

By: Representatives Brown, Holland

To: Ways and Means

HOUSE BILL NO. 1651
(As Passed the House)

1 AN ACT TO AMEND SECTION 27-7-22.15, MISSISSIPPI CODE OF 1972,
2 TO DELETE THE LIMIT ON THE MAXIMUM AMOUNT OF THE INCOME TAX CREDIT
3 FOR CERTAIN REFORESTATION EXPENSES THAT MAY BE CLAIMED BY AN
4 ELIGIBLE TAXPAYER DURING HIS LIFETIME; TO BRING FORWARD SECTION
5 27-7-17, MISSISSIPPI CODE OF 1972, WHICH AUTHORIZES VARIOUS STATE
6 INCOME TAX DEDUCTIONS; TO CREATE A SPECIAL FUND IN THE STATE
7 TREASURY TO BE KNOWN AS THE UNIVERSITY OF MISSISSIPPI MEDICAL
8 CENTER ENHANCEMENT FUND; TO PROVIDE THAT MONIES IN THE SPECIAL
9 FUND SHALL BE EXPENDED BY THE UNIVERSITY OF MISSISSIPPI MEDICAL
10 CENTER, UPON APPROPRIATION, FOR THE OPERATION AND MAINTENANCE OF
11 THE MEDICAL CENTER; TO AMEND SECTION 75-76-129, MISSISSIPPI CODE
12 OF 1972, TO PROVIDE THAT A CERTAIN AMOUNT OF THE COLLECTIONS FROM
13 GAMING TAXES AND FEES EACH FISCAL YEAR SHALL BE DEPOSITED INTO THE
14 UNIVERSITY OF MISSISSIPPI MEDICAL CENTER ENHANCEMENT FUND AND THE
15 TRAUMA CARE SYSTEMS FUND; TO PROVIDE THE UNIVERSITY OF MISSISSIPPI
16 MEDICAL CENTER WITH CERTAIN SUBROGATION RIGHTS AGAINST THIRD
17 PARTIES FOR THE AMOUNT OF UNCOMPENSATED CARE OR TREATMENT PROVIDED
18 TO INDIVIDUALS FOR INJURIES, DISEASE OR SICKNESS CAUSED UNDER
19 CIRCUMSTANCES CREATING A CAUSE OF ACTION AGAINST THOSE THIRD
20 PARTIES; TO BRING FORWARD FOR THE PURPOSE OF AMENDMENT SECTIONS
21 27-25-505, 27-25-506 AND 29-7-3, MISSISSIPPI CODE OF 1972, WHICH
22 PROVIDE FOR THE DISTRIBUTION OF OIL AND GAS SEVERANCE TAXES AMONG
23 VARIOUS GOVERNMENTAL ENTITIES, PROVIDE THAT A PORTION OF THE
24 STATE'S SHARE OF OIL AND GAS SEVERANCE TAXES COLLECTED SHALL BE
25 DEPOSITED INTO THE EDUCATIONAL IMPROVEMENT TRUST FUND, AND SET
26 FORTH PROCEDURES FOR THE LEASE OF STATE LANDS FOR OIL, GAS OR
27 OTHER MINERALS; AND FOR RELATED PURPOSES.

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

29 **SECTION 1.** Section 27-7-22.15, Mississippi Code of 1972, is
30 amended as follows:

31 27-7-22.15. (1) As used in this section, the following
32 words and phrases shall have the meanings ascribed to herein
33 unless the context clearly indicates otherwise:

34 (a) "Approved reforestation practices" means the
35 following practices for establishing a crop of trees suitable for
36 manufacturing into forest products:

37 (i) "Pine and hardwood tree planting practices"
38 including the cost of seedlings, planting by hand or machine, and
39 site preparation.

40 (ii) "Mixed-stand regeneration practices" to
41 establish a mixed-crop of pine and hardwood trees by planting or
42 direct seeding, or both, including the cost of seedlings,
43 seed/acorns, planting, seeding and site preparation.

44 (iii) "Direct seeding practices" to establish a
45 crop of pine or oak trees by directly applying seed/acorns to the
46 site including the cost of seed/acorns, seeding and site
47 preparation.

48 (iv) "Post-planting site preparation practices" to
49 reduce or control undesirable competition within the first growing
50 season of an established crop of trees.

51 Approved reforestation practices shall not include the
52 establishment of orchards, Christmas trees or ornamental trees.

53 (b) "Eligible tree species" means pine and hardwood
54 commercial tree species suitable for manufacturing into forest
55 products.

56 (c) "Cost-share assistance" means partial financial
57 payment for approved reforestation practices from the state
58 government as authorized under Sections 49-19-201 through
59 49-19-227, or the federal government.

60 (d) "Eligible owner" means a private individual, group
61 or association, but the term shall not mean private corporations
62 which manufacture products or provide public utility services of
63 any type or any subsidiary of such corporations.

64 (e) "Eligible lands" means nonindustrial private lands
65 owned by a private individual, group or association, but shall not
66 mean lands owned by private corporations which manufacture
67 products or provide public utility services of any type or any
68 subsidiary of such corporations.

69 (f) "Reforestation prescription or plan" means a
70 written description of the approved reforestation practices that
71 the eligible owner plans to use and includes a legal description
72 and map of the area to be reforested, a list of the tree seedling

73 or seed species to be used in the reforestation and the site
74 preparation practices that will be utilized.

75 (2) Subject to the limitations provided in subsection (3) of
76 this section, upon submission to the State Tax Commission of the
77 written verification provided for in subsection (5) of this
78 section and such other documentation as the State Tax Commission
79 may require, any eligible owner who incurs costs for approved
80 reforestation practices for eligible tree species on eligible
81 lands shall be allowed a credit, in an amount equal to the lesser
82 of fifty percent (50%) of the actual costs of the approved
83 reforestation practices or fifty percent (50%) of the average cost
84 of approved practices as established by the Mississippi Forestry
85 Commission under Section 49-19-219, against the taxes imposed
86 pursuant to this chapter for the tax year in which the costs are
87 incurred.

88 (3) The credit provided for in this section shall not exceed
89 the lesser of Ten Thousand Dollars (\$10,000.00) or the amount of
90 income tax imposed upon the eligible owner for the taxable year
91 reduced by the sum of all other credits allowable to the eligible
92 owner under this chapter, except credit for tax payments made by
93 or on behalf of the eligible owner. Any unused portion of the
94 credit may be carried forward for succeeding tax years. * * *

95 (4) If an eligible owner receives any state or federal cost
96 share assistance funds to defray the cost of an approved
97 reforestation practice, the cost of that practice on the same acre
98 or acres within the same tax year is not eligible for the credit
99 provided in this section unless the eligible owner's adjusted
100 gross income is less than the federal earned income credit level.

101 (5) To be eligible for the tax credit, an eligible owner
102 must have a reforestation prescription or plan prepared for the
103 eligible lands by a graduate forester of a college, school or
104 university accredited by the Society of American Foresters or by a
105 registered forester under the Foresters Registration Law of 1977.

106 The forester must verify in writing that the reforestation
107 practices were completed and that the reforestation prescription
108 or plan was followed.

109 **SECTION 2.** Section 27-7-17, Mississippi Code of 1972, is
110 brought forward as follows:

111 27-7-17. In computing taxable income, there shall be allowed
112 as deductions:

113 (1) **Business deductions.**

114 (a) **Business expenses.** All the ordinary and necessary
115 expenses paid or incurred during the taxable year in carrying on
116 any trade or business, including a reasonable allowance for
117 salaries or other compensation for personal services actually
118 rendered; nonreimbursable traveling expenses incident to current
119 employment, including a reasonable amount expended for meals and
120 lodging while away from home in the pursuit of a trade or
121 business; and rentals or other payments required to be made as a
122 condition of the continued use or possession, for purposes of the
123 trade or business of property to which the taxpayer has not taken
124 or is not taking title or in which he had no equity. Expense
125 incurred in connection with earning and distributing nontaxable
126 income is not an allowable deduction. Limitations on
127 entertainment expenses shall conform to the provisions of the
128 Internal Revenue Code of 1986.

129 (b) **Interest.** All interest paid or accrued during the
130 taxable year on business indebtedness, except interest upon the
131 indebtedness for the purchase of tax-free bonds, or any stocks,
132 the dividends from which are nontaxable under the provisions of
133 this article; provided, however, in the case of securities
134 dealers, interest payments or accruals on loans, the proceeds of
135 which are used to purchase tax-exempt securities, shall be
136 deductible if income from otherwise tax-free securities is
137 reported as income. Investment interest expense shall be limited
138 to investment income. Interest expense incurred for the purchase

139 of treasury stock, to pay dividends, or incurred as a result of an
140 undercapitalized affiliated corporation may not be deducted unless
141 an ordinary and necessary business purpose can be established to
142 the satisfaction of the commissioner. For the purposes of this
143 paragraph, the phrase "interest upon the indebtedness for the
144 purchase of tax-free bonds" applies only to the indebtedness
145 incurred for the purpose of directly purchasing tax-free bonds and
146 does not apply to any other indebtedness incurred in the regular
147 course of the taxpayer's business. Any corporation, association,
148 organization or other entity taxable under Section 27-7-23(c)
149 shall allocate interest expense as provided in Section
150 27-7-23(c)(3)(I).

151 (c) **Taxes.** Taxes paid or accrued within the taxable
152 year, except state and federal income taxes, excise taxes based on
153 or measured by net income, estate and inheritance taxes, gift
154 taxes, cigar and cigarette taxes, gasoline taxes, and sales and
155 use taxes unless incurred as an item of expense in a trade or
156 business or in the production of taxable income. In the case of
157 an individual, taxes permitted as an itemized deduction under the
158 provisions of subsection (3)(a) of this section are to be claimed
159 thereunder.

160 (d) **Business losses.**

161 (i) Losses sustained during the taxable year not
162 compensated for by insurance or otherwise, if incurred in trade or
163 business, or nonbusiness transactions entered into for profit.

164 (ii) Limitations on losses from passive activities
165 and rental real estate shall conform to the provisions of the
166 Internal Revenue Code of 1986.

167 (e) **Bad debts.** Losses from debts ascertained to be
168 worthless and charged off during the taxable year, if sustained in
169 the conduct of the regular trade or business of the taxpayer;
170 provided, that such losses shall be allowed only when the taxpayer

171 has reported as income, on the accrual basis, the amount of such
172 debt or account.

173 (f) **Depreciation.** A reasonable allowance for
174 exhaustion, wear and tear of property used in the trade or
175 business, or rental property, and depreciation upon buildings
176 based upon their reasonable value as of March 16, 1912, if
177 acquired prior thereto, and upon cost if acquired subsequent to
178 that date.

179 (g) **Depletion.** In the case of mines, oil and gas
180 wells, other natural deposits and timber, a reasonable allowance
181 for depletion and for depreciation of improvements, based upon
182 cost, including cost of development, not otherwise deducted, or
183 fair market value as of March 16, 1912, if acquired prior to that
184 date, such allowance to be made upon regulations prescribed by the
185 commissioner, with the approval of the Governor.

186 (h) **Contributions or gifts.** Except as otherwise
187 provided in subsection (3)(a) of this section for individuals,
188 contributions or gifts made by corporations within the taxable
189 year to corporations, organizations, associations or institutions,
190 including Community Chest funds, foundations and trusts created
191 solely and exclusively for religious, charitable, scientific or
192 educational purposes, or for the prevention of cruelty to children
193 or animals, no part of the net earnings of which inure to the
194 benefit of any private stockholder or individual. This deduction
195 shall be allowed in an amount not to exceed twenty percent (20%)
196 of the net income. Such contributions or gifts shall be allowable
197 as deductions only if verified under rules and regulations
198 prescribed by the commissioner, with the approval of the Governor.
199 Contributions made in any form other than cash shall be allowed as
200 a deduction, subject to the limitations herein provided, in an
201 amount equal to the actual market value of the contributions at
202 the time the contribution is actually made and consummated.

203 (i) **Reserve funds - insurance companies.** In the case
204 of insurance companies the net additions required by law to be
205 made within the taxable year to reserve funds when such reserve
206 funds are maintained for the purpose of liquidating policies at
207 maturity.

208 (j) **Annuity income.** The sums, other than dividends,
209 paid within the taxpayer year on policy or annuity contracts when
210 such income has been included in gross income.

211 (k) **Contributions to employee pension plans.**
212 Contributions made by an employer to a plan or a trust forming
213 part of a pension plan, stock bonus plan, disability or
214 death-benefit plan, or profit-sharing plan of such employer for
215 the exclusive benefit of some or all of his, their, or its
216 employees, or their beneficiaries, shall be deductible from his,
217 their, or its income only to the extent that, and for the taxable
218 year in which, the contribution is deductible for federal income
219 tax purposes under the Internal Revenue Code of 1986 and any other
220 provisions of similar purport in the Internal Revenue Laws of the
221 United States, and the rules, regulations, rulings and
222 determinations promulgated thereunder, provided that:

223 (i) The plan or trust be irrevocable.

224 (ii) The plan or trust constitute a part of a
225 pension plan, stock bonus plan, disability or death-benefit plan,
226 or profit-sharing plan for the exclusive benefit of some or all of
227 the employer's employees and/or officers, or their beneficiaries,
228 for the purpose of distributing the corpus and income of the plan
229 or trust to such employees and/or officers, or their
230 beneficiaries.

231 (iii) No part of the corpus or income of the plan
232 or trust can be used for purposes other than for the exclusive
233 benefit of employees and/or officers, or their beneficiaries.

234 Contributions to all plans or to all trusts of real or
235 personal property (or real and personal property combined) or to

236 insured plans created under a retirement plan for which provision
237 has been made under the laws of the United States of America,
238 making such contributions deductible from income for federal
239 income tax purposes, shall be deductible only to the same extent
240 under the Income Tax Laws of the State of Mississippi.

241 (1) **Net operating loss carrybacks and carryovers.** A
242 net operating loss for any taxable year ending after December 31,
243 1993, and taxable years thereafter, shall be a net operating loss
244 carryback to each of the three (3) taxable years preceding the
245 taxable year of the loss. If the net operating loss for any
246 taxable year is not exhausted by carrybacks to the three (3)
247 taxable years preceding the taxable year of the loss, then there
248 shall be a net operating loss carryover to each of the fifteen
249 (15) taxable years following the taxable year of the loss
250 beginning with any taxable year after December 31, 1991.

251 For any taxable year ending after December 31, 1997, the
252 period for net operating loss carrybacks and net operating loss
253 carryovers shall be the same as those established by the Internal
254 Revenue Code and the rules, regulations, rulings and
255 determinations promulgated thereunder as in effect at the taxable
256 year end or on December 31, 2000, whichever is earlier.

257 A net operating loss for any taxable year ending after
258 December 31, 2001, and taxable years thereafter, shall be a net
259 operating loss carryback to each of the two (2) taxable years
260 preceding the taxable year of the loss. If the net operating loss
261 for any taxable year is not exhausted by carrybacks to the two (2)
262 taxable years preceding the taxable year of the loss, then there
263 shall be a net operating loss carryover to each of the twenty (20)
264 taxable years following the taxable year of the loss beginning
265 with any taxable year after the taxable year of the loss.

266 The term "net operating loss," for the purposes of this
267 paragraph, shall be the excess of the deductions allowed over the

268 gross income; provided, however, the following deductions shall
269 not be allowed in computing same:

270 (i) No net operating loss deduction shall be
271 allowed.

272 (ii) No personal exemption deduction shall be
273 allowed.

274 (iii) Allowable deductions which are not
275 attributable to taxpayer's trade or business shall be allowed only
276 to the extent of the amount of gross income not derived from such
277 trade or business.

278 Any taxpayer entitled to a carryback period as provided by
279 this paragraph may elect to relinquish the entire carryback period
280 with respect to a net operating loss for any taxable year ending
281 after December 31, 1991. The election shall be made in the manner
282 prescribed by the State Tax Commission and shall be made by the
283 due date, including extensions of time, for filing the taxpayer's
284 return for the taxable year of the net operating loss for which
285 the election is to be in effect. The election, once made for any
286 taxable year, shall be irrevocable for that taxable year.

287 (m) **Amortization of pollution or environmental control**
288 **facilities.** Allowance of deduction. Every taxpayer, at his
289 election, shall be entitled to a deduction for pollution or
290 environmental control facilities to the same extent as that
291 allowed under the Internal Revenue Code and the rules,
292 regulations, rulings and determinations promulgated thereunder.

293 (n) **Dividend distributions - real estate investment**
294 **trusts.** "Real estate investment trust" (hereinafter referred to
295 as REIT) shall have the meaning ascribed to such term in Section
296 856 of the federal Internal Revenue Code of 1986, as amended. A
297 REIT is allowed a dividend distributed deduction if the dividend
298 distributions meet the requirements of Section 857 or are
299 otherwise deductible under Section 858 or 860, federal Internal
300 Revenue Code of 1986, as amended. In addition:

301 (i) A dividend distributed deduction shall only be
302 allowed for dividends paid by a publicly traded REIT. A qualified
303 REIT subsidiary shall be allowed a dividend distributed deduction
304 if its owner is a publicly traded REIT.

305 (ii) Income generated from real estate contributed
306 or sold to a REIT by a shareholder or related party shall not give
307 rise to a dividend distributed deduction, unless the shareholder
308 or related party would have received the dividend distributed
309 deduction under this chapter.

310 (iii) A holding corporation receiving a dividend
311 from a REIT shall not be allowed the deduction in Section
312 27-7-15(4)(t).

313 (iv) Any REIT not allowed the dividend distributed
314 deduction in the federal Internal Revenue Code of 1986, as
315 amended, shall not be allowed a dividend distributed deduction
316 under this chapter.

317 The commissioner is authorized to promulgate rules and
318 regulations consistent with the provisions in Section 269 of the
319 federal Internal Revenue Code of 1986, as amended, so as to
320 prevent the evasion or avoidance of state income tax.

321 (o) **Contributions to college savings trust fund**
322 **accounts.** Contributions or payments to a Mississippi Affordable
323 College Savings Program account are deductible as provided under
324 Section 37-155-113. Payments made under a prepaid tuition
325 contract entered into under the Mississippi Prepaid Affordable
326 College Tuition Program are deductible as provided under Section
327 37-155-17.

328 (2) **Restrictions on the deductibility of certain intangible**
329 **expenses and interest expenses with a related member.**

330 (a) As used in this subsection (2):

331 (i) "Intangible expenses and costs" include:

332 1. Expenses, losses and costs for, related
333 to, or in connection directly or indirectly with the direct or

334 indirect acquisition, use, maintenance or management, ownership,
335 sale, exchange or any other disposition of intangible property to
336 the extent such amounts are allowed as deductions or costs in
337 determining taxable income under this chapter;

338 2. Expenses or losses related to or incurred
339 in connection directly or indirectly with factoring transactions
340 or discounting transactions;

341 3. Royalty, patent, technical and copyright
342 fees;

343 4. Licensing fees; and

344 5. Other similar expenses and costs.

345 (ii) "Intangible property" means patents, patent
346 applications, trade names, trademarks, service marks, copyrights
347 and similar types of intangible assets.

348 (iii) "Interest expenses and cost" means amounts
349 directly or indirectly allowed as deductions for purposes of
350 determining taxable income under this chapter to the extent such
351 interest expenses and costs are directly or indirectly for,
352 related to, or in connection with the direct or indirect
353 acquisition, maintenance, management, ownership, sale, exchange or
354 disposition of intangible property.

355 (iv) "Related member" means an entity or person
356 that, with respect to the taxpayer during all or any portion of
357 the taxable year, is a related entity, a component member as
358 defined in the Internal Revenue Code, or is an entity or a person
359 to or from whom there is attribution of stock ownership in
360 accordance with Section 1563(e) of the Internal Revenue Code.

361 (v) "Related entity" means:

362 1. A stockholder who is an individual or a
363 member of the stockholder's family, as defined in regulations
364 prescribed by the commissioner, if the stockholder and the members
365 of the stockholder's family own, directly, indirectly,

366 beneficially or constructively, in the aggregate, at least fifty
367 percent (50%) of the value of the taxpayer's outstanding stock;

368 2. A stockholder, or a stockholder's
369 partnership, limited liability company, estate, trust or
370 corporation, if the stockholder and the stockholder's
371 partnerships, limited liability companies, estates, trusts and
372 corporations own, directly, indirectly, beneficially or
373 constructively, in the aggregate, at least fifty percent (50%) of
374 the value of the taxpayer's outstanding stock;

375 3. A corporation, or a party related to the
376 corporation in a manner that would require an attribution of stock
377 from the corporation to the party or from the party to the
378 corporation, if the taxpayer owns, directly, indirectly,
379 beneficially or constructively, at least fifty percent (50%) of
380 the value of the corporation's outstanding stock under regulation
381 prescribed by the commissioner;

382 4. Any entity or person which would be a
383 related member under this section if the taxpayer were considered
384 a corporation for purposes of this section.

385 (b) In computing net income, a taxpayer shall add back
386 otherwise deductible interest expenses and costs and intangible
387 expenses and costs directly or indirectly paid, accrued to or
388 incurred, in connection directly or indirectly with one or more
389 direct or indirect transactions with one or more related members.

390 (c) The adjustments required by this subsection shall
391 not apply to such portion of interest expenses and costs and
392 intangible expenses and costs that the taxpayer can establish
393 meets one (1) of the following:

394 (i) The related member directly or indirectly
395 paid, accrued or incurred such portion to a person during the same
396 income year who is not a related member; or

397 (ii) The transaction giving rise to the interest
398 expenses and costs or intangible expenses and costs between the

399 taxpayer and related member was done primarily for a valid
400 business purpose other than the avoidance of taxes, and the
401 related member is not primarily engaged in the acquisition, use,
402 maintenance or management, ownership, sale, exchange or any other
403 disposition of intangible property.

404 (d) Nothing in this subsection shall require a taxpayer
405 to add to its net income more than once any amount of interest
406 expenses and costs or intangible expenses and costs that the
407 taxpayer pays, accrues or incurs to a related member.

408 (e) The commissioner may prescribe such regulations as
409 necessary or appropriate to carry out the purposes of this
410 subsection including, but not limited to, clarifying definitions
411 of terms, rules of stock attribution, factoring and discount
412 transactions.

413 (3) **Individual nonbusiness deductions.**

414 (a) The amount allowable for individual nonbusiness
415 itemized deductions for federal income tax purposes where the
416 individual is eligible to elect, for the taxable year, to itemize
417 deductions on his federal return except the following:

418 (i) The deduction for state income taxes paid or
419 other taxes allowed for federal purposes in lieu of state income
420 taxes paid;

421 (ii) The deduction for gaming losses from gaming
422 establishments;

423 (iii) The deduction for taxes collected by
424 licensed gaming establishments pursuant to Section 27-7-901;

425 (iv) The deduction for taxes collected by gaming
426 establishments pursuant to Section 27-7-903.

427 (b) In lieu of the individual nonbusiness itemized
428 deductions authorized in paragraph (a), for all purposes other
429 than ordinary and necessary expenses paid or incurred during the
430 taxable year in carrying on any trade or business, an optional
431 standard deduction of:

432 (i) Three Thousand Four Hundred Dollars
433 (\$3,400.00) through calendar year 1997, Four Thousand Two Hundred
434 Dollars (\$4,200.00) for the calendar year 1998 and Four Thousand
435 Six Hundred Dollars (\$4,600.00) for each calendar year thereafter
436 in the case of married individuals filing a joint or combined
437 return;

438 (ii) One Thousand Seven Hundred Dollars
439 (\$1,700.00) through calendar year 1997, Two Thousand One Hundred
440 Dollars (\$2,100.00) for the calendar year 1998 and Two Thousand
441 Three Hundred Dollars (\$2,300.00) for each calendar year
442 thereafter in the case of married individuals filing separate
443 returns;

444 (iii) Three Thousand Four Hundred Dollars
445 (\$3,400.00) in the case of a head of family; or

446 (iv) Two Thousand Three Hundred Dollars
447 (\$2,300.00) in the case of an individual who is not married.

448 In the case of a husband and wife living together, having
449 separate incomes, and filing combined returns, the standard
450 deduction authorized may be divided in any manner they choose. In
451 the case of separate returns by a husband and wife, the standard
452 deduction shall not be allowed to either if the taxable income of
453 one of the spouses is determined without regard to the standard
454 deduction.

455 (c) A nonresident individual shall be allowed the same
456 individual nonbusiness deductions as are authorized for resident
457 individuals in paragraph (a) or (b) of this subsection; however,
458 the nonresident individual is entitled only to that proportion of
459 the individual nonbusiness deductions as his net income from
460 sources within the State of Mississippi bears to his total or
461 entire net income from all sources.

462 (4) Nothing in this section shall permit the same item to be
463 deducted more than once, either in fact or in effect.

464 **SECTION 3.** (1) There is created in the State Treasury a
465 special fund to be known as the University of Mississippi Medical
466 Center Enhancement Fund, which shall consist of the monies
467 required to be deposited into the special fund under Section
468 75-76-129 and any other funds that may be authorized or otherwise
469 made available to be deposited into the special fund.

470 (2) Monies in the special fund shall be expended by the
471 University of Mississippi Medical Center, upon appropriation by
472 the Legislature, for the operation and maintenance of the medical
473 center.

474 (3) Unexpended amounts remaining in the special fund at the
475 end of a fiscal year shall not lapse into the State General Fund,
476 and any interest earned or investment earnings on amounts in the
477 special fund shall be deposited to the credit of the special fund.

478 (4) It is the intent of the Legislature that the monies in
479 the special fund shall not be used to reduce the amount of the
480 general fund appropriation to the University of Mississippi
481 Medical Center below the amount appropriated to the medical center
482 from general funds during the previous fiscal year, but instead
483 shall be used to increase the total amount of money that is
484 appropriated to the medical center each year.

485 **SECTION 4.** Section 75-76-129, Mississippi Code of 1972, is
486 amended as follows:

487 **[Through June 30, 2022, this section shall read as follows:]**

488 75-76-129. (1) On or before the last day of each month all
489 taxes, fees, interest, penalties, damages, fines or other monies
490 collected by the State Tax Commission during that month under the
491 provisions of this chapter, with the exception of (a) the local
492 government fees imposed under Section 75-76-195, and (b) an amount
493 equal to Three Million Dollars (\$3,000,000.00) of the revenue
494 collected pursuant to the fee imposed under Section
495 75-76-177(1)(c), shall be paid by the State Tax Commission to the
496 State Treasurer to be deposited in the State General Fund, except

497 as otherwise provided in subsection (2) of this section. The
498 local government fees shall be distributed by the State Tax
499 Commission pursuant to Section 75-76-197. An amount equal to
500 Three Million Dollars (\$3,000,000.00) of the revenue collected
501 during that month pursuant to the fee imposed under Section
502 75-76-177(1)(c) shall be deposited by the State Tax Commission
503 into the bond sinking fund created in Section 65-39-3.

504 (2) During each fiscal year beginning with fiscal year 2007,
505 after the State Treasurer has deposited into the State General
506 Fund an amount equal to the total amount that was deposited into
507 the State General Fund under this section during fiscal year 2005,
508 all such monies collected thereafter during the fiscal year that
509 otherwise would be deposited into the State General Fund under
510 subsection (1) of this section shall be deposited into the
511 following funds:

512 (a) The first Eighty Million Dollars (\$80,000,000.00)
513 of the monies collected shall be deposited into the University of
514 Mississippi Medical Center Enhancement Fund created by Section 3
515 of this act; and

516 (b) Any remaining monies collected shall be deposited
517 into the Mississippi Trauma Care Systems Fund created by Section
518 41-59-75.

519 **[From and after July 1, 2022, this section shall read as**
520 **follows:]**

521 75-76-129. (1) On or before the last day of each month, all
522 taxes, fees, interest, penalties, damages, fines or other monies
523 collected by the State Tax Commission during that month under the
524 provisions of this chapter, with the exception of the local
525 government fees imposed under Section 75-76-195, shall be paid by
526 the State Tax Commission to the State Treasurer to be deposited in
527 the State General Fund, except as otherwise provided in subsection
528 (2) of this section. The local government fees shall be

529 distributed by the State Tax Commission pursuant to Section
530 75-76-197.

531 (2) During each fiscal year beginning with fiscal year 2007,
532 after the State Treasurer has deposited into the State General
533 Fund an amount equal to the total amount that was deposited into
534 the State General Fund under this section during fiscal year 2005,
535 all such monies collected thereafter during the fiscal year that
536 otherwise would be deposited into the State General Fund under
537 subsection (1) of this section shall be deposited into the
538 following funds:

539 (a) The first Eighty Million Dollars (\$80,000,000.00)
540 of the monies collected shall be deposited into the University of
541 Mississippi Medical Center Enhancement Fund created by Section 3
542 of this act; and

543 (b) The next Ten Million Dollars (\$10,000,000.00) of
544 the monies collected shall be designated to the University of
545 Mississippi Medical Center for the Mississippi Burn Center to be
546 located at the University of Mississippi Medical Center for the
547 purpose of establishing and/or operating said burn center.

548 (c) Any remaining monies collected shall be deposited
549 into the Mississippi Trauma Care Systems Fund created by Section
550 41-59-75.

551 **SECTION 5.** (1) If an individual receives care or treatment
552 from the University of Mississippi Medical Center (UMMC) or any
553 hospital for injuries, disease, sickness or other medical
554 condition caused under circumstances creating a cause of action in
555 favor of the individual against any person, firm or corporation,
556 and UMMC or any hospital does not receive full compensation from
557 the individual or any third party for all expenses incurred for
558 providing that care or treatment to the individual, then UMMC or
559 any hospital is entitled to recover from any proceeds that may
560 result from the exercise of any rights of recovery that the
561 individual may have against any such person, firm or corporation

562 in an amount equal to the extent of money owed to UMMC or any
563 hospital for treatment provided to the individual. The individual
564 who received care or treatment from UMMC or any hospital shall
565 execute and deliver instruments and papers to do whatever is
566 necessary to secure those rights. UMMC or any hospital may
567 compromise or settle any such claim and execute a release of any
568 claim it has by virtue of this section. In determining whether to
569 pursue through litigation or settle a claim, UMMC or any hospital
570 may consider matters including, but not limited to, (a) the amount
571 of the lien for medical services and any expected recovery by such
572 individual from any third party, (b) the potential costs of
573 litigation, (c) the extent of injuries for which the individual
574 receives care or treatment from UMMC or any hospital, and (d) the
575 likelihood of recovery from any nonsettling party.

576 (2) The acceptance by an individual of care or treatment
577 from UMMC or any hospital for injuries, disease or sickness caused
578 under circumstances creating a cause of action in favor of the
579 individual against any person, firm or corporation shall not
580 affect the right of the individual or his or her legal
581 representative to recover UMMC's or any hospital's interest as an
582 element of damages in any action at law; however, a copy of the
583 pleadings shall be certified to UMMC or any hospital at the time
584 of the institution of suit, and proof of that notice shall be
585 filed of record in that action. UMMC or any hospital may, at any
586 time before the trial on the facts, join in that action or may
587 intervene in that action to protect its interest. Any individual
588 receiving care or treatment from UMMC or any hospital and/or his
589 attorney is responsible for ensuring that UMMC or any hospital is
590 reimbursed for care or treatment for injuries, disease or sickness
591 for which the individual receives compensation under settlement
592 from a third party under the terms of Sections 5 and 6 of this
593 act. Any amount recovered by an individual or his or her legal
594 representative shall be applied as follows:

595 (a) The amount of UMMC's or any hospital's interest on
596 behalf of the individual for the uncompensated care or treatment
597 provided to the individual, or such pro rata amount as may be
598 arrived at by the legal representative of UMMC or any hospital and
599 the individual's attorney; and

600 (b) Any excess shall be forwarded to the individual or
601 if he has an attorney, then the attorney.

602 (3) No compromise of any claim by the individual or his or
603 her legal representative shall be binding upon or affect the
604 rights of UMMC or any hospital against the third party unless UMMC
605 or any hospital has entered into the compromise. Any compromise
606 effected by the individual or his or her legal representative with
607 the third party in the absence of advance notification to and
608 approved by UMMC or any hospital shall constitute conclusive
609 evidence of the liability of the third party, and UMMC or any
610 hospital, in litigating its claim against the third party, shall
611 be required only to prove the amount and correctness of its claim
612 relating to the injury, disease or sickness. If the individual or
613 his or her legal representative fails to notify UMMC or any
614 hospital of the institution of legal proceedings against a third
615 party for which UMMC or any hospital has a cause of action, the
616 facts relating to negligence and the liability of the third party,
617 if judgment is rendered for the individual, shall constitute
618 conclusive evidence of liability in a later action maintained by
619 UMMC or any hospital and only the amount and correctness of UMMC's
620 or any hospital's claim relating to injuries, disease or sickness
621 shall be tried before the court. UMMC or any hospital shall be
622 authorized in bringing that action against the third party and his
623 or her insurer jointly or against the insurer alone for the amount
624 owed it.

625 (4) Nothing in this section shall be construed to diminish
626 or otherwise restrict the subrogation rights of UMMC or any
627 hospital against a third party for the amount due for care or

628 treatment provided by UMMC or any hospital to an individual as a
629 result of injuries, disease or sickness caused under circumstances
630 creating a cause of action in favor of the individual against such
631 a third party.

632 **SECTION 6.** (1) An individual, by accepting care or
633 treatment from UMMC for injuries, disease or sickness caused under
634 circumstances creating a cause of action in favor of the
635 individual against any person, firm or corporation, shall, to the
636 extent that UMMC provides care or treatment to the individual, be
637 deemed to have made an assignment to UMMC of any and all rights
638 and interests in any third-party benefits, hospitalization or
639 indemnity contract or any cause of action, past, present or
640 future, against the person, firm or corporation for the amount of
641 the uncompensated care or treatment provided by UMMC to the
642 individual, as set out in Section 5 of this act. The individual
643 shall be deemed, without the necessity of signing any document, to
644 have appointed UMMC as his or her true and lawful attorney-in-fact
645 in his or her name, place and stead in collecting from the person,
646 firm or corporation any and all amounts due and owing UMMC for
647 care or treatment provided by UMMC to the individual.

648 (2) Whenever UMMC submits a claim to an insurer on behalf of
649 an individual for whom an assignment of rights has been received,
650 or whose rights have been assigned by the operation of law, the
651 insurer must respond within forty-five (45) days of receipt of a
652 claim by forwarding payment or issuing a notice of denial directly
653 to UMMC. UMMC shall be authorized to endorse any and all,
654 including, but not limited to, multi-payee checks, drafts, money
655 orders or other negotiable instruments representing recoveries of
656 payments for care or treatment that are received by UMMC.

657 (3) Court orders or agreements for payment of uncompensated
658 care or treatment provided by UMMC shall direct those payments to
659 UMMC, which shall be authorized to endorse any and all checks,
660 drafts, money orders or other negotiable instruments representing

661 recoveries of payments for care or treatment that are received by
662 UMMC.

663 **SECTION 7.** Section 27-25-505, Mississippi Code of 1972, is
664 brought forward as follows:

665 **[With regard to any county which is exempt from the**
666 **provisions of Section 19-2-3, this section shall read as follows:]**

667 27-25-505. All taxes herein levied and collected by the
668 State Tax Commission shall be paid into the State Treasury on the
669 same day collected. The commissioner shall apportion all such tax
670 collections to the state and to the county in which the oil was
671 produced, in accordance with the following schedule and so certify
672 such apportionment to the State Treasurer at the end of each
673 month:

674 On the first Six Hundred Thousand Dollars (\$600,000.00) or
675 any part thereof, sixty-six and two-thirds percent (66-2/3%) to
676 the state and thirty-three and one-third percent (33-1/3%) to the
677 county.

678 On the next Six Hundred Thousand Dollars (\$600,000.00) or any
679 part thereof, ninety percent (90%) to the state and ten percent
680 (10%) to the county through June 30, 1989; eighty-five percent
681 (85%) to the state and fifteen percent (15%) to the county from
682 July 1, 1989, through June 30, 1990; and eighty percent (80%) to
683 the state and twenty percent (20%) to the county for each fiscal
684 year thereafter.

685 Above and exceeding One Million Two Hundred Thousand Dollars
686 (\$1,200,000.00), ninety-five percent (95%) to the state and five
687 percent (5%) to the county through June 30, 1989; ninety percent
688 (90%) to the state and ten percent (10%) to the county from July
689 1, 1989, through June 30, 1990; and eighty-five percent (85%) to
690 the state and fifteen percent (15%) to the county for each fiscal
691 year thereafter.

692 The state's share of all oil severance taxes collected
693 pursuant to this section shall be deposited as provided for in
694 Section 27-25-506.

695 The State Treasurer shall remit the county's share of said
696 funds on or before the twentieth day of the month next succeeding
697 the month in which such collections were made, for division among
698 the municipalities and taxing districts of the county. He shall
699 accompany his remittance with a report to the county receiving
700 such funds prepared by the commissioner showing from whom said tax
701 was collected. Upon receipt of said funds, the board of
702 supervisors of said county shall allocate the same to the
703 municipalities and to the various maintenance and bond and
704 interest funds of the county, school districts, supervisors
705 districts and road districts, as hereinafter provided.

706 When there shall be any oil producing properties within the
707 corporate limits of any municipality, then such municipality shall
708 participate in the division of the tax returned to the county in
709 which the municipality is located, in the proportion which the tax
710 on production of oil from any properties located within the
711 municipal corporate limits bears to the tax on the total
712 production of oil in the county. In no event, however, shall the
713 amount allocated to municipalities exceed one-third (1/3) of the
714 tax produced in the municipality and returned to the county. Any
715 amount received by any municipality as a result of the allocation
716 herein provided shall be used only for such purposes as are
717 authorized by law.

718 The balance remaining of any amount of tax returned to the
719 county after the allocation to municipalities shall be divided
720 among the various maintenance and bond interest funds of the
721 county, school districts, supervisors districts and road
722 districts, in the discretion of the board of supervisors, and such
723 board shall make the division in consideration of the needs of the

724 various taxing districts. The funds so allocated shall be used
725 only for purposes as are authorized by law.

726 **[With regard to any county which is required to operate on a**
727 **countywide system of road administration as described in Section**
728 **19-2-3, this section shall read as follows:]**

729 27-25-505. All taxes herein levied and collected by the
730 State Tax Commission shall be paid into the State Treasury on the
731 same day collected. The commissioner shall apportion all such tax
732 collections to the state and to the county in which the oil was
733 produced, in accordance with the following schedule and so certify
734 such apportionment to the State Treasurer at the end of each
735 month:

736 On the first Six Hundred Thousand Dollars (\$600,000.00) or
737 any part thereof, sixty-six and two-thirds percent (66-2/3%) to
738 the state and thirty-three and one-third percent (33-1/3%) to the
739 county.

740 On the next Six Hundred Thousand Dollars (\$600,000.00) or any
741 part thereof, ninety percent (90%) to the state and ten percent
742 (10%) to the county through June 30, 1989; eighty-five percent
743 (85%) to the state and fifteen percent (15%) to the county from
744 July 1, 1989, through June 30, 1990; and eighty percent (80%) to
745 the state and twenty percent (20%) to the county for each fiscal
746 year thereafter.

747 Above and exceeding One Million Two Hundred Thousand Dollars
748 (\$1,200,000.00), ninety-five percent (95%) to the state and five
749 percent (5%) to the county through June 30, 1989; ninety percent
750 (90%) to the state and ten percent (10%) to the county from July
751 1, 1989, through June 30, 1990; and eighty-five percent (85%) to
752 the state and fifteen percent (15%) to the county for each fiscal
753 year thereafter.

754 The state's share of all oil severance taxes collected
755 pursuant to this section shall be deposited as provided for in
756 Section 27-25-506.

757 The State Treasurer shall remit the county's share of said
758 funds on or before the twentieth day of the month next succeeding
759 the month in which such collections were made, for division among
760 the municipalities and taxing districts of the county. He shall
761 accompany his remittance with a report to the county receiving
762 such funds prepared by the commissioner showing from whom said tax
763 was collected. Upon receipt of said funds, the board of
764 supervisors of said county shall allocate the same to the
765 municipalities and to the various maintenance and bond and
766 interest funds of the county and school districts, as hereinafter
767 provided.

768 When there shall be any oil producing properties within the
769 corporate limits of any municipality, then such municipality shall
770 participate in the division of the tax returned to the county in
771 which the municipality is located, in the proportion which the tax
772 on production of oil from any properties located within the
773 municipal corporate limits bears to the tax on the total
774 production of oil in the county. In no event, however, shall the
775 amount allocated to municipalities exceed one-third (1/3) of the
776 tax produced in the municipality and returned to the county. Any
777 amount received by any municipality as a result of the allocation
778 herein provided shall be used only for such purposes as are
779 authorized by law.

780 The balance remaining of any amount of tax returned to the
781 county after the allocation to municipalities shall be divided
782 among the various maintenance and bond interest funds of the
783 county and school districts, in the discretion of the board of
784 supervisors, and such board shall make the division in
785 consideration of the needs of the various taxing districts. The
786 funds so allocated shall be used only for purposes as are
787 authorized by law.

788 **SECTION 8.** It is the intent of the Legislature that the
789 University Medical Center shall undertake a study to provide a

790 method to provide health care for state employees and public
791 school teachers and state university and public community college
792 employees covered by Mississippi state insurance coverage without
793 charging copayments for catastrophic care provided to the
794 aforesaid individuals if said is financially feasible.

795 **SECTION 9.** Sections 1 and 2 of this act shall take effect
796 and be in force from and after January 1, 2006; and Sections 3
797 through 9 of this act shall take effect and be in force from and
798 after July 1, 2006.