

By: Representative Stringer

To: Appropriations

HOUSE BILL NO. 1285

1 AN ACT TO AMEND SECTION 27-65-75, MISSISSIPPI CODE OF 1972,
2 TO DELETE THE PROVISION FOR THE DIVERSION OF CERTAIN SALES TAX
3 REVENUES TO THE SPECIAL FUNDS TRANSFER FUND; TO REPEAL SECTION 4
4 OF CHAPTER 556, LAWS OF 2003, AS LAST AMENDED BY SECTION 5 OF
5 CHAPTER 2, LAWS OF SECOND EXTRAORDINARY SESSION OF 2005, WHICH
6 CREATED THE SPECIAL FUNDS TRANSFER FUND; TO PROVIDE THAT THE
7 LEGISLATURE SHALL APPROPRIATE SUFFICIENT FUNDS TO REPAY THE TORT
8 CLAIMS FUND FOR THE AMOUNT THAT WAS TRANSFERRED TO THE BUDGET
9 CONTINGENCY FUND IN 2003; TO AMEND SECTION 43-13-407, MISSISSIPPI
10 CODE OF 1972, TO REVISE THE SCHEDULE FOR REPAYMENT OF THE HEALTH
11 CARE TRUST FUND FOR A CERTAIN AMOUNT THAT WAS TRANSFERRED TO THE
12 HEALTH CARE EXPENDABLE FUND DURING FISCAL YEAR 2005; AND FOR
13 RELATED PURPOSES.

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

15 **SECTION 1.** Section 27-65-75, Mississippi Code of 1972, is
16 amended as follows:

17 27-65-75. On or before the fifteenth day of each month, the
18 revenue collected under the provisions of this chapter during the
19 preceding month shall be paid and distributed as follows:

20 (1) (a) On or before August 15, 1992, and each succeeding
21 month thereafter through July 15, 1993, eighteen percent (18%) of
22 the total sales tax revenue collected during the preceding month
23 under the provisions of this chapter, except that collected under
24 the provisions of Sections 27-65-15, 27-65-19(3) and 27-65-21, on
25 business activities within a municipal corporation shall be
26 allocated for distribution to the municipality and paid to the
27 municipal corporation. On or before August 15, 1993, and each
28 succeeding month thereafter, eighteen and one-half percent
29 (18-1/2%) of the total sales tax revenue collected during the
30 preceding month under the provisions of this chapter, except that
31 collected under the provisions of Sections 27-65-15, 27-65-19(3)
32 and 27-65-21, on business activities within a municipal

33 corporation shall be allocated for distribution to the
34 municipality and paid to the municipal corporation.

35 A municipal corporation, for the purpose of distributing the
36 tax under this subsection, shall mean and include all incorporated
37 cities, towns and villages.

38 Monies allocated for distribution and credited to a municipal
39 corporation under this subsection may be pledged as security for a
40 loan if the distribution received by the municipal corporation is
41 otherwise authorized or required by law to be pledged as security
42 for such a loan.

43 In any county having a county seat that is not an
44 incorporated municipality, the distribution provided under this
45 subsection shall be made as though the county seat was an
46 incorporated municipality; however, the distribution to the
47 municipality shall be paid to the county treasury in which the
48 municipality is located, and those funds shall be used for road,
49 bridge and street construction or maintenance in the county.

50 (b) On or before August 15, 2006, and each succeeding
51 month thereafter, eighteen and one-half percent (18-1/2%) of the
52 total sales tax revenue collected during the preceding month under
53 the provisions of this chapter, except that collected under the
54 provisions of Sections 27-65-15, 27-65-19(3) and 27-65-21, on
55 business activities on the campus of a state institution of higher
56 learning or community or junior college whose campus is not
57 located within the corporate limits of a municipality, shall be
58 allocated for distribution to the state institution of higher
59 learning or community or junior college and paid to the state
60 institution of higher learning or community or junior college.

61 (2) On or before September 15, 1987, and each succeeding
62 month thereafter, from the revenue collected under this chapter
63 during the preceding month, One Million One Hundred Twenty-five
64 Thousand Dollars (\$1,125,000.00) shall be allocated for
65 distribution to municipal corporations as defined under subsection

66 (1) of this section in the proportion that the number of gallons
67 of gasoline and diesel fuel sold by distributors to consumers and
68 retailers in each such municipality during the preceding fiscal
69 year bears to the total gallons of gasoline and diesel fuel sold
70 by distributors to consumers and retailers in municipalities
71 statewide during the preceding fiscal year. The State Tax
72 Commission shall require all distributors of gasoline and diesel
73 fuel to report to the commission monthly the total number of
74 gallons of gasoline and diesel fuel sold by them to consumers and
75 retailers in each municipality during the preceding month. The
76 State Tax Commission shall have the authority to promulgate such
77 rules and regulations as is necessary to determine the number of
78 gallons of gasoline and diesel fuel sold by distributors to
79 consumers and retailers in each municipality. In determining the
80 percentage allocation of funds under this subsection for the
81 fiscal year beginning July 1, 1987, and ending June 30, 1988, the
82 State Tax Commission may consider gallons of gasoline and diesel
83 fuel sold for a period of less than one (1) fiscal year. For the
84 purposes of this subsection, the term "fiscal year" means the
85 fiscal year beginning July 1 of a year.

86 (3) On or before September 15, 1987, and on or before the
87 fifteenth day of each succeeding month, until the date specified
88 in Section 65-39-35, the proceeds derived from contractors' taxes
89 levied under Section 27-65-21 on contracts for the construction or
90 reconstruction of highways designated under the highway program
91 created under Section 65-3-97 shall, except as otherwise provided
92 in Section 31-17-127, be deposited into the State Treasury to the
93 credit of the State Highway Fund to be used to fund that highway
94 program. The Mississippi Department of Transportation shall
95 provide to the State Tax Commission such information as is
96 necessary to determine the amount of proceeds to be distributed
97 under this subsection.

98 (4) On or before August 15, 1994, and on or before the
99 fifteenth day of each succeeding month through July 15, 1999, from
100 the proceeds of gasoline, diesel fuel or kerosene taxes as
101 provided in Section 27-5-101(a)(ii)1, Four Million Dollars
102 (\$4,000,000.00) shall be deposited in the State Treasury to the
103 credit of a special fund designated as the "State Aid Road Fund,"
104 created by Section 65-9-17. On or before August 15, 1999, and on
105 or before the fifteenth day of each succeeding month, from the
106 total amount of the proceeds of gasoline, diesel fuel or kerosene
107 taxes apportioned by Section 27-5-101(a)(ii)1, Four Million
108 Dollars (\$4,000,000.00) or an amount equal to twenty-three and
109 one-fourth percent (23-1/4%) of those funds, whichever is the
110 greater amount, shall be deposited in the State Treasury to the
111 credit of the "State Aid Road Fund," created by Section 65-9-17.
112 Those funds shall be pledged to pay the principal of and interest
113 on state aid road bonds heretofore issued under Sections 19-9-51
114 through 19-9-77, in lieu of and in substitution for the funds
115 previously allocated to counties under this section. Those funds
116 may not be pledged for the payment of any state aid road bonds
117 issued after April 1, 1981; however, this prohibition against the
118 pledging of any such funds for the payment of bonds shall not
119 apply to any bonds for which intent to issue those bonds has been
120 published, for the first time, as provided by law before March 29,
121 1981. From the amount of taxes paid into the special fund under
122 this subsection and subsection (9) of this section, there shall be
123 first deducted and paid the amount necessary to pay the expenses
124 of the Office of State Aid Road Construction, as authorized by the
125 Legislature for all other general and special fund agencies. The
126 remainder of the fund shall be allocated monthly to the several
127 counties in accordance with the following formula:

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

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

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

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

141 The amount of funds allocated to any county under this
142 subsection for any fiscal year after fiscal year 1994 shall not be
143 less than the amount allocated to the county for fiscal year 1994.

144 Any reference in the general laws of this state or the
145 Mississippi Code of 1972 to Section 27-5-105 shall mean and be
146 construed to refer and apply to subsection (4) of Section
147 27-65-75.

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

154 (6) An amount each month beginning August 15, 1983, through
155 November 15, 1986, as specified in Section 6 of Chapter 542, Laws
156 of 1983, shall be paid into the special fund known as the
157 Correctional Facilities Construction Fund created in Section 6 of
158 Chapter 542, Laws of 1983.

159 (7) On or before August 15, 1992, and each succeeding month
160 thereafter through July 15, 2000, two and two hundred sixty-six
161 one-thousandths percent (2.266%) of the total sales tax revenue
162 collected during the preceding month under the provisions of this

163 chapter, except that collected under the provisions of Section
164 27-65-17(2) shall be deposited by the commission into the School
165 Ad Valorem Tax Reduction Fund created under Section 37-61-35. On
166 or before August 15, 2000, and each succeeding month thereafter,
167 two and two hundred sixty-six one-thousandths percent (2.266%) of
168 the total sales tax revenue collected during the preceding month
169 under the provisions of this chapter, except that collected under
170 the provisions of Section 27-65-17(2), shall be deposited into the
171 School Ad Valorem Tax Reduction Fund created under Section
172 37-61-35 until such time that the total amount deposited into the
173 fund during a fiscal year equals Forty-two Million Dollars
174 (\$42,000,000.00). Thereafter, the amounts diverted under this
175 subsection (7) during the fiscal year in excess of Forty-two
176 Million Dollars (\$42,000,000.00) shall be deposited into the
177 Education Enhancement Fund created under Section 37-61-33 for
178 appropriation by the Legislature as other education needs and
179 shall not be subject to the percentage appropriation requirements
180 set forth in Section 37-61-33.

181 (8) On or before August 15, 1992, and each succeeding month
182 thereafter, nine and seventy-three one-thousandths percent
183 (9.073%) of the total sales tax revenue collected during the
184 preceding month under the provisions of this chapter, except that
185 collected under the provisions of Section 27-65-17(2), shall be
186 deposited into the Education Enhancement Fund created under
187 Section 37-61-33.

188 (9) On or before August 15, 1994, and each succeeding month
189 thereafter, from the revenue collected under this chapter during
190 the preceding month, Two Hundred Fifty Thousand Dollars
191 (\$250,000.00) shall be paid into the State Aid Road Fund.

192 (10) On or before August 15, 1994, and each succeeding month
193 thereafter through August 15, 1995, from the revenue collected
194 under this chapter during the preceding month, Two Million Dollars

195 (\$2,000,000.00) shall be deposited into the Motor Vehicle Ad
196 Valorem Tax Reduction Fund established in Section 27-51-105.

197 (11) Notwithstanding any other provision of this section to
198 the contrary, on or before February 15, 1995, and each succeeding
199 month thereafter, the sales tax revenue collected during the
200 preceding month under the provisions of Section 27-65-17(2) and
201 the corresponding levy in Section 27-65-23 on the rental or lease
202 of private carriers of passengers and light carriers of property
203 as defined in Section 27-51-101 shall be deposited, without
204 diversion, into the Motor Vehicle Ad Valorem Tax Reduction Fund
205 established in Section 27-51-105.

206 (12) Notwithstanding any other provision of this section to
207 the contrary, on or before August 15, 1995, and each succeeding
208 month thereafter, the sales tax revenue collected during the
209 preceding month under the provisions of Section 27-65-17(1) on
210 retail sales of private carriers of passengers and light carriers
211 of property, as defined in Section 27-51-101 and the corresponding
212 levy in Section 27-65-23 on the rental or lease of these vehicles,
213 shall be deposited, after diversion, into the Motor Vehicle Ad
214 Valorem Tax Reduction Fund established in Section 27-51-105.

215 (13) On or before July 15, 1994, and on or before the
216 fifteenth day of each succeeding month thereafter, that portion of
217 the avails of the tax imposed in Section 27-65-22 that is derived
218 from activities held on the Mississippi State Fairgrounds Complex,
219 shall be paid into a special fund that is created in the State
220 Treasury and shall be expended upon legislative appropriation
221 solely to defray the costs of repairs and renovation at the Trade
222 Mart and Coliseum.

223 (14) On or before August 15, 1998, and each succeeding month
224 thereafter through July 15, 2005, that portion of the avails of
225 the tax imposed in Section 27-65-23 that is derived from sales by
226 cotton compresses or cotton warehouses and that would otherwise be
227 paid into the General Fund, shall be deposited in an amount not to

228 exceed Two Million Dollars (\$2,000,000.00) into the special fund
229 created under Section 69-37-39.

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

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

244 (17) Notwithstanding any other provision of this section to
245 the contrary, on or before April 15, 2002, and each succeeding
246 month thereafter, the sales tax revenue collected during the
247 preceding month under Section 27-65-23 on sales of parking
248 services of parking garages and lots at airports shall be
249 deposited, without diversion, into the special fund created under
250 Section 27-5-101(d).

251 * * *

252 (18) (a) On or before August 15, 2005, and each succeeding
253 month thereafter, the sales tax revenue collected during the
254 preceding month under the provisions of this chapter on the gross
255 proceeds of sales of a business enterprise located within a
256 redevelopment project area under the provisions of Sections
257 57-91-1 through 57-91-11, and the revenue collected on the gross
258 proceeds of sales from sales made to a business enterprise located
259 in a redevelopment project area under the provisions of Sections
260 57-91-1 through 57-91-11 (provided that such sales made to a

261 business enterprise are made on the premises of the business
262 enterprise), shall, except as otherwise provided in this
263 subsection (19), be deposited, after all diversions, into the
264 Redevelopment Project Incentive Fund as created in Section
265 57-91-9.

266 (b) For a municipality participating in the Economic
267 Redevelopment Act created in Sections 57-91-1 through 57-91-11,
268 the diversion provided for in subsection (1) of this section
269 attributable to the gross proceeds of sales of a business
270 enterprise located within a redevelopment project area under the
271 provisions of Sections 57-91-1 through 57-91-11, and attributable
272 to the gross proceeds of sales from sales made to a business
273 enterprise located in a redevelopment project area under the
274 provisions of Sections 57-91-1 through 57-91-11 (provided that
275 such sales made to a business enterprise are made on the premises
276 of the business enterprise), shall be deposited into the
277 Redevelopment Project Incentive Fund as created in Section
278 57-91-9, as follows:

279 (i) For the first six (6) years in which payments
280 are made to a developer from the Redevelopment Project Incentive
281 Fund, one hundred percent (100%) of the diversion shall be
282 deposited into the fund;

283 (ii) For the seventh year in which such payments
284 are made to a developer from the Redevelopment Project Incentive
285 Fund, eighty percent (80%) of the diversion shall be deposited
286 into the fund;

287 (iii) For the eighth year in which such payments
288 are made to a developer from the Redevelopment Project Incentive
289 Fund, seventy percent (70%) of the diversion shall be deposited
290 into the fund;

291 (iv) For the ninth year in which such payments are
292 made to a developer from the Redevelopment Project Incentive Fund,

293 sixty percent (60%) of the diversion shall be deposited into the
294 fund; and

295 (v) For the tenth year in which such payments are
296 made to a developer from the Redevelopment Project Incentive Fund,
297 fifty percent (50%) of the funds shall be deposited into the fund.

298 (19) On or before January 15, 2007, and each succeeding
299 month thereafter, eighty percent (80%) of the sales tax revenue
300 collected during the preceding month under the provisions of this
301 chapter from the operation of a tourism project under the
302 provisions of Sections 57-28-1 through 57-28-5, shall be
303 deposited, after the diversions required in subsections (7) and
304 (8) of this section, into the Tourism Sales Tax Incentive Fund
305 created in Section 57-28-3.

306 (20) The remainder of the amounts collected under the
307 provisions of this chapter shall be paid into the State Treasury
308 to the credit of the General Fund.

309 (21) It shall be the duty of the municipal officials of any
310 municipality that expands its limits, or of any community that
311 incorporates as a municipality, to notify the commissioner of that
312 action thirty (30) days before the effective date. Failure to so
313 notify the commissioner shall cause the municipality to forfeit
314 the revenue that it would have been entitled to receive during
315 this period of time when the commissioner had no knowledge of the
316 action. If any funds have been erroneously disbursed to any
317 municipality or any overpayment of tax is recovered by the
318 taxpayer, the commissioner may make correction and adjust the
319 error or overpayment with the municipality by withholding the
320 necessary funds from any later payment to be made to the
321 municipality.

322 **SECTION 2.** Section 4 of Chapter 556, Laws of 2003, as
323 amended by Section 10 of Chapter 595, Laws of 2004, as amended by
324 Section 5 of Chapter 2, Laws of Second Extraordinary Session of
325 2005, which created the Special Funds Transfer Fund, is repealed.

326 **SECTION 3.** The Legislature, in its discretion and as funds
327 become available for that purpose, shall appropriate sufficient
328 funds to repay the Tort Claims Fund (Fund No. 3080) for the
329 Fourteen Million Dollars (\$14,000,000.00) that was transferred
330 from the Tort Claims Fund to the Budget Contingency Fund under the
331 provisions of Section 2 of Chapter 556, Laws of 2003.

332 **SECTION 4.** Section 43-13-407, Mississippi Code of 1972, is
333 amended as follows:

334 43-13-407. (1) In accordance with the purposes of this
335 article, there is established in the State Treasury the Health
336 Care Expendable Fund, into which shall be transferred from the
337 Health Care Trust Fund the following sums:

338 (a) In fiscal year 2005, Four Hundred Fifty-six Million
339 Dollars (\$456,000,000.00);

340 (b) In fiscal year 2006, One Hundred Eighty-six Million
341 Dollars (\$186,000,000.00);

342 (c) In fiscal year 2007, One Hundred Forty-six Million
343 Dollars (\$146,000,000.00);

344 (d) In fiscal year 2008, One Hundred Six Million
345 Dollars (\$106,000,000.00);

346 (e) In fiscal year 2009, Sixty-six Million Dollars
347 (\$66,000,000.00);

348 (f) In fiscal year 2010 and each fiscal year
349 thereafter, a sum equal to the average annual amount of the
350 dividends, interest and other income, including increases in value
351 of the principal, earned on the funds in the Health Care Trust
352 Fund during the preceding four (4) fiscal years.

353 (2) In any fiscal year in which interest, dividends and
354 other income from the investment of the funds in the Health Care
355 Trust Fund are not sufficient to fund the full amount of the
356 annual transfer into the Health Care Expendable Fund as required
357 in subsection (1)(f) of this section, the State Treasurer shall
358 transfer from tobacco settlement installment payments an amount

359 that is sufficient to fully fund the amount of the annual
360 transfer.

361 (3) On March 6, 2002, the State Treasurer shall transfer the
362 sum of Eighty-seven Million Dollars (\$87,000,000.00) from the
363 Health Care Trust Fund into the Health Care Expendable Fund. In
364 addition, at the time the State of Mississippi receives the
365 tobacco settlement installment payments for each of the calendar
366 years 2002 and 2003, the State Treasurer shall deposit the full
367 amount of each of those installment payments into the Health Care
368 Expendable Fund.

369 (4) The total sum of Two Hundred Forty Million Dollars
370 (\$240,000,000.00) plus interest at the rate of five percent (5%)
371 per annum shall be transferred into the Health Care Trust Fund
372 from the State General Fund during fiscal years 2009 through 2016
373 to repay the trust fund for Two Hundred Forty Million Dollars
374 (\$240,000,000.00) of the total sum that is transferred from the
375 trust fund to the Health Care Expendable Fund during fiscal year
376 2005 under subsection (1)(a) of this section. The repayment shall
377 be made according to the following schedule: During each of
378 fiscal years 2009 through 2015, the State Fiscal Officer shall
379 transfer from the General Fund to the Health Care Trust Fund the
380 sum of Thirty-eight Million Dollars (\$38,000,000.00), and during
381 fiscal year 2016 the State Fiscal Officer shall transfer from the
382 State General Fund to the Health Care Trust Fund a sum in the
383 amount certified by the State Treasurer as necessary to fully
384 repay the balance of the Two Hundred Forty Million Dollars
385 (\$240,000,000.00) plus interest at the rate of five percent (5%)
386 per annum.

387 (5) All income from the investment of the funds in the
388 Health Care Expendable Fund shall be credited to the account of
389 the Health Care Expendable Fund. Any funds in the Health Care
390 Expendable Fund at the end of a fiscal year shall not lapse into
391 the State General Fund.

392 (6) The funds in the Health Care Expendable Fund shall be
393 available for expenditure under specific appropriation by the
394 Legislature beginning in fiscal year 2000, and shall be expended
395 exclusively for health care purposes.

396 (7) The provisions of subsection (1) of this section may not
397 be changed in any manner except upon amendment to that subsection
398 by a bill enacted by the Legislature with a vote of not less than
399 three-fifths (3/5) of the members of each house present and
400 voting.

401 (8) Subsections (1), (2), (5) and (6) of this section shall
402 stand repealed on July 1, 2009.

403 **SECTION 5.** This act shall take effect and be in force from
404 and after its passage.