

By: Representative Fleming

To: Ways and Means

HOUSE BILL NO. 227

1 AN ACT TO AMEND SECTION 27-55-11, MISSISSIPPI CODE OF 1972,
2 TO INCREASE THE GASOLINE EXCISE TAX BY TWO CENTS PER GALLON; TO
3 AMEND SECTION 27-5-101, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT
4 THE PROCEEDS OF SUCH INCREASE SHALL BE DEPOSITED INTO THE
5 MISSISSIPPI HIGHWAY-RAILROAD GRADE CROSSING SAFETY ACCOUNT; TO
6 AMEND SECTION 57-43-15, MISSISSIPPI CODE OF 1972, IN CONFORMITY
7 THERETO; AND FOR RELATED PURPOSES.

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

9 **SECTION 1.** Section 27-55-11, Mississippi Code of 1972, is
10 amended as follows:

11 27-55-11. Any person in business as a distributor of
12 gasoline or who acts as a distributor of gasoline, as defined in
13 this article, shall pay for the privilege of engaging in such
14 business or acting as such distributor an excise tax equal to
15 Eighteen Cents (18¢) per gallon until the date specified in
16 Section 65-39-35, and Sixteen and Four-tenths Cents (16.4¢) per
17 gallon thereafter, on all gasoline and blend stock stored, sold,
18 distributed, manufactured, refined, distilled, blended or
19 compounded in this state or received in this state for sale, use
20 on the highways, storage, distribution, or for any purpose.

21 Any person in business as a distributor of aviation gasoline,
22 or who acts as a distributor of aviation gasoline, shall pay for
23 the privilege of engaging in such business or acting as such
24 distributor an excise tax equal to Six and Four-tenths Cents
25 (6.4¢) per gallon on all aviation gasoline stored, sold,
26 distributed, manufactured, refined, distilled, blended or
27 compounded in this state or received in this state for sale,
28 storage, distribution or for any purpose.



29 The excise taxes collected under this section shall be paid
30 and distributed in accordance with Section 27-5-101.

31 The tax herein imposed and assessed shall be collected and
32 paid to the State of Mississippi but once in respect to any
33 gasoline. The basis for determining the tax liability shall be
34 the correct invoiced gallons, adjusted to sixty (60) degrees
35 Fahrenheit at the refinery or point of origin of shipment when
36 such shipment is made by tank car or by motor carrier. The point
37 of origin of shipment of gasoline transported into this state by
38 pipelines shall be deemed to be that point in this state where
39 such gasoline is withdrawn from the pipeline for storage or
40 distribution, and adjustment to sixty (60) degrees Fahrenheit
41 shall there be made. The basis for determining the tax liability
42 on gasoline shipped into this state in barge cargoes and by
43 pipeline shall be the actual number of gallons adjusted to sixty
44 (60) degrees Fahrenheit unloaded into storage tanks or other
45 containers in this state, such gallonage to be determined by
46 measurement and/or gauge of storage tank or tanks or by any other
47 method authorized by the commission. The tank or tanks into which
48 barge cargoes of gasoline are discharged, or into which gasoline
49 transported by pipeline is discharged, shall have correct gauge
50 tables listing capacity, such gauge tables to be prepared by some
51 recognized calibrating agency and to be approved by the
52 commission.

53 The tax levied herein shall accrue at the time gasoline is
54 withdrawn from a refinery in this state except when withdrawal is
55 by pipeline, barge, ship or vessel. The refiner shall pay to the
56 commission the tax levied herein when gasoline is sold or
57 delivered to persons who do not hold gasoline distributor permits.
58 The refiner shall report to the commission all sales and
59 deliveries of gasoline to bonded distributors of gasoline. The
60 bonded distributor of gasoline who purchases, receives or acquires



61 gasoline from a refinery in this state shall report such gasoline
62 and pay the tax levied herein.

63 Gasoline imported by common carrier shall be deemed to be
64 received by the distributor of gasoline, and the tax levied herein
65 shall accrue, when the car or tank truck containing such gasoline
66 is unloaded by the carrier.

67 With respect to distributors or other persons who bring,
68 ship, have transported, or have brought into this state gasoline
69 by means other than through a common carrier, the tax accrues and
70 the tax liability attaches on the distributor or other person for
71 each gallon of gasoline brought into the state at the time when
72 and at the point where such gasoline is brought into the state.

73 The tax levied herein shall accrue on blend stock at the time
74 it is blended with gasoline. The blender shall pay to the
75 commission the tax levied herein when blend stock is sold or
76 delivered to persons who do not hold gasoline distributor permits.
77 The blender shall report to the commission all sales and
78 deliveries of blend stock to bonded distributors of gasoline. The
79 bonded distributor of gasoline who purchases, receives or acquires
80 blend stock from a blender in this state shall report blend stock
81 and pay the tax levied herein.

82 **SECTION 2.** Section 27-5-101, Mississippi Code of 1972, is
83 amended as follows:

84 **[With regard to any county which is exempt from the**
85 **provisions of Section 19-2-3, this section shall read as follows:]**

86 27-5-101. Unless otherwise provided in this section, on or
87 before the fifteenth day of each month, all gasoline, diesel fuel
88 or kerosene taxes which are levied under the laws of this state
89 and collected during the previous month shall be paid and
90 apportioned by the State Tax Commission as follows:

91 (a) (i) Except as otherwise provided in Section
92 31-17-127, from the gross amount of gasoline, diesel fuel or
93 kerosene taxes produced by the state, there shall be deducted an



94 amount equal to one-sixth (1/6) of principal and interest
95 certified by the State Treasurer to the State Tax Commission to be
96 due on the next semiannual bond and interest payment date, as
97 required under the provisions of Chapter 130, Laws of 1938, and
98 subsequent acts authorizing the issuance of bonds payable from
99 gasoline, diesel fuel or kerosene tax revenue on a parity with the
100 bonds issued under authority of said Chapter 130. The State
101 Treasurer shall certify to the State Tax Commission on or before
102 the fifteenth day of each month the amount to be paid to the
103 "Highway Bonds Sinking Fund" as provided by said Chapter 130, Laws
104 of 1938, and subsequent acts authorizing the issuance of bonds
105 payable from gasoline, diesel fuel or kerosene tax revenue, on a
106 parity with the bonds issued under authority of said Chapter 130;
107 and the State Tax Commission shall, on or before the twenty-fifth
108 day of each month, pay into the State Treasury for credit to the
109 "Highway Bonds Sinking Fund" the amount so certified to him by the
110 State Treasurer due to be paid into such fund each month. The
111 payments to the "Highway Bonds Sinking Fund" shall be made out of
112 gross gasoline, diesel fuel or kerosene tax collections before
113 deductions of any nature are considered; however, such payments
114 shall be deducted from the allocation to the Mississippi
115 Department of Transportation under paragraph (c) of this section.

116 (ii) From collections derived from the portion of
117 the gasoline excise tax that exceeds Seven Cents (7¢) per gallon,
118 from the portion of the tax on aviation gas under Section 27-55-11
119 that exceeds Six and Four-tenths Cents (6.4¢) per gallon, from the
120 portion of the special fuel tax levied under Sections 27-55-519
121 and 27-55-521, at Eighteen Cents (18¢) per gallon that exceeds Ten
122 Cents (10¢) per gallon, from the portion of the taxes levied under
123 Section 27-55-519, at Five and Three-fourths Cents (5.75¢) per
124 gallon) that exceeds One Cent (1¢) per gallon on special fuel and
125 Five and One-fourth Cents (5.25¢) per gallon on special fuel used
126 as aircraft fuel, from the portion of the excise tax on compressed



127 gas used as a motor fuel that exceeds the rate of tax in effect on
128 June 30, 1987, and from the portion of the gasoline excise tax in
129 excess of Seven Cents (7¢) per gallon and the diesel excise tax in
130 excess of Ten Cents (10¢) per gallon under Section 27-61-5 there
131 shall be deducted:

132 1. An amount as provided in Section
133 27-65-75(4) to the credit of a special fund designated as the
134 "Office of State Aid Road Construction."

135 2. An amount equal to the tax collections
136 derived from Two Cents (2¢) per gallon of the gasoline excise tax
137 for distribution to the State Highway Fund to be used exclusively
138 for the construction, reconstruction and maintenance of highways
139 of the State of Mississippi or the payment of interest and
140 principal on bonds when specifically authorized by the Legislature
141 for that purpose.

142 3. The balance shall be deposited in the
143 State Treasury to the credit of the State Highway Fund.

144 (b) Subject to the provisions that said basis of
145 distribution shall in nowise affect adversely the amount
146 specifically pledged in paragraph (a) of this section to be paid
147 into the "Highway Bonds Sinking Fund," the following shall be
148 deducted from the amount produced by the state tax on gasoline,
149 diesel fuel or kerosene tax collections, excluding collections
150 derived from the portion of the gasoline excise tax that exceeds
151 Seven Cents (7¢) per gallon, from the portion of the tax on
152 aviation gas under Section 27-55-11 that exceeds Six and
153 Four-tenths Cents (6.4¢) per gallon, from the portion of the
154 special fuel tax levied under Sections 27-55-519 and 27-55-521, at
155 Eighteen Cents (18¢) per gallon that exceeds Ten Cents (10¢) per
156 gallon, from the portion of the taxes levied under Section
157 27-55-519, at Five and Three-fourths Cents (5.75¢) per gallon that
158 exceeds One Cent (1¢) per gallon on special fuel and Five and
159 One-fourth Cents (5.25¢) per gallon on special fuel used as



160 aircraft fuel, from the portion of the excise tax on compressed
161 gas used as a motor fuel that exceeds the rate of tax in effect on
162 June 30, 1987, and from the portion of the gasoline excise tax in
163 excess of Seven Cents (7¢) per gallon and the diesel excise tax in
164 excess of Ten Cents (10¢) per gallon under Section 27-61-5:

165 (i) Twenty percent (20%) of such amount which
166 shall be earmarked and set aside for the construction,
167 reconstruction and maintenance of the highways and roads of the
168 state, provided that if such twenty percent (20%) should reduce
169 any county to a lesser amount than that received in the fiscal
170 year ending June 30, 1966, then such twenty percent (20%) shall be
171 reduced to a percentage to provide that no county shall receive
172 less than its portion for the fiscal year ending June 30, 1966;

173 (ii) The amount allowed as refund on gasoline or
174 as tax credit on diesel fuel or kerosene used for agricultural,
175 maritime, industrial, domestic, and nonhighway purposes;

176 (iii) Five percent (5%) of such amount shall be
177 paid to the State Highway Fund;

178 (iv) The amount or portion thereof authorized by
179 legislative appropriation to the Fisheries and Wildlife Fund
180 created under Section 59-21-25;

181 (v) The amount for deposit into the special
182 aviation fund under paragraph (d) of this section; and

183 (vi) The remainder shall be divided on a basis of
184 nine-fourteenths (9/14) and five-fourteenths (5/14) (being the
185 same basis as Four and One-half Cents (4-1/2¢) and Two and
186 One-half Cents (2-1/2¢) is to Seven Cents (7¢) on gasoline, and
187 six and forty-three one-hundredths (6.43) and three and
188 fifty-seven one-hundredths (3.57) is to Ten Cents (10¢) on diesel
189 fuel or kerosene). The amount produced by the nine-fourteenths
190 (9/14) division shall be allocated to the Transportation
191 Department and paid into the State Treasury as provided in this
192 section and in Section 27-5-103 and the five-fourteenths (5/14)



193 division shall be returned to the counties of the state on the
194 following basis:

195 1. In each fiscal year, each county shall be
196 paid each month the same percentage of the monthly total to be
197 distributed as was paid to that county during the same month in
198 the fiscal year which ended April 9, 1960, until the county
199 receives One Hundred Ninety Thousand Dollars (\$190,000.00) in such
200 fiscal year, at which time funds shall be distributed under the
201 provisions of paragraph (b) (vi)4. of this section.

202 2. If after payments in 1. above, any county
203 has not received a total of One Hundred Ninety Thousand Dollars
204 (\$190,000.00) at the end of the fiscal year ending June 30, 1961,
205 and each fiscal year thereafter, then any available funds not
206 distributed under 1. above shall be used to bring such county or
207 counties up to One Hundred Ninety Thousand Dollars (\$190,000.00)
208 or such funds shall be divided equally among such counties not
209 reaching One Hundred Ninety Thousand Dollars (\$190,000.00) if
210 there is not sufficient money to bring all the counties to said
211 One Hundred Ninety Thousand Dollars (\$190,000.00).

212 3. When a county has been paid an amount
213 equal to the total which was paid to the same county during the
214 fiscal year ended April 9, 1960, such county shall receive no
215 further payments during the then current fiscal year until the
216 last month of such current fiscal year, at which time distribution
217 will be made under 2. above, except as set out in 4. below.

218 4. During the last month of the current
219 fiscal year, should it be determined that there are funds
220 available in excess of the amount distributed for the year under
221 1. and 2. above, then such excess funds shall be distributed among
222 the various counties as follows:

223 One-third (1/3) of such excess to be
224 divided equally among the counties;



225 One-third (1/3) of such excess to be paid
226 to the counties in the proportion which the population of each
227 county bears to the total population of the state according to the
228 last federal census;

229 One-third (1/3) of such excess to be paid
230 to the counties in the proportion which the number of square miles
231 of each county bears to the total square miles in the state.

232 5. It is the declared purpose and intent of
233 the Legislature that no county shall be paid less than was paid
234 during the year ended April 9, 1960, unless the amount to be
235 distributed to all counties in any year is less than the amount
236 distributed to all counties during the year ended April 9, 1960.

237 The Municipal Aid Fund as established by Section 27-5-103
238 shall not participate in any portion of any funds allocated to any
239 county hereunder over and above One Hundred Ninety Thousand
240 Dollars (\$190,000.00).

241 In any county having countywide road or bridge bonds, or
242 supervisors district or district road or bridge bonds outstanding,
243 which exceed, in the aggregate, twelve percent (12%) of the
244 assessed valuation of the taxable property of the county or
245 district, it shall be the duty of the board of supervisors to set
246 aside not less than sixty percent (60%) of such county's share or
247 district's share of the gasoline, diesel fuel or kerosene taxes to
248 be used in paying the principal and interest on such road or
249 bridge bonds as they mature.

250 In any county having such countywide road or bridge bonds or
251 district road or bridge bonds outstanding which exceed, in the
252 aggregate, eight percent (8%) of the assessed valuation of the
253 taxable property of the county, but which do not exceed, in the
254 aggregate, twelve percent (12%) of the assessed valuation of the
255 taxable property of the county, it shall be the duty of the board
256 of supervisors to set aside not less than thirty-five percent
257 (35%) of such county's share of the gasoline, diesel fuel or



258 kerosene taxes to be used in paying the principal and interest of
259 such road or bridge bonds as they mature.

260 In any county having such countywide road or bridge bonds or
261 district road or bridge bonds outstanding which exceed, in the
262 aggregate, five percent (5%) of the assessed valuation of the
263 taxable property of the county, but which do not exceed, in the
264 aggregate, eight percent (8%) of the assessed valuation of the
265 taxable property of the county, it shall be the duty of the board
266 of supervisors to set aside not less than twenty percent (20%) of
267 such county's share of the gasoline, diesel fuel or kerosene taxes
268 to be used in paying the principal and interest of such road and
269 bridge bonds as they mature.

270 In any county having such countywide road or bridge bonds or
271 district road or bridge bonds outstanding which do not exceed, in
272 the aggregate, five percent (5%) of the assessed valuation of the
273 taxable property of the county, it shall be the duty of the board
274 of supervisors to set aside not less than ten percent (10%) of
275 such county's share of the gasoline, diesel fuel or kerosene taxes
276 to be used in paying the principal and interest on such road or
277 bridge bonds as they mature.

278 The portion of any such county's share of the gasoline,
279 diesel fuel or kerosene taxes thus set aside for the payment of
280 the principal and interest of road or bridge bonds, as provided
281 for in this section, shall be used first in paying the currently
282 maturing installments of the principal and interest of such
283 countywide road or bridge bonds, if there be any such countywide
284 road or bridge bonds outstanding, and secondly, in paying the
285 currently maturing installments of principal and interest of
286 district road or bridge bonds outstanding. It shall be the duty
287 of the board of supervisors to pay bonds and interest maturing in
288 each supervisors district out of the supervisors district's share
289 of the gasoline, diesel fuel or kerosene taxes of such district.



290 The remaining portion of such county's share of the gasoline,
291 diesel fuel or kerosene taxes, after setting aside the portion
292 above provided for the payment of the principal and interest of
293 bonds, shall be used in the construction and maintenance of any
294 public highways, bridges, or culverts of the county, including the
295 roads in special or separate road districts, in the discretion of
296 the board of supervisors, or in paying the interest and principal
297 of county road and bridge bonds or district road and bridge bonds,
298 in the discretion of the board of supervisors.

299 In any county having no countywide road or bridge bonds or
300 district road or bridge bonds outstanding, all such county's share
301 of the gasoline, diesel fuel or kerosene taxes shall be used in
302 the construction, reconstruction, and maintenance of the public
303 highways, bridges, or culverts of the county as the board of
304 supervisors may determine.

305 In every county in which there are county road bonds or
306 seawall or road protection bonds outstanding which were issued for
307 the purpose of building bridges or constructing public roads or
308 seawalls, such funds shall be used in the manner provided by law.

309 (c) From the amount produced by the nine-fourteenths
310 (9/14) division allocated to the Transportation Department, there
311 shall be deducted:

312 (i) The amount paid to the State Treasurer for the
313 "Highway Bonds Sinking Fund" under paragraph (a) of this section;

314 (ii) Any amounts due counties in accordance with
315 Section 65-33-45 which have outstanding bonds issued for seawall
316 or road protection purposes, issued under provisions of Chapter
317 319, Laws of 1924, and amendments thereto;

318 (iii) Beginning August 15, 2002, and on or before
319 the fifteenth day of each month thereafter, an amount equal to
320 one-sixth (1/6) of the principal and interest certified by the
321 State Treasurer to the State Tax Commission to be due on the next
322 semiannual bond and interest payment date for the bonds issued



323 under Sections 65-39-5 through 65-39-33. On or before the
324 twenty-fifth day of each month the State Tax Commission shall pay
325 into the State Treasury for credit to the Gaming Counties Bond
326 Sinking Fund created in Section 65-39-3, the amount so certified
327 by the State Treasurer;

328 (iv) Except as otherwise provided in Section
329 31-17-127, the remainder shall be paid by the State Tax Commission
330 to the State Treasurer on the fifteenth day of each month next
331 succeeding the month in which the gasoline, diesel fuel or
332 kerosene taxes were collected to the credit of the State Highway
333 Fund.

334 The funds allocated for the construction, reconstruction, and
335 improvement of state highways, bridges, and culverts, or so much
336 thereof as may be necessary, shall first be used in conjunction
337 with funds supplied by the federal government for such purposes
338 and allocated to the State Transportation Department to be
339 expended on the state highway system. It is specifically provided
340 hereby that the necessary portion of such funds hereinabove
341 allocated to the State Transportation Department may be used for
342 the prompt payment of principal and interest on highway bonds
343 heretofore issued, including such bonds issued or to be issued
344 under the provisions of Chapter 312, Laws of 1956, and amendments
345 thereto.

346 Nothing contained in this section shall be construed to
347 reduce the amount of such gasoline, diesel fuel or kerosene excise
348 taxes levied by the state, allotted under the provisions of Title
349 65, Chapter 33, Mississippi Code of 1972, to counties in which
350 there are outstanding bonds issued for seawall or road protection
351 purposes issued under the provisions of Chapter 319, Laws of 1924,
352 and amendments thereto; the amount of said gasoline, diesel fuel
353 or kerosene excise taxes designated in this section for the
354 payment of bonds and interest authorized and issued or to be
355 issued under the provisions of Chapter 130, Laws of 1938, and



356 subsequent acts authorizing the issuance of bonds payable from
357 gasoline, diesel fuel or kerosene tax revenue, shall, in such
358 counties, be considered as being paid "into the State Treasury to
359 the credit of the State Highway Fund" within the meaning of
360 Section 65-33-45 in computing the amount to be paid to such
361 counties under the provisions of said section, and this section
362 shall be administered in connection with Title 65, Chapter 33,
363 Mississippi Code of 1972, and Sections 65-33-45, 65-33-47 and
364 65-33-49 dealing with seawalls, as if made a part of this section.

365 (d) The proceeds of the Five and One-fourth Cents
366 (5.25¢) of the tax per gallon on oils used as a propellant for jet
367 aircraft engines, and Six and Four-tenths Cents (6.4¢) of the tax
368 per gallon on aviation gasoline and the tax of One Cent (1¢) per
369 gallon for each gallon of gasoline for which a refund has been
370 made pursuant to Section 27-55-23 because such gasoline was used
371 for aviation purposes, shall be paid to the State Treasury into a
372 special fund to be used exclusively, pursuant to legislative
373 appropriation, for the support and development of aeronautics as
374 defined in Section 61-1-3.

375 (e) State highway funds in an amount equal to the
376 difference between Forty-two Million Dollars (\$42,000,000.00) and
377 the annual debt service payable on the state's highway revenue
378 refunding bonds, Series 1985, shall be expended for the
379 construction or reconstruction of highways designated under the
380 Four-Lane Highway Program created under Section 65-3-97.

381 (f) Beginning forty-five (45) days after the date
382 specified in Section 65-39-35, and on or before the fifteenth day
383 of the succeeding month and each month thereafter, the proceeds of
384 Two Cents (2¢) per gallon of the tax on gasoline and blend stock
385 levied under Section 27-55-11 shall be deposited into the
386 Mississippi Highway-Railroad Grade Crossing Safety Account,
387 created in Section 57-43-15.



388 (g) "Gasoline, diesel fuel or kerosene taxes" as used
389 in this section shall be deemed to mean and include state
390 gasoline, diesel fuel or kerosene taxes levied and imposed on
391 distributors of gasoline, diesel fuel or kerosene, and all state
392 excise taxes derived from any fuel used to propel vehicles upon
393 the highways of this state, when levied by any statute.

394 **[With regard to any county which is required to operate on a**
395 **countywide system of road administration as described in Section**
396 **19-2-3, this section shall read as follows:]**

397 27-5-101. Unless otherwise provided in this section, on or
398 before the fifteenth day of each month, all gasoline, diesel fuel
399 or kerosene taxes which are levied under the laws of this state
400 and collected during the previous month shall be paid and
401 apportioned by the State Tax Commission as follows:

402 (a) (i) Except as otherwise provided in Section
403 31-17-127, from the gross amount of gasoline, diesel fuel or
404 kerosene taxes produced by the state, there shall be deducted an
405 amount equal to one-sixth (1/6) of principal and interest
406 certified by the State Treasurer to the State Tax Commission to be
407 due on the next semiannual bond and interest payment date, as
408 required under the provisions of Chapter 130, Laws of 1938, and
409 subsequent acts authorizing the issuance of bonds payable from
410 gasoline, diesel fuel or kerosene tax revenue on a parity with the
411 bonds issued under authority of said Chapter 130. The State
412 Treasurer shall certify to the State Tax Commission on or before
413 the fifteenth day of each month the amount to be paid to the
414 "Highway Bonds Sinking Fund" as provided by said Chapter 130, Laws
415 of 1938, and subsequent acts authorizing the issuance of bonds
416 payable from gasoline, diesel fuel or kerosene tax revenue, on a
417 parity with the bonds issued under authority of said Chapter 130;
418 and the State Tax Commission shall, on or before the twenty-fifth
419 day of each month, pay into the State Treasury for credit to the
420 "Highway Bonds Sinking Fund" the amount so certified to him by the



421 State Treasurer due to be paid into such fund each month. The
422 payments to the "Highway Bonds Sinking Fund" shall be made out of
423 gross gasoline, diesel fuel or kerosene tax collections before
424 deductions of any nature are considered; however, such payments
425 shall be deducted from the allocation to the Transportation
426 Department under paragraph (c) of this section.

427 (ii) From collections derived from the portion of
428 the gasoline excise tax that exceeds Seven Cents (7¢) per gallon,
429 from the portion of the tax on aviation gas under Section 27-55-11
430 that exceeds Six and Four-tenths Cents (6.4¢) per gallon, from the
431 portion of the special fuel tax levied under Sections 27-55-519
432 and 27-55-521, at Eighteen Cents (18¢) per gallon that exceeds Ten
433 Cents (10¢) per gallon, from the portion of the taxes levied under
434 Section 27-55-519, at Five and Three-fourths Cents (5.75¢) per
435 gallon that exceeds One Cent (1¢) per gallon on special fuel and
436 Five and One-fourth Cents (5.25¢) per gallon on special fuel used
437 as aircraft fuel, from the portion of the excise tax on compressed
438 gas used as a motor fuel that exceeds the rate of tax in effect on
439 June 30, 1987, and from the portion of the gasoline excise tax in
440 excess of Seven Cents (7¢) per gallon and the diesel excise tax in
441 excess of Ten Cents (10¢) per gallon under Section 27-61-5 there
442 shall be deducted:

443 1. An amount as provided in Section
444 27-65-75(4) to the credit of a special fund designated as the
445 "Office of State Aid Road Construction."

446 2. An amount equal to the tax collections
447 derived from Two Cents (2¢) per gallon of the gasoline excise tax
448 for distribution to the State Highway Fund to be used exclusively
449 for the construction, reconstruction and maintenance of highways
450 of the State of Mississippi or the payment of interest and
451 principal on bonds when specifically authorized by the Legislature
452 for that purpose.



453 3. The balance shall be deposited in the
454 State Treasury to the credit of the State Highway Fund.

455 (b) Subject to the provisions that said basis of
456 distribution shall in nowise affect adversely the amount
457 specifically pledged in paragraph (a) of this section to be paid
458 into the "Highway Bonds Sinking Fund," the following shall be
459 deducted from the amount produced by the state tax on gasoline,
460 diesel fuel or kerosene tax collections, excluding collections
461 derived from the portion of the gasoline excise tax that exceeds
462 Seven Cents (7¢) per gallon, from the portion of the tax on
463 aviation gas under Section 27-55-11 that exceeds Six and
464 Four-tenths Cents (6.4¢) per gallon, from the portion of the
465 special fuel tax levied under Sections 27-55-519 and 27-55-521, at
466 Eighteen Cents (18¢) per gallon, that exceeds Ten Cents (10¢) per
467 gallon, from the portion of the taxes levied under Section
468 27-55-519, at Five and Three-fourths Cents (5.75¢) that exceeds
469 One Cent (1¢) per gallon on special fuel and Five and One-fourth
470 Cents (5.25¢) per gallon on special fuel used as aircraft fuel,
471 from the portion of the excise tax on compressed gas used as a
472 motor fuel that exceeds the rate of tax in effect on June 30,
473 1987, and from the portion of the gasoline excise tax in excess of
474 Seven Cents (7¢) per gallon and the diesel excise tax in excess of
475 Ten Cents (10¢) per gallon under Section 27-61-5:

476 (i) Twenty percent (20%) of such amount which
477 shall be earmarked and set aside for the construction,
478 reconstruction and maintenance of the highways and roads of the
479 state, provided that if such twenty percent (20%) should reduce
480 any county to a lesser amount than that received in the fiscal
481 year ending June 30, 1966, then such twenty percent (20%) shall be
482 reduced to a percentage to provide that no county shall receive
483 less than its portion for the fiscal year ending June 30, 1966;



484 (ii) The amount allowed as refund on gasoline or
485 as tax credit on diesel fuel or kerosene used for agricultural,
486 maritime, industrial, domestic and nonhighway purposes;

487 (iii) Five percent (5%) of such amount shall be
488 paid to the State Highway Fund;

489 (iv) The amount or portion thereof authorized by
490 legislative appropriation to the Fisheries and Wildlife Fund
491 created under Section 59-21-25;

492 (v) The amount for deposit into the special
493 aviation fund under paragraph (d) of this section; and

494 (vi) The remainder shall be divided on a basis of
495 nine-fourteenths ($9/14$) and five-fourteenths ($5/14$) (being the
496 same basis as Four and One-half Cents ($4-1/2\text{¢}$) and Two and
497 One-half Cents ($2-1/2\text{¢}$) is to Seven Cents (7¢) on gasoline, and
498 six and forty-three one-hundredths (6.43) and three and
499 fifty-seven one-hundredths (3.57) is to Ten Cents (10¢) on diesel
500 fuel or kerosene). The amount produced by the nine-fourteenths
501 ($9/14$) division shall be allocated to the Transportation
502 Department and paid into the State Treasury as provided in this
503 section and in Section 27-5-103 and the five-fourteenths ($5/14$)
504 division shall be returned to the counties of the state on the
505 following basis:

506 1. In each fiscal year, each county shall be
507 paid each month the same percentage of the monthly total to be
508 distributed as was paid to that county during the same month in
509 the fiscal year which ended April 9, 1960, until the county
510 receives One Hundred Ninety Thousand Dollars ($\$190,000.00$) in such
511 fiscal year, at which time funds shall be distributed under the
512 provisions of paragraph (b)(vi)4. of this section.

513 2. If after payments in 1. above, any county
514 has not received a total of One Hundred Ninety Thousand Dollars
515 ($\$190,000.00$) at the end of the fiscal year ending June 30, 1961,
516 and each fiscal year thereafter, then any available funds not



517 distributed under 1. above shall be used to bring such county or
518 counties up to One Hundred Ninety Thousand Dollars (\$190,000.00)
519 or such funds shall be divided equally among such counties not
520 reaching One Hundred Ninety Thousand Dollars (\$190,000.00) if
521 there is not sufficient money to bring all the counties to said
522 One Hundred Ninety Thousand Dollars (\$190,000.00).

523 3. When a county has been paid an amount
524 equal to the total which was paid to the same county during the
525 fiscal year ended April 9, 1960, such county shall receive no
526 further payments during the then current fiscal year until the
527 last month of such current fiscal year, at which time distribution
528 will be made under 2. above, except as set out in 4. below.

529 4. During the last month of the current
530 fiscal year, should it be determined that there are funds
531 available in excess of the amount distributed for the year under 1
532 and 2 above, then such excess funds shall be distributed among the
533 various counties as follows:

534 One-third (1/3) of such excess to be
535 divided equally among the counties;

536 One-third (1/3) of such excess to be paid
537 to the counties in the proportion which the population of each
538 county bears to the total population of the state according to the
539 last federal census;

540 One-third (1/3) of such excess to be paid
541 to the counties in the proportion which the number of square miles
542 of each county bears to the total square miles in the state.

543 5. It is the declared purpose and intent of
544 the Legislature that no county shall be paid less than was paid
545 during the year ended April 9, 1960, unless the amount to be
546 distributed to all counties in any year is less than the amount
547 distributed to all counties during the year ended April 9, 1960.

548 The Municipal Aid Fund as established by Section 27-5-103
549 shall not participate in any portion of any funds allocated to any



550 county hereunder over and above One Hundred Ninety Thousand
551 Dollars (\$190,000.00).

552 In any county having road or bridge bonds outstanding which
553 exceed, in the aggregate, twelve percent (12%) of the assessed
554 valuation of the taxable property of the county, it shall be the
555 duty of the board of supervisors to set aside not less than sixty
556 percent (60%) of such county's share of the gasoline, diesel fuel
557 or kerosene taxes to be used in paying the principal and interest
558 on such road or bridge bonds as they mature.

559 In any county having such road or bridge bonds outstanding
560 which exceed, in the aggregate, eight percent (8%) of the assessed
561 valuation of the taxable property of the county, but which do not
562 exceed, in the aggregate, twelve percent (12%) of the assessed
563 valuation of the taxable property of the county, it shall be the
564 duty of the board of supervisors to set aside not less than
565 thirty-five percent (35%) of such county's share of the gasoline,
566 diesel fuel or kerosene taxes to be used in paying the principal
567 and interest of such road or bridge bonds as they mature.

568 In any county having such road or bridge bonds outstanding
569 which exceed, in the aggregate, five percent (5%) of the assessed
570 valuation of the taxable property of the county, but which do not
571 exceed, in the aggregate, eight percent (8%) of the assessed
572 valuation of the taxable property of the county, it shall be the
573 duty of the board of supervisors to set aside not less than twenty
574 percent (20%) of such county's share of the gasoline, diesel fuel
575 or kerosene taxes to be used in paying the principal and interest
576 of such road and bridge bonds as they mature.

577 In any county having such road or bridge bonds outstanding
578 which do not exceed, in the aggregate, five percent (5%) of the
579 assessed valuation of the taxable property of the county, it shall
580 be the duty of the board of supervisors to set aside not less than
581 ten percent (10%) of such county's share of the gasoline, diesel



582 fuel or kerosene taxes to be used in paying the principal and
583 interest on such road or bridge bonds as they mature.

584 The portion of any such county's share of the gasoline,
585 diesel fuel or kerosene taxes thus set aside for the payment of
586 the principal and interest of road or bridge bonds, as provided
587 for in this section, shall be used in paying the currently
588 maturing installments of the principal and interest of such road
589 or bridge bonds, if there be any such road or bridge bonds
590 outstanding.

591 The remaining portion of such county's share of the gasoline,
592 diesel fuel or kerosene taxes, after setting aside the portion
593 above provided for the payment of the principal and interest of
594 bonds, shall be used in the construction and maintenance of any
595 public highways, bridges or culverts of the county, in the
596 discretion of the board of supervisors.

597 In any county having no road or bridge bonds outstanding, all
598 such county's share of the gasoline, diesel fuel or kerosene taxes
599 shall be used in the construction, reconstruction and maintenance
600 of the public highways, bridges or culverts of the county, as the
601 board of supervisors may determine.

602 In every county in which there are county road bonds or
603 seawall or road protection bonds outstanding which were issued for
604 the purpose of building bridges or constructing public roads or
605 seawalls, such funds shall be used in the manner provided by law.

606 (c) From the amount produced by the nine-fourteenths
607 (9/14) division allocated to the Transportation Department, there
608 shall be deducted:

609 (i) The amount paid to the State Treasurer for the
610 "Highway Bonds Sinking Fund" under paragraph (a) of this section;

611 (ii) Any amounts due counties in accordance with
612 Section 65-33-45 which have outstanding bonds issued for seawall
613 or road protection purposes, issued under provisions of Chapter
614 319, Laws of 1924, and amendments thereto; and



615 (iii) Beginning August 15, 2002, and on or before
616 the fifteenth day of each month thereafter, an amount equal to
617 one-sixth (1/6) of the principal and interest certified by the
618 State Treasurer to the State Tax Commission to be due on the next
619 semiannual bond and interest payment date for the bonds issued
620 under Sections 65-39-5 through 65-39-33. On or before the
621 twenty-fifth day of each month the State Tax Commission shall pay
622 into the State Treasury for credit to the Gaming Counties Bond
623 Sinking Fund created in Section 65-39-3, the amount certified by
624 the State Treasurer;

625 (iv) Except as otherwise provided in Section
626 31-17-127, the remainder shall be paid by the State Tax Commission
627 to the State Treasurer on the fifteenth day of each month next
628 succeeding the month in which the gasoline, diesel fuel or
629 kerosene taxes were collected to the credit of the State Highway
630 Fund.

631 The funds allocated for the construction, reconstruction and
632 improvement of state highways, bridges and culverts, or so much
633 thereof as may be necessary, shall first be used in conjunction
634 with funds supplied by the federal government for such purposes
635 and allocated to the Transportation Department to be expended on
636 the state highway system. It is specifically provided hereby that
637 the necessary portion of such funds hereinabove allocated to the
638 Transportation Department may be used for the prompt payment of
639 principal and interest on highway bonds heretofore issued,
640 including such bonds issued or to be issued under the provisions
641 of Chapter 312, Laws of 1956, and amendments thereto.

642 Nothing contained in this section shall be construed to
643 reduce the amount of such gasoline, diesel fuel or kerosene excise
644 taxes levied by the state, allotted under the provisions of Title
645 65, Chapter 33, Mississippi Code of 1972, to counties in which
646 there are outstanding bonds issued for seawall or road protection
647 purposes issued under the provisions of Chapter 319, Laws of 1924,



648 and amendments thereto; the amount of said gasoline, diesel fuel
649 or kerosene excise taxes designated in this section for the
650 payment of bonds and interest authorized and issued or to be
651 issued under the provisions of Chapter 130, Laws of 1938, and
652 subsequent acts authorizing the issuance of bonds payable from
653 gasoline, diesel fuel or kerosene tax revenue, shall, in such
654 counties, be considered as being paid "into the State Treasury to
655 the credit of the State Highway Fund" within the meaning of
656 Section 65-33-45 in computing the amount to be paid to such
657 counties under the provisions of said section, and this section
658 shall be administered in connection with Title 65, Chapter 33,
659 Mississippi Code of 1972, and Sections 65-33-45, 65-33-47 and
660 65-33-49 dealing with seawalls, as if made a part of this section.

661 (d) The proceeds of the Five and One-fourth Cents
662 (5.25¢) of the tax per gallon on oils used as a propellant for jet
663 aircraft engines, and Six and Four-tenths Cents (6.4¢) of the tax
664 per gallon on aviation gasoline and the tax of One Cent (1¢) per
665 gallon for each gallon of gasoline for which a refund has been
666 made pursuant to Section 27-55-23 because such gasoline was used
667 for aviation purposes, shall be paid to the State Treasury into a
668 special fund to be used exclusively, pursuant to legislative
669 appropriation, for the support and development of aeronautics as
670 defined in Section 61-1-3.

671 (e) State highway funds in an amount equal to the
672 difference between Forty-two Million Dollars (\$42,000,000.00) and
673 the annual debt service payable on the state's highway revenue
674 refunding bonds, Series 1985, shall be expended for the
675 construction or reconstruction of highways designated under the
676 Four-Lane Highway Program created under Section 65-3-97.

677 (f) Beginning forty-five (45) days after the date
678 specified in Section 65-39-35, and on or before the fifteenth day
679 of the succeeding month and each month thereafter, the proceeds of
680 Two Cents (2¢) per gallon of the tax on gasoline and blend stock



681 levied under Section 27-55-11 shall be deposited into the
682 Mississippi Highway-Railroad Grade Crossing Safety Account,
683 created in Section 57-43-15.

684 (g) "Gasoline, diesel fuel or kerosene taxes" as used
685 in this section shall be deemed to mean and include state
686 gasoline, diesel fuel or kerosene taxes levied and imposed on
687 distributors of gasoline, diesel fuel or kerosene, and all state
688 excise taxes derived from any fuel used to propel vehicles upon
689 the highways of this state, when levied by any statute.

690 **SECTION 3.** Section 57-43-15, Mississippi Code of 1972, is
691 amended as follows:

692 57-43-15. (1) There is established within the Railroad
693 Revitalization Fund a new account to be entitled the Mississippi
694 Highway-Railroad Grade Crossing Safety Account. The account shall
695 be administered by the Mississippi Department of Transportation
696 and shall consist of (a) such monies as are transferred to it on
697 July 1, 2001, from the Mississippi Grade Crossing Closure
698 Account; * * * (b) thirty-five percent (35%) of collections from
699 the locomotive fuel tax imposed under Section 27-59-307 for the
700 previous year; and (c) monies deposited into the account under
701 Section 27-5-101(f). Unexpended amounts remaining in the account
702 at the end of a fiscal year shall not lapse into the State General
703 Fund; and any interest earned on amounts in the account shall be
704 deposited to the credit of the account.

705 (2) The Mississippi Department of Transportation, in
706 cooperation with the railroads operating in Mississippi, shall
707 promulgate rules to ensure equitable allocation of the funds
708 described in subsection (1) of this section to projects throughout
709 the state, and shall consider the proportionate number of main
710 line track miles of each railroad and the number of public
711 roadway/railroad grade crossings on each railroad's main line.
712 Expenditure of monies from the Mississippi Highway-Railroad Grade



713 Crossing Safety Account shall be limited to the following
714 purposes:

715 (a) Financial aid for closure of public
716 roadway/railroad grade crossings;

717 (b) Realignment of construction costs of roadways being
718 rerouted to facilitate a closure of a public roadway/railroad
719 grade crossing;

720 (c) Monies to match federal or other funds for a grade
721 separation eliminating an at-grade crossing of a public roadway
722 and railroad; and

723 (d) Installation or upgrade of highway-railroad grade
724 crossing signals, at the discretion of the Mississippi
725 Transportation Commission, based upon the Federal Railroad
726 Administration ranking of all Mississippi highway-railroad grade
727 crossings. Not less than ten percent (10%) of the monies
728 necessary to defray the costs of such installations must be
729 federal funds.

730 (3) The Mississippi Department of Transportation shall
731 consider all requests from the state's diagnostic review of public
732 roadway/railroad grade crossings and from individual railroads for
733 expenditure of funds for the purposes described in subsection (2)
734 of this section, and shall establish uniform criteria and
735 guidelines relating to such crossings and the expenditure of
736 funds.

737 **SECTION 4.** This act shall take effect and be in force from
738 and after July 1, 2002.

