

By: Representative Chism

To: Appropriations

HOUSE BILL NO. 321

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 2005, Two Hundred Sixteen Million
 17 Dollars (\$216,000,000.00);

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) All income from the investment of the funds in the
60 Health Care Expendable Fund shall be credited to the account of
61 the Health Care Expendable Fund. Any funds in the Health Care
62 Expendable Fund at the end of a fiscal year shall not lapse into
63 the State General Fund.

64 (5) The funds in the Health Care Expendable Fund shall be
65 available for expenditure under specific appropriation by the
66 Legislature beginning in fiscal year 2000, and shall be expended
67 exclusively for health care purposes.

68 (6) The Attorney General of the State of Mississippi shall
69 not petition any court or other agency to order that any portion
70 of the tobacco settlement monies be diverted or paid to any
71 person, agency or corporation other than the State of Mississippi
72 or be deposited into any account other than into the State
73 Treasury to the credit of the Health Care Expendable Fund
74 established under this section. No chancellor or judge of this
75 state shall order that any portion of the tobacco settlement
76 monies be diverted or paid to any person, agency or corporation
77 other than the State of Mississippi or be deposited into any
78 account other than into the State Treasury to the credit of the
79 Health Care Expendable Fund established under this section.

80 (7) The provisions of subsection (1) of this section may not
81 be changed in any manner except upon amendment to that subsection
82 by a bill enacted by the Legislature with a vote of not less than
83 three-fifths (3/5) of the members of each house present and
84 voting.

85 (8) Subsections (1), (2), (4) and (5) of this section shall
86 stand repealed on July 1, 2009.

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

89 27-103-103. (1) For the purpose of Sections 27-103-101
90 through 27-103-139 and 27-104-1 through 27-104-27, the term "state
91 general-fund agency" or "general-fund agency" shall mean any
92 agency, department, institution, board or commission of the State
93 of Mississippi which is supported in whole or in part by
94 appropriations from the General Fund; but such term shall not
95 include the Legislature.

96 (2) For the purposes of Sections 27-103-101 through
97 27-103-139 and 27-104-1 through 27-104-27, the term "state
98 special-fund agency" or "special-fund agency" shall mean any
99 agency, department, institution, board or commission of the State
100 of Mississippi which receives no appropriation from the General
101 Fund, but which is supported entirely from special-fund sources,
102 by appropriation, or otherwise, but such term shall not include
103 the State Highway Department; nor shall such term include the
104 Mississippi Industries for the Blind.

105 (3) For the purposes of Sections 27-103-101 through
106 27-103-139 and 27-104-1 through 27-104-27, the term "state agency"
107 shall mean any general-fund agency or special-fund agency as
108 defined in this section, or the State Highway Department, or the
109 Division of State Aid Road Construction of the State Highway
110 Department as is evident from the context wherein it is used.

111 (4) For the purposes of Sections 27-103-101 through
112 27-103-139 and 27-104-1 through 27-104-27, the term "special
113 funds" shall mean all revenues and/or income other than
114 appropriations from the State General Fund which are received,
115 collected by, or available for the support of or expenditure by
116 any state general-fund agency or special-fund agency or the State
117 Highway Department or the Division of State Aid Road Construction
118 of the State Highway Department, whether such funds be derived
119 from taxes or fees collected by or for such general-fund agency or
120 special-fund agency or the State Highway Department or the
121 Division of State Aid Road Construction of the State Highway
122 Department, as the case may be, or from any other types of revenue
123 from any other source.

124 (5) For the purposes of Sections 27-103-101 through
125 27-103-139 and 27-104-1 through 27-104-27, the term "special
126 funds" shall include revolving funds and all funds received from
127 the United States Government by any state general-fund agency or
128 special-fund agency, but shall not include any revolving fund

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

131 (6) For the purposes of Sections 27-103-101 through
132 27-103-139 and 27-104-1 through 27-104-27, the term "special
133 funds" shall include any court-ordered settlement payments or
134 other payments received by any state general-fund agency or
135 special-fund agency as the result of litigation.

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

138 27-104-13. The State Fiscal Officer shall have the right to
139 disapprove or reduce and revise such estimates of general funds
140 and state-source special funds for any general-fund or
141 special-fund agency, and for the "administration and other
142 expenses" budget of the State Highway Department, in an amount not
143 to exceed five percent (5%) if he finds that funds will not be
144 available within the period for which the budget is drawn, or if
145 he finds that the requested expenditures, or any part thereof, are
146 not authorized by law, and such action shall be reported to the
147 Legislative Budget Office. The State Fiscal Officer may, upon his
148 determination of need based upon a finding that funds will not be
149 available within the period for which the budget is drawn,
150 transfer funds as provided in Section 27-103-203, from the Working
151 Cash-Stabilization Reserve Fund to the General Fund to supplement
152 the general-fund revenue. In the event that the estimates of
153 general funds and state-source special funds of all general-fund
154 and special-fund agencies, and of the "administration and other
155 expenses" budget of the State Highway Department, have been
156 reduced by five percent (5%), additional reductions may be made
157 but shall consist of a uniform percentage reduction of general
158 funds and state-source special funds to all general-fund and
159 special-fund agencies, and to the "administration and other
160 expenses" budget of the State Highway Department. Any
161 state-source special funds reduced under the provisions of this

162 section shall be transferred to the State General Fund upon
163 requisitions for warrants signed by the respective agency head and
164 said transfer shall be made within a reasonable period to be
165 determined by the State Fiscal Officer.

166 For the purpose of this section, "state-source special funds"
167 shall be construed to mean any special funds in any agency derived
168 from any source, including any court-ordered settlement payments
169 or other payments received by a state general-fund agency or
170 special-fund agency as the result of litigation, but shall not
171 include the following special funds: special funds derived from
172 federal sources, from local or regional political subdivisions, or
173 from donations; special funds held in a fiduciary capacity for the
174 benefit of specific persons or classes of persons; self-generated
175 special funds of the state institutions of higher learning or the
176 state junior colleges; special funds of Mississippi Industries for
177 the Blind, the State Port at Gulfport, Yellow Creek Inland Port,
178 Pat Harrison Waterway District, Pearl River Basin Development
179 District, Pearl River Valley Water Management District, Tombigbee
180 River Valley Water Management District, Yellow Creek Watershed
181 Authority, or Coast Coliseum Commission; special funds of the
182 Department of Wildlife, Fisheries and Parks derived from the
183 issuance of hunting or fishing licenses; and special funds
184 generated by agencies whose primary function includes the
185 establishment of standards and the issuance of licenses for the
186 practice of a profession within the State of Mississippi.

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

189 31-17-123. The intent of the Legislature is to authorize
190 borrowing funds under the provisions of Sections 31-17-101 through
191 31-17-123 to offset any temporary cash flow deficiencies and
192 should not be construed to authorize the borrowing of any funds in
193 an amount which cannot be repaid during the fiscal year in which
194 such funds are borrowed. The State Tax Commission and University

195 Research Center, utilizing all available revenue forecast data,
196 shall annually develop a general fund revenue estimate to be
197 adopted by the Legislative Budget Office as of the date of sine
198 die adjournment. If, at the end of October, or at the end of any
199 month thereafter of any fiscal year, the revenues received for the
200 fiscal year shall fall below ninety-eight percent (98%) of the
201 Legislative Budget Office general fund revenue estimate at the
202 date of sine die adjournment, the State Fiscal Officer shall
203 reduce allocations of general funds and state-source special funds
204 to general fund and special fund agencies and to the
205 "administration and other expenses" budget of the State Highway
206 Department in an amount necessary to keep expenditures within the
207 sum of actual general fund receipts including any transfers to the
208 General Fund from the Working Cash-Stabilization Reserve Fund for
209 the fiscal year. The State Fiscal Officer may, upon his
210 determination of need based on the revenue shortfall, transfer
211 funds as provided in Section 27-103-203, from the Working
212 Cash-Stabilization Reserve Fund to the General Fund to supplement
213 the general fund revenue. State-source special funds in an amount
214 equal to any reduction made under the provisions of this section
215 shall be transferred to the State General Fund upon requisitions
216 for warrants signed by the respective agency head and such
217 transfer shall be made within a reasonable period to be determined
218 by the State Fiscal Officer. No agency's allocation shall be
219 reduced in an amount to exceed five percent (5%); however, in the
220 event that the allocations 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 State
223 Highway Department have been reduced by five percent (5%), any
224 additional reductions required to be made hereunder shall consist
225 of a uniform percentage reduction of general funds and
226 state-source special funds to all general fund and special fund
227 agencies, and to the "administration and other expenses" budget of

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

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

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