

By: Senator(s) Johnson (19th)

To: Finance

SENATE BILL NO. 2594

1 AN ACT TO AMEND SECTION 27-65-75, MISSISSIPPI CODE OF 1972,
2 TO INCREASE FROM 18.5% TO 20.5% THE DIVERSION OF STATE SALES TAX
3 REVENUE ALLOCATED FOR DISTRIBUTION TO MUNICIPALITIES; AND FOR
4 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
12 month thereafter through July 15, 1993, eighteen percent (18%) of
13 the total sales tax revenue collected during the preceding month
14 under the provisions of this chapter, except that collected under
15 the 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 through July 15, 2002, eighteen and
20 one-half percent (18-1/2%) of the total sales tax revenue
21 collected during the preceding month under the provisions of this
22 chapter, except that collected under the provisions of Sections
23 27-65-15, 27-65-19(3) and 27-65-21, on business activities within
24 a municipal corporation shall be allocated for distribution to
25 such municipality and paid to such municipal corporation. On or
26 before August 15, 2003, and each succeeding month thereafter,
27 twenty and one-half percent (20-1/2%) of the total sales tax
28 revenue collected during the preceding month under the provisions



29 of this chapter, except that collected under the provisions of
30 Sections 27-65-15, 27-65-19(3) and 27-65-21, and that collected
31 under the provisions of Section 27-65-17(2) and the corresponding
32 levy in Section 27-65-23 on the rental or lease of private
33 carriers of passengers and light carriers of property as defined
34 in Section 27-51-101 on business activities within a municipal
35 corporation shall be allocated for distribution to such
36 municipality and paid to such municipal corporation.

37 A municipal corporation, for the purpose of distributing the
38 tax under this subsection, shall mean and include all incorporated
39 cities, towns and villages.

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

46 In any county having a county seat which is not an
47 incorporated municipality, the distribution provided hereunder
48 shall be made as though the county seat was an incorporated
49 municipality; however, the distribution to such municipality shall
50 be paid to the county treasury wherein the municipality is located
51 and such funds shall be used for road, bridge and street
52 construction or maintenance therein.

53 (2) On or before September 15, 1987, and each
54 succeeding month thereafter, from the revenue collected under this
55 chapter during the preceding month One Million One Hundred
56 Twenty-five Thousand Dollars (\$1,125,000.00) shall be allocated
57 for distribution to municipal corporations as defined under
58 subsection (1) of this section in the proportion that the number
59 of gallons of gasoline and diesel fuel sold by distributors to
60 consumers and retailers in each such municipality during the
61 preceding fiscal year bears to the total gallons of gasoline and



62 diesel fuel sold by distributors to consumers and retailers in
63 municipalities statewide during the preceding fiscal year. The
64 State Tax Commission shall require all distributors of gasoline
65 and diesel fuel to report to the commission monthly the total
66 number of gallons of gasoline and diesel fuel sold by them to
67 consumers and retailers in each municipality during the preceding
68 month. The State Tax Commission shall have the authority to
69 promulgate such rules and regulations as is necessary to determine
70 the number of gallons of gasoline and diesel fuel sold by
71 distributors to consumers and retailers in each municipality. In
72 determining the percentage allocation of funds under this
73 subsection for the fiscal year beginning July 1, 1987, and ending
74 June 30, 1988, the State Tax Commission may consider gallons of
75 gasoline and diesel fuel sold for a period of less than one (1)
76 fiscal year. For the purposes of this subsection, the term
77 "fiscal year" means the fiscal year beginning July 1 of a year.

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

90 (4) On or before August 15, 1994, and on or before the
91 fifteenth day of each succeeding month through July 15, 1999, from
92 the proceeds of gasoline, diesel fuel or kerosene taxes as
93 provided in Section 27-5-101(a)(ii)1, Four Million Dollars
94 (\$4,000,000.00) shall be deposited in the State Treasury to the



95 credit of a special fund designated as the "State Aid Road Fund,"
96 created by Section 65-9-17. On or before August 15, 1999, and on
97 or before the fifteenth day of each succeeding month, from the
98 total amount of the proceeds of gasoline, diesel fuel or kerosene
99 taxes apportioned by Section 27-5-101(a)(ii)1, Four Million
100 Dollars (\$4,000,000.00) or an amount equal to twenty-three and
101 one-fourth percent (23.25%) of such funds, whichever is the
102 greater amount, shall be deposited in the State Treasury to the
103 credit of the "State Aid Road Fund," created by Section 65-9-17.
104 Such funds shall be pledged to pay the principal of and interest
105 on state aid road bonds heretofore issued under Sections 19-9-51
106 through 19-9-77, in lieu of and in substitution for the funds
107 heretofore allocated to counties under this section. Such funds
108 may not be pledged for the payment of any state aid road bonds
109 issued after April 1, 1981; however, this prohibition against the
110 pledging of any such funds for the payment of bonds shall not
111 apply to any bonds for which intent to issue such bonds has been
112 published, for the first time, as provided by law prior to March
113 29, 1981. From the amount of taxes paid into the special fund
114 pursuant to this subsection and subsection (9) of this section,
115 there shall be first deducted and paid the amount necessary to pay
116 the expenses of the Office of State Aid Road Construction, as
117 authorized by the Legislature for all other general and special
118 fund agencies. The remainder of the fund shall be allocated
119 monthly to the several counties in accordance with the following
120 formula:

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

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



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

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

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

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

151 (5) One Million Six Hundred Sixty-six Thousand Six
152 Hundred Sixty-six Dollars (\$1,666,666.00) each month shall be paid
153 into the special fund known as the "State Public School Building
154 Fund" created and existing under the provisions of Sections
155 37-47-1 through 37-47-67. Such payments into said fund are to be
156 made on the last day of each succeeding month hereafter.

157 (6) An amount each month beginning August 15, 1983,
158 through November 15, 1986, as specified in Section 6 of Chapter
159 542, Laws of 1983, shall be paid into the special fund known as



160 the Correctional Facilities Construction Fund created in Section 6
161 of Chapter 542, Laws of 1983.

162 (7) On or before August 15, 1992, and each succeeding
163 month thereafter through July 15, 2000, two and two hundred
164 sixty-six one-thousandths percent (2.266%) of the total sales tax
165 revenue collected during the preceding month under the provisions
166 of this chapter, except that collected under the provisions of
167 Section 27-65-17(2) shall be deposited by the commission into the
168 School Ad Valorem Tax Reduction Fund created pursuant to Section
169 37-61-35. On or before August 15, 2000, and each succeeding month
170 thereafter, two and two hundred sixty-six one-thousandths percent
171 (2.266%) of the total sales tax revenue collected during the
172 preceding month under the provisions of this chapter, except that
173 collected under the provisions of Section 27-65-17(2), shall be
174 deposited into the School Ad Valorem Tax Reduction Fund created
175 under Section 37-61-35 until such time that the total amount
176 deposited into the fund during a fiscal year equals Forty-two
177 Million Dollars (\$42,000,000.00). Thereafter, the amounts
178 diverted under this subsection (7) during the fiscal year in
179 excess of Forty-two Million Dollars (\$42,000,000.00) shall be
180 deposited into the Education Enhancement Fund created under
181 Section 37-61-33 for appropriation by the Legislature as other
182 education needs and shall not be subject to the percentage
183 appropriation requirements set forth in Section 37-61-33.

184 (8) On or before August 15, 1992, and each succeeding
185 month thereafter, nine and seventy-three one-thousandths percent
186 (9.073%) of the total sales tax revenue collected during the
187 preceding month under the provisions of this chapter, except that
188 collected under the provisions of Section 27-65-17(2) shall be
189 deposited into the Education Enhancement Fund created pursuant to
190 Section 37-61-33.

191 (9) On or before August 15, 1994, and each succeeding
192 month thereafter, from the revenue collected under this chapter



193 during the preceding month, Two Hundred Fifty Thousand Dollars
194 (\$250,000.00) shall be paid into the State Aid Road Fund.

195 (10) On or before August 15, 1994, and each succeeding
196 month thereafter through August 15, 1995, from the revenue
197 collected under this chapter during the preceding month, Two
198 Million Dollars (\$2,000,000.00) shall be deposited into the Motor
199 Vehicle Ad Valorem Tax Reduction Fund established in Section
200 27-51-105.

201 (11) Notwithstanding any other provision of this
202 section to the contrary, on or before February 15, 1995, and each
203 succeeding month thereafter, the sales tax revenue collected
204 during the preceding month under the provisions of Section
205 27-65-17(2) and the corresponding levy in Section 27-65-23 on the
206 rental or lease of private carriers of passengers and light
207 carriers of property as defined in Section 27-51-101 shall be
208 deposited, without diversion, into the Motor Vehicle Ad Valorem
209 Tax Reduction Fund established in Section 27-51-105.

210 (12) Notwithstanding any other provision of this
211 section to the contrary, on or before August 15, 1995, and each
212 succeeding month thereafter, the sales tax revenue collected
213 during the preceding month under the provisions of Section
214 27-65-17(1) on retail sales of private carriers of passengers and
215 light carriers of property, as defined in Section 27-51-101 and
216 the corresponding levy in Section 27-65-23 on the rental or lease
217 of these vehicles, shall be deposited, after diversion, into the
218 Motor Vehicle Ad Valorem Tax Reduction Fund established in Section
219 27-51-105.

220 (13) On or before July 15, 1994, and on or before the
221 fifteenth day of each succeeding month thereafter, that portion of
222 the avails of the tax imposed in Section 27-65-22, which is
223 derived from activities held on the Mississippi state fairgrounds
224 complex, shall be paid into a special fund hereby created in the
225 State Treasury and shall be expended pursuant to legislative



226 appropriations solely to defray the costs of repairs and
227 renovation at such Trade Mart and Coliseum.

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

235 (15) Notwithstanding any other provision of this
236 section to the contrary, on or before September 15, 2000, and each
237 succeeding month thereafter, the sales tax revenue collected
238 during the preceding month under the provisions of Section
239 27-65-19(1)(f) and (g)(i)2, shall be deposited, without diversion,
240 into the Telecommunications Ad Valorem Tax Reduction Fund
241 established in Section 27-38-7.

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

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

256 (18) The remainder of the amounts collected under the
257 provisions of this chapter shall be paid into the State Treasury
258 to the credit of the General Fund.



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

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

