

By: Senator(s) Gordon

To: Appropriations

SENATE BILL NO. 2985

1 AN ACT TO AMEND SECTION 43-13-407, MISSISSIPPI CODE OF 1972,
 2 TO DELAY CERTAIN REPAYMENT PROVISIONS IN THE TOBACCO SETTLEMENT
 3 HEALTH CARE TRUST FUND ACT; TO AMEND SECTION 27-65-75, MISSISSIPPI
 4 CODE OF 1972, TO DELAY UNTIL 2008 THE SALES TAX DIVERSION THAT IS
 5 TO BE DEPOSITED INTO THE SPECIAL FUNDS TRANSFER FUND FOR THE
 6 REPAYMENT OF BORROWED FUNDS; TO AMEND SECTION 10, CHAPTER 595,
 7 LAWS OF 2004, TO CONFORM TO THE PRECEDING SECTION; AND FOR RELATED
 8 PURPOSES.

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

10 **SECTION 1.** Section 43-13-407, Mississippi Code of 1972, is
 11 amended as follows:

12 43-13-407. (1) In accordance with the purposes of this
 13 article, there is established in the State Treasury the Health
 14 Care Expendable Fund, into which shall be transferred from the
 15 Health Care Trust Fund the following sums:

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

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

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

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

24 (e) In fiscal year 2009, Sixty-six Million Dollars
 25 (\$66,000,000.00);

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

31 (2) In any fiscal year in which interest, dividends and
32 other income from the investment of the funds in the Health Care
33 Trust Fund are not sufficient to fund the full amount of the
34 annual transfer into the Health Care Expendable Fund as required
35 in subsection (1)(f) of this section, the State Treasurer shall
36 transfer from tobacco settlement installment payments an amount
37 that is sufficient to fully fund the amount of the annual
38 transfer.

39 (3) On March 6, 2002, the State Treasurer shall transfer the
40 sum of Eighty-seven Million Dollars (\$87,000,000.00) from the
41 Health Care Trust Fund into the Health Care Expendable Fund. In
42 addition, at the time the State of Mississippi receives the
43 tobacco settlement installment payments for each of the calendar
44 years 2002 and 2003, the State Treasurer shall deposit the full
45 amount of each of those installment payments into the Health Care
46 Expendable Fund.

47 (4) The total sum of Two Hundred Forty Million Dollars
48 (\$240,000,000.00) plus interest at the rate of five percent (5%)
49 per annum shall be transferred into the Health Care Trust Fund
50 from the State General Fund during fiscal years 2009 through 2016
51 to repay the trust fund for Two Hundred Forty Million Dollars
52 (\$240,000,000.00) of the total sum that is transferred from the
53 trust fund to the Health Care Expendable Fund during fiscal year
54 2005 under subsection (1)(a) of this section. The repayment shall
55 be made according to the following schedule: During each of
56 fiscal years 2009 through 2015, the State Fiscal Officer shall
57 transfer from the General Fund to the Health Care Trust Fund the
58 sum of Thirty-eight Million Dollars (\$38,000,000.00), and during
59 fiscal year 2016 the State Fiscal Officer shall transfer from the
60 State General Fund to the Health Care Trust Fund a sum in the
61 amount certified by the State Treasurer as necessary to fully
62 repay the balance of the Two Hundred Forty Million Dollars

63 (\$240,000,000.00) plus interest at the rate of five percent (5%)
64 per annum.

65 (5) All income from the investment of the funds in the
66 Health Care Expendable Fund shall be credited to the account of
67 the Health Care Expendable Fund. Any funds in the Health Care
68 Expendable Fund at the end of a fiscal year shall not lapse into
69 the State General Fund.

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

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

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

81 **SECTION 2.** Section 27-65-75, Mississippi Code of 1972, is
82 amended as follows:

83 27-65-75. On or before the fifteenth day of each month, the
84 revenue collected under the provisions of this chapter during the
85 preceding month shall be paid and distributed as follows:

86 (1) (a) On or before August 15, 1992, and each succeeding
87 month thereafter through July 15, 1993, eighteen percent (18%) of
88 the total sales tax revenue collected during the preceding month
89 under the provisions of this chapter, except that collected under
90 the provisions of Sections 27-65-15, 27-65-19(3) and 27-65-21, on
91 business activities within a municipal corporation shall be
92 allocated for distribution to the municipality and paid to the
93 municipal corporation. On or before August 15, 1993, and each
94 succeeding month thereafter, eighteen and one-half percent
95 (18-1/2%) of the total sales tax revenue collected during the

96 preceding month under the provisions of this chapter, except that
97 collected under the provisions of Sections 27-65-15, 27-65-19(3)
98 and 27-65-21, on business activities within a municipal
99 corporation shall be allocated for distribution to the
100 municipality and paid to the municipal corporation.

101 A municipal corporation, for the purpose of distributing the
102 tax under this subsection, shall mean and include all incorporated
103 cities, towns and villages.

104 Monies allocated for distribution and credited to a municipal
105 corporation under this subsection may be pledged as security for a
106 loan if the distribution received by the municipal corporation is
107 otherwise authorized or required by law to be pledged as security
108 for such a loan.

109 In any county having a county seat that is not an
110 incorporated municipality, the distribution provided under this
111 subsection shall be made as though the county seat was an
112 incorporated municipality; however, the distribution to the
113 municipality shall be paid to the county treasury in which the
114 municipality is located, and those funds shall be used for road,
115 bridge and street construction or maintenance in the county.

116 (b) On or before August 15, 2006, and each succeeding
117 month thereafter, eighteen and one-half percent (18-1/2%) of the
118 total sales tax revenue collected during the preceding month under
119 the provisions of this chapter, except that collected under the
120 provisions of Sections 27-65-15, 27-65-19(3) and 27-65-21, on
121 business activities on the campus of a state institution of higher
122 learning or community or junior college whose campus is not
123 located within the corporate limits of a municipality, shall be
124 allocated for distribution to the state institution of higher
125 learning or community or junior college and paid to the state
126 institution of higher learning or community or junior college.

127 (2) On or before September 15, 1987, and each succeeding
128 month thereafter, from the revenue collected under this chapter

129 during the preceding month, One Million One Hundred Twenty-five
130 Thousand Dollars (\$1,125,000.00) shall be allocated for
131 distribution to municipal corporations as defined under subsection
132 (1) of this section in the proportion that the number of gallons
133 of gasoline and diesel fuel sold by distributors to consumers and
134 retailers in each such municipality during the preceding fiscal
135 year bears to the total gallons of gasoline and diesel fuel sold
136 by distributors to consumers and retailers in municipalities
137 statewide during the preceding fiscal year. The State Tax
138 Commission shall require all distributors of gasoline and diesel
139 fuel to report to the commission monthly the total number of
140 gallons of gasoline and diesel fuel sold by them to consumers and
141 retailers in each municipality during the preceding month. The
142 State Tax Commission shall have the authority to promulgate such
143 rules and regulations as is necessary to determine the number of
144 gallons of gasoline and diesel fuel sold by distributors to
145 consumers and retailers in each municipality. In determining the
146 percentage allocation of funds under this subsection for the
147 fiscal year beginning July 1, 1987, and ending June 30, 1988, the
148 State Tax Commission may consider gallons of gasoline and diesel
149 fuel sold for a period of less than one (1) fiscal year. For the
150 purposes of this subsection, the term "fiscal year" means the
151 fiscal year beginning July 1 of a year.

152 (3) On or before September 15, 1987, and on or before the
153 fifteenth day of each succeeding month, until the date specified
154 in Section 65-39-35, the proceeds derived from contractors' taxes
155 levied under Section 27-65-21 on contracts for the construction or
156 reconstruction of highways designated under the highway program
157 created under Section 65-3-97 shall, except as otherwise provided
158 in Section 31-17-127, be deposited into the State Treasury to the
159 credit of the State Highway Fund to be used to fund that highway
160 program. The Mississippi Department of Transportation shall
161 provide to the State Tax Commission such information as is

162 necessary to determine the amount of proceeds to be distributed
163 under this subsection.

164 (4) On or before August 15, 1994, and on or before the
165 fifteenth day of each succeeding month through July 15, 1999, from
166 the proceeds of gasoline, diesel fuel or kerosene taxes as
167 provided in Section 27-5-101(a)(ii)1, Four Million Dollars
168 (\$4,000,000.00) shall be deposited in the State Treasury to the
169 credit of a special fund designated as the "State Aid Road Fund,"
170 created by Section 65-9-17. On or before August 15, 1999, and on
171 or before the fifteenth day of each succeeding month, from the
172 total amount of the proceeds of gasoline, diesel fuel or kerosene
173 taxes apportioned by Section 27-5-101(a)(ii)1, Four Million
174 Dollars (\$4,000,000.00) or an amount equal to twenty-three and
175 one-fourth percent (23-1/4%) of those funds, whichever is the
176 greater amount, shall be deposited in the State Treasury to the
177 credit of the "State Aid Road Fund," created by Section 65-9-17.
178 Those funds shall be pledged to pay the principal of and interest
179 on state aid road bonds heretofore issued under Sections 19-9-51
180 through 19-9-77, in lieu of and in substitution for the funds
181 previously allocated to counties under this section. Those funds
182 may not be pledged for the payment of any state aid road bonds
183 issued after April 1, 1981; however, this prohibition against the
184 pledging of any such funds for the payment of bonds shall not
185 apply to any bonds for which intent to issue those bonds has been
186 published, for the first time, as provided by law before March 29,
187 1981. From the amount of taxes paid into the special fund under
188 this subsection and subsection (9) of this section, there shall be
189 first deducted and paid the amount necessary to pay the expenses
190 of the Office of State Aid Road Construction, as authorized by the
191 Legislature for all other general and special fund agencies. The
192 remainder of the fund shall be allocated monthly to the several
193 counties in accordance with the following formula:

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

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

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

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

207 The amount of funds allocated to any county under this
208 subsection for any fiscal year after fiscal year 1994 shall not be
209 less than the amount allocated to the county for fiscal year 1994.

210 Any reference in the general laws of this state or the
211 Mississippi Code of 1972 to Section 27-5-105 shall mean and be
212 construed to refer and apply to subsection (4) of Section
213 27-65-75.

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

220 (6) An amount each month beginning August 15, 1983, through
221 November 15, 1986, as specified in Section 6 of Chapter 542, Laws
222 of 1983, shall be paid into the special fund known as the
223 Correctional Facilities Construction Fund created in Section 6 of
224 Chapter 542, Laws of 1983.

225 (7) On or before August 15, 1992, and each succeeding month
226 thereafter through July 15, 2000, two and two hundred sixty-six

227 one-thousandths percent (2.266%) of the total sales tax revenue
228 collected during the preceding month under the provisions of this
229 chapter, except that collected under the provisions of Section
230 27-65-17(2) shall be deposited by the commission into the School
231 Ad Valorem Tax Reduction Fund created under Section 37-61-35. On
232 or before August 15, 2000, and each succeeding month thereafter,
233 two and two hundred sixty-six one-thousandths percent (2.266%) of
234 the total sales tax revenue collected during the preceding month
235 under the provisions of this chapter, except that collected under
236 the provisions of Section 27-65-17(2), shall be deposited into the
237 School Ad Valorem Tax Reduction Fund created under Section
238 37-61-35 until such time that the total amount deposited into the
239 fund during a fiscal year equals Forty-two Million Dollars
240 (\$42,000,000.00). Thereafter, the amounts diverted under this
241 subsection (7) during the fiscal year in excess of Forty-two
242 Million Dollars (\$42,000,000.00) shall be deposited into the
243 Education Enhancement Fund created under Section 37-61-33 for
244 appropriation by the Legislature as other education needs and
245 shall not be subject to the percentage appropriation requirements
246 set forth in Section 37-61-33.

247 (8) On or before August 15, 1992, and each succeeding month
248 thereafter, nine and seventy-three one-thousandths percent
249 (9.073%) of the total sales tax revenue collected during the
250 preceding month under the provisions of this chapter, except that
251 collected under the provisions of Section 27-65-17(2), shall be
252 deposited into the Education Enhancement Fund created under
253 Section 37-61-33.

254 (9) On or before August 15, 1994, and each succeeding month
255 thereafter, from the revenue collected under this chapter during
256 the preceding month, Two Hundred Fifty Thousand Dollars
257 (\$250,000.00) shall be paid into the State Aid Road Fund.

258 (10) On or before August 15, 1994, and each succeeding month
259 thereafter through August 15, 1995, from the revenue collected

260 under this chapter during the preceding month, Two Million Dollars
261 (\$2,000,000.00) shall be deposited into the Motor Vehicle Ad
262 Valorem Tax Reduction Fund established in Section 27-51-105.

263 (11) Notwithstanding any other provision of this section to
264 the contrary, on or before February 15, 1995, and each succeeding
265 month thereafter, the sales tax revenue collected during the
266 preceding month under the provisions of Section 27-65-17(2) and
267 the corresponding levy in Section 27-65-23 on the rental or lease
268 of private carriers of passengers and light carriers of property
269 as defined in Section 27-51-101 shall be deposited, without
270 diversion, into the Motor Vehicle Ad Valorem Tax Reduction Fund
271 established in Section 27-51-105.

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

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

289 (14) On or before August 15, 1998, and each succeeding month
290 thereafter through July 15, 2005, that portion of the avails of
291 the tax imposed in Section 27-65-23 that is derived from sales by
292 cotton compresses or cotton warehouses and that would otherwise be

293 paid into the General Fund, shall be deposited in an amount not to
294 exceed Two Million Dollars (\$2,000,000.00) into the special fund
295 created under Section 69-37-39.

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

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

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

317 (18) On or before August 15, 2008, and each succeeding month
318 thereafter through July 15, 2009, from the sales tax revenue
319 collected during the preceding month under the provisions of this
320 chapter, Two Million Five Hundred Thousand Dollars (\$2,500,000.00)
321 shall be deposited into the Special Funds Transfer Fund created in
322 Section 4 of Chapter 556, Laws of 2003.

323 (19) (a) On or before August 15, 2005, and each succeeding
324 month thereafter, the sales tax revenue collected during the
325 preceding month under the provisions of this chapter on the gross

326 proceeds of sales of a business enterprise located within a
327 redevelopment project area under the provisions of Sections
328 57-91-1 through 57-91-11, and the revenue collected on the gross
329 proceeds of sales from sales made to a business enterprise located
330 in a redevelopment project area under the provisions of Sections
331 57-91-1 through 57-91-11 (provided that such sales made to a
332 business enterprise are made on the premises of the business
333 enterprise), shall, except as otherwise provided in this
334 subsection (19), be deposited, after all diversions, into the
335 Redevelopment Project Incentive Fund as created in Section
336 57-91-9.

337 (b) For a municipality participating in the Economic
338 Redevelopment Act created in Sections 57-91-1 through 57-91-11,
339 the diversion provided for in subsection (1) of this section
340 attributable to the gross proceeds of sales of a business
341 enterprise located within a redevelopment project area under the
342 provisions of Sections 57-91-1 through 57-91-11, and attributable
343 to the gross proceeds of sales from sales made to a business
344 enterprise located in a redevelopment project area under the
345 provisions of Sections 57-91-1 through 57-91-11 (provided that
346 such sales made to a business enterprise are made on the premises
347 of the business enterprise), shall be deposited into the
348 Redevelopment Project Incentive Fund as created in Section
349 57-91-9, as follows:

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

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

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

362 (iv) For the ninth year in which such payments are
363 made to a developer from the Redevelopment Project Incentive Fund,
364 sixty percent (60%) of the diversion shall be deposited into the
365 fund; and

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

369 (20) On or before January 15, 2007, and each succeeding
370 month thereafter, eighty percent (80%) of the sales tax revenue
371 collected during the preceding month under the provisions of this
372 chapter from the operation of a tourism project under the
373 provisions of Sections 57-28-1 through 57-28-5, shall be
374 deposited, after the diversions required in subsections (7) and
375 (8) of this section, into the Tourism Sales Tax Incentive Fund
376 created in Section 57-28-3.

377 (21) The remainder of the amounts collected under the
378 provisions of this chapter shall be paid into the State Treasury
379 to the credit of the General Fund.

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

391 necessary funds from any later payment to be made to the
392 municipality.

393 **SECTION 3.** Section 10, Chapter 595, Laws of 2004, is amended
394 as follows:

395 Section 4. (1) There is created in the State Treasury a
396 special fund to be known as the Special Funds Transfer Fund, which
397 shall be comprised of the monies required to be deposited into the
398 fund under Section 27-65-75(18) for the repayment of certain funds
399 transferred to the Budget Contingency Fund. Upon receipt of
400 monies deposited into the fund under Section 27-65-75(18), the
401 State Treasurer shall transfer those monies to the special funds
402 from which transfers were made under Sections 2 and 3 of Chapter
403 556, Laws of 2003.

404 (2) Unexpended amounts remaining in the fund on September
405 30, 2009, shall lapse into the State General Fund, and any
406 interest earned or investment earnings on amounts in the fund
407 shall be deposited to the credit of the fund.

408 **SECTION 4.** This act shall take effect and be in force from
409 and after its passage.