

By: Representative Ellzey

To: Transportation

HOUSE BILL NO. 231

1 AN ACT TO AMEND SECTIONS 27-19-81 AND 27-19-89, MISSISSIPPI  
 2 CODE OF 1972, TO PROVIDE THAT THE FEES COLLECTED BY THE  
 3 MISSISSIPPI DEPARTMENT OF TRANSPORTATION FOR THE ISSUANCE OF  
 4 HARVEST PERMITS TO OPERATORS OF VEHICLES HAULING CERTAIN PRODUCTS,  
 5 AND THE FINES AND PENALTIES COLLECTED BY THE MISSISSIPPI  
 6 DEPARTMENT OF TRANSPORTATION FOR VIOLATIONS OF THE VEHICLE WEIGHT  
 7 LIMITS AUTHORIZED ON STATE HIGHWAYS, SHALL BE DEPOSITED INTO A  
 8 SPECIAL FUND CREATED IN THE STATE TREASURY; TO PROVIDE THAT MONIES  
 9 IN THE SPECIAL FUND SHALL BE ALLOCATED AND DISTRIBUTED TO EACH OF  
 10 THE COUNTIES IN THE STATE IN ACCORDANCE WITH THE STATE AID ROAD  
 11 FORMULA AND MAY BE EXPENDED BY THE COUNTIES FOR COUNTY ROAD AND  
 12 BRIDGE CONSTRUCTION AND REPAIR; AND FOR RELATED PURPOSES.

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

14 SECTION 1. Section 27-19-81, Mississippi Code of 1972, is  
 15 amended as follows:

16 27-19-81. (1) No vehicle shall be registered by the State  
 17 Tax Commission or by a tax collector, and no license tag  
 18 whatsoever shall be issued therefor, where the gross weight of  
 19 such vehicle exceeds the limits provided by law. In the event of  
 20 an emergency requiring the hauling of a greater gross weight than  
 21 permitted by law, the owner or operator of such vehicle shall  
 22 obtain an excess weight authorization from the Mississippi  
 23 Department of Transportation or local authority having  
 24 jurisdiction of the particular road, street or highway before  
 25 operating such vehicle on the highways of this state to haul such  
 26 a gross weight over a route to be designated by the aforesaid  
 27 department. It shall then be necessary for the owner or operator  
 28 of the vehicle to obtain a permit from the Transportation  
 29 Department, which shall be issued by the department under the same  
 30 provisions as are provided for the issuance of trip permits under  
 31 Section 27-19-79, but which permit shall likewise be obtained  
 32 prior to the operation of such vehicle on the highways. No



33 persons or agencies other than the Mississippi Department of  
34 Transportation shall have authority to issue the permits provided  
35 for in this section. The fee to be charged for such permits shall  
36 be computed in the same manner provided in Section 27-19-79 for  
37 each one thousand (1,000) pounds, or fractional part thereof, of  
38 gross weight above the licensed capacity of the vehicle, up to the  
39 maximum legal weights provided by this article on the roads to be  
40 traveled.

41 This subsection shall apply, but not be limited, to any  
42 tractor, road roller or road machinery used solely and  
43 specifically in road building or other highway construction or  
44 maintenance work.

45 For each one thousand (1,000) pounds, or fractional part  
46 thereof, in excess of the weight authorized by Sections 63-5-29  
47 and 63-5-33 for any such vehicle or in excess of the limits set by  
48 the Transportation Department for specified roads and bridges, the  
49 fee shall be Five Cents (5¢) per one thousand (1,000) pounds, or  
50 fractional part thereof, for each mile traveled upon the highways  
51 of the state, except that the fee for manufactured housing modular  
52 units, residential or commercial, shall be Two Cents (2¢) per one  
53 thousand (1,000) pounds, or fractional part thereof, for each mile  
54 traveled upon the highways of the state. Provided, however, no  
55 permit shall be issued for a fee of less than Ten Dollars  
56 (\$10.00).

57 The Transportation Department may provide for an annual  
58 permit which will allow pre-approved vehicles and loads to travel  
59 predesignated routes with self-issued permits. Under such  
60 self-issuance authority, the owner of the vehicle shall complete  
61 the permit in a format designated by the department,  
62 electronically transmit a copy to the department prior to the  
63 move, and ensure that a copy is in the possession of the operator.  
64 Vehicles having a gross weight exceeding the limits provided by  
65 law that have a nondivisible gross vehicle weight of ninety-five



66 thousand (95,000) pounds or less, which are otherwise legal, shall  
67 not be restricted as to the hours of the day such vehicles may be  
68 operated on predesignated routes. The department shall bill the  
69 vehicle owner according to the provisions of the preceding  
70 paragraph. The department is authorized to modify predesignated  
71 routes at any time for cause, such as highway construction or  
72 hazardous highway conditions. The annual fee for the  
73 self-issuance permit authority obtained pursuant to this paragraph  
74 shall be Five Hundred Dollars (\$500.00) per owner, regardless of  
75 the number of vehicles which he will operate pursuant to such  
76 permit, in addition to any other fees required by this section.  
77 Any vehicle and load being operated pursuant to this paragraph for  
78 which the operator does not have the permit or a copy thereof in  
79 his possession, or for which a copy of the permit was not  
80 electronically transmitted to the department, shall be deemed not  
81 to have a permit and shall be penalized accordingly.

82 (2) Before operating a vehicle where the size of the load  
83 being hauled is in excess of that permitted by law, the owner or  
84 operator of such vehicle shall obtain excess size authorization  
85 from the Transportation Department or proper local authority and  
86 an excess size permit from the Transportation Department. Such  
87 excess size permit shall be issued by the Mississippi Department  
88 of Transportation under the same provisions as are provided for  
89 the issuance of trip permits under Section 27-19-79, and it shall  
90 be obtained prior to the operation of such vehicle on the  
91 highways. The fee to be charged for such excess size permit shall  
92 be Ten Dollars (\$10.00) per trip. Such permits may be issued for  
93 an extended period of time and must coincide with the expiration  
94 date and other provisions of the carrier's permit or authorization  
95 issued by the Transportation Department or local authority. The  
96 fee for such extended permits shall be based upon an annual fee of  
97 One Hundred Dollars (\$100.00) per carrier. No permit shall be  
98 issued under this subsection if the issuance of the permit would



99 violate federal law or would cause the State of Mississippi to  
100 lose federal aid funds. This subsection shall not apply to any  
101 tractor, road roller or road machinery used solely and  
102 specifically in road building or other highway construction or  
103 maintenance work or to any machinery or equipment operated on the  
104 highways or transported thereon in the course of normal farming  
105 activities, including cotton module transporters.

106 (3) The Executive Director of the Mississippi Department of  
107 Transportation may authorize certain carriers of property to issue  
108 overweight and/or oversize permits for vehicles owned or operated  
109 by such carriers, provided such carriers have blanket  
110 authorization from the Transportation Commission and also meet  
111 other requirements established by the Transportation Commission.

112 (4) The owner or operator of a vehicle hauling sand, gravel,  
113 fill dirt, agricultural products or unprocessed forestry products  
114 may apply to the Mississippi Department of Transportation for a  
115 harvest permit for the purpose of authorizing any such vehicles to  
116 operate on the highways in this state (other than the federal  
117 interstate system or those highways designated by the Mississippi  
118 Department of Transportation as not capable of carrying more than  
119 fifty-seven thousand six hundred fifty (57,650) pounds at the  
120 maximum gross weight specified in Section 63-5-33). Harvest  
121 permits may be issued and are valid to permit any such vehicle to  
122 be operated on a highway in this state that has been designated by  
123 the Mississippi Department of Transportation as not capable of  
124 carrying more than fifty-seven thousand six hundred fifty (57,650)  
125 pounds only if such vehicle operates in compliance with the  
126 provisions of Section 63-5-29(3)(b). A fee of Twenty-five Dollars  
127 (\$25.00) shall be charged for each permit issued. The permit  
128 shall be in the form of a decal which shall be affixed to each  
129 permitted vehicle on the upper left corner of the windshield on  
130 the driver's side. Each permit shall expire one (1) year from its  
131 date of issue. The fees collected under this subsection shall be



132 deposited into the special fund that is created under Section 3 of  
133 this act. This subsection (4) shall stand repealed from and after  
134 July 1, 2002.

135 (5) Any owner or operator who has met the requirements set  
136 by the Mississippi Transportation Commission may defer payment of  
137 permits issued by the department until the end of the current  
138 month. If full payment is not received by the twentieth of the  
139 following month, there may be added as damages to the total amount  
140 of the delinquency or deficiency the following percentages: ten  
141 percent (10%) for the first offense; fifteen percent (15%) for the  
142 second offense and twenty-five percent (25%) for the third and any  
143 subsequent offense. Upon the third offense, the department may  
144 suspend the privilege to defer payment. The balance due shall  
145 become payable upon notice and demand by the department.

146 (6) The permit fee monies collected under this section,  
147 except as provided for in subsection (4) of this section, shall be  
148 deposited into the State Highway Fund for the construction,  
149 maintenance and reconstruction of highways and roads of the State  
150 of Mississippi or the payment of interest and principal on bonds  
151 authorized by the Legislature for construction and reconstruction  
152 of highways.

153 (7) The department may waive the permits, taxes and fees set  
154 forth in this section whenever a motor vehicle is operated upon  
155 the public highways in this state in response to an emergency, a  
156 major disaster or the threat of a major disaster.

157 SECTION 2. Section 27-19-89, Mississippi Code of 1972, is  
158 amended as follows:

159 27-19-89. (a) If any nonresident owner or operator or other  
160 nonresident person eligible for a temporary permit as provided in  
161 Section 27-19-79, who has not elected to register and pay the  
162 annual privilege taxes prescribed, shall enter or go upon the  
163 public highways of the state and shall fail or refuse to obtain  
164 the permit required by Section 27-19-79, such person shall be



165 liable, for the first such offense, for the full amount of the  
166 permit fee required, plus a penalty thereon of five hundred  
167 percent (500%). For the second and all subsequent offenses, such  
168 person who fails or refuses to obtain such permits shall be liable  
169 for the pro rata part of the annual tax for the balance of the tag  
170 year for the maximum legal gross weight of the vehicle plus a  
171 penalty thereon of twenty-five percent (25%). Any weight in  
172 excess of the maximum legal gross weight of the vehicle, or in  
173 excess of the maximum highway weight limit, shall be penalized  
174 according to subsection (c) of this section. In either case the  
175 excess weight shall be removed by the operator before the vehicle  
176 can be allowed to proceed. In order to constitute a "second or  
177 subsequent offense" under the provisions hereof, it shall not be  
178 necessary that the same or identical vehicle be involved, it being  
179 the declared purpose hereof to provide that such penalties shall  
180 run against the owner or operator rather than against the  
181 specified vehicle. It is further provided that, in order for such  
182 owner or operator to become liable for the penalties herein  
183 provided, it shall not be necessary to show that such owner or  
184 operator was guilty of willfulness, gross negligence or  
185 wantonness, but the offense shall be complete upon the failure or  
186 refusal to obtain the required permit.

187 (b) If any person who has registered his vehicle in  
188 Mississippi shall operate such vehicle upon the public highways,  
189 having a gross weight greater than the licensed gross weight of  
190 such vehicle, and shall fail or refuse to obtain a permit therefor  
191 as required by Section 27-19-79, or if any person shall operate  
192 any such registered vehicle upon the public highways in a higher  
193 classification than that for which it is registered, and shall  
194 fail or refuse to obtain a permit therefor as required by Section  
195 27-19-79, then such person shall be liable for the pro rata part  
196 of the annual tax for the balance of the tag year for the legal  
197 gross weight of such vehicle and in the classification in which



198 same is being operated, plus a penalty thereon of twenty-five  
199 percent (25%), after having been given credit for the unexpired  
200 part of the privilege tax paid, as provided in Section 27-19-75.  
201 In order that such owner or operator shall become liable for the  
202 penalties herein provided, it shall not be necessary to show that  
203 such owner or operator was guilty of willfulness, gross negligence  
204 or wantonness, but the offense shall be complete upon the failure  
205 or refusal to obtain the required permit.

206 (c) If any person shall operate upon a highway of this state  
207 a vehicle which has a greater vehicle gross weight than the  
208 maximum gross weight limit established by law for that highway and  
209 shall have failed to obtain an overload permit as required by  
210 Section 27-19-81, or if any person shall operate a vehicle with a  
211 greater load on any axle or axle grouping than allowed by law,  
212 then such person, owner or operator shall be assessed a penalty on  
213 such axle load weight or vehicle gross weight as exceeds the legal  
214 limit in accordance with the following schedule:

215	AMOUNT IN EXCESS OF	
216	LEGAL HIGHWAY WEIGHT	
217	LIMITS IN POUNDS	PENALTY
218	1 to 999	\$10.00 minimum penalty
219	1,000 to 1,999	1¢ per pound in excess of legal limit
220	2,000 to 2,999	2¢ per pound in excess of legal limit
221	3,000 to 3,999	3¢ per pound in excess of legal limit
222	4,000 to 4,999	4¢ per pound in excess of legal limit
223	5,000 to 5,999	5¢ per pound in excess of legal limit
224	6,000 to 6,999	6¢ per pound in excess of legal limit
225	7,000 to 7,999	7¢ per pound in excess of legal limit
226	8,000 to 8,999	8¢ per pound in excess of legal limit
227	9,000 to 9,999	9¢ per pound in excess of legal limit
228	10,000 to 10,999	10¢ per pound in excess of legal limit
229	11,000 or more	11¢ per pound in excess of legal limit



230 Any vehicle in violation of the tolerance allowed pursuant to  
231 Section 63-5-33(3) shall be fined pursuant to Section 27-19-89(c)  
232 for all weight in excess of the legal highway gross weight limit  
233 authorized for such vehicle or for all weight in excess of the  
234 legal tandem axle load weight limit of forty thousand (40,000)  
235 pounds and the legal single axle load limit of twenty thousand  
236 (20,000) pounds, whichever the case may be.

237 The penalty to be assessed for operations of a vehicle with a  
238 greater load on any axle or axle grouping than the legal axle load  
239 weight limits shall be one-half (1/2) the penalty for operation in  
240 excess of the legal gross weight limit.

241 In instances where both the legal highway gross weight limit  
242 and the legal axle load weight limit(s) are exceeded, the fine  
243 that shall be levied shall be either the penalty amount for the  
244 excess vehicle gross weight or the total of the penalty amounts of  
245 all overloaded axles, whichever is the larger amount.

246 Notwithstanding any other provisions of this section to the  
247 contrary, the fine assessed against the holder of a harvest permit  
248 for exceeding a gross vehicle weight of eighty-four thousand  
249 (84,000) pounds shall be Five Cents (5¢) per pound and Fifteen  
250 Cents (15¢) per pound for exceeding a gross vehicle weight of one  
251 hundred thousand (100,000) pounds.

252 Notwithstanding any other provision of this subsection (c) to  
253 the contrary, upon an appeal to the Appeals Board of the  
254 Mississippi Transportation Commission by an owner or operator of a  
255 vehicle hauling without a harvest permit any of the products or  
256 materials described in subsection (3) of Section 63-5-33 and upon  
257 whom a penalty has been assessed under this subsection (c) for  
258 exceeding the legal weight limit(s) on a highway having a legal  
259 weight limit of eighty thousand (80,000) pounds or less, the  
260 appeals board shall reduce the penalty assessed against such  
261 owner/operator to an amount not to exceed ten percent (10%) of the  
262 amount which would otherwise be due without the reduction





263 authorized under this paragraph. A reduction shall not be  
264 authorized under this paragraph if the gross weight of the vehicle  
265 for which an owner/operator has been charged with a violation of  
266 this section exceeds eighty-four thousand (84,000) pounds; and, in  
267 any event, no reduction shall be authorized under this paragraph  
268 unless a penalty assessed under this section is appealed to the  
269 appeals board and unless the board determines, based upon its  
270 records, that such owner/operator has not been granted a penalty  
271 reduction under this paragraph within a period of twelve (12)  
272 months immediately preceding the date of filing an appeal with the  
273 board for a penalty reduction under this paragraph.

274 (d) If any nonresident owner or operator who has not  
275 registered his vehicle and paid the annual privilege taxes  
276 prescribed shall operate his vehicle upon the highways of this  
277 state when such vehicle has a greater gross weight than permitted  
278 by law for the highway traveled upon, and for which such excess  
279 gross weight a permit was not or could not be procured from the  
280 transportation department as required by Section 27-19-81, such  
281 person shall be liable upon his second and all subsequent offenses  
282 for the pro rata part of the annual tax for the balance of the tag  
283 year for the legal gross weight of the vehicle, and in addition  
284 thereto the penalty fee on the excess weight as specified in  
285 subsection (c) of this section. In order that such owner or  
286 operator shall become liable for the penalties herein provided, it  
287 shall not be necessary that the same or identical vehicle be  
288 involved, it being the declared purpose hereof to provide that  
289 such penalties shall run against the owner or operator rather than  
290 against the specific vehicle.

291 (e) All fines and penalties imposed and collected by the  
292 Mississippi Department of Transportation for violations of the  
293 maximum legal vehicle weight limits authorized on the highways of  
294 this state shall be deposited into the special fund that is  
295 created under Section 3 of this act.



296 SECTION 3. (1) There is created in the State Treasury a  
297 special fund to be designated as the "2001 Feeder Road Improvement  
298 Fund." The fund shall consist of the monies required to be  
299 deposited therein under Sections 27-19-81(4) and 27-19-89(e) and  
300 such other monies as the Legislature appropriates or otherwise  
301 designates for deposit into the fund. Monies in the fund shall be  
302 allocated and distributed to each of the counties in the state  
303 upon requisition of the State Aid Engineer on October 1 of each  
304 year in accordance with the state aid road formula as prescribed  
305 in Section 65-9-3. Unexpended amounts remaining in the fund at  
306 the end of a fiscal year shall not lapse into the State General  
307 Fund, and any interest earned on amounts in the fund shall be  
308 deposited to the credit of the fund.

309 (2) A county may expend funds allocated and distributed to  
310 it under this section to construct, reconstruct, repair or  
311 maintain roads, streets, highways and bridges of the county that  
312 are not included on the state highway system or the state aid road  
313 system. Monies allocated and distributed to a county under this  
314 section may also be used to match any federal funds that may be  
315 available for the same or similar purposes.

316 SECTION 4. This act shall take effect and be in force from  
317 and after July 1, 2001.

