

By: Representative Fleming

To: Ways and Means

## HOUSE BILL NO. 507

1 AN ACT TO AMEND SECTION 27-69-13, MISSISSIPPI CODE OF 1972,  
 2 TO INCREASE THE EXCISE TAX ON TOBACCO PRODUCTS; TO SPECIFY THE  
 3 AMOUNT OF THE DISCOUNT OR COMPENSATION ON THE ADDITIONAL FACE  
 4 VALUE OF STAMPS PURCHASED BY DEALERS TO COMPLY WITH THE TAX  
 5 INCREASE PROVIDED FOR BY THIS ACT; TO AMEND SECTION 27-69-75,  
 6 MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE REVENUE DERIVED FROM  
 7 THE TAX INCREASE PROVIDED FOR BY THIS ACT SHALL BE DEPOSITED INTO  
 8 SPECIAL FUNDS IN THE STATE TREASURY TO THE CREDIT OF THE  
 9 UNIVERSITY OF MISSISSIPPI MEDICAL CENTER, THE STATE DEPARTMENT OF  
 10 EDUCATION, THE STATE VETERANS AFFAIRS BOARD, THE STATE  
 11 INSTITUTIONS OF HIGHER LEARNING AND THE GOVERNOR'S OFFICE-DIVISION  
 12 OF MEDICAID, NOT TO EXCEED A MAXIMUM AMOUNT OF THE REVENUE  
 13 COLLECTED DURING ANY FISCAL YEAR FOR EACH FUND; TO SPECIFY THE  
 14 PURPOSES FOR WHICH THE MONIES IN EACH SPECIAL FUND MAY BE  
 15 EXPENDED; TO AMEND SECTION 27-69-31, MISSISSIPPI CODE OF 1972, TO  
 16 CONFORM TO THE PRECEDING PROVISIONS; TO PROVIDE THAT THIS ACT WILL  
 17 STAND REPEALED ON JULY 1, 2011; AND FOR RELATED PURPOSES.

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

19 **SECTION 1.** Section 27-69-13, Mississippi Code of 1972, is  
 20 amended as follows:

21 27-69-13. (1) There is \* \* \* imposed, levied and assessed,  
 22 to be collected and paid as hereinafter provided in this chapter,  
 23 an excise tax on each person or dealer in cigarettes, cigars,  
 24 stogies, snuff, chewing tobacco, and smoking tobacco, or  
 25 substitutes therefor, upon the sale, use, consumption, handling or  
 26 distribution in the State of Mississippi, as follows:

27 (a) On cigarettes, the rate of tax shall be  
 28 Eighteen-twentieths of One Cent (18/20 of 1¢) on each cigarette  
 29 sold with a maximum length of one hundred twenty (120)  
 30 millimeters; any cigarette in excess of this length shall be taxed  
 31 as if it were two (2) or more cigarettes. \* \* \* Provided,  
 32 however, if the federal tax rate on cigarettes in effect on July  
 33 1, 1985, upon the passage of Senate Bill No. 2876, 1985 Regular  
 34 Session, is reduced, then the rate as provided in this paragraph

35 (a) shall be increased by the amount of the federal tax reduction.  
36 That tax increase shall take effect on the first day of the month  
37 following the effective date of the reduction in the federal tax  
38 rate.

39 (b) (i) In addition to the excise tax levied by  
40 paragraph (a), there is levied an excise tax of Two and One-half  
41 Cents (2-1/2¢) on each cigarette sold with a maximum length of one  
42 hundred twenty (120) millimeters; any cigarette in excess of this  
43 length shall be taxed as if it were two (2) or more cigarettes.

44 (ii) On or before the fifteenth of August 2004,  
45 and each succeeding month thereafter, the revenue derived from the  
46 excise tax on cigarettes that is levied by subparagraph (i) of  
47 this paragraph shall be deposited into the appropriate funds in  
48 the State Treasury as provided in Section 27-69-75.

49 (c) On \* \* \* cheroots, stogies, snuff, chewing and  
50 smoking tobacco and all other tobacco products except cigarettes  
51 and cigars, the rate of tax shall be seven percent (7%) of the  
52 wholesale price. On cigars, the rate of tax shall be three  
53 percent (3%) of the wholesale price.

54 (d) (i) In addition to the excise tax levied by  
55 paragraph (c), there is levied an excise tax of five percent (5%)  
56 of the wholesale price on cheroots, stogies, snuff, chewing and  
57 smoking tobacco and all other tobacco products, except cigarettes  
58 and cigars, and there is levied an excise tax of three percent  
59 (3%) of the wholesale price on cigars.

60 (ii) On or before the fifteenth day of August  
61 2004, and each succeeding month thereafter, the revenue derived  
62 from the excise tax on other tobacco products, except cigarettes,  
63 that is levied by subparagraph (i) of this paragraph shall be  
64 deposited into the appropriate funds in the State Treasury as  
65 provided in Section 27-69-75.

66 (2) No stamp evidencing the tax \* \* \* levied on cigarettes  
67 by this section shall be of a denomination of less than One Cent

68 (1¢), and whenever the tax computed at the rates \* \* \* prescribed  
69 on cigarettes in this section is a specified amount, plus a  
70 fractional part of One Cent (1¢), the package shall be stamped for  
71 the next full cent. However, (a) the additional face value of  
72 stamps purchased to comply with taxes imposed by subsection (1)(a)  
73 and subsection (1)(c) of this section after June 1, 1985, shall be  
74 subject to a four percent (4%) discount or compensation to dealers  
75 for their services rather than the eight percent (8%) discount or  
76 compensation allowed by Section 27-69-31; and (b) the additional  
77 face value of stamps purchased to comply with taxes imposed by  
78 subsection (1)(b) and subsection (1)(d) of this section after July  
79 1, 2004, shall be subject to a three percent (3%) discount of  
80 compensation to dealers for their services rather than the eight  
81 percent (8%) discount or compensation allowed by Section 27-69-31.

82 (3) Every wholesaler shall purchase stamps as provided in  
83 this chapter, and affix the same to all packages of cigarettes  
84 handled by him as \* \* \* provided in this section.

85 (4) The \* \* \* tax levied by this chapter is levied upon the  
86 sale, use, gift, possession, or consumption of tobacco within the  
87 State of Mississippi, and the impact of the tax levied by this  
88 chapter is \* \* \* declared to be on the vendee, user, consumer, or  
89 possessor of tobacco in this state. When the tax is paid by any  
90 other person, the payment shall be considered as an advance  
91 payment and shall thereafter be added to the price of the tobacco  
92 and recovered from the ultimate consumer or user.

93 (5) This section shall stand repealed on July 1, 2011.

94 **SECTION 2.** Section 27-69-75, Mississippi Code of 1972, is  
95 amended as follows:

96 27-69-75. (1) All taxes levied by this chapter shall be  
97 payable to the commissioner in cash, or by personal check,  
98 cashier's check, bank exchange, post office money order or express  
99 money order, and shall be deposited by the commissioner in the  
100 State Treasury on the same day collected. No remittance other

101 than cash shall be a final discharge of liability for the  
102 tax \* \* \* assessed and levied under this chapter, unless and until  
103 it has been paid in cash to the commissioner.

104 (2) The revenue derived from the taxes levied in Sections  
105 27-69-13(1)(b) and 27-69-13(1)(d) shall be deposited into the  
106 State Treasury, as follows:

107 (a) Fifteen percent (15%) of the revenue collected, not  
108 to exceed Eighteen Million Dollars (\$18,000,000.00) of the revenue  
109 collected during any fiscal year, shall be deposited in the  
110 special fund to the credit of the University of Mississippi  
111 Medical Center that is created by Section 4(1) of this act.

112 (b) Seven percent (7%) of the revenue collected, not to  
113 exceed Eight Million Dollars (\$8,000,000.00) of the revenue  
114 collected during any fiscal year, shall be deposited in the  
115 special fund to the credit of the University of Mississippi  
116 Medical Center that is created by Section 4(2) of this act.

117 (c) Twenty-five percent (25%) of the revenue collected,  
118 not to exceed Thirty-one Million Dollars (\$31,000,000.00) of the  
119 revenue collected during any fiscal year, shall be deposited in  
120 the special fund to the credit of the State Department of  
121 Education that is created by Section 4(3) of this act.

122 (d) Four percent (4%) of the revenue collected, not to  
123 exceed Five Million Dollars (\$5,000,000.00) of the revenue  
124 collected during any fiscal year, shall be deposited in the  
125 special fund to the credit of the State Veterans Affairs Board  
126 that is created by Section 4(4) of this act.

127 (e) Thirteen percent (13%) of the revenue collected,  
128 not to exceed Sixteen Million Dollars (\$16,000,000.00) of the  
129 revenue collected during any fiscal year, shall be deposited in  
130 the special fund to the credit of the state institutions of higher  
131 learning that is created by Section 4(5) of this act.

132 (f) Twenty percent (20%) of the revenue collected, not  
133 to exceed Twenty-five Million Dollars (\$25,000,000.00) of the

134 revenue collected during any fiscal year, shall be deposited in  
135 the special fund in the State Treasury to the credit of the  
136 Governor's Office-Division of Medicaid to be expended by the  
137 division for the purposes authorized under the Mississippi  
138 Medicaid Law.

139 (g) Any amount of the revenue collected that exceeds  
140 the amounts required to be deposited into the special funds as  
141 provided in paragraphs (a) through (f) of this subsection shall be  
142 deposited into the State General Fund. However, if at the end of  
143 any fiscal year, the total amount of revenue deposited into any of  
144 the special funds as provided in paragraphs (a) through (f) of  
145 this subsection is less than the maximum dollar amount that may be  
146 deposited into any such special fund during a fiscal year, then  
147 the State Fiscal Officer shall transfer from the revenue deposited  
148 into the State General Fund under this paragraph (g) an amount  
149 necessary to ensure the deposit of the maximum dollar amounts into  
150 each of the special funds as provided in paragraphs (a) through  
151 (f) of this subsection.

152 (3) All tobacco taxes collected, including tobacco license  
153 taxes, except for those revenues required to be deposited into the  
154 special funds as provided in paragraphs (a) through (f) of  
155 subsection (2) of this section, shall be deposited into the State  
156 Treasury to the credit of the General Fund.

157 (4) Wholesalers who are entitled to purchase stamps at a  
158 discount, as provided by Section 27-69-31, may have consigned to  
159 them, without advance payment, those stamps, if and when the  
160 wholesaler \* \* \* gives to the commissioner a good and sufficient  
161 bond executed by some surety company authorized to do business in  
162 this state, conditioned to secure the payment for the stamps so  
163 consigned. The commissioner shall require payment for those  
164 stamps not later than thirty (30) days from the date the stamps  
165 were consigned.

166 (5) This section shall stand repealed on July 1, 2011.

167           **SECTION 3.** Section 27-69-31, Mississippi Code of 1972, is  
168 amended as follows:

169           27-69-31. Dealers subject to the provisions of this chapter  
170 shall be allowed, as compensation for their services in affixing  
171 the stamps \* \* \* required by this chapter, a sum equal to eight  
172 percent (8%) of the face value of the stamps purchased by them,  
173 except as otherwise provided in Section 27-69-13(2); however, the  
174 commission shall allow no discount on the purchase of stamps by  
175 wholesalers of an aggregate amount of less than one hundred  
176 dollars, and by retailers of an aggregate amount of less than  
177 fifty dollars in any one order.

178           It is further provided that the commissioner may, in his  
179 discretion, either reduce the compensation allowed, or disallow  
180 any compensation for the affixing of stamps, for failure of the  
181 dealer to comply with any provisions of the law or rules and  
182 regulations promulgated by the commissioner.

183           This section shall stand repealed on July 1, 2011.

184           **SECTION 4.** (1) (a) There is created in the State Treasury  
185 a special fund to the credit of the University of Mississippi  
186 Medical Center, which shall be comprised of the monies required to  
187 be deposited into the fund under Section 27-69-75(2)(a), and any  
188 other funds that may be made available for the fund by the  
189 Legislature.

190           (b) Monies in the fund shall be expended by the  
191 University of Mississippi Medical Center, upon appropriation by  
192 the Legislature, for the training of, physicians, dentists, nurses  
193 and other health care professionals and allied health personnel at  
194 the School of Medicine, the School of Dentistry, the School of  
195 Nursing and the School of Health Related Professions.

196           (c) Unexpended amounts remaining in the special fund at  
197 the end of a fiscal year shall not lapse into the State General  
198 Fund, and any interest earned or investment earnings on amounts in

199 the special fund shall be deposited to the credit of the special  
200 fund.

201 (2) (a) There is created in the State Treasury a special  
202 fund to the credit of the University of Mississippi Medical  
203 Center, which shall be comprised of the monies required to be  
204 deposited into the fund under Section 27-69-75(2)(b), and any  
205 other funds that may be made available for the fund by the  
206 Legislature.

207 (b) Monies in the fund shall be expended by the  
208 University of Mississippi Medical Center, upon appropriation by  
209 the Legislature, for expansion of the "A Comprehensive Tobacco  
210 Program" (ACT Program) administered by the University of  
211 Mississippi Medical Center.

212 (c) Unexpended amounts remaining in the special fund at  
213 the end of a fiscal year shall not lapse into the State General  
214 Fund, and any interest earned or investment earnings on amounts in  
215 the special fund shall be deposited to the credit of the special  
216 fund.

217 (3) (a) There is created in the State Treasury a special  
218 fund to the credit of the State Department of Education, which  
219 shall be comprised of the monies required to be deposited into the  
220 fund under Section 27-69-75(2)(c), and any other funds that may be  
221 made available for the fund by the Legislature.

222 (b) Monies in the fund shall be distributed by the  
223 State Department of Education, upon appropriation by the  
224 Legislature, to the public school districts of the state for  
225 purchasing textbooks and classroom supplies.

226 (c) Unexpended amounts remaining in the special fund at  
227 the end of a fiscal year shall not lapse into the State General  
228 Fund, and any interest earned or investment earnings on amounts in  
229 the special fund shall be deposited to the credit of the special  
230 fund.

231           (4) (a) There is created in the State Treasury a special  
232 fund to the credit of the State Veterans Affairs Board, which  
233 shall be comprised of the monies required to be deposited into the  
234 fund under Section 27-69-75(2)(d), and any other funds that may be  
235 made available for the fund by the Legislature.

236           (b) Monies in the fund shall be expended by the State  
237 Veterans Affairs Board, upon appropriation by the Legislature, for  
238 funding the increased costs to the board of operating and  
239 maintaining the state veterans homes located in Jackson, Kosciusko  
240 and Oxford, Mississippi, which were previously managed by third  
241 parties under contract with the board.

242           (c) Unexpended amounts remaining in the special fund at  
243 the end of a fiscal year shall not lapse into the State General  
244 Fund, and any interest earned or investment earnings on amounts in  
245 the special fund shall be deposited to the credit of the special  
246 fund.

247           (5) (a) There is created in the State Treasury a special  
248 fund to the credit of the state institutions of higher learning,  
249 which shall be comprised of the monies required to be deposited  
250 into the fund under Section 27-69-75(2)(e), and any other funds  
251 that may be made available for the fund by the Legislature.

252           (b) Monies in the fund shall be allocated equally among  
253 the University of Mississippi, Mississippi State University,  
254 Mississippi University for Women, the University of Southern  
255 Mississippi, Delta State University, Alcorn State University,  
256 Jackson State University and Mississippi Valley State University,  
257 and expended by the state institutions of higher learning, upon  
258 appropriation by the Legislature, for health care purposes such as  
259 health care services for students, funding educational and  
260 research programs for the training of students preparing for  
261 careers in the various health care professions and occupations and  
262 funding any other educational and research programs relating to  
263 health care.



264                   (c) Unexpended amounts remaining in the special fund at  
265 the end of a fiscal year shall not lapse into the State General  
266 Fund, and any interest earned or investment earnings on amounts in  
267 the special fund shall be deposited to the credit of the special  
268 fund.

269                   (6) This section shall stand repealed on July 1, 2011.

270                   **SECTION 5.** This act shall take effect and be in force from  
271 and after July 1, 2004.