

By: Representative Green

To: Transportation; Ways and Means

HOUSE BILL NO. 1437

1 AN ACT TO AMEND SECTION 27-65-75, MISSISSIPPI CODE OF 1972,
2 TO INCREASE THE AMOUNT OF FUEL TAX PROCEEDS THAT ARE DIVERTED TO
3 THE STATE AID ROAD PROGRAM; TO PROVIDE THAT THE INCREASE IN FUEL
4 TAX DIVERSIONS SHALL BE DEPOSITED INTO A SPECIAL FUND FOR THE
5 PURPOSE OF PROVIDING ADDITIONAL MONIES FOR THE LOCAL SYSTEM ROAD
6 PROGRAM; TO PROVIDE THAT MONIES IN THE SPECIAL FUND SHALL BE
7 ALLOCATED TO THE COUNTIES BASED UPON THE STATE AID ROAD FORMULA;
8 TO AMEND SECTION 65-18-9, MISSISSIPPI CODE OF 1972, IN CONFORMITY
9 WITH THE PROVISIONS OF THIS ACT; AND FOR RELATED PURPOSES.

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

11 **SECTION 1.** Section 27-65-75, Mississippi Code of 1972, is
12 amended as follows:

13 27-65-75. On or before the fifteenth day of each month, the
14 revenue collected under the provisions of this chapter during the
15 preceding month shall be paid and distributed as follows:

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



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

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

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

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



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

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

84 (4) (a) On or before August 15, 1994, and on or before the
85 fifteenth day of each succeeding month through July 15, 1999, from
86 the proceeds of gasoline, diesel fuel or kerosene taxes as
87 provided in Section 27-5-101(a)(ii)1, Four Million Dollars
88 (\$4,000,000.00) shall be deposited in the State Treasury to the
89 credit of a special fund designated as the "State Aid Road Fund,"
90 created by Section 65-9-17. On or before August 15, 1999, and on
91 or before the fifteenth day of each succeeding month, from the
92 total amount of the proceeds of gasoline, diesel fuel or kerosene
93 taxes apportioned by Section 27-5-101(a)(ii)1, Four Million
94 Dollars (\$4,000,000.00) or an amount equal to twenty-three and
95 one-fourth percent (23.25%) of such funds, whichever is the
96 greater amount, shall be deposited in the State Treasury to the



97 credit of the "State Aid Road Fund," created by Section 65-9-17.
98 On or before August 15, 2002, and on or before the fifteenth day
99 of each succeeding month, there shall be deducted from the total
100 amount of the proceeds of gasoline, diesel fuel or kerosene taxes
101 apportioned by Section 27-5-101(a)(ii)1, Four Million Dollars
102 (\$4,000,000.00) or an amount equal to twenty-eight and one-fourth
103 percent (28.25%) of such funds, whichever is the greater amount.
104 The amount so deducted, less the amount prescribed in paragraph
105 (b) of this subsection shall be deposited in the State Treasury to
106 the credit of the "State Aid Road Fund," created by Section
107 65-9-17. Such funds as are deposited in the State Aid Road Fund
108 shall be pledged to pay the principal of and interest on state aid
109 road bonds heretofore issued under Sections 19-9-51 through
110 19-9-77, in lieu of and in substitution for the funds heretofore
111 allocated to counties under this section. Such funds may not be
112 pledged for the payment of any state aid road bonds issued after
113 April 1, 1981; however, this prohibition against the pledging of
114 any such funds for the payment of bonds shall not apply to any
115 bonds for which intent to issue such bonds has been published, for
116 the first time, as provided by law prior to March 29, 1981. From
117 the amount of taxes paid into the special fund pursuant to this
118 paragraph (a) and subsection (9) of this section, there shall be
119 first deducted and paid the amount necessary to pay the expenses
120 of the Office of State Aid Road Construction, as authorized by the
121 Legislature for all other general and special fund agencies. The
122 remainder of the fund shall be allocated monthly to the several
123 counties in accordance with the following formula:
124 (i) One-third (1/3) shall be allocated to all counties
125 in equal shares;
126 (ii) One-third (1/3) shall be allocated to counties
127 based on the proportion that the total number of rural road miles
128 in a county bears to the total number of rural road miles in all
129 counties of the state; and



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

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

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

150 Any reference in the general laws of this state or the
151 Mississippi Code of 1972 to Section 27-5-105 shall mean and be
152 construed to refer and apply to subsection (4) (a) of Section
153 27-65-75.

154 (b) If, under paragraph (a) of this subsection (4), the
155 amount deducted from the total amount of the proceeds of gasoline,
156 diesel fuel or kerosene taxes apportioned by Section
157 27-5-101(a)(ii)1, is greater than Four Million Dollars
158 (\$4,000,000.00), then the amount by which such deduction exceeds,
159 if any, twenty-three and one-fourth percent (23.25%) of such tax
160 proceeds shall be deposited into a special fund in the State
161 Treasury to be known as the "Local System Road Program
162 Supplemental Fund." Monies in such special fund shall be



163 allocated to the several counties for expenditure on projects
164 approved under the Local System Road Program created under Chapter
165 18 of Title 65, Mississippi Code of 1972, in accordance with the
166 same formula for allocation of state aid funds to counties under
167 paragraphs (a)(i), (a)(ii) and (a)(iii) of this subsection (4).

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

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

179 (7) On or before August 15, 1992, and each succeeding month
180 thereafter through July 15, 2000, two and two hundred sixty-six
181 one-thousandths percent (2.266%) of the total sales tax revenue
182 collected during the preceding month under the provisions of this
183 chapter, except that collected under the provisions of Section
184 27-65-17(2) shall be deposited by the commission into the School
185 Ad Valorem Tax Reduction Fund created pursuant to Section
186 37-61-35. On or before August 15, 2000, and each succeeding month
187 thereafter, two and two hundred sixty-six one-thousandths percent
188 (2.266%) of the total sales tax revenue collected during the
189 preceding month under the provisions of this chapter, except that
190 collected under the provisions of Section 27-65-17(2), shall be
191 deposited into the School Ad Valorem Tax Reduction Fund created
192 under Section 37-61-35 until such time that the total amount
193 deposited into the fund during a fiscal year equals Forty-two
194 Million Dollars (\$42,000,000.00). Thereafter, the amounts
195 diverted under this subsection (7) during the fiscal year in



196 excess of Forty-two Million Dollars (\$42,000,000.00) shall be
197 deposited into the Education Enhancement Fund created under
198 Section 37-61-33 for appropriation by the Legislature as other
199 education needs and shall not be subject to the percentage
200 appropriation requirements set forth in Section 37-61-33.

201 (8) On or before August 15, 1992, and each succeeding month
202 thereafter, nine and seventy-three one-thousandths percent
203 (9.073%) 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 Education Enhancement Fund created pursuant to
207 Section 37-61-33.

208 (9) On or before August 15, 1994, and each succeeding month
209 thereafter, from the revenue collected under this chapter during
210 the preceding month, Two Hundred Fifty Thousand Dollars
211 (\$250,000.00) shall be paid into the State Aid Road Fund.

212 (10) On or before August 15, 1994, and each succeeding month
213 thereafter through August 15, 1995, from the revenue collected
214 under this chapter during the preceding month, Two Million Dollars
215 (\$2,000,000.00) shall be deposited into the Motor Vehicle Ad
216 Valorem Tax Reduction Fund established in Section 27-51-105.

217 (11) Notwithstanding any other provision of this section to
218 the contrary, on or before February 15, 1995, and each succeeding
219 month thereafter, the sales tax revenue collected during the
220 preceding month under the provisions of Section 27-65-17(2) and
221 the corresponding levy in Section 27-65-23 on the rental or lease
222 of private carriers of passengers and light carriers of property
223 as defined in Section 27-51-101 shall be deposited, without
224 diversion, into the Motor Vehicle Ad Valorem Tax Reduction Fund
225 established in Section 27-51-105.

226 (12) Notwithstanding any other provision of this section to
227 the contrary, on or before August 15, 1995, and each succeeding
228 month thereafter, the sales tax revenue collected during the



229 preceding month under the provisions of Section 27-65-17(1) on
230 retail sales of private carriers of passengers and light carriers
231 of property, as defined in Section 27-51-101 and the corresponding
232 levy in Section 27-65-23 on the rental or lease of these vehicles,
233 shall be deposited, after diversion, into the Motor Vehicle Ad
234 Valorem Tax Reduction Fund established in Section 27-51-105.

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

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

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

256 (16) On or before August 15, 2000, and each succeeding month
257 thereafter, the sales tax revenue collected during the preceding
258 month under the provisions of this chapter on the gross proceeds
259 of sales of a project as defined in Section 57-30-1 shall be
260 deposited, after all diversions except the diversion provided for



261 in subsection (1) of this section, into the Sales Tax Incentive
262 Fund created in Section 57-30-3.

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

266 (18) It shall be the duty of the municipal officials of any
267 municipality which expands its limits, or of any community which
268 incorporates as a municipality, to notify the commissioner of such
269 action thirty (30) days before the effective date. Failure to so
270 notify the commissioner shall cause such municipality to forfeit
271 the revenue which it would have been entitled to receive during
272 this period of time when the commissioner had no knowledge of the
273 action. If any funds have been erroneously disbursed to any
274 municipality or any overpayment of tax is recovered by the
275 taxpayer, the commissioner may make correction and adjust the
276 error or overpayment with such municipality by withholding the
277 necessary funds from any subsequent payment to be made to the
278 municipality.

279 **SECTION 2.** Section 65-18-9, Mississippi Code of 1972, is
280 amended as follows:

281 65-18-9. (1) The State Aid Engineer shall allocate annually
282 (a) the amount of the state aid road allocation of a county under
283 Section 27-65-75(4)(a) and (b) the amount allocated to the county
284 from the Local System Road Program Supplemental Fund created under
285 Section 27-65-75(4)(b) that is requested by such county for use in
286 the construction, reconstruction and paving of local system roads
287 in the county if the county has met the requirements of this
288 chapter. However, * * * the State Aid Engineer shall not allocate
289 more than twenty-five percent (25%) of the annual state aid road
290 allocation of a county for such purposes.

291 (2) The State Aid Engineer shall allocate annually the
292 amount of the Local System Bridge Replacement and Rehabilitation
293 Program allocation of a county that is requested by such county



294 for use in the construction, reconstruction and paving of local
295 system roads in the county if:

296 (a) The State Aid Engineer has certified, pursuant to
297 Section 65-37-7, that all the local system bridges within the
298 county have a sufficiency rating of greater than fifty (50) or
299 that all such bridges within the county with a sufficiency rating
300 of fifty (50) or less are currently under contract for replacement
301 or rehabilitation; and

302 (b) The county has met the requirements of this
303 chapter.

304 (3) The State Aid Engineer shall establish specific designs
305 and standards to be followed by such counties in the construction,
306 reconstruction and paving of local system roads. The specific
307 designs and standards shall be based upon policies on geometric
308 design of local rural roads, highways and streets adopted and
309 published by the American Association of State Highway and
310 Transportation Officials.

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

