

By: Representative Fleming

To: Ways and Means

## HOUSE BILL NO. 508

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 VETERANS  
10 AFFAIRS BOARD AND THE GOVERNOR'S OFFICE-DIVISION OF MEDICAID; TO  
11 SPECIFY THE PURPOSES FOR WHICH THE MONIES IN EACH SPECIAL FUND MAY  
12 BE EXPENDED; TO AMEND SECTION 27-69-31, MISSISSIPPI CODE OF 1972,  
13 TO CONFORM TO THE PRECEDING PROVISIONS; TO PROVIDE THAT THIS ACT  
14 WILL STAND REPEALED ON JULY 1, 2011; AND FOR RELATED PURPOSES.

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

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

18 27-69-13. (1) There is \* \* \* imposed, levied and assessed,  
19 to be collected and paid as hereinafter provided in this chapter,  
20 an excise tax on each person or dealer in cigarettes, cigars,  
21 stogies, snuff, chewing tobacco, and smoking tobacco, or  
22 substitutes therefor, upon the sale, use, consumption, handling or  
23 distribution in the State of Mississippi, as follows:

24 (a) On cigarettes, the rate of tax shall be  
25 Eighteen-twentieths of One Cent (18/20 of 1¢) on each cigarette  
26 sold with a maximum length of one hundred twenty (120)  
27 millimeters; any cigarette in excess of this length shall be taxed  
28 as if it were two (2) or more cigarettes. \* \* \* However, if the  
29 federal tax rate on cigarettes in effect on July 1, 1985, is  
30 reduced, then the rate as provided in this paragraph (a) shall be  
31 increased by the amount of the federal tax reduction. That tax  
32 increase shall take effect on the first day of the month following  
33 the effective date of such reduction in the federal tax rate.

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

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

44           (c) On \* \* \* cheroots, stogies, snuff, chewing and  
45 smoking tobacco and all other tobacco products except cigarettes  
46 and cigars the rate of tax shall be seven percent (7%) of the  
47 wholesale price. On cigars, the rate of the tax shall be three  
48 percent (3%) of the wholesale price.

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

55                   (ii) On or before the fifteenth day of August  
56 2004, and each succeeding month thereafter, the revenue derived  
57 from the excise tax on other tobacco products, except cigarettes,  
58 that is levied by subparagraph (i) of this paragraph shall be  
59 deposited into the appropriate funds in the State Treasury as  
60 provided in Section 27-69-75.

61           (2) No stamp evidencing the tax \* \* \* levied on cigarettes  
62 by this section shall be of a denomination of less than One Cent  
63 (1¢), and whenever the tax computed at the rates \* \* \* prescribed  
64 on cigarettes in this section is a specified amount, plus a  
65 fractional part of One Cent (1¢), the package shall be stamped for  
66 the next full cent. However, (a) the additional face value of

67 stamps purchased to comply with taxes imposed by subsection (1)(a)  
68 and subsection (1)(c) of this section after June 1, 1985, shall be  
69 subject to a four percent (4%) discount or compensation to dealers  
70 for their services rather than the eight percent (8%) discount or  
71 compensation allowed by Section 27-69-31; and (b) the additional  
72 face value of stamps purchased to comply with taxes imposed by  
73 subsection (1)(b) and subsection (1)(d) of this section after July  
74 1, 2004, shall be subject to a three percent (3%) discount or  
75 compensation to dealers for their services rather than the eight  
76 percent (8%) discount or compensation allowed by Section 27-69-31.

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

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

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

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

91 27-69-75. (1) All taxes levied by this chapter shall be  
92 payable to the commissioner in cash, or by personal check,  
93 cashier's check, bank exchange, post office money order or express  
94 money order, and shall be deposited by the commissioner in the  
95 State Treasury on the same day collected. No remittance other  
96 than cash shall be a final discharge of liability for the  
97 tax \* \* \* assessed and levied under this chapter, unless and until  
98 it has been paid in cash to the commissioner.

99           (2) The revenue derived from the taxes levied in Sections  
100 27-69-13(1)(b) and 27-69-13(1)(d) shall be deposited into the  
101 State Treasury, as follows:

102           (a) Seven percent (7%) of the revenue collected, not to  
103 exceed Eight Million Dollars (\$8,000,000.00) of the revenue  
104 collected during any fiscal year, shall be deposited in the  
105 special fund to the credit of the University of Mississippi  
106 Medical Center that is created by Section 4(1) of this act.

107           (b) Four percent (4%) of the revenue collected, not to  
108 exceed Five Million Dollars (\$5,000,000.00) of the revenue  
109 collected during any fiscal year, shall be deposited in the  
110 special fund to the credit of the State Veterans Affairs Board  
111 that is created by Section 4(2) of this act.

112           (c) The remainder of the revenue collected shall be  
113 deposited in the special fund in the State Treasury to the credit  
114 of the Governor's Office-Division of Medicaid to be expended by  
115 the division for the purposes authorized under the Mississippi  
116 Medicaid Law.

117           (3) All tobacco taxes collected, including tobacco license  
118 taxes, except for those revenues required to be deposited into the  
119 special funds as provided in paragraphs (a) through (c) of  
120 subsection (2) of this section, shall be deposited into the State  
121 Treasury to the credit of the General Fund.

122           (4) Wholesalers who are entitled to purchase stamps at a  
123 discount, as provided by Section 27-69-31, may have consigned to  
124 them, without advance payment, those stamps, if and when the  
125 wholesaler \* \* \* gives to the commissioner a good and sufficient  
126 bond executed by some surety company authorized to do business in  
127 this state, conditioned to secure the payment for the stamps so  
128 consigned. The commissioner shall require payment for those  
129 stamps not later than thirty (30) days from the date the stamps  
130 were consigned.

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

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

134           27-69-31. Dealers subject to the provisions of this chapter  
135 shall be allowed, as compensation for their services in affixing  
136 the stamps \* \* \* required by this chapter, a sum equal to eight  
137 percent (8%) of the face value of the stamps purchased by them,  
138 except as otherwise provided in Section 27-69-13(2); however, the  
139 commission shall allow no discount on the purchase of stamps by  
140 wholesalers of an aggregate amount of less than One Hundred  
141 Dollars (\$100.00), and by retailers of an aggregate amount of less  
142 than Fifty Dollars (\$50.00) in any one order.

143           It is further provided that the commissioner may, in his  
144 discretion, either reduce the compensation allowed, or disallow  
145 any compensation for the affixing of stamps, for failure of the  
146 dealer to comply with any provisions of the law or rules and  
147 regulations promulgated by the commissioner.

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

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

155           (b) Monies in the fund shall be expended by the  
156 University of Mississippi Medical Center, upon appropriation by  
157 the Legislature, for expansion of the "A Comprehensive Tobacco  
158 Program" (ACT Program) administered by the University of  
159 Mississippi Medical Center.

160           (c) Unexpended amounts remaining in the special fund at  
161 the end of a fiscal year shall not lapse into the State General  
162 Fund, and any interest earned or investment earnings on amounts in  
163 the special fund shall be deposited to the credit of the special  
164 fund.

165           (2) (a) There is created in the State Treasury a special  
166 fund to the credit of the State Veterans Affairs Board, which  
167 shall be comprised of the monies required to be deposited into the  
168 fund under Section 27-69-75(2)(b), and any other funds that may be  
169 made available for the fund by the Legislature.

170           (b) Monies in the fund shall be expended by the State  
171 Veterans Affairs Board, upon appropriation by the Legislature, for  
172 funding the increased costs to the board of operating and  
173 maintaining the state veterans homes located in Jackson, Kosciusko  
174 and Oxford, Mississippi, which were previously managed by third  
175 parties under contract with the board.

176           (c) Unexpended amounts remaining in the special fund at  
177 the end of a fiscal year shall not lapse into the State General  
178 Fund, and any interest earned or investment earnings on amounts in  
179 the special fund shall be deposited to the credit of the special  
180 fund.

181           (3) This section shall stand repealed on July 1, 2011.

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