

By: Representatives Watson, Scott

To: Public Health and Human Services; Appropriations

HOUSE BILL NO. 438  
(As Sent to Governor)

1 AN ACT TO AMEND SECTIONS 43-13-405 AND 43-13-407, MISSISSIPPI  
2 CODE OF 1972, TO PROVIDE THAT IN FISCAL YEARS 2005 AND 2006, THE  
3 TOTAL AMOUNT OF THE DIVIDENDS, INTEREST AND OTHER INCOME EARNED ON  
4 THE FUNDS IN THE HEALTH CARE TRUST FUND DURING THE PRECEDING  
5 FISCAL YEAR SHALL BE TRANSFERRED TO THE HEALTH CARE EXPENDABLE  
6 FUND; TO PROVIDE THAT THE FULL AMOUNT OF THE CALENDAR YEARS 2004  
7 AND 2005 TOBACCO SETTLEMENT INSTALLMENT PAYMENTS RECEIVED BY THE  
8 STATE SHALL BE DEPOSITED INTO THE HEALTH CARE EXPENDABLE FUND; TO  
9 EXTEND THE REPEALER ON THE PROVISIONS OF SAID SECTIONS; AND FOR  
10 RELATED PURPOSES.

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

12 **SECTION 1.** Section 43-13-405, Mississippi Code of 1972, is  
13 amended as follows:

14 43-13-405. (1) In accordance with the purposes of this  
15 article, there is established in the State Treasury the Health  
16 Care Trust Fund, into which shall be deposited Two Hundred Eighty  
17 Million Dollars (\$280,000,000.00) of the funds received by the  
18 State of Mississippi as a result of the tobacco settlement as of  
19 the end of fiscal year 1999, and all tobacco settlement  
20 installment payments made in subsequent years for which the use or  
21 purpose for expenditure is not restricted by the terms of the  
22 settlement, except as otherwise provided in Section 43-13-407(2)  
23 and (3). All income from the investment of the funds in the  
24 Health Care Trust Fund shall be credited to the account of the  
25 Health Care Trust Fund. The funds in the Health Care Trust Fund  
26 at the end of a fiscal year shall not lapse into the State General  
27 Fund.

28 (2) The Health Care Trust Fund shall remain inviolate and  
29 shall never be expended, except as provided in this article. The  
30 Legislature shall appropriate from the Health Care Trust Fund such

31 sums as are necessary to recoup any funds lost as a result of any  
32 of the following actions:

33 (a) The federal Centers for Medicare and Medicaid  
34 Services, or other agency of the federal government, is successful  
35 in recouping tobacco settlement funds from the State of  
36 Mississippi;

37 (b) The federal share of funds for the support of the  
38 Mississippi Medicaid Program is reduced directly or indirectly as  
39 a result of the tobacco settlement;

40 (c) Federal funding for any other program is reduced as  
41 a result of the tobacco settlement; or

42 (d) Tobacco cessation programs are mandated by the  
43 federal government or court order.

44 (3) This section shall stand repealed on July 1, 2006.

45 **SECTION 2.** Section 43-13-407, Mississippi Code of 1972, is  
46 amended as follows:

47 43-13-407. (1) In accordance with the purposes of this  
48 article, there is established in the State Treasury the Health  
49 Care Expendable Fund, into which shall be transferred from the  
50 Health Care Trust Fund the following sums:

51 (a) In fiscal year 2000, Fifty Million Dollars  
52 (\$50,000,000.00);

53 (b) In fiscal year 2001, Fifty-five Million Dollars  
54 (\$55,000,000.00);

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

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

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

63           (f) In fiscal years 2005 and 2006, a sum equal to the  
64 total amount of the dividends, interest and other income,  
65 including increases in value of the principal, earned on the funds  
66 in the Health Care Trust Fund during the preceding fiscal year.

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

74           (3) (a) On March 6, 2002, the State Treasurer shall  
75 transfer the sum of Eighty-seven Million Dollars (\$87,000,000.00)  
76 from the Health Care Trust Fund into the Health Care Expendable  
77 Fund. In addition, at the time the State of Mississippi receives  
78 the \* \* \* tobacco settlement installment payments for each of the  
79 calendar years 2002, 2003, 2004 and 2005, the State Treasurer  
80 shall deposit the full amount of each of those installment  
81 payments into the Health Care Expendable Fund \* \* \*.

82           (b) If during any fiscal year after March 6, 2002, the  
83 general fund revenues received by the state exceed the general  
84 fund revenues received during the previous fiscal year by more  
85 than five percent (5%), the Legislature shall repay to the Health  
86 Care Trust Fund one-third (1/3) of the amount of the general fund  
87 revenues that exceed the five percent (5%) growth in general fund  
88 revenues. The repayment required by this paragraph shall continue  
89 in each fiscal year in which there is more than five percent (5%)  
90 growth in general fund revenues, until the full amount of the  
91 funds that were transferred and deposited into the Health Care  
92 Expendable Fund under the provisions of paragraph (a) of this  
93 subsection have been repaid to the Health Care Trust Fund.

94           (4) All income from the investment of the funds in the  
95 Health Care Expendable Fund shall be credited to the account of

96 the Health Care Expendable Fund. Any funds in the Health Care  
97 Expendable Fund at the end of a fiscal year shall not lapse into  
98 the State General Fund.

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

103 (6) Subsections (1), (2), (4) and (5) of this section shall  
104 stand repealed on July 1, 2006.

105 **SECTION 3.** This act shall take effect and be in force from  
106 and after June 30, 2004.