

By: Representative Young

To: Ways and Means

HOUSE BILL NO. 299

1 AN ACT TO AMEND SECTION 27-65-75, MISSISSIPPI CODE OF 1972,
2 TO INCREASE FROM 18.5% TO 20.5% THE DIVERSION OF STATE SALES TAX
3 ALLOCATED FOR DISTRIBUTION TO ALL MUNICIPALITIES; AND FOR RELATED
4 PURPOSES.

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

6 SECTION 1. Section 27-65-75, Mississippi Code of 1972, is
7 amended as follows:

8 **[Until July 1, 2002, this section reads as follows:]**

9 27-65-75. On or before the fifteenth day of each month, the
10 revenue collected under the provisions of this chapter during the
11 preceding month shall be paid and distributed as follows:

12 (1) On or before August 15, 1992, and each succeeding month
13 thereafter through July 15, 1993, eighteen percent (18%) of the
14 total sales tax revenue collected during the preceding month under
15 the provisions of this chapter, except that collected under the
16 provisions of Sections 27-65-15, 27-65-19(3) and 27-65-21, on
17 business activities within a municipal corporation shall be
18 allocated for distribution to such municipality and paid to such
19 municipal corporation. On or before August 15, 1993, and each
20 succeeding month thereafter through July 15, 1999, eighteen and
21 one-half percent (18-1/2%) of the total sales tax revenue
22 collected during the preceding month under the provisions of this
23 chapter, except that collected under the provisions of Sections
24 27-65-15, 27-65-19(3), 27-65-21, and that collected under the
25 provisions of Section 27-65-17(2) and the corresponding levy in
26 Section 27-65-23 on the rental or lease of private carriers of
27 passengers and light carriers of property as defined in Section
28 27-51-101, on business activities within a municipal corporation

29 shall be allocated for distribution to such municipality and paid
30 to such municipal corporation. On or before August 15, 1999, and
31 each succeeding month thereafter, twenty and one-half percent
32 (20-1/2%) of the total sales tax revenue collected during the
33 preceding month under the provisions of this chapter, except that
34 collected under the provisions of Sections 27-65-15, 27-65-19(3),
35 27-65-21, and that collected under the provisions of Section
36 27-65-17(2) and the corresponding levy in Section 27-65-23 on the
37 rental or lease of private carriers of passengers and light
38 carriers of property as defined in Section 27-51-101, on business
39 activities within a municipal corporation shall be allocated for
40 distribution to such municipality and paid to such municipal
41 corporation.

42 A municipal corporation, for the purpose of distributing the
43 tax under this subsection, shall mean and include all incorporated
44 cities, towns and villages.

45 Monies allocated for distribution and credited to a municipal
46 corporation under this subsection may be pledged as security for
47 any loan received by the municipal corporation for the purpose of
48 capital improvements as authorized under Section 57-1-303, or
49 loans as authorized under Section 57-44-7, or water systems
50 improvements as authorized under Section 41-3-16.

51 In any county having a county seat which is not an
52 incorporated municipality, the distribution provided hereunder
53 shall be made as though the county seat was an incorporated
54 municipality; however, the distribution to such municipality shall
55 be paid to the county treasury wherein the municipality is located
56 and such funds shall be used for road, bridge and street
57 construction or maintenance therein.

58 (2) On or before September 15, 1987, and each succeeding
59 month thereafter, from the revenue collected under this chapter
60 during the preceding month One Million One Hundred Twenty-five
61 Thousand Dollars (\$1,125,000.00) shall be allocated for
62 distribution to municipal corporations as defined under subsection
63 (1) of this section in the proportion that the number of gallons
64 of gasoline and diesel fuel sold by distributors to consumers and
65 retailers in each such municipality during the preceding fiscal
66 year bears to the total gallons of gasoline and diesel fuel sold

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

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

94 (4) On or before August 15, 1994, and on or before the
95 fifteenth day of each succeeding month, from the proceeds of
96 gasoline, diesel fuel or kerosene taxes as provided in Section
97 27-5-101(a)(ii)1, Four Million Dollars (\$4,000,000.00) shall be
98 deposited in the State Treasury to the credit of a special fund
99 designated as the "State Aid Road Fund," created by Section
100 65-9-17. Such funds shall be pledged to pay the principal of and

101 interest on state aid road bonds heretofore issued under Sections
102 19-9-51 through 19-9-77, in lieu of and in substitution for the
103 funds heretofore allocated to counties under this section. Such
104 funds may not be pledged for the payment of any state aid road
105 bonds issued after April 1, 1981; however, this prohibition
106 against the pledging of any such funds for the payment of bonds
107 shall not apply to any bonds for which intent to issue such bonds
108 has been published, for the first time, as provided by law prior
109 to March 29, 1981. From the amount of taxes paid into the special
110 fund pursuant to this subsection and subsection (9) of this
111 section, there shall be first deducted and paid the amount
112 necessary to pay the expenses of the Office of State Aid Road
113 Construction, as authorized by the Legislature for all other
114 general and special fund agencies. The remainder of the fund
115 shall be allocated monthly to the several counties in accordance
116 with the following formula:

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

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

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

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

130 The amount of funds allocated to any county under this
131 subsection for any fiscal year after Fiscal Year 1994 shall not be
132 less than the amount allocated to such county for Fiscal Year
133 1994. Monies allocated to a county from the State Aid Road Fund
134 for Fiscal Year 1995 or any fiscal year thereafter that exceed the

135 amount of funds allocated to that county from the State Aid Road
136 Fund for Fiscal Year 1994, first must be expended by the county
137 for replacement or rehabilitation of bridges on the state aid road
138 system that have a sufficiency rating of less than twenty-five
139 (25), according to National Bridge Inspection standards before
140 such monies may be approved for expenditure by the State Aid Road
141 Engineer on other projects that qualify for the use of state aid
142 road funds.

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

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

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

158 (7) On or before August 15, 1992, and each succeeding month
159 thereafter, two and two hundred sixty-six one-thousandths percent
160 (2.266%) of the total sales tax revenue collected during the
161 preceding month under the provisions of this chapter, except that
162 collected under the provisions of Section 27-65-17(2) shall be
163 deposited by the commission into the School Ad Valorem Tax
164 Reduction Fund created pursuant to Section 37-61-35.

165 (8) On or before August 15, 1992, and each succeeding month
166 thereafter, nine and seventy-three one-thousandths percent
167 (9.073%) of the total sales tax revenue collected during the
168 preceding month under the provisions of this chapter, except that

169 collected under the provisions of Section 27-65-17(2) shall be
170 deposited into the Education Enhancement Fund created pursuant to
171 Section 37-61-33.

172 (9) On or before August 15, 1994, and each succeeding month
173 thereafter, from the revenue collected under this chapter during
174 the preceding month, Two Hundred Fifty Thousand Dollars
175 (\$250,000.00) shall be paid into the State Aid Road Fund.

176 (10) On or before August 15, 1994, and each succeeding month
177 thereafter through August 15, 1995, from the revenue collected
178 under this chapter during the preceding month, Two Million Dollars
179 (\$2,000,000.00) shall be deposited into the Motor Vehicle Ad
180 Valorem Tax Reduction Fund established in Section 27-51-105.

181 (11) Notwithstanding any other provision of this section to
182 the contrary, on or before February 15, 1995, and each succeeding
183 month thereafter, the sales tax revenue collected during the
184 preceding month under the provisions of Section 27-65-17(2) and
185 the corresponding levy in Section 27-65-23 on the rental or lease
186 of private carriers of passengers and light carriers of property
187 as defined in Section 27-51-101 shall be deposited, without
188 diversion, into the Motor Vehicle Ad Valorem Tax Reduction Fund
189 established in Section 27-51-105.

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

199 (13) On or before July 15, 1994, and on or before the
200 fifteenth day of each succeeding month thereafter, that portion of
201 the avails of the tax imposed in Section 27-65-22, which is
202 derived from activities held on the Mississippi state fairgrounds

203 complex, shall be paid into a special fund hereby created in the
204 State Treasury and shall be expended pursuant to legislative
205 appropriations solely to defray the costs of repairs and
206 renovation at such Trade Mart and Coliseum.

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

214 (15) The remainder of the amounts collected under the
215 provisions of this chapter shall be paid into the State Treasury
216 to the credit of the General Fund.

217 (16) It shall be the duty of the municipal officials of any
218 municipality which expands its limits, or of any community which
219 incorporates as a municipality, to notify the commissioner of such
220 action thirty (30) days before the effective date. Failure to so
221 notify the commissioner shall cause such municipality to forfeit
222 the revenue which it would have been entitled to receive during
223 this period of time when the commissioner had no knowledge of the
224 action. If any funds have been erroneously disbursed to any
225 municipality or any overpayment of tax is recovered by the
226 taxpayer, the commissioner may make correction and adjust the
227 error or overpayment with such municipality by withholding the
228 necessary funds from any subsequent payment to be made to the
229 municipality.

230 **[From and after July 1, 2002, this section reads as follows:]**

231 27-65-75. On or before the fifteenth day of each month, the
232 revenue collected under the provisions of this chapter during the
233 preceding month shall be paid and distributed as follows:

234 (1) On or before August 15, 1992, and each succeeding month
235 thereafter through July 15, 1993, eighteen percent (18%) of the
236 total sales tax revenue collected during the preceding month under

237 the provisions of this chapter, except that collected under the
238 provisions of Sections 27-65-15, 27-65-19(3) and 27-65-21, on
239 business activities within a municipal corporation shall be
240 allocated for distribution to such municipality and paid to such
241 municipal corporation. On or before August 15, 1993, and each
242 succeeding month thereafter through July 15, 1999, eighteen and
243 one-half percent (18-1/2%) of the total sales tax revenue
244 collected during the preceding month under the provisions of this
245 chapter, except that collected under the provisions of Sections
246 27-65-15, 27-65-17(2), 27-65-19(3) and 27-65-21, on business
247 activities within a municipal corporation shall be allocated for
248 distribution to such municipality and paid to such municipal
249 corporation. On or before August 15, 1999, and each succeeding
250 month thereafter, twenty and one-half percent (20-1/2%) of the
251 total sales tax revenue collected during the preceding month under
252 the provisions of this chapter, except that collected under the
253 provisions of Sections 27-65-15, 27-65-17(2), 27-65-19(3), and
254 27-65-21, on business activities within a municipal corporation
255 shall be allocated for distribution to such municipality and paid
256 to such municipal corporation.

257 A municipal corporation, for the purpose of distributing the
258 tax under this subsection, shall mean and include all incorporated
259 cities, towns and villages.

260 Monies allocated for distribution and credited to a municipal
261 corporation under this subsection may be pledged as security for
262 any loan received by the municipal corporation for the purpose of
263 capital improvements as authorized under Section 57-1-303, or
264 loans as authorized under Section 57-44-7, or water systems
265 improvements as authorized under Section 41-3-16.

266 In any county having a county seat which is not an
267 incorporated municipality, the distribution provided hereunder
268 shall be made as though the county seat was an incorporated
269 municipality; however, the distribution to such municipality shall
270 be paid to the county treasury wherein the municipality is located

271 and such funds shall be used for road, bridge and street
272 construction or maintenance therein.

273 (2) On or before September 15, 1987, and each succeeding
274 month thereafter, from the revenue collected under this chapter
275 during the preceding month One Million One Hundred Twenty-five
276 Thousand Dollars (\$1,125,000.00) shall be allocated for
277 distribution to municipal corporations as defined under subsection
278 (1) of this section in the proportion that the number of gallons
279 of gasoline and diesel fuel sold by distributors to consumers and
280 retailers in each such municipality during the preceding fiscal
281 year bears to the total gallons of gasoline and diesel fuel sold
282 by distributors to consumers and retailers in municipalities
283 statewide during the preceding fiscal year. The State Tax
284 Commission shall require all distributors of gasoline and diesel
285 fuel to report to the commission monthly the total number of
286 gallons of gasoline and diesel fuel sold by them to consumers and
287 retailers in each municipality during the preceding month. The
288 State Tax Commission shall have the authority to promulgate such
289 rules and regulations as is necessary to determine the number of
290 gallons of gasoline and diesel fuel sold by distributors to
291 consumers and retailers in each municipality. In determining the
292 percentage allocation of funds under this subsection for the
293 fiscal year beginning July 1, 1987, and ending June 30, 1988, the
294 State Tax Commission may consider gallons of gasoline and diesel
295 fuel sold for a period of less than one (1) fiscal year. For the
296 purposes of this subsection, the term "fiscal year" means the
297 fiscal year beginning July 1 of a year.

298 (3) On or before September 15, 1987, and on or before the
299 fifteenth day of each succeeding month, until the date specified
300 in Section 65-39-35, the proceeds derived from contractors' taxes
301 levied under Section 27-65-21 on contracts for the construction or
302 reconstruction of highways designated under the Four-Lane Highway
303 Program created under Section 65-3-97 shall be deposited into the
304 State Treasury to the credit of the State Highway Fund to be used

305 to fund such Four-Lane Highway Program. The Mississippi
306 Department of Transportation shall provide to the State Tax
307 Commission such information as is necessary to determine the
308 amount of proceeds to be distributed under this subsection.

309 (4) On or before August 15, 1994, and on or before the
310 fifteenth day of each succeeding month, from the proceeds of
311 gasoline, diesel fuel or kerosene taxes as provided in Section
312 27-5-101(a)(ii)1, Four Million Dollars (\$4,000,000.00) shall be
313 deposited in the State Treasury to the credit of a special fund
314 designated as the "State Aid Road Fund," created by Section
315 65-9-17. Such funds shall be pledged to pay the principal of and
316 interest on state aid road bonds heretofore issued under Sections
317 19-9-51 through 19-9-77, in lieu of and in substitution for the
318 funds heretofore allocated to counties under this section. Such
319 funds may not be pledged for the payment of any state aid road
320 bonds issued after April 1, 1981; however, this prohibition
321 against the pledging of any such funds for the payment of bonds
322 shall not apply to any bonds for which intent to issue such bonds
323 has been published, for the first time, as provided by law prior
324 to March 29, 1981. From the amount of taxes paid into the special
325 fund pursuant to this subsection and subsection (9) of this
326 section, there shall be first deducted and paid the amount
327 necessary to pay the expenses of the Office of State Aid Road
328 Construction, as authorized by the Legislature for all other
329 general and special fund agencies. The remainder of the fund
330 shall be allocated monthly to the several counties in accordance
331 with the following formula:

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

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

338 (c) One-third (1/3) shall be allocated to counties

339 based on the proportion that the rural population of the county
340 bears to the total rural population in all counties of the state,
341 according to the latest federal decennial census.

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

345 The amount of funds allocated to any county under this
346 subsection for any fiscal year after Fiscal Year 1994 shall not be
347 less than the amount allocated to such county for Fiscal Year
348 1994. Monies allocated to a county from the State Aid Road Fund
349 for Fiscal Year 1995 or any fiscal year thereafter that exceed the
350 amount of funds allocated to that county from the State Aid Road
351 Fund for Fiscal Year 1994, first must be expended by the county
352 for replacement or rehabilitation of bridges on the state aid road
353 system that have a sufficiency rating of less than twenty-five
354 (25), according to National Bridge Inspection standards before
355 such monies may be approved for expenditure by the State Aid Road
356 Engineer on other projects that qualify for the use of state aid
357 road funds.

358 Any reference in the general laws of this state or the
359 Mississippi Code of 1972 to Section 27-5-105 shall mean and be
360 construed to refer and apply to subsection (4) of Section
361 27-65-75.

362 (5) One Million Six Hundred Sixty-six Thousand Six Hundred
363 Sixty-six Dollars (\$1,666,666.00) each month shall be paid into
364 the special fund known as the "State Public School Building Fund"
365 created and existing under the provisions of Sections 37-47-1
366 through 37-47-67. Such payments into said fund are to be made on
367 the last day of each succeeding month hereafter.

368 (6) An amount each month beginning August 15, 1983, through
369 November 15, 1986, as specified in Section 6 of Chapter 542, Laws
370 of 1983, shall be paid into the special fund known as the
371 Correctional Facilities Construction Fund created in Section 6 of
372 Chapter 542, Laws of 1983.

373 (7) On or before August 15, 1992, and each succeeding month
374 thereafter, two and two hundred sixty-six one-thousandths percent
375 (2.266%) of the total sales tax revenue collected during the
376 preceding month under the provisions of this chapter, except that
377 collected under the provisions of Section 27-65-17(2), not to
378 exceed the Fiscal Year 1997 appropriated level shall be deposited
379 by the commission into the School Ad Valorem Tax Reduction Fund
380 created pursuant to Section 37-61-35, with the balance to be
381 transferred to the Education Enhancement Fund created under
382 Section 37-61-33 for appropriation by the Legislature as other
383 education needs and not subject to the percentage set asides set
384 forth in Section 37-61-33.

385 (8) On or before August 15, 1992, and each succeeding month
386 thereafter, nine and seventy-three one-thousandths percent
387 (9.073%) of the total sales tax revenue collected during the
388 preceding month under the provisions of this chapter, except that
389 collected under the provisions of Section 27-65-17(2) shall be
390 deposited into the Education Enhancement Fund created pursuant to
391 Section 37-61-33.

392 (9) On or before August 15, 1994, and each succeeding month
393 thereafter, from the revenue collected under this chapter during
394 the preceding month, Two Hundred Fifty Thousand Dollars
395 (\$250,000.00) shall be paid into the State Aid Road Fund.

396 (10) On or before August 15, 1994, and each succeeding month
397 thereafter through August 15, 1995, from the revenue collected
398 under this chapter during the preceding month, Two Million Dollars
399 (\$2,000,000.00) shall be deposited into the Motor Vehicle Ad
400 Valorem Tax Reduction Fund established in Section 27-51-105.

401 (11) Notwithstanding any other provision of this section to
402 the contrary, on or before February 15, 1995, and each succeeding
403 month thereafter, the sales tax revenue collected during the
404 preceding month under the provisions of Section 27-65-17(2) shall
405 be deposited, without diversion, into the Motor Vehicle Ad Valorem
406 Tax Reduction Fund established in Section 27-51-105.

407 (12) Notwithstanding any other provision of this section to
408 the contrary, on or before August 15, 1995, and each succeeding
409 month thereafter, the sales tax revenue collected during the
410 preceding month under the provisions of Section 27-65-17(1) on
411 retail sales of private carriers of passengers and light carriers
412 of property, as defined in Section 27-51-101, shall be deposited,
413 after diversion, into the Motor Vehicle Ad Valorem Tax Reduction
414 Fund established in Section 27-51-105.

415 (13) On or before July 15, 1994, and on or before the
416 fifteenth day of each succeeding month thereafter, that portion of
417 the avails of the tax imposed in Section 27-65-22, which is
418 derived from activities held on the Mississippi state fairgrounds
419 complex, shall be paid into a special fund hereby created in the
420 State Treasury and shall be expended pursuant to legislative
421 appropriations solely to defray the costs of repairs and
422 renovation at such Trade Mart and Coliseum.

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

430 (15) The remainder of the amounts collected under the
431 provisions of this chapter shall be paid into the State Treasury
432 to the credit of the General Fund.

433 (16) It shall be the duty of the municipal officials of any
434 municipality which expands its limits, or of any community which
435 incorporates as a municipality, to notify the commissioner of such
436 action thirty (30) days before the effective date. Failure to so
437 notify the commissioner shall cause such municipality to forfeit
438 the revenue which it would have been entitled to receive during
439 this period of time when the commissioner had no knowledge of the
440 action. If any funds have been erroneously disbursed to any

441 municipality or any overpayment of tax is recovered by the
442 taxpayer, the commissioner may make correction and adjust the
443 error or overpayment with such municipality by withholding the
444 necessary funds from any subsequent payment to be made to the
445 municipality.

446 SECTION 2. This act shall take effect and be in force from
447 and after July 1, 1999.