

By: Representatives McCoy, Morris, Smith
(39th)

To: Ways and Means

HOUSE BILL NO. 1038
(As Passed the House)

1 AN ACT TO AMEND SECTION 27-65-75, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE FOR THE DEPOSIT OF A PORTION OF THE STATE SALES TAX
3 REVENUE INTO THE SPECIAL FUNDS TRANSFER FUND IN THE STATE
4 TREASURY; AND FOR RELATED PURPOSES.

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

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

8 27-65-75. On or before the fifteenth day of each month, the
9 revenue collected under the provisions of this chapter during the
10 preceding month shall be paid and distributed as follows:

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

26 A municipal corporation, for the purpose of distributing the
27 tax under this subsection, shall mean and include all incorporated
28 cities, towns and villages.



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

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

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



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

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

79 (4) On or before August 15, 1994, and on or before the
80 fifteenth day of each succeeding month through July 15, 1999, from
81 the proceeds of gasoline, diesel fuel or kerosene taxes as
82 provided in Section 27-5-101(a)(ii)1, Four Million Dollars
83 (\$4,000,000.00) shall be deposited in the State Treasury to the
84 credit of a special fund designated as the "State Aid Road Fund,"
85 created by Section 65-9-17. On or before August 15, 1999, and on
86 or before the fifteenth day of each succeeding month, from the
87 total amount of the proceeds of gasoline, diesel fuel or kerosene
88 taxes apportioned by Section 27-5-101(a)(ii)1, Four Million
89 Dollars (\$4,000,000.00) or an amount equal to twenty-three and
90 one-fourth percent (23.25%) of such funds, whichever is the
91 greater amount, shall be deposited in the State Treasury to the
92 credit of the "State Aid Road Fund," created by Section 65-9-17.
93 Such funds shall be pledged to pay the principal of and interest
94 on state aid road bonds heretofore issued under Sections 19-9-51



95 through 19-9-77, in lieu of and in substitution for the funds
96 heretofore allocated to counties under this section. Such funds
97 may not be pledged for the payment of any state aid road bonds
98 issued after April 1, 1981; however, this prohibition against the
99 pledging of any such funds for the payment of bonds shall not
100 apply to any bonds for which intent to issue such bonds has been
101 published, for the first time, as provided by law prior to March
102 29, 1981. From the amount of taxes paid into the special fund
103 pursuant to this subsection and subsection (9) of this section,
104 there shall be first deducted and paid the amount necessary to pay
105 the expenses of the Office of State Aid Road Construction, as
106 authorized by the Legislature for all other general and special
107 fund agencies. The remainder of the fund shall be allocated
108 monthly to the several counties in accordance with the following
109 formula:

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

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

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

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

123 The amount of funds allocated to any county under this
124 subsection for any fiscal year after fiscal year 1994 shall not be
125 less than the amount allocated to such county for fiscal year
126 1994. Monies allocated to a county from the State Aid Road Fund
127 for fiscal year 1995 or any fiscal year thereafter that exceed the



128 amount of funds allocated to that county from the State Aid Road
129 Fund for fiscal year 1994, first must be expended by the county
130 for replacement or rehabilitation of bridges on the state aid road
131 system that have a sufficiency rating of less than twenty-five
132 (25), according to National Bridge Inspection standards before
133 such monies may be approved for expenditure by the State Aid Road
134 Engineer on other projects that qualify for the use of state aid
135 road funds.

136 Any reference in the general laws of this state or the
137 Mississippi Code of 1972 to Section 27-5-105 shall mean and be
138 construed to refer and apply to subsection (4) of Section
139 27-65-75.

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

146 (6) An amount each month beginning August 15, 1983, through
147 November 15, 1986, as specified in Section 6 of Chapter 542, Laws
148 of 1983, shall be paid into the special fund known as the
149 Correctional Facilities Construction Fund created in Section 6 of
150 Chapter 542, Laws of 1983.

151 (7) On or before August 15, 1992, and each succeeding month
152 thereafter through July 15, 2000, two and two hundred sixty-six
153 one-thousandths percent (2.266%) of the total sales tax revenue
154 collected during the preceding month under the provisions of this
155 chapter, except that collected under the provisions of Section
156 27-65-17(2) shall be deposited by the commission into the School
157 Ad Valorem Tax Reduction Fund created pursuant to Section
158 37-61-35. On or before August 15, 2000, and each succeeding month
159 thereafter, two and two hundred sixty-six one-thousandths percent
160 (2.266%) of the total sales tax revenue collected during the



161 preceding month under the provisions of this chapter, except that
162 collected under the provisions of Section 27-65-17(2), shall be
163 deposited into the School Ad Valorem Tax Reduction Fund created
164 under Section 37-61-35 until such time that the total amount
165 deposited into the fund during a fiscal year equals Forty-two
166 Million Dollars (\$42,000,000.00). Thereafter, the amounts
167 diverted under this subsection (7) during the fiscal year in
168 excess of Forty-two Million Dollars (\$42,000,000.00) shall be
169 deposited into the Education Enhancement Fund created under
170 Section 37-61-33 for appropriation by the Legislature as other
171 education needs and shall not be subject to the percentage
172 appropriation requirements set forth in Section 37-61-33.

173 (8) On or before August 15, 1992, and each succeeding month
174 thereafter, nine and seventy-three one-thousandths percent
175 (9.073%) of the total sales tax revenue collected during the
176 preceding month under the provisions of this chapter, except that
177 collected under the provisions of Section 27-65-17(2) shall be
178 deposited into the Education Enhancement Fund created pursuant to
179 Section 37-61-33.

180 (9) On or before August 15, 1994, and each succeeding month
181 thereafter, from the revenue collected under this chapter during
182 the preceding month, Two Hundred Fifty Thousand Dollars
183 (\$250,000.00) shall be paid into the State Aid Road Fund.

184 (10) On or before August 15, 1994, and each succeeding month
185 thereafter through August 15, 1995, from the revenue collected
186 under this chapter during the preceding month, Two Million Dollars
187 (\$2,000,000.00) shall be deposited into the Motor Vehicle Ad
188 Valorem Tax Reduction Fund established in Section 27-51-105.

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



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

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

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

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

222 (15) Notwithstanding any other provision of this section to
223 the contrary, on or before September 15, 2000, and each succeeding
224 month thereafter, the sales tax revenue collected during the
225 preceding month under the provisions of Section 27-65-19(1)(f) and
226 (g)(i)2, shall be deposited, without diversion, into the



227 Telecommunications Ad Valorem Tax Reduction Fund established in
228 Section 27-38-7.

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

236 (17) Notwithstanding any other provision of this section to
237 the contrary, on or before April 15, 2002, and each succeeding
238 month thereafter, the sales tax revenue collected during the
239 preceding month under Section 27-65-23 on sales of parking
240 services of parking garages and lots at airports shall be
241 deposited, without diversion, into the special fund created
242 pursuant to Section 27-5-101(d).

243 (18) On or before August 15, 2004, and each succeeding month
244 thereafter through July 15, 2007, from the sales tax revenue
245 collected during the preceding month under the provisions of this
246 chapter, Five Million Four Thousand Dollars (\$5,004,000.00) shall
247 be deposited into the Special Funds Transfer Fund created in House
248 Bill No. 1036, 2003 Regular Session.

249 (19) The remainder of the amounts collected under the
250 provisions of this chapter shall be paid into the State Treasury
251 to the credit of the General Fund.

252 (20) It shall be the duty of the municipal officials of any
253 municipality which expands its limits, or of any community which
254 incorporates as a municipality, to notify the commissioner of such
255 action thirty (30) days before the effective date. Failure to so
256 notify the commissioner shall cause such municipality to forfeit
257 the revenue which it would have been entitled to receive during
258 this period of time when the commissioner had no knowledge of the
259 action. If any funds have been erroneously disbursed to any



260 municipality or any overpayment of tax is recovered by the
261 taxpayer, the commissioner may make correction and adjust the
262 error or overpayment with such municipality by withholding the
263 necessary funds from any subsequent payment to be made to the
264 municipality.

265 **SECTION 2.** This act shall take effect and be in force from
266 and after July 1, 2003.

