested expenditures, or any part thereof, are
134 not authorized by law, and such action shall be reported to the
135 Legislative Budget Office. The State Fiscal Officer may, upon his
136 determination of need based upon a finding that funds will not be
137 available within the period for which the budget is drawn,
138 transfer funds as provided in Section 27-103-203, from the Working
139 Cash-Stabilization Reserve Fund to the General Fund to supplement
140 the general-fund revenue. In the event that the estimates of
141 general funds and state-source special funds of all general-fund
142 and special-fund agencies, and of the "administration and other
143 expenses" budget of the State Highway Department, have been
144 reduced by five percent (5%), additional reductions may be made
145 but shall consist of a uniform percentage reduction of general
146 funds and state-source special funds to all general-fund and
147 special-fund agencies, and to the "administration and other
148 expenses" budget of the State Highway Department. Any
149 state-source special funds reduced under the provisions of this
150 section shall be transferred to the State General Fund upon
151 requisitions for warrants signed by the respective agency head and
152 said transfer shall be made within a reasonable period to be
153 determined by the State Fiscal Officer.

154 For the purpose of this section, "state-source special funds"
155 shall be construed to mean any special funds in any agency derived
156 from any source, including any court-ordered settlement payments
157 or other payments received by a state general-fund agency or
158 special-fund agency as the result of litigation, but shall not
159 include the following special funds: special funds derived from
160 federal sources, from local or regional political subdivisions, or
161 from donations; special funds held in a fiduciary capacity for the



162 benefit of specific persons or classes of persons; self-generated
163 special funds of the state institutions of higher learning or the
164 state junior colleges; special funds of Mississippi Industries for
165 the Blind, the State Port at Gulfport, Yellow Creek Inland Port,
166 Pat Harrison Waterway District, Pearl River Basin Development
167 District, Pearl River Valley Water Management District, Tombigbee
168 River Valley Water Management District, Yellow Creek Watershed
169 Authority, or Coast Coliseum Commission; special funds of the
170 Department of Wildlife, Fisheries and Parks derived from the
171 issuance of hunting or fishing licenses; and special funds
172 generated by agencies whose primary function includes the
173 establishment of standards and the issuance of licenses for the
174 practice of a profession within the State of Mississippi.

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

177 31-17-123. The intent of the Legislature is to authorize
178 borrowing funds under the provisions of Sections 31-17-101 through
179 31-17-123 to offset any temporary cash flow deficiencies and
180 should not be construed to authorize the borrowing of any funds in
181 an amount which cannot be repaid during the fiscal year in which
182 such funds are borrowed. The State Tax Commission and University
183 Research Center, utilizing all available revenue forecast data,
184 shall annually develop a general fund revenue estimate to be
185 adopted by the Legislative Budget Office as of the date of sine
186 die adjournment. If, at the end of October, or at the end of any
187 month thereafter of any fiscal year, the revenues received for the
188 fiscal year shall fall below ninety-eight percent (98%) of the
189 Legislative Budget Office general fund revenue estimate at the
190 date of sine die adjournment, the State Fiscal Officer shall
191 reduce allocations of general funds and state-source special funds
192 to general fund and special fund agencies and to the
193 "administration and other expenses" budget of the State Highway
194 Department in an amount necessary to keep expenditures within the



195 sum of actual general fund receipts including any transfers to the
196 General Fund from the Working Cash-Stabilization Reserve Fund for
197 the fiscal year. The State Fiscal Officer may, upon his
198 determination of need based on the revenue shortfall, transfer
199 funds as provided in Section 27-103-203, from the Working
200 Cash-Stabilization Reserve Fund to the General Fund to supplement
201 the general fund revenue. State-source special funds in an amount
202 equal to any reduction made under the provisions of this section
203 shall be transferred to the State General Fund upon requisitions
204 for warrants signed by the respective agency head and such
205 transfer shall be made within a reasonable period to be determined
206 by the State Fiscal Officer. No agency's allocation shall be
207 reduced in an amount to exceed five percent (5%); however, in the
208 event that the allocations of general funds and state-source
209 special funds to all general fund and special fund agencies and to
210 the "administration and other expenses" budget of the State
211 Highway Department have been reduced by five percent (5%), any
212 additional reductions required to be made hereunder shall consist
213 of a uniform percentage reduction of general funds and
214 state-source special funds to all general fund and special fund
215 agencies, and to the "administration and other expenses" budget of
216 the State Highway Department. Any receipt from loans authorized
217 by Sections 31-17-101 through 31-17-123 shall not be included as
218 revenue receipts. The State Fiscal Officer shall immediately send
219 notice of any action taken under authority of this section to the
220 Legislative Budget Office.

221 For the purpose of this section, "state-source special funds"
222 shall be construed to mean any special funds in any agency derived
223 from any source, including any court-ordered settlement payments
224 or other payments received by a state general-fund agency or
225 special-fund agency as the result of litigation, but shall not
226 include the following special funds: special funds derived from
227 federal sources, from local or regional political subdivisions, or



228 from donations; special funds held in a fiduciary capacity for the
229 benefit of specific persons or classes of persons; self-generated
230 special funds of the state institutions of higher learning or the
231 state junior colleges; special funds of Mississippi Industries for
232 the Blind, the State Port at Gulfport, Yellow Creek Inland Port,
233 Pat Harrison Waterway District, Pearl River Basin Development
234 District, Pearl River Valley Water Management District, Tombigbee
235 River Valley Water Management District, Yellow Creek Watershed
236 Authority, or Coast Coliseum Commission; special funds of the
237 Department of Wildlife, Fisheries and Parks derived from the
238 issuance of hunting or fishing licenses; and special funds
239 generated by agencies whose primary function includes the
240 establishment of standards and the issuance of licenses for the
241 practice of a profession within the State of Mississippi.

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

