

By: Representative Chism

To: Ways and Means

## HOUSE BILL NO. 1369

1 AN ACT TO AMEND SECTION 27-65-75, MISSISSIPPI CODE OF 1972,  
2 TO DELAY UNTIL 2006 THE SALES TAX DIVERSION THAT IS TO BE  
3 DEPOSITED INTO THE SPECIAL FUNDS TRANSFER FUND; TO AMEND SECTION  
4 4, CHAPTER 556, LAWS OF 2003, AS AMENDED BY SECTION 10, CHAPTER  
5 595, LAWS OF 2004, TO CONFORM TO THE PRECEDING SECTION; AND FOR  
6 RELATED PURPOSES.

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

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

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

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

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

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

37           In any county having a county seat that is not an  
38 incorporated municipality, the distribution provided under this  
39 subsection shall be made as though the county seat was an  
40 incorporated municipality; however, the distribution to the  
41 municipality shall be paid to the county treasury in which the  
42 municipality is located, and those funds shall be used for road,  
43 bridge and street construction or maintenance in the county.

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

61 gallons of gasoline and diesel fuel sold by distributors to  
62 consumers and retailers in each municipality. In determining the  
63 percentage allocation of funds under this subsection for the  
64 fiscal year beginning July 1, 1987, and ending June 30, 1988, the  
65 State Tax Commission may consider gallons of gasoline and diesel  
66 fuel sold for a period of less than one (1) fiscal year. For the  
67 purposes of this subsection, the term "fiscal year" means the  
68 fiscal year beginning July 1 of a year.

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

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

94 credit of the "State Aid Road Fund," created by Section 65-9-17.  
95 Those funds shall be pledged to pay the principal of and interest  
96 on state aid road bonds heretofore issued under Sections 19-9-51  
97 through 19-9-77, in lieu of and in substitution for the funds  
98 previously allocated to counties under this section. Those funds  
99 may not be pledged for the payment of any state aid road bonds  
100 issued after April 1, 1981; however, this prohibition against the  
101 pledging of any such funds for the payment of bonds shall not  
102 apply to any bonds for which intent to issue those bonds has been  
103 published, for the first time, as provided by law before March 29,  
104 1981. From the amount of taxes paid into the special fund under  
105 this subsection and subsection (9) of this section, there shall be  
106 first deducted and paid the amount necessary to pay the expenses  
107 of the Office of State Aid Road Construction, as authorized by the  
108 Legislature for all other general and special fund agencies. The  
109 remainder of the fund shall be allocated monthly to the several  
110 counties in accordance with the following formula:

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

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

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

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

124 The amount of funds allocated to any county under this  
125 subsection for any fiscal year after fiscal year 1994 shall not be  
126 less than the amount allocated to the county for fiscal year 1994.

127 Monies allocated to a county from the State Aid Road Fund for  
128 fiscal year 1995 or any fiscal year thereafter that exceed the  
129 amount of funds allocated to that county from the State Aid Road  
130 Fund for fiscal year 1994, first must be expended by the county  
131 for replacement or rehabilitation of bridges on the state aid road  
132 system that have a sufficiency rating of less than twenty-five  
133 (25), according to National Bridge Inspection standards before  
134 the monies may be approved for expenditure by the State Aid Road  
135 Engineer on other projects that qualify for the use of state aid  
136 road funds.

137 Any reference in the general laws of this state or the  
138 Mississippi Code of 1972 to Section 27-5-105 shall mean and be  
139 construed to refer and apply to subsection (4) of Section  
140 27-65-75.

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

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

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

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

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

181 (9) On or before August 15, 1994, and each succeeding month  
182 thereafter, from the revenue collected under this chapter during  
183 the preceding month, Two Hundred Fifty Thousand Dollars  
184 (\$250,000.00) shall be paid into the State Aid Road Fund.

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

190 (11) Notwithstanding any other provision of this section to  
191 the contrary, on or before February 15, 1995, and each succeeding  
192 month thereafter, the sales tax revenue collected during the

193 preceding month under the provisions of Section 27-65-17(2) and  
194 the corresponding levy in Section 27-65-23 on the rental or lease  
195 of private carriers of passengers and light carriers of property  
196 as defined in Section 27-51-101 shall be deposited, without  
197 diversion, into the Motor Vehicle Ad Valorem Tax Reduction Fund  
198 established in Section 27-51-105.

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

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

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

223 (15) Notwithstanding any other provision of this section to  
224 the contrary, on or before September 15, 2000, and each succeeding  
225 month thereafter, the sales tax revenue collected during the

226 preceding month under the provisions of Section 27-65-19(1)(f) and  
227 (g)(i)2, shall be deposited, without diversion, into the  
228 Telecommunications Ad Valorem Tax Reduction Fund established in  
229 Section 27-38-7.

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

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

244 (18) On or before August 15, 2006, and each succeeding month  
245 thereafter through July 15, 2007, from the sales tax revenue  
246 collected during the preceding month under the provisions of this  
247 chapter, Two Million Five Hundred Thousand Dollars (\$2,500,000.00)  
248 shall be deposited into the Special Funds Transfer Fund created in  
249 Section 4 of Chapter 556, Laws of 2003.

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

253 (20) It shall be the duty of the municipal officials of any  
254 municipality that expands its limits, or of any community that  
255 incorporates as a municipality, to notify the commissioner of  
256 that action thirty (30) days before the effective date. Failure  
257 to so notify the commissioner shall cause the municipality to  
258 forfeit the revenue that it would have been entitled to receive



259 during this period of time when the commissioner had no knowledge  
260 of the action. If any funds have been erroneously disbursed to  
261 any municipality or any overpayment of tax is recovered by the  
262 taxpayer, the commissioner may make correction and adjust the  
263 error or overpayment with the municipality by withholding the  
264 necessary funds from any later payment to be made to the  
265 municipality.

266 **SECTION 2.** Section 4, Chapter 556, Laws of 2003, as amended  
267 by Section 10, Chapter 595, Laws of 2004, is amended as follows:

268 Section 4. (1) There is created in the State Treasury a  
269 special fund to be known as the Special Funds Transfer Fund, which  
270 shall be comprised of the monies required to be deposited into the  
271 fund under Section 27-65-75(18) for the repayment of certain funds  
272 transferred to the Budget Contingency Fund. Upon receipt of  
273 monies deposited into the fund under Section 27-65-75(18), the  
274 State Treasurer shall transfer those monies to the special funds  
275 from which transfers were made under Sections 2 and 3 of Chapter  
276 556, Laws of 2003.

277 (2) Unexpended amounts remaining in the fund on September  
278 30, 2007, shall lapse into the State General Fund, and any  
279 interest earned or investment earnings on amounts in the fund  
280 shall be deposited to the credit of the fund.

281 **SECTION 3.** This act shall take effect and be in force from  
282 and after July 1, 2005.