

By: Representative McCoy

To: Ways and Means

HOUSE BILL NO. 1833
(As Passed the House)

1 AN ACT TO AMEND SECTION 27-65-19, MISSISSIPPI CODE OF 1972,
 2 TO PROVIDE THAT IF THE PRIMARY PLACE OF USE OF THE CUSTOMER OF A
 3 MOBILE TELECOMMUNICATIONS PROVIDER IS IN THIS STATE, A SALES TAX
 4 EQUAL TO SEVEN PERCENT OF THE GROSS PROCEEDS OF SALES OF SUCH
 5 PROVIDER IS LEVIED UPON ALL CHARGES FOR TRANSMISSION OF MESSAGES
 6 OR CONVERSATIONS BETWEEN POINTS WITHIN THIS STATE, AND A SALES TAX
 7 EQUAL TO FIVE AND ONE-HALF PERCENT OF THE GROSS PROCEEDS OF SALES
 8 OF SUCH PROVIDER IS LEVIED UPON ALL CHARGES TO SUCH CUSTOMER FOR
 9 SERVICES THAT ORIGINATE IN ONE STATE AND TERMINATE IN ANY OTHER
 10 STATE; TO AMEND SECTION 27-65-5, MISSISSIPPI CODE OF 1972, TO
 11 PROVIDE THAT THE TERM "WHOLESALE SALES" APPLIES TO A SALE OF
 12 TELECOMMUNICATIONS SERVICES TAXABLE UNDER SECTION 27-65-19 FOR
 13 RESALE IN THE REGULAR COURSE OF BUSINESS WHEN MADE TO A REGULAR
 14 TELECOMMUNICATIONS PROVIDER OF SUCH SERVICE WHO IS THE HOLDER OF A
 15 PERMIT TO ENGAGE IN BUSINESS, IS LOCATED IN THIS STATE OR IS
 16 PROVIDING TELECOMMUNICATIONS SERVICES IN THIS STATE; TO AMEND
 17 SECTION 27-65-27, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT BY
 18 MAKING APPLICATION FOR A PERMIT TO ENGAGE IN BUSINESS, A PERSON
 19 AGREES, REGARDLESS OF HIS PRESENCE IN THIS STATE, TO BE SUBJECT TO
 20 THE JURISDICTION OF THIS STATE FOR PURPOSES OF TAXATION, TO
 21 COLLECT AND REMIT ALL TAXES LEVIED IN THE MISSISSIPPI SALES TAX
 22 LAW AND TO BE SUBJECT TO THE PROVISIONS OF THE MISSISSIPPI SALES
 23 TAX LAW; TO AMEND SECTION 27-65-75, MISSISSIPPI CODE OF 1972, TO
 24 REQUIRE THE SALES TAX COLLECTED ON INTERSTATE MOBILE
 25 TELECOMMUNICATIONS SHALL BE DEPOSITED INTO THE TELECOMMUNICATIONS
 26 AD VALOREM TAX REDUCTION FUND; AND FOR RELATED PURPOSES.

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

28 **SECTION 1.** Section 27-65-19, Mississippi Code of 1972, is
 29 amended as follows:

30 27-65-19. (1) (a) Except as otherwise provided in this
 31 subsection, upon every person selling to consumers, electricity,
 32 current, power, potable water, steam, coal, natural gas, liquefied
 33 petroleum gas or other fuel, there is hereby levied, assessed and
 34 shall be collected a tax equal to seven percent (7%) of the gross
 35 income of the business. Provided, gross income from sales to
 36 consumers of electricity, current, power, natural gas, liquefied
 37 petroleum gas or other fuel for residential heating, lighting or
 38 other residential noncommercial or nonagricultural use, and sales
 39 of potable water for residential, noncommercial or nonagricultural



40 use shall be excluded from taxable gross income of the business.
41 Provided further, upon every such seller using electricity,
42 current, power, potable water, steam, coal, natural gas, liquefied
43 petroleum gas or other fuel for nonindustrial purposes, there is
44 hereby levied, assessed and shall be collected a tax equal to
45 seven percent (7%) of the cost or value of the product or service
46 used.

47 (b) There is hereby levied, assessed and shall be
48 collected a tax equal to one and one-half percent (1-1/2%) of the
49 gross income of the business when the electricity, current, power,
50 steam, coal, natural gas, liquefied petroleum gas or other fuel is
51 sold to or used by a manufacturer, custom processor or public
52 service company for industrial purposes, which shall include that
53 used to generate electricity, to operate an electrical
54 distribution or transmission system, to operate pipeline
55 compressor or pumping stations or to operate railroad locomotives;
56 provided, however, that:

57 (i) From and after July 1, 2000, through June 30,
58 2001, sales of fuel used to produce electric power by a company
59 primarily engaged in the business of producing, generating or
60 distributing electric power for sale shall be taxed at the rate of
61 one and one-eighth percent (1.125%);

62 (ii) From and after July 1, 2001, through June 30,
63 2002, sales of fuel used to produce electric power by a company
64 primarily engaged in the business of producing, generating or
65 distributing electric power for sale shall be taxed at the rate of
66 three-fourths of one percent (0.75%);

67 (iii) From and after July 1, 2002, through June
68 30, 2003, sales of fuel used to produce electric power by a
69 company primarily engaged in the business of producing, generating
70 or distributing electric power for sale shall be taxed at the rate
71 of three-eighths of one percent (0.375%);



72 (iv) From and after July 1, 2003, sales of fuel
73 used to produce electric power by a company primarily engaged in
74 the business of producing, generating or distributing electric
75 power for sale shall be exempt from sales tax as provided in
76 Section 27-65-107.

77 (c) The one and one-half percent (1-1/2%) industrial
78 rate provided for in this subsection shall also apply when the
79 electricity, current, power, steam, coal, natural gas, liquefied
80 petroleum gas or other fuel is sold to a producer or processor for
81 use directly in the production of poultry or poultry products, the
82 production of livestock and livestock products, the production of
83 domesticated fish and domesticated fish products, the production
84 of marine aquaculture products, the production of plants or food
85 by commercial horticulturists, the processing of milk and milk
86 products, the processing of poultry and livestock feed, and the
87 irrigation of farm crops.

88 (d) The one and one-half percent (1-1/2%) rate provided
89 for in this subsection shall not apply to sales of fuel for
90 automobiles, trucks, truck-tractors, buses, farm tractors or
91 airplanes.

92 (e) Upon every person operating a telegraph or
93 telephone business for the transmission of messages or
94 conversations between points within this state, there is hereby
95 levied, assessed and shall be collected a tax equal to seven
96 percent (7%) of the gross income of such business, with no
97 deduction or allowance for any part of an intrastate rate charge
98 because of routing across a state line. Charges by one
99 telecommunications provider to another telecommunications provider
100 holding a permit issued under Section 27-65-27 for services that
101 are resold by such other telecommunications provider, including,
102 but not limited to, access charges, shall not be subject to the
103 tax levied pursuant to this paragraph (e). However, any sale of a
104 prepaid telephone calling card or prepaid authorization number, or



105 both, shall be deemed to be the sale of tangible personal property
106 subject only to such taxes imposed by law on the sale of tangible
107 personal property. If the sale of a prepaid telephone calling
108 card or prepaid authorization number does not take place at the
109 vendor's place of business, it shall be conclusively determined to
110 take place at the customer's shipping address. The
111 reauthorization of a prepaid telephone calling card or a prepaid
112 authorization number shall be conclusively determined to take
113 place at the customer's billing address.

114 (f) Upon every person operating a telegraph or
115 telecommunications business for the transmission of messages or
116 conversations originating in this state or terminating in this
117 state via interstate telecommunications, which are charged to the
118 customer's service address in this state, regardless of where such
119 amount is billed or paid, there is hereby levied, assessed and
120 shall be collected a tax equal to five and one-half percent
121 (5-1/2%) of the gross income received by such business from such
122 interstate telecommunications. However, a person, upon proof that
123 he has paid a tax in another state on such event, shall be allowed
124 a credit against the tax imposed in this paragraph (f) on
125 interstate telecommunications charges to the extent that the
126 amount of such tax is properly due and actually paid in such other
127 state and to the extent that the rate of sales tax imposed by and
128 paid to such other state does not exceed the rate of sales tax
129 imposed by this paragraph (f). Charges by one telecommunications
130 provider to another telecommunications provider holding a permit
131 issued under Section 27-65-27 for services that are resold by such
132 other telecommunications provider, including, but not limited to,
133 access charges, shall not be subject to the tax levied pursuant to
134 this paragraph (f). This paragraph (f) shall not apply to persons
135 providing mobile telecommunications services that are taxed
136 pursuant to paragraph (g) of this subsection.



137 (g) (i) Upon every person providing mobile
138 telecommunications services in this state there is hereby levied,
139 assessed and shall be collected:

140 1. A tax equal to seven percent (7%) of the
141 gross income received on such services from all charges for
142 transmission of messages or conversations between points within
143 any single state as they shall be construed to be within this
144 state; and

145 2. A tax equal to five and one-half percent
146 (5-1/2%) on the gross income received on such services from all
147 charges for services that originate in one (1) state and terminate
148 in any other state.

149 (ii) Subject to the provisions of 4 USC 116(c),
150 the tax levied by this paragraph (g) shall apply only to those
151 charges for mobile telecommunications services subject to tax
152 which are deemed to be provided to a customer by a home service
153 provider pursuant to 4 USC 117(a), if the customer's place of
154 primary use is located within this state.

155 (iii) A home service provider shall be responsible
156 for obtaining and maintaining the customer's place of primary use.
157 The home service provider shall be entitled to rely on the
158 applicable residential or business street address supplied by such
159 customer, if the home service provider's reliance is in good
160 faith; and the home service provider shall be held harmless from
161 liability for any additional taxes based on a different
162 determination of the place of primary use for taxes that are
163 customarily passed on to the customer as a separate itemized
164 charge. A home service provider shall be allowed to treat the
165 address used for purposes of the tax levied by this chapter for
166 any customer under a service contract in effect on August 1, 2002,
167 as that customer's place of primary use for the remaining term of
168 such service contract or agreement, excluding any extension or
169 renewal of such service contract or agreement. Month-to-month



170 services provided after the expiration of a contract shall be
171 treated as an extension or renewal of such contract or agreement.

172 If the commissioner determines that the address used by a
173 home service provider as a customer's place of primary use does
174 not meet the definition of the term "place of primary use" as
175 defined in this paragraph (g), the commissioner shall give binding
176 notice to the home service provider to change the place of primary
177 use on a prospective basis from the date of notice of
178 determination; however, the customer shall have the opportunity,
179 prior to such notice of determination, to demonstrate that such
180 address satisfies such definition.

181 The commission has the right to collect any taxes due
182 directly from the home service provider's customer that has failed
183 to provide an address that meets the definition of the term "place
184 of primary use" which resulted in a failure of tax otherwise due
185 being remitted.

186 (iv) For purposes of this paragraph (g):

187 1. "Place of primary use" means the street
188 address representative of where the customer's use of mobile
189 telecommunications services primarily occurs, which shall be
190 either the residential street address of the customer or the
191 primary business street address of the customer.

192 2. "Customer" means the person or entity that
193 contracts with the home service provider for mobile
194 telecommunications services. For determining the place of primary
195 use, in those instances in which the end user of mobile
196 telecommunications services is not the contracting party, the end
197 user of the mobile telecommunications services shall be deemed the
198 customer. The term "customer" shall not include a reseller of
199 mobile telecommunications service, or a serving carrier under an
200 arrangement to serve the customer outside the home service
201 provider's licensed service area.



202 3. "Home service provider" means the
203 facilities-based carrier or reseller with which the customer
204 contracts for the provision of mobile telecommunications services.

205 (2) Persons making sales to consumers of electricity,
206 current, power, natural gas, liquefied petroleum gas or other fuel
207 for residential heating, lighting or other residential
208 noncommercial or nonagricultural use or sales of potable water for
209 residential, noncommercial or nonagricultural use shall indicate
210 on each statement rendered to customers that such charges are
211 exempt from sales taxes.

212 (3) There is hereby levied, assessed and shall be paid on
213 transportation charges on shipments moving between points within
214 this state when paid directly by the consumer, a tax equal to the
215 rate applicable to the sale of the property being transported.
216 Such tax shall be reported and paid directly to the State Tax
217 Commission by the consumer.

218 **SECTION 2.** Section 27-65-5, Mississippi Code of 1972, is
219 amended as follows:

220 27-65-5. "Wholesaler," "jobber" or "distributor" means a
221 person doing a regularly organized wholesale or jobbing business,
222 known to the trade as such, and selling to licensed retail dealers
223 or other wholesalers for resale in the regular course of business.
224 This classification has no bearing on rates of tax due under this
225 chapter, each sale or part of sales being taxable or exempt
226 depending upon the class in which it falls.

227 "Wholesale sales" shall apply to:

228 (1) A sale of tangible personal property taxable under
229 Sections 27-65-17 and 27-65-25 for resale in the regular line of
230 business, when made in good faith to a retailer regularly selling
231 or renting that property and when said dealer is licensed under
232 Section 27-65-27 of this chapter if located in this state.

233 A sale of a service taxable under Section 27-65-23 for resale
234 in the regular line of business, when made to a regular dealer in



235 that service and when said dealer is licensed under Section
236 27-65-27 of this chapter if located in this state, or a charge for
237 custom processing rendered upon merchandise for resale or rental
238 by a dealer licensed under Section 27-65-27.

239 A sale of telecommunications services taxable under Section
240 27-65-19 for resale in the regular course of business, when made
241 to a regular telecommunications provider of such service and such
242 provider is the holder of a permit issued under Section 27-65-27
243 and is located in this state or is providing telecommunications
244 services in this state.

245 "Wholesale sale" shall not include a transaction whereby
246 property is delivered to and collection for same is made from a
247 person that will consume the property rather than resell it even
248 though the billing is to a retailer.

249 Provided, however, that when a taxpayer sells merchandise and
250 has paid a rate equal to the retail rate of tax on the purchase
251 price to a wholesaler, the taxpayer may take credit for the tax
252 paid to the wholesaler from the tax due on the sale of the
253 merchandise specifically included in his return to the
254 commissioner.

255 (2) A sale of tangible personal property (except sand
256 or gravel when sold by the producer thereof) or service which is
257 to become a component part of a structure or improvement erected,
258 constructed, repaired, or made only when such sale is made to a
259 contractor taxable under Section 27-65-21 of this chapter on the
260 contract in which the component materials are to be used; and only
261 when the contractor holds a material purchase certificate as
262 required by Section 27-65-21 of this chapter.

263 (3) A sale of boxes, crates, cartons, cans, bottles and
264 other packaging materials to a retailer or retail custom processor
265 for use as a container to accompany goods or services sold by said
266 retailer or custom processor where possession thereof will pass to



267 the customer at the time of sale of the goods or services
268 contained therein.

269 (4) The value of soft drinks and syrup withdrawn from
270 the business by a manufacturer for sale at retail and food or
271 drink withdrawn by a manufacturer or wholesaler to be sold through
272 full service vending machines for human consumption.

273 The quantity of property or services sold or the price at
274 which sold is immaterial in determining whether or not a sale is
275 at wholesale. Sales may be classed as wholesale, or exempt, only
276 if evidenced by proper and adequate records and invoices to
277 substantiate the wholesale rate or exemption from the tax on each
278 individual sale.

279 The substantiation of the wholesale sales must be by an
280 invoice clearly indicating the date, the name and address of the
281 vendor and vendee, the items sold and the price thereof. Such
282 proof of wholesale sales shall be filed in chronological order and
283 thus preserved for a period of three (3) years from the date of
284 sale. These records shall be subject to inspection by the
285 commissioner and his agents, at their discretion, for the
286 verification of returns filed by either the wholesaler or his
287 customers.

288 The substantiation of an exempt sale must be by an invoice
289 containing the same information as required for the wholesale
290 sales. This requirement shall apply equally to a retailer making
291 wholesale or exempt sales.

292 Any failure to comply with all the above requirements shall
293 subject the violator to the retail rate of tax on all such
294 violations.

295 **SECTION 3.** Section 27-65-27, Mississippi Code of 1972, is
296 amended as follows:

297 27-65-27. (1) Any person who engages, or who intends to
298 engage, in any business or activity which will subject such person
299 to a privilege tax imposed by this chapter, shall apply to the



300 commissioner for a permit to engage in and to conduct any business
301 or activity upon the condition that he shall pay the tax accruing
302 to the State of Mississippi under the provisions of this chapter,
303 and shall keep adequate records of such business or activity as
304 required by this chapter. By making an application for a permit
305 issued pursuant to this section, a person agrees, regardless of
306 his presence in this state, to:

307 (a) Be subject to the jurisdiction of this state for
308 purposes of taxation;

309 (b) Collect and remit all taxes levied under this
310 chapter on the type of business or activity to be conducted by the
311 applicant;

312 (c) Be subject to all the provisions of this chapter.

313 (2) Upon receipt of such permit, the applicant shall be duly
314 licensed under this chapter to engage in and conduct such business
315 or activity. Said permit shall continue in force so long as the
316 person to whom it is issued shall continue in the same business at
317 the same location, unless revoked by the commissioner for cause.

318 (3) The commissioner shall require of every person desiring
319 to engage in business within this state who maintains no permanent
320 place of business within this state, of every person desiring to
321 engage in the business of making sales of mobile homes, a cash
322 bond or an approved surety bond in an amount sufficient to cover
323 twice the estimated tax liability for a period of three (3)
324 months. Provided, however, that the bond shall in no case be less
325 than One Hundred Dollars (\$100.00) and that the tax may be prepaid
326 in lieu of filing bond if the amount is approved by the
327 commissioner. This bond shall be filed with the commissioner
328 prior to the issuance of a permit to do business and before any
329 such person may engage in business within this state. Failure to
330 comply with the provision will subject such person to the
331 penalties provided by this chapter.



332 (4) The commissioner is hereby authorized to revoke the
333 permit of any person failing to comply with any of the provisions
334 of this chapter, after giving to the person holding such permit
335 ten (10) days' notice of the intention of the commissioner to
336 revoke such license. Unless good cause be shown within said ten
337 (10) days why such permit should not be revoked, the commissioner
338 may revoke such permit, and revocation of such permit, or engaging
339 or continuing in business after such permit is revoked, shall
340 subject such person to all the penalties imposed by this chapter.

341 (5) Any person liable for the tax who fails to obtain a
342 permit from the commissioner, or who continues in business after
343 such permit has been revoked, or who fails to make his returns for
344 taxation as provided, or who fails to keep adequate records and
345 invoices provided by this chapter, or who fails or refuses to
346 permit inspection of such records, or who fails to pay any taxes
347 due hereunder, shall forfeit his rights to do business in this
348 state until he complies with all the provisions of this chapter
349 and until he enters into a bond, with sureties, to be approved by
350 the commissioner, in an amount not to exceed twice the amount of
351 all taxes estimated to become due under this chapter by said
352 person for any period of three (3) months, conditioned to comply
353 with the provisions of this chapter, and pay all taxes legally due
354 by him.

355 (6) If any person is engaged in or continuing in this state
356 in any business or activity without obtaining a permit, or after
357 such permit has been revoked, or without filing a required bond,
358 or without keeping and allowing inspection of all records required
359 by this chapter, or without making a return, or returns, and
360 without paying all taxes due by him hereunder, it shall be the
361 duty of the commissioner to proceed by injunction to prevent the
362 continuance of said business. Any temporary injunction enjoining
363 the continuance of such business shall be granted without notice
364 by a judge or chancellor now authorized to grant injunctions.



365 **SECTION 4.** Section 27-65-75, Mississippi Code of 1972, is
366 amended as follows:

367 27-65-75. On or before the fifteenth day of each month, the
368 revenue collected under the provisions of this chapter during the
369 preceding month shall be paid and distributed as follows:

370 (1) On or before August 15, 1992, and each succeeding month
371 thereafter through July 15, 1993, eighteen percent (18%) of the
372 total sales tax revenue collected during the preceding month under
373 the provisions of this chapter, except that collected under the
374 provisions of Sections 27-65-15, 27-65-19(3) and 27-65-21, on
375 business activities within a municipal corporation shall be
376 allocated for distribution to such municipality and paid to such
377 municipal corporation. On or before August 15, 1993, and each
378 succeeding month thereafter, eighteen and one-half percent
379 (18-1/2%) of the total sales tax revenue collected during the
380 preceding month under the provisions of this chapter, except that
381 collected under the provisions of Sections 27-65-15, 27-65-19(3)
382 and 27-65-21, on business activities within a municipal
383 corporation shall be allocated for distribution to such
384 municipality and paid to such municipal corporation.

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

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

394 In any county having a county seat which is not an
395 incorporated municipality, the distribution provided hereunder
396 shall be made as though the county seat was an incorporated
397 municipality; however, the distribution to such municipality shall



398 be paid to the county treasury wherein the municipality is located
399 and such funds shall be used for road, bridge and street
400 construction or maintenance therein.

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

426 (3) On or before September 15, 1987, and on or before the
427 fifteenth day of each succeeding month, until the date specified
428 in Section 65-39-35, the proceeds derived from contractors' taxes
429 levied under Section 27-65-21 on contracts for the construction or
430 reconstruction of highways designated under the Four-Lane Highway



431 Program created under Section 65-3-97 shall, except as otherwise
432 provided in Section 31-17-127, be deposited into the State
433 Treasury to the credit of the State Highway Fund to be used to
434 fund such Four-Lane Highway Program. The Mississippi Department
435 of Transportation shall provide to the State Tax Commission such
436 information as is necessary to determine the amount of proceeds to
437 be distributed under this subsection.

438 (4) On or before August 15, 1994, and on or before the
439 fifteenth day of each succeeding month through July 15, 1999, from
440 the proceeds of gasoline, diesel fuel or kerosene taxes as
441 provided in Section 27-5-101(a)(ii)1, Four Million Dollars
442 (\$4,000,000.00) shall be deposited in the State Treasury to the
443 credit of a special fund designated as the "State Aid Road Fund,"
444 created by Section 65-9-17. On or before August 15, 1999, and on
445 or before the fifteenth day of each succeeding month, from the
446 total amount of the proceeds of gasoline, diesel fuel or kerosene
447 taxes apportioned by Section 27-5-101(a)(ii)1, Four Million
448 Dollars (\$4,000,000.00) or an amount equal to twenty-three and
449 one-fourth percent (23.25%) of such funds, whichever is the
450 greater amount, shall be deposited in the State Treasury to the
451 credit of the "State Aid Road Fund," created by Section 65-9-17.
452 Such funds shall be pledged to pay the principal of and interest
453 on state aid road bonds heretofore issued under Sections 19-9-51
454 through 19-9-77, in lieu of and in substitution for the funds
455 heretofore allocated to counties under this section. Such funds
456 may not be pledged for the payment of any state aid road bonds
457 issued after April 1, 1981; however, this prohibition against the
458 pledging of any such funds for the payment of bonds shall not
459 apply to any bonds for which intent to issue such bonds has been
460 published, for the first time, as provided by law prior to March
461 29, 1981. From the amount of taxes paid into the special fund
462 pursuant to this subsection and subsection (9) of this section,
463 there shall be first deducted and paid the amount necessary to pay



464 the expenses of the Office of State Aid Road Construction, as
465 authorized by the Legislature for all other general and special
466 fund agencies. The remainder of the fund shall be allocated
467 monthly to the several counties in accordance with the following
468 formula:

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

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

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

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

482 The amount of funds allocated to any county under this
483 subsection for any fiscal year after fiscal year 1994 shall not be
484 less than the amount allocated to such county for fiscal year
485 1994. Monies allocated to a county from the State Aid Road Fund
486 for fiscal year 1995 or any fiscal year thereafter that exceed the
487 amount of funds allocated to that county from the State Aid Road
488 Fund for fiscal year 1994, first must be expended by the county
489 for replacement or rehabilitation of bridges on the state aid road
490 system that have a sufficiency rating of less than twenty-five
491 (25), according to National Bridge Inspection standards before
492 such monies may be approved for expenditure by the State Aid Road
493 Engineer on other projects that qualify for the use of state aid
494 road funds.

495 Any reference in the general laws of this state or the
496 Mississippi Code of 1972 to Section 27-5-105 shall mean and be



497 construed to refer and apply to subsection (4) of Section
498 27-65-75.

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

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

510 (7) On or before August 15, 1992, and each succeeding month
511 thereafter through July 15, 2000, two and two hundred sixty-six
512 one-thousandths percent (2.266%) of the total sales tax revenue
513 collected during the preceding month under the provisions of this
514 chapter, except that collected under the provisions of Section
515 27-65-17(2) shall be deposited by the commission into the School
516 Ad Valorem Tax Reduction Fund created pursuant to Section
517 37-61-35. On or before August 15, 2000, and each succeeding month
518 thereafter, two and two hundred sixty-six one-thousandths percent
519 (2.266%) of the total sales tax revenue collected during the
520 preceding month under the provisions of this chapter, except that
521 collected under the provisions of Section 27-65-17(2), shall be
522 deposited into the School Ad Valorem Tax Reduction Fund created
523 under Section 37-61-35 until such time that the total amount
524 deposited into the fund during a fiscal year equals Forty-two
525 Million Dollars (\$42,000,000.00). Thereafter, the amounts
526 diverted under this subsection (7) during the fiscal year in
527 excess of Forty-two Million Dollars (\$42,000,000.00) shall be
528 deposited into the Education Enhancement Fund created under
529 Section 37-61-33 for appropriation by the Legislature as other



530 education needs and shall not be subject to the percentage
531 appropriation requirements set forth in Section 37-61-33.

532 (8) On or before August 15, 1992, and each succeeding month
533 thereafter, nine and seventy-three one-thousandths percent
534 (9.073%) of the total sales tax revenue collected during the
535 preceding month under the provisions of this chapter, except that
536 collected under the provisions of Section 27-65-17(2) shall be
537 deposited into the Education Enhancement Fund created pursuant to
538 Section 37-61-33.

539 (9) On or before August 15, 1994, and each succeeding month
540 thereafter, from the revenue collected under this chapter during
541 the preceding month, Two Hundred Fifty Thousand Dollars
542 (\$250,000.00) shall be paid into the State Aid Road Fund.

543 (10) On or before August 15, 1994, and each succeeding month
544 thereafter through August 15, 1995, from the revenue collected
545 under this chapter during the preceding month, Two Million Dollars
546 (\$2,000,000.00) shall be deposited into the Motor Vehicle Ad
547 Valorem Tax Reduction Fund established in Section 27-51-105.

548 (11) Notwithstanding any other provision of this section to
549 the contrary, on or before February 15, 1995, and each succeeding
550 month thereafter, the sales tax revenue collected during the
551 preceding month under the provisions of Section 27-65-17(2) and
552 the corresponding levy in Section 27-65-23 on the rental or lease
553 of private carriers of passengers and light carriers of property
554 as defined in Section 27-51-101 shall be deposited, without
555 diversion, into the Motor Vehicle Ad Valorem Tax Reduction Fund
556 established in Section 27-51-105.

557 (12) Notwithstanding any other provision of this section to
558 the contrary, on or before August 15, 1995, and each succeeding
559 month thereafter, the sales tax revenue collected during the
560 preceding month under the provisions of Section 27-65-17(1) on
561 retail sales of private carriers of passengers and light carriers
562 of property, as defined in Section 27-51-101 and the corresponding



563 levy in Section 27-65-23 on the rental or lease of these vehicles,
564 shall be deposited, after diversion, into the Motor Vehicle Ad
565 Valorem Tax Reduction Fund established in Section 27-51-105.

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

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

581 (15) Notwithstanding any other provision of this section to
582 the contrary, on or before September 15, 2000, and each succeeding
583 month thereafter, the sales tax revenue collected during the
584 preceding month under the provisions of Section 27-65-19(1)(f) and
585 (g)(i)2, shall be deposited, without diversion, into the
586 Telecommunications Ad Valorem Tax Reduction Fund established in
587 Section 27-38-7.

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



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

598 (18) It shall be the duty of the municipal officials of any
599 municipality which expands its limits, or of any community which
600 incorporates as a municipality, to notify the commissioner of such
601 action thirty (30) days before the effective date. Failure to so
602 notify the commissioner shall cause such municipality to forfeit
603 the revenue which it would have been entitled to receive during
604 this period of time when the commissioner had no knowledge of the
605 action. If any funds have been erroneously disbursed to any
606 municipality or any overpayment of tax is recovered by the
607 taxpayer, the commissioner may make correction and adjust the
608 error or overpayment with such municipality by withholding the
609 necessary funds from any subsequent payment to be made to the
610 municipality.

611 **SECTION 5.** Sections 1 and 4 of this act shall take effect
612 and be in force from and after August 1, 2002. The remainder of
613 this act shall take effect and be in force from and after July 1,
614 2002.

