

By: Representative Fleming

To: Ways and Means

## HOUSE BILL NO. 1667

1 AN ACT TO AMEND SECTION 27-69-13, MISSISSIPPI CODE OF 1972,  
 2 TO INCREASE THE EXCISE TAX ON TOBACCO PRODUCTS; TO SPECIFY THE  
 3 AMOUNT OF THE DISCOUNT OR COMPENSATION ON THE ADDITIONAL FACE  
 4 VALUE OF STAMPS PURCHASED BY DEALERS TO COMPLY WITH THE TAX  
 5 INCREASE PROVIDED FOR BY THIS ACT; TO AMEND SECTION 27-69-75,  
 6 MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE REVENUE DERIVED FROM  
 7 THE TAX INCREASE PROVIDED FOR BY THIS ACT SHALL BE DEPOSITED INTO  
 8 SPECIAL FUNDS IN THE STATE TREASURY TO THE CREDIT OF THE  
 9 UNIVERSITY OF MISSISSIPPI MEDICAL CENTER, THE STATE VETERANS  
 10 AFFAIRS BOARD AND THE GOVERNOR'S OFFICE-DIVISION OF MEDICAID; TO  
 11 SPECIFY THE PURPOSES FOR WHICH THE MONIES IN EACH SPECIAL FUND MAY  
 12 BE EXPENDED; TO AMEND SECTION 27-69-31, MISSISSIPPI CODE OF 1972,  
 13 TO CONFORM TO THE PRECEDING PROVISIONS; TO PROVIDE THAT THIS ACT  
 14 WILL STAND REPEALED ON JULY 1, 2011; AND FOR RELATED PURPOSES.

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

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

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

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

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

39                   (ii) On or before the fifteenth of August 2005,  
40 and each succeeding month thereafter, the revenue derived from the  
41 excise tax on cigarettes that is levied by subparagraph (i) of  
42 this paragraph shall be deposited into the appropriate funds in  
43 the State Treasury as provided in Section 27-69-75.

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

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

55                   (ii) On or before the fifteenth day of August  
56 2005, and each succeeding month thereafter, the revenue derived  
57 from the excise tax on other tobacco products, except cigarettes,  
58 that is levied by subparagraph (i) of this paragraph shall be  
59 deposited into the appropriate funds in the State Treasury as  
60 provided in Section 27-69-75.

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

67 stamps purchased to comply with taxes imposed by paragraphs (a)  
68 and (c) of subsection (1) of this section after June 1, 1985,  
69 shall be subject to a four percent (4%) discount or compensation  
70 to dealers for their services rather than the eight percent (8%)  
71 discount or compensation allowed by Section 27-69-31; and (b) the  
72 additional face value of stamps purchased to comply with taxes  
73 imposed by paragraphs (b) and (d) of subsection (1) of this  
74 section after July 1, 2005, shall be subject to a three percent  
75 (3%) discount or compensation to dealers for their services rather  
76 than the eight percent (8%) discount or compensation allowed by  
77 Section 27-69-31.

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

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

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

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

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

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

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

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

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

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

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

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

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

135           27-69-31. Dealers subject to the provisions of this chapter  
136 shall be allowed, as compensation for their services in affixing  
137 the stamps \* \* \* required by this chapter, a sum equal to eight  
138 percent (8%) of the face value of the stamps purchased by them,  
139 except as otherwise provided in Section 27-69-13(2); however, the  
140 commission shall allow no discount on the purchase of stamps by  
141 wholesalers of an aggregate amount of less than One Hundred  
142 Dollars (\$100.00), and by retailers of an aggregate amount of less  
143 than Fifty Dollars (\$50.00) in any one (1) order.

144           \* \* \* The commissioner may, in his discretion, either reduce  
145 the compensation allowed, or disallow any compensation for the  
146 affixing of stamps, for failure of the dealer to comply with any  
147 provisions of the law or rules and regulations promulgated by the  
148 commissioner.

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

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

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

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

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

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

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

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

183           **SECTION 5.** This act shall take effect and be in force from  
184 and after July 1, 2005.