

By: Senator(s) Dearing

To: Highways and
Transportation;
Appropriations

SENATE BILL NO. 2435

1 AN ACT TO AMEND SECTION 27-65-75, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE THAT PROCEEDS DERIVED FROM CONTRACTORS' TAXES LEVIED ON
3 CONTRACTS FOR THE CONSTRUCTION, RECONSTRUCTION OR MAINTENANCE OF
4 HIGHWAYS ON THE STATE MAINTAINED HIGHWAY SYSTEM, OTHER THAN
5 HIGHWAYS DESIGNATED UNDER THE 1987 FOUR-LANE HIGHWAY PROGRAM,
6 SHALL BE DEPOSITED INTO THE STATE HIGHWAY FUND; AND FOR RELATED
7 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 27-65-75. On or before the fifteenth day of each month, the
12 revenue collected under the provisions of this chapter during the
13 preceding month shall be paid and distributed as follows:

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



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

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

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

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



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

70 (3) (a) On or before September 15, 1987, and on or before
71 the fifteenth day of each succeeding month, until the date
72 specified in Section 65-39-35, the proceeds derived from
73 contractors' taxes levied under Section 27-65-21 on contracts for
74 the construction or reconstruction of highways designated under
75 the Four-Lane Highway Program created under Section 65-3-97 shall,
76 except as otherwise provided in Section 31-17-127, be deposited
77 into the State Treasury to the credit of the State Highway Fund to
78 be used to fund such Four-Lane Highway Program.

79 (b) On or before August 15, 2000, and on or before the
80 fifteenth day of each succeeding month, until the date specified
81 in Section 65-37-35, the proceeds derived from contractors' taxes
82 levied under Section 27-65-21 on contracts for the construction,
83 reconstruction or maintenance of highways on the state maintained
84 highway system, other than highways designated under the Four-Lane
85 Highway Program created under Section 65-3-97, shall be deposited
86 into the State Treasury to the credit of the State Highway Fund to
87 be used to fund state maintained highways.

88 (c) The Mississippi Department of Transportation shall
89 provide to the State Tax Commission such information as is
90 necessary to determine the amount of proceeds to be distributed
91 under this subsection (3).

92 (4) On or before August 15, 1994, and on or before the
93 fifteenth day of each succeeding month through July 15, 1999, from
94 the proceeds of gasoline, diesel fuel or kerosene taxes as



95 provided in Section 27-5-101(a)(ii)1, Four Million Dollars
96 (\$4,000,000.00) shall be deposited in the State Treasury to the
97 credit of a special fund designated as the "State Aid Road Fund,"
98 created by Section 65-9-17. On or before August 15, 1999, and on
99 or before the fifteenth day of each succeeding month, from the
100 total amount of the proceeds of gasoline, diesel fuel or kerosene
101 taxes apportioned by Section 27-5-101(a)(ii)1, Four Million
102 Dollars (\$4,000,000.00) or an amount equal to twenty-three and
103 one-fourth percent (23.25%) of such funds, whichever is the
104 greater amount, shall be deposited in the State Treasury to the
105 credit of the "State Aid Road Fund," created by Section 65-9-17.
106 Such funds shall be pledged to pay the principal of and interest
107 on state aid road bonds heretofore issued under Sections 19-9-51
108 through 19-9-77, in lieu of and in substitution for the funds
109 heretofore allocated to counties under this section. Such funds
110 may not be pledged for the payment of any state aid road bonds
111 issued after April 1, 1981; however, this prohibition against the
112 pledging of any such funds for the payment of bonds shall not
113 apply to any bonds for which intent to issue such bonds has been
114 published, for the first time, as provided by law prior to March
115 29, 1981. From the amount of taxes paid into the special fund
116 pursuant to this subsection and subsection (9) of this section,
117 there shall be first deducted and paid the amount necessary to pay
118 the expenses of the Office of State Aid Road Construction, as
119 authorized by the Legislature for all other general and special
120 fund agencies. The remainder of the fund shall be allocated
121 monthly to the several counties in accordance with the following
122 formula:

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

125 (b) One-third (1/3) shall be allocated to counties
126 based on the proportion that the total number of rural road miles



127 in a county bears to the total number of rural road miles in all
128 counties of the state; and

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

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

136 The amount of funds allocated to any county under this
137 subsection for any fiscal year after fiscal year 1994 shall not be
138 less than the amount allocated to such county for fiscal year
139 1994. Monies allocated to a county from the State Aid Road Fund
140 for fiscal year 1995 or any fiscal year thereafter that exceed the
141 amount of funds allocated to that county from the State Aid Road
142 Fund for fiscal year 1994, first must be expended by the county
143 for replacement or rehabilitation of bridges on the state aid road
144 system that have a sufficiency rating of less than twenty-five
145 (25), according to National Bridge Inspection standards before
146 such monies may be approved for expenditure by the State Aid Road
147 Engineer on other projects that qualify for the use of state aid
148 road funds.

149 Any reference in the general laws of this state or the
150 Mississippi Code of 1972 to Section 27-5-105 shall mean and be
151 construed to refer and apply to subsection (4) of Section
152 27-65-75.

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



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

164 (7) On or before August 15, 1992, and each succeeding month
165 thereafter through July 15, 2000, two and two hundred sixty-six
166 one-thousandths percent (2.266%) of the total sales tax revenue
167 collected during the preceding month under the provisions of this
168 chapter, except that collected under the provisions of Section
169 27-65-17(2) shall be deposited by the commission into the School
170 Ad Valorem Tax Reduction Fund created pursuant to Section
171 37-61-35. On or before August 15, 2000, and each succeeding month
172 thereafter, two and two hundred sixty-six one-thousandths percent
173 (2.266%) of the total sales tax revenue collected during the
174 preceding month under the provisions of this chapter, except that
175 collected under the provisions of Section 27-65-17(2), shall be
176 deposited into the School Ad Valorem Tax Reduction Fund created
177 under Section 37-61-35 until such time that the total amount
178 deposited into the fund during a fiscal year equals Forty-two
179 Million Dollars (\$42,000,000.00). Thereafter, the amounts
180 diverted under this subsection (7) during the fiscal year in
181 excess of Forty-two Million Dollars (\$42,000,000.00) shall be
182 deposited into the Education Enhancement Fund created under
183 Section 37-61-33 for appropriation by the Legislature as other
184 education needs and shall not be subject to the percentage
185 appropriation requirements set forth in Section 37-61-33.

186 (8) On or before August 15, 1992, and each succeeding month
187 thereafter, nine and seventy-three one-thousandths percent
188 (9.073%) of the total sales tax revenue collected during the
189 preceding month under the provisions of this chapter, except that
190 collected under the provisions of Section 27-65-17(2) shall be



191 deposited into the Education Enhancement Fund created pursuant to
192 Section 37-61-33.

193 (9) On or before August 15, 1994, and each succeeding month
194 thereafter, from the revenue collected under this chapter during
195 the preceding month, Two Hundred Fifty Thousand Dollars
196 (\$250,000.00) shall be paid into the State Aid Road Fund.

197 (10) On or before August 15, 1994, and each succeeding month
198 thereafter through August 15, 1995, from the revenue collected
199 under this chapter during the preceding month, Two Million Dollars
200 (\$2,000,000.00) shall be deposited into the Motor Vehicle Ad
201 Valorem Tax Reduction Fund established in Section 27-51-105.

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

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

220 (13) On or before July 15, 1994, and on or before the
221 fifteenth day of each succeeding month thereafter, that portion of
222 the avails of the tax imposed in Section 27-65-22, which is
223 derived from activities held on the Mississippi state fairgrounds



224 complex, shall be paid into a special fund hereby created in the
225 State Treasury and shall be expended pursuant to legislative
226 appropriations solely to defray the costs of repairs and
227 renovation at such Trade Mart and Coliseum.

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

235 (15) Notwithstanding any other provision of this section to
236 the contrary, on or before September 15, 2000, and each succeeding
237 month thereafter, the sales tax revenue collected during the
238 preceding month under the provisions of Section 27-65-19(f), shall
239 be deposited, without diversion, into the Telecommunications Ad
240 Valorem Tax Reduction Fund established in Section 27-38-7.

241 (16) On or before August 15, 2000, and each succeeding month
242 thereafter, the sales tax revenue collected during the preceding
243 month under the provisions of this chapter on the gross proceeds
244 of sales of a project as defined in Section 57-30-1 shall be
245 deposited, after all diversions except the diversion provided for
246 in subsection (1) of this section, into the Sales Tax Incentive
247 Fund created in Section 57-30-3.

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

251 (18) It shall be the duty of the municipal officials of any
252 municipality which expands its limits, or of any community which
253 incorporates as a municipality, to notify the commissioner of such
254 action thirty (30) days before the effective date. Failure to so
255 notify the commissioner shall cause such municipality to forfeit
256 the revenue which it would have been entitled to receive during



257 this period of time when the commissioner had no knowledge of the
258 action. If any funds have been erroneously disbursed to any
259 municipality or any overpayment of tax is recovered by the
260 taxpayer, the commissioner may make correction and adjust the
261 error or overpayment with such municipality by withholding the
262 necessary funds from any subsequent payment to be made to the
263 municipality.

264 SECTION 2. This act shall take effect and be in force from
265 and after July 1, 2001.

