

By: Representative Brown

To: Education; Ways and Means

HOUSE BILL NO. 1356

1 AN ACT TO ABOLISH THE PROGRAM OF STATE AID FOR THE
 2 CONSTRUCTION OF SCHOOL FACILITIES ADMINISTERED BY THE STATE BOARD
 3 OF EDUCATION; TO REPEAL SECTIONS 37-45-1 THROUGH 37-45-63,
 4 MISSISSIPPI CODE OF 1972, WHICH SET FORTH THE ADMINISTRATION OF
 5 THE STATE AID CONSTRUCTION PROGRAM BY THE STATE BOARD OF EDUCATION
 6 AND THE STATE DEPARTMENT OF EDUCATION; TO REPEAL SECTIONS 37-47-1
 7 THROUGH 37-41-67, MISSISSIPPI CODE OF 1972, WHICH SET FORTH THE
 8 AUTHORIZATION AND PROVISIONS FOR THE STATE AID FOR CONSTRUCTION OF
 9 SCHOOL FACILITIES; TO AMEND SECTION 27-65-75, MISSISSIPPI CODE OF
 10 1972, TO PROVIDE FOR THE REDISTRIBUTION OF THE SALES TAX REVENUES
 11 DIVERTED FOR THE STATE AID CONSTRUCTION PROGRAM TO BE UTILIZED FOR
 12 TEXTBOOKS AND SCHOOL SUPPLIES, AND TO PROVIDE FOR THE DISTRIBUTION
 13 OF SUCH DIVERTED SALES TAXES IN GRANTS DIRECTLY TO LOCAL SCHOOL
 14 DISTRICTS FOR FACILITIES FOR FISCAL YEAR 2004 AND THEREAFTER; AND
 15 FOR RELATED PURPOSES.

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

17 **SECTION 1.** Sections 37-45-1, 37-45-3, 37-45-5, 37-45-7,
 18 37-45-9, 37-45-11, 37-45-13, 37-45-15, 37-45-17, 37-45-19,
 19 37-45-21, 37-45-23, 37-45-25, 37-45-27, 37-45-29, 37-45-31,
 20 37-45-33, 37-45-35, 37-45-37, 37-45-39, 37-45-41, 37-45-43,
 21 37-45-45, 37-45-47, 37-45-49, 37-45-51, 37-45-53, 37-45-55,
 22 37-45-57, 37-45-59, 37-45-61 and 37-45-63, Mississippi Code of
 23 1972, which set forth the administration of the State Aid
 24 Construction Program by the State Board of Education and the State
 25 Department of Education, are repealed.

26 **SECTION 2.** Sections 37-47-1, 37-47-3, 37-47-5, 37-47-7,
 27 37-47-9, 37-47-11, 37-47-13, 37-47-15, 37-47-17, 37-47-19,
 28 37-47-21, 37-47-23, 37-47-25, 37-47-27, 37-47-29, 37-47-31,
 29 37-47-33, 37-47-35, 37-47-37, 37-47-39, 37-47-41, 37-47-43,
 30 37-47-45, 37-47-47, 37-47-49, 37-47-51, 37-47-53, 37-47-55,
 31 37-47-57, 37-47-59, 37-47-61, 37-47-63, 37-47-65 and 37-47-67,
 32 Mississippi Code of 1972, which set forth the authorization and



33 provisions for the State Aid for Construction of School
34 Facilities, are repealed.

35 **SECTION 3.** Section 27-65-75, Mississippi Code of 1972, is
36 amended as follows:

37 27-65-75. On or before the fifteenth day of each month, the
38 revenue collected under the provisions of this chapter during the
39 preceding month shall be paid and distributed as follows:

40 (1) On or before August 15, 1992, and each succeeding month
41 thereafter through July 15, 1993, eighteen percent (18%) of the
42 total sales tax revenue collected during the preceding month under
43 the provisions of this chapter, except that collected under the
44 provisions of Sections 27-65-15, 27-65-19(3) and 27-65-21, on
45 business activities within a municipal corporation shall be
46 allocated for distribution to such municipality and paid to such
47 municipal corporation. On or before August 15, 1993, and each
48 succeeding month thereafter, eighteen and one-half percent
49 (18-1/2%) of the total sales tax revenue collected during the
50 preceding month under the provisions of this chapter, except that
51 collected under the provisions of Sections 27-65-15, 27-65-19(3)
52 and 27-65-21, on business activities within a municipal
53 corporation shall be allocated for distribution to such
54 municipality and paid to such municipal corporation.

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

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

64 In any county having a county seat which is not an
65 incorporated municipality, the distribution provided hereunder



66 shall be made as though the county seat was an incorporated
67 municipality; however, the distribution to such municipality shall
68 be paid to the county treasury wherein the municipality is located
69 and such funds shall be used for road, bridge and street
70 construction or maintenance therein.

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

96 (3) On or before September 15, 1987, and on or before the
97 fifteenth day of each succeeding month, until the date specified
98 in Section 65-39-35, the proceeds derived from contractors' taxes



99 levied under Section 27-65-21 on contracts for the construction or
100 reconstruction of highways designated under the Four-Lane Highway
101 Program created under Section 65-3-97 shall, except as otherwise
102 provided in Section 31-17-127, be deposited into the State
103 Treasury to the credit of the State Highway Fund to be used to
104 fund such Four-Lane Highway Program. The Mississippi Department
105 of Transportation shall provide to the State Tax Commission such
106 information as is necessary to determine the amount of proceeds to
107 be distributed under this subsection.

108 (4) On or before August 15, 1994, and on or before the
109 fifteenth day of each succeeding month through July 15, 1999, from
110 the proceeds of gasoline, diesel fuel or kerosene taxes as
111 provided in Section 27-5-101(a)(ii)1, Four Million Dollars
112 (\$4,000,000.00) shall be deposited in the State Treasury to the
113 credit of a special fund designated as the "State Aid Road Fund,"
114 created by Section 65-9-17. On or before August 15, 1999, and on
115 or before the fifteenth day of each succeeding month, from the
116 total amount of the proceeds of gasoline, diesel fuel or kerosene
117 taxes apportioned by Section 27-5-101(a)(ii)1, Four Million
118 Dollars (\$4,000,000.00) or an amount equal to twenty-three and
119 one-fourth percent (23.25%) of such funds, whichever is the
120 greater amount, shall be deposited in the State Treasury to the
121 credit of the "State Aid Road Fund," created by Section 65-9-17.
122 Such funds shall be pledged to pay the principal of and interest
123 on state aid road bonds heretofore issued under Sections 19-9-51
124 through 19-9-77, in lieu of and in substitution for the funds
125 heretofore allocated to counties under this section. Such funds
126 may not be pledged for the payment of any state aid road bonds
127 issued after April 1, 1981; however, this prohibition against the
128 pledging of any such funds for the payment of bonds shall not
129 apply to any bonds for which intent to issue such bonds has been
130 published, for the first time, as provided by law prior to March
131 29, 1981. From the amount of taxes paid into the special fund



132 pursuant to this subsection and subsection (9) of this section,
133 there shall be first deducted and paid the amount necessary to pay
134 the expenses of the Office of State Aid Road Construction, as
135 authorized by the Legislature for all other general and special
136 fund agencies. The remainder of the fund shall be allocated
137 monthly to the several counties in accordance with the following
138 formula:

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

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

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

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

152 The amount of funds allocated to any county under this
153 subsection for any fiscal year after fiscal year 1994 shall not be
154 less than the amount allocated to such county for fiscal year
155 1994. Monies allocated to a county from the State Aid Road Fund
156 for fiscal year 1995 or any fiscal year thereafter that exceed the
157 amount of funds allocated to that county from the State Aid Road
158 Fund for fiscal year 1994, first must be expended by the county
159 for replacement or rehabilitation of bridges on the state aid road
160 system that have a sufficiency rating of less than twenty-five
161 (25), according to National Bridge Inspection standards before
162 such monies may be approved for expenditure by the State Aid Road
163 Engineer on other projects that qualify for the use of state aid
164 road funds.



165 Any reference in the general laws of this state or the
166 Mississippi Code of 1972 to Section 27-5-105 shall mean and be
167 construed to refer and apply to subsection (4) of Section
168 27-65-75.

169 (5) Until July 1, 2003, One Million Six Hundred Sixty-six
170 Thousand Six Hundred Sixty-six Dollars (\$1,666,666.00) each month
171 shall be paid into the special fund known as the "Textbook and
172 School Supply Fund" to be distributed to all school districts.
173 Such money shall be expended proportionately for the textbooks and
174 school supplies as specified in Section 37-61-33. Such payments
175 into said fund are to be made on the last day of each succeeding
176 month hereafter.

177 From and after July 1, 2003, One Million Six Hundred
178 Sixty-six Thousand Six Hundred Sixty-six Dollars (\$1,666,666.00)
179 shall be paid each month into the special fund known as the
180 "Buildings and Buses Fund" to be distributed to all school
181 districts. This money shall be distributed to all school
182 districts in the proportion that the average daily attendance of
183 each school district bears to the average daily attendance of all
184 school districts within the state for the same purposes as
185 specified in Section 37-61-33, without further regulation or
186 control by the State Board of Education or the State Department of
187 Education. Such payments into the fund are to be made on the last
188 day of each succeeding month hereafter.

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

194 (7) On or before August 15, 1992, and each succeeding month
195 thereafter through July 15, 2000, two and two hundred sixty-six
196 one-thousandths percent (2.266%) of the total sales tax revenue
197 collected during the preceding month under the provisions of this



198 chapter, except that collected under the provisions of Section
199 27-65-17(2) shall be deposited by the commission into the School
200 Ad Valorem Tax Reduction Fund created pursuant to Section
201 37-61-35. On or before August 15, 2000, and each succeeding month
202 thereafter, two and two hundred sixty-six one-thousandths percent
203 (2.266%) of the total sales tax revenue collected during the
204 preceding month under the provisions of this chapter, except that
205 collected under the provisions of Section 27-65-17(2), shall be
206 deposited into the School Ad Valorem Tax Reduction Fund created
207 under Section 37-61-35 until such time that the total amount
208 deposited into the fund during a fiscal year equals Forty-two
209 Million Dollars (\$42,000,000.00). Thereafter, the amounts
210 diverted under this subsection (7) during the fiscal year in
211 excess of Forty-two Million Dollars (\$42,000,000.00) shall be
212 deposited into the Education Enhancement Fund created under
213 Section 37-61-33 for appropriation by the Legislature as other
214 education needs and shall not be subject to the percentage
215 appropriation requirements set forth in Section 37-61-33.

216 (8) On or before August 15, 1992, and each succeeding month
217 thereafter, nine and seventy-three one-thousandths percent
218 (9.073%) of the total sales tax revenue collected during the
219 preceding month under the provisions of this chapter, except that
220 collected under the provisions of Section 27-65-17(2) shall be
221 deposited into the Education Enhancement Fund created pursuant to
222 Section 37-61-33.

223 (9) On or before August 15, 1994, and each succeeding month
224 thereafter, from the revenue collected under this chapter during
225 the preceding month, Two Hundred Fifty Thousand Dollars
226 (\$250,000.00) shall be paid into the State Aid Road Fund.

227 (10) On or before August 15, 1994, and each succeeding month
228 thereafter through August 15, 1995, from the revenue collected
229 under this chapter during the preceding month, Two Million Dollars



230 (\$2,000,000.00) shall be deposited into the Motor Vehicle Ad
231 Valorem Tax Reduction Fund established in Section 27-51-105.

232 (11) Notwithstanding any other provision of this section to
233 the contrary, on or before February 15, 1995, and each succeeding
234 month thereafter, the sales tax revenue collected during the
235 preceding month under the provisions of Section 27-65-17(2) and
236 the corresponding levy in Section 27-65-23 on the rental or lease
237 of private carriers of passengers and light carriers of property
238 as defined in Section 27-51-101 shall be deposited, without
239 diversion, into the Motor Vehicle Ad Valorem Tax Reduction Fund
240 established in Section 27-51-105.

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

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

258 (14) On or before August 15, 1998, and each succeeding month
259 thereafter through July 15, 2005, that portion of the avails of
260 the tax imposed in Section 27-65-23 which is derived from sales by
261 cotton compresses or cotton warehouses and which would otherwise
262 be paid into the General Fund, shall be deposited in an amount not



263 to exceed Two Million Dollars (\$2,000,000.00) into the special
264 fund created pursuant to Section 69-37-39.

265 (15) Notwithstanding any other provision of this section to
266 the contrary, on or before September 15, 2000, and each succeeding
267 month thereafter, the sales tax revenue collected during the
268 preceding month under the provisions of Section 27-65-19(1)(f),
269 shall be deposited, without diversion, into the Telecommunications
270 Ad Valorem Tax Reduction Fund established in Section 27-38-7.

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

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

281 (18) It shall be the duty of the municipal officials of any
282 municipality which expands its limits, or of any community which
283 incorporates as a municipality, to notify the commissioner of such
284 action thirty (30) days before the effective date. Failure to so
285 notify the commissioner shall cause such municipality to forfeit
286 the revenue which it would have been entitled to receive during
287 this period of time when the commissioner had no knowledge of the
288 action. If any funds have been erroneously disbursed to any
289 municipality or any overpayment of tax is recovered by the
290 taxpayer, the commissioner may make correction and adjust the
291 error or overpayment with such municipality by withholding the
292 necessary funds from any subsequent payment to be made to the
293 municipality.

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

