

March 27, 2006

TO THE MISSISSIPPI HOUSE OF REPRESENTATIVES:

GOVERNOR'S VETO MESSAGE FOR HOUSE BILL 1115

I am returning House Bill 1115: "AN ACT TO AMEND SECTION 43-13-403, MISSISSIPPI CODE OF 1972, TO DEFINE CERTAIN TERMS IN THE HEALTH CARE TRUST FUND LAW; TO AMEND SECTION 43-13-405, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT ALL TOBACCO SETTLEMENT INSTALLMENT PAYMENTS MADE TO THE STATE SHALL BE DEPOSITED INTO THE HEALTH CARE TRUST FUND, INCLUDING ANY SETTLEMENT PAYMENTS MADE UNDER COURT ORDER FOR TOBACCO CESSATION PROGRAMS, EXCEPT AS OTHERWISE PROVIDED IN THIS ACT; TO EXTEND THE DATE OF THE REPEALER ON THAT SECTION; TO AMEND SECTION 43-13-407, MISSISSIPPI CODE OF 1972, TO DIRECT THE LEGISLATURE TO APPROPRIATE A CERTAIN SUM ANNUALLY FROM THE TOBACCO SETTLEMENT PAYMENTS TO THE PARTNERSHIP FOR A HEALTHY MISSISSIPPI TO FUND A COMPREHENSIVE STATEWIDE TOBACCO EDUCATION AND PREVENTION PROGRAM; TO SPECIFY THE MINIMUM COMPONENTS OF THE PROGRAM; TO EXTEND THE DATE OF THE REPEALER ON THAT SECTION; TO AMEND SECTION 43-13-409, MISSISSIPPI CODE OF 1972, TO EXPAND THE MEMBERSHIP OF THE BOARD OF DIRECTORS OF THE HEALTH CARE TRUST FUND; TO PROVIDE THAT THE BOARD SHALL REVIEW THE EXPENDITURES AND OUTCOMES OF THE PARTNERSHIP FOR A HEALTHY MISSISSIPPI; TO REQUIRE THE PARTNERSHIP TO PREPARE AN ANNUAL REPORT FOR THE BOARD; AND FOR RELATED PURPOSES" without my approval, and assign the following reasons for my veto.

After full consideration, I am vetoing House Bill 1115, which would require the Legislature to give in perpetuity \$20,000,000 a year, increased annually for inflation, of state funds received under the 1997 tobacco settlement to a private non-profit corporation, the Partnership for a Healthy Mississippi. This legislation represents a flawed approach to the worthy goal of stopping teenage smoking.

From its inception, the Partnership for a Healthy Mississippi has been cloaked in politics and cronyism. In 2000, a Jackson County Chancery Court judge gave the Partnership \$20 million a year off the top of tobacco lawsuit proceeds without any motion being filed, without any notice to the parties involved and without even holding a hearing – all contrary to accepted rules of court procedure.

On November 6, 2003, the Legislature's Committee on Performance Evaluation and Expenditure Review (PEER) found the 2000 court order granting state money to the Partnership was not in accordance with the law and recommended the Attorney General seek to overturn the Chancery Court's order. Neither Attorney General Moore nor Attorney General Hood has followed this counsel.

Therefore, I joined the Division of Medicaid and the State Treasurer, who acted on behalf of the Health Care Trust Fund, in taking legal action to end the unconstitutional diversion of public funds to this private organization. A court has put this year's diversion of another \$20 million on hold until the lawsuit can be heard. The proponents of this legislation claim House Bill 1115 will end the concerns about the Partnership and its use of taxpayer dollars. I disagree. Many questions still remain.

First, the Partnership has received approximately \$100 million over the past five years (an annual amount twice as much as Mississippi spends fighting the scourge of illegal drugs), and there has never been an accounting given to the Legislature, the Governor, the Health Care Trust Fund Board, or the taxpayers of how the Partnership has spent this \$100 million. While it is claimed that the Partnership is audited, no certified audit of the Partnership's use of the state's money has ever been provided.

Second, there is no mechanism in House Bill 1115 to prevent the waste and abuse of taxpayer dollars by the Partnership. For example, the Partnership spent \$20,000 on a newspaper ad that ran in newspapers across the state that had nothing to do with keeping youth from smoking. Instead, it was an ad praising former Attorney General Mike Moore for winning an award. In addition, the Partnership has awarded monetary grants which are tinged with politics such as the \$2.9 million given by the Partnership to the Legislative Black Caucus' foundation. These actions raise the question in many people's minds of whether the Partnership's priorities are more focused on politics than on stopping kids from smoking.

Competing for funds in the annual appropriations process holds state agencies accountable to the Legislature in how they spend taxpayer dollars. Under House Bill 1115, the Partnership's \$20 million annual appropriation is perpetual, year after year, as if on auto-pilot, plus inflation. There are no perpetual appropriations in Mississippi government for any department or agency. Further, under House Bill 1115, the Partnership would not be subject to the State Personnel Board or the public bid laws. No other state agency receives such a sweetheart deal, and as long as I'm Governor, they won't.

There is also uncertainty about the constitutionality of how House Bill 1115 passed the Legislature. The bill requires the Legislature to appropriate \$20,000,000 in perpetuity. This is an attempt to unconstitutionally appropriate money beyond the upcoming fiscal year which the Mississippi Constitution prohibits. In addition, this legislation makes a donation to a private entity, which requires a 2/3 vote of the Legislature under the constitution. House Bill 1115 did not pass either House of the Legislature by that margin.

The bottom line is that Mississippi's taxpayers should not have to rely on an unaccountable private organization like the Partnership for a Healthy Mississippi to fight youth smoking. Mississippi needs a new, comprehensive approach to fighting tobacco, and the diseases it causes, which builds on the things the Partnership has done well, but includes oversight to prevent the waste, abuse, and politicizing of public health efforts.

I have proposed a constitutional and comprehensive program to reduce youth smoking and to fight the scourge of illegal drugs, while improving health care not only for our school children but for all Mississippians. I have asked the Legislature to appropriate the previously diverted \$20 million out of the Health Care Expendable Fund through the annual appropriations process to expand

the school nurse Program; to maintain anti-tobacco education and advertising; to expand cancer research, screening, education, and treatment; and to increase the state's support for the fight against drugs.

For these reasons, I urge the members to reject House Bill 1115 and sustain the veto.

Respectfully submitted,

Haley Barbour  
Governor