

By: Representatives Green (34th), Miles

To: Ways and Means

HOUSE BILL NO. 458
(As Passed the House)

1 AN ACT TO AMEND SECTION 27-65-75, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE THAT THE AMOUNT OF FUEL TAXES DIVERTED INTO THE STATE
3 AID ROAD FUND SHALL BE THE GREATER OF \$4,000,000.00 OR A CERTAIN
4 PERCENTAGE OF THE MONTHLY AMOUNT OF SUCH TAXES COLLECTED; AND FOR
5 RELATED PURPOSES. BE IT ENACTED BY THE LEGISLATURE OF THE STATE
6 OF MISSISSIPPI:

7
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 through July 15, 1999, from
83 the proceeds of gasoline, diesel fuel or kerosene taxes as
84 provided in Section 27-5-101(a)(ii)1, Four Million Dollars
85 (\$4,000,000.00) shall be deposited in the State Treasury to the
86 credit of a special fund designated as the "State Aid Road Fund,"
87 created by Section 65-9-17. On or before August 15, 1999, and on
88 or before the fifteenth day of each succeeding month, from the
89 total amount of the proceeds of gasoline, diesel fuel or kerosene
90 taxes apportioned by Section 27-5-101(a)(ii), Four Million Dollars
91 (\$4,000,000.00) or an amount equal to twenty-three and one-fourth
92 percent (23.25%) of such funds, whichever is the greater amount,
93 shall be deposited in the State Treasury to the credit of the
94 "State Aid Road Fund," created by Section 65-9-17. Such funds

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

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

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

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

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

The amount of funds allocated to any county under this subsection for any fiscal year after fiscal year 1994 shall not be less than the amount allocated to such county for fiscal year 1994. Monies allocated to a county from the State Aid Road Fund

for fiscal year 1995 or any fiscal year thereafter that exceed the amount of funds year 1994, first must be expended by the county for replacement or rehabilitation of bridges on the state aid road system that have a sufficiency rating of less than twenty-five (25), according to National Bridge Inspection standards before such monies may be approved for expenditure by the State Aid Road Engineer on other projects that qualify for the use of state aid road funds.

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

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

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

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

(8) On or before August 15, 1992, and each succeeding month thereafter, nine and seventy-three one-thousandths percent (9.073%) of the total sales tax revenue collected during the

preceding month under the provisions of this chapter, except that collected under the provisions of Section 27-65-17(2) shall be deposited into the Education Enhancement Fund created pursuant to Section 37-61-33.

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

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

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

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

(13) On or before July 15, 1994, and on or before the fifteenth day of each succeeding month thereafter, that portion of

the avails of the tax imposed in Section 27-65-22, which is derived from activities held on the Mississippi state fairgrounds complex, shall be paid into a special fund hereby created in the State Treasury and shall be expended pursuant to legislative appropriations solely to defray the costs of repairs and renovation at such Trade Mart and Coliseum.

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

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

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

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

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

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

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

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

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

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

260 during the preceding month One Million One Hundred Twenty-five
261 Thousand Dollars (\$1,125,000.00) shall be allocated for
262 distribution to municipal corporations as defined under subsection
263 (1) of this section in the proportion that the number of gallons
264 of gasoline and diesel fuel sold by distributors to consumers and
265 retailers in each such municipality during the preceding fiscal
266 year bears to the total gallons of gasoline and diesel fuel sold
267 by distributors to consumers and retailers in municipalities
268 statewide during the preceding fiscal year. The State Tax
269 Commission shall require all distributors of gasoline and diesel
270 fuel to report to the commission monthly the total number of
271 gallons of gasoline and diesel fuel sold by them to consumers and
272 retailers in each municipality during the preceding month. The
273 State Tax Commission shall have the authority to promulgate such
274 rules and regulations as is necessary to determine the number of
275 gallons of gasoline and diesel fuel sold by distributors to
276 consumers and retailers in each municipality. In determining the
277 percentage allocation of funds under this subsection for the
278 fiscal year beginning July 1, 1987, and ending June 30, 1988, the
279 State Tax Commission may consider gallons of gasoline and diesel
280 fuel sold for a period of less than one (1) fiscal year. For the
281 purposes of this subsection, the term "fiscal year" means the
282 fiscal year beginning July 1 of a year.

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

amount of proceeds to be distributed under this subsection.

(4) On or before August 15, 1994, and on or before the fifteenth day of each succeeding month through July 15, 1999, from the proceeds of gasoline, diesel fuel or kerosene taxes as provided in Section 27-5-101(a)(ii)1, Four Million Dollars (\$4,000,000.00) shall be deposited in the State Treasury to the credit of a special fund designated as the "State Aid Road Fund," created by Section 65-9-17. On or before August 15, 1999, and on or before the fifteenth day of each succeeding month, from the total amount of the proceeds of gasoline, diesel fuel or kerosene taxes apportioned by Section 27-5-101(a)(ii), Four Million Dollars (\$4,000,000.00) or an amount equal to twenty-three and one-fourth percent (23.25%) of such funds, whichever is the greater amount, shall be deposited in the State Treasury to the credit of the "State Aid Road Fund," created by Section 65-9-17. Such funds shall be pledged to pay the principal of and interest on state aid road bonds heretofore issued under Sections 19-9-51 through 19-9-77, in lieu of and in substitution for the funds heretofore allocated to counties under this section. Such funds may not be pledged for the payment of any state aid road bonds issued after April 1, 1981; however, this prohibition against the pledging of any such funds for the payment of bonds shall not apply to any bonds for which intent to issue such bonds has been published, for the first time, as provided by law prior to March 29, 1981. From the amount of taxes paid into the special fund pursuant to this subsection and subsection (9) of this section, there shall be first deducted and paid the amount necessary to pay the expenses of the Office of State Aid Road Construction, as authorized by the Legislature for all other general and special fund agencies. The remainder of the fund shall be allocated monthly to the several counties in accordance with the following formula:

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

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

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

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

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

350 Any reference in the general laws of this state or the
351 Mississippi Code of 1972 to Section 27-5-105 shall mean and be
352 construed to refer and apply to subsection (4) of Section
353 27-65-75.

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

the last day of each succeeding month hereafter.

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

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

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

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

(10) On or before August 15, 1994, and each succeeding month thereafter through August 15, 1995, from the revenue collected under this chapter during the preceding month, Two Million Dollars (\$2,000,000.00) shall be deposited into the Motor Vehicle Ad

392 Valorem Tax Reduction Fund established in Section 27-51-105.

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

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

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

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

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

425 (16) It shall be the duty of the municipal officials of any
426 municipality which expands its limits, or of any community which
427 incorporates as a municipality, to notify the commissioner of such
428 action thirty (30) days before the effective date. Failure to so
429 notify the commissioner shall cause such municipality to forfeit
430 the revenue which it would have been entitled to receive during
431 this period of time when the commissioner had no knowledge of the
432 action. If any funds have been erroneously disbursed to any
433 municipality or any overpayment of tax is recovered by the
434 taxpayer, the commissioner may make correction and adjust the
435 error or overpayment with such municipality by withholding the
436 necessary funds from any subsequent payment to be made to the
437 municipality.

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