

By: Representative Chism

To: Appropriations

HOUSE BILL NO. 231

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 AND 27-104-13, MISSISSIPPI CODE OF 1972, TO CLARIFY
 6 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 2005, Four Hundred Fifty-six Million
 17 Dollars (\$456,000,000.00);

18 (b) In fiscal year 2006, One Hundred Eighty-six Million
 19 Dollars (\$186,000,000.00);

20 (c) In fiscal year 2007, One Hundred Forty-six Million
 21 Dollars (\$146,000,000.00);

22 (d) In fiscal year 2008, One Hundred Six Million
 23 Dollars (\$106,000,000.00);

24 (e) In fiscal year 2009, Sixty-six Million Dollars
 25 (\$66,000,000.00);

26 (f) In fiscal year 2010 and each fiscal year
 27 thereafter, a sum equal to the average annual amount of the
 28 dividends, interest and other income, including increases in value
 29 of the principal, earned on the funds in the Health Care Trust
 30 Fund during the preceding four (4) fiscal years.

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

39 (3) (a) On March 6, 2002, the State Treasurer shall
40 transfer the sum of Eighty-seven Million Dollars (\$87,000,000.00)
41 from the Health Care Trust Fund into the Health Care Expendable
42 Fund. In addition, at the time the State of Mississippi receives
43 the tobacco settlement installment payments for each of the
44 calendar years 2002 and 2003, the State Treasurer shall deposit
45 the full amount of each of those installment payments into the
46 Health Care 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) The total sum of Two Hundred Forty Million Dollars
60 (\$240,000,000.00) plus interest at the rate of five percent (5%)
61 per annum shall be transferred into the Health Care Trust Fund
62 from the State General Fund during fiscal years 2007 through 2013
63 to repay the trust fund for Two Hundred Forty Million Dollars

64 (\$240,000,000.00) of the total sum that is transferred from the
65 trust fund to the Health Care Expendable Fund during fiscal year
66 2005 under subsection (1)(a) of this section. The repayment shall
67 be made according to the following schedule: During each of
68 fiscal years 2007 through 2012, the State Fiscal Officer shall
69 transfer from the General Fund to the Health Care Trust Fund the
70 sum of Thirty-eight Million Dollars (\$38,000,000.00), and during
71 fiscal year 2013 the State Fiscal Officer shall transfer from the
72 State General Fund to the Health Care Trust Fund a sum in the
73 amount certified by the State Treasurer as necessary to fully
74 repay the balance of the Two Hundred Forty Million Dollars
75 (\$240,000,000.00) plus interest at the rate of five percent (5%)
76 per annum.

77 (5) All income from the investment of the funds in the
78 Health Care Expendable Fund shall be credited to the account of
79 the Health Care Expendable Fund. Any funds in the Health Care
80 Expendable Fund at the end of a fiscal year shall not lapse into
81 the State General Fund.

82 (6) The funds in the Health Care Expendable Fund shall be
83 available for expenditure under specific appropriation by the
84 Legislature beginning in fiscal year 2000, and shall be expended
85 exclusively for health care purposes.

86 (7) The Attorney General of the State of Mississippi shall
87 not petition any court or other agency to order that any portion
88 of the tobacco settlement monies be diverted or paid to any
89 person, agency or corporation other than the State of Mississippi
90 or be deposited into any account other than into the State
91 Treasury to the credit of the Health Care Expendable Fund
92 established under this section. No chancellor or judge of this
93 state shall order that any portion of the tobacco settlement
94 monies be diverted or paid to any person, agency or corporation
95 other than the State of Mississippi or be deposited into any

96 account other than into the State Treasury to the credit of the
97 Health Care Expendable Fund established under this section.

98 (8) The provisions of subsection (1) of this section may not
99 be changed in any manner except upon amendment to that subsection
100 by a bill enacted by the Legislature with a vote of not less than
101 three-fifths (3/5) of the members of each house present and
102 voting.

103 (9) Subsections (1), (2), (5) and (6) of this section shall
104 stand repealed on July 1, 2009.

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

107 27-103-103. (1) For the purpose of Sections 27-103-101
108 through 27-103-139 and 27-104-1 through 27-104-27, the term "state
109 general-fund agency" or "general-fund agency" shall mean any
110 agency, department, institution, board or commission of the State
111 of Mississippi which is supported in whole or in part by
112 appropriations from the General Fund; but such term shall not
113 include the Legislature.

114 (2) For the purposes of Sections 27-103-101 through
115 27-103-139 and 27-104-1 through 27-104-27, the term "state
116 special-fund agency" or "special-fund agency" shall mean any
117 agency, department, institution, board or commission of the State
118 of Mississippi which receives no appropriation from the General
119 Fund, but which is supported entirely from special-fund sources,
120 by appropriation, or otherwise, but such term shall not include
121 the Mississippi Department of Transportation; nor shall such term
122 include the Mississippi Industries for the Blind.

123 (3) For the purposes of Sections 27-103-101 through
124 27-103-139 and 27-104-1 through 27-104-27, the term "state agency"
125 shall mean any general-fund agency or special-fund agency as
126 defined in this section, or the Mississippi Department of
127 Transportation, or the Office of State Aid Road Construction of

128 the Mississippi Department of Transportation as is evident from
129 the context in which it is used.

130 (4) For the purposes of Sections 27-103-101 through
131 27-103-139 and 27-104-1 through 27-104-27, the term "special
132 funds" shall mean all revenues and/or income other than
133 appropriations from the State General Fund which are received,
134 collected by, or available for the support of or expenditure by
135 any state general-fund agency or special-fund agency or the
136 Mississippi Department of Transportation or the Office of State
137 Aid Road Construction of the Mississippi Department of
138 Transportation, whether such funds be derived from taxes or fees
139 collected by or for such general-fund agency or special-fund
140 agency or the Mississippi Department of Transportation or the
141 Office of State Aid Road Construction of the Mississippi
142 Department of Transportation, as the case may be, or from any
143 other types of revenue from any other source.

144 (5) For the purposes of Sections 27-103-101 through
145 27-103-139 and 27-104-1 through 27-104-27, the term "special
146 funds" shall include revolving funds and all funds received from
147 the United States Government by any state general-fund agency or
148 special-fund agency, but shall not include any revolving fund
149 established prior to July 1, 1984, for the purpose of paying or
150 retiring any indebtedness as is authorized by statute.

151 (6) For the purposes of Sections 27-103-101 through
152 27-103-139 and 27-104-1 through 27-104-27, the term "special
153 funds" shall include any court-ordered settlement payments or
154 other payments received by any state general-fund agency or
155 special-fund agency as the result of litigation.

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

158 27-104-13. (1) The State Fiscal Officer may disapprove or
159 reduce and revise the estimates of general funds and state-source
160 special funds for any general fund or special fund agency and for

161 the "administration and other expenses" budget of the Mississippi
162 Department of Transportation, in an amount not to exceed five
163 percent (5%), if at any time he finds that funds will not be
164 available within the period for which the budget is drawn, or if
165 at any time he finds that the requested expenditures, or any part
166 thereof, are not authorized by law, and that action shall be
167 reported to the Legislative Budget Office.

168 The State Fiscal Officer may, upon his determination of need
169 based upon a finding that funds will not be available within the
170 period for which the budget is drawn, transfer funds as provided
171 in Section 27-103-203, from the Working Cash-Stabilization Reserve
172 Fund to the General Fund to supplement the general fund revenue.

173 If the estimates of general funds and state-source special
174 funds of all general fund and special fund agencies and of the
175 "administration and other expenses" budget of the Mississippi
176 Department of Transportation have been reduced by five percent
177 (5%), additional reductions may be made, but shall consist of a
178 uniform percentage reduction of general funds and state-source
179 special funds to all general fund and special fund agencies and to
180 the "administration and other expenses" budget of the Mississippi
181 Department of Transportation.

182 Any state-source special funds reduced under the provisions
183 of this subsection (1) shall be transferred to the State General
184 Fund upon requisitions for warrants signed by the respective
185 agency head, and the transfer shall be made within a reasonable
186 period to be determined by the State Fiscal Officer.

187 (2) The State Tax Commission and University Research Center,
188 utilizing all available revenue forecast data, shall annually
189 develop a general fund revenue estimate to be adopted by the
190 Legislative Budget Office as of the date of sine die adjournment.

191 If, at the end of October, or at the end of any month
192 thereafter of any fiscal year, the revenues received for the
193 fiscal year fall below ninety-eight percent (98%) of the

194 Legislative Budget Office general fund revenue estimate at the
195 date of sine die adjournment, the State Fiscal Officer shall
196 reduce allocations of general funds and state-source special funds
197 to general fund and special fund agencies and to the
198 "administration and other expenses" budget of the Mississippi
199 Department of Transportation, in an amount necessary to keep
200 expenditures within the sum of actual general fund receipts,
201 including any transfers to the General Fund from the Working
202 Cash-Stabilization Reserve Fund for the fiscal year.

203 The State Fiscal Officer may, upon his determination of need
204 based on the revenue shortfall, transfer funds as provided in
205 Section 27-103-203 from the Working Cash-Stabilization Reserve
206 Fund to the General Fund to supplement the general fund revenue.
207 State-source special funds in an amount equal to any reduction
208 made under the provisions of this subsection (2) shall be
209 transferred to the State General Fund upon requisitions for
210 warrants signed by the respective agency head, and the transfer
211 shall be made within a reasonable period to be determined by the
212 State Fiscal Officer.

213 No agency's allocation shall be reduced in an amount to
214 exceed five percent (5%); however, if the allocations of general
215 funds and state-source special funds to all general fund and
216 special fund agencies and to the "administration and other
217 expenses" budget of the Mississippi Department of Transportation
218 have been reduced by five percent (5%), any additional reductions
219 required to be made under this subsection (2) shall consist of a
220 uniform percentage reduction of general funds and state-source
221 special funds to all general fund and special fund agencies and to
222 the "administration and other expenses" budget of the Mississippi
223 Department of Transportation. Any receipt from loans authorized
224 by Sections 31-17-101 through 31-17-123 shall not be included as
225 revenue receipts.

226 The State Fiscal Officer shall immediately send notice of any
227 action taken under authority of this subsection (2) to the
228 Legislative Budget Office.

229 The provisions of this subsection (2) requiring the State
230 Fiscal Officer to reduce allocations of general funds and
231 state-source special funds to general fund and special fund
232 agencies and to the "administration and other expenses" budget of
233 the Mississippi Department of Transportation shall be suspended
234 during the period from the effective date of this act through June
235 30, 2006.

236 (3) For the purpose of this section, the term
237 "state-source special funds" means any special funds in any agency
238 derived from any source, including any court-ordered settlement
239 payments or other payments received by a state general-fund agency
240 or special-fund agency as the result of litigation, but shall not
241 include the following special funds: special funds derived from
242 federal sources, from local or regional political subdivisions,
243 from agricultural commodity assessments, or from donations;
244 special funds held in a fiduciary capacity for the benefit of
245 specific persons or classes of persons; self-generated special
246 funds of the state institutions of higher learning or the state
247 community or junior colleges; special funds of Mississippi
248 Industries for the Blind, the State Port at Gulfport, Yellow Creek
249 Inland Port, Pat Harrison Waterway District, Pearl River Basin
250 Development District, Pearl River Valley Water Management
251 District, Tombigbee River Valley Water Management District, Yellow
252 Creek Watershed Authority, or Coast Coliseum Commission; special
253 funds of the Department of Wildlife, Fisheries and Parks derived
254 from the issuance of hunting or fishing licenses; and special
255 funds generated by agencies whose primary function includes the
256 establishment of standards and the issuance of licenses for the
257 practice of a profession within the State of Mississippi.

258 **SECTION 4.** This act shall take effect and be in force from
259 and after its passage.