SENATE BILL NO. 2687

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

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

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

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

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

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

(4) The trust fund, through the Treasurer, is hereby specifically authorized to receive and deposit into the trust fund any gift of any nature, real or personal property, made by an individual by testamentary disposition, including, without
limitation, any specific gift or bequeath made by will, trust or
other disposition.

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

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

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

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

SECTION 2. Section 27-104-13, Mississippi Code of 1972, is
amended as follows:
27-104-13. The State Fiscal Officer shall have the right to disapprove or reduce and revise such estimates of General Funds and State-Source Special Funds for any General Fund or Special Fund Agency, and for the "administration and other expenses" budget of the State Highway Department, in an amount not to exceed five percent (5%) if he finds that funds will not be available within the period for which the budget is drawn, or if he finds that the requested expenditures, or any part thereof, are not authorized by law, and such action shall be reported to the Legislative Budget Office. The State Fiscal Officer may, upon his determination of need based upon a finding that funds will not be available within the period for which the budget is drawn, transfer funds as provided in Section 27-103-203, from the Working Cash-Stabilization Reserve Fund to the General Fund to supplement the General Fund revenue. In the event that the estimates of general funds and State-Source Special Funds of all General Fund and Special Fund Agencies, and of the "administration and other expenses" budget of the State Highway Department, have been reduced by five percent (5%), additional reductions may be made but shall consist of a uniform percentage reduction of General Funds and State-Source Special Funds to all General Fund and Special Fund Agencies, and to the "administration and other expenses" budget of the State Highway Department. Any State-Source Special Funds reduced under the provisions of this section shall be transferred to the State General Fund upon requisitions for warrants signed by the respective agency head and said transfer shall be made within a reasonable period to be determined by the State Fiscal Officer.

For the purpose of this section, "State-Source Special Funds" shall be construed to mean any special funds in any agency derived from any source, but shall not include the following special funds: special funds derived from federal sources, from local or regional political subdivisions, or from donations; special funds
held in a fiduciary capacity for the benefit of specific persons or classes of persons; self-generated special funds of the State Institutions of Higher Learning or the State Junior Colleges; special funds of Mississippi Industries for the Blind, the State Port at Gulfport, Yellow Creek Inland Port, Pat Harrison Waterway District, Pearl River Basin Development District, Pearl River Valley Water Management District, Tombigbee River Valley Water Management District, Yellow Creek Watershed Authority, or Coast Coliseum Commission; special funds of the Department of Wildlife, Fisheries and Parks derived from the issuance of hunting or fishing licenses; and special funds generated by agencies whose primary function includes the establishment of standards and the issuance of licenses for the practice of a profession within the State of Mississippi; and trust fund payments under the Mississippi Prepaid Affordable College Tuition Program (MPACT).

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