HOUSE BILL NO. 598

AN ACT TO AMEND SECTION 27-65-201, MISSISSIPPI CODE OF 1972, TO INCREASE THE SALES AND USE TAX UPON CASUAL SALES OF CERTAIN MOTOR VEHICLES BY 2%; TO AMEND SECTION 27-65-75, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE REVENUE COLLECTED FROM THE 2% INCREASE IN THE SALES TAX UPON CASUAL SALES OF CERTAIN MOTOR VEHICLES SHALL BE DEPOSITED, WITHOUT DIVERSION, INTO THE MOTOR VEHICLE AD VALOREM TAX REDUCTION FUND; TO PROVIDE THAT THE REMAINDER OF THE REVENUE COLLECTED FROM THE SALES TAX UPON CASUAL SALES OF CERTAIN MOTOR VEHICLES SHALL BE DEPOSITED, AFTER DIVERSION, INTO THE MOTOR VEHICLE AD VALOREM TAX REDUCTION FUND; TO PROVIDE THAT THE REMAINDER OF THE REVENUE COLLECTED FROM THE USE TAX UPON CASUAL SALES OF CERTAIN MOTOR VEHICLES SHALL BE DEPOSITED, AFTER DIVERSION, INTO THE MOTOR VEHICLE AD VALOREM TAX REDUCTION FUND; TO AMEND SECTION 27-51-101, MISSISSIPPI CODE OF 1972, IN CONFORMITY THERETO; AND FOR RELATED PURPOSES.

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

SECTION 1. Section 27-65-201, Mississippi Code of 1972, is amended as follows:

27-65-201. (1) For the purposes of this section, unless the context otherwise requires, the term "motor vehicle" means a motor vehicle required to be registered or licensed by the county tax collectors pursuant to Section 27-19-43, Mississippi Code of 1972.

(2) Upon every person, firm or corporation purchasing other than at wholesale within this state any motor vehicle required to be registered or licensed with the tax collector of any county in this state from any person, firm or corporation which is not a licensed dealer engaged in selling motor vehicles, there shall be levied and collected a sales tax at the rate of three percent (3%) of the true value of the motor vehicle as calculated by using the most current official motor vehicle assessment schedule supplied by the State Tax Commission.
(3) Upon every person, firm or corporation purchasing other than at wholesale outside the state any motor vehicle required to be registered or licensed with the tax collector of any county in this state from any person, firm or corporation which is not a licensed dealer engaged in selling motor vehicles, for use, storage or other consumption within this state there is levied a use tax at the rate of three percent (3%) of the true value of the motor vehicle as calculated by using the most current official motor vehicle assessment schedule supplied by the State Tax Commission.

(4) Upon every person, firm or corporation that purchases a private carrier of passengers or a light carrier of property as defined in Section 27-51-101, and upon which a sales tax is levied pursuant to subsection (2) of this section, there shall be levied and collected an additional sales tax at a rate of two percent (2%) of the true value of such private carrier of passengers or light carrier of property purchased as calculated by using the most current official motor vehicle assessment schedule supplied by the State Tax Commission.

(5) Upon every person, firm or corporation that purchases a private carrier of passengers or a light carrier of property as defined in Section 27-51-101, and upon which a use tax for such purchase is levied pursuant to subsection (3) of this section, there shall be levied an additional use tax at the rate of two percent (2%) of the true value of such private carrier of passengers or light carrier of property purchased as calculated by using the most current official motor vehicle assessment schedule supplied by the State Tax Commission.

(6) Where any motor vehicle is taken in trade as a credit or part payment on the sale of a motor vehicle taxable under this section, the tax levied by this section shall be paid on the net difference, that is, the true value of the motor vehicle sold less the credit for the motor vehicle taken in trade.
The tax levied by this section shall be collected by the tax collector at the time of, and as a prerequisite to, the registration of or licensing of any such motor vehicle. The tax collector shall give to the person registering the vehicle a receipt in a form prescribed and furnished by the State Tax Commission for the amount of tax collected.

County tax collectors shall be liable for the tax they are required to collect, and taxes which are in fact collected, under this section and failure to properly collect or maintain proper records shall not relieve them of liability for payment to the State Tax Commission. Deficiencies in collection or payment shall be assessed against the tax collector, or his successor, in the same manner and subject to the same penalties and provisions for appeal as are deficiencies assessed against taxpayers under Chapter 65, Title 27, Mississippi Code of 1972.

Each tax collector of the several counties shall, on or before the twentieth day of each month, file a report with and pay to the State Tax Commission all funds collected under the provisions of this section, less a commission of three percent (3%) which shall be retained by the tax collector as a commission for collecting such tax, and such commission shall be deposited in the county general fund. The report required to be filed shall cover all collections made during the calendar month next preceding the date on which the report is due and filed. All funds remitted to the State Tax Commission shall be deposited to the credit of the State General Fund.

Any error in the report and remittance to the State Tax Commission may be adjusted on a subsequent report. If the error was in the collection by the tax collector, it shall be adjusted through the tax collector with the taxpayer before credit is allowed by the State Tax Commission.

All information relating to the collection of this tax by tax collectors and such records as the State Tax Commission may
require shall be preserved in the tax collector's office for a period of three (3) years for audit by the State Tax Commission.

(9) The tax levied by this section shall not apply to the following:

(a) Transfers of legal ownership of motor vehicles between husband and wife, parent and child, or grandparents and grandchildren, unless the transferor is a licensed dealer of motor vehicles and the transfer of the motor vehicle is made in the regular course of business.

(b) Transfers of legal ownership of motor vehicles pursuant to a will or pursuant to any law providing for the distribution of the property of one dying intestate.

(c) Transfers of legal ownership of motor vehicles ten (10) or more years after the date of the manufacture of such vehicle.

SECTION 2. Section 27-65-75, Mississippi Code of 1972, is amended as follows:

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

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

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

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

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

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

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

(4) On or before August 15, 1994, and on or before the
fifteenth day of each succeeding month through July 15, 1999, from
the proceeds of gasoline, diesel fuel or kerosene taxes as
provided in Section 27-5-101(a)(ii)1, Four Million Dollars
($4,000,000.00) shall be deposited in the State Treasury to the
credit of a special fund designated as the "State Aid Road Fund,"
created by Section 65-9-17. On or before August 15, 1999, and on
or before the fifteenth day of each succeeding month, from the
total amount of the proceeds of gasoline, diesel fuel or kerosene
taxes apportioned by Section 27-5-101(a)(ii)1, Four Million
Dollars ($4,000,000.00) or an amount equal to twenty-three and
one-fourth percent (23.25%) of such funds, whichever is the greater amount, shall be deposited in the State Treasury to the credit of the "State Aid Road Fund," created by Section 65-9-17. Such funds shall be pledged to pay the principal and interest on state aid road bonds heretofore issued under Sections 19-9-51 through 19-9-77, in lieu of and in substitution for the funds heretofore allocated to counties under this section. Such funds may not be pledged for the payment of any state aid road bonds issued after April 1, 1981; however, this prohibition against the pledging of any such funds for the payment of bonds shall not apply to any bonds for which intent to issue such bonds has been published, for the first time, as provided by law prior to March 29, 1981. From the amount of taxes paid into the special fund pursuant to this subsection and subsection (9) of this section, there shall be first deducted and paid the amount necessary to pay the expenses of the Office of State Aid Road Construction, as authorized by the Legislature for all other general and special fund agencies. The remainder of the fund shall be allocated monthly to the several counties in accordance with the following formula:

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

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

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

For the purposes of this subsection, the term "gasoline, diesel fuel or kerosene taxes" means such taxes as defined in paragraph (f) of Section 27-5-101.
The amount of funds allocated to any county under this subsection for any fiscal year after fiscal year 1994 shall not be less than the amount allocated to such county for fiscal year 1994. Monies allocated to a county from the State Aid Road Fund for fiscal year 1995 or any fiscal year thereafter that exceed the amount of funds allocated to that county from the State Aid Road Fund for fiscal year 1994, first must be expended by the county for replacement or rehabilitation of bridges on the state aid road system that have a sufficiency rating of less than twenty-five (25), according to National Bridge Inspection standards before such monies may be approved for expenditure by the State Aid Road Engineer on other projects that qualify for the use of state aid road funds.

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

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

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

(7) On or before August 15, 1992, and each succeeding month thereafter through July 15, 2000, two and two hundred sixty-six one-thousandths percent (2.266%) of the total sales tax revenue collected during the preceding month under the provisions of this chapter, except that collected under the provisions of Section...
267 27-65-17(2) shall be deposited by the commission into the School
268 Ad Valorem Tax Reduction Fund created pursuant to Section
269 37-61-35. On or before August 15, 2000, and each succeeding month
270 thereafter, two and two hundred sixty-six one-thousandths percent
271 (2.266%) of the total sales tax revenue collected during the
272 preceding month under the provisions of this chapter, except that
273 collected under the provisions of Section 27-65-17(2), shall be
274 deposited into the School Ad Valorem Tax Reduction Fund created
275 under Section 37-61-35 until such time that the total amount
276 deposited into the fund during a fiscal year equals Forty-two
277 Million Dollars ($42,000,000.00). Thereafter, the amounts
278 diverted under this subsection (7) during the fiscal year in
279 excess of Forty-two Million Dollars ($42,000,000.00) shall be
280 deposited into the Education Enhancement Fund created under
281 Section 37-61-33 for appropriation by the Legislature as other
282 education needs and shall not be subject to the percentage
283 appropriation requirements set forth in Section 37-61-33.
284 (8) On or before August 15, 1992, and each succeeding month
285 thereafter, nine and seventy-three one-thousandths percent
286 (9.073%) of the total sales tax revenue collected during the
287 preceding month under the provisions of this chapter, except that
288 collected under the provisions of Section 27-65-17(2) shall be
289 deposited into the Education Enhancement Fund created pursuant to
290 Section 37-61-33.
291 (9) On or before August 15, 1994, and each succeeding month
292 thereafter, from the revenue collected under this chapter during
293 the preceding month, Two Hundred Fifty Thousand Dollars
294 ($250,000.00) shall be paid into the State Aid Road Fund.
295 (10) On or before August 15, 1994, and each succeeding month
296 thereafter through August 15, 1995, from the revenue collected
297 under this chapter during the preceding month, Two Million Dollars
298 ($2,000,000.00) shall be deposited into the Motor Vehicle Ad
299 Valorem Tax Reduction Fund established in Section 27-51-105.
(11) Notwithstanding any other provision of this section to the contrary, on or before February 15, 1995, and each succeeding month thereafter, the sales tax revenue collected during the preceding month under the provisions of Section 27-65-17(2) and the corresponding levy in Section 27-65-23 on the rental or lease of private carriers of passengers and light carriers of property as defined in Section 27-51-101 shall be deposited, without diversion, into the Motor Vehicle Ad Valorem Tax Reduction Fund established in Section 27-51-105.

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

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

(14) On or before August 15, 1998, and each succeeding month thereafter through July 15, 2005, that portion of the avails of the tax imposed in Section 27-65-23 which is derived from sales by cotton compresses or cotton warehouses and which would otherwise be paid into the General Fund, shall be deposited in an amount not to exceed Two Million Dollars ($2,000,000.00) into the special fund created pursuant to Section 69-37-39.
(15) Notwithstanding any other provision of this section to
the contrary, on or before September 15, 2000, and each succeeding
month thereafter, the sales tax revenue collected during the
preceding month under the provisions of Section 27-65-19(1)(f),
shall be deposited, without diversion, into the Telecommunications

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

(17) Notwithstanding any other provision of this section to
the contrary, on or before August 15, 2002, and each succeeding
month thereafter, the sales tax revenue collected during the
preceding month under the provisions of Section 27-65-201(4) on
purchases of private carriers of passengers and light carriers of
property as defined in Section 27-51-101 shall be deposited,
without diversion, into the Motor Vehicle Ad Valorem Tax Reduction
Fund established in Section 27-51-105.

(18) Notwithstanding any other provision of this section to
the contrary, on or before August 15, 2002, and each succeeding
month thereafter, the sales tax revenue collected during the
preceding month under the provisions of Section 27-65-201(2) on
purchases of private carriers of passengers and light carriers of
property as defined in Section 27-51-101 shall be deposited, after
diversion, into the Motor Vehicle Ad Valorem Tax Reduction Fund
established in Section 27-51-105.

(19) The remainder of the amounts collected under the
provisions of this chapter shall be paid into the State Treasury
to the credit of the General Fund.
(20) It shall be the duty of the municipal officials of any municipality which expands its limits, or of any community which incorporates as a municipality, to notify the commissioner of such action thirty (30) days before the effective date. Failure to so notify the commissioner shall cause such municipality to forfeit the revenue which it would have been entitled to receive during this period of time when the commissioner had no knowledge of the action. If any funds have been erroneously disbursed to any municipality or any overpayment of tax is recovered by the taxpayer, the commissioner may make correction and adjust the error or overpayment with such municipality by withholding the necessary funds from any subsequent payment to be made to the municipality.

SECTION 3. Section 27-67-31, Mississippi Code of 1972, is amended as follows:

27-67-31. All administrative provisions of the sales tax law, and amendments thereto, including those which fix damages, penalties and interest for failure to comply with the provisions of said sales tax law, and all other requirements and duties imposed upon taxpayer, shall apply to all persons liable for use taxes under the provisions of this article. The commissioner shall exercise all power and authority and perform all duties with respect to taxpayers under this article as are provided in said sales tax law, except where there is conflict, then the provisions of this article shall control.

The commissioner may require transportation companies to permit the examination of waybills, freight bills, or other documents covering shipments of tangible personal property into this state.

On or before the fifteenth day of each month, the amount received from taxes, damages and interest under the provisions of this article during the preceding month shall be paid and distributed as follows:
(a) On or before July 15, 1994, through July 15, 2000, and each succeeding month thereafter, two and two hundred sixty-six one-thousandths percent (2.266%) of the total use tax revenue collected during the preceding month under the provisions of this article shall be deposited in the School Ad Valorem Tax Reduction Fund created pursuant to Section 37-61-35. On or before August 15, 2000, and each succeeding month thereafter, two and two hundred sixty-six one-thousandths percent (2.266%) of the total use tax revenue collected during the preceding month under the provisions of this chapter shall be deposited into the School Ad Valorem Tax Reduction Fund created under Section 37-61-35 until such time that the total amount deposited into the fund during a fiscal year equals Four Million Dollars ($4,000,000.00). Thereafter, the amounts diverted under this paragraph (a) during the fiscal year in excess of Four Million Dollars ($4,000,000.00) shall be deposited into the Education Enhancement Fund created under Section 37-61-33 for appropriation by the Legislature as other education needs and shall not be subject to the percentage appropriation requirements set forth in Section 37-61-33.

(b) On or before July 15, 1994, and each succeeding month thereafter, nine and seventy-three one-thousandths percent (9.073%) of the total use tax revenue collected during the preceding month under the provisions of this article shall be deposited into the Education Enhancement Fund created pursuant to Section 37-61-33.

(c) On or before July 15, 1997, and on or before the fifteenth day of each succeeding month thereafter, the revenue collected under the provisions of this article imposed and levied as a result of Section 27-65-17(2) and the corresponding levy in Section 27-65-23 on the rental or lease of private carriers of passengers and light carriers of property as defined in Section 27-51-101 shall be deposited into the Motor Vehicle Ad Valorem Tax Reduction Fund created pursuant to Section 27-51-105.
(d) On or before July 15, 1997, and on or before the fifteenth day of each succeeding month thereafter and after the
deposits required by paragraphs (a) and (b) of this section are made, the remaining revenue collected under the provisions of this article imposed and levied as a result of Section 27-65-17(1) and the corresponding levy in Section 27-65-23 on the rental or lease of private carriers of passengers and light carriers of property as defined in Section 27-51-101 shall be deposited into the Motor Vehicle Ad Valorem Tax Reduction Fund created pursuant to Section 27-51-105.

(e) On or before August 15, 2002, and each succeeding month thereafter, the revenue collected under the provisions of this article imposed and levied pursuant to Section 27-65-201(5) on purchases of private carriers of passengers and light carriers of property as defined in Section 27-51-101 shall be deposited into the Motor Vehicle Ad Valorem Tax Reduction Fund created pursuant to Section 27-51-105.

(f) On or before August 15, 2002, and each succeeding month thereafter and after the deposits required by paragraphs (a) and (b) of this section are made, the remaining revenue collected under the provisions of this article imposed and levied pursuant to Section 27-65-201(3) on purchases of private carriers of passengers and light carriers of property as defined in Section 27-51-101 shall be deposited into the Motor Vehicle Ad Valorem Tax Reduction Fund created pursuant to Section 27-51-105.

(g) The remainder of the amount received from taxes, damages and interest under the provisions of this article shall be paid into the General Fund of the State Treasury by the commissioner.

SECTION 4. Section 27-51-105, Mississippi Code of 1972, is amended as follows:

27-51-105. (1) There is created in the State Treasury a special fund to be known as the Motor Vehicle Ad Valorem Tax
Reduction Fund, into which shall be deposited the monies specified in Section 27-65-75(10), (11), (12), (17) and (18), Section 27-67-31(c), (d), (e) and (f) such monies as may be required to be transferred into such fund pursuant to Section 27-38-5, and such other monies as the Legislature may provide by appropriation. The monies in the fund shall be used for the purpose of making payments to counties for the reduction in motor vehicle ad valorem tax revenues incurred by local taxing districts in the county as a result of the ad valorem tax credit for private carriers of passengers and light carriers of property that is provided for by Section 27-51-103.

(2) The Motor Vehicle Ad Valorem Tax Reduction Fund shall be administered by the State Tax Commission, and monies in the fund shall be expended upon appropriation by the Legislature. Unexpended amounts remaining in the fund at the end of the state fiscal year shall not lapse into the State General Fund, and any interest earned on amounts in the fund shall be deposited to the credit of the fund.

SECTION 5. This act shall take effect and be in force from and after July 1, 2002.