

By: Representative Akins

To: Transportation;
Appropriations

HOUSE BILL NO. 1044

1 AN ACT TO AMEND SECTION 27-104-13, MISSISSIPPI CODE OF 1972,
2 TO EXEMPT FUNDS OF THE DIVISION OF STATE AID ROAD CONSTRUCTION OF
3 THE MISSISSIPPI DEPARTMENT OF TRANSPORTATION FROM ANY SPECIAL FUND
4 TRANSFERS AUTHORIZED BY THE DEPARTMENT OF FINANCE AND
5 ADMINISTRATION OR THE LEGISLATURE; TO AMEND SECTION 27-65-75,
6 MISSISSIPPI CODE OF 1972, TO CLARIFY THAT STATE AID ROAD MONIES
7 ALLOCATED TO THE COUNTIES UNDER THE FORMULA SHALL BE CONSIDERED
8 ENCUMBERED AND PLEDGED BY THE STATE FOR THE EXCLUSIVE USE OF THE
9 COUNTIES; AND FOR RELATED PURPOSES.

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

11 **SECTION 1.** Section 27-104-13, Mississippi Code of 1972, is
12 amended as follows:

13 27-104-13. (1) The State Fiscal Officer shall have the
14 right to disapprove or reduce and revise such estimates of general
15 funds and state-source special funds for any general fund or
16 special fund agency, and for the "administration and other
17 expenses" budget of the Mississippi Department of Transportation,
18 in an amount not to exceed five percent (5%) if he finds that
19 funds will not be available within the period for which the budget
20 is drawn, or if he finds that the requested expenditures, or any
21 part thereof, are not authorized by law, and such action shall be
22 reported to the Legislative Budget Office. The State Fiscal
23 Officer may, upon his determination of need based upon a finding
24 that funds will not be available within the period for which the
25 budget is drawn, transfer funds as provided in Section 27-103-203,
26 from the Working Cash-Stabilization Reserve Fund to the General
27 Fund to supplement the general fund revenue. In the event that the
28 estimates of general funds and state-source special funds of all
29 general fund and special fund agencies, and of the "administration
30 and other expenses" budget of the Mississippi Department of

31 Transportation, have been reduced by five percent (5%), additional
32 reductions may be made but shall consist of a uniform percentage
33 reduction of general funds and state-source special funds to all
34 general fund and special fund agencies, and to the "administration
35 and other expenses" budget of the Mississippi Department of
36 Transportation. Any state-source special funds reduced under the
37 provisions of this section shall be transferred to the State
38 General Fund upon requisitions for warrants signed by the
39 respective agency head and said transfer shall be made within a
40 reasonable period to be determined by the State Fiscal Officer.

41 (2) For the purpose of this section, "state-source special
42 funds" shall be construed to mean any special funds in any agency
43 derived from any source, but shall not include the following
44 special funds: special funds derived from federal sources, from
45 local or regional political subdivisions, or from donations;
46 special funds held in a fiduciary capacity for the benefit of
47 specific persons or classes of persons; self-generated special
48 funds of the state institutions of higher learning or the state
49 junior colleges; special funds of Mississippi Industries for the
50 Blind, the State Port at Gulfport, Yellow Creek Inland Port, Pat
51 Harrison Waterway District, Pearl River Basin Development
52 District, Pearl River Valley Water Management District, Tombigbee
53 River Valley Water Management District, Yellow Creek Watershed
54 Authority, or Coast Coliseum Commission; special funds of the
55 Department of Wildlife, Fisheries and Parks derived from the
56 issuance of hunting or fishing licenses; and special funds
57 generated by agencies whose primary function includes the
58 establishment of standards and the issuance of licenses for the
59 practice of a profession within the State of Mississippi.

60 (3) Effective upon passage of this act, and effective in
61 each fiscal year thereafter, the funds of the Division of State
62 Aid Road Construction of the Mississippi Department of
63 Transportation shall be exempt from any transfer of special funds

64 into the State General Fund or the Budget Contingency Fund created
65 in Section 27-103-301, which is directed or authorized by the
66 Department of Finance and Administration under authority of this
67 section or by general act of the Legislature.

68 **SECTION 2.** Section 27-65-75, Mississippi Code of 1972, is
69 amended as follows:

70 27-65-75. On or before the fifteenth day of each month, the
71 revenue collected under the provisions of this chapter during the
72 preceding month shall be paid and distributed as follows:

73 (1) On or before August 15, 1992, and each succeeding month
74 thereafter through July 15, 1993, eighteen percent (18%) of the
75 total sales tax revenue collected during the preceding month under
76 the provisions of this chapter, except that collected under the
77 provisions of Sections 27-65-15, 27-65-19(3) and 27-65-21, on
78 business activities within a municipal corporation shall be
79 allocated for distribution to the municipality and paid to the
80 municipal corporation. On or before August 15, 1993, and each
81 succeeding month thereafter, eighteen and one-half percent
82 (18-1/2%) of the total sales tax revenue collected during the
83 preceding month under the provisions of this chapter, except that
84 collected under the provisions of Sections 27-65-15, 27-65-19(3)
85 and 27-65-21, on business activities within a municipal
86 corporation shall be allocated for distribution to the
87 municipality and paid to the municipal corporation.

88 A municipal corporation, for the purpose of distributing the
89 tax under this subsection, shall mean and include all incorporated
90 cities, towns and villages.

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

97 In any county having a county seat that is not an
98 incorporated municipality, the distribution provided under this
99 subsection shall be made as though the county seat was an
100 incorporated municipality; however, the distribution to the
101 municipality shall be paid to the county treasury in which the
102 municipality is located, and those funds shall be used for road,
103 bridge and street construction or maintenance in the county.

104 (2) On or before September 15, 1987, and each succeeding
105 month thereafter, from the revenue collected under this chapter
106 during the preceding month One Million One Hundred Twenty-five
107 Thousand Dollars (\$1,125,000.00) shall be allocated for
108 distribution to municipal corporations as defined under subsection
109 (1) of this section in the proportion that the number of gallons
110 of gasoline and diesel fuel sold by distributors to consumers and
111 retailers in each such municipality during the preceding fiscal
112 year bears to the total gallons of gasoline and diesel fuel sold
113 by distributors to consumers and retailers in municipalities
114 statewide during the preceding fiscal year. The State Tax
115 Commission shall require all distributors of gasoline and diesel
116 fuel to report to the commission monthly the total number of
117 gallons of gasoline and diesel fuel sold by them to consumers and
118 retailers in each municipality during the preceding month. The
119 State Tax Commission shall have the authority to promulgate such
120 rules and regulations as is necessary to determine the number of
121 gallons of gasoline and diesel fuel sold by distributors to
122 consumers and retailers in each municipality. In determining the
123 percentage allocation of funds under this subsection for the
124 fiscal year beginning July 1, 1987, and ending June 30, 1988, the
125 State Tax Commission may consider gallons of gasoline and diesel
126 fuel sold for a period of less than one (1) fiscal year. For the
127 purposes of this subsection, the term "fiscal year" means the
128 fiscal year beginning July 1 of a year.

129 (3) On or before September 15, 1987, and on or before the
130 fifteenth day of each succeeding month, until the date specified
131 in Section 65-39-35, the proceeds derived from contractors' taxes
132 levied under Section 27-65-21 on contracts for the construction or
133 reconstruction of highways designated under the highway program
134 created under Section 65-3-97 shall, except as otherwise provided
135 in Section 31-17-127, be deposited into the State Treasury to the
136 credit of the State Highway Fund to be used to fund that highway
137 program. The Mississippi Department of Transportation shall
138 provide to the State Tax Commission such information as is
139 necessary to determine the amount of proceeds to be distributed
140 under this subsection.

141 (4) On or before August 15, 1994, and on or before the
142 fifteenth day of each succeeding month through July 15, 1999, from
143 the proceeds of gasoline, diesel fuel or kerosene taxes as
144 provided in Section 27-5-101(a)(ii)1, Four Million Dollars
145 (\$4,000,000.00) shall be deposited in the State Treasury to the
146 credit of a special fund designated as the "State Aid Road Fund,"
147 created by Section 65-9-17. On or before August 15, 1999, and on
148 or before the fifteenth day of each succeeding month, from the
149 total amount of the proceeds of gasoline, diesel fuel or kerosene
150 taxes apportioned by Section 27-5-101(a)(ii)1, Four Million
151 Dollars (\$4,000,000.00) or an amount equal to twenty-three and
152 one-fourth percent (23.25%) of those funds, whichever is the
153 greater amount, shall be deposited in the State Treasury to the
154 credit of the "State Aid Road Fund," created by Section 65-9-17.
155 Those funds shall be pledged to pay the principal of and interest
156 on state aid road bonds heretofore issued under Sections 19-9-51
157 through 19-9-77, in lieu of and in substitution for the funds
158 previously allocated to counties under this section. Those funds
159 may not be pledged for the payment of any state aid road bonds
160 issued after April 1, 1981; however, this prohibition against the
161 pledging of any such funds for the payment of bonds shall not

162 apply to any bonds for which intent to issue those bonds has been
163 published, for the first time, as provided by law before March 29,
164 1981. From the amount of taxes paid into the special fund under
165 this subsection and subsection (9) of this section, there shall be
166 first deducted and paid the amount necessary to pay the expenses
167 of the Office of State Aid Road Construction, as authorized by the
168 Legislature for all other general and special fund agencies. The
169 remainder of the fund shall be allocated monthly to the several
170 counties in accordance with the following formula:

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

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

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

181 The monies in the fund that are required to be allocated to
182 the counties under the formula shall be considered encumbered and
183 pledged for the exclusive use of the counties in accordance with
184 the provisions of Section 65-9-17, and may not be transferred,
185 expended or used for any other purpose.

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

189 The amount of funds allocated to any county under this
190 subsection for any fiscal year after fiscal year 1994 shall not be
191 less than the amount allocated to the county for fiscal year 1994.
192 Monies allocated to a county from the State Aid Road Fund for
193 fiscal year 1995 or any fiscal year thereafter that exceed the
194 amount of funds allocated to that county from the State Aid Road

195 Fund for fiscal year 1994, first must be expended by the county
196 for replacement or rehabilitation of bridges on the state aid road
197 system that have a sufficiency rating of less than twenty-five
198 (25), according to National Bridge Inspection standards before
199 the monies may be approved for expenditure by the State Aid Road
200 Engineer on other projects that qualify for the use of state aid
201 road funds.

202 Any reference in the general laws of this state or the
203 Mississippi Code of 1972 to Section 27-5-105 shall mean and be
204 construed to refer and apply to subsection (4) of Section
205 27-65-75.

206 (5) One Million Six Hundred Sixty-six Thousand Six Hundred
207 Sixty-six Dollars (\$1,666,666.00) each month shall be paid into
208 the special fund known as the "State Public School Building Fund"
209 created and existing under the provisions of Sections 37-47-1
210 through 37-47-67. Those payments into that fund are to be made on
211 the last day of each succeeding month hereafter.

212 (6) An amount each month beginning August 15, 1983, through
213 November 15, 1986, as specified in Section 6 of Chapter 542, Laws
214 of 1983, shall be paid into the special fund known as the
215 Correctional Facilities Construction Fund created in Section 6 of
216 Chapter 542, Laws of 1983.

217 (7) On or before August 15, 1992, and each succeeding month
218 thereafter through July 15, 2000, two and two hundred sixty-six
219 one-thousandths percent (2.266%) of the total sales tax revenue
220 collected during the preceding month under the provisions of this
221 chapter, except that collected under the provisions of Section
222 27-65-17(2) shall be deposited by the commission into the School
223 Ad Valorem Tax Reduction Fund created under Section 37-61-35. On
224 or before August 15, 2000, and each succeeding month thereafter,
225 two and two hundred sixty-six one-thousandths percent (2.266%) of
226 the total sales tax revenue collected during the preceding month
227 under the provisions of this chapter, except that collected under

228 the provisions of Section 27-65-17(2), shall be deposited into the
229 School Ad Valorem Tax Reduction Fund created under Section
230 37-61-35 until such time that the total amount deposited into the
231 fund during a fiscal year equals Forty-two Million Dollars
232 (\$42,000,000.00). Thereafter, the amounts diverted under this
233 subsection (7) during the fiscal year in excess of Forty-two
234 Million Dollars (\$42,000,000.00) shall be deposited into the
235 Education Enhancement Fund created under Section 37-61-33 for
236 appropriation by the Legislature as other education needs and
237 shall not be subject to the percentage appropriation requirements
238 set forth in Section 37-61-33.

239 (8) On or before August 15, 1992, and each succeeding month
240 thereafter, nine and seventy-three one-thousandths percent
241 (9.073%) of the total sales tax revenue collected during the
242 preceding month under the provisions of this chapter, except that
243 collected under the provisions of Section 27-65-17(2), shall be
244 deposited into the Education Enhancement Fund created under
245 Section 37-61-33.

246 (9) On or before August 15, 1994, and each succeeding month
247 thereafter, from the revenue collected under this chapter during
248 the preceding month, Two Hundred Fifty Thousand Dollars
249 (\$250,000.00) shall be paid into the State Aid Road Fund.

250 (10) On or before August 15, 1994, and each succeeding month
251 thereafter through August 15, 1995, from the revenue collected
252 under this chapter during the preceding month, Two Million Dollars
253 (\$2,000,000.00) shall be deposited into the Motor Vehicle Ad
254 Valorem Tax Reduction Fund established in Section 27-51-105.

255 (11) Notwithstanding any other provision of this section to
256 the contrary, on or before February 15, 1995, and each succeeding
257 month thereafter, the sales tax revenue collected during the
258 preceding month under the provisions of Section 27-65-17(2) and
259 the corresponding levy in Section 27-65-23 on the rental or lease
260 of private carriers of passengers and light carriers of property

261 as defined in Section 27-51-101 shall be deposited, without
262 diversion, into the Motor Vehicle Ad Valorem Tax Reduction Fund
263 established in Section 27-51-105.

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

273 (13) On or before July 15, 1994, and on or before the
274 fifteenth day of each succeeding month thereafter, that portion of
275 the avails of the tax imposed in Section 27-65-22 that is derived
276 from activities held on the Mississippi state fairgrounds complex,
277 shall be paid into a special fund that is created in the State
278 Treasury and shall be expended upon legislative appropriation
279 solely to defray the costs of repairs and renovation at the Trade
280 Mart and Coliseum.

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

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

293 Telecommunications Ad Valorem Tax Reduction Fund established in
294 Section 27-38-7.

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

302 (17) Notwithstanding any other provision of this section to
303 the contrary, on or before April 15, 2002, and each succeeding
304 month thereafter, the sales tax revenue collected during the
305 preceding month under Section 27-65-23 on sales of parking
306 services of parking garages and lots at airports shall be
307 deposited, without diversion, into the special fund created under
308 Section 27-5-101(d).

309 (18) On or before August 15, 2005, and each succeeding month
310 thereafter through July 15, 2006, from the sales tax revenue
311 collected during the preceding month under the provisions of this
312 chapter, Two Million Five Hundred Thousand Dollars (\$2,500,000.00)
313 shall be deposited into the Special Funds Transfer Fund created in
314 Section 4 of Chapter 556, Laws of 2003.

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

318 (20) It shall be the duty of the municipal officials of any
319 municipality that expands its limits, or of any community that
320 incorporates as a municipality, to notify the commissioner of
321 that action thirty (30) days before the effective date. Failure
322 to so notify the commissioner shall cause the municipality to
323 forfeit the revenue that it would have been entitled to receive
324 during this period of time when the commissioner had no knowledge
325 of the action. If any funds have been erroneously disbursed to

326 any municipality or any overpayment of tax is recovered by the
327 taxpayer, the commissioner may make correction and adjust the
328 error or overpayment with the municipality by withholding the
329 necessary funds from any later payment to be made to the
330 municipality.

331 **SECTION 3.** This act shall take effect and be in force from
332 and after its passage.