

By: Representative Fleming

To: Ways and Means

## HOUSE BILL NO. 213

1 AN ACT TO AMEND SECTION 27-55-11, MISSISSIPPI CODE OF 1972,  
2 TO INCREASE THE GASOLINE EXCISE TAX BY TWO CENTS PER GALLON; TO  
3 AMEND SECTION 27-5-101, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT  
4 THE PROCEEDS OF SUCH INCREASE SHALL BE DEPOSITED INTO THE  
5 MISSISSIPPI HIGHWAY-RAILROAD GRADE CROSSING SAFETY ACCOUNT; TO  
6 AMEND SECTION 57-43-15, MISSISSIPPI CODE OF 1972, IN CONFORMITY  
7 THERETO; AND FOR RELATED PURPOSES.

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

9 **SECTION 1.** Section 27-55-11, Mississippi Code of 1972, is  
10 amended as follows:

11 27-55-11. Any person in business as a distributor of  
12 gasoline or who acts as a distributor of gasoline, as defined in  
13 this article, shall pay for the privilege of engaging in such  
14 business or acting as such distributor an excise tax equal to  
15 Eighteen Cents (18¢) per gallon until the date specified in  
16 Section 65-39-35, and Sixteen and Four-tenths Cents (16.4¢) per  
17 gallon thereafter, on all gasoline and blend stock stored, sold,  
18 distributed, manufactured, refined, distilled, blended or  
19 compounded in this state or received in this state for sale, use  
20 on the highways, storage, distribution, or for any purpose.

21 Any person in business as a distributor of aviation gasoline,  
22 or who acts as a distributor of aviation gasoline, shall pay for  
23 the privilege of engaging in such business or acting as such  
24 distributor an excise tax equal to Six and Four-tenths Cents  
25 (6.4¢) per gallon on all aviation gasoline stored, sold,  
26 distributed, manufactured, refined, distilled, blended or  
27 compounded in this state or received in this state for sale,  
28 storage, distribution or for any purpose.

29           The excise taxes collected under this section shall be paid  
30 and distributed in accordance with Section 27-5-101.

31           The tax herein imposed and assessed shall be collected and  
32 paid to the State of Mississippi but once in respect to any  
33 gasoline. The basis for determining the tax liability shall be  
34 the correct invoiced gallons, adjusted to sixty (60) degrees  
35 Fahrenheit at the refinery or point of origin of shipment when  
36 such shipment is made by tank car or by motor carrier. The point  
37 of origin of shipment of gasoline transported into this state by  
38 pipelines shall be deemed to be that point in this state where  
39 such gasoline is withdrawn from the pipeline for storage or  
40 distribution, and adjustment to sixty (60) degrees Fahrenheit  
41 shall there be made. The basis for determining the tax liability  
42 on gasoline shipped into this state in barge cargoes and by  
43 pipeline shall be the actual number of gallons adjusted to sixty  
44 (60) degrees Fahrenheit unloaded into storage tanks or other  
45 containers in this state, such gallonage to be determined by  
46 measurement and/or gauge of storage tank or tanks or by any other  
47 method authorized by the commission. The tank or tanks into which  
48 barge cargoes of gasoline are discharged, or into which gasoline  
49 transported by pipeline is discharged, shall have correct gauge  
50 tables listing capacity, such gauge tables to be prepared by some  
51 recognized calibrating agency and to be approved by the  
52 commission.

53           The tax levied herein shall accrue at the time gasoline is  
54 withdrawn from a refinery in this state except when withdrawal is  
55 by pipeline, barge, ship or vessel. The refiner shall pay to the  
56 commission the tax levied herein when gasoline is sold or  
57 delivered to persons who do not hold gasoline distributor permits.  
58 The refiner shall report to the commission all sales and  
59 deliveries of gasoline to bonded distributors of gasoline. The  
60 bonded distributor of gasoline who purchases, receives or acquires

61 gasoline from a refinery in this state shall report such gasoline  
62 and pay the tax levied herein.

63 Gasoline imported by common carrier shall be deemed to be  
64 received by the distributor of gasoline, and the tax levied herein  
65 shall accrue, when the car or tank truck containing such gasoline  
66 is unloaded by the carrier.

67 With respect to distributors or other persons who bring,  
68 ship, have transported, or have brought into this state gasoline  
69 by means other than through a common carrier, the tax accrues and  
70 the tax liability attaches on the distributor or other person for  
71 each gallon of gasoline brought into the state at the time when  
72 and at the point where such gasoline is brought into the state.

73 The tax levied herein shall accrue on blend stock at the time  
74 it is blended with gasoline. The blender shall pay to the  
75 commission the tax levied herein when blend stock is sold or  
76 delivered to persons who do not hold gasoline distributor permits.  
77 The blender shall report to the commission all sales and  
78 deliveries of blend stock to bonded distributors of gasoline. The  
79 bonded distributor of gasoline who purchases, receives or acquires  
80 blend stock from a blender in this state shall report blend stock  
81 and pay the tax levied herein.

82 **SECTION 2.** Section 27-5-101, Mississippi Code of 1972, is  
83 amended as follows:

84 **[With regard to any county which is exempt from the**  
85 **provisions of Section 19-2-3, this section shall read as follows:]**

86 27-5-101. Unless otherwise provided in this section, on or  
87 before the fifteenth day of each month, all gasoline, diesel fuel  
88 or kerosene taxes which are levied under the laws of this state  
89 and collected during the previous month shall be paid and  
90 apportioned by the State Tax Commission as follows:

91 (a) (i) Except as otherwise provided in Section  
92 31-17-127, from the gross amount of gasoline, diesel fuel or  
93 kerosene taxes produced by the state, there shall be deducted an

94 amount equal to one-sixth (1/6) of principal and interest  
95 certified by the State Treasurer to the State Tax Commission to be  
96 due on the next semiannual bond and interest payment date, as  
97 required under the provisions of Chapter 130, Laws of 1938, and  
98 subsequent acts authorizing the issuance of bonds payable from  
99 gasoline, diesel fuel or kerosene tax revenue on a parity with the  
100 bonds issued under authority of said Chapter 130. The State  
101 Treasurer shall certify to the State Tax Commission on or before  
102 the fifteenth day of each month the amount to be paid to the  
103 "Highway Bonds Sinking Fund" as provided by said Chapter 130, Laws  
104 of 1938, and subsequent acts authorizing the issuance of bonds  
105 payable from gasoline, diesel fuel or kerosene tax revenue, on a  
106 parity with the bonds issued under authority of said Chapter 130;  
107 and the State Tax Commission shall, on or before the twenty-fifth  
108 day of each month, pay into the State Treasury for credit to the  
109 "Highway Bonds Sinking Fund" the amount so certified to him by the  
110 State Treasurer due to be paid into such fund each month. The  
111 payments to the "Highway Bonds Sinking Fund" shall be made out of  
112 gross gasoline, diesel fuel or kerosene tax collections before  
113 deductions of any nature are considered; however, such payments  
114 shall be deducted from the allocation to the Mississippi  
115 Department of Transportation under paragraph (c) of this section.

116 (ii) From collections derived from the portion of  
117 the gasoline excise tax that exceeds Seven Cents (7¢) per gallon,  
118 from the portion of the tax on aviation gas under Section 27-55-11  
119 that exceeds Six and Four-tenths Cents (6.4¢) per gallon, from the  
120 portion of the special fuel tax levied under Sections 27-55-519  
121 and 27-55-521, at Eighteen Cents (18¢) per gallon that exceeds Ten  
122 Cents (10¢) per gallon, from the portion of the taxes levied under  
123 Section 27-55-519, at Five and Three-fourths Cents (5.75¢) per  
124 gallon that exceeds One Cent (1¢) per gallon on special fuel and  
125 Five and One-fourth Cents (5.25¢) per gallon on special fuel used  
126 as aircraft fuel, from the portion of the excise tax on compressed

127 gas used as a motor fuel that exceeds the rate of tax in effect on  
128 June 30, 1987, and from the portion of the gasoline excise tax in  
129 excess of Seven Cents (7¢) per gallon and the diesel excise tax in  
130 excess of Ten Cents (10¢) per gallon under Section 27-61-5 there  
131 shall be deducted:

132                   1. An amount as provided in Section  
133 27-65-75(4) to the credit of a special fund designated as the  
134 "Office of State Aid Road Construction."

135                   2. An amount equal to the tax collections  
136 derived from Two Cents (2¢) per gallon of the gasoline excise tax  
137 for distribution to the State Highway Fund to be used exclusively  
138 for the construction, reconstruction and maintenance of highways  
139 of the State of Mississippi or the payment of interest and  
140 principal on bonds when specifically authorized by the Legislature  
141 for that purpose.

142                   3. The balance shall be deposited in the  
143 State Treasury to the credit of the State Highway Fund.

144           (b) Subject to the provisions that said basis of  
145 distribution shall in nowise affect adversely the amount  
146 specifically pledged in paragraph (a) of this section to be paid  
147 into the "Highway Bonds Sinking Fund," the following shall be  
148 deducted from the amount produced by the state tax on gasoline,  
149 diesel fuel or kerosene tax collections, excluding collections  
150 derived from the portion of the gasoline excise tax that exceeds  
151 Seven Cents (7¢) per gallon, from the portion of the tax on  
152 aviation gas under Section 27-55-11 that exceeds Six and  
153 Four-tenths Cents (6.4¢) per gallon, from the portion of the  
154 special fuel tax levied under Sections 27-55-519 and 27-55-521, at  
155 Eighteen Cents (18¢) per gallon that exceeds Ten Cents (10¢) per  
156 gallon, from the portion of the taxes levied under Section  
157 27-55-519, at Five and Three-fourths Cents (5.75¢) per gallon that  
158 exceeds One Cent (1¢) per gallon on special fuel and Five and  
159 One-fourth Cents (5.25¢) per gallon on special fuel used as

160 aircraft fuel, from the portion of the excise tax on compressed  
161 gas used as a motor fuel that exceeds the rate of tax in effect on  
162 June 30, 1987, and from the portion of the gasoline excise tax in  
163 excess of Seven Cents (7¢) per gallon and the diesel excise tax in  
164 excess of Ten Cents (10¢) per gallon under Section 27-61-5:

165 (i) Twenty percent (20%) of such amount which  
166 shall be earmarked and set aside for the construction,  
167 reconstruction and maintenance of the highways and roads of the  
168 state, provided that if such twenty percent (20%) should reduce  
169 any county to a lesser amount than that received in the fiscal  
170 year ending June 30, 1966, then such twenty percent (20%) shall be  
171 reduced to a percentage to provide that no county shall receive  
172 less than its portion for the fiscal year ending June 30, 1966;

173 (ii) The amount allowed as refund on gasoline or  
174 as tax credit on diesel fuel or kerosene used for agricultural,  
175 maritime, industrial, domestic, and nonhighway purposes;

176 (iii) Five percent (5%) of such amount shall be  
177 paid to the State Highway Fund;

178 (iv) The amount or portion thereof authorized by  
179 legislative appropriation to the Fisheries and Wildlife Fund  
180 created under Section 59-21-25;

181 (v) The amount for deposit into the special  
182 aviation fund under paragraph (d) of this section; and

183 (vi) The remainder shall be divided on a basis of  
184 nine-fourteenths (9/14) and five-fourteenths (5/14) (being the  
185 same basis as Four and One-half Cents (4-1/2¢) and Two and  
186 One-half Cents (2-1/2¢) is to Seven Cents (7¢) on gasoline, and  
187 six and forty-three one-hundredths (6.43) and three and  
188 fifty-seven one-hundredths (3.57) is to Ten Cents (10¢) on diesel  
189 fuel or kerosene). The amount produced by the nine-fourteenths  
190 (9/14) division shall be allocated to the Transportation  
191 Department and paid into the State Treasury as provided in this  
192 section and in Section 27-5-103 and the five-fourteenths (5/14)

193 division shall be returned to the counties of the state on the  
194 following basis:

195                   1. In each fiscal year, each county shall be  
196 paid each month the same percentage of the monthly total to be  
197 distributed as was paid to that county during the same month in  
198 the fiscal year which ended April 9, 1960, until the county  
199 receives One Hundred Ninety Thousand Dollars (\$190,000.00) in such  
200 fiscal year, at which time funds shall be distributed under the  
201 provisions of paragraph (b)(vi)4 of this section.

202                   2. If after payments in 1 above, any county  
203 has not received a total of One Hundred Ninety Thousand Dollars  
204 (\$190,000.00) at the end of the fiscal year ending June 30, 1961,  
205 and each fiscal year thereafter, then any available funds not  
206 distributed under 1 above shall be used to bring such county or  
207 counties up to One Hundred Ninety Thousand Dollars (\$190,000.00)  
208 or such funds shall be divided equally among such counties not  
209 reaching One Hundred Ninety Thousand Dollars (\$190,000.00) if  
210 there is not sufficient money to bring all the counties to said  
211 One Hundred Ninety Thousand Dollars (\$190,000.00).

212                   3. When a county has been paid an amount  
213 equal to the total which was paid to the same county during the  
214 fiscal year ended April 9, 1960, such county shall receive no  
215 further payments during the then current fiscal year until the  
216 last month of such current fiscal year, at which time distribution  
217 will be made under 2 above, except as set out in 4 below.

218                   4. During the last month of the current  
219 fiscal year, should it be determined that there are funds  
220 available in excess of the amount distributed for the year under 1  
221 and 2 above, then such excess funds shall be distributed among the  
222 various counties as follows:

223                                   One-third (1/3) of such excess to be  
224 divided equally among the counties;

225                                   One-third (1/3) of such excess to be paid  
226 to the counties in the proportion which the population of each  
227 county bears to the total population of the state according to the  
228 last federal census;

229                                   One-third (1/3) of such excess to be paid  
230 to the counties in the proportion which the number of square miles  
231 of each county bears to the total square miles in the state.

232                                   5. It is the declared purpose and intent of  
233 the Legislature that no county shall be paid less than was paid  
234 during the year ended April 9, 1960, unless the amount to be  
235 distributed to all counties in any year is less than the amount  
236 distributed to all counties during the year ended April 9, 1960.

237                                   The Municipal Aid Fund as established by Section 27-5-103  
238 shall not participate in any portion of any funds allocated to any  
239 county hereunder over and above One Hundred Ninety Thousand  
240 Dollars (\$190,000.00).

241                                   In any county having countywide road or bridge bonds, or  
242 supervisors district or district road or bridge bonds outstanding,  
243 which exceed, in the aggregate, twelve percent (12%) of the  
244 assessed valuation of the taxable property of the county or  
245 district, it shall be the duty of the board of supervisors to set  
246 aside not less than sixty percent (60%) of such county's share or  
247 district's share of the gasoline, diesel fuel or kerosene taxes to  
248 be used in paying the principal and interest on such road or  
249 bridge bonds as they mature.

250                                   In any county having such countywide road or bridge bonds or  
251 district road or bridge bonds outstanding which exceed, in the  
252 aggregate, eight percent (8%) of the assessed valuation of the  
253 taxable property of the county, but which do not exceed, in the  
254 aggregate, twelve percent (12%) of the assessed valuation of the  
255 taxable property of the county, it shall be the duty of the board  
256 of supervisors to set aside not less than thirty-five percent  
257 (35%) of such county's share of the gasoline, diesel fuel or



258 kerosene taxes to be used in paying the principal and interest of  
259 such road or bridge bonds as they mature.

260         In any county having such countywide road or bridge bonds or  
261 district road or bridge bonds outstanding which exceed, in the  
262 aggregate, five percent (5%) of the assessed valuation of the  
263 taxable property of the county, but which do not exceed, in the  
264 aggregate, eight percent (8%) of the assessed valuation of the  
265 taxable property of the county, it shall be the duty of the board  
266 of supervisors to set aside not less than twenty percent (20%) of  
267 such county's share of the gasoline, diesel fuel or kerosene taxes  
268 to be used in paying the principal and interest of such road and  
269 bridge bonds as they mature.

270         In any county having such countywide road or bridge bonds or  
271 district road or bridge bonds outstanding which do not exceed, in  
272 the aggregate, five percent (5%) of the assessed valuation of the  
273 taxable property of the county, it shall be the duty of the board  
274 of supervisors to set aside not less than ten percent (10%) of  
275 such county's share of the gasoline, diesel fuel or kerosene taxes  
276 to be used in paying the principal and interest on such road or  
277 bridge bonds as they mature.

278         The portion of any such county's share of the gasoline,  
279 diesel fuel or kerosene taxes thus set aside for the payment of  
280 the principal and interest of road or bridge bonds, as provided  
281 for in this section, shall be used first in paying the currently  
282 maturing installments of the principal and interest of such  
283 countywide road or bridge bonds, if there be any such countywide  
284 road or bridge bonds outstanding, and secondly, in paying the  
285 currently maturing installments of principal and interest of  
286 district road or bridge bonds outstanding. It shall be the duty  
287 of the board of supervisors to pay bonds and interest maturing in  
288 each supervisors district out of the supervisors district's share  
289 of the gasoline, diesel fuel or kerosene taxes of such district.

290           The remaining portion of such county's share of the gasoline,  
291 diesel fuel or kerosene taxes, after setting aside the portion  
292 above provided for the payment of the principal and interest of  
293 bonds, shall be used in the construction and maintenance of any  
294 public highways, bridges, or culverts of the county, including the  
295 roads in special or separate road districts, in the discretion of  
296 the board of supervisors, or in paying the interest and principal  
297 of county road and bridge bonds or district road and bridge bonds,  
298 in the discretion of the board of supervisors.

299           In any county having no countywide road or bridge bonds or  
300 district road or bridge bonds outstanding, all such county's share  
301 of the gasoline, diesel fuel or kerosene taxes shall be used in  
302 the construction, reconstruction, and maintenance of the public  
303 highways, bridges, or culverts of the county as the board of  
304 supervisors may determine.

305           In every county in which there are county road bonds or  
306 seawall or road protection bonds outstanding which were issued for  
307 the purpose of building bridges or constructing public roads or  
308 seawalls, such funds shall be used in the manner provided by law.

309           (c) From the amount produced by the nine-fourteenths  
310 (9/14) division allocated to the Transportation Department, there  
311 shall be deducted:

312                   (i) The amount paid to the State Treasurer for the  
313 "Highway Bonds Sinking Fund" under paragraph (a) of this section;

314                   (ii) Any amounts due counties in accordance with  
315 Section 65-33-45 which have outstanding bonds issued for seawall  
316 or road protection purposes, issued under provisions of Chapter  
317 319, Laws of 1924, and amendments thereto;

318                   (iii) Beginning August 15, 2002, and on or before  
319 the fifteenth day of each month thereafter, an amount equal to  
320 one-sixth (1/6) of the principal and interest certified by the  
321 State Treasurer to the State Tax Commission to be due on the next  
322 semiannual bond and interest payment date for the bonds issued

323 under Sections 65-39-5 through 65-39-33. On or before the  
324 twenty-fifth day of each month the State Tax Commission shall pay  
325 into the State Treasury for credit to the Gaming Counties Bond  
326 Sinking Fund created in Section 65-39-3, the amount so certified  
327 by the State Treasurer;

328 (iv) Except as otherwise provided in Section  
329 31-17-127, the remainder shall be paid by the State Tax Commission  
330 to the State Treasurer on the fifteenth day of each month next  
331 succeeding the month in which the gasoline, diesel fuel or  
332 kerosene taxes were collected to the credit of the State Highway  
333 Fund.

334 The funds allocated for the construction, reconstruction, and  
335 improvement of state highways, bridges, and culverts, or so much  
336 thereof as may be necessary, shall first be used in conjunction  
337 with funds supplied by the federal government for such purposes  
338 and allocated to the State Transportation Department to be  
339 expended on the state highway system. It is specifically provided  
340 hereby that the necessary portion of such funds hereinabove  
341 allocated to the State Transportation Department may be used for  
342 the prompt payment of principal and interest on highway bonds  
343 heretofore issued, including such bonds issued or to be issued  
344 under the provisions of Chapter 312, Laws of 1956, and amendments  
345 thereto.

346 Nothing contained in this section shall be construed to  
347 reduce the amount of such gasoline, diesel fuel or kerosene excise  
348 taxes levied by the state, allotted under the provisions of Title  
349 65, Chapter 33, Mississippi Code of 1972, to counties in which  
350 there are outstanding bonds issued for seawall or road protection  
351 purposes issued under the provisions of Chapter 319, Laws of 1924,  
352 and amendments thereto; the amount of said gasoline, diesel fuel  
353 or kerosene excise taxes designated in this section for the  
354 payment of bonds and interest authorized and issued or to be  
355 issued under the provisions of Chapter 130, Laws of 1938, and

356 subsequent acts authorizing the issuance of bonds payable from  
357 gasoline, diesel fuel or kerosene tax revenue, shall, in such  
358 counties, be considered as being paid "into the State Treasury to  
359 the credit of the State Highway Fund" within the meaning of  
360 Section 65-33-45 in computing the amount to be paid to such  
361 counties under the provisions of said section, and this section  
362 shall be administered in connection with Title 65, Chapter 33,  
363 Mississippi Code of 1972, and Sections 65-33-45, 65-33-47 and  
364 65-33-49 dealing with seawalls, as if made a part of this section.

365 (d) The proceeds of the Five and One-fourth Cents  
366 (5.25¢) of the tax per gallon on oils used as a propellant for jet  
367 aircraft engines, and Six and Four-tenths Cents (6.4¢) of the tax  
368 per gallon on aviation gasoline and the tax of One Cent (1¢) per  
369 gallon for each gallon of gasoline for which a refund has been  
370 made pursuant to Section 27-55-23 because such gasoline was used  
371 for aviation purposes, shall be paid to the State Treasury into a  
372 special fund to be used exclusively, pursuant to legislative  
373 appropriation, for the support and development of aeronautics as  
374 defined in Section 61-1-3.

375 (e) State highway funds in an amount equal to the  
376 difference between Forty-two Million Dollars (\$42,000,000.00) and  
377 the annual debt service payable on the state's highway revenue  
378 refunding bonds, Series 1985, shall be expended for the  
379 construction or reconstruction of highways designated under the  
380 highway program created under Section 65-3-97.

381 (f) Beginning forty-five (45) days after the date  
382 specified in Section 65-39-35, and on or before the fifteenth day  
383 of the succeeding month and each month thereafter, the proceeds of  
384 Two Cents (2¢ per gallon of the tax on gasoline and blend stock  
385 levied under Section 27-55-11 shall be deposited into the  
386 Mississippi Highway Railroad Grade Crossing Safety Account,  
387 created in Section 57-43-15.

388           (g) "Gasoline, diesel fuel or kerosene taxes" as used  
389 in this section shall be deemed to mean and include state  
390 gasoline, diesel fuel or kerosene taxes levied and imposed on  
391 distributors of gasoline, diesel fuel or kerosene, and all state  
392 excise taxes derived from any fuel used to propel vehicles upon  
393 the highways of this state, when levied by any statute.

394           **[With regard to any county which is required to operate on a**  
395 **countywide system of road administration as described in Section**  
396 **19-2-3, this section shall read as follows:]**

397           27-5-101. Unless otherwise provided in this section, on or  
398 before the fifteenth day of each month, all gasoline, diesel fuel  
399 or kerosene taxes which are levied under the laws of this state  
400 and collected during the previous month shall be paid and  
401 apportioned by the State Tax Commission as follows:

402           (a) (i) Except as otherwise provided in Section  
403 31-17-127, from the gross amount of gasoline, diesel fuel or  
404 kerosene taxes produced by the state, there shall be deducted an  
405 amount equal to one-sixth (1/6) of principal and interest  
406 certified by the State Treasurer to the State Tax Commission to be  
407 due on the next semiannual bond and interest payment date, as  
408 required under the provisions of Chapter 130, Laws of 1938, and  
409 subsequent acts authorizing the issuance of bonds payable from  
410 gasoline, diesel fuel or kerosene tax revenue on a parity with the  
411 bonds issued under authority of said Chapter 130. The State  
412 Treasurer shall certify to the State Tax Commission on or before  
413 the fifteenth day of each month the amount to be paid to the  
414 "Highway Bonds Sinking Fund" as provided by said Chapter 130, Laws  
415 of 1938, and subsequent acts authorizing the issuance of bonds  
416 payable from gasoline, diesel fuel or kerosene tax revenue, on a  
417 parity with the bonds issued under authority of said Chapter 130;  
418 and the State Tax Commission shall, on or before the twenty-fifth  
419 day of each month, pay into the State Treasury for credit to the  
420 "Highway Bonds Sinking Fund" the amount so certified to him by the

421 State Treasurer due to be paid into such fund each month. The  
422 payments to the "Highway Bonds Sinking Fund" shall be made out of  
423 gross gasoline, diesel fuel or kerosene tax collections before  
424 deductions of any nature are considered; however, such payments  
425 shall be deducted from the allocation to the Transportation  
426 Department under paragraph (c) of this section.

427 (ii) From collections derived from the portion of  
428 the gasoline excise tax that exceeds Seven Cents (7¢) per gallon,  
429 from the portion of the tax on aviation gas under Section 27-55-11  
430 that exceeds Six and Four-tenths Cents (6.4¢) per gallon, from the  
431 portion of the special fuel tax levied under Sections 27-55-519  
432 and 27-55-521, at Eighteen Cents (18¢) per gallon that exceeds Ten  
433 Cents (10¢) per gallon, from the portion of the taxes levied under  
434 Section 27-55-519, at Five and Three-fourths Cents (5.75¢) per  
435 gallon that exceeds One Cent (1¢) per gallon on special fuel and  
436 Five and One-fourth Cents (5.25¢) per gallon on special fuel used  
437 as aircraft fuel, from the portion of the excise tax on compressed  
438 gas used as a motor fuel that exceeds the rate of tax in effect on  
439 June 30, 1987, and from the portion of the gasoline excise tax in  
440 excess of Seven Cents (7¢) per gallon and the diesel excise tax in  
441 excess of Ten Cents (10¢) per gallon under Section 27-61-5 there  
442 shall be deducted:

443 1. An amount as provided in Section  
444 27-65-75(4) to the credit of a special fund designated as the  
445 "Office of State Aid Road Construction."

446 2. An amount equal to the tax collections  
447 derived from Two Cents (2¢) per gallon of the gasoline excise tax  
448 for distribution to the State Highway Fund to be used exclusively  
449 for the construction, reconstruction and maintenance of highways  
450 of the State of Mississippi or the payment of interest and  
451 principal on bonds when specifically authorized by the Legislature  
452 for that purpose.

453                   3. The balance shall be deposited in the  
454 State Treasury to the credit of the State Highway Fund.

455                   (b) Subject to the provisions that said basis of  
456 distribution shall in nowise affect adversely the amount  
457 specifically pledged in paragraph (a) of this section to be paid  
458 into the "Highway Bonds Sinking Fund," the following shall be  
459 deducted from the amount produced by the state tax on gasoline,  
460 diesel fuel or kerosene tax collections, excluding collections  
461 derived from the portion of the gasoline excise tax that exceeds  
462 Seven Cents (7¢) per gallon, from the portion of the tax on  
463 aviation gas under Section 27-55-11 that exceeds Six and  
464 Four-tenths Cents (6.4¢) per gallon, from the portion of the  
465 special fuel tax levied under Sections 27-55-519 and 27-55-521, at  
466 Eighteen Cents (18¢) per gallon, that exceeds Ten Cents (10¢) per  
467 gallon, from the portion of the taxes levied under Section  
468 27-55-519, at Five and Three-fourths Cents (5.75¢) that exceeds  
469 One Cent (1¢) per gallon on special fuel and Five and One-fourth  
470 Cents (5.25¢) per gallon on special fuel used as aircraft fuel,  
471 from the portion of the excise tax on compressed gas used as a  
472 motor fuel that exceeds the rate of tax in effect on June 30,  
473 1987, and from the portion of the gasoline excise tax in excess of  
474 Seven Cents (7¢) per gallon and the diesel excise tax in excess of  
475 Ten Cents (10¢) per gallon under Section 27-61-5:

476                   (i) Twenty percent (20%) of such amount which  
477 shall be earmarked and set aside for the construction,  
478 reconstruction and maintenance of the highways and roads of the  
479 state, provided that if such twenty percent (20%) should reduce  
480 any county to a lesser amount than that received in the fiscal  
481 year ending June 30, 1966, then such twenty percent (20%) shall be  
482 reduced to a percentage to provide that no county shall receive  
483 less than its portion for the fiscal year ending June 30, 1966;

484 (ii) The amount allowed as refund on gasoline or  
485 as tax credit on diesel fuel or kerosene used for agricultural,  
486 maritime, industrial, domestic and nonhighway purposes;

487 (iii) Five percent (5%) of such amount shall be  
488 paid to the State Highway Fund;

489 (iv) The amount or portion thereof authorized by  
490 legislative appropriation to the Fisheries and Wildlife Fund  
491 created under Section 59-21-25;

492 (v) The amount for deposit into the special  
493 aviation fund under paragraph (d) of this section; and

494 (vi) The remainder shall be divided on a basis of  
495 nine-fourteenths (9/14) and five-fourteenths (5/14) (being the  
496 same basis as Four and One-half Cents (4-1/2¢) and Two and  
497 One-half Cents (2-1/2¢) is to Seven Cents (7¢) on gasoline, and  
498 six and forty-three one-hundredths (6.43) and three and  
499 fifty-seven one-hundredths (3.57) is to Ten Cents (10¢) on diesel  
500 fuel or kerosene). The amount produced by the nine-fourteenths  
501 (9/14) division shall be allocated to the Transportation  
502 Department and paid into the State Treasury as provided in this  
503 section and in Section 27-5-103 and the five-fourteenths (5/14)  
504 division shall be returned to the counties of the state on the  
505 following basis:

506 1. In each fiscal year, each county shall be  
507 paid each month the same percentage of the monthly total to be  
508 distributed as was paid to that county during the same month in  
509 the fiscal year which ended April 9, 1960, until the county  
510 receives One Hundred Ninety Thousand Dollars (\$190,000.00) in such  
511 fiscal year, at which time funds shall be distributed under the  
512 provisions of paragraph (b)(vi)4 of this section.

513 2. If after payments in 1 above, any county  
514 has not received a total of One Hundred Ninety Thousand Dollars  
515 (\$190,000.00) at the end of the fiscal year ending June 30, 1961,  
516 and each fiscal year thereafter, then any available funds not



517 distributed under 1 above shall be used to bring such county or  
518 counties up to One Hundred Ninety Thousand Dollars (\$190,000.00)  
519 or such funds shall be divided equally among such counties not  
520 reaching One Hundred Ninety Thousand Dollars (\$190,000.00) if  
521 there is not sufficient money to bring all the counties to said  
522 One Hundred Ninety Thousand Dollars (\$190,000.00).

523                   3. When a county has been paid an amount  
524 equal to the total which was paid to the same county during the  
525 fiscal year ended April 9, 1960, such county shall receive no  
526 further payments during the then current fiscal year until the  
527 last month of such current fiscal year, at which time distribution  
528 will be made under 2 above, except as set out in 4 below.

529                   4. During the last month of the current  
530 fiscal year, should it be determined that there are funds  
531 available in excess of the amount distributed for the year under 1  
532 and 2 above, then such excess funds shall be distributed among the  
533 various counties as follows:

534                                 One-third (1/3) of such excess to be  
535 divided equally among the counties;

536                                 One-third (1/3) of such excess to be paid  
537 to the counties in the proportion which the population of each  
538 county bears to the total population of the state according to the  
539 last federal census;

540                                 One-third (1/3) of such excess to be paid  
541 to the counties in the proportion which the number of square miles  
542 of each county bears to the total square miles in the state.

543                   5. It is the declared purpose and intent of  
544 the Legislature that no county shall be paid less than was paid  
545 during the year ended April 9, 1960, unless the amount to be  
546 distributed to all counties in any year is less than the amount  
547 distributed to all counties during the year ended April 9, 1960.

548                   The Municipal Aid Fund as established by Section 27-5-103  
549 shall not participate in any portion of any funds allocated to any

550 county hereunder over and above One Hundred Ninety Thousand  
551 Dollars (\$190,000.00).

552 In any county having road or bridge bonds outstanding which  
553 exceed, in the aggregate, twelve percent (12%) of the assessed  
554 valuation of the taxable property of the county, it shall be the  
555 duty of the board of supervisors to set aside not less than sixty  
556 percent (60%) of such county's share of the gasoline, diesel fuel  
557 or kerosene taxes to be used in paying the principal and interest  
558 on such road or bridge bonds as they mature.

559 In any county having such road or bridge bonds outstanding  
560 which exceed, in the aggregate, eight percent (8%) of the assessed  
561 valuation of the taxable property of the county, but which do not  
562 exceed, in the aggregate, twelve percent (12%) of the assessed  
563 valuation of the taxable property of the county, it shall be the  
564 duty of the board of supervisors to set aside not less than  
565 thirty-five percent (35%) of such county's share of the gasoline,  
566 diesel fuel or kerosene taxes to be used in paying the principal  
567 and interest of such road or bridge bonds as they mature.

568 In any county having such road or bridge bonds outstanding  
569 which exceed, in the aggregate, five percent (5%) of the assessed  
570 valuation of the taxable property of the county, but which do not  
571 exceed, in the aggregate, eight percent (8%) of the assessed  
572 valuation of the taxable property of the county, it shall be the  
573 duty of the board of supervisors to set aside not less than twenty  
574 percent (20%) of such county's share of the gasoline, diesel fuel  
575 or kerosene taxes to be used in paying the principal and interest  
576 of such road and bridge bonds as they mature.

577 In any county having such road or bridge bonds outstanding  
578 which do not exceed, in the aggregate, five percent (5%) of the  
579 assessed valuation of the taxable property of the county, it shall  
580 be the duty of the board of supervisors to set aside not less than  
581 ten percent (10%) of such county's share of the gasoline, diesel

582 fuel or kerosene taxes to be used in paying the principal and  
583 interest on such road or bridge bonds as they mature.

584 The portion of any such county's share of the gasoline,  
585 diesel fuel or kerosene taxes thus set aside for the payment of  
586 the principal and interest of road or bridge bonds, as provided  
587 for in this section, shall be used in paying the currently  
588 maturing installments of the principal and interest of such road  
589 or bridge bonds, if there be any such road or bridge bonds  
590 outstanding.

591 The remaining portion of such county's share of the gasoline,  
592 diesel fuel or kerosene taxes, after setting aside the portion  
593 above provided for the payment of the principal and interest of  
594 bonds, shall be used in the construction and maintenance of any  
595 public highways, bridges or culverts of the county, in the  
596 discretion of the board of supervisors.

597 In any county having no road or bridge bonds outstanding, all  
598 such county's share of the gasoline, diesel fuel or kerosene taxes  
599 shall be used in the construction, reconstruction and maintenance  
600 of the public highways, bridges or culverts of the county, as the  
601 board of supervisors may determine.

602 In every county in which there are county road bonds or  
603 seawall or road protection bonds outstanding which were issued for  
604 the purpose of building bridges or constructing public roads or  
605 seawalls, such funds shall be used in the manner provided by law.

606 (c) From the amount produced by the nine-fourteenths  
607 (9/14) division allocated to the Transportation Department, there  
608 shall be deducted:

609 (i) The amount paid to the State Treasurer for the  
610 "Highway Bonds Sinking Fund" under paragraph (a) of this section;

611 (ii) Any amounts due counties in accordance with  
612 Section 65-33-45 which have outstanding bonds issued for seawall  
613 or road protection purposes, issued under provisions of Chapter  
614 319, Laws of 1924, and amendments thereto; and

615                   (iii) Beginning August 15, 2002, and on or before  
616 the fifteenth day of each month thereafter, an amount equal to  
617 one-sixth (1/6) of the principal and interest certified by the  
618 State Treasurer to the State Tax Commission to be due on the next  
619 semiannual bond and interest payment date for the bonds issued  
620 under Sections 65-39-5 through 65-39-33. On or before the  
621 twenty-fifth day of each month the State Tax Commission shall pay  
622 into the State Treasury for credit to the Gaming Counties Bond  
623 Sinking Fund created in Section 65-39-3, the amount certified by  
624 the State Treasurer;

625                   (iv) Except as otherwise provided in Section  
626 31-17-127, the remainder shall be paid by the State Tax Commission  
627 to the State Treasurer on the fifteenth day of each month next  
628 succeeding the month in which the gasoline, diesel fuel or  
629 kerosene taxes were collected to the credit of the State Highway  
630 Fund.

631           The funds allocated for the construction, reconstruction and  
632 improvement of state highways, bridges and culverts, or so much  
633 thereof as may be necessary, shall first be used in conjunction  
634 with funds supplied by the federal government for such purposes  
635 and allocated to the Transportation Department to be expended on  
636 the state highway system. It is specifically provided hereby that  
637 the necessary portion of such funds hereinabove allocated to the  
638 Transportation Department may be used for the prompt payment of  
639 principal and interest on highway bonds heretofore issued,  
640 including such bonds issued or to be issued under the provisions  
641 of Chapter 312, Laws of 1956, and amendments thereto.

642           Nothing contained in this section shall be construed to  
643 reduce the amount of such gasoline, diesel fuel or kerosene excise  
644 taxes levied by the state, allotted under the provisions of Title  
645 65, Chapter 33, Mississippi Code of 1972, to counties in which  
646 there are outstanding bonds issued for seawall or road protection  
647 purposes issued under the provisions of Chapter 319, Laws of 1924,

648 and amendments thereto; the amount of said gasoline, diesel fuel  
649 or kerosene excise taxes designated in this section for the  
650 payment of bonds and interest authorized and issued or to be  
651 issued under the provisions of Chapter 130, Laws of 1938, and  
652 subsequent acts authorizing the issuance of bonds payable from  
653 gasoline, diesel fuel or kerosene tax revenue, shall, in such  
654 counties, be considered as being paid "into the State Treasury to  
655 the credit of the State Highway Fund" within the meaning of  
656 Section 65-33-45 in computing the amount to be paid to such  
657 counties under the provisions of said section, and this section  
658 shall be administered in connection with Title 65, Chapter 33,  
659 Mississippi Code of 1972, and Sections 65-33-45, 65-33-47 and  
660 65-33-49 dealing with seawalls, as if made a part of this section.

661 (d) The proceeds of the Five and One-fourth Cents  
662 (5.25¢) of the tax per gallon on oils used as a propellant for jet  
663 aircraft engines, and Six and Four-tenths Cents (6.4¢) of the tax  
664 per gallon on aviation gasoline and the tax of One Cent (1¢) per  
665 gallon for each gallon of gasoline for which a refund has been  
666 made pursuant to Section 27-55-23 because such gasoline was used  
667 for aviation purposes, shall be paid to the State Treasury into a  
668 special fund to be used exclusively, pursuant to legislative  
669 appropriation, for the support and development of aeronautics as  
670 defined in Section 61-1-3.

671 (e) State highway funds in an amount equal to the  
672 difference between Forty-two Million Dollars (\$42,000,000.00) and  
673 the annual debt service payable on the state's highway revenue  
674 refunding bonds, Series 1985, shall be expended for the  
675 construction or reconstruction of highways designated under the  
676 highway program created under Section 65-3-97.

677 (f) Beginning forty-five (45) days after the date  
678 specified in Section 65-39-35, and on or before the fifteenth day  
679 of the succeeding month and each month thereafter, the proceeds of  
680 Two Cents (2¢ per gallon of the tax on gasoline and blend stock

681 levied under Section 27-55-11 shall be deposited into the  
682 Mississippi Highway Railroad Grade Crossing Safety Account,  
683 created in Section 57-43-15.

684 (g) "Gasoline, diesel fuel or kerosene taxes" as used  
685 in this section shall be deemed to mean and include state  
686 gasoline, diesel fuel or kerosene taxes levied and imposed on  
687 distributors of gasoline, diesel fuel or kerosene, and all state  
688 excise taxes derived from any fuel used to propel vehicles upon  
689 the highways of this state, when levied by any statute.

690 **SECTION 3.** Section 57-43-15, Mississippi Code of 1972, is  
691 amended as follows:

692 57-43-15. (1) There is established within the Railroad  
693 Revitalization Fund a new account to be entitled the Mississippi  
694 Highway-Railroad Grade Crossing Safety Account. The account shall  
695 be administered by the Mississippi Department of Transportation  
696 and shall consist of (a) such monies as are transferred to it on  
697 July 1, 2001, from the Mississippi Grade Crossing Closure  
698 Account; \* \* \* (b) thirty-five percent (35%) of collections from  
699 the locomotive fuel tax imposed under Section 27-59-307 for the  
700 previous year; and (c) monies deposited into the account under  
701 Section 27-5-101(f). Unexpended amounts remaining in the account  
702 at the end of a fiscal year shall not lapse into the State General  
703 Fund; and any interest earned on amounts in the account shall be  
704 deposited to the credit of the account.

705 (2) The Mississippi Department of Transportation, in  
706 cooperation with the railroads operating in Mississippi, shall  
707 promulgate rules to ensure equitable allocation of the funds  
708 described in subsection (1) of this section to projects throughout  
709 the state, and shall consider the proportionate number of main  
710 line track miles of each railroad and the number of public  
711 roadway/railroad grade crossings on each railroad's main line.  
712 Expenditure of monies from the Mississippi Highway-Railroad Grade

713 Crossing Safety Account shall be limited to the following  
714 purposes:

715           (a) Financial aid for closure of public  
716 roadway/railroad grade crossings;

717           (b) Realignment of construction costs of roadways being  
718 rerouted to facilitate a closure of a public roadway/railroad  
719 grade crossing;

720           (c) Monies to match federal or other funds for a grade  
721 separation eliminating an at-grade crossing of a public roadway  
722 and railroad; and

723           (d) Installation or upgrade of highway-railroad grade  
724 crossing signals, at the discretion of the Mississippi  
725 Transportation Commission, based upon the Federal Railroad  
726 Administration ranking of all Mississippi highway-railroad grade  
727 crossings. Not less than ten percent (10%) of the monies  
728 necessary to defray the costs of such installations must be  
729 federal funds.

730           (3) The Mississippi Department of Transportation shall  
731 consider all requests from the state's diagnostic review of public  
732 roadway/railroad grade crossings and from individual railroads for  
733 expenditure of funds for the purposes described in subsection (2)  
734 of this section, and shall establish uniform criteria and  
735 guidelines relating to such crossings and the expenditure of  
736 funds.

737           **SECTION 4.** This act shall take effect and be in force from  
738 and after July 1, 2004.