

By: Senator(s) Kirby, Farris

To: Universities and
Colleges; Appropriations

SENATE BILL NO. 2687

1 AN ACT TO AMEND SECTIONS 37-155-15 AND 27-104-13, MISSISSIPPI
2 CODE OF 1972, TO PROVIDE THAT TRUST FUND PAYMENTS DUE FOR PREPAID
3 COLLEGE TUITION CONTRACTS (MPACT) SHALL NOT BE SUBJECT TO
4 APPROPRIATION BY THE LEGISLATURE; AND FOR RELATED PURPOSES.

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

6 SECTION 1. Section 37-155-15, Mississippi Code of 1972, is
7 amended as follows:

8 37-155-15. (1) There is hereby created a Mississippi
9 Prepaid Affordable College Tuition Program Trust Fund (hereinafter
10 referred to as the trust fund or the fund) to be administered by
11 the State of Mississippi Treasury Department until and unless the
12 Legislature shall determine otherwise.

13 (2) The official location of the trust fund shall be the
14 State of Mississippi Treasury Department, and the facilities of
15 the State of Mississippi Treasury Department shall be used and
16 employed in the administration of the fund, including, but without
17 limitations thereto, the keeping of records, the management of
18 bank accounts and other investments, the transfer of funds and the
19 safekeeping of securities evidencing investments.

20 (3) Payments received by the board from purchasers on behalf
21 of beneficiaries or from any other source, public or private,
22 shall be placed in the trust fund, and the fund may be divided
23 into separate accounts as may be determined by the board.

24 (4) The trust fund, through the Treasurer, is hereby
25 specifically authorized to receive and deposit into the trust fund
26 any gift of any nature, real or personal property, made by an
27 individual by testamentary disposition, including, without

28 limitation, any specific gift or bequeath made by will, trust or
29 other disposition.

30 (5) The board shall obtain appropriate actuarial assistance
31 to establish, maintain and certify a fund sufficient to meet the
32 obligation of the trust fund, and shall annually evaluate or cause
33 to be evaluated, the actuarial soundness of the trust fund. If
34 the board perceives a need for additional assets in order to
35 preserve actuarial soundness, it may adjust the terms of
36 subsequent prepaid tuition contracts to ensure such soundness.

37 (6) The trust fund shall constitute a fund of an agency of
38 the state, and its property and income shall be exempt from all
39 taxation by the state and by all of its political subdivisions.

40 (7) In order to provide funds to enable the trust to pay all
41 amounts that shall be due under prepaid tuition contracts, there
42 is hereby irrevocably pledged to that purpose from the trust fund
43 such monies as shall be necessary to pay all amounts that shall be
44 due under prepaid tuition contracts at any time. In order to
45 carry out the said pledge, in each fiscal year the board shall
46 determine the amount of the future obligations of the trust fund
47 under prepaid tuition contracts by any appropriate actuarial
48 method. After that determination has been made, all monies on
49 deposit in the trust fund up to and including the amount of such
50 future obligations shall remain on deposit in the trust fund and
51 shall be subject to the aforesaid pledge but shall not be subject
52 to appropriation by the Legislature.

53 (8) There is hereby created a separate account with the
54 State of Mississippi Treasury Department to be known as the
55 "Mississippi Prepaid Affordable College Tuition Administrative
56 Account" for the purposes of implementing and maintaining prepaid
57 college tuition accounts pursuant to this act.

58 SECTION 2. Section 27-104-13, Mississippi Code of 1972, is
59 amended as follows:

60 27-104-13. The State Fiscal Officer shall have the right to
61 disapprove or reduce and revise such estimates of General Funds
62 and State-Source Special Funds for any General Fund or Special
63 Fund Agency, and for the "administration and other expenses"
64 budget of the State Highway Department, in an amount not to exceed
65 five percent (5%) if he finds that funds will not be available
66 within the period for which the budget is drawn, or if he finds
67 that the requested expenditures, or any part thereof, are not
68 authorized by law, and such action shall be reported to the
69 Legislative Budget Office. The State Fiscal Officer may, upon his
70 determination of need based upon a finding that funds will not be
71 available within the period for which the budget is drawn,
72 transfer funds as provided in Section 27-103-203, from the Working
73 Cash-Stabilization Reserve Fund to the General Fund to supplement
74 the General Fund revenue. In the event that the estimates of
75 general funds and State-Source Special Funds of all General Fund
76 and Special Fund Agencies, and of the "administration and other
77 expenses" budget of the State Highway Department, have been
78 reduced by five percent (5%), additional reductions may be made
79 but shall consist of a uniform percentage reduction of General
80 Funds and State-Source Special Funds to all General Fund and
81 Special Fund Agencies, and to the "administration and other
82 expenses" budget of the State Highway Department. Any
83 State-Source Special Funds reduced under the provisions of this
84 section shall be transferred to the State General Fund upon
85 requisitions for warrants signed by the respective agency head and
86 said transfer shall be made within a reasonable period to be
87 determined by the State Fiscal Officer.

88 For the purpose of this section, "State-Source Special Funds"
89 shall be construed to mean any special funds in any agency derived
90 from any source, but shall not include the following special
91 funds: special funds derived from federal sources, from local or
92 regional political subdivisions, or from donations; special funds

93 held in a fiduciary capacity for the benefit of specific persons
94 or classes of persons; self-generated special funds of the State
95 Institutions of Higher Learning or the State Junior Colleges;
96 special funds of Mississippi Industries for the Blind, the State
97 Port at Gulfport, Yellow Creek Inland Port, Pat Harrison Waterway
98 District, Pearl River Basin Development District, Pearl River
99 Valley Water Management District, Tombigbee River Valley Water
100 Management District, Yellow Creek Watershed Authority, or Coast
101 Coliseum Commission; special funds of the Department of Wildlife,
102 Fisheries and Parks derived from the issuance of hunting or
103 fishing licenses; and special funds generated by agencies whose
104 primary function includes the establishment of standards and the
105 issuance of licenses for the practice of a profession within the
106 State of Mississippi; and trust fund payments under the
107 Mississippi Prepaid Affordable College Tuition Program (MPACT).

108 SECTION 3. This act shall take effect and be in force from
109 and after July 1, 2001.