

By: Representative Chism

To: Appropriations

HOUSE BILL NO. 377

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) All income from the investment of the funds in the
36 Health Care Expendable Fund shall be credited to the account of
37 the Health Care Expendable Fund. Any funds in the Health Care
38 Expendable Fund at the end of a fiscal year shall not lapse into
39 the State General Fund.

40 (4) The funds in the Health Care Expendable Fund shall be
41 available for expenditure pursuant to specific appropriation by
42 the Legislature beginning in fiscal year 2000, and shall be
43 expended exclusively for health care purposes.

44 (5) The Attorney General of the State of Mississippi shall
45 not petition any court or other agency to order any portion of the
46 tobacco settlement monies to be diverted or deposited into any
47 account, person, agency or corporation other than into the State
48 Treasury to the credit of the Health Care Expendable Fund
49 established under this section. No chancellor or judge of this
50 state shall order any portion of the tobacco settlement monies to
51 be diverted or deposited into any account, person, agency or
52 corporation other than into the State Treasury to the credit of
53 the Health Care Expendable Fund established under this section.

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

56 27-103-103. (1) For the purpose of Sections 27-103-101
57 through 27-103-139 and 27-104-1 through 27-104-27, the term "state
58 general-fund agency" or "general-fund agency" shall mean any
59 agency, department, institution, board or commission of the State
60 of Mississippi which is supported in whole or in part by
61 appropriations from the General Fund; but such term shall not
62 include the Legislature.



63 (2) For the purposes of Sections 27-103-101 through
64 27-103-139 and 27-104-1 through 27-104-27, the term "state
65 special-fund agency" or "special-fund agency" shall mean any
66 agency, department, institution, board or commission of the State
67 of Mississippi which receives no appropriation from the General
68 Fund, but which is supported entirely from special fund sources,
69 by appropriation, or otherwise, but such term shall not include
70 the State Highway Department; nor shall such term include the
71 Mississippi Industries for the Blind.

72 (3) For the purposes of Sections 27-103-101 through
73 27-103-139 and 27-104-1 through 27-104-27, the term "state agency"
74 shall mean any general fund agency or special fund agency as
75 defined in this section, or the State Highway Department, or the
76 Division of State Aid Road Construction of the State Highway
77 Department as is evident from the context wherein it is used.

78 (4) For the purposes of Sections 27-103-101 through
79 27-103-139 and 27-104-1 through 27-104-27, the term "special
80 funds" shall mean all revenues and/or income other than
81 appropriations from the State General Fund which are received,
82 collected by, or available for the support of or expenditure by
83 any state general-fund agency or special-fund agency or the State
84 Highway Department or the Division of State Aid Road Construction
85 of the State Highway Department, whether such funds be derived
86 from taxes or fees collected by or for such general-fund agency or
87 special-fund agency or the State Highway Department or the
88 Division of State Aid Road Construction of the State Highway
89 Department, as the case may be, or from any other types of revenue
90 from any other source.

91 (5) For the purposes of Sections 27-103-101 through
92 27-103-139 and 27-104-1 through 27-104-27, the term "special
93 funds" shall include revolving funds and all funds received from
94 the United States Government by any state general-fund agency or
95 special-fund agency, but shall not include any revolving fund



96 established prior to July 1, 1984, for the purpose of paying or
97 retiring any indebtedness as is authorized by statute.

98 (6) For the purposes of Sections 27-103-101 through
99 27-103-139 and 27-104-1 through 27-104-27, the term "special
100 funds" shall include any court-ordered settlement payments or
101 other payments received by any state general-fund agency or
102 special-fund agency as the result of litigation.

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

105 27-104-13. The State Fiscal Officer shall have the right to
106 disapprove or reduce and revise such estimates of general funds
107 and state-source special funds for any general fund or special
108 fund agency, and for the "administration and other expenses"
109 budget of the State Highway Department, in an amount not to exceed
110 five percent (5%) if he finds that funds will not be available
111 within the period for which the budget is drawn, or if he finds
112 that the requested expenditures, or any part thereof, are not
113 authorized by law, and such action shall be reported to the
114 Legislative Budget Office. The State Fiscal Officer may, upon his
115 determination of need based upon a finding that funds will not be
116 available within the period for which the budget is drawn,
117 transfer funds as provided in Section 27-103-203, from the Working
118 Cash-Stabilization Reserve Fund to the General Fund to supplement
119 the general fund revenue. In the event that the estimates of
120 general funds and state-source special funds of all general fund
121 and special fund agencies, and of the "administration and other
122 expenses" budget of the State Highway Department, have been
123 reduced by five percent (5%), additional reductions may be made
124 but shall consist of a uniform percentage reduction of general
125 funds and state-source special funds to all general fund and
126 special fund agencies, and to the "administration and other
127 expenses" budget of the State Highway Department. Any
128 state-source special funds reduced under the provisions of this



129 section shall be transferred to the State General Fund upon
130 requisitions for warrants signed by the respective agency head and
131 said transfer shall be made within a reasonable period to be
132 determined by the State Fiscal Officer.

133 For the purpose of this section, "state-source special funds"
134 shall be construed to mean any special funds in any agency derived
135 from any source, including any court-ordered settlement payments
136 or other payments received by a state general-fund agency or
137 special-fund agency as the result of litigation, but shall not
138 include the following special funds: special funds derived from
139 federal sources, from local or regional political subdivisions, or
140 from donations; special funds held in a fiduciary capacity for the
141 benefit of specific persons or classes of persons; self-generated
142 special funds of the state institutions of higher learning or the
143 state junior colleges; special funds of Mississippi Industries for
144 the Blind, the State Port at Gulfport, Yellow Creek Inland Port,
145 Pat Harrison Waterway District, Pearl River Basin Development
146 District, Pearl River Valley Water Management District, Tombigbee
147 River Valley Water Management District, Yellow Creek Watershed
148 Authority, or Coast Coliseum Commission; special funds of the
149 Department of Wildlife, Fisheries and Parks derived from the
150 issuance of hunting or fishing licenses; and special funds
151 generated by agencies whose primary function includes the
152 establishment of standards and the issuance of licenses for the
153 practice of a profession within the State of Mississippi.

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

156 31-17-123. The intent of the Legislature is to authorize
157 borrowing funds under the provisions of Sections 31-17-101 through
158 31-17-123 to offset any temporary cash flow deficiencies and
159 should not be construed to authorize the borrowing of any funds in
160 an amount which cannot be repaid during the fiscal year in which
161 such funds are borrowed. The State Tax Commission and University



162 Research Center, utilizing all available revenue forecast data,
163 shall annually develop a general fund revenue estimate to be
164 adopted by the Legislative Budget Office as of the date of sine
165 die adjournment. If, at the end of October, or at the end of any
166 month thereafter of any fiscal year, the revenues received for the
167 fiscal year shall fall below ninety-eight percent (98%) of the
168 Legislative Budget Office general fund revenue estimate at the
169 date of sine die adjournment, the State Fiscal Officer shall
170 reduce allocations of general funds and state-source special funds
171 to general fund and special fund agencies and to the
172 "administration and other expenses" budget of the State Highway
173 Department in an amount necessary to keep expenditures within the
174 sum of actual general fund receipts including any transfers to the
175 General Fund from the Working Cash-Stabilization Reserve Fund for
176 the fiscal year. The State Fiscal Officer may, upon his
177 determination of need based on the revenue shortfall, transfer
178 funds as provided in Section 27-103-203, from the Working
179 Cash-Stabilization Reserve Fund to the General Fund to supplement
180 the general fund revenue. State-source special funds in an amount
181 equal to any reduction made under the provisions of this section
182 shall be transferred to the State General Fund upon requisitions
183 for warrants signed by the respective agency head and such
184 transfer shall be made within a reasonable period to be determined
185 by the State Fiscal Officer. No agency's allocation shall be
186 reduced in an amount to exceed five percent (5%); however, in the
187 event that the allocations of general funds and state-source
188 special funds to all general fund and special fund agencies and to
189 the "administration and other expenses" budget of the State
190 Highway Department have been reduced by five percent (5%), any
191 additional reductions required to be made hereunder shall consist
192 of a uniform percentage reduction of general funds and
193 state-source special funds to all general fund and special fund
194 agencies, and to the "administration and other expenses" budget of



195 the State Highway Department. Any receipt from loans authorized
196 by Sections 31-17-101 through 31-17-123 shall not be included as
197 revenue receipts. The State Fiscal Officer shall immediately send
198 notice of any action taken under authority of this section to the
199 Legislative Budget Office.

200 For the purpose of this section, "state-source special funds"
201 shall be construed to mean any special funds in any agency derived
202 from any source, including any court-ordered settlement payments
203 or other payments received by a state general-fund agency or
204 special-fund agency as the result of litigation, but shall not
205 include the following special funds: special funds derived from
206 federal sources, from local or regional political subdivisions, or
207 from donations; special funds held in a fiduciary capacity for the
208 benefit of specific persons or classes of persons; self-generated
209 special funds of the state institutions of higher learning or the
210 state junior colleges; special funds of Mississippi Industries for
211 the Blind, the State Port at Gulfport, Yellow Creek Inland Port,
212 Pat Harrison Waterway District, Pearl River Basin Development
213 District, Pearl River Valley Water Management District, Tombigbee
214 River Valley Water Management District, Yellow Creek Watershed
215 Authority, or Coast Coliseum Commission; special funds of the
216 Department of Wildlife, Fisheries and Parks derived from the
217 issuance of hunting or fishing licenses; and special funds
218 generated by agencies whose primary function includes the
219 establishment of standards and the issuance of licenses for the
220 practice of a profession within the State of Mississippi.

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

