

By: Representative Nettles

To: Ways and Means

HOUSE BILL NO. 307

1 AN ACT TO AMEND SECTION 27-65-75, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE FOR THE PAYMENT OF A PERCENTAGE OF SALES TAX REVENUES
3 GENERATED FROM BUSINESS ACTIVITIES OUTSIDE MUNICIPALITIES TO THE
4 COUNTIES IN WHICH SUCH BUSINESS ACTIVITIES OCCURRED; TO AMEND
5 SECTION 27-65-53, MISSISSIPPI CODE OF 1972, IN CONFORMITY THERETO;
6 AND FOR RELATED PURPOSES.

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

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

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

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

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

29 A municipal corporation, for the purpose of distributing the

30 tax under this subsection, shall mean and include all incorporated
31 cities, towns and villages.

32 Monies allocated for distribution and credited to a municipal
33 corporation under this subsection may be pledged as security for
34 any loan received by the municipal corporation for the purpose of
35 capital improvements as authorized under Section 57-1-303, or
36 loans as authorized under Section 57-44-7, or water systems
37 improvements as authorized under Section 41-3-16.

38 In any county having a county seat which is not an
39 incorporated municipality, the distribution provided hereunder
40 shall be made as though the county seat was an incorporated
41 municipality; however, the distribution to such municipality shall
42 be paid to the county treasury wherein the municipality is located
43 and such funds shall be used for road, bridge and street
44 construction or maintenance therein.

45 (2) On or before September 15, 1987, and each succeeding
46 month thereafter, from the revenue collected under this chapter
47 during the preceding month One Million One Hundred Twenty-five
48 Thousand Dollars (\$1,125,000.00) shall be allocated for
49 distribution to municipal corporations as defined under subsection
50 (1) of this section in the proportion that the number of gallons
51 of gasoline and diesel fuel sold by distributors to consumers and
52 retailers in each such municipality during the preceding fiscal
53 year bears to the total gallons of gasoline and diesel fuel sold
54 by distributors to consumers and retailers in municipalities
55 statewide during the preceding fiscal year. The State Tax
56 Commission shall require all distributors of gasoline and diesel
57 fuel to report to the commission monthly the total number of
58 gallons of gasoline and diesel fuel sold by them to consumers and
59 retailers in each municipality during the preceding month. The
60 State Tax Commission shall have the authority to promulgate such
61 rules and regulations as is necessary to determine the number of
62 gallons of gasoline and diesel fuel sold by distributors to
63 consumers and retailers in each municipality. In determining the

64 percentage allocation of funds under this subsection for the
65 fiscal year beginning July 1, 1987, and ending June 30, 1988, the
66 State Tax Commission may consider gallons of gasoline and diesel
67 fuel sold for a period of less than one (1) fiscal year. For the
68 purposes of this subsection, the term "fiscal year" means the
69 fiscal year beginning July 1 of a year.

70 (3) On or before September 15, 1987, and on or before the
71 fifteenth day of each succeeding month, until the date specified
72 in Section 65-39-35, the proceeds derived from contractors' taxes
73 levied under Section 27-65-21 on contracts for the construction or
74 reconstruction of highways designated under the Four-Lane Highway
75 Program created under Section 65-3-97 shall be deposited into the
76 State Treasury to the credit of the State Highway Fund to be used
77 to fund such Four-Lane Highway Program. The Mississippi
78 Department of Transportation shall provide to the State Tax
79 Commission such information as is necessary to determine the
80 amount of proceeds to be distributed under this subsection.

81 (4) On or before August 15, 1994, and on or before the
82 fifteenth day of each succeeding month, from the proceeds of
83 gasoline, diesel fuel or kerosene taxes as provided in Section
84 27-5-101(a)(ii)1, Four Million Dollars (\$4,000,000.00) shall be
85 deposited in the State Treasury to the credit of a special fund
86 designated as the "State Aid Road Fund," created by Section
87 65-9-17. Such funds shall be pledged to pay the principal of and
88 interest on state aid road bonds heretofore issued under Sections
89 19-9-51 through 19-9-77, in lieu of and in substitution for the
90 funds heretofore allocated to counties under this section. Such
91 funds may not be pledged for the payment of any state aid road
92 bonds issued after April 1, 1981; however, this prohibition
93 against the pledging of any such funds for the payment of bonds
94 shall not apply to any bonds for which intent to issue such bonds
95 has been published, for the first time, as provided by law prior
96 to March 29, 1981. From the amount of taxes paid into the special
97 fund pursuant to this subsection and subsection (9) of this

98 section, there shall be first deducted and paid the amount
99 necessary to pay the expenses of the Office of State Aid Road
100 Construction, as authorized by the Legislature for all other
101 general and special fund agencies. The remainder of the fund
102 shall be allocated monthly to the several counties in accordance
103 with the following formula:

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

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

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

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

117 The amount of funds allocated to any county under this
118 subsection for any fiscal year after Fiscal Year 1994 shall not be
119 less than the amount allocated to such county for Fiscal Year
120 1994. Monies allocated to a county from the State Aid Road Fund
121 for Fiscal Year 1995 or any fiscal year thereafter that exceed the
122 amount of funds allocated to that county from the State Aid Road
123 Fund for Fiscal Year 1994, first must be expended by the county
124 for replacement or rehabilitation of bridges on the state aid road
125 system that have a sufficiency rating of less than twenty-five
126 (25), according to National Bridge Inspection standards before
127 such monies may be approved for expenditure by the State Aid Road
128 Engineer on other projects that qualify for the use of state aid
129 road funds.

130 Any reference in the general laws of this state or the
131 Mississippi Code of 1972 to Section 27-5-105 shall mean and be

132 construed to refer and apply to subsection (4) of Section
133 27-65-75.

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

140 (6) An amount each month beginning August 15, 1983, through
141 November 15, 1986, as specified in Section 6 of Chapter 542, Laws
142 of 1983, shall be paid into the special fund known as the
143 Correctional Facilities Construction Fund created in Section 6 of
144 Chapter 542, Laws of 1983.

145 (7) On or before August 15, 1992, and each succeeding month
146 thereafter, two and two hundred sixty-six one-thousandths percent
147 (2.266%) of the total sales tax revenue collected during the
148 preceding month under the provisions of this chapter, except that
149 collected under the provisions of Section 27-65-17(2) shall be
150 deposited by the commission into the School Ad Valorem Tax
151 Reduction Fund created pursuant to Section 37-61-35.

152 (8) On or before August 15, 1992, and each succeeding month
153 thereafter, nine and seventy-three one-thousandths percent
154 (9.073%) of the total sales tax revenue collected during the
155 preceding month under the provisions of this chapter, except that
156 collected under the provisions of Section 27-65-17(2) shall be
157 deposited into the Education Enhancement Fund created pursuant to
158 Section 37-61-33.

159 (9) On or before August 15, 1994, and each succeeding month
160 thereafter, from the revenue collected under this chapter during
161 the preceding month, Two Hundred Fifty Thousand Dollars
162 (\$250,000.00) shall be paid into the State Aid Road Fund.

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

166 (\$2,000,000.00) shall be deposited into the Motor Vehicle Ad
167 Valorem Tax Reduction Fund established in Section 27-51-105.

168 (11) Notwithstanding any other provision of this section to
169 the contrary, on or before February 15, 1995, and each succeeding
170 month thereafter, the sales tax revenue collected during the
171 preceding month under the provisions of Section 27-65-17(2) and
172 the corresponding levy in Section 27-65-23 on the rental or lease
173 of private carriers of passengers and light carriers of property
174 as defined in Section 27-51-101 shall be deposited, without
175 diversion, into the Motor Vehicle Ad Valorem Tax Reduction Fund
176 established in Section 27-51-105.

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

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

194 (14) On or before August 15, 1998, and each succeeding month
195 thereafter through July 15, 2005, that portion of the avails of
196 the tax imposed in Section 27-65-23 which is derived from sales by
197 cotton compresses or cotton warehouses and which would otherwise
198 be paid into the General Fund, shall be deposited in an amount not
199 to exceed Two Million Dollars (\$2,000,000.00) into the special

200 fund created pursuant to Section 69-37-39.

201 (15) On or before August 15, 1999, and each succeeding month
202 thereafter, eighteen and one-half percent (18 1/2%) of the total
203 sales tax revenue collected during the preceding month under the
204 provisions of this chapter, except that collected under the
205 provisions of Sections 27-65-15, 27-65-19(3) and 27-65-21, on
206 business activities within a county but outside any municipal
207 corporation, as defined in subsection (1) of this section, shall
208 be allocated for distribution and paid to the general fund of the
209 county in which the business activity occurred. The amount paid
210 to each county under this subsection shall be in addition to any
211 other funds allocated for distribution to the various counties
212 under this section.

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

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

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

230 27-65-75. On or before the fifteenth day of each month, the
231 revenue collected under the provisions of this chapter during the
232 preceding month shall be paid and distributed as follows:

233 (1) On or before August 15, 1992, and each succeeding month

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

248 A municipal corporation, for the purpose of distributing the
249 tax under this subsection, shall mean and include all incorporated
250 cities, towns and villages.

251 Monies allocated for distribution and credited to a municipal
252 corporation under this subsection may be pledged as security for
253 any loan received by the municipal corporation for the purpose of
254 capital improvements as authorized under Section 57-1-303, or
255 loans as authorized under Section 57-44-7, or water systems
256 improvements as authorized under Section 41-3-16.

257 In any county having a county seat which is not an
258 incorporated municipality, the distribution provided hereunder
259 shall be made as though the county seat was an incorporated
260 municipality; however, the distribution to such municipality shall
261 be paid to the county treasury wherein the municipality is located
262 and such funds shall be used for road, bridge and street
263 construction or maintenance therein.

264 (2) On or before September 15, 1987, and each succeeding
265 month thereafter, from the revenue collected under this chapter
266 during the preceding month One Million One Hundred Twenty-five
267 Thousand Dollars (\$1,125,000.00) shall be allocated for

268 distribution to municipal corporations as defined under subsection
269 (1) of this section in the proportion that the number of gallons
270 of gasoline and diesel fuel sold by distributors to consumers and
271 retailers in each such municipality during the preceding fiscal
272 year bears to the total gallons of gasoline and diesel fuel sold
273 by distributors to consumers and retailers in municipalities
274 statewide during the preceding fiscal year. The State Tax
275 Commission shall require all distributors of gasoline and diesel
276 fuel to report to the commission monthly the total number of
277 gallons of gasoline and diesel fuel sold by them to consumers and
278 retailers in each municipality during the preceding month. The
279 State Tax Commission shall have the authority to promulgate such
280 rules and regulations as is necessary to determine the number of
281 gallons of gasoline and diesel fuel sold by distributors to
282 consumers and retailers in each municipality. In determining the
283 percentage allocation of funds under this subsection for the
284 fiscal year beginning July 1, 1987, and ending June 30, 1988, the
285 State Tax Commission may consider gallons of gasoline and diesel
286 fuel sold for a period of less than one (1) fiscal year. For the
287 purposes of this subsection, the term "fiscal year" means the
288 fiscal year beginning July 1 of a year.

289 (3) On or before September 15, 1987, and on or before the
290 fifteenth day of each succeeding month, until the date specified
291 in Section 65-39-35, the proceeds derived from contractors' taxes
292 levied under Section 27-65-21 on contracts for the construction or
293 reconstruction of highways designated under the Four-Lane Highway
294 Program created under Section 65-3-97 shall be deposited into the
295 State Treasury to the credit of the State Highway Fund to be used
296 to fund such Four-Lane Highway Program. The Mississippi
297 Department of Transportation shall provide to the State Tax
298 Commission such information as is necessary to determine the
299 amount of proceeds to be distributed under this subsection.

300 (4) On or before August 15, 1994, and on or before the
301 fifteenth day of each succeeding month, from the proceeds of

302 gasoline, diesel fuel or kerosene taxes as provided in Section
303 27-5-101(a)(ii)1, Four Million Dollars (\$4,000,000.00) shall be
304 deposited in the State Treasury to the credit of a special fund
305 designated as the "State Aid Road Fund," created by Section
306 65-9-17. Such funds shall be pledged to pay the principal of and
307 interest on state aid road bonds heretofore issued under Sections
308 19-9-51 through 19-9-77, in lieu of and in substitution for the
309 funds heretofore allocated to counties under this section. Such
310 funds may not be pledged for the payment of any state aid road
311 bonds issued after April 1, 1981; however, this prohibition
312 against the pledging of any such funds for the payment of bonds
313 shall not apply to any bonds for which intent to issue such bonds
314 has been published, for the first time, as provided by law prior
315 to March 29, 1981. From the amount of taxes paid into the special
316 fund pursuant to this subsection and subsection (9) of this
317 section, there shall be first deducted and paid the amount
318 necessary to pay the expenses of the Office of State Aid Road
319 Construction, as authorized by the Legislature for all other
320 general and special fund agencies. The remainder of the fund
321 shall be allocated monthly to the several counties in accordance
322 with the following formula:

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

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

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

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

336 The amount of funds allocated to any county under this
337 subsection for any fiscal year after Fiscal Year 1994 shall not be
338 less than the amount allocated to such county for Fiscal Year
339 1994. Monies allocated to a county from the State Aid Road Fund
340 for Fiscal Year 1995 or any fiscal year thereafter that exceed the
341 amount of funds allocated to that county from the State Aid Road
342 Fund for Fiscal Year 1994, first must be expended by the county
343 for replacement or rehabilitation of bridges on the state aid road
344 system that have a sufficiency rating of less than twenty-five
345 (25), according to National Bridge Inspection standards before
346 such monies may be approved for expenditure by the State Aid Road
347 Engineer on other projects that qualify for the use of state aid
348 road funds.

349 Any reference in the general laws of this state or the
350 Mississippi Code of 1972 to Section 27-5-105 shall mean and be
351 construed to refer and apply to subsection (4) of Section
352 27-65-75.

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

359 (6) An amount each month beginning August 15, 1983, through
360 November 15, 1986, as specified in Section 6 of Chapter 542, Laws
361 of 1983, shall be paid into the special fund known as the
362 Correctional Facilities Construction Fund created in Section 6 of
363 Chapter 542, Laws of 1983.

364 (7) On or before August 15, 1992, and each succeeding month
365 thereafter, two and two hundred sixty-six one-thousandths percent
366 (2.266%) of the total sales tax revenue collected during the
367 preceding month under the provisions of this chapter, except that
368 collected under the provisions of Section 27-65-17(2), not to
369 exceed the Fiscal Year 1997 appropriated level shall be deposited

370 by the commission into the School Ad Valorem Tax Reduction Fund
371 created pursuant to Section 37-61-35, with the balance to be
372 transferred to the Education Enhancement Fund created under
373 Section 37-61-33 for appropriation by the Legislature as other
374 education needs and not subject to the percentage set asides set
375 forth in Section 37-61-33.

376 (8) On or before August 15, 1992, and each succeeding month
377 thereafter, nine and seventy-three one-thousandths percent
378 (9.073%) of the total sales tax revenue collected during the
379 preceding month under the provisions of this chapter, except that
380 collected under the provisions of Section 27-65-17(2) shall be
381 deposited into the Education Enhancement Fund created pursuant to
382 Section 37-61-33.

383 (9) On or before August 15, 1994, and each succeeding month
384 thereafter, from the revenue collected under this chapter during
385 the preceding month, Two Hundred Fifty Thousand Dollars
386 (\$250,000.00) shall be paid into the State Aid Road Fund.

387 (10) On or before August 15, 1994, and each succeeding month
388 thereafter through August 15, 1995, from the revenue collected
389 under this chapter during the preceding month, Two Million Dollars
390 (\$2,000,000.00) shall be deposited into the Motor Vehicle Ad
391 Valorem Tax Reduction Fund established in Section 27-51-105.

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

398 (12) Notwithstanding any other provision of this section to
399 the contrary, on or before August 15, 1995, and each succeeding
400 month thereafter, the sales tax revenue collected during the
401 preceding month under the provisions of Section 27-65-17(1) on
402 retail sales of private carriers of passengers and light carriers
403 of property, as defined in Section 27-51-101, shall be deposited,

404 after diversion, into the Motor Vehicle Ad Valorem Tax Reduction
405 Fund established in Section 27-51-105.

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

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

421 (15) On or before August 15, 1999, and each succeeding month
422 thereafter, eighteen and one-half percent (18 1/2%) of the total
423 sales tax revenue collected during the preceding month under the
424 provisions of this chapter, except that collected under the
425 provisions of Sections 27-65-15, 27-65-19(3) and 27-65-21, on
426 business activities within a county but outside any municipal
427 corporation, as defined in subsection (1) of this section, shall
428 be allocated for distribution and paid to the general fund of the
429 county in which the business activity occurred. The amount paid
430 to each county under this subsection shall be in addition to any
431 other funds allocated for distribution to the various counties
432 under this section.

433 (16) The remainder of the amounts collected under the
434 provisions of this chapter shall be paid into the State Treasury
435 to the credit of the General Fund.

436 (17) It shall be the duty of the municipal officials of any
437 municipality which expands its limits, or of any community which

438 incorporates as a municipality, to notify the commissioner of such
439 action thirty (30) days before the effective date. Failure to so
440 notify the commissioner shall cause such municipality to forfeit
441 the revenue which it would have been entitled to receive during
442 this period of time when the commissioner had no knowledge of the
443 action. If any funds have been erroneously disbursed to any
444 municipality or county or any overpayment of tax is recovered by
445 the taxpayer, the commissioner may make correction and adjust the
446 error or overpayment with such municipality or county by
447 withholding the necessary funds from any subsequent payment to be
448 made to the municipality or county.

449 SECTION 2. Section 27-65-53, Mississippi Code of 1972, is
450 amended as follows:

451 27-65-53. If the commissioner finds that the taxpayer has
452 overpaid his tax for any reason and the taxpayer has discontinued
453 business and there is no subsequent liability upon which the
454 excess may be credited, or if the amount of the excess so paid
455 shall exceed the estimated liability for the next twelve (12)
456 months, the excess shall be refunded to the taxpayer. Such amount
457 shall be certified to the State Auditor of Public Accounts by the
458 commission. The * * * auditor may make such investigation and
459 audit of the claim as he finds necessary. If he finds that the
460 commissioner is correct in his determination, the auditor may
461 issue his warrant to the State Treasurer in favor of the taxpayer
462 for the amount of tax erroneously paid into the State Treasury,
463 such refunds to be made from current sales tax collections. If
464 part of the overpayment has been disbursed to any municipality or
465 county, under authority of Section 27-65-75, the municipality or
466 county, as the case may be, having erroneously received the money,
467 shall adjust the amount with the commissioner, or the overpayment
468 may be withheld by the state from any funds due by the state to
469 the municipality or county.

470 * * * Where the taxpayer has overpaid his tax, the
471 commissioner may give credit for same and allow the taxpayer to

472 take credit on a subsequent return or, if necessary, in his
473 discretion, have the taxpayer file for a refund as provided
474 herein.

475 If any overpayment of tax as reflected in an application or
476 amended return, or both, filed by the taxpayer, and verified by
477 the commissioner or otherwise determined to be due by the
478 commissioner or commission, is not refunded or credited to a
479 taxpayer's account within ninety (90) days after the application
480 or amended return is filed or the date the commission or
481 commissioner determines a refund is due, whichever is later,
482 interest at the rate of one percent (1%) per month shall be
483 allowed on such overpayment computed for the period after
484 expiration of the ninety-day period provided herein to the date of
485 payment.

486 SECTION 3. This act shall take effect and be in force from
487 and after July 1, 1999.