

By: Representative Reeves

To: Public Health and Human  
Services; Appropriations

## HOUSE BILL NO. 772

1 AN ACT TO AMEND SECTION 43-13-405, MISSISSIPPI CODE OF 1972,  
2 TO RATIFY AND APPROVE THE ORDER OF THE CHANCERY COURT OF JACKSON  
3 COUNTY THAT ORDERED THE PAYMENT OF \$20,000,000.00 EACH YEAR FROM  
4 THE TOBACCO SETTLEMENT PAYMENTS TO THE PARTNERSHIP FOR A HEALTHY  
5 MISSISSIPPI, INC., TO BE USED BY THE PARTNERSHIP TO REDUCE TOBACCO  
6 USE AND OTHER SUBSTANCE ABUSE BY YOUTH; TO PROVIDE THAT THOSE  
7 FUNDS PAID TO THE PARTNERSHIP UNDER THE COURT ORDER SHALL NOT BE  
8 CONSIDERED TO BE TRUST FUNDS THAT ARE REQUIRED TO BE PAID INTO THE  
9 HEALTH CARE TRUST FUND; TO DELETE THE REPEALER ON THAT SECTION; TO  
10 AMEND SECTIONS 27-103-103, 27-104-13 AND 31-17-123, MISSISSIPPI  
11 CODE OF 1972, TO PROVIDE THAT FUNDS PAID TO THE PARTNERSHIP FOR A  
12 HEALTHY MISSISSIPPI, INC., UNDER THE ORDER OF THE CHANCERY COURT  
13 OF JACKSON COUNTY SHALL NOT BE CONSIDERED TO BE SPECIAL FUNDS THAT  
14 ARE SUBJECT TO BUDGETING AND LEGISLATIVE APPROPRIATION; AND FOR  
15 RELATED PURPOSES.

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

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

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

33           (2) The Health Care Trust Fund shall remain inviolate and  
34 shall never be expended, except as provided in this article. The  
35 Legislature shall appropriate from the Health Care Trust Fund such  
36 sums as are necessary to recoup any funds lost as a result of any  
37 of the following actions:

38           (a) The federal Centers for Medicare and Medicaid  
39 Services, or other agency of the federal government, is successful  
40 in recouping tobacco settlement funds from the State of  
41 Mississippi;

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

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

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

49           (3) The Legislature ratifies and approves the December 22,  
50 2000, order of the Chancery Court of Jackson County, Mississippi,  
51 in the case of *In Re Mike Moore, Attorney General, ex rel. State*  
52 *of Mississippi Tobacco Litigation* (Cause No. 94-1429), in which  
53 the court ordered the payment of Twenty Million Dollars  
54 (\$20,000,000.00) each year from the tobacco settlement payments to  
55 the Partnership for a Healthy Mississippi, Inc., a Mississippi  
56 nonprofit corporation, to be used by the Partnership to reduce  
57 tobacco use and other substance abuse by youth. Those funds paid  
58 to the Partnership under the December 22, 2000, court order shall  
59 not be considered to be trust funds that are required to be paid  
60 into the Health Care Trust Fund.

61           \* \* \*

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

64           27-103-103. (1) For the purpose of Sections 27-103-101  
65 through 27-103-139 and 27-104-1 through 27-104-27, the term "state

66 general-fund agency" or "general-fund agency" \* \* \* means any  
67 agency, department, institution, board or commission of the State  
68 of Mississippi that is supported in whole or in part by  
69 appropriations from the General Fund; but the term does not  
70 include the Legislature.

71 (2) For the purposes of Sections 27-103-101 through  
72 27-103-139 and 27-104-1 through 27-104-27, the term "state  
73 special-fund agency" or "special-fund agency" \* \* \* means any  
74 agency, department, institution, board or commission of the State  
75 of Mississippi that receives no appropriation from the General  
76 Fund, but that is supported entirely from special-fund sources, by  
77 appropriation, or otherwise, but the term does not include the  
78 Mississippi Department of Transportation; nor does the term  
79 include the Mississippi Industries for the Blind.

80 (3) For the purposes of Sections 27-103-101 through  
81 27-103-139 and 27-104-1 through 27-104-27, the term "state  
82 agency" \* \* \* means any general-fund agency or special-fund agency  
83 as defined in this section, or the Mississippi Department of  
84 Transportation, or the Office of State Aid Road Construction of  
85 the Mississippi Department of Transportation, as is evident from  
86 the context in which it is used.

87 (4) For the purposes of Sections 27-103-101 through  
88 27-103-139 and 27-104-1 through 27-104-27, the term "special  
89 funds" \* \* \* means all revenues and/or income other than  
90 appropriations from the State General Fund that are received,  
91 collected by, or available for the support of or expenditure by  
92 any state general-fund agency or special-fund agency, or the  
93 Mississippi Department of Transportation, or the Office of State  
94 Aid Road Construction of the Mississippi Department of  
95 Transportation, whether those funds are derived from taxes or fees  
96 collected by or for the general-fund agency or special-fund  
97 agency, or the Mississippi Department of Transportation, or the  
98 Office of State Aid Road Construction of the Mississippi

99 Department of Transportation, as the case may be, or from any  
100 other types of revenue from any other source.

101 (5) For the purposes of Sections 27-103-101 through  
102 27-103-139 and 27-104-1 through 27-104-27, the term "special  
103 funds" \* \* \* includes revolving funds and all funds received from  
104 the United States Government by any state general-fund agency or  
105 special-fund agency, but does not include any revolving fund  
106 established before July 1, 1984, for the purpose of paying or  
107 retiring any indebtedness as is authorized by statute.

108 (6) For the purposes of Sections 27-103-101 through  
109 27-103-139 and 27-104-1 through 27-104-27, the term "special  
110 funds" does not include any funds paid to the Partnership for a  
111 Healthy Mississippi, Inc., under the December 22, 2000, order of  
112 the Chancery Court of Jackson County, Mississippi, in the case of  
113 In Re Mike Moore, Attorney General, ex rel. State of Mississippi  
114 Tobacco Litigation (Cause No. 94-1429).

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

117 27-104-13. The State Fiscal Officer shall have the right to  
118 disapprove or reduce and revise the estimates of general funds and  
119 state-source special funds for any general-fund or special-fund  
120 agency, and for the "administration and other expenses" budget of  
121 the Mississippi Department of Transportation, in an amount not to  
122 exceed five percent (5%), if he finds that funds will not be  
123 available within the period for which the budget is drawn, or if  
124 he finds that the requested expenditures, or any part thereof, are  
125 not authorized by law, and that action shall be reported to the  
126 Legislative Budget Office. The State Fiscal Officer may, upon his  
127 determination of need based upon a finding that funds will not be  
128 available within the period for which the budget is drawn,  
129 transfer funds as provided in Section 27-103-203 from the Working  
130 Cash-Stabilization Reserve Fund to the General Fund to supplement  
131 the general-fund revenue. If the estimates of general funds and

132 state-source special funds of all general-fund and special-fund  
133 agencies, and of the "administration and other expenses" budget of  
134 the Mississippi Department of Transportation, have been reduced by  
135 five percent (5%), additional reductions may be made, but shall  
136 consist of a uniform percentage reduction of general funds and  
137 state-source special funds to all general-fund and special-fund  
138 agencies, and to the "administration and other expenses" budget of  
139 the Mississippi Department of Transportation. Any state-source  
140 special funds reduced under the provisions of this section shall  
141 be transferred to the State General Fund upon requisitions for  
142 warrants signed by the respective agency head, and the transfer  
143 shall be made within a reasonable period to be determined by the  
144 State Fiscal Officer.

145 For the purpose of this section, "state-source special funds"  
146 shall be construed to mean any special funds in any agency derived  
147 from any source, but shall not include the following special  
148 funds: special funds derived from federal sources, from local or  
149 regional political subdivisions, or from donations; special funds  
150 held in a fiduciary capacity for the benefit of specific persons  
151 or classes of persons; self-generated special funds of the state  
152 institutions of higher learning or the state community or junior  
153 colleges; special funds of Mississippi Industries for the Blind,  
154 the State Port at Gulfport, Yellow Creek Inland Port, Pat Harrison  
155 Waterway District, Pearl River Basin Development District, Pearl  
156 River Valley Water Management District, Tombigbee River Valley  
157 Water Management District, Yellow Creek Watershed Authority, or  
158 Coast Coliseum Commission; special funds of the Department of  
159 Wildlife, Fisheries and Parks derived from the issuance of hunting  
160 or fishing licenses; \* \* \* special funds generated by agencies  
161 whose primary function includes the establishment of standards and  
162 the issuance of licenses for the practice of a profession within  
163 the State of Mississippi; and funds paid to the Partnership for a  
164 Healthy Mississippi, Inc., under the December 22, 2000, order of

165 the Chancery Court of Jackson County, Mississippi, in the case of  
166 In Re Mike Moore, Attorney General, ex rel. State of Mississippi  
167 Tobacco Litigation (Cause No. 94-1429).

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

170         31-17-123. The intent of the Legislature is to authorize  
171 borrowing funds under the provisions of Sections 31-17-101 through  
172 31-17-123 to offset any temporary cash flow deficiencies and  
173 should not be construed to authorize the borrowing of any funds in  
174 an amount that cannot be repaid during the fiscal year in which  
175 the funds are borrowed.

176         The State Tax Commission and University Research Center,  
177 utilizing all available revenue forecast data, shall annually  
178 develop a general fund revenue estimate to be adopted by the  
179 Legislative Budget Office as of the date of sine die adjournment.  
180 If, at the end of October, or at the end of any month thereafter  
181 of any fiscal year, the revenues received for the fiscal  
182 year \* \* \* fall below ninety-eight percent (98%) of the  
183 Legislative Budget Office general fund revenue estimate at the  
184 date of sine die adjournment, the State Fiscal Officer shall  
185 reduce allocations of general funds and state-source special funds  
186 to general fund and special fund agencies, and to the  
187 "administration and other expenses" budget of the Mississippi  
188 Department of Transportation, in an amount necessary to keep  
189 expenditures within the sum of actual general fund receipts,  
190 including any transfers to the General Fund from the Working  
191 Cash-Stabilization Reserve Fund for the fiscal year. The State  
192 Fiscal Officer may, upon his determination of need based on the  
193 revenue shortfall, transfer funds as provided in Section  
194 27-103-203 from the Working Cash-Stabilization Reserve Fund to the  
195 General Fund to supplement the general fund revenue. State-source  
196 special funds in an amount equal to any reduction made under the  
197 provisions of this section shall be transferred to the State

198 General Fund upon requisitions for warrants signed by the  
199 respective agency head, and the transfer shall be made within a  
200 reasonable period to be determined by the State Fiscal Officer.  
201 No agency's allocation shall be reduced in an amount to exceed  
202 five percent (5%); however, if the allocations of general funds  
203 and state-source special funds to all general fund and special  
204 fund agencies, and to the "administration and other expenses"  
205 budget of the Mississippi Department of Transportation, have been  
206 reduced by five percent (5%), any additional reductions required  
207 to be made under this section shall consist of a uniform  
208 percentage reduction of general funds and state-source special  
209 funds to all general fund and special fund agencies, and to the  
210 "administration and other expenses" budget of the Mississippi  
211 Department of Transportation. Any receipt from loans authorized  
212 by Sections 31-17-101 through 31-17-123 shall not be included as  
213 revenue receipts. The State Fiscal Officer shall immediately send  
214 notice of any action taken under authority of this section to the  
215 Legislative Budget Office.

216 For the purpose of this section, "state-source special funds"  
217 shall be construed to mean any special funds in any agency derived  
218 from any source, but shall not include the following special  
219 funds: special funds derived from federal sources, from local or  
220 regional political subdivisions, or from donations; special funds  
221 held in a fiduciary capacity for the benefit of specific persons  
222 or classes of persons; self-generated special funds of the state  
223 institutions of higher learning or the state community or junior  
224 colleges; special funds of Mississippi Industries for the Blind,  
225 the State Port at Gulfport, Yellow Creek Inland Port, Pat Harrison  
226 Waterway District, Pearl River Basin Development District, Pearl  
227 River Valley Water Management District, Tombigbee River Valley  
228 Water Management District, Yellow Creek Watershed Authority, or  
229 Coast Coliseum Commission; special funds of the Department of  
230 Wildlife, Fisheries and Parks derived from the issuance of hunting

231 or fishing licenses; \* \* \* special funds generated by agencies  
232 whose primary function includes the establishment of standards and  
233 the issuance of licenses for the practice of a profession within  
234 the State of Mississippi; and funds paid to the Partnership for a  
235 Healthy Mississippi, Inc., under the December 22, 2000, order of  
236 the Chancery Court of Jackson County, Mississippi, in the case of  
237 In Re Mike Moore, Attorney General, ex rel. State of Mississippi  
238 Tobacco Litigation (Cause No. 94-1429).

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