

By: Senator(s) Bryan

To: Finance

## SENATE BILL NO. 3119

1 AN ACT TO PROVIDE THAT IF THE PRIMARY PLACE OF USE OF THE  
2 CUSTOMER OF A MOBILE TELECOMMUNICATIONS PROVIDER IS IN THIS STATE,  
3 A SALES TAX EQUAL TO 7% OF THE GROSS PROCEEDS OF SALES OF SUCH  
4 PROVIDER IS LEVIED UPON ALL CHARGES FOR TRANSMISSION OF MESSAGES  
5 OR CONVERSATIONS; TO AMEND SECTION 27-65-19, MISSISSIPPI CODE OF  
6 1972, TO PROVIDE THAT AN ADDITIONAL TAX OF 1.5% SHALL BE IMPOSED  
7 UPON TELECOMMUNICATIONS PROVIDERS THAT ARE CURRENTLY TAXED AT  
8 5.5%; TO AMEND SECTION 27-65-5, MISSISSIPPI CODE OF 1972, TO  
9 PROVIDE THAT THE TERM "WHOLESALE SALES" APPLIES TO A SALE OF  
10 TELECOMMUNICATIONS SERVICES TAXABLE UNDER SECTION 27-65-19 FOR  
11 RESALE IN THE REGULAR COURSE OF BUSINESS WHEN MADE TO A REGULAR  
12 TELECOMMUNICATIONS PROVIDER OF SUCH SERVICE WHO IS THE HOLDER OF A  
13 PERMIT TO ENGAGE IN BUSINESS, IS LOCATED IN THIS STATE OR IS  
14 PROVIDING TELECOMMUNICATIONS SERVICES IN THIS STATE; TO AMEND  
15 SECTION 27-65-27, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT BY  
16 MAKING APPLICATION FOR A PERMIT TO ENGAGE IN BUSINESS, A PERSON  
17 AGREES, REGARDLESS OF HIS PRESENCE IN THIS STATE, TO BE SUBJECT TO  
18 THE JURISDICTION OF THIS STATE FOR PURPOSES OF TAXATION, TO  
19 COLLECT AND REMIT ALL TAXES LEVIED UNDER THE MISSISSIPPI SALES TAX  
20 LAW AND TO BE SUBJECT TO THE PROVISIONS OF THE MISSISSIPPI SALES  
21 TAX LAW; TO AMEND SECTION 27-65-75, MISSISSIPPI CODE OF 1972, TO  
22 REQUIRE THAT A PORTION OF THE SALES TAX COLLECTED ON INTERSTATE  
23 MOBILE TELECOMMUNICATIONS SHALL BE DEPOSITED INTO THE  
24 TELECOMMUNICATIONS AD VALOREM TAX REDUCTION FUND AND THAT A  
25 PORTION OF THE SALES TAX COLLECTED ON INTERSTATE MOBILE  
26 TELECOMMUNICATIONS AND OTHER INTERSTATE TELECOMMUNICATIONS SHALL  
27 BE DEPOSITED INTO THE GENERAL FUND; AND FOR RELATED PURPOSES.

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

29 **SECTION 1.** (1) For purposes of this section:

30 (a) "Place of primary use" means the street address  
31 representative of where the customer's use of mobile  
32 telecommunications services primarily occurs, which shall be  
33 either the residential street address of the customer or the  
34 primary business street address of the customer.

35 (b) "Customer" means the person or entity that  
36 contracts with the home service provider for mobile  
37 telecommunications services. For determining the place of primary  
38 use, in those instances in which the end user of mobile  
39 telecommunications services is not the contracting party, the end



40 user of the mobile telecommunications services shall be deemed the  
41 customer. The term "customer" shall not include a reseller of  
42 mobile telecommunications service, or a serving carrier under an  
43 arrangement to serve the customer outside the home service  
44 provider's licensed service area.

45 (c) "Home service provider" means the facilities-based  
46 carrier or reseller with which the customer contracts for the  
47 provision of mobile telecommunications services.

48 (2) Upon every person providing mobile telecommunications  
49 services in this state there is hereby levied, assessed and shall  
50 be collected:

51 (a) A tax equal to seven percent (7%) of the gross  
52 income received on such services from all charges for transmission  
53 of messages or conversations between points within any single  
54 state as they shall be construed to be within this state; and

55 (b) (i) A tax equal to five and one-half percent  
56 (5.5%) on the gross income received from all charges for services  
57 that are either originating in any other state or terminating in  
58 any other state.

59 (ii) A tax equal to one and one-half percent  
60 (1.5%) on the gross income received from all charges for services  
61 that are either originating in any other state or terminating in  
62 any other state.

63 (3) Subject to the provisions of 4 USC 116(c), the tax  
64 levied by this section shall apply only to those charges for  
65 mobile telecommunications services subject to tax which are deemed  
66 to be provided to a customer by a home service provider pursuant  
67 to 4 USC 117(a), if the customer's place of primary use is located  
68 within this state.

69 (4) (a) A home service provider shall be responsible for  
70 obtaining and maintaining the customer's place of primary use.  
71 The home service provider shall be entitled to rely on the  
72 applicable residential or business street address supplied by such



73 customer, if the home service provider's reliance is in good  
74 faith; and the home service provider shall be held harmless from  
75 liability for any additional taxes based on a different  
76 determination of the place of primary use for taxes that are  
77 customarily passed on to the customer as a separate itemized  
78 charge. A home service provider shall be allowed to treat the  
79 address used for purposes of the tax levied by this chapter for  
80 any customer under a service contract in effect on August 1, 2002,  
81 as that customer's place or primary use for the remaining term of  
82 such service contract or agreement, excluding any extension or  
83 renewal of such service contract or agreement. Month-to-month  
84 services provided after the expiration of a contract shall be  
85 treated as an extension or renewal of such contract or agreement.

86 (b) If the commissioner determines that the address  
87 used by a home service provider as a customer's place of primary  
88 use does not meet the definition of the term "place of primary  
89 use" as defined in this paragraph, the commissioner shall give  
90 binding notice to the home service provider to change the place of  
91 primary use on a prospective basis from the date of notice of  
92 determination; however, the customer shall have the opportunity,  
93 prior to such notice of determination, to demonstrate that such  
94 address satisfies such definition.

95 (c) The commission has the right to collect any taxes  
96 due directly from the home service provider's customer that has  
97 failed to provide an address that meets the definition of the term  
98 "place of primary use" which resulted in a failure of tax  
99 otherwise due being remitted.

100 **SECTION 2.** Section 27-65-19, Mississippi Code of 1972, is  
101 amended as follows:

102 27-65-19. (1) (a) Except as otherwise provided in this  
103 subsection, upon every person selling to consumers, electricity,  
104 current, power, potable water, steam, coal, natural gas, liquefied  
105 petroleum gas or other fuel, there is hereby levied, assessed and



106 shall be collected a tax equal to seven percent (7%) of the gross  
107 income of the business. Provided, gross income from sales to  
108 consumers of electricity, current, power, natural gas, liquefied  
109 petroleum gas or other fuel for residential heating, lighting or  
110 other residential noncommercial or nonagricultural use, and sales  
111 of potable water for residential, noncommercial or nonagricultural  
112 use shall be excluded from taxable gross income of the business.  
113 Provided further, upon every such seller using electricity,  
114 current, power, potable water, steam, coal, natural gas, liquefied  
115 petroleum gas or other fuel for nonindustrial purposes, there is  
116 hereby levied, assessed and shall be collected a tax equal to  
117 seven percent (7%) of the cost or value of the product or service  
118 used.

119 (b) There is hereby levied, assessed and shall be  
120 collected a tax equal to one and one-half percent (1-1/2%) of the  
121 gross income of the business when the electricity, current, power,  
122 steam, coal, natural gas, liquefied petroleum gas or other fuel is  
123 sold to or used by a manufacturer, custom processor or public  
124 service company for industrial purposes, which shall include that  
125 used to generate electricity, to operate an electrical  
126 distribution or transmission system, to operate pipeline  
127 compressor or pumping stations or to operate railroad locomotives;  
128 provided, however, that:

129 (i) From and after July 1, 2000, through June 30,  
130 2001, sales of fuel used to produce electric power by a company  
131 primarily engaged in the business of producing, generating or  
132 distributing electric power for sale shall be taxed at the rate of  
133 one and one-eighth percent (1.125%);

134 (ii) From and after July 1, 2001, through June 30,  
135 2002, sales of fuel used to produce electric power by a company  
136 primarily engaged in the business of producing, generating or  
137 distributing electric power for sale shall be taxed at the rate of  
138 three-fourths of one percent (0.75%);



139 (iii) From and after July 1, 2002, through June  
140 30, 2003, sales of fuel used to produce electric power by a  
141 company primarily engaged in the business of producing, generating  
142 or distributing electric power for sale shall be taxed at the rate  
143 of three-eighths of one percent (0.375%);

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

149 (c) The one and one-half percent (1-1/2%) industrial  
150 rate provided for in this subsection shall also apply when the  
151 electricity, current, power, steam, coal, natural gas, liquefied  
152 petroleum gas or other fuel is sold to a producer or processor for  
153 use directly in the production of poultry or poultry products, the  
154 production of livestock and livestock products, the production of  
155 domesticated fish and domesticated fish products, the production  
156 of marine aquaculture products, the production of plants or food  
157 by commercial horticulturists, the processing of milk and milk  
158 products, the processing of poultry and livestock feed, and the  
159 irrigation of farm crops.

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

164 (e) Upon every person operating a telegraph or  
165 telephone business for the transmission of messages or  
166 conversations between points within this state, there is hereby  
167 levied, assessed and shall be collected a tax equal to seven  
168 percent (7%) of the gross income of such business, with no  
169 deduction or allowance for any part of an intrastate rate charge  
170 because of routing across a state line. Charges by one  
171 telecommunications provider to another telecommunications provider



172 holding a permit issued under Section 27-65-27 for services that  
173 are resold by such other telecommunications provider, including,  
174 but not limited to, access charges, shall not be subject to the  
175 tax levied pursuant to this paragraph (e). However, any sale of a  
176 prepaid telephone calling card or prepaid authorization number, or  
177 both, shall be deemed to be the sale of tangible personal property  
178 subject only to such taxes imposed by law on the sale of tangible  
179 personal property. If the sale of a prepaid telephone calling  
180 card or prepaid authorization number does not take place at the  
181 vendor's place of business, it shall be conclusively determined to  
182 take place at the customer's shipping address. The  
183 reauthorization of a prepaid telephone calling card or a prepaid  
184 authorization number shall be conclusively determined to take  
185 place at the customer's billing address.

186 (f) (i) Upon every person operating a telegraph or  
187 telecommunications business for the transmission of messages or  
188 conversations originating in this state or terminating in this  
189 state via interstate telecommunications, which are charged to the  
190 customer's service address in this state, regardless of where such  
191 amount is billed or paid, there is hereby levied, assessed and  
192 shall be collected a tax equal to five and one-half percent (5.5%)  
193 of the gross income received by such business from such interstate  
194 telecommunications. However, a person, upon proof that he has  
195 paid a tax in another state on such event, shall be allowed a  
196 credit against the tax imposed in this paragraph (f) on interstate  
197 telecommunications charges to the extent that the amount of such  
198 tax is properly due and actually paid in such other state and to  
199 the extent that the rate of sales tax imposed by and paid to such  
200 other state does not exceed the rate of sales tax imposed by this  
201 paragraph (f). Charges by one telecommunications provider to  
202 another telecommunications provider holding a permit issued under  
203 Section 27-65-27 for services that are resold by such other  
204 telecommunications provider, including, but not limited to, access



205 charges, shall not be subject to the tax levied pursuant to this  
206 paragraph (f).

207 (ii) Except as otherwise provided in Section 1 of  
208 Senate Bill No. 3119, 2002 Regular Session, from and after July 1,  
209 2002, in addition to the tax levied in subparagraph (i) of this  
210 subsection (f), there is hereby levied, assessed and shall be  
211 collected a tax equal to one and one-half percent (1.5%) of the  
212 gross income received by such business from such interstate  
213 telecommunications.

214 (iii) This paragraph (f) shall not apply to  
215 persons providing mobile telecommunications services that are  
216 taxed pursuant to Section 1, Senate Bill No. 3119, 2002 Regular  
217 Session.

218 (2) Persons making sales to consumers of electricity,  
219 current, power, natural gas, liquefied petroleum gas or other fuel  
220 for residential heating, lighting or other residential  
221 noncommercial or nonagricultural use or sales of potable water for  
222 residential, noncommercial or nonagricultural use shall indicate  
223 on each statement rendered to customers that such charges are  
224 exempt from sales taxes.

225 (3) There is hereby levied, assessed and shall be paid on  
226 transportation charges on shipments moving between points within  
227 this state when paid directly by the consumer, a tax equal to the  
228 rate applicable to the sale of the property being transported.  
229 Such tax shall be reported and paid directly to the State Tax  
230 Commission by the consumer.

231 **SECTION 3.** Section 27-65-5, Mississippi Code of 1972, is  
232 amended as follows:

233 27-65-5. "Wholesaler," "jobber" or "distributor" means a  
234 person doing a regularly organized wholesale or jobbing business,  
235 known to the trade as such, and selling to licensed retail dealers  
236 or other wholesalers for resale in the regular course of business.  
237 This classification has no bearing on rates of tax due under this



238 chapter, each sale or part of sales being taxable or exempt  
239 depending upon the class in which it falls.

240 "Wholesale sales" shall apply to:

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

246 A sale of a service taxable under Section 27-65-23 for resale  
247 in the regular line of business, when made to a regular dealer in  
248 that service and when said dealer is licensed under Section  
249 27-65-27 of this chapter if located in this state, or a charge for  
250 custom processing rendered upon merchandise for resale or rental  
251 by a dealer licensed under Section 27-65-27.

252 A sale of telecommunications services taxable under Section  
253 27-65-19 for resale in the regular course of business, when made  
254 to a regular telecommunications provider of such service and such  
255 provider is the holder of a permit issued under Section 27-65-27,  
256 is located in this state or is providing telecommunications  
257 services in this state.

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

262 Provided, however, that when a taxpayer sells merchandise and  
263 has paid a rate equal to the retail rate of tax on the purchase  
264 price to a wholesaler, the taxpayer may take credit for the tax  
265 paid to the wholesaler from the tax due on the sale of the  
266 merchandise specifically included in his return to the  
267 commissioner.

268 (2) A sale of tangible personal property (except sand  
269 or gravel when sold by the producer thereof) or service which is  
270 to become a component part of a structure or improvement erected,





271 constructed, repaired, or made only when such sale is made to a  
272 contractor taxable under Section 27-65-21 of this chapter on the  
273 contract in which the component materials are to be used; and only  
274 when the contractor holds a material purchase certificate as  
275 required by Section 27-65-21 of this chapter.

276 (3) A sale of boxes, crates, cartons, cans, bottles and  
277 other packaging materials to a retailer or retail custom processor  
278 for use as a container to accompany goods or services sold by said  
279 retailer or custom processor where possession thereof will pass to  
280 the customer at the time of sale of the goods or services  
281 contained therein.

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

286 The quantity of property or services sold or the price at  
287 which sold is immaterial in determining whether or not a sale is  
288 at wholesale. Sales may be classed as wholesale, or exempt, only  
289 if evidenced by proper and adequate records and invoices to  
290 substantiate the wholesale rate or exemption from the tax on each  
291 individual sale.

292 The substantiation of the wholesale sales must be by an  
293 invoice clearly indicating the date, the name and address of the  
294 vendor and vendee, the items sold and the price thereof. Such  
295 proof of wholesale sales shall be filed in chronological order and  
296 thus preserved for a period of three (3) years from the date of  
297 sale. These records shall be subject to inspection by the  
298 commissioner and his agents, at their discretion, for the  
299 verification of returns filed by either the wholesaler or his  
300 customers.

301 The substantiation of an exempt sale must be by an invoice  
302 containing the same information as required for the wholesale



303 sales. This requirement shall apply equally to a retailer making  
304 wholesale or exempt sales.

305 Any failure to comply with all the above requirements shall  
306 subject the violator to the retail rate of tax on all such  
307 violations.

308 **SECTION 4.** Section 27-65-27, Mississippi Code of 1972, is  
309 amended as follows:

310 27-65-27. (1) Any person who engages, or who intends to  
311 engage, in any business or activity which will subject such person  
312 to a privilege tax imposed by this chapter, shall apply to the  
313 commissioner for a permit to engage in and to conduct any business  
314 or activity upon the condition that he shall pay the tax accruing  
315 to the State of Mississippi under the provisions of this chapter,  
316 and shall keep adequate records of such business or activity as  
317 required by this chapter. By making an application for a permit  
318 issued pursuant to this section, a person agrees, regardless of  
319 his presence in this state, to:

320 (a) Be subject to the jurisdiction of this state for  
321 purposes of taxation;

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

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

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

331 (3) The commissioner shall require of every person desiring  
332 to engage in business within this state who maintains no permanent  
333 place of business within this state, of every person desiring to  
334 engage in the business of making sales of mobile homes, a cash  
335 bond or an approved surety bond in an amount sufficient to cover



336 twice the estimated tax liability for a period of three (3)  
337 months. Provided, however, that the bond shall in no case be less  
338 than One Hundred Dollars (\$100.00) and that the tax may be prepaid  
339 in lieu of filing bond if the amount is approved by the  
340 commissioner. This bond shall be filed with the commissioner  
341 prior to the issuance of a permit to do business and before any  
342 such person may engage in business within this state. Failure to  
343 comply with the provision will subject such person to the  
344 penalties provided by this chapter.

345       (4) The commissioner is hereby authorized to revoke the  
346 permit of any person failing to comply with any of the provisions  
347 of this chapter, after giving to the person holding such permit  
348 ten (10) days' notice of the intention of the commissioner to  
349 revoke such license. Unless good cause be shown within said ten  
350 (10) days why such permit should not be revoked, the commissioner  
351 may revoke such permit, and revocation of such permit, or engaging  
352 or continuing in business after such permit is revoked, shall  
353 subject such person to all the penalties imposed by this chapter.

354       (5) Any person liable for the tax who fails to obtain a  
355 permit from the commissioner, or who continues in business after  
356 such permit has been revoked, or who fails to make his returns for  
357 taxation as provided, or who fails to keep adequate records and  
358 invoices provided by this chapter, or who fails or refuses to  
359 permit inspection of such records, or who fails to pay any taxes  
360 due hereunder, shall forfeit his rights to do business in this  
361 state until he complies with all the provisions of this chapter  
362 and until he enters into a bond, with sureties, to be approved by  
363 the commissioner, in an amount not to exceed twice the amount of  
364 all taxes estimated to become due under this chapter by said  
365 person for any period of three (3) months, conditioned to comply  
366 with the provisions of this chapter, and pay all taxes legally due  
367 by him.



368        (6) If any person is engaged in or continuing in this state  
369 in any business or activity without obtaining a permit, or after  
370 such permit has been revoked, or without filing a required bond,  
371 or without keeping and allowing inspection of all records required  
372 by this chapter, or without making a return, or returns, and  
373 without paying all taxes due by him hereunder, it shall be the  
374 duty of the commissioner to proceed by injunction to prevent the  
375 continuance of said business. Any temporary injunction enjoining  
376 the continuance of such business shall be granted without notice  
377 by a judge or chancellor now authorized to grant injunctions.

378        **SECTION 5.** Section 27-65-75, Mississippi Code of 1972, is  
379 amended as follows:

380        27-65-75. On or before the fifteenth day of each month, the  
381 revenue collected under the provisions of this chapter during the  
382 preceding month shall be paid and distributed as follows:

383        (1) On or before August 15, 1992, and each succeeding month  
384 thereafter through July 15, 1993, eighteen percent (18%) of the  
385 total sales tax revenue collected during the preceding month under  
386 the provisions of this chapter, except that collected under the  
387 provisions of Sections 27-65-15, 27-65-19(3) and 27-65-21, on  
388 business activities within a municipal corporation shall be  
389 allocated for distribution to such municipality and paid to such  
390 municipal corporation. On or before August 15, 1993, and each  
391 succeeding month thereafter, eighteen and one-half percent  
392 (18-1/2%) of the total sales tax revenue collected during the  
393 preceding month under the provisions of this chapter, except that  
394 collected under the provisions of Sections 27-65-15, 27-65-19(3)  
395 and 27-65-21, on business activities within a municipal  
396 corporation shall be allocated for distribution to such  
397 municipality and paid to such municipal corporation.

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



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

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

414 (2) On or before September 15, 1987, and each succeeding  
415 month thereafter, from the revenue collected under this chapter  
416 during the preceding month One Million One Hundred Twenty-five  
417 Thousand Dollars (\$1,125,000.00) shall be allocated for  
418 distribution to municipal corporations as defined under subsection  
419 (1) of this section in the proportion that the number of gallons  
420 of gasoline and diesel fuel sold by distributors to consumers and  
421 retailers in each such municipality during the preceding fiscal  
422 year bears to the total gallons of gasoline and diesel fuel sold  
423 by distributors to consumers and retailers in municipalities  
424 statewide during the preceding fiscal year. The State Tax  
425 Commission shall require all distributors of gasoline and diesel  
426 fuel to report to the commission monthly the total number of  
427 gallons of gasoline and diesel fuel sold by them to consumers and  
428 retailers in each municipality during the preceding month. The  
429 State Tax Commission shall have the authority to promulgate such  
430 rules and regulations as is necessary to determine the number of  
431 gallons of gasoline and diesel fuel sold by distributors to  
432 consumers and retailers in each municipality. In determining the  
433 percentage allocation of funds under this subsection for the



434 fiscal year beginning July 1, 1987, and ending June 30, 1988, the  
435 State Tax Commission may consider gallons of gasoline and diesel  
436 fuel sold for a period of less than one (1) fiscal year. For the  
437 purposes of this subsection, the term "fiscal year" means the  
438 fiscal year beginning July 1 of a year.

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

451 (4) On or before August 15, 1994, and on or before the  
452 fifteenth day of each succeeding month through July 15, 1999, from  
453 the proceeds of gasoline, diesel fuel or kerosene taxes as  
454 provided in Section 27-5-101(a)(ii)1, Four Million Dollars  
455 (\$4,000,000.00) shall be deposited in the State Treasury to the  
456 credit of a special fund designated as the "State Aid Road Fund,"  
457 created by Section 65-9-17. On or before August 15, 1999, and on  
458 or before the fifteenth day of each succeeding month, from the  
459 total amount of the proceeds of gasoline, diesel fuel or kerosene  
460 taxes apportioned by Section 27-5-101(a)(ii)1, Four Million  
461 Dollars (\$4,000,000.00) or an amount equal to twenty-three and  
462 one-fourth percent (23.25%) of such funds, whichever is the  
463 greater amount, shall be deposited in the State Treasury to the  
464 credit of the "State Aid Road Fund," created by Section 65-9-17.  
465 Such funds shall be pledged to pay the principal of and interest  
466 on state aid road bonds heretofore issued under Sections 19-9-51



467 through 19-9-77, in lieu of and in substitution for the funds  
468 heretofore allocated to counties under this section. Such funds  
469 may not be pledged for the payment of any state aid road bonds  
470 issued after April 1, 1981; however, this prohibition against the  
471 pledging of any such funds for the payment of bonds shall not  
472 apply to any bonds for which intent to issue such bonds has been  
473 published, for the first time, as provided by law prior to March  
474 29, 1981. From the amount of taxes paid into the special fund  
475 pursuant to this subsection and subsection (9) of this section,  
476 there shall be first deducted and paid the amount necessary to pay  
477 the expenses of the Office of State Aid Road Construction, as  
478 authorized by the Legislature for all other general and special  
479 fund agencies. The remainder of the fund shall be allocated  
480 monthly to the several counties in accordance with the following  
481 formula:

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

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

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

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

495 The amount of funds allocated to any county under this  
496 subsection for any fiscal year after fiscal year 1994 shall not be  
497 less than the amount allocated to such county for fiscal year  
498 1994. Monies allocated to a county from the State Aid Road Fund  
499 for fiscal year 1995 or any fiscal year thereafter that exceed the



500 amount of funds allocated to that county from the State Aid Road  
501 Fund for fiscal year 1994, first must be expended by the county  
502 for replacement or rehabilitation of bridges on the state aid road  
503 system that have a sufficiency rating of less than twenty-five  
504 (25), according to National Bridge Inspection standards before  
505 such monies may be approved for expenditure by the State Aid Road  
506 Engineer on other projects that qualify for the use of state aid  
507 road funds.

508 Any reference in the general laws of this state or the  
509 Mississippi Code of 1972 to Section 27-5-105 shall mean and be  
510 construed to refer and apply to subsection (4) of Section  
511 27-65-75.

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

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

523 (7) On or before August 15, 1992, and each succeeding month  
524 thereafter through July 15, 2000, two and two hundred sixty-six  
525 one-thousandths percent (2.266%) of the total sales tax revenue  
526 collected during the preceding month under the provisions of this  
527 chapter, except that collected under the provisions of Section  
528 27-65-17(2) shall be deposited by the commission into the School  
529 Ad Valorem Tax Reduction Fund created pursuant to Section  
530 37-61-35. On or before August 15, 2000, and each succeeding month  
531 thereafter, two and two hundred sixty-six one-thousandths percent  
532 (2.266%) of the total sales tax revenue collected during the





533 preceding month under the provisions of this chapter, except that  
534 collected under the provisions of Section 27-65-17(2), shall be  
535 deposited into the School Ad Valorem Tax Reduction Fund created  
536 under Section 37-61-35 until such time that the total amount  
537 deposited into the fund during a fiscal year equals Forty-two  
538 Million Dollars (\$42,000,000.00). Thereafter, the amounts  
539 diverted under this subsection (7) during the fiscal year in  
540 excess of Forty-two Million Dollars (\$42,000,000.00) shall be  
541 deposited into the Education Enhancement Fund created under  
542 Section 37-61-33 for appropriation by the Legislature as other  
543 education needs and shall not be subject to the percentage  
544 appropriation requirements set forth in Section 37-61-33.

545 (8) On or before August 15, 1992, and each succeeding month  
546 thereafter, nine and seventy-three one-thousandths percent  
547 (9.073%) of the total sales tax revenue collected during the  
548 preceding month under the provisions of this chapter, except that  
549 collected under the provisions of Section 27-65-17(2) shall be  
550 deposited into the Education Enhancement Fund created pursuant to  
551 Section 37-61-33.

552 (9) On or before August 15, 1994, and each succeeding month  
553 thereafter, from the revenue collected under this chapter during  
554 the preceding month, Two Hundred Fifty Thousand Dollars  
555 (\$250,000.00) shall be paid into the State Aid Road Fund.

556 (10) On or before August 15, 1994, and each succeeding month  
557 thereafter through August 15, 1995, from the revenue collected  
558 under this chapter during the preceding month, Two Million Dollars  
559 (\$2,000,000.00) shall be deposited into the Motor Vehicle Ad  
560 Valorem Tax Reduction Fund established in Section 27-51-105.

561 (11) Notwithstanding any other provision of this section to  
562 the contrary, on or before February 15, 1995, and each succeeding  
563 month thereafter, the sales tax revenue collected during the  
564 preceding month under the provisions of Section 27-65-17(2) and  
565 the corresponding levy in Section 27-65-23 on the rental or lease



566 of private carriers of passengers and light carriers of property  
567 as defined in Section 27-51-101 shall be deposited, without  
568 diversion, into the Motor Vehicle Ad Valorem Tax Reduction Fund  
569 established in Section 27-51-105.

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

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

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

594 (15) Notwithstanding any other provision of this section to  
595 the contrary, on or before September 15, 2000, and each succeeding  
596 month thereafter, the sales tax revenue collected during the  
597 preceding month under the provisions of Section 27-65-19(1)(f)(i)  
598 and Section 1(b)(i), Senate Bill No. 3119, 2002 Regular Session,



599 shall be deposited, without diversion, into the Telecommunications  
600 Ad Valorem Tax Reduction Fund established in Section 27-38-7.

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

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

611 (18) It shall be the duty of the municipal officials of any  
612 municipality which expands its limits, or of any community which  
613 incorporates as a municipality, to notify the commissioner of such  
614 action thirty (30) days before the effective date. Failure to so  
615 notify the commissioner shall cause such municipality to forfeit  
616 the revenue which it would have been entitled to receive during  
617 this period of time when the commissioner had no knowledge of the  
618 action. If any funds have been erroneously disbursed to any  
619 municipality or any overpayment of tax is recovered by the  
620 taxpayer, the commissioner may make correction and adjust the  
621 error or overpayment with such municipality by withholding the  
622 necessary funds from any subsequent payment to be made to the  
623 municipality.

624 **SECTION 6.** Sections 1, 2 and 5 of this act shall take effect  
625 and be in force from and after August 1, 2002. The remainder of  
626 this act shall take effect and be in force from and after July 1,  
627 2002.

