HOUSE BILL NO. 864

AN ACT TO AMEND SECTION 27-65-75, MISSISSIPPI CODE OF 1972,
TO PROVIDE FOR THE PAYMENT OF A PERCENTAGE OF SALES TAX REVENUES
GENERATED FROM BUSINESS ACTIVITIES OUTSIDE MUNICIPALITIES TO THE
COUNTIES IN WHICH SUCH BUSINESS ACTIVITIES OCCURRED; TO AMEND
SECTION 27-65-53, 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 27-65-75, 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 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. The 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
customers 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 of 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 27-65-17(2) shall be deposited by the commission into the School Ad Valorem Tax Reduction Fund created pursuant to Section...
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 sales tax revenue collected during the preceding month under the provisions of this chapter, except that collected under the provisions of Section 27-65-17(2), 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 Forty-two Million Dollars ($42,000,000.00). Thereafter, the amounts diverted under this subsection (7) during the fiscal year in excess of Forty-two Million Dollars ($42,000,000.00) 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.

(8) On or before August 15, 1992, and each succeeding month thereafter, nine and seventy-three one-thousandths percent (9.073%) 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 27-65-17(2) shall be deposited into the Education Enhancement Fund created pursuant to Section 37-61-33.

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

(10) On or before August 15, 1994, and each succeeding month thereafter through August 15, 1995, from the revenue collected under this chapter during the preceding month, Two Million Dollars ($2,000,000.00) shall be deposited into the Motor Vehicle Ad 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) On or before August 15, 2002, 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 county but outside any municipal
corporation, as defined in subsection (1) of this section, shall
be allocated for distribution and paid to the county in which the
business activity occurred. The amount paid to each county under
this subsection (17) shall be in addition to any other funds
allocated for distribution to the various counties under this
section.

(18) 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.

(19) 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 county or any overpayment of tax is recovered by the taxpayer, the commissioner may make correction and adjust the error or overpayment with such municipality or county by withholding the necessary funds from any subsequent payment to be made to the municipality or county.

SECTION 2. Section 27-65-53, Mississippi Code of 1972, is amended as follows:

27-65-53. If the commissioner finds that the taxpayer has overpaid his tax for any reason and the taxpayer has discontinued business and there is no subsequent liability upon which the excess may be credited, or if the amount of the excess so paid shall exceed the estimated liability for the next twelve (12) months, the excess shall be refunded to the taxpayer. Such amount shall be certified to the State Auditor of Public Accounts by the commission. The Auditor may make such investigation and audit of the claim as he finds necessary. If he finds that the commissioner is correct in his determination, the auditor may issue his warrant to the State Treasurer in favor of the taxpayer for the amount of tax erroneously paid into the State Treasury, such refunds to be made from current sales tax collections. If part of the overpayment has been disbursed to any municipality or county, under authority of Section 27-65-75, the municipality or county, having erroneously received the money, shall adjust the amount with the commissioner, or the overpayment may be withheld by the state from any funds due by the state to the municipality or county.

Where the taxpayer has overpaid his tax, the commissioner may give credit for same and allow the taxpayer to take credit on a subsequent return or, if necessary, in his discretion, have the taxpayer file for a refund as provided herein.
If any overpayment of tax as reflected in an application or amended return, or both, filed by the taxpayer, and verified by the commissioner or otherwise determined to be due by the commissioner or commission, is not refunded or credited to a taxpayer's account within ninety (90) days after the application or amended return is filed or the date the commission or commissioner determines a refund is due, whichever is later, interest at the rate of one percent (1%) per month shall be allowed on such overpayment computed for the period after expiration of the ninety-day period provided herein to the date of payment.

SECTION 3. This act shall take effect and be in force from and after July 1, 2002.