

By: Representative Stringer

To: Appropriations

HOUSE BILL NO. 1000

1 AN ACT TO AMEND SECTIONS 27-103-125, 27-103-139 AND
 2 27-103-211, MISSISSIPPI CODE OF 1972, TO REVISE THE PERCENTAGE
 3 LIMITATION ON LEGISLATIVE APPROPRIATIONS FROM THE STATE GENERAL
 4 FUND FOR FISCAL YEARS 2006 AND 2007; TO AMEND SECTION 27-65-75,
 5 MISSISSIPPI CODE OF 1972, TO DELAY UNTIL 2007 THE SALES TAX
 6 DIVERSION THAT IS TO BE DEPOSITED INTO THE SPECIAL FUNDS TRANSFER
 7 FUND; TO AMEND SECTION 4, CHAPTER 556, LAWS OF 2003, AS AMENDED BY
 8 SECTION 10, CHAPTER 595, LAWS OF 2004, TO CONFORM TO THE PRECEDING
 9 SECTION; TO AMEND SECTION 27-25-506, MISSISSIPPI CODE OF 1972, TO
 10 PROVIDE THAT BEGINNING WITH FISCAL YEAR 2006, ALL AMOUNTS
 11 COLLECTED FROM CERTAIN TAX COLLECTIONS APPORTIONED TO THE STATE
 12 FROM OIL AND GAS SEVERANCE TAXES SHALL BE DEPOSITED INTO THE STATE
 13 GENERAL FUND; AND FOR RELATED PURPOSES.

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

15 **SECTION 1.** Section 27-103-125, Mississippi Code of 1972, is
 16 amended as follows:

17 27-103-125. The proposed budget of each state agency shall
 18 show the amounts required for operating expenses separately from
 19 the amounts required for permanent improvements. The overall
 20 budget shall show, separately by each source, the estimated amount
 21 of general fund revenue and of special fund revenues of general
 22 fund agencies. The total proposed expenditures in Part 1 of the
 23 overall budget shall not exceed the amount of estimated revenues
 24 that will be available in the general and special funds for
 25 appropriation or use during the succeeding fiscal year, including
 26 any balances that will be on hand in the general and special funds
 27 at the close of the then current fiscal year. The total proposed
 28 expenditures from the State General Fund in Part 1 of the overall
 29 budget shall not exceed ninety-eight percent (98%) of the amount
 30 of general fund revenue estimate for the succeeding fiscal year,
 31 plus any unencumbered balances in general funds that will be
 32 available and on hand at the close of the then current fiscal

33 year. However, for fiscal years 2006 and 2007 only, the total
34 proposed expenditures from the State General Fund in Part 1 of the
35 overall budget shall not exceed one hundred percent (100%) of the
36 amount of the general fund revenue estimate for the succeeding
37 fiscal year, plus any unencumbered balances in general funds that
38 will be available and on hand at the close of the then current
39 fiscal year. The general fund revenue estimate shall be the
40 estimate jointly adopted by the Governor and the Joint Legislative
41 Budget Committee. Unencumbered balances in general funds that
42 will be available and on hand at the close of the current fiscal
43 year shall not include projected amounts required to be deposited
44 into the Working Cash-Stabilization Reserve Fund under Section
45 27-103-203. The Legislative Budget Office may recommend
46 additional taxes or sources of revenue if in its judgment those
47 additional funds are necessary to adequately support the functions
48 of the state government.

49 **SECTION 2.** Section 27-103-139, Mississippi Code of 1972, is
50 amended as follows:

51 27-103-139. On or before November 15 preceding each regular
52 session of the Legislature, except the first regular session of a
53 new term of office, the Governor shall submit to the members of
54 the Legislature, the Legislative Budget Office or the
55 members-elect, as the case may be, and to the executive head of
56 each state agency a balanced budget for the succeeding fiscal
57 year. The budget submitted shall be prepared in a format that
58 will include performance measurement data associated with the
59 various programs operated by each agency. The total proposed
60 expenditures in the balanced budget shall not exceed the amount of
61 estimated revenues that will be available for appropriation or use
62 during the succeeding fiscal year, including any balances that
63 will be on hand at the close of the then current fiscal year, as
64 determined by the revenue estimate jointly adopted by the Governor
65 and the Legislative Budget Committee. The total proposed

66 expenditures from the State General Fund in the balanced budget
67 shall not exceed ninety-eight percent (98%) of the amount of
68 general fund revenue estimate for the succeeding fiscal year, plus
69 any unencumbered balances in general funds that will be available
70 and on hand at the close of the then current fiscal year.

71 However, for fiscal years 2006 and 2007 only, the total proposed
72 expenditures from the State General Fund in the balanced budget
73 shall not exceed one hundred percent (100%) of the amount of the
74 general fund revenue estimate for the succeeding fiscal year, plus
75 any unencumbered balances in general funds that will be available
76 and on hand at the close of the then current fiscal year. The
77 general fund revenue estimate shall be the estimate jointly
78 adopted by the Governor and the Joint Legislative Budget
79 Committee. Unencumbered balances in general funds that will be
80 available and on hand at the close of the fiscal year shall not
81 include projected amounts required to be deposited into the
82 Working Cash-Stabilization Reserve Fund and the Education
83 Enhancement Fund under Section 27-103-203.

84 The revenues used in preparing the balanced budget shall be
85 only those revenues that will be available under the general laws
86 of the state as they exist when the balanced budget is prepared,
87 and shall not include any proposed revenues that would become
88 available only after the enactment of new legislation. If the
89 Governor has any recommendations for additional proposed
90 expenditures or proposed revenues that are not included in his
91 balanced budget, he shall submit those recommendations in a
92 supplement that is separate from his balanced budget, and whenever
93 the Governor recommends any such additional proposed expenditures,
94 he also shall recommend proposed revenues that are sufficient to
95 fund the additional proposed expenditures, providing specific
96 details regarding the sources and the total amount of those
97 proposed revenues.

98 The Governor may employ a budget officer for the purpose of
99 receiving information from the State Fiscal Officer and preparing
100 his recommendations on the budget. If the Governor determines
101 that information received from the State Fiscal Officer is not
102 sufficient to enable him to prepare his budget recommendations, he
103 may request an appropriation from the Legislature to provide
104 additional staff within the Governor's Office for that purpose.
105 At the first regular session after his election for Governor, the
106 Governor shall submit any budget recommendations plus the required
107 revenue source recommendations no later than January 31 of that
108 year.

109 **SECTION 3.** Section 27-103-211, Mississippi Code of 1972, is
110 amended as follows:

111 27-103-211. The total sum appropriated by the Legislature
112 from the State General Fund for any fiscal year shall not exceed
113 ninety-eight percent (98%) of the general fund revenue estimate
114 for that fiscal year developed by the Tax Commission and the
115 University Research Center and adopted by the Joint Legislative
116 Budget Committee, plus any unencumbered balances in general funds
117 that will be available and on hand at the close of the then
118 current fiscal year. The unencumbered balances in general funds
119 that will be available and on hand at the close of the fiscal year
120 shall not include projected amounts required to be deposited into
121 the Working Cash-Stabilization Reserve Fund under Section
122 27-103-203. However, for fiscal years 2006 and 2007 only, the
123 total sum appropriated by the Legislature from the State General
124 Fund shall not exceed one hundred percent (100%) of the amount of
125 the general fund revenue estimate for that fiscal year, plus any
126 unencumbered balances in general funds that will be available and
127 on hand at the close of the then current fiscal year.

128 **SECTION 4.** Section 27-65-75, Mississippi Code of 1972, is
129 amended as follows:

130 27-65-75. On or before the fifteenth day of each month, the
131 revenue collected under the provisions of this chapter during the
132 preceding month shall be paid and distributed as follows:

133 (1) On or before August 15, 1992, and each succeeding month
134 thereafter through July 15, 1993, eighteen percent (18%) of the
135 total sales tax revenue collected during the preceding month under
136 the provisions of this chapter, except that collected under the
137 provisions of Sections 27-65-15, 27-65-19(3) and 27-65-21, on
138 business activities within a municipal corporation shall be
139 allocated for distribution to the municipality and paid to the
140 municipal corporation. On or before August 15, 1993, and each
141 succeeding month thereafter, eighteen and one-half percent
142 (18-1/2%) of the total sales tax revenue collected during the
143 preceding month under the provisions of this chapter, except that
144 collected under the provisions of Sections 27-65-15, 27-65-19(3)
145 and 27-65-21, on business activities within a municipal
146 corporation shall be allocated for distribution to the
147 municipality and paid to the municipal corporation.

148 A municipal corporation, for the purpose of distributing the
149 tax under this subsection, shall mean and include all incorporated
150 cities, towns and villages.

151 Monies allocated for distribution and credited to a municipal
152 corporation under this subsection may be pledged as security for
153 any loan received by the municipal corporation for the purpose of
154 capital improvements as authorized under Section 57-1-303, or
155 loans as authorized under Section 57-44-7, or water systems
156 improvements as authorized under Section 41-3-16.

157 In any county having a county seat that is not an
158 incorporated municipality, the distribution provided under this
159 subsection shall be made as though the county seat was an
160 incorporated municipality; however, the distribution to the
161 municipality shall be paid to the county treasury in which the

162 municipality is located, and those funds shall be used for road,
163 bridge and street construction or maintenance in the county.

164 (2) On or before September 15, 1987, and each succeeding
165 month thereafter, from the revenue collected under this chapter
166 during the preceding month One Million One Hundred Twenty-five
167 Thousand Dollars (\$1,125,000.00) shall be allocated for
168 distribution to municipal corporations as defined under subsection
169 (1) of this section in the proportion that the number of gallons
170 of gasoline and diesel fuel sold by distributors to consumers and
171 retailers in each such municipality during the preceding fiscal
172 year bears to the total gallons of gasoline and diesel fuel sold
173 by distributors to consumers and retailers in municipalities
174 statewide during the preceding fiscal year. The State Tax
175 Commission shall require all distributors of gasoline and diesel
176 fuel to report to the commission monthly the total number of
177 gallons of gasoline and diesel fuel sold by them to consumers and
178 retailers in each municipality during the preceding month. The
179 State Tax Commission shall have the authority to promulgate such
180 rules and regulations as is necessary to determine the number of
181 gallons of gasoline and diesel fuel sold by distributors to
182 consumers and retailers in each municipality. In determining the
183 percentage allocation of funds under this subsection for the
184 fiscal year beginning July 1, 1987, and ending June 30, 1988, the
185 State Tax Commission may consider gallons of gasoline and diesel
186 fuel sold for a period of less than one (1) fiscal year. For the
187 purposes of this subsection, the term "fiscal year" means the
188 fiscal year beginning July 1 of a year.

189 (3) On or before September 15, 1987, and on or before the
190 fifteenth day of each succeeding month, until the date specified
191 in Section 65-39-35, the proceeds derived from contractors' taxes
192 levied under Section 27-65-21 on contracts for the construction or
193 reconstruction of highways designated under the highway program
194 created under Section 65-3-97 shall, except as otherwise provided

195 in Section 31-17-127, be deposited into the State Treasury to the
196 credit of the State Highway Fund to be used to fund that highway
197 program. The Mississippi Department of Transportation shall
198 provide to the State Tax Commission such information as is
199 necessary to determine the amount of proceeds to be distributed
200 under this subsection.

201 (4) On or before August 15, 1994, and on or before the
202 fifteenth day of each succeeding month through July 15, 1999, from
203 the proceeds of gasoline, diesel fuel or kerosene taxes as
204 provided in Section 27-5-101(a)(ii)1, Four Million Dollars
205 (\$4,000,000.00) shall be deposited in the State Treasury to the
206 credit of a special fund designated as the "State Aid Road Fund,"
207 created by Section 65-9-17. On or before August 15, 1999, and on
208 or before the fifteenth day of each succeeding month, from the
209 total amount of the proceeds of gasoline, diesel fuel or kerosene
210 taxes apportioned by Section 27-5-101(a)(ii)1, Four Million
211 Dollars (\$4,000,000.00) or an amount equal to twenty-three and
212 one-fourth percent (23.25%) of those funds, whichever is the
213 greater amount, shall be deposited in the State Treasury to the
214 credit of the "State Aid Road Fund," created by Section 65-9-17.
215 Those funds shall be pledged to pay the principal of and interest
216 on state aid road bonds heretofore issued under Sections 19-9-51
217 through 19-9-77, in lieu of and in substitution for the funds
218 previously allocated to counties under this section. Those funds
219 may not be pledged for the payment of any state aid road bonds
220 issued after April 1, 1981; however, this prohibition against the
221 pledging of any such funds for the payment of bonds shall not
222 apply to any bonds for which intent to issue those bonds has been
223 published, for the first time, as provided by law before March 29,
224 1981. From the amount of taxes paid into the special fund under
225 this subsection and subsection (9) of this section, there shall be
226 first deducted and paid the amount necessary to pay the expenses
227 of the Office of State Aid Road Construction, as authorized by the

228 Legislature for all other general and special fund agencies. The
229 remainder of the fund shall be allocated monthly to the several
230 counties in accordance with the following formula:

231 (a) One-third (1/3) shall be allocated to all counties
232 in equal shares;

233 (b) One-third (1/3) shall be allocated to counties
234 based on the proportion that the total number of rural road miles
235 in a county bears to the total number of rural road miles in all
236 counties of the state; and

237 (c) One-third (1/3) shall be allocated to counties
238 based on the proportion that the rural population of the county
239 bears to the total rural population in all counties of the state,
240 according to the latest federal decennial census.

241 For the purposes of this subsection, the term "gasoline,
242 diesel fuel or kerosene taxes" means such taxes as defined in
243 paragraph (f) of Section 27-5-101.

244 The amount of funds allocated to any county under this
245 subsection for any fiscal year after fiscal year 1994 shall not be
246 less than the amount allocated to the county for fiscal year 1994.
247 Monies allocated to a county from the State Aid Road Fund for
248 fiscal year 1995 or any fiscal year thereafter that exceed the
249 amount of funds allocated to that county from the State Aid Road
250 Fund for fiscal year 1994, first must be expended by the county
251 for replacement or rehabilitation of bridges on the state aid road
252 system that have a sufficiency rating of less than twenty-five
253 (25), according to National Bridge Inspection standards before
254 the monies may be approved for expenditure by the State Aid Road
255 Engineer on other projects that qualify for the use of state aid
256 road funds.

257 Any reference in the general laws of this state or the
258 Mississippi Code of 1972 to Section 27-5-105 shall mean and be
259 construed to refer and apply to subsection (4) of Section
260 27-65-75.

261 (5) One Million Six Hundred Sixty-six Thousand Six Hundred
262 Sixty-six Dollars (\$1,666,666.00) each month shall be paid into
263 the special fund known as the "State Public School Building Fund"
264 created and existing under the provisions of Sections 37-47-1
265 through 37-47-67. Those payments into that fund are to be made on
266 the last day of each succeeding month hereafter.

267 (6) An amount each month beginning August 15, 1983, through
268 November 15, 1986, as specified in Section 6 of Chapter 542, Laws
269 of 1983, shall be paid into the special fund known as the
270 Correctional Facilities Construction Fund created in Section 6 of
271 Chapter 542, Laws of 1983.

272 (7) On or before August 15, 1992, and each succeeding month
273 thereafter through July 15, 2000, two and two hundred sixty-six
274 one-thousandths percent (2.266%) of the total sales tax revenue
275 collected during the preceding month under the provisions of this
276 chapter, except that collected under the provisions of Section
277 27-65-17(2) shall be deposited by the commission into the School
278 Ad Valorem Tax Reduction Fund created under Section 37-61-35. On
279 or before August 15, 2000, and each succeeding month thereafter,
280 two and two hundred sixty-six one-thousandths percent (2.266%) of
281 the total sales tax revenue collected during the preceding month
282 under the provisions of this chapter, except that collected under
283 the provisions of Section 27-65-17(2), shall be deposited into the
284 School Ad Valorem Tax Reduction Fund created under Section
285 37-61-35 until such time that the total amount deposited into the
286 fund during a fiscal year equals Forty-two Million Dollars
287 (\$42,000,000.00). Thereafter, the amounts diverted under this
288 subsection (7) during the fiscal year in excess of Forty-two
289 Million Dollars (\$42,000,000.00) shall be deposited into the
290 Education Enhancement Fund created under Section 37-61-33 for
291 appropriation by the Legislature as other education needs and
292 shall not be subject to the percentage appropriation requirements
293 set forth in Section 37-61-33.

294 (8) On or before August 15, 1992, and each succeeding month
295 thereafter, nine and seventy-three one-thousandths percent
296 (9.073%) of the total sales tax revenue collected during the
297 preceding month under the provisions of this chapter, except that
298 collected under the provisions of Section 27-65-17(2), shall be
299 deposited into the Education Enhancement Fund created under
300 Section 37-61-33.

301 (9) On or before August 15, 1994, and each succeeding month
302 thereafter, from the revenue collected under this chapter during
303 the preceding month, Two Hundred Fifty Thousand Dollars
304 (\$250,000.00) shall be paid into the State Aid Road Fund.

305 (10) On or before August 15, 1994, and each succeeding month
306 thereafter through August 15, 1995, from the revenue collected
307 under this chapter during the preceding month, Two Million Dollars
308 (\$2,000,000.00) shall be deposited into the Motor Vehicle Ad
309 Valorem Tax Reduction Fund established in Section 27-51-105.

310 (11) Notwithstanding any other provision of this section to
311 the contrary, on or before February 15, 1995, and each succeeding
312 month thereafter, the sales tax revenue collected during the
313 preceding month under the provisions of Section 27-65-17(2) and
314 the corresponding levy in Section 27-65-23 on the rental or lease
315 of private carriers of passengers and light carriers of property
316 as defined in Section 27-51-101 shall be deposited, without
317 diversion, into the Motor Vehicle Ad Valorem Tax Reduction Fund
318 established in Section 27-51-105.

319 (12) Notwithstanding any other provision of this section to
320 the contrary, on or before August 15, 1995, and each succeeding
321 month thereafter, the sales tax revenue collected during the
322 preceding month under the provisions of Section 27-65-17(1) on
323 retail sales of private carriers of passengers and light carriers
324 of property, as defined in Section 27-51-101 and the corresponding
325 levy in Section 27-65-23 on the rental or lease of these vehicles,

326 shall be deposited, after diversion, into the Motor Vehicle Ad
327 Valorem Tax Reduction Fund established in Section 27-51-105.

328 (13) On or before July 15, 1994, and on or before the
329 fifteenth day of each succeeding month thereafter, that portion of
330 the avails of the tax imposed in Section 27-65-22 that is derived
331 from activities held on the Mississippi state fairgrounds complex,
332 shall be paid into a special fund that is created in the State
333 Treasury and shall be expended upon legislative appropriation
334 solely to defray the costs of repairs and renovation at the Trade
335 Mart and Coliseum.

336 (14) On or before August 15, 1998, and each succeeding month
337 thereafter through July 15, 2005, that portion of the avails of
338 the tax imposed in Section 27-65-23 that is derived from sales by
339 cotton compresses or cotton warehouses and that would otherwise be
340 paid into the General Fund, shall be deposited in an amount not to
341 exceed Two Million Dollars (\$2,000,000.00) into the special fund
342 created under Section 69-37-39.

343 (15) Notwithstanding any other provision of this section to
344 the contrary, on or before September 15, 2000, and each succeeding
345 month thereafter, the sales tax revenue collected during the
346 preceding month under the provisions of Section 27-65-19(1)(f) and
347 (g)(i)2, shall be deposited, without diversion, into the
348 Telecommunications Ad Valorem Tax Reduction Fund established in
349 Section 27-38-7.

350 (16) On or before August 15, 2000, and each succeeding month
351 thereafter, the sales tax revenue collected during the preceding
352 month under the provisions of this chapter on the gross proceeds
353 of sales of a project as defined in Section 57-30-1 shall be
354 deposited, after all diversions except the diversion provided for
355 in subsection (1) of this section, into the Sales Tax Incentive
356 Fund created in Section 57-30-3.

357 (17) Notwithstanding any other provision of this section to
358 the contrary, on or before April 15, 2002, and each succeeding

359 month thereafter, the sales tax revenue collected during the
360 preceding month under Section 27-65-23 on sales of parking
361 services of parking garages and lots at airports shall be
362 deposited, without diversion, into the special fund created under
363 Section 27-5-101(d).

364 (18) On or before August 15, 2007, and each succeeding month
365 thereafter through July 15, 2008, from the sales tax revenue
366 collected during the preceding month under the provisions of this
367 chapter, Two Million Five Hundred Thousand Dollars (\$2,500,000.00)
368 shall be deposited into the Special Funds Transfer Fund created in
369 Section 4 of Chapter 556, Laws of 2003.

370 (19) The remainder of the amounts collected under the
371 provisions of this chapter shall be paid into the State Treasury
372 to the credit of the General Fund.

373 (20) It shall be the duty of the municipal officials of any
374 municipality that expands its limits, or of any community that
375 incorporates as a municipality, to notify the commissioner of
376 that action thirty (30) days before the effective date. Failure
377 to so notify the commissioner shall cause the municipality to
378 forfeit the revenue that it would have been entitled to receive
379 during this period of time when the commissioner had no knowledge
380 of the action. If any funds have been erroneously disbursed to
381 any municipality or any overpayment of tax is recovered by the
382 taxpayer, the commissioner may make correction and adjust the
383 error or overpayment with the municipality by withholding the
384 necessary funds from any later payment to be made to the
385 municipality.

386 **SECTION 5.** Section 4, Chapter 556, Laws of 2003, as amended
387 by Section 10, Chapter 595, Laws of 2004, is amended as follows:

388 Section 4. (1) There is created in the State Treasury a
389 special fund to be known as the Special Funds Transfer Fund, which
390 shall be comprised of the monies required to be deposited into the
391 fund under Section 27-65-75(18) for the repayment of certain funds

392 transferred to the Budget Contingency Fund. Upon receipt of
393 monies deposited into the fund under Section 27-65-75(18), the
394 State Treasurer shall transfer those monies to the special funds
395 from which transfers were made under Sections 2 and 3 of Chapter
396 556, Laws of 2003.

397 (2) Unexpended amounts remaining in the fund on September
398 30, 2008, shall lapse into the State General Fund, and any
399 interest earned or investment earnings on amounts in the fund
400 shall be deposited to the credit of the fund.

401 **SECTION 6.** Section 27-25-506, Mississippi Code of 1972, is
402 amended as follows:

403 27-25-506. There is created a special fund in the State
404 Treasury into which the state's share of proceeds collected under
405 Sections 27-25-505 and 27-25-705 shall be deposited.

406 The state's share of all oil and gas severance taxes derived
407 from oil and gas resources under state-owned lands or from severed
408 state-owned minerals shall be deposited into the State Treasury to
409 the credit of the trust fund created in Section 206A, Mississippi
410 Constitution of 1890. The following amounts of the remainder of
411 tax collections apportioned to the state shall be deposited to the
412 credit of the trust fund created in Section 206A, Mississippi
413 Constitution of 1890:

414 (a) For fiscal year 1994, all amounts collected in
415 excess of Thirty-five Million Dollars (\$35,000,000.00);

416 (b) For fiscal year 1995, all amounts collected in
417 excess of Thirty-two Million Five Hundred Thousand Dollars
418 (\$32,500,000.00);

419 (c) For fiscal year 1996, all amounts collected in
420 excess of Thirty Million Dollars (\$30,000,000.00);

421 (d) For fiscal year 1997, all amounts collected in
422 excess of Twenty-seven Million Five Hundred Thousand Dollars
423 (\$27,500,000.00);

424 (e) For fiscal year 1998, all amounts collected in
425 excess of Twenty-five Million Dollars (\$25,000,000.00);

426 (f) For fiscal year 1999, all amounts collected in
427 excess of Twenty Million Dollars (\$20,000,000.00);

428 (g) For fiscal year 2000, all amounts collected in
429 excess of Fifteen Million Dollars (\$15,000,000.00);

430 (h) For fiscal year 2001 through December 31, 2000, all
431 amounts collected and transferred in excess of Ten Million Dollars
432 (\$10,000,000.00); and

433 (i) For fiscal year 2005, all amounts collected in
434 excess of Ten Million Dollars (\$10,000,000.00).

435 * * *

436 The monies collected under paragraphs (a) through (i) of
437 this section that are not deposited into the trust fund shall be
438 deposited into the State General Fund. For fiscal year 2005, the
439 monies not deposited into the State General Fund shall be
440 deposited into the Budget Contingency Fund created in Section
441 27-103-301. For fiscal year 2006 and each fiscal year thereafter,
442 all amounts collected from the remainder of tax collections
443 apportioned to the state shall be deposited into the State General
444 Fund.

445 **SECTION 7.** This act shall take effect and be in force from
446 and after its passage.