

By: Senator(s) Hall, White (29th), Horhn,
Harden, Ross

To: Finance

SENATE BILL NO. 2526

1 AN ACT TO AMEND SECTION 27-65-75, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE THAT A CERTAIN PORTION OF THE STATE'S SALES TAX REVENUE
3 COLLECTIONS ON BUSINESS ACTIVITY WITHIN A COUNTY, INCLUDING ALL OF
4 THE MUNICIPAL CORPORATIONS LOCATED WITHIN A COUNTY, SHALL BE
5 ALLOCATED FOR DISTRIBUTION AND PAID TO SUCH COUNTY; TO AMEND
6 SECTION 27-65-53, MISSISSIPPI CODE OF 1972, IN CONFORMITY THERETO;
7 AND FOR RELATED PURPOSES.

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

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

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

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

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

30 carriers of property as defined in Section 27-51-101, on business
31 activities within a municipal corporation shall be allocated for
32 distribution to such municipality and paid to such municipal
33 corporation.

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

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

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

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

68 consumers and retailers in each municipality. In determining the
69 percentage allocation of funds under this subsection for the
70 fiscal year beginning July 1, 1987, and ending June 30, 1988, the
71 State Tax Commission may consider gallons of gasoline and diesel
72 fuel sold for a period of less than one (1) fiscal year. For the
73 purposes of this subsection, the term "fiscal year" means the
74 fiscal year beginning July 1 of a year.

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

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

102 fund pursuant to this subsection and subsection (9) of this
103 section, there shall be first deducted and paid the amount
104 necessary to pay the expenses of the Office of State Aid Road
105 Construction, as authorized by the Legislature for all other
106 general and special fund agencies. The remainder of the fund
107 shall be allocated monthly to the several counties in accordance
108 with the following formula:

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

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

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

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

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

135 Any reference in the general laws of this state or the

136 Mississippi Code of 1972 to Section 27-5-105 shall mean and be
137 construed to refer and apply to subsection (4) of Section
138 27-65-75.

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

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

150 (7) On or before August 15, 1992, and each succeeding month
151 thereafter, two and two hundred sixty-six one-thousandths percent
152 (2.266%) of the total sales tax revenue collected during the
153 preceding month under the provisions of this chapter, except that
154 collected under the provisions of Section 27-65-17(2) shall be
155 deposited by the commission into the School Ad Valorem Tax
156 Reduction Fund created pursuant to Section 37-61-35.

157 (8) On or before August 15, 1992, and each succeeding month
158 thereafter, nine and seventy-three one-thousandths percent
159 (9.073%) of the total sales tax revenue collected during the
160 preceding month under the provisions of this chapter, except that
161 collected under the provisions of Section 27-65-17(2) shall be
162 deposited into the Education Enhancement Fund created pursuant to
163 Section 37-61-33.

164 (9) On or before August 15, 1994, and each succeeding month
165 thereafter, from the revenue collected under this chapter during
166 the preceding month, Two Hundred Fifty Thousand Dollars
167 (\$250,000.00) shall be paid into the State Aid Road Fund.

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

170 under this chapter during the preceding month, Two Million Dollars
171 (\$2,000,000.00) shall be deposited into the Motor Vehicle Ad
172 Valorem Tax Reduction Fund established in Section 27-51-105.

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

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

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

199 (14) On or before August 15, 1998, and each succeeding month
200 thereafter through July 15, 2005, that portion of the avails of
201 the tax imposed in Section 27-65-23 which is derived from sales by
202 cotton compresses or cotton warehouses and which would otherwise
203 be paid into the General Fund, shall be deposited in an amount not

204 to exceed Two Million Dollars (\$2,000,000.00) into the special
205 fund created pursuant to Section 69-37-39.

206 (15) On or before August 15, 1999, and each succeeding month
207 thereafter, two percent (2%) of the total sales tax revenue
208 collected during the preceding month under the provisions of this
209 chapter, except that collected under the provisions of Sections
210 27-65-15, 27-65-19(3), 27-65-21, and that collected under the
211 provisions of Section 27-65-17(2) and the corresponding levy in
212 Section 27-65-23 on the rental or lease of private carriers of
213 passengers and light carriers of property as defined in Section
214 27-51-101, on business activities within a county, including all
215 of the municipal corporations located within a county, shall be
216 allocated for distribution to such county and paid to the county.

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

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

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

234 27-65-75. On or before the fifteenth day of each month, the
235 revenue collected under the provisions of this chapter during the
236 preceding month shall be paid and distributed as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

353 Any reference in the general laws of this state or the
354 Mississippi Code of 1972 to Section 27-5-105 shall mean and be
355 construed to refer and apply to subsection (4) of Section
356 27-65-75.

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

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

368 (7) On or before August 15, 1992, and each succeeding month
369 thereafter, two and two hundred sixty-six one-thousandths percent
370 (2.266%) of the total sales tax revenue collected during the
371 preceding month under the provisions of this chapter, except that
372 collected under the provisions of Section 27-65-17(2), not to
373 exceed the Fiscal Year 1997 appropriated level shall be deposited

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

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

387 (9) On or before August 15, 1994, and each succeeding month
388 thereafter, from the revenue collected under this chapter during
389 the preceding month, Two Hundred Fifty Thousand Dollars
390 (\$250,000.00) shall be paid into the State Aid Road Fund.

391 (10) On or before August 15, 1994, and each succeeding month
392 thereafter through August 15, 1995, from the revenue collected
393 under this chapter during the preceding month, Two Million Dollars
394 (\$2,000,000.00) shall be deposited into the Motor Vehicle Ad
395 Valorem Tax Reduction Fund established in Section 27-51-105.

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

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

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

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

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

425 (15) On or before August 15, 1999, and each succeeding month
426 thereafter, two percent (2%) of the total sales tax revenue
427 collected during the preceding month under the provisions of this
428 chapter, except that collected under the provisions of Sections
429 27-65-15, 27-65-17(2), 27-65-19(3) and 27-65-21, on business
430 activities within a county, including all of the municipal
431 corporations located within a county, shall be allocated for
432 distribution to such county and paid to the county.

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.