

By: Senator(s) Dawkins

To: Appropriations

SENATE BILL NO. 2765

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 may disapprove or
 14 reduce and revise the estimates of general funds and state-source
 15 special funds for any general fund or special fund agency and for
 16 the "administration and other expenses" budget of the Mississippi
 17 Department of Transportation, in an amount not to exceed five
 18 percent (5%), if at any time he finds that funds will not be
 19 available within the period for which the budget is drawn, or if
 20 at any time he finds that the requested expenditures, or any part
 21 thereof, are not authorized by law, and that action shall be
 22 reported to the Legislative Budget Office.

23 The State Fiscal Officer may, upon his determination of need
 24 based upon a finding that funds will not be available within the
 25 period for which the budget is drawn, transfer funds as provided
 26 in Section 27-103-203, from the Working Cash-Stabilization Reserve
 27 Fund to the General Fund to supplement the general fund revenue.

28 If the estimates of general funds and state-source special
 29 funds of all general fund and special fund agencies and of the
 30 "administration and other expenses" budget of the Mississippi

31 Department of Transportation have been reduced by five percent
32 (5%), additional reductions may be made, but shall consist of a
33 uniform percentage reduction of general funds and state-source
34 special funds to all general fund and special fund agencies and to
35 the "administration and other expenses" budget of the Mississippi
36 Department of Transportation.

37 Any state-source special funds reduced under the provisions
38 of this subsection (1) shall be transferred to the State General
39 Fund upon requisitions for warrants signed by the respective
40 agency head, and the transfer shall be made within a reasonable
41 period to be determined by the State Fiscal Officer.

42 (2) The State Tax Commission and University Research Center,
43 utilizing all available revenue forecast data, shall annually
44 develop a general fund revenue estimate to be adopted by the
45 Legislative Budget Office as of the date of sine die adjournment.

46 If, at the end of October, or at the end of any month
47 thereafter of any fiscal year, the revenues received for the
48 fiscal year fall below ninety-eight percent (98%) of the
49 Legislative Budget Office general fund revenue estimate at the
50 date of sine die adjournment, the State Fiscal Officer shall
51 reduce allocations of general funds and state-source special funds
52 to general fund and special fund agencies and to the
53 "administration and other expenses" budget of the Mississippi
54 Department of Transportation, in an amount necessary to keep
55 expenditures within the sum of actual general fund receipts,
56 including any transfers to the General Fund from the Working
57 Cash-Stabilization Reserve Fund for the fiscal year.

58 The State Fiscal Officer may, upon his determination of need
59 based on the revenue shortfall, transfer funds as provided in
60 Section 27-103-203 from the Working Cash-Stabilization Reserve
61 Fund to the General Fund to supplement the general fund revenue.
62 State-source special funds in an amount equal to any reduction
63 made under the provisions of this subsection (2) shall be

64 transferred to the State General Fund upon requisitions for
65 warrants signed by the respective agency head, and the transfer
66 shall be made within a reasonable period to be determined by the
67 State Fiscal Officer.

68 No agency's allocation shall be reduced in an amount to
69 exceed five percent (5%); however, if the allocations of general
70 funds and state-source special funds to all general fund and
71 special fund agencies and to the "administration and other
72 expenses" budget of the Mississippi Department of Transportation
73 have been reduced by five percent (5%), any additional reductions
74 required to be made under this subsection (2) shall consist of a
75 uniform percentage reduction of general funds and state-source
76 special funds to all general fund and special fund agencies and to
77 the "administration and other expenses" budget of the Mississippi
78 Department of Transportation. Any receipt from loans authorized
79 by Sections 31-17-101 through 31-17-123 shall not be included as
80 revenue receipts.

81 The State Fiscal Officer shall immediately send notice of any
82 action taken under authority of this subsection (2) to the
83 Legislative Budget Office.

84 The provisions of this subsection (2) requiring the State
85 Fiscal Officer to reduce allocations of general funds and
86 state-source special funds to general fund and special fund
87 agencies and to the "administration and other expenses" budget of
88 the Mississippi Department of Transportation shall be suspended
89 during the period from the effective date of this act through June
90 30, 2006.

91 (3) For the purpose of this section, the term "state-source
92 special funds" means any special funds in any agency derived from
93 any source, but shall not include the following special funds:
94 special funds derived from federal sources, from local or regional
95 political subdivisions, from agricultural commodity assessments,
96 or from donations; special funds held in a fiduciary capacity for

97 the benefit of specific persons or classes of persons;
98 self-generated special funds of the state institutions of higher
99 learning or the state community or junior colleges; special funds
100 of Mississippi Industries for the Blind, the State Port at
101 Gulfport, Yellow Creek Inland Port, Pat Harrison Waterway
102 District, Pearl River Basin Development District, Pearl River
103 Valley Water Management District, Tombigbee River Valley Water
104 Management District, Yellow Creek Watershed Authority, or Coast
105 Coliseum Commission; special funds of the Department of Wildlife,
106 Fisheries and Parks derived from the issuance of hunting or
107 fishing licenses; and special funds generated by agencies whose
108 primary function includes the establishment of standards and the
109 issuance of licenses for the practice of a profession within the
110 State of Mississippi.

111 (4) Effective upon passage of this act, and effective in
112 each fiscal year thereafter, the funds of the Division of State
113 Aid Road Construction of the Mississippi Department of
114 Transportation shall be exempt from any transfer of special funds
115 into the State General Fund or the Budget Contingency Fund created
116 in Section 27-103-301, which is directed or authorized by the
117 Department of Finance and Administration under authority of this
118 section or by general act of the Legislature.

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

121 27-65-75. On or before the fifteenth day of each month, the
122 revenue collected under the provisions of this chapter during the
123 preceding month shall be paid and distributed as follows:

124 (1) (a) On or before August 15, 1992, and each succeeding
125 month thereafter through July 15, 1993, eighteen percent (18%) of
126 the total sales tax revenue collected during the preceding month
127 under the provisions of this chapter, except that collected under
128 the provisions of Sections 27-65-15, 27-65-19(3) and 27-65-21, on
129 business activities within a municipal corporation shall be

130 allocated for distribution to the municipality and paid to the
131 municipal corporation. On or before August 15, 1993, and each
132 succeeding month thereafter, eighteen and one-half percent
133 (18-1/2%) of the total sales tax revenue collected during the
134 preceding month under the provisions of this chapter, except that
135 collected under the provisions of Sections 27-65-15, 27-65-19(3)
136 and 27-65-21, on business activities within a municipal
137 corporation shall be allocated for distribution to the
138 municipality and paid to the municipal corporation.

139 A municipal corporation, for the purpose of distributing the
140 tax under this subsection, shall mean and include all incorporated
141 cities, towns and villages.

142 Monies allocated for distribution and credited to a municipal
143 corporation under this subsection may be pledged as security for a
144 loan if the distribution received by the municipal corporation is
145 otherwise authorized or required by law to be pledged as security
146 for such a loan.

147 In any county having a county seat that is not an
148 incorporated municipality, the distribution provided under this
149 subsection shall be made as though the county seat was an
150 incorporated municipality; however, the distribution to the
151 municipality shall be paid to the county treasury in which the
152 municipality is located, and those funds shall be used for road,
153 bridge and street construction or maintenance in the county.

154 (b) On or before August 15, 2006, and each succeeding
155 month thereafter, eighteen and one-half percent (18-1/2%) of the
156 total sales tax revenue collected during the preceding month under
157 the provisions of this chapter, except that collected under the
158 provisions of Sections 27-65-15, 27-65-19(3) and 27-65-21, on
159 business activities on the campus of a state institution of higher
160 learning or community or junior college whose campus is not
161 located within the corporate limits of a municipality, shall be
162 allocated for distribution to the state institution of higher

163 learning or community or junior college and paid to the state
164 institution of higher learning or community or junior college.

165 (2) On or before September 15, 1987, and each succeeding
166 month thereafter, from the revenue collected under this chapter
167 during the preceding month, One Million One Hundred Twenty-five
168 Thousand Dollars (\$1,125,000.00) shall be allocated for
169 distribution to municipal corporations as defined under subsection
170 (1) of this section in the proportion that the number of gallons
171 of gasoline and diesel fuel sold by distributors to consumers and
172 retailers in each such municipality during the preceding fiscal
173 year bears to the total gallons of gasoline and diesel fuel sold
174 by distributors to consumers and retailers in municipalities
175 statewide during the preceding fiscal year. The State Tax
176 Commission shall require all distributors of gasoline and diesel
177 fuel to report to the commission monthly the total number of
178 gallons of gasoline and diesel fuel sold by them to consumers and
179 retailers in each municipality during the preceding month. The
180 State Tax Commission shall have the authority to promulgate such
181 rules and regulations as is necessary to determine the number of
182 gallons of gasoline and diesel fuel sold by distributors to
183 consumers and retailers in each municipality. In determining the
184 percentage allocation of funds under this subsection for the
185 fiscal year beginning July 1, 1987, and ending June 30, 1988, the
186 State Tax Commission may consider gallons of gasoline and diesel
187 fuel sold for a period of less than one (1) fiscal year. For the
188 purposes of this subsection, the term "fiscal year" means the
189 fiscal year beginning July 1 of a year.

190 (3) On or before September 15, 1987, and on or before the
191 fifteenth day of each succeeding month, until the date specified
192 in Section 65-39-35, the proceeds derived from contractors' taxes
193 levied under Section 27-65-21 on contracts for the construction or
194 reconstruction of highways designated under the highway program
195 created under Section 65-3-97 shall, except as otherwise provided

196 in Section 31-17-127, be deposited into the State Treasury to the
197 credit of the State Highway Fund to be used to fund that highway
198 program. The Mississippi Department of Transportation shall
199 provide to the State Tax Commission such information as is
200 necessary to determine the amount of proceeds to be distributed
201 under this subsection.

202 (4) On or before August 15, 1994, and on or before the
203 fifteenth day of each succeeding month through July 15, 1999, from
204 the proceeds of gasoline, diesel fuel or kerosene taxes as
205 provided in Section 27-5-101(a)(ii)1, Four Million Dollars
206 (\$4,000,000.00) shall be deposited in the State Treasury to the
207 credit of a special fund designated as the "State Aid Road Fund,"
208 created by Section 65-9-17. On or before August 15, 1999, and on
209 or before the fifteenth day of each succeeding month, from the
210 total amount of the proceeds of gasoline, diesel fuel or kerosene
211 taxes apportioned by Section 27-5-101(a)(ii)1, Four Million
212 Dollars (\$4,000,000.00) or an amount equal to twenty-three and
213 one-fourth percent (23-1/4%) of those funds, whichever is the
214 greater amount, shall be deposited in the State Treasury to the
215 credit of the "State Aid Road Fund," created by Section 65-9-17.
216 Those funds shall be pledged to pay the principal of and interest
217 on state aid road bonds heretofore issued under Sections 19-9-51
218 through 19-9-77, in lieu of and in substitution for the funds
219 previously allocated to counties under this section. Those funds
220 may not be pledged for the payment of any state aid road bonds
221 issued after April 1, 1981; however, this prohibition against the
222 pledging of any such funds for the payment of bonds shall not
223 apply to any bonds for which intent to issue those bonds has been
224 published, for the first time, as provided by law before March 29,
225 1981. From the amount of taxes paid into the special fund under
226 this subsection and subsection (9) of this section, there shall be
227 first deducted and paid the amount necessary to pay the expenses
228 of the Office of State Aid Road Construction, as authorized by the

229 Legislature for all other general and special fund agencies. The
230 remainder of the fund shall be allocated monthly to the several
231 counties in accordance with the following formula:

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

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

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

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

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

250 The amount of funds allocated to any county under this
251 subsection for any fiscal year after fiscal year 1994 shall not be
252 less than the amount allocated to the county for fiscal year 1994.

253 Any reference in the general laws of this state or the
254 Mississippi Code of 1972 to Section 27-5-105 shall mean and be
255 construed to refer and apply to subsection (4) of Section
256 27-65-75.

257 (5) One Million Six Hundred Sixty-six Thousand Six Hundred
258 Sixty-six Dollars (\$1,666,666.00) each month shall be paid into
259 the special fund known as the "State Public School Building Fund"
260 created and existing under the provisions of Sections 37-47-1

261 through 37-47-67. Those payments into that fund are to be made on
262 the last day of each succeeding month hereafter.

263 (6) An amount each month beginning August 15, 1983, through
264 November 15, 1986, as specified in Section 6 of Chapter 542, Laws
265 of 1983, shall be paid into the special fund known as the
266 Correctional Facilities Construction Fund created in Section 6 of
267 Chapter 542, Laws of 1983.

268 (7) On or before August 15, 1992, and each succeeding month
269 thereafter through July 15, 2000, two and two hundred sixty-six
270 one-thousandths percent (2.266%) of the total sales tax revenue
271 collected during the preceding month under the provisions of this
272 chapter, except that collected under the provisions of Section
273 27-65-17(2) shall be deposited by the commission into the School
274 Ad Valorem Tax Reduction Fund created under Section 37-61-35. On
275 or before August 15, 2000, and each succeeding month thereafter,
276 two and two hundred sixty-six one-thousandths percent (2.266%) of
277 the total sales tax revenue collected during the preceding month
278 under the provisions of this chapter, except that collected under
279 the provisions of Section 27-65-17(2), shall be deposited into the
280 School Ad Valorem Tax Reduction Fund created under Section
281 37-61-35 until such time that the total amount deposited into the
282 fund during a fiscal year equals Forty-two Million Dollars
283 (\$42,000,000.00). Thereafter, the amounts diverted under this
284 subsection (7) during the fiscal year in excess of Forty-two
285 Million Dollars (\$42,000,000.00) shall be deposited into the
286 Education Enhancement Fund created under Section 37-61-33 for
287 appropriation by the Legislature as other education needs and
288 shall not be subject to the percentage appropriation requirements
289 set forth in Section 37-61-33.

290 (8) On or before August 15, 1992, and each succeeding month
291 thereafter, nine and seventy-three one-thousandths percent
292 (9.073%) of the total sales tax revenue collected during the
293 preceding month under the provisions of this chapter, except that

294 collected under the provisions of Section 27-65-17(2), shall be
295 deposited into the Education Enhancement Fund created under
296 Section 37-61-33.

297 (9) On or before August 15, 1994, and each succeeding month
298 thereafter, from the revenue collected under this chapter during
299 the preceding month, Two Hundred Fifty Thousand Dollars
300 (\$250,000.00) shall be paid into the State Aid Road Fund.

301 (10) On or before August 15, 1994, and each succeeding month
302 thereafter through August 15, 1995, from the revenue collected
303 under this chapter during the preceding month, Two Million Dollars
304 (\$2,000,000.00) shall be deposited into the Motor Vehicle Ad
305 Valorem Tax Reduction Fund established in Section 27-51-105.

306 (11) Notwithstanding any other provision of this section to
307 the contrary, on or before February 15, 1995, and each succeeding
308 month thereafter, the sales tax revenue collected during the
309 preceding month under the provisions of Section 27-65-17(2) and
310 the corresponding levy in Section 27-65-23 on the rental or lease
311 of private carriers of passengers and light carriers of property
312 as defined in Section 27-51-101 shall be deposited, without
313 diversion, into the Motor Vehicle Ad Valorem Tax Reduction Fund
314 established in Section 27-51-105.

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

324 (13) On or before July 15, 1994, and on or before the
325 fifteenth day of each succeeding month thereafter, that portion of
326 the avails of the tax imposed in Section 27-65-22 that is derived

327 from activities held on the Mississippi State Fairgrounds Complex,
328 shall be paid into a special fund that is created in the State
329 Treasury and shall be expended upon legislative appropriation
330 solely to defray the costs of repairs and renovation at the Trade
331 Mart and Coliseum.

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

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

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

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

360 (18) On or before August 15, 2007, and each succeeding month
361 thereafter through July 15, 2008, from the sales tax revenue
362 collected during the preceding month under the provisions of this
363 chapter, Two Million Five Hundred Thousand Dollars (\$2,500,000.00)
364 shall be deposited into the Special Funds Transfer Fund created in
365 Section 4 of Chapter 556, Laws of 2003.

366 (19) (a) On or before August 15, 2005, and each succeeding
367 month thereafter, the sales tax revenue collected during the
368 preceding month under the provisions of this chapter on the gross
369 proceeds of sales of a business enterprise located within a
370 redevelopment project area under the provisions of Sections
371 57-91-1 through 57-91-11, and the revenue collected on the gross
372 proceeds of sales from sales made to a business enterprise located
373 in a redevelopment project area under the provisions of Sections
374 57-91-1 through 57-91-11 (provided that such sales made to a
375 business enterprise are made on the premises of the business
376 enterprise), shall, except as otherwise provided in this
377 subsection (19), be deposited, after all diversions, into the
378 Redevelopment Project Incentive Fund as created in Section
379 57-91-9.

380 (b) For a municipality participating in the Economic
381 Redevelopment Act created in Sections 57-91-1 through 57-91-11,
382 the diversion provided for in subsection (1) of this section
383 attributable to the gross proceeds of sales of a business
384 enterprise located within a redevelopment project area under the
385 provisions of Sections 57-91-1 through 57-91-11, and attributable
386 to the gross proceeds of sales from sales made to a business
387 enterprise located in a redevelopment project area under the
388 provisions of Sections 57-91-1 through 57-91-11 (provided that
389 such sales made to a business enterprise are made on the premises
390 of the business enterprise), shall be deposited into the
391 Redevelopment Project Incentive Fund as created in Section
392 57-91-9, as follows:

393 (i) For the first six (6) years in which payments
394 are made to a developer from the Redevelopment Project Incentive
395 Fund, one hundred percent (100%) of the diversion shall be
396 deposited into the fund;

397 (ii) For the seventh year in which such payments
398 are made to a developer from the Redevelopment Project Incentive
399 Fund, eighty percent (80%) of the diversion shall be deposited
400 into the fund;

401 (iii) For the eighth year in which such payments
402 are made to a developer from the Redevelopment Project Incentive
403 Fund, seventy percent (70%) of the diversion shall be deposited
404 into the fund;

405 (iv) For the ninth year in which such payments are
406 made to a developer from the Redevelopment Project Incentive Fund,
407 sixty percent (60%) of the diversion shall be deposited into the
408 fund; and

409 (v) For the tenth year in which such payments are
410 made to a developer from the Redevelopment Project Incentive Fund,
411 fifty percent (50%) of the funds shall be deposited into the fund.

412 (20) On or before January 15, 2007, and each succeeding
413 month thereafter, eighty percent (80%) of the sales tax revenue
414 collected during the preceding month under the provisions of this
415 chapter from the operation of a tourism project under the
416 provisions of Sections 57-28-1 through 57-28-5, shall be
417 deposited, after the diversions required in subsections (7) and
418 (8) of this section, into the Tourism Sales Tax Incentive Fund
419 created in Section 57-28-3.

420 (21) The remainder of the amounts collected under the
421 provisions of this chapter shall be paid into the State Treasury
422 to the credit of the General Fund.

423 (22) It shall be the duty of the municipal officials of any
424 municipality that expands its limits, or of any community that
425 incorporates as a municipality, to notify the commissioner of that

426 action thirty (30) days before the effective date. Failure to so
427 notify the commissioner shall cause the municipality to forfeit
428 the revenue that it would have been entitled to receive during
429 this period of time when the commissioner had no knowledge of the
430 action. If any funds have been erroneously disbursed to any
431 municipality or any overpayment of tax is recovered by the
432 taxpayer, the commissioner may make correction and adjust the
433 error or overpayment with the municipality by withholding the
434 necessary funds from any later payment to be made to the
435 municipality.

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