

By: Reynolds

To: Ways and Means

## HOUSE BILL NO. 1372

1 AN ACT TO AMEND SECTION 27-65-19, MISSISSIPPI CODE OF 1972,  
2 WHICH PROVIDES FOR THE SALES TAXATION OF PUBLIC UTILITIES, TO  
3 REPEAL SUCH SECTION JULY 1, 2000; TO AMEND SECTION 27-65-75,  
4 MISSISSIPPI CODE OF 1972, WHICH PROVIDES FOR THE DISTRIBUTION OF  
5 STATE SALES TAX REVENUE, TO REPEAL SUCH SECTION JULY 1, 2000; TO  
6 AMEND SECTION 27-35-163, MISSISSIPPI CODE OF 1972, WHICH PROVIDES  
7 FOR APPEALS OF AD VALOREM TAX ASSESSMENTS MADE BY THE STATE TAX  
8 COMMISSION, TO REPEAL SUCH SECTION JULY 1, 2000; TO AMEND SECTION  
9 27-35-309, MISSISSIPPI CODE OF 1972, WHICH PROVIDES FOR THE  
10 ASSESSMENT OF PROPERTY OF UTILITY COMPANIES FOR PURPOSES OF AD  
11 VALOREM TAXATION, TO REPEAL SUCH SECTION JULY 1, 2000; TO AMEND  
12 SECTION 27-35-319, MISSISSIPPI CODE OF 1972, WHICH PROVIDES FOR  
13 THE ASSESSING AND TAXING OF PROPERTY OF CERTAIN TELEPHONE  
14 COMPANIES FOR PURPOSES OF AD VALOREM TAXATION, TO REPEAL SUCH  
15 SECTION JULY 1, 2000; AND FOR RELATED PURPOSES.

16  
17 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

18 SECTION 1. Section 27-65-19, Mississippi Code of 1972, is  
19 amended as follows:[HS1]

20 27-65-19. (1) (a) Except as otherwise provided in this  
21 subsection, upon every person selling to consumers, electricity,  
22 current, power, potable water, steam, coal, natural gas, liquefied  
23 petroleum gas or other fuel, there is hereby levied, assessed and  
24 shall be collected a tax equal to seven percent (7%) of the gross  
25 income of the business. Provided, gross income from sales to  
26 consumers of electricity, current, power, natural gas, liquefied  
27 petroleum gas or other fuel for residential heating, lighting or  
28 other residential noncommercial or nonagricultural use, and sales  
29 of potable water for residential, noncommercial or nonagricultural  
30 use shall be excluded from taxable gross income of the business.  
31 Provided further, upon every such seller using electricity,  
32 current, power, potable water, steam, coal, natural gas, liquefied  
33 petroleum gas or other fuel for nonindustrial purposes, there is

34 hereby levied, assessed and shall be collected a tax equal to  
35 seven percent (7%) of the cost or value of the product or service  
36 used.

37 (b) There is hereby levied, assessed and shall be  
38 collected a tax equal to one and one-half percent (1-1/2%) of the  
39 gross income of the business when the electricity, current, power,  
40 steam, coal, natural gas, liquefied petroleum gas or other fuel is  
41 sold to or used by a manufacturer, custom processor or public  
42 service company for industrial purposes, which shall include that  
43 used to generate electricity, to operate an electrical  
44 distribution or transmission system, to operate pipeline  
45 compressor or pumping stations or to operate railroad locomotives;  
46 provided, however, that:

47 (i) From and after July 1, 2000, through June 30,  
48 2001, sales of fuel used to produce electric power by a company  
49 primarily engaged in the business of producing, generating or  
50 distributing electric power for sale shall be taxed at the rate of  
51 one and one-eighth percent (1.125%);

52 (ii) From and after July 1, 2001, through June 30,  
53 2002, sales of fuel used to produce electric power by a company  
54 primarily engaged in the business of producing, generating or  
55 distributing electric power for sale shall be taxed at the rate of  
56 three-fourths of one percent (0.75%);

57 (iii) From and after July 1, 2002, through June  
58 30, 2003, sales of fuel used to produce electric power by a  
59 company primarily engaged in the business of producing, generating  
60 or distributing electric power for sale shall be taxed at the rate  
61 of three-eighths of one percent (0.375%);

62 (iv) From and after July 1, 2003, sales of fuel  
63 used to produce electric power by a company primarily engaged in  
64 the business of producing, generating or distributing electric  
65 power for sale shall be exempt from sales tax as provided in

66 Section 27-65-107.

67 (c) The one and one-half percent (1-1/2%) industrial  
68 rate provided for in this subsection shall also apply when the  
69 electricity, current, power, steam, coal, natural gas, liquefied  
70 petroleum gas or other fuel is sold to a producer or processor for  
71 use directly in the production of poultry or poultry products, the  
72 production of livestock and livestock products, the production of  
73 plants or food by commercial horticulturists, the processing of  
74 milk and milk products, the processing of poultry and livestock  
75 feed, and the irrigation of farm crops.

76 (d) The one and one-half percent (1-1/2%) rate provided  
77 for in this subsection shall not apply to sales of fuel for  
78 automobiles, trucks, truck-tractors, buses, farm tractors or  
79 airplanes.

80 (e) Upon every person operating a telegraph or  
81 telephone business for the transmission of messages or  
82 conversations between points within this state, there is hereby  
83 levied, assessed and shall be collected, a tax equal to seven  
84 percent (7%) of the gross income of such business, with no  
85 deduction or allowance for any part of an intrastate rate charge  
86 because of routing across a state line. However, any sale of a  
87 prepaid telephone calling card or prepaid authorization number, or  
88 both, shall be deemed to be the sale of tangible personal property  
89 subject only to such taxes imposed by law on the sale of tangible  
90 personal property. If the sale of a prepaid telephone calling  
91 card or prepaid authorization number does not take place at the  
92 vendor's place of business, it shall be conclusively determined to  
93 take place at the customer's shipping address. The  
94 reauthorization of a prepaid telephone calling card or a prepaid  
95 authorization number shall be conclusively determined to take  
96 place at the customer's billing address.

97 (2) Persons making sales to consumers of electricity,  
98 current, power, natural gas, liquefied petroleum gas or other fuel

99 for residential heating, lighting or other residential  
100 noncommercial or nonagricultural use or sales of potable water for  
101 residential, noncommercial or nonagricultural use shall indicate  
102 on each statement rendered to customers that such charges are  
103 exempt from sales taxes.

104 (3) There is hereby levied, assessed and shall be paid on  
105 transportation charges on shipments moving between points within  
106 this state when paid directly by the consumer, a tax equal to the  
107 rate applicable to the sale of the property being transported.  
108 Such tax shall be reported and paid directly to the State Tax  
109 Commission by the consumer.

110 (4) This section shall be repealed from and after July  
111 1,2000.

112 SECTION 2. Section 27-65-75, Mississippi Code of 1972, is  
113 amended as follows:[HS2]

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

115 27-65-75. On or before the fifteenth day of each month, the  
116 revenue collected under the provisions of this chapter during the  
117 preceding month shall be paid and distributed as follows:

118 (1) On or before August 15, 1992, and each succeeding  
119 month thereafter through July 15, 1993, eighteen percent (18%) of  
120 the total sales tax revenue collected during the preceding month  
121 under the provisions of this chapter, except that collected under  
122 the provisions of Sections 27-65-15, 27-65-19(3) and 27-65-21, on  
123 business activities within a municipal corporation shall be  
124 allocated for distribution to such municipality and paid to such  
125 municipal corporation. On or before August 15, 1993, and each  
126 succeeding month thereafter, eighteen and one-half percent  
127 (18-1/2%) of the total sales tax revenue collected during the  
128 preceding month under the provisions of this chapter, except that  
129 collected under the provisions of Sections 27-65-15, 27-65-19(3)  
130 and 27-65-21, on business activities within a municipal  
131 corporation shall be allocated for distribution to such

132 municipality and paid to such municipal corporation.

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

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

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

149             (2) On or before September 15, 1987, and each  
150 succeeding month thereafter, from the revenue collected under this  
151 chapter during the preceding month One Million One Hundred  
152 Twenty-five Thousand Dollars (\$1,125,000.00) shall be allocated  
153 for distribution to municipal corporations as defined under  
154 subsection (1) of this section in the proportion that the number  
155 of gallons of gasoline and diesel fuel sold by distributors to  
156 consumers and retailers in each such municipality during the  
157 preceding fiscal year bears to the total gallons of gasoline and  
158 diesel fuel sold by distributors to consumers and retailers in  
159 municipalities statewide during the preceding fiscal year. The  
160 State Tax Commission shall require all distributors of gasoline  
161 and diesel fuel to report to the commission monthly the total  
162 number of gallons of gasoline and diesel fuel sold by them to  
163 consumers and retailers in each municipality during the preceding  
164 month. The State Tax Commission shall have the authority to

165 promulgate such rules and regulations as is necessary to determine  
166 the number of gallons of gasoline and diesel fuel sold by  
167 distributors to consumers and retailers in each municipality. In  
168 determining the percentage allocation of funds under this  
169 subsection for the fiscal year beginning July 1, 1987, and ending  
170 June 30, 1988, the State Tax Commission may consider gallons of  
171 gasoline and diesel fuel sold for a period of less than one (1)  
172 fiscal year. For the purposes of this subsection, the term  
173 "fiscal year" means the fiscal year beginning July 1 of a year.

174 (3) On or before September 15, 1987, and on or before  
175 the fifteenth day of each succeeding month, until the date  
176 specified in Section 65-39-35, the proceeds derived from  
177 contractors' taxes levied under Section 27-65-21 on contracts for  
178 the construction or reconstruction of highways designated under  
179 the Four-Lane Highway Program created under Section 65-3-97 shall,  
180 except as otherwise provided in Section 31-17-127, be deposited  
181 into the State Treasury to the credit of the State Highway Fund to  
182 be used to fund such Four-Lane Highway Program. The Mississippi  
183 Department of Transportation shall provide to the State Tax  
184 Commission such information as is necessary to determine the  
185 amount of proceeds to be distributed under this subsection.

186 (4) On or before August 15, 1994, and on or before the  
187 fifteenth day of each succeeding month through July 15, 1999, from  
188 the proceeds of gasoline, diesel fuel or kerosene taxes as  
189 provided in Section 27-5-101(a)(ii)1, Four Million Dollars  
190 (\$4,000,000.00) shall be deposited in the State Treasury to the  
191 credit of a special fund designated as the "State Aid Road Fund,"  
192 created by Section 65-9-17. On or before August 15, 1999, and on  
193 or before the fifteenth day of each succeeding month, from the  
194 total amount of the proceeds of gasoline, diesel fuel or kerosene  
195 taxes apportioned by Section 27-5-101(a)(ii), Four Million Dollars  
196 (\$4,000,000.00) or an amount equal to twenty-three and one-fourth  
197 percent (23.25%) of such funds, whichever is the greater amount,

198 shall be deposited in the State Treasury to the credit of the  
199 "State Aid Road Fund," created by Section 65-9-17. Such funds  
200 shall be pledged to pay the principal of and interest on state aid  
201 road bonds heretofore issued under Sections 19-9-51 through  
202 19-9-77, in lieu of and in substitution for the funds heretofore  
203 allocated to counties under this section. Such funds may not be  
204 pledged for the payment of any state aid road bonds issued after  
205 April 1, 1981; however, this prohibition against the pledging of  
206 any such funds for the payment of bonds shall not apply to any  
207 bonds for which intent to issue such bonds has been published, for  
208 the first time, as provided by law prior to March 29, 1981. From  
209 the amount of taxes paid into the special fund pursuant to this  
210 subsection and subsection (9) of this section, there shall be  
211 first deducted and paid the amount necessary to pay the expenses  
212 of the Office of State Aid Road Construction, as authorized by the  
213 Legislature for all other general and special fund agencies. The  
214 remainder of the fund shall be allocated monthly to the several  
215 counties in accordance with the following formula:

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

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

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

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

229 The amount of funds allocated to any county under this  
230 subsection for any fiscal year after fiscal year 1994 shall not be

231 less than the amount allocated to such county for fiscal year  
232 1994. Monies allocated to a county from the State Aid Road Fund  
233 for fiscal year 1995 or any fiscal year thereafter that exceed the  
234 amount of funds allocated to that county from the State Aid Road  
235 Fund for fiscal year 1994, first must be expended by the county  
236 for replacement or rehabilitation of bridges on the state aid road  
237 system that have a sufficiency rating of less than twenty-five  
238 (25), according to National Bridge Inspection standards before  
239 such monies may be approved for expenditure by the State Aid Road  
240 Engineer on other projects that qualify for the use of state aid  
241 road funds.

242 Any reference in the general laws of this state or the  
243 Mississippi Code of 1972 to Section 27-5-105 shall mean and be  
244 construed to refer and apply to subsection (4) of Section  
245 27-65-75.

246 (5) One Million Six Hundred Sixty-six Thousand Six  
247 Hundred Sixty-six Dollars (\$1,666,666.00) each month shall be paid  
248 into the special fund known as the "State Public School Building  
249 Fund" created and existing under the provisions of Sections  
250 37-47-1 through 37-47-67. Such payments into said fund are to be  
251 made on the last day of each succeeding month hereafter.

252 (6) An amount each month beginning August 15, 1983,  
253 through November 15, 1986, as specified in Section 6 of Chapter  
254 542, Laws of 1983, shall be paid into the special fund known as  
255 the Correctional Facilities Construction Fund created in Section 6  
256 of Chapter 542, Laws of 1983.

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



264           (8) On or before August 15, 1992, and each succeeding  
265 month thereafter, nine and seventy-three one-thousandths percent  
266 (9.073%) of the total sales tax revenue collected during the  
267 preceding month under the provisions of this chapter, except that  
268 collected under the provisions of Section 27-65-17(2) shall be  
269 deposited into the Education Enhancement Fund created pursuant to  
270 Section 37-61-33.

271           (9) On or before August 15, 1994, and each succeeding  
272 month thereafter, from the revenue collected under this chapter  
273 during the preceding month, Two Hundred Fifty Thousand Dollars  
274 (\$250,000.00) shall be paid into the State Aid Road Fund.

275           (10) On or before August 15, 1994, and each succeeding  
276 month thereafter through August 15, 1995, from the revenue  
277 collected under this chapter during the preceding month, Two  
278 Million Dollars (\$2,000,000.00) shall be deposited into the Motor  
279 Vehicle Ad Valorem Tax Reduction Fund established in Section  
280 27-51-105.

281           (11) Notwithstanding any other provision of this  
282 section to the contrary, on or before February 15, 1995, and each  
283 succeeding month thereafter, the sales tax revenue collected  
284 during the preceding month under the provisions of Section  
285 27-65-17(2) and the corresponding levy in Section 27-65-23 on the  
286 rental or lease of private carriers of passengers and light  
287 carriers of property as defined in Section 27-51-101 shall be  
288 deposited, without diversion, into the Motor Vehicle Ad Valorem  
289 Tax Reduction Fund established in Section 27-51-105.

290           (12) Notwithstanding any other provision of this  
291 section to the contrary, on or before August 15, 1995, and each  
292 succeeding month thereafter, the sales tax revenue collected  
293 during the preceding month under the provisions of Section  
294 27-65-17(1) on retail sales of private carriers of passengers and  
295 light carriers of property, as defined in Section 27-51-101 and  
296 the corresponding levy in Section 27-65-23 on the rental or lease

297 of these vehicles, shall be deposited, after diversion, into the  
298 Motor Vehicle Ad Valorem Tax Reduction Fund established in Section  
299 27-51-105.

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

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

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

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

330 subsequent payment to be made to the municipality.

331 This section shall be repealed from and after July 1, 2000.

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

333 27-65-75. On or before the fifteenth day of each month, the  
334 revenue collected under the provisions of this chapter during the  
335 preceding month shall be paid and distributed as follows:

336 (1) On or before August 15, 1992, and each succeeding  
337 month thereafter through July 15, 1993, eighteen percent (18%) of  
338 the total sales tax revenue collected during the preceding month  
339 under the provisions of this chapter, except that collected under  
340 the provisions of Sections 27-65-15, 27-65-19(3) and 27-65-21, on  
341 business activities within a municipal corporation shall be  
342 allocated for distribution to such municipality and paid to such  
343 municipal corporation. On or before August 15, 1993, and each  
344 succeeding month thereafter, eighteen and one-half percent  
345 (18-1/2%) of the total sales tax revenue collected during the  
346 preceding month under the provisions of this chapter, except that  
347 collected under the provisions of Sections 27-65-15, 27-65-19(3)  
348 and 27-65-21, on business activities within a municipal  
349 corporation shall be allocated for distribution to such  
350 municipality and paid to such municipal corporation.

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

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

360 In any county having a county seat which is not an  
361 incorporated municipality, the distribution provided hereunder  
362 shall be made as though the county seat was an incorporated

363 municipality; however, the distribution to such municipality shall  
364 be paid to the county treasury wherein the municipality is located  
365 and such funds shall be used for road, bridge and street  
366 construction or maintenance therein.

367           (2) On or before September 15, 1987, and each  
368 succeeding month thereafter, from the revenue collected under this  
369 chapter during the preceding month One Million One Hundred  
370 Twenty-five Thousand Dollars (\$1,125,000.00) shall be allocated  
371 for distribution to municipal corporations as defined under  
372 subsection (1) of this section in the proportion that the number  
373 of gallons of gasoline and diesel fuel sold by distributors to  
374 consumers and retailers in each such municipality during the  
375 preceding fiscal year bears to the total gallons of gasoline and  
376 diesel fuel sold by distributors to consumers and retailers in  
377 municipalities statewide during the preceding fiscal year. The  
378 State Tax Commission shall require all distributors of gasoline  
379 and diesel fuel to report to the commission monthly the total  
380 number of gallons of gasoline and diesel fuel sold by them to  
381 consumers and retailers in each municipality during the preceding  
382 month. The State Tax Commission shall have the authority to  
383 promulgate such rules and regulations as is necessary to determine  
384 the number of gallons of gasoline and diesel fuel sold by  
385 distributors to consumers and retailers in each municipality. In  
386 determining the percentage allocation of funds under this  
387 subsection for the fiscal year beginning July 1, 1987, and ending  
388 June 30, 1988, the State Tax Commission may consider gallons of  
389 gasoline and diesel fuel sold for a period of less than one (1)  
390 fiscal year. For the purposes of this subsection, the term  
391 "fiscal year" means the fiscal year beginning July 1 of a year.

392           (3) On or before September 15, 1987, and on or before  
393 the fifteenth day of each succeeding month, until the date  
394 specified in Section 65-39-35, the proceeds derived from  
395 contractors' taxes levied under Section 27-65-21 on contracts for

396 the construction or reconstruction of highways designated under  
397 the Four-Lane Highway Program created under Section 65-3-97 shall,  
398 except as otherwise provided in Section 31-17-127, be deposited  
399 into the State Treasury to the credit of the State Highway Fund to  
400 be used to fund such Four-Lane Highway Program. The Mississippi  
401 Department of Transportation shall provide to the State Tax  
402 Commission such information as is necessary to determine the  
403 amount of proceeds to be distributed under this subsection.

404 (4) On or before August 15, 1994, and on or before the  
405 fifteenth day of each succeeding month through July 15, 1999, from  
406 the proceeds of gasoline, diesel fuel or kerosene taxes as  
407 provided in Section 27-5-101(a)(ii)1, Four Million Dollars  
408 (\$4,000,000.00) shall be deposited in the State Treasury to the  
409 credit of a special fund designated as the "State Aid Road Fund,"  
410 created by Section 65-9-17. On or before August 15, 1999, and on  
411 or before the fifteenth day of each succeeding month, from the  
412 total amount of the proceeds of gasoline, diesel fuel or kerosene  
413 taxes apportioned by Section 27-5-101(a)(ii), Four Million Dollars  
414 (\$4,000,000.00) or an amount equal to twenty-three and one-fourth  
415 percent (23.25%) of such funds, whichever is the greater amount,  
416 shall be deposited in the State Treasury to the credit of the  
417 "State Aid Road Fund," created by Section 65-9-17. Such funds  
418 shall be pledged to pay the principal of and interest on state aid  
419 road bonds heretofore issued under Sections 19-9-51 through  
420 19-9-77, in lieu of and in substitution for the funds heretofore  
421 allocated to counties under this section. Such funds may not be  
422 pledged for the payment of any state aid road bonds issued after  
423 April 1, 1981; however, this prohibition against the pledging of  
424 any such funds for the payment of bonds shall not apply to any  
425 bonds for which intent to issue such bonds has been published, for  
426 the first time, as provided by law prior to March 29, 1981. From  
427 the amount of taxes paid into the special fund pursuant to this  
428 subsection and subsection (9) of this section, there shall be

429 first deducted and paid the amount necessary to pay the expenses  
430 of the Office of State Aid Road Construction, as authorized by the  
431 Legislature for all other general and special fund agencies. The  
432 remainder of the fund shall be allocated monthly to the several  
433 counties in accordance with the following formula:

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

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

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

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

447 The amount of funds allocated to any county under this  
448 subsection for any fiscal year after fiscal year 1994 shall not be  
449 less than the amount allocated to such county for fiscal year  
450 1994. Monies allocated to a county from the State Aid Road Fund  
451 for fiscal year 1995 or any fiscal year thereafter that exceed the  
452 amount of funds allocated to that county from the State Aid Road  
453 Fund for fiscal year 1994, first must be expended by the county  
454 for replacement or rehabilitation of bridges on the state aid road  
455 system that have a sufficiency rating of less than twenty-five  
456 (25), according to National Bridge Inspection standards before  
457 such monies may be approved for expenditure by the State Aid Road  
458 Engineer on other projects that qualify for the use of state aid  
459 road funds.

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

462 construed to refer and apply to subsection (4) of Section  
463 27-65-75.

464           (5) One Million Six Hundred Sixty-six Thousand Six  
465 Hundred Sixty-six Dollars (\$1,666,666.00) each month shall be paid  
466 into the special fund known as the "State Public School Building  
467 Fund" created and existing under the provisions of Sections  
468 37-47-1 through 37-47-67. Such payments into said fund are to be  
469 made on the last day of each succeeding month hereafter.

470           (6) An amount each month beginning August 15, 1983,  
471 through November 15, 1986, as specified in Section 6 of Chapter  
472 542, Laws of 1983, shall be paid into the special fund known as  
473 the Correctional Facilities Construction Fund created in Section 6  
474 of Chapter 542, Laws of 1983.

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

487           (8) On or before August 15, 1992, and each succeeding  
488 month thereafter, nine and seventy-three one-thousandths percent  
489 (9.073%) of the total sales tax revenue collected during the  
490 preceding month under the provisions of this chapter, except that  
491 collected under the provisions of Section 27-65-17(2) shall be  
492 deposited into the Education Enhancement Fund created pursuant to  
493 Section 37-61-33.

494           (9) On or before August 15, 1994, and each succeeding

495 month thereafter, from the revenue collected under this chapter  
496 during the preceding month, Two Hundred Fifty Thousand Dollars  
497 (\$250,000.00) shall be paid into the State Aid Road Fund.

498 (10) On or before August 15, 1994, and each succeeding  
499 month thereafter through August 15, 1995, from the revenue  
500 collected under this chapter during the preceding month, Two  
501 Million Dollars (\$2,000,000.00) shall be deposited into the Motor  
502 Vehicle Ad Valorem Tax Reduction Fund established in Section  
503 27-51-105.

504 (11) Notwithstanding any other provision of this  
505 section to the contrary, on or before February 15, 1995, and each  
506 succeeding month thereafter, the sales tax revenue collected  
507 during the preceding month under the provisions of Section  
508 27-65-17(2) shall be deposited, without diversion, into the Motor  
509 Vehicle Ad Valorem Tax Reduction Fund established in Section  
510 27-51-105.

511 (12) Notwithstanding any other provision of this  
512 section to the contrary, on or before August 15, 1995, and each  
513 succeeding month thereafter, the sales tax revenue collected  
514 during the preceding month under the provisions of Section  
515 27-65-17(1) on retail sales of private carriers of passengers and  
516 light carriers of property, as defined in Section 27-51-101, shall  
517 be deposited, after diversion, into the Motor Vehicle Ad Valorem  
518 Tax Reduction Fund established in Section 27-51-105.

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

527 (14) On or before August 15, 1998, and each succeeding



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

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

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

550 This section shall be repealed from and after July 1, 2000.

551 SECTION 3. Section 27-35-163, Mississippi Code of 1972, is  
552 amended as follows:[HS3]

553 27-35-163. Any person, firm or corporation aggrieved by an  
554 order of the State Tax Commission assessing property for the  
555 purpose of ad valorem taxation may, within twenty (20) days after  
556 the adjournment of the meeting at which such assessment is made  
557 final, appeal with supersedeas as to the amount of taxes in  
558 controversy to the Circuit Court of the First Judicial District of  
559 Hinds County, or to the circuit court of any county in which the  
560 property, or any part thereof, is located, or to the circuit court

561 of any county in which such person, firm or corporation whose  
562 property is assessed resides, upon giving bond with sufficient  
563 sureties, to be approved by the clerk of such court, in a sum  
564 equal to the amount of taxes due on the contested value of such  
565 property as assessed by the tax commission, but never less than  
566 One Hundred Dollars (\$100.00), payable to the state and  
567 conditioned to perform the judgment of the circuit court. The ad  
568 valorem taxes due on the uncontested portion of the value as set  
569 by the State Tax Commission shall be due and payable at the same  
570 time as all other ad valorem taxes are for real and personal  
571 property. The person, firm or corporation who appeals shall file  
572 with the clerk of the circuit court a petition for appeal and  
573 review, together with said bond herein provided for, and the clerk  
574 shall thereupon give notice to the State Tax Commission. The  
575 State Tax Commission shall file with the clerk of the circuit  
576 court where said petition is pending a copy of its order, or  
577 orders, making the assessment within twenty (20) days after the  
578 receipt of such notice, and the matter of assessing such property  
579 shall be heard de novo by the circuit court at the first term of  
580 said court thereafter, or by the judge of the circuit court in  
581 vacation, by agreement of the parties, without a jury, and such  
582 proceeding shall be given preference over other pending matters in  
583 said court. After hearing the evidence, the circuit court, or the  
584 judge thereof in vacation, shall make an order setting aside,  
585 modifying or affirming the order of the State Tax Commission. A  
586 copy of such order shall be certified by the clerk of said court  
587 to the State Tax Commission, which shall conform thereto.

588 If the order of the State Tax Commission assessing said  
589 property be affirmed, then the person, firm or corporation who  
590 appealed, and the sureties on the appeal bond, shall be liable to  
591 the state for damages at the rate of ten percent (10%) on the  
592 amount of taxes in controversy, and all cost of such appeal.

593 If the state shall be aggrieved by an order of the State Tax

594 Commission as to the assessment of such property for ad valorem  
595 taxes, the Attorney General or the district attorney, if all the  
596 property sought to be taxed is located within the judicial  
597 district for which such district attorney is elected, may, within  
598 twenty (20) days after the adjournment of the meeting at which  
599 such assessment is made final, appeal to the circuit court of any  
600 county in which the property, or any part thereof, is located or  
601 of any county in which the taxpayer resides, in like manner as in  
602 the case of any person, firm or corporation aggrieved as  
603 hereinbefore provided, except no bonds shall be required of the  
604 Attorney General or district attorney who may appeal. Upon the  
605 filing of a petition for appeal or review as herein provided, the  
606 clerk of the court in which said petition is filed shall thereupon  
607 issue process to the person, firm or corporation whose property is  
608 assessed, and such person, firm or corporation shall plead to said  
609 petition within twenty (20) days after the receipt of said notice.

610 In the event both the taxpayer and the state appeal, then the  
611 matter shall be heard by the circuit court of the county in which  
612 the petition for appeal was first filed, unless otherwise agreed  
613 by the parties.

614 Any taxpayer aggrieved by an order of the circuit court may  
615 appeal, with supersedeas, to the Supreme Court by giving bond in  
616 the amount and conditioned as provided in the preceding paragraphs  
617 hereof.

618 The officer who appealed the matter from the order of the  
619 State Tax Commission may have an appeal to the Supreme Court  
620 without bond.

621 In the event the appeal by the taxpayer delays the collection  
622 of the tax due by him, then such taxpayer shall be liable for and  
623 shall pay, at the time the taxes are paid to the tax collector  
624 whose duty it is to collect the taxes, interest at the rate of  
625 twelve percent (12%) per annum from the date the taxes were due  
626 until paid.

627       This section shall be repealed from and after July 1, 2000.

628       SECTION 4. Section 27-35-309, Mississippi Code of 1972, is  
629 amended as follows:[HS4]

630       27-35-309. (1) The State Tax Commission shall, if  
631 practicable, on or before the first Monday of June of each year,  
632 make out for each person, firm, company or corporation listed in  
633 Section 27-35-303, Mississippi Code of 1972, an assessment of said  
634 company's property, both real and personal, tangible and  
635 intangible. The State Tax Commission shall apportion the  
636 assessment of value of each company's property according to the  
637 provisions of this article, except as provided in subsection (3)  
638 of this section, as follows:

639           (a) When the property of such public service company is  
640 located in more than one (1) county in this state, the State Tax  
641 Commission shall direct the company to apportion the assessed  
642 value between the counties and municipalities and all other taxing  
643 districts therein, in the proportion which the property located  
644 therein bears to the entire value of the property of such company  
645 as valued by the commission, so that to each county, municipality  
646 and taxing district therein, there shall be apportioned such part  
647 of the entire valuation as will fairly equalize the relative value  
648 of the property therein located to the whole value thereof.

649           (b) When the property of such public utility required  
650 to be assessed by the provisions of this article is located in  
651 more than one (1) state, the assessed value thereof shall be  
652 apportioned by the State Tax Commission in such manner as will  
653 fairly and equitably determine the principal sum for the value  
654 thereof in this state, and after ascertaining such value it shall  
655 be apportioned by them as herein provided.

656       The assessment roll shall contain all the property of any  
657 such public service company, railroad, person, firm or corporation  
658 and the value thereof, and so made that each county, municipality,  
659 and taxing district shall receive its just share of taxes

660 proportionately to the amount of property therein situated.

661           (2) (a) The assessment when made shall remain open for one  
662 (1) month in the office of the State Tax Commission, and be for  
663 such time subject to the objections thereto which may be filed;  
664 but real estate belonging to railroads and which forms no part of  
665 the road, and is wholly disconnected from its railroad business,  
666 shall not be assessed by the State Tax Commission, but shall be  
667 assessed as other real estate is assessed by the tax assessor of  
668 the county where situated.

669           (b) The apportionment of the assessed value as required  
670 by this section shall be filed with the State Tax Commission by  
671 such public service company on or before the first day of August  
672 in each year. If such company shall fail, refuse or neglect to  
673 render the apportionment of assessed value as required by this  
674 section, such company shall be subject to the penalties provided  
675 for in Section 27-35-305. The filing of an objection by such  
676 public service company shall not preclude such company from filing  
677 the property apportionment as required by this section.

678           (3) Any nuclear generating plant which is located in the  
679 state, which is owned or operated by a public utility rendering  
680 electric service within the state and not exempt from ad valorem  
681 taxation under any other statute and which is not owned or  
682 operated by an instrumentality of the federal government shall be  
683 exempt from county, municipal and district ad valorem taxes. In  
684 lieu of the payment of county, municipal and district ad valorem  
685 taxes, such public utility shall pay to the State Tax Commission a  
686 sum based on the assessed value of such nuclear generating plant  
687 in an amount to be determined and distributed as follows:

688           (a) The State Tax Commission shall annually assign an  
689 assessed value to any nuclear generating plant described in this  
690 subsection in the same manner as for ad valorem tax purposes by  
691 using accepted industry methods for appraising and assessing  
692 public utility property. The assessed value assigned shall be

693 used for the purpose of determining the in-lieu tax due under this  
694 section and shall not be included on the ad valorem tax rolls of  
695 the situs taxing authority nor be subject to ad valorem taxation  
696 by the situs taxing authority nor shall the assessed value  
697 assigned be used in determining the debt limit of the situs taxing  
698 authority. However, the assessed value so assigned may be used by  
699 the situs taxing authority for the purpose of determining salaries  
700 of its public officials.

701 (b) On or before February 1, 1987, for the 1986 taxable  
702 year and on or before February 1 of each year through the 1989  
703 taxable year, such utility shall pay to the State Tax Commission a  
704 sum equal to two percent (2%) of the assessed value as ascertained  
705 by the State Tax Commission, but such payment shall not be less  
706 than Sixteen Million Dollars (\$16,000,000.00) for any of the four  
707 (4) taxable years; all such payments in excess of Sixteen Million  
708 Dollars (\$16,000,000.00) for these four (4) taxable years shall be  
709 paid into the General Fund of the state. On or before February 1,  
710 1991, for the 1990 taxable year and on or before February 1 of  
711 each year thereafter, such utility shall pay to the State Tax  
712 Commission a sum equal to two percent (2%) of the assessed value  
713 as ascertained by the State Tax Commission, but such payment shall  
714 not be less than Twenty Million Dollars (\$20,000,000.00) for any  
715 taxable year for as long as such nuclear power plant is licensed  
716 to operate and is not being permanently decommissioned; all such  
717 payments in excess of Sixteen Million Dollars (\$16,000,000.00) for  
718 taxable years 1990 and thereafter shall be paid as follows:

719 (i) An amount of Three Million Forty Thousand  
720 Dollars (\$3,040,000.00) annually, beginning with fiscal year 1991,  
721 shall be transferred by the State Tax Commission to Claiborne  
722 County. Such payments may be expended by the Board of Supervisors  
723 of Claiborne County for any purpose for which a county is  
724 authorized by law to levy an ad valorem tax and shall not be  
725 included or considered as proceeds of ad valorem taxes for the

726 purposes of the growth limitation on ad valorem taxes under  
727 Sections 27-39-305 and 27-39-321. Provided, however, should the  
728 Board of Supervisors of Claiborne County withdraw its support of  
729 the Grand Gulf Nuclear Station off-site emergency plan or  
730 otherwise fail to satisfy its off-site emergency plan commitments  
731 as determined by the Mississippi Emergency Management Agency and  
732 the Federal Emergency Management Agency, Five Hundred Thousand  
733 Dollars (\$500,000.00) annually of the funds designated for  
734 Claiborne County as described by this subsection (i) shall be  
735 deposited in the Grand Gulf Disaster Assistance Fund as provided  
736 in Section 33-15-51.

737                   (ii) An amount of One Hundred Sixty Thousand  
738 Dollars (\$160,000.00) annually, beginning with fiscal year 1991,  
739 shall be transferred by the State Tax Commission to the City of  
740 Port Gibson, Mississippi. Such payments may be expended by the  
741 Board of Aldermen of the City of Port Gibson for any purpose for  
742 which a municipality is authorized by law to levy an ad valorem  
743 tax and shall not be included or considered as proceeds of ad  
744 valorem taxes for the purposes of the growth limitation on ad  
745 valorem taxes under Sections 27-39-305 and 27-39-321. Provided,  
746 however, should the Board of Aldermen of the City of Port Gibson  
747 withdraw its support of the Grand Gulf Nuclear Station off-site  
748 emergency plan or otherwise fail to satisfy its off-site emergency  
749 plan commitment, as determined by the Mississippi Emergency  
750 Management Agency and the Federal Emergency Management Agency,  
751 Fifty Thousand Dollars (\$50,000.00) annually of the funds  
752 designated for the City of Port Gibson as described by this  
753 subsection (ii) shall be deposited in the Grand Gulf Disaster  
754 Assistance Fund as provided in Section 33-15-51.

755                   (iii) The remaining balance of the payments in  
756 excess of Sixteen Million Dollars (\$16,000,000.00) annually, less  
757 amounts transferred under (i) and (ii) of this subsection,  
758 beginning with fiscal year 1991, shall be allocated in accordance

759 with subsection (3)(f) of this section.

760           (c) Pursuant to certification by the Attorney General  
761 to the State Treasurer and the State Tax Commission that the suit  
762 against the State of Mississippi pending on the effective date of  
763 House Bill 8, First Extraordinary Session of 1990, [Laws, 1990 Ex  
764 Session, Ch. 12, eff June 26, 1990], in the Chancery Court for the  
765 First Judicial District of Hinds County, Mississippi, styled  
766 Albert Butler et al v. the Mississippi State Tax Commission et al,  
767 has been voluntarily dismissed with prejudice as to all plaintiffs  
768 at the request of the complainants and that no attorney's fees or  
769 court costs have been assessed against the state and each of the  
770 parties, including Claiborne County and each municipality and  
771 school district located in the county, have signed and delivered  
772 to the Attorney General a full and complete release in favor of  
773 the State of Mississippi and its elected officials of all claims  
774 that have been asserted or may be asserted in the suit pending on  
775 the effective date of House Bill 8, First Extraordinary Session of  
776 1990, [Laws, 1990 Ex Session, Ch. 12, eff June 26, 1990], in the  
777 Chancery Court for the First Judicial District of Hinds County,  
778 Mississippi, styled Albert Butler et al v. the Mississippi State  
779 Tax Commission et al, and the deposit into the State General Fund  
780 of in-lieu payments and interest thereon due the state under  
781 subsection (3)(b) of this section but placed in escrow because of  
782 the lawsuit described above, the state shall promptly transfer to  
783 the Board of Supervisors of Claiborne County out of the State  
784 General Fund an amount of Two Million Dollars (\$2,000,000.00)  
785 which shall be a one-time distribution to Claiborne County from  
786 the state. Such payment may be expended by the Board of  
787 Supervisors of Claiborne County for any purposes for which a  
788 county is authorized by law to levy an ad valorem tax and shall  
789 not be included or considered as proceeds of ad valorem taxes for  
790 the purposes of the growth limitation on ad valorem taxes for the  
791 1991 fiscal year under Sections 27-39-321 and 27-39-305.



792           (d) After distribution of the one-time payment to  
793 Claiborne County as set forth in subsection (3)(c) of this  
794 section, the State Tax Commission upon certification that the  
795 pending lawsuit as described in subsection (3)(c) of this section  
796 has been voluntarily dismissed shall promptly deposit an amount of  
797 Five Hundred Thousand Dollars (\$500,000.00) into the Grand Gulf  
798 Disaster Assistance Trust Fund as provided for in Section  
799 33-15-51, which shall be a one-time payment, to be utilized in  
800 accordance with the provisions of such section.

801           (e) After distribution of the one-time payment to  
802 Claiborne County as set forth in subsection (3)(c) of this section  
803 and the payment to the Grand Gulf Disaster Assistance Trust Fund  
804 as set forth in subsection (3)(d) of this section, the State Tax  
805 Commission upon certification that the pending lawsuit as  
806 described in subsection (3)(c) of this section has been  
807 voluntarily dismissed shall promptly distribute ten percent (10%)  
808 of the remainder of the prior payments remaining in escrow to the  
809 General Fund of the state and the balance of the prior payments  
810 remaining in escrow shall be distributed to the counties and  
811 municipalities in this state wherein such public utility has  
812 rendered electric service in the proportion that the amount of  
813 electric energy consumed by the retail customers of such public  
814 utility in each county, excluding municipalities therein, and in  
815 each municipality, for the next preceding fiscal year bears to the  
816 total amount of electric energy consumed by all retail customers  
817 of such public utility in the State of Mississippi for the next  
818 preceding fiscal year. The payments distributed to the counties  
819 and municipalities under this paragraph (e) may be expended by  
820 such counties and municipalities for any lawful purpose and shall  
821 not be included or considered as proceeds of ad valorem taxes for  
822 the purposes of the growth limitation on ad valorem taxes under  
823 Sections 27-39-321 and 27-39-305.

824           (f) After distribution of the payments for fiscal year

825 1991 as set forth in Section 19-9-151 and distribution of the  
826 payments as provided for in subsection (3)(b) of this section, the  
827 State Tax Commission shall distribute ten percent (10%) of the  
828 remainder of the payments to the General Fund of the state and the  
829 balance to the counties and municipalities in this state wherein  
830 such public utility renders electric service in the proportion  
831 that the amount of electric energy consumed by the retail  
832 customers of such public utility in each county, excluding  
833 municipalities therein, and in each municipality for the next  
834 preceding fiscal year bears to the total amount of electric energy  
835 consumed by all retail customers of such public utility in the  
836 State of Mississippi for the next preceding fiscal year.

837 (g) No county, including municipalities therein, shall  
838 receive in excess of twenty percent (20%) of the funds distributed  
839 under paragraph (f) of this subsection.

840 (h) The revenues received by counties and  
841 municipalities under paragraph (f) of this subsection shall not be  
842 included or considered as proceeds of ad valorem taxes for the  
843 purposes of the growth limitation on ad valorem taxes under  
844 Sections 27-39-305 and 27-39-321.

845 (4) This section shall be repealed from and after July 1,  
846 2000.

847 SECTION 5. Section 27-35-319, Mississippi Code of 1972, is  
848 amended as follows:[HS5]

849 27-35-319. (1) Notwithstanding the provisions of Sections  
850 27-35-31, 27-35-309, 27-35-317 and 27-35-323, when all the  
851 property of a telephone company is located in not more than six  
852 (6) counties, it shall be assessed and taxed as that of a person;  
853 and the laws, providing for the assessment and collection of taxes  
854 on the property of persons, shall apply to the assessment and  
855 collection of taxes on the property of such companies. All shares  
856 or certificates of stock issued by any such corporation or company  
857 shall be exempt from taxation and shall not be returned for

858 assessment. Its land and tangible personal property shall be  
859 assessed and taxed where situated on the first day of January of  
860 the year.

861 (2) (a) With respect to any telephone company located in  
862 more than six (6) counties:

863 (i) The portion of such company's property,  
864 excluding motor vehicles, which is used to provide local service  
865 shall be considered as Class IV property under Section 112,  
866 Mississippi Constitution of 1890, and assessed and taxed as such;  
867 and

868 (ii) The portion of such company's property,  
869 excluding motor vehicles, which is used to provide service between  
870 local access and transport areas in the state or between two (2)  
871 or more states shall be considered as Class II property under  
872 Section 112, Mississippi Constitution of 1890, and assessed and  
873 taxed as such.

874 (b) The procedures for assessment and collection of  
875 taxes on all of the property of telephone companies located in  
876 more than six (6) counties shall be the same as that for taxes on  
877 the property of railroads and other public service companies.

878 (3) This section shall be repealed from and after July 1,  
879 2000.

880 SECTION 6. This act shall take effect and be in force from  
881 and after July 1, 2000.