

By: Representatives Chism, Nicholson,  
Robinson (84th)

To: Appropriations

HOUSE BILL NO. 542

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 DELETE THE  
5 REPEALER ON CERTAIN PROVISIONS OF THIS SECTION; TO AMEND SECTIONS  
6 27-103-103, 27-104-13 AND 31-17-123, MISSISSIPPI CODE OF 1972, TO  
7 CLARIFY THAT COURT-ORDERED PAYMENTS TO ANY STATE AGENCY SHALL BE  
8 CONSIDERED "STATE-SOURCE SPECIAL FUNDS" AND SUBJECT TO BUDGETING  
9 AND LEGISLATIVE APPROPRIATION; AND FOR RELATED PURPOSES.

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

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

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

17 (a) In fiscal year 2000, Fifty Million Dollars  
18 (\$50,000,000.00);

19 (b) In fiscal year 2001, Fifty-five Million Dollars  
20 (\$55,000,000.00);

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

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

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

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

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

36 (3) (a) On March 6, 2002, the State Treasurer shall  
37 transfer the sum of Eighty-seven Million Dollars (\$87,000,000.00)  
38 from the Health Care Trust Fund into the Health Care Expendable  
39 Fund. In addition, at the time the State of Mississippi receives  
40 the 2002 calendar year tobacco settlement installment payment, the  
41 State Treasurer shall deposit the full amount of that installment  
42 payment into the Health Care Expendable Fund, and at the time the  
43 State of Mississippi receives the 2003 calendar year tobacco  
44 settlement installment payment, the State Treasurer shall deposit  
45 the full amount of that installment payment into the Health Care  
46 Expendable Fund.

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

59 (4) All income from the investment of the funds in the  
60 Health Care Expendable Fund shall be credited to the account of  
61 the Health Care Expendable Fund. Any funds in the Health Care  
62 Expendable Fund at the end of a fiscal year shall not lapse into  
63 the State General Fund.

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

68 (6) The Attorney General of the State of Mississippi shall  
69 not petition any court or other agency to order that any portion  
70 of the tobacco settlement monies be diverted or paid to any  
71 person, agency or corporation other than the State of Mississippi  
72 or be deposited into any account other than into the State  
73 Treasury to the credit of the Health Care Expendable Fund  
74 established under this section. No chancellor or judge of this  
75 state shall order that any portion of the tobacco settlement  
76 monies be diverted or paid to any person, agency or corporation  
77 other than the State of Mississippi or be deposited into any  
78 account other than into the State Treasury to the credit of the  
79 Health Care Expendable Fund established under this section.

80 \* \* \*

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

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

90 (2) For the purposes of Sections 27-103-101 through  
91 27-103-139 and 27-104-1 through 27-104-27, the term "state  
92 special-fund agency" or "special-fund agency" shall mean any  
93 agency, department, institution, board or commission of the State  
94 of Mississippi which receives no appropriation from the General  
95 Fund, but which is supported entirely from special-fund sources,  
96 by appropriation, or otherwise, but such term shall not include

97 the State Highway Department; nor shall such term include the  
98 Mississippi Industries for the Blind.

99 (3) For the purposes of Sections 27-103-101 through  
100 27-103-139 and 27-104-1 through 27-104-27, the term "state agency"  
101 shall mean any general-fund agency or special-fund agency as  
102 defined in this section, or the State Highway Department, or the  
103 Division of State Aid Road Construction of the State Highway  
104 Department as is evident from the context wherein it is used.

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

118 (5) For the purposes of Sections 27-103-101 through  
119 27-103-139 and 27-104-1 through 27-104-27, the term "special  
120 funds" shall include revolving funds and all funds received from  
121 the United States Government by any state general-fund agency or  
122 special-fund agency, but shall not include any revolving fund  
123 established prior to July 1, 1984, for the purpose of paying or  
124 retiring any indebtedness as is authorized by statute.

125 (6) For the purposes of Sections 27-103-101 through  
126 27-103-139 and 27-104-1 through 27-104-27, the term "special  
127 funds" shall include any court-ordered settlement payments or  
128 other payments received by any state general-fund agency or  
129 special-fund agency as the result of litigation.

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

132           27-104-13. The State Fiscal Officer shall have the right to  
133 disapprove or reduce and revise such estimates of general funds  
134 and state-source special funds for any general-fund or  
135 special-fund agency, and for the "administration and other  
136 expenses" budget of the State Highway Department, in an amount not  
137 to exceed five percent (5%) if he finds that funds will not be  
138 available within the period for which the budget is drawn, or if  
139 he finds that the requested expenditures, or any part thereof, are  
140 not authorized by law, and such action shall be reported to the  
141 Legislative Budget Office. The State Fiscal Officer may, upon his  
142 determination of need based upon a finding that funds will not be  
143 available within the period for which the budget is drawn,  
144 transfer funds as provided in Section 27-103-203, from the Working  
145 Cash-Stabilization Reserve Fund to the General Fund to supplement  
146 the general-fund revenue. In the event that the estimates of  
147 general funds and state-source special funds of all general-fund  
148 and special-fund agencies, and of the "administration and other  
149 expenses" budget of the State Highway Department, have been  
150 reduced by five percent (5%), additional reductions may be made  
151 but shall consist of a uniform percentage reduction of general  
152 funds and state-source special funds to all general-fund and  
153 special-fund agencies, and to the "administration and other  
154 expenses" budget of the State Highway Department. Any  
155 state-source special funds reduced under the provisions of this  
156 section shall be transferred to the State General Fund upon  
157 requisitions for warrants signed by the respective agency head and  
158 said transfer shall be made within a reasonable period to be  
159 determined by the State Fiscal Officer.

160           For the purpose of this section, "state-source special funds"  
161 shall be construed to mean any special funds in any agency derived  
162 from any source, including any court-ordered settlement payments

163 or other payments received by a state general-fund agency or  
164 special-fund agency as the result of litigation, but shall not  
165 include the following special funds: special funds derived from  
166 federal sources, from local or regional political subdivisions, or  
167 from donations; special funds held in a fiduciary capacity for the  
168 benefit of specific persons or classes of persons; self-generated  
169 special funds of the state institutions of higher learning or the  
170 state junior colleges; special funds of Mississippi Industries for  
171 the Blind, the State Port at Gulfport, Yellow Creek Inland Port,  
172 Pat Harrison Waterway District, Pearl River Basin Development  
173 District, Pearl River Valley Water Management District, Tombigbee  
174 River Valley Water Management District, Yellow Creek Watershed  
175 Authority, or Coast Coliseum Commission; special funds of the  
176 Department of Wildlife, Fisheries and Parks derived from the  
177 issuance of hunting or fishing licenses; and special funds  
178 generated by agencies whose primary function includes the  
179 establishment of standards and the issuance of licenses for the  
180 practice of a profession within the State of Mississippi.

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

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

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

227 For the purpose of this section, "state-source special funds"  
228 shall be construed to mean any special funds in any agency derived

229 from any source, including any court-ordered settlement payments  
230 or other payments received by a state general-fund agency or  
231 special-fund agency as the result of litigation, but shall not  
232 include the following special funds: special funds derived from  
233 federal sources, from local or regional political subdivisions, or  
234 from donations; special funds held in a fiduciary capacity for the  
235 benefit of specific persons or classes of persons; self-generated  
236 special funds of the state institutions of higher learning or the  
237 state junior colleges; special funds of Mississippi Industries for  
238 the Blind, the State Port at Gulfport, Yellow Creek Inland Port,  
239 Pat Harrison Waterway District, Pearl River Basin Development  
240 District, Pearl River Valley Water Management District, Tombigbee  
241 River Valley Water Management District, Yellow Creek Watershed  
242 Authority, or Coast Coliseum Commission; special funds of the  
243 Department of Wildlife, Fisheries and Parks derived from the  
244 issuance of hunting or fishing licenses; and special funds  
245 generated by agencies whose primary function includes the  
246 establishment of standards and the issuance of licenses for the  
247 practice of a profession within the State of Mississippi.

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