

By: Senator(s) Chaney

To: Appropriations

SENATE BILL NO. 2294

1 AN ACT TO PROHIBIT THE OFFICE OF ATTORNEY GENERAL FROM
 2 EXPENDING ANY FUNDS UNTIL CERTAIN REPORTS REGARDING THE OPERATION
 3 OF THE PARTNERSHIP FOR A HEALTHY MISSISSIPPI, INC., ARE CERTIFIED
 4 BY THE STATE AUDITOR AND CERTAIN PAYMENTS TO THIS CORPORATION ARE
 5 TRANSFERRED TO THE HEALTH CARE EXPENDABLE FUND; TO AMEND SECTION
 6 43-13-407, MISSISSIPPI CODE OF 1972, TO REQUIRE ANY COURT-ORDERED
 7 TOBACCO LITIGATION SETTLEMENT PAYMENT TO BE PAID INTO THE STATE
 8 TREASURY TO THE CREDIT OF THE HEALTH CARE EXPENDABLE FUND CREATED
 9 BY THE LEGISLATURE; TO AMEND SECTIONS 27-103-103, 27-104-13 AND
 10 31-17-123, MISSISSIPPI CODE OF 1972, TO CLARIFY THAT COURT-ORDERED
 11 PAYMENTS TO ANY STATE AGENCY SHALL BE CONSIDERED "STATE-SOURCE
 12 SPECIAL FUNDS" AND SUBJECT TO BUDGETING AND LEGISLATIVE
 13 APPROPRIATION; AND FOR RELATED PURPOSES.

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

15 **SECTION 1.** None of the funds appropriated by the Legislature
 16 to the Office of Attorney General shall be expended by the Office
 17 of Attorney General until the Attorney General of the State of
 18 Mississippi files a certified report with the State Auditor
 19 itemizing all bank accounts and balances of such accounts which
 20 are maintained by the Office of Attorney General or the
 21 Partnership for a Healthy Mississippi, Inc., outside of the State
 22 Treasury, including, but not limited to, any court-ordered tobacco
 23 settlement monies, court-ordered gas refund settlement monies, and
 24 any other monies paid to the Attorney General pursuant to
 25 litigation agreement, and all such funds shall be verified and
 26 subject to audit by the State Auditor. The State Auditor shall
 27 immediately forward this report to the Joint Legislative Budget
 28 Committee. In addition, none of the funds appropriated by the
 29 Legislature to the Office of Attorney General shall be expended
 30 until the Attorney General has petitioned the Chancery Court of
 31 Jackson County, Mississippi, to amend its December 2000 order to
 32 immediately transfer Forty Million Dollars (\$40,000,000.00) of the

33 tobacco settlement monies from the account of the Partnership for
34 a Healthy Mississippi, Inc., to the Health Care Expendable Fund,
35 and to order that all future annual diversions of tobacco
36 settlement monies into such account shall likewise be paid into
37 the Health Care Expendable Fund.

38 **SECTION 2.** Section 43-13-407, Mississippi Code of 1972, is
39 amended as follows:

40 43-13-407. (1) In accordance with the purposes of this
41 article, there is established in the State Treasury the Health
42 Care Expendable Fund, into which shall be transferred from the
43 Health Care Trust Fund the following sums:

44 (a) In fiscal year 2000, Fifty Million Dollars
45 (\$50,000,000.00);

46 (b) In fiscal year 2001, Fifty-five Million Dollars
47 (\$55,000,000.00);

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

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

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

56 (2) In any fiscal year in which interest and dividends from
57 the investment of the funds in the Health Care Trust Fund are not
58 sufficient to fund the full amount of the annual transfer into the
59 Health Care Expendable Fund as required in subsection (1) of this
60 section, the State Treasurer shall transfer from tobacco
61 settlement installment payments an amount that is sufficient to
62 fully fund the amount of the annual transfer.

63 (3) (a) On March 6, 2002, the State Treasurer shall
64 transfer the sum of Eighty-seven Million Dollars (\$87,000,000.00)
65 from the Health Care Trust Fund into the Health Care Expendable

66 Fund. In addition, at the time the State of Mississippi receives
67 the 2002 calendar year tobacco settlement installment payment, the
68 State Treasurer shall deposit the full amount of that installment
69 payment into the Health Care Expendable Fund, and at the time the
70 State of Mississippi receives the 2003 calendar year tobacco
71 settlement installment payment, the State Treasurer shall deposit
72 the full amount of that installment payment into the Health Care
73 Expendable Fund.

74 (b) If during any fiscal year after March 6, 2002, the
75 general fund revenues received by the state exceed the general
76 fund revenues received during the previous fiscal year by more
77 than five percent (5%), the Legislature shall repay to the Health
78 Care Trust Fund one-third (1/3) of the amount of the general fund
79 revenues that exceed the five percent (5%) growth in general fund
80 revenues. The repayment required by this paragraph shall continue
81 in each fiscal year in which there is more than five percent (5%)
82 growth in general fund revenues, until the full amount of the
83 funds that were transferred and deposited into the Health Care
84 Expendable Fund under the provisions of paragraph (a) of this
85 subsection have been repaid to the Health Care Trust Fund.

86 (4) All income from the investment of the funds in the
87 Health Care Expendable Fund shall be credited to the account of
88 the Health Care Expendable Fund. Any funds in the Health Care
89 Expendable Fund at the end of a fiscal year shall not lapse into
90 the State General Fund.

91 (5) The Attorney General of the State of Mississippi shall
92 not petition any court or other agency to order any portion of the
93 tobacco settlement monies to be diverted or deposited into any
94 account, person, agency or corporation other than into the State
95 Treasury to the credit of the Health Care Expendable Fund
96 established under this Section 43-13-407. From and after December
97 20, 2000, no chancellor or judge of this state shall order any
98 portion of the tobacco settlement monies to be diverted or

99 deposited into any account, person, agency or corporation other
100 than into the State Treasury to the credit of the Health Care
101 Expendable Fund established under this Section 43-13-407, and any
102 such order which is not in compliance with this subsection (5) is
103 hereby abated and of no effect. This subsection (5) specifically
104 applies to any court-ordered payments to the Partnership for a
105 Healthy Mississippi, Inc. None of the funds appropriated by the
106 Legislature to the Office of Attorney General for fiscal year
107 2004, or subsequent fiscal years, shall be expended until the
108 Attorney General has petitioned the Chancery Court of Jackson
109 County, Mississippi, to amend its December 2000 order to
110 immediately transfer Forty Million Dollars (\$40,000,000.00) of the
111 tobacco settlement monies from the account of the Partnership for
112 a Healthy Mississippi, Inc., to the Health Care Expendable Fund,
113 and to order that all future annual diversions of tobacco
114 settlement monies into such account shall likewise be paid into
115 the Health Care Expendable Fund. In the event that the Attorney
116 General does not seek dissolution of the said order, the Board of
117 Directors for the Health Care Trust Fund and Expendable Fund is
118 hereby empowered and directed to employ counsel as necessary to
119 pursue any civil action necessary to either set aside the order or
120 proceed against any person or persons who may have violated their
121 fiduciary duty to the trust by advocating the order directing the
122 payment of Twenty Million Dollars (\$20,000,000.00) and subsequent
123 payments to the Partnership for a Health Mississippi.

124 (6) Subsections (1), (2), (4) and (5) of this section shall
125 stand repealed on July 1, 2004.

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

128 27-103-103. (1) For the purpose of Sections 27-103-101
129 through 27-103-139 and 27-104-1 through 27-104-27, the term "state
130 general-fund agency" or "general-fund agency" shall mean any
131 agency, department, institution, board or commission of the State

132 of Mississippi which is supported in whole or in part by
133 appropriations from the General Fund; but such term shall not
134 include the Legislature.

135 (2) For the purposes of Sections 27-103-101 through
136 27-103-139 and 27-104-1 through 27-104-27, the term "state
137 special-fund agency" or "special-fund agency" shall mean any
138 agency, department, institution, board or commission of the State
139 of Mississippi which receives no appropriation from the General
140 Fund, but which is supported entirely from special fund sources,
141 by appropriation, or otherwise, but such term shall not include
142 the State Highway Department; nor shall such term include the
143 Mississippi Industries for the Blind.

144 (3) For the purposes of Sections 27-103-101 through
145 27-103-139 and 27-104-1 through 27-104-27, the term "state agency"
146 shall mean any general-fund agency or special-fund agency as
147 defined in this section, or the State Highway Department, or the
148 Division of State Aid Road Construction of the State Highway
149 Department as is evident from the context wherein it is used.

150 (4) For the purposes of Sections 27-103-101 through
151 27-103-139 and 27-104-1 through 27-104-27, the term "special
152 funds" shall mean all revenues and/or income other than
153 appropriations from the State General Fund which are received,
154 collected by, or available for the support of or expenditure by
155 any state general-fund agency or special-fund agency or the State
156 Highway Department or the Division of State Aid Road Construction
157 of the State Highway Department, whether such funds be derived
158 from taxes or fees collected by or for such general-fund agency or
159 special-fund agency or the State Highway Department or the
160 Division of State Aid Road Construction of the State Highway
161 Department, as the case may be, or from any other types of revenue
162 from any other source.

163 (5) For the purposes of Sections 27-103-101 through
164 27-103-139 and 27-104-1 through 27-104-27, the term "special

165 funds" shall include revolving funds and all funds received from
166 the United States government by any state general-fund agency or
167 special-fund agency, but shall not include any revolving fund
168 established prior to July 1, 1984, for the purpose of paying or
169 retiring any indebtedness as is authorized by statute.

170 (6) For the purposes of Sections 27-103-101 through
171 27-103-139 and 27-104-1 through 27-104-27, the term "special
172 funds" shall include any court-ordered settlement payments or
173 other payments received by any state general-fund agency or
174 special-fund agency as the result of litigation.

175 **SECTION 4.** Section 27-104-13, Mississippi Code of 1972, is
176 amended as follows:

177 27-104-13. The State Fiscal Officer shall have the right to
178 disapprove or reduce and revise such estimates of general-funds
179 and state-source special funds for any general-fund or
180 special-fund agency, and for the "administration and other
181 expenses" budget of the State Highway Department, in an amount not
182 to exceed five percent (5%) if he finds that funds will not be
183 available within the period for which the budget is drawn, or if
184 he finds that the requested expenditures, or any part thereof, are
185 not authorized by law, and such action shall be reported to the
186 Legislative Budget Office. The State Fiscal Officer may, upon his
187 determination of need based upon a finding that funds will not be
188 available within the period for which the budget is drawn,
189 transfer funds as provided in Section 27-103-203, from the Working
190 Cash-Stabilization Reserve Fund to the General Fund to supplement
191 the general fund revenue. In the event that the estimates of
192 general funds and state-source special funds of all general-fund
193 and special-fund agencies, and of the "administration and other
194 expenses" budget of the State Highway Department, have been
195 reduced by five percent (5%), additional reductions may be made
196 but shall consist of a uniform percentage reduction of general
197 funds and state-source special funds to all general-fund and

198 special-fund agencies, and to the "administration and other
199 expenses" budget of the State Highway Department. Any
200 state-source special funds reduced under the provisions of this
201 section shall be transferred to the State General Fund upon
202 requisitions for warrants signed by the respective agency head and
203 said transfer shall be made within a reasonable period to be
204 determined by the State Fiscal Officer.

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

226 **SECTION 5.** Section 31-17-123, Mississippi Code of 1972, is
227 amended as follows:

228 31-17-123. The intent of the Legislature is to authorize
229 borrowing funds under the provisions of Sections 31-17-101 through
230 31-17-123 to offset any temporary cash flow deficiencies and

231 should not be construed to authorize the borrowing of any funds in
232 an amount which cannot be repaid during the fiscal year in which
233 such funds are borrowed. The State Tax Commission and University
234 Research Center, utilizing all available revenue forecast data,
235 shall annually develop a general fund revenue estimate to be
236 adopted by the Legislative Budget Office as of the date of sine
237 die adjournment. If, at the end of October, or at the end of any
238 month thereafter of any fiscal year, the revenues received for the
239 fiscal year shall fall below ninety-eight percent (98%) of the
240 Legislative Budget Office general fund revenue estimate at the
241 date of sine die adjournment, the State Fiscal Officer shall
242 reduce allocations of general funds and state-source special funds
243 to general-fund and special-fund agencies and to the
244 "administration and other expenses" budget of the State Highway
245 Department in an amount necessary to keep expenditures within the
246 sum of actual general fund receipts including any transfers to the
247 General Fund from the Working Cash-Stabilization Reserve Fund for
248 the fiscal year. The State Fiscal Officer may, upon his
249 determination of need based on the revenue shortfall, transfer
250 funds as provided in Section 27-103-203, from the Working
251 Cash-Stabilization Reserve Fund to the General Fund to supplement
252 the general fund revenue. State-source special funds in an amount
253 equal to any reduction made under the provisions of this section
254 shall be transferred to the State General Fund upon requisitions
255 for warrants signed by the respective agency head and such
256 transfer shall be made within a reasonable period to be determined
257 by the State Fiscal Officer. No agency's allocation shall be
258 reduced in an amount to exceed five percent (5%); however, in the
259 event that the allocations of general funds and state-source
260 special funds to all general-fund and special-fund agencies and to
261 the "administration and other expenses" budget of the State
262 Highway Department have been reduced by five percent (5%), any
263 additional reductions required to be made hereunder shall consist

264 of a uniform percentage reduction of general funds and
265 state-source special funds to all general-fund and special-fund
266 agencies, and to the "administration and other expenses" budget of
267 the State Highway Department. Any receipt from loans authorized
268 by Sections 31-17-101 through 31-17-123 shall not be included as
269 revenue receipts. The State Fiscal Officer shall immediately send
270 notice of any action taken under authority of this section to the
271 Legislative Budget Office.

272 For the purpose of this section, "state-source special funds"
273 shall be construed to mean any special funds in any agency derived
274 from any source, including any court-ordered settlement or other
275 payments received by a state general-fund agency or special-fund
276 agency as the result of litigation, but shall not include the
277 following special funds: special funds derived from federal
278 sources, from local or regional political subdivisions, or from
279 donations; special funds held in a fiduciary capacity for the
280 benefit of specific persons or classes of persons; self-generated
281 special funds of the state institutions of higher learning or the
282 state junior colleges; special funds of Mississippi Industries for
283 the Blind, the State Port at Gulfport, Yellow Creek Inland Port,
284 Pat Harrison Waterway District, Pearl River Basin Development
285 District, Pearl River Valley Water Management District, Tombigbee
286 River Valley Water Management District, Yellow Creek Watershed
287 Authority, or Coast Coliseum Commission; special funds of the
288 Department of Wildlife, Fisheries and Parks derived from the
289 issuance of hunting or fishing licenses; and special funds
290 generated by agencies whose primary function includes the
291 establishment of standards and the issuance of licenses for the
292 practice of a profession within the State of Mississippi.

293 **SECTION 6.** This act shall take effect and be in force from
294 and after its passage.