

By: Representative Johnson

To: Transportation; Ways and Means

HOUSE BILL NO. 265

1 AN ACT TO AMEND SECTION 27-55-11, MISSISSIPPI CODE OF 1972,  
 2 TO REVISE THE RATE OF THE GASOLINE EXCISE TAX; TO BRING FORWARD  
 3 SECTIONS 27-55-12, 27-55-19 AND 27-55-23, MISSISSIPPI CODE OF  
 4 1972, WHICH PROVIDE FOR CERTAIN EXEMPTIONS AND REFUNDS UNDER THE  
 5 GASOLINE EXCISE TAX LAW, FOR THE PURPOSES OF AMENDMENT; TO AMEND  
 6 SECTION 27-55-519, MISSISSIPPI CODE OF 1972, TO REVISE THE RATE OF  
 7 THE SPECIAL FUEL EXCISE TAX IMPOSED ON UNDYED DIESEL FUEL; TO  
 8 BRING FORWARD SECTIONS 27-55-521, 27-55-523 AND 27-55-533,  
 9 MISSISSIPPI CODE OF 1972, WHICH ARE SECTIONS OF THE MISSISSIPPI  
 10 SPECIAL FUEL TAX LAW, FOR PURPOSES OF AMENDMENT; TO BRING FORWARD  
 11 SECTION 27-5-101, MISSISSIPPI CODE OF 1972, WHICH PROVIDES FOR THE  
 12 DISTRIBUTION OF FUEL TAXES, FOR THE PURPOSE OF AMENDMENT; AND FOR  
 13 RELATED PURPOSES.

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

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

17 27-55-11. (1) (a) (i) Any person in business as a  
 18 distributor of gasoline or who acts as a distributor of gasoline,  
 19 as defined in this article, shall pay for the privilege of  
 20 engaging in such business or acting as such distributor an excise  
 21 tax equal to \* \* \* Fifteen Cents (15¢) per gallon until the date  
 22 specified in Section 65-39-35, and \* \* \* Twelve Cents (12¢) per  
 23 gallon thereafter, on all gasoline and blend stock stored, sold,



24 distributed, manufactured, refined, distilled, blended or  
25 compounded in this state or received in this state for sale, use  
26 on the highways, storage, distribution, or for any purpose.

27 (ii) In addition to the tax imposed under  
28 subparagraph (i) of this paragraph (a), any person in business as  
29 a distributor of gasoline or who acts as a distributor of  
30 gasoline, as defined in this article, shall pay for the privilege  
31 of engaging in such business or acting as such distributor an  
32 excise tax equal to an amount determined under this subparagraph  
33 (ii) on all gasoline and blend stock stored, sold, distributed,  
34 manufactured, refined, distilled, blended or compounded in this  
35 state or received in this state for sale, use on the highways,  
36 storage, distribution, or for any purpose. The amount of the tax  
37 imposed under this subparagraph (ii) shall be determined by  
38 multiplying the average wholesale price of gasoline by six percent  
39 (6%), the product of which, rounded to the nearest one-tenth  
40 (1/10) of a cent, shall be the rate of the tax. Beginning January  
41 1, 2014, the rate of the tax imposed under this subparagraph (ii)  
42 shall be recalculated and adjusted according to such formula twice  
43 per calendar year on January 1 and July 1. The average wholesale  
44 price of gasoline shall be certified by the Commissioner of  
45 Revenue for the purposes of this subparagraph (ii).

46 (b) Any person in business as a distributor of aviation  
47 gasoline, or who acts as a distributor of aviation gasoline, shall  
48 pay for the privilege of engaging in such business or acting as



49 such distributor an excise tax equal to Six and Four-tenths Cents  
50 (6.4¢) per gallon on all aviation gasoline stored, sold,  
51 distributed, manufactured, refined, distilled, blended or  
52 compounded in this state or received in this state for sale,  
53 storage, distribution or for any purpose.

54 (c) The excise taxes collected under this section shall  
55 be paid and distributed in accordance with Section 27-5-101.

56 (2) (a) The tax herein imposed and assessed shall be  
57 collected and paid to the State of Mississippi but once in respect  
58 to any gasoline. The basis for determining the tax liability  
59 shall be the correct invoiced gallons, adjusted to sixty (60)  
60 degrees Fahrenheit at the refinery or point of origin of shipment  
61 when such shipment is made by tank car or by motor carrier. The  
62 point of origin of shipment of gasoline transported into this  
63 state by pipelines shall be deemed to be that point in this state  
64 where such gasoline is withdrawn from the pipeline for storage or  
65 distribution, and adjustment to sixty (60) degrees Fahrenheit  
66 shall there be made. The basis for determining the tax liability  
67 on gasoline shipped into this state in barge cargoes and by  
68 pipeline shall be the actual number of gallons adjusted to sixty  
69 (60) degrees Fahrenheit unloaded into storage tanks or other  
70 containers in this state, such gallonage to be determined by  
71 measurement and/or gauge of storage tank or tanks or by any other  
72 method authorized by the \* \* \* department. The tank or tanks into  
73 which barge cargoes of gasoline are discharged, or into which



74 gasoline transported by pipeline is discharged, shall have correct  
75 gauge tables listing capacity, such gauge tables to be prepared by  
76 some recognized calibrating agency and to be approved by the \* \* \*  
77 department.

78           **(b)** The tax levied herein shall accrue at the time  
79 gasoline is withdrawn from a refinery in this state except when  
80 withdrawal is by pipeline, barge, ship or vessel. The refiner  
81 shall pay to the \* \* \* department the tax levied herein when  
82 gasoline is sold or delivered to persons who do not hold gasoline  
83 distributor permits. The refiner shall report to the \* \* \*  
84 department all sales and deliveries of gasoline to bonded  
85 distributors of gasoline. The bonded distributor of gasoline who  
86 purchases, receives or acquires gasoline from a refinery in this  
87 state shall report such gasoline and pay the tax levied herein.

88           **(c)** Gasoline imported by common carrier shall be deemed  
89 to be received by the distributor of gasoline, and the tax levied  
90 herein shall accrue, when the car or tank truck containing such  
91 gasoline is unloaded by the carrier.

92           **(d)** With respect to distributors or other persons who  
93 bring, ship, have transported, or have brought into this state  
94 gasoline by means other than through a common carrier, the tax  
95 accrues and the tax liability attaches on the distributor or other  
96 person for each gallon of gasoline brought into the state at the  
97 time when and at the point where such gasoline is brought into the  
98 state.



99           (e) The tax levied herein shall accrue on blend stock  
100 at the time it is blended with gasoline. The blender shall pay to  
101 the \* \* \* department the tax levied herein when blend stock is  
102 sold or delivered to persons who do not hold gasoline distributor  
103 permits. The blender shall report to the \* \* \* department all  
104 sales and deliveries of blend stock to bonded distributors of  
105 gasoline. The bonded distributor of gasoline who purchases,  
106 receives or acquires blend stock from a blender in this state  
107 shall report blend stock and pay the tax levied herein.

108           **SECTION 2.** Section 27-55-12, Mississippi Code of 1972, is  
109 brought forward as follows:

110           27-55-12. (1) The United States government, the State of  
111 Mississippi, counties, municipalities, school districts and all  
112 other political subdivisions of the state, and volunteer fire  
113 departments chartered under the laws of the State of Mississippi  
114 as nonprofit corporations shall be exempt from excise taxes on  
115 gasoline, special fuel and compressed gas as follows:

116           (a) From the excise tax rate in excess of Nine Cents  
117 (9¢) per gallon of gasoline and from the excise tax rate in excess  
118 of One Cent (1¢) per gallon of aviation gasoline levied under  
119 Section 27-55-11, Mississippi Code of 1972, Five and Four-tenths  
120 Cents (5.4¢) thereof shall be exempt as provided in Section  
121 27-55-19, Mississippi Code of 1972.

122           (b) From the excise tax rate in excess of Ten Cents  
123 (10¢) per gallon of special fuel levied at Eighteen Cents (18¢)



124 per gallon under Sections 27-55-519 and 27-55-521, Four and  
125 Three-fourths Cents (4.75¢) thereof shall be exempt.

126 (c) From the excise tax rate in excess of One Cent (1¢)  
127 per gallon of special fuel taxed at Five and Three-fourths Cents  
128 (5.75¢) per gallon and from the excise tax rate in excess of  
129 One-half Cent (1/2¢) per gallon of special fuel used in aircraft  
130 levied under Section 27-55-519, Four and Three-fourths Cents  
131 (4.75¢) thereof shall be exempt.

132 (d) From the portion of the excise tax rate on  
133 compressed gas used as a motor fuel that exceeds the rate of tax  
134 in effect on June 30, 1987, Three Cents (3¢) thereof shall be  
135 exempt.

136 (2) The exemption provided in subsection (1) of this section  
137 for sales of gasoline, special fuel and compressed gas to  
138 volunteer fire departments shall apply only to sales of gasoline,  
139 special fuel and compressed gas for use in a vehicle owned by a  
140 volunteer fire department and used for department purposes.

141 (3) The exemption provided in subsection (1) of this section  
142 for sales of gasoline, special fuel and compressed gas also shall  
143 apply to sales of gasoline, special fuel and compressed gas to an  
144 entity described in Section 27-51-41(2)(u) for use in buses and  
145 other motor vehicles that are exempt from ad valorem taxation  
146 under Section 27-51-41(2)(u).

147 (4) Any person other than a bonded distributor of gasoline,  
148 bonded distributor of special fuel or bonded distributor of



149 compressed gas who sells or delivers any gasoline, special fuel or  
150 compressed gas, subject to the exemption set forth in this  
151 section, is required to obtain credit for such exemption from a  
152 bonded distributor of gasoline, special fuel or compressed gas.

153       **SECTION 3.** Section 27-55-19, Mississippi Code of 1972, is  
154 brought forward as follows:

155       27-55-19. There shall not be included in the measure of the  
156 tax levied hereunder any gasoline:

157           (a) Sold or delivered by a bonded distributor of  
158 gasoline to a second bonded distributor of gasoline within this  
159 state, but nothing in this exclusion shall exempt the second  
160 bonded distributor of gasoline from paying the tax, unless the  
161 second bonded distributor of gasoline sells or delivers said  
162 gasoline to a third bonded distributor of gasoline in which event  
163 the third bonded distributor of gasoline shall be liable for the  
164 tax.

165           (b) Sold to the United States government for use of the  
166 Armed Forces only, and delivered in quantities of not less than  
167 four thousand (4,000) gallons. Any exemption provided in this  
168 paragraph (b) may be deducted without the prior approval of the  
169 department, provided that satisfactory proof of such exemption  
170 shall be furnished to the department. However, such exemption may  
171 be disallowed by the department if the distributor fails to  
172 furnish satisfactory proof of such exemption to the department.



173           (c) Exported to a destination beyond the borders of  
174 this state by a bonded distributor of gasoline when the tax on  
175 such gasoline has been paid or on which the tax liability imposed  
176 by this article has accrued against such bonded distributor. Any  
177 exemption provided in this paragraph (c) may be deducted without  
178 the prior approval of the department, provided that satisfactory  
179 proof of such exemption shall be furnished to the department;  
180 however, such exemption may be disallowed by the department if the  
181 distributor fails to furnish satisfactory proof of such exemption  
182 to the department within ninety (90) days from the sale or  
183 delivery of the gasoline.

184           (d) Exported by any person to a destination beyond the  
185 borders of this state in quantities of not less than three  
186 thousand (3,000) gallons by ship, vessel, barge, railroad tank  
187 car, or pipeline, or by tank truck if such tank truck is operated  
188 by a common or contract carrier.

189           (e) Imported by, or sold to, any refiner or processor  
190 in this state for the purpose of being refined or further  
191 processed.

192           (f) Sold to any manufacturer for blending or  
193 compounding to the end that it becomes a component part of any  
194 manufactured product, or where used as a processing agent in the  
195 treatment of raw material in manufacturing a product which does  
196 not fall within the meaning of the term "gasoline" as defined in  
197 this article.





198 (g) Sold or delivered to be used for test purposes at  
199 any regularly established testing laboratory in this state.

200 Except as provided in paragraphs (b) and (c) above, evidence  
201 of exempt transactions provided in this section and subsections  
202 thereof, satisfactory to the department, shall be submitted by the  
203 distributor desiring an allowance of said exemptions to the  
204 department with the payment of the excise tax on the gasoline on  
205 which the exemption is claimed. If the department decides that  
206 the distributor is entitled to the exemption and allowance  
207 claimed, it shall notify said distributor in writing of such  
208 allowance. The distributor shall then be allowed to deduct from  
209 the payments made in his next monthly report, after said  
210 allowance, the amount of tax which he paid on this exempted  
211 gasoline which amount shall be arrived at by taking the amount of  
212 exempted gasoline minus two percent (2%) allowed for evaporation,  
213 shrinkage and other losses on gasoline, and multiplying the  
214 remainder by the amount of excise tax per gallon. In cases where  
215 the amount of such tax cannot be absorbed on the estimated tax  
216 liability of the person making such payments during the next six  
217 (6) months, the amount shall be refunded to the taxpayer. Such  
218 amount shall be certified to the State Auditor of Public Accounts  
219 by the department. The said Auditor is hereby authorized to make  
220 such investigation and audit of the claim as he finds necessary.  
221 If he finds that the department is correct in its determination,  
222 the Auditor may issue his warrant to the State Treasurer in favor



223 of the taxpayer for the amount of tax erroneously paid, such  
224 refunds to be made from current gasoline, or special fuel tax  
225 collections.

226       Except as otherwise provided in this section, in order to  
227 claim exemptions provided for under this article, the distributor  
228 of gasoline must file claims therefor within three (3) years from  
229 the date of sale or delivery; otherwise, claims for such  
230 exemptions shall be disallowed.

231       In case gasoline and special fuel on which the tax has been  
232 previously paid are accidentally mixed, the distributor of  
233 gasoline or other person owning such mixture may ship the mixture  
234 out of the State of Mississippi, or to a Mississippi refinery, and  
235 may claim credit for the gasoline and/or special fuel tax on the  
236 gasoline and special fuel so mixed. The distributor of gasoline  
237 or other person may also ship the mixture to a barge or pipeline  
238 storage terminal within the State of Mississippi to be brought up  
239 to gasoline specifications, or lowered to special fuel  
240 specifications, as the case might be, under the supervision of a  
241 representative of the department. It shall be the duty of the  
242 distributor of gasoline or other person to whom the mixed product  
243 belongs to notify the department immediately after knowledge that  
244 the mixture has occurred.

245       In case the distributor of gasoline or other person elects to  
246 ship the mixture to a barge or pipeline terminal for storage



247 within this state, the department shall supervise the unloading of  
248 the mixture.

249 In order to perfect a claim for credit for the tax on the  
250 gasoline and special fuel constituting any such mixture, the  
251 distributor of gasoline or other person making the claim shall do  
252 so in writing and shall furnish proof satisfactory to the  
253 department that the mixture was either shipped out of this state  
254 or to a refinery or other approved place of storage within this  
255 state. The department shall notify the claimant, in writing,  
256 whether or not his claim is approved, and, if approved, the  
257 claimant may deduct the amount of the claim from his next tax  
258 report. No such claim shall be allowed unless filed within three  
259 (3) years after the date of such accidental mixture. Bonded  
260 distributors of gasoline having no gasoline tax liability with the  
261 department may assign such tax credit to a bonded distributor of  
262 gasoline having such tax liability.

263 No tax liability shall accrue against the operator of a  
264 refinery when shipments of gasoline are made from such refinery,  
265 either by common carrier or by tank trucks owned and operated by  
266 the operator of said refinery, to a tax-exempt account within this  
267 state or to another refinery within this state.

268 Provided, however, that when gasoline is withdrawn from the  
269 storage tank of a refiner or processor on which the tax is paid on  
270 such gasoline and it or any part thereof cannot be delivered to a  
271 purchaser, said refiner or processor may deduct the tax on all or



272 that portion of such gasoline not delivered to a purchaser from  
273 its next gasoline distributor's tax report; provided that such  
274 refiner or processor submits with such tax report: (1) a written  
275 report setting forth the reasons why such delivery could not be  
276 made, and (2) proof or evidence satisfactory to the department  
277 that the tax in question had theretofore been paid to the  
278 department, and (3) proof or evidence satisfactory to the  
279 department that the nondelivered gasoline was actually returned to  
280 the refinery or processor from which it was taken for the purpose  
281 of delivering it to a purchaser; and provided further, that  
282 immediately upon ascertainment by the refiner or processor that  
283 said gasoline cannot be delivered, he or it shall immediately  
284 notify the department of this fact and before moving his or its  
285 truck or other means of transporting said gasoline from the  
286 intended point of delivery; and should the department desire to  
287 inspect said truck, or other means of conveyance, such refiner or  
288 processor shall arrange for such inspection at the point or at  
289 such other point that may be designated by the department.

290 The United States government, the State of Mississippi,  
291 counties, municipalities, school districts and all other political  
292 subdivisions of the state, and entities described in Section  
293 27-55-12(3) shall be exempt from Five and Four-tenths Cents (5.4¢)  
294 of the portion of the gasoline excise tax rate which exceeds Nine  
295 Cents (9¢) per gallon. Any exemption provided in this paragraph  
296 may be deducted without the prior approval of the department.



297           **SECTION 4.** Section 27-55-23, Mississippi Code of 1972, is  
298 brought forward as follows:

299           27-55-23. Any person who shall purchase and use gasoline  
300 other than aviation gasoline for agricultural, maritime,  
301 industrial, or domestic purposes, as defined in this article,  
302 which is not used in operating motor vehicles upon the highways of  
303 this state, shall be entitled to a refund of all but Six and  
304 Four-tenths Cents (6.4¢) per gallon of the tax actually paid on  
305 gasoline which is used for agricultural, maritime, industrial,  
306 domestic, or nonhighway purposes, as herein defined, provided that  
307 no such refund shall be payable unless the provisions of this  
308 article are complied with. Provided, however, no refund shall be  
309 allowed to any person who may purchase, sell or use gasoline,  
310 either on or off the highway, in performing contracts for  
311 construction, reconstruction, maintenance or repair, where such  
312 contracts are entered into with the State of Mississippi or with  
313 any department, agency or institution of the State of Mississippi,  
314 or with any political subdivision of the State of Mississippi, or  
315 with any department, agency, or institution of such political  
316 subdivision. Also, provided that no refund of tax paid on  
317 gasoline used on the highways of this state in motor vehicles  
318 owned or operated by the federal government, State of Mississippi,  
319 or any department or political subdivision of either will be  
320 allowed.



321 Any person who shall purchase and use gasoline other than  
322 aviation gasoline for aviation purposes, as defined in this  
323 article, shall be entitled to a refund of all but Six and  
324 Four-tenths Cents (6.4¢) per gallon of the tax actually paid on  
325 gasoline thus used.

326 The granting of a refund privilege to any claimant under the  
327 provisions of this article is declared to be a matter of grace  
328 rather than a matter of right, and in all cases arising under this  
329 section the burden shall be on the claimant to make proof  
330 sufficient to convince the department of the claimant's compliance  
331 with the provisions of this article; otherwise, the refund claim  
332 shall be denied or the claimant's permit cancelled by the  
333 department, as the case may be.

334 Before any person shall be entitled to claim refund of any  
335 tax paid on gasoline under the provisions of this section, he  
336 shall file an information blank for a refund permit with the  
337 department. Such information blank shall be made on forms  
338 furnished by the department and shall give a detailed description  
339 of the equipment and such other information as the department may  
340 require with respect to the equipment or machinery in which refund  
341 gasoline is to be used. If such gasoline is not to be used in  
342 equipment or machinery, the purpose for which such gasoline is to  
343 be used shall be stated. The information blank and supplements  
344 thereto shall be signed by the person desiring to use refund



345 gasoline or his authorized agent and filed under the penalty of  
346 perjury.

347       If additional or replacement equipment or machinery is  
348 acquired, or if the status of the claimant otherwise changes after  
349 the original information blank is filed, supplemental information  
350 reflecting these changes shall be filed at the time of filing the  
351 next refund claim. The supplemental information blank shall  
352 contain the same information with respect to the changes as is  
353 required on the original information blank.

354       Upon approval of the information blank, the department shall  
355 assign a file number to be used by the refund user. Provided,  
356 also, that such refund user will be issued a refund certificate  
357 book to be used when purchasing refund gasoline. Each refund  
358 certificate shall carry the file number of the refund user and,  
359 upon each purchase of refund gasoline, a certificate shall be  
360 filled in and signed on the calendar day of delivery, by either  
361 the dealer or the refund user or their authorized agents, but in  
362 no case may one (1) individual sign such certificate as both the  
363 dealer and the user. Each certificate, however, must be signed by  
364 both the claimant and dealer, or their authorized agents, before a  
365 refund of tax can be allowed on the certificate. Such refund  
366 certificate book shall not be transferable or assignable and shall  
367 be kept in the possession of the refund user or in his control at  
368 all times. Upon receipt of the information blank properly  
369 completed, the department shall forward to such refund user the



370 file number and certificate book. Should the department refuse to  
371 issue a file number and refund certificate book, or refuse to pay  
372 any refund alleged to be due, the applicant or user may, within  
373 sixty (60) days from the date of the notice of the refusal by the  
374 department, appeal to the board of review of the Department of  
375 Revenue as hereinafter provided.

376 It shall be the duty of the consumer of gasoline for which  
377 refund application is to be made, including any distributor of  
378 gasoline using his own gasoline for a refund purpose, to have  
379 storage facilities available for delivery of refund gasoline.  
380 Such storage facilities shall be plainly marked "refund gasoline"  
381 in lettering of contrasting color and not less than four (4)  
382 inches in height. Where refund gasoline is delivered directly  
383 into the fuel tank of equipment belonging to or used by the refund  
384 user, such equipment shall be plainly marked "refund gasoline" in  
385 lettering of contrasting color as near to the fuel tank as  
386 possible. Such lettering shall not be less than four (4) inches  
387 in height. It shall also be the duty of the distributor of  
388 gasoline delivering gasoline into the tanks to dye the refund  
389 gasoline a distinctive mahogany color at the time of delivery.  
390 However, in no case shall dye be added to gasoline to be used in  
391 aircraft.

392 The department is authorized to waive the requirement that  
393 refund gasoline be dyed in any case where damage to equipment or  
394 machinery would result from the addition of such dye, or where





395 addition of dye would otherwise render gasoline unfit for its  
396 intended use. It shall be the obligation of the user to obtain  
397 the aforementioned waiver from the department.

398 Any person desiring a refund on any gasoline purchased shall  
399 make claim to the department, on forms provided by the department,  
400 within three (3) years from the date the gasoline was purchased.  
401 No refund shall be allowed on any gasoline which shall not have  
402 been already used or consumed by the purchaser thereof before the  
403 filing of the claim; provided, however, when a claim is filed and  
404 there is an unused part of any purchase to be carried forward to  
405 the next claim, the dating of this carry-over shall take the same  
406 date of the first purchase entered on the next claim. No person  
407 shall file more than one (1) claim during any one (1) month. The  
408 claim shall be personally signed by the purchaser or his duly  
409 authorized agent. The claimant shall in the claim, state that the  
410 refund claim has not and will not be assigned. The original and  
411 duplicate of the certificate shall be retained by the claimant, at  
412 the time of purchase. The original certificate with vendor's  
413 invoices shall be attached to the refund claim, and the duplicate  
414 shall remain in the certificate book of the claimant and shall be  
415 subject to inspection by the department at all reasonable hours.  
416 The claimant shall preserve the duplicate certificates for three  
417 (3) years from date of purchase. The claim shall be in the name  
418 of the purchaser and shall show the purchaser's refund file  
419 number. Supporting invoices shall state that dye has been added



420 to refund gasoline or that the requirement that dye be added has  
421 been waived by the department. The claim shall be certified under  
422 the penalty of perjury.

423 Any person who shall file a claim for refund under the  
424 provisions of this article shall show on each refund claim filed:  
425 the names and addresses of the person or persons from whom the  
426 claimant customarily purchases motor fuel for use in propelling  
427 motor vehicles owned or operated by the claimant on the highways  
428 of this state. Until the provisions of this paragraph are  
429 complied with, the refund claim shall not be allowed.

430 Upon receipt of the claim, the department shall determine the  
431 amount of refund due to the claimant and the amount shall be  
432 refunded to the claimant as provided in Section 27-55-19. If for  
433 any reason the department should determine that an erroneous claim  
434 has been paid, it may deduct such erroneous payment from any legal  
435 claim subsequently filed by the claimant to whom erroneous payment  
436 was made.

437 If the department determines that any refund claim shall not  
438 be paid, it shall notify the claimant, in writing, at the earliest  
439 date possible after such determination stating the reason or  
440 reasons why such claim is disallowed.

441 A refund claimant may, within sixty (60) days after receipt  
442 of notice of the disallowance of his claim, appeal to the board of  
443 review of the Department of Revenue as hereinafter provided.



444           **SECTION 5.** Section 27-55-519, Mississippi Code of 1972, is  
445 amended as follows:

446           27-55-519. (1) Any person engaged in business as a  
447 distributor of special fuel or who acts as a distributor of  
448 special fuel, as defined in this article, shall pay for the  
449 privilege of engaging in such business or acting as such  
450 distributor an excise tax on all special fuel stored, used, sold,  
451 distributed, manufactured, refined, distilled, blended or  
452 compounded in this state or received in this state for sale,  
453 storage, distribution or for any purpose, adjusted to sixty (60)  
454 degrees Fahrenheit.

455           The excise tax shall become due and payable when:

456           (a) Special fuel is withdrawn from storage at a  
457 refinery, marine or pipeline terminal, except when withdrawal is  
458 by barge or pipeline.

459           (b) Special fuel imported by a common carrier is  
460 unloaded by that carrier unless the special fuel is unloaded  
461 directly into the storage tanks of a refinery, marine or pipeline  
462 terminal.

463           (c) Special fuel imported by any person other than a  
464 common carrier enters the State of Mississippi unless the special  
465 fuel is unloaded directly into the storage tanks of a refinery,  
466 marine or pipeline terminal.

467           (d) Special fuel is blended in this state unless such  
468 blending occurs in a refinery, marine or pipeline terminal.



469 (e) Special fuel is acquired tax free.

470 (2) The special fuel excise tax shall be as follows:

471 (a) (i) \* \* \* Fifteen Cents (15¢) per gallon on undyed  
472 diesel fuel until the date specified in Section 65-39-35 and \* \* \*  
473 Twelve and Three-tenths Cents (12.3¢) per gallon thereafter; and

474 (ii) In addition to the tax imposed under  
475 subparagraph (i) of this paragraph (a), a tax in an amount  
476 determined under this subparagraph (ii) per gallon on undyed  
477 diesel fuel. The amount of the tax imposed under this  
478 subparagraph (ii) shall be determined by multiplying the average  
479 wholesale price of diesel fuel by six percent (6%), the product of  
480 which, rounded to the nearest one-tenth (1/10) of a cent, shall be  
481 the rate of the tax. Beginning January 1, 2014, the rate of the  
482 tax imposed under this subparagraph (ii) shall be recalculated and  
483 adjusted according to such formula twice per calendar year on  
484 January 1 and July 1. The average wholesale price of diesel fuel  
485 shall be certified by the Commissioner of Revenue for the purposes  
486 of this subparagraph (ii).

487 (b) Five and Three-fourths Cents (5.75¢) per gallon on  
488 all special fuel except undyed diesel fuel and special fuel used  
489 as fuels in aircraft; and

490 (c) Five and One-fourth Cents (5.25¢) per gallon on  
491 special fuel used as fuel in aircraft.

492 **SECTION 6.** Section 27-55-521, Mississippi Code of 1972, is  
493 brought forward as follows:



494           27-55-521. (1) An excise tax at the rate of Eighteen Cents  
495 (18¢) per gallon until the date specified in Section 65-39-35,  
496 Mississippi Code of 1972, and Fourteen and Three-fourths Cents  
497 (14.75¢) per gallon thereafter is levied on any person engaged in  
498 business as a distributor of special fuel or who acts as such who  
499 sells:

500           (a) Special fuel for use in performing contracts for  
501 construction, reconstruction, maintenance or repairs, where such  
502 contracts are entered into with the State of Mississippi, any  
503 political subdivision of the State of Mississippi, or any  
504 department, agency, institution of the State of Mississippi or any  
505 political subdivision thereof.

506           (b) Dyed diesel fuel or kerosene to a state or local  
507 governmental entity for use on the highways in a motor vehicle.

508           (c) Special fuel for use on the highway.

509           (2) An excise tax at the rate of Eighteen Cents (18¢) per  
510 gallon until the date specified in Section 65-39-35, Mississippi  
511 Code of 1972, and Fourteen and Three-fourths Cents (14.75¢) per  
512 gallon thereafter is levied on any person who:

513           (a) Uses dyed diesel fuel or kerosene in a motor  
514 vehicle on the highways of this state in violation of Section  
515 27-55-539.

516           (b) Purchases or acquires undyed diesel fuel or  
517 kerosene for nonhighway use and subsequently uses such diesel fuel  
518 or kerosene in a motor vehicle on the highways of this state.



519 (c) Purchases or acquires special fuel for use in  
520 performing contracts as specified in this section.

521 **SECTION 7.** Section 27-55-523, Mississippi Code of 1972, is  
522 brought forward as follows:

523 27-55-523. For the purpose of determining the amount of his  
524 liability for the tax imposed by this article, each bonded  
525 distributor of special fuel shall, not later than the twentieth  
526 day of the month next following the month in which this article  
527 becomes effective, and not later than the twentieth day of each  
528 month thereafter, file with the commission a monthly report which  
529 shall include a statement of the number of gallons of special fuel  
530 received and sold by such distributor of special fuel within this  
531 state during the preceding calendar month, and such other  
532 information as may be reasonably necessary for the proper  
533 administration of this article.

534 At the time of filing each monthly report with the  
535 commission, a distributor may take a credit for the number of  
536 gallons of special fuel that he purchased during the preceding  
537 calendar month from a distributor who pays the excise tax imposed  
538 by this article on such special fuel.

539 At the time of filing each monthly report with the  
540 commission, each distributor of special fuel shall pay to the  
541 commission the full amount of the special fuel tax due from such  
542 distributor for the preceding calendar month.



543 Reports and payments sent to the commission by mail must be  
544 postmarked by the due date in order to be considered timely filed,  
545 except when the due date falls on a weekend or holiday, in which  
546 case such reports and payments must be postmarked by the first  
547 working day following the due date in order to be considered  
548 timely filed.

549 The monthly report of the distributor of special fuel shall  
550 be prepared and filed with the commission on forms prescribed by  
551 the commission, or the distributor of special fuel may, with the  
552 approval of the commission, furnish the required information on  
553 machine-prepared schedules. Such monthly reports or schedules  
554 shall be signed by the distributor or his duly authorized agent  
555 and shall contain a declaration that the statements contained in  
556 such report are true and correct and are made under the penalty of  
557 perjury.

558 When special fuel, which would otherwise be taxable under the  
559 provisions of this article, is imported, sold, delivered or  
560 exported, under conditions which will exclude such special fuel  
561 from the tax levied under this article by reasons of one or more  
562 of the exemptions provided in this article, deduction for such  
563 exempt special fuel may be taken without prior approval of the  
564 commission on the monthly report of the bonded distributor of  
565 special fuel importing, selling, delivering or exporting such  
566 special fuel. Provided, however, that the commission may require  
567 proof to be furnished of such deduction for exempt special fuel.



568           When the Five and Three-fourths Cents (5.75¢) per gallon tax  
569 has accrued or has been paid on special fuel that is taxed at  
570 Eighteen Cents (18¢) per gallon, a deduction of Five and  
571 Three-fourths Cents (5.75¢) per gallon may be made.

572           **SECTION 8.** Section 27-55-533, Mississippi Code of 1972, is  
573 brought forward as follows:

574           27-55-533. (1) When gasoline and special fuel on which the  
575 tax has been paid are accidentally mixed, the distributor of  
576 special fuel or other person owning such mixture may claim credit  
577 for the gasoline tax and/or special fuel tax on the gasoline and  
578 special fuel constituting such mixture.

579           (2) When dyed special fuel and undyed special fuel are  
580 accidentally mixed and the mixture is converted to nonhighway use  
581 special fuel, the distributor of special fuel or other person  
582 owning such mixture may claim credit for any taxes exceeding Five  
583 and Three-fourths Cents (5.75¢) per gallon which have been paid on  
584 such mixture.

585           (3) Proof satisfactory to the commission must be submitted  
586 with any claim for credit made pursuant to this section or the  
587 claim will be disallowed.

588           (4) The special fuels distributor or other person owning a  
589 mixture described in this section shall notify the commission  
590 immediately after gaining knowledge of such mixture.

591           (5) Upon receipt of the claim for credit, the commission  
592 shall determine the amount of refund or tax credit due the





593 claimant and, in the case of a refund, the amount shall be  
594 refunded as provided in Section 27-55-19, Mississippi Code of  
595 1972.

596 **SECTION 9.** Section 27-5-101, Mississippi Code of 1972, is  
597 brought forward as follows:

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

600 27-5-101. Unless otherwise provided in this section, on or  
601 before the fifteenth day of each month, all gasoline, diesel fuel  
602 or kerosene taxes which are levied under the laws of this state  
603 and collected during the previous month shall be paid and  
604 apportioned by the State Tax Commission as follows:

605 (a) (i) Except as otherwise provided in Section  
606 31-17-127, from the gross amount of gasoline, diesel fuel or  
607 kerosene taxes produced by the state, there shall be deducted an  
608 amount equal to one-sixth (1/6) of principal and interest  
609 certified by the State Treasurer to the State Tax Commission to be  
610 due on the next semiannual bond and interest payment date, as  
611 required under the provisions of Chapter 130, Laws of 1938, and  
612 subsequent acts authorizing the issuance of bonds payable from  
613 gasoline, diesel fuel or kerosene tax revenue on a parity with the  
614 bonds issued under authority of said Chapter 130. The State  
615 Treasurer shall certify to the State Tax Commission on or before  
616 the fifteenth day of each month the amount to be paid to the  
617 "Highway Bonds Sinking Fund" as provided by said Chapter 130, Laws



618 of 1938, and subsequent acts authorizing the issuance of bonds  
619 payable from gasoline, diesel fuel or kerosene tax revenue, on a  
620 parity with the bonds issued under authority of said Chapter 130;  
621 and the State Tax Commission shall, on or before the twenty-fifth  
622 day of each month, pay into the State Treasury for credit to the  
623 "Highway Bonds Sinking Fund" the amount so certified to him by the  
624 State Treasurer due to be paid into such fund each month. The  
625 payments to the "Highway Bonds Sinking Fund" shall be made out of  
626 gross gasoline, diesel fuel or kerosene tax collections before  
627 deductions of any nature are considered; however, such payments  
628 shall be deducted from the allocation to the Mississippi  
629 Department of Transportation under paragraph (c) of this section.

630 (ii) From collections derived from the portion of  
631 the gasoline excise tax that exceeds Seven Cents (7¢) per gallon,  
632 from the portion of the tax on aviation gas under Section 27-55-11  
633 that exceeds Six and Four-tenths Cents (6.4¢) per gallon, from the  
634 portion of the special fuel tax levied under Sections 27-55-519  
635 and 27-55-521, at Eighteen Cents (18¢) per gallon that exceeds Ten  
636 Cents (10¢) per gallon, from the portion of the taxes levied under  
637 Section 27-55-519, at Five and Three-fourths Cents (5.75¢) per  
638 gallon that exceeds One Cent (1¢) per gallon on special fuel and  
639 Five and One-fourth Cents (5.25¢) per gallon on special fuel used  
640 as aircraft fuel, from the portion of the excise tax on compressed  
641 gas used as a motor fuel that exceeds the rate of tax in effect on  
642 June 30, 1987, and from the portion of the gasoline excise tax in



643 excess of Seven Cents (7¢) per gallon and the diesel excise tax in  
644 excess of Ten Cents (10¢) per gallon under Section 27-61-5 there  
645 shall be deducted:

646                   1. An amount as provided in Section  
647 27-65-75(4) to the credit of a special fund designated as the  
648 "Office of State Aid Road Construction."

649                   2. An amount equal to the tax collections  
650 derived from Two Cents (2¢) per gallon of the gasoline excise tax  
651 for distribution to the State Highway Fund to be used exclusively  
652 for the construction, reconstruction and maintenance of highways  
653 of the State of Mississippi or the payment of interest and  
654 principal on bonds when specifically authorized by the Legislature  
655 for that purpose.

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

658                   (b) Subject to the provisions that said basis of  
659 distribution shall in nowise affect adversely the amount  
660 specifically pledged in paragraph (a) of this section to be paid  
661 into the "Highway Bonds Sinking Fund," the following shall be  
662 deducted from the amount produced by the state tax on gasoline,  
663 diesel fuel or kerosene tax collections, excluding collections  
664 derived from the portion of the gasoline excise tax that exceeds  
665 Seven Cents (7¢) per gallon, from the portion of the tax on  
666 aviation gas under Section 27-55-11 that exceeds Six and  
667 Four-tenths Cents (6.4¢) per gallon, from the portion of the



668 special fuel tax levied under Sections 27-55-519 and 27-55-521, at  
669 Eighteen Cents (18¢) per gallon that exceeds Ten Cents (10¢) per  
670 gallon, from the portion of the taxes levied under Section  
671 27-55-519, at Five and Three-fourths Cents (5.75¢) per gallon that  
672 exceeds One Cent (1¢) per gallon on special fuel and Five and  
673 One-fourth Cents (5.25¢) per gallon on special fuel used as  
674 aircraft fuel, from the portion of the excise tax on compressed  
675 gas used as a motor fuel that exceeds the rate of tax in effect on  
676 June 30, 1987, and from the portion of the gasoline excise tax in  
677 excess of Seven Cents (7¢) per gallon and the diesel excise tax in  
678 excess of Ten Cents (10¢) per gallon under Section 27-61-5:

679 (i) Twenty percent (20%) of such amount which  
680 shall be earmarked and set aside for the construction,  
681 reconstruction and maintenance of the highways and roads of the  
682 state, provided that if such twenty percent (20%) should reduce  
683 any county to a lesser amount than that received in the fiscal  
684 year ending June 30, 1966, then such twenty percent (20%) shall be  
685 reduced to a percentage to provide that no county shall receive  
686 less than its portion for the fiscal year ending June 30, 1966;

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

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



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

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

697 (vi) The remainder shall be divided on a basis of  
698 nine-fourteenths (9/14) and five-fourteenths (5/14) (being the  
699 same basis as Four and One-half Cents (4-1/2¢) and Two and  
700 One-half Cents (2-1/2¢) is to Seven Cents (7¢) on gasoline, and  
701 six and forty-three one-hundredths (6.43) and three and  
702 fifty-seven one-hundredths (3.57) is to Ten Cents (10¢) on diesel  
703 fuel or kerosene). The amount produced by the nine-fourteenths  
704 (9/14) division shall be allocated to the Transportation  
705 Department and paid into the State Treasury as provided in this  
706 section and in Section 27-5-103 and the five-fourteenths (5/14)  
707 division shall be returned to the counties of the state on the  
708 following basis:

709 1. In each fiscal year, each county shall be  
710 paid each month the same percentage of the monthly total to be  
711 distributed as was paid to that county during the same month in  
712 the fiscal year which ended April 9, 1960, until the county  
713 receives One Hundred Ninety Thousand Dollars (\$190,000.00) in such  
714 fiscal year, at which time funds shall be distributed under the  
715 provisions of paragraph (b) (vi)4 of this section.



716                   2. If after payments in 1 above, any county  
717 has not received a total of One Hundred Ninety Thousand Dollars  
718 (\$190,000.00) at the end of the fiscal year ending June 30, 1961,  
719 and each fiscal year thereafter, then any available funds not  
720 distributed under 1 above shall be used to bring such county or  
721 counties up to One Hundred Ninety Thousand Dollars (\$190,000.00)  
722 or such funds shall be divided equally among such counties not  
723 reaching One Hundred Ninety Thousand Dollars (\$190,000.00) if  
724 there is not sufficient money to bring all the counties to said  
725 One Hundred Ninety Thousand Dollars (\$190,000.00).

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

732                   4. During the last month of the current  
733 fiscal year, should it be determined that there are funds  
734 available in excess of the amount distributed for the year under 1  
735 and 2 above, then such excess funds shall be distributed among the  
736 various counties as follows:

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

739                                   One-third (1/3) of such excess to be paid  
740 to the counties in the proportion which the population of each





766 aggregate, eight percent (8%) of the assessed valuation of the  
767 taxable property of the county, but which do not exceed, in the  
768 aggregate, twelve percent (12%) of the assessed valuation of the  
769 taxable property of the county, it shall be the duty of the board  
770 of supervisors to set aside not less than thirty-five percent  
771 (35%) of such county's share of the gasoline, diesel fuel or  
772 kerosene taxes to be used in paying the principal and interest of  
773 such road or bridge bonds as they mature.

774 In any county having such countywide road or bridge bonds or  
775 district road or bridge bonds outstanding which exceed, in the  
776 aggregate, five percent (5%) of the assessed valuation of the  
777 taxable property of the county, but which do not exceed, in the  
778 aggregate, eight percent (8%) of the assessed valuation of the  
779 taxable property of the county, it shall be the duty of the board  
780 of supervisors to set aside not less than twenty percent (20%) of  
781 such county's share of the gasoline, diesel fuel or kerosene taxes  
782 to be used in paying the principal and interest of such road and  
783 bridge bonds as they mature.

784 In any county having such countywide road or bridge bonds or  
785 district road or bridge bonds outstanding which do not exceed, in  
786 the aggregate, five percent (5%) of the assessed valuation of the  
787 taxable property of the county, it shall be the duty of the board  
788 of supervisors to set aside not less than ten percent (10%) of  
789 such county's share of the gasoline, diesel fuel or kerosene taxes





790 to be used in paying the principal and interest on such road or  
791 bridge bonds as they mature.

792 The portion of any such county's share of the gasoline,  
793 diesel fuel or kerosene taxes thus set aside for the payment of  
794 the principal and interest of road or bridge bonds, as provided  
795 for in this section, shall be used first in paying the currently  
796 maturing installments of the principal and interest of such  
797 countywide road or bridge bonds, if there be any such countywide  
798 road or bridge bonds outstanding, and secondly, in paying the  
799 currently maturing installments of principal and interest of  
800 district road or bridge bonds outstanding. It shall be the duty  
801 of the board of supervisors to pay bonds and interest maturing in  
802 each supervisors district out of the supervisors district's share  
803 of the gasoline, diesel fuel or kerosene taxes of such district.

804 The remaining portion of such county's share of the gasoline,  
805 diesel fuel or kerosene taxes, after setting aside the portion  
806 above provided for the payment of the principal and interest of  
807 bonds, shall be used in the construction and maintenance of any  
808 public highways, bridges, or culverts of the county, including the  
809 roads in special or separate road districts, in the discretion of  
810 the board of supervisors, or in paying the interest and principal  
811 of county road and bridge bonds or district road and bridge bonds,  
812 in the discretion of the board of supervisors.

813 In any county having no countywide road or bridge bonds or  
814 district road or bridge bonds outstanding, all such county's share



815 of the gasoline, diesel fuel or kerosene taxes shall be used in  
816 the construction, reconstruction, and maintenance of the public  
817 highways, bridges, or culverts of the county as the board of  
818 supervisors may determine.

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

823 (c) From the amount produced by the nine-fourteenths  
824 (9/14) division allocated to the Transportation Department, there  
825 shall be deducted:

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

828 (ii) Any amounts due counties in accordance with  
829 Section 65-33-45 which have outstanding bonds issued for seawall  
830 or road protection purposes, issued under provisions of Chapter  
831 319, Laws of 1924, and amendments thereto;

832 (iii) Except as otherwise provided in Section  
833 31-17-127, the remainder shall be paid by the State Tax Commission  
834 to the State Treasurer on the fifteenth day of each month next  
835 succeeding the month in which the gasoline, diesel fuel or  
836 kerosene taxes were collected to the credit of the State Highway  
837 Fund.

838 The funds allocated for the construction, reconstruction, and  
839 improvement of state highways, bridges, and culverts, or so much



840 thereof as may be necessary, shall first be used in conjunction  
841 with funds supplied by the federal government for such purposes  
842 and allocated to the State Transportation Department to be  
843 expended on the state highway system. It is specifically provided  
844 hereby that the necessary portion of such funds hereinabove  
845 allocated to the State Transportation Department may be used for  
846 the prompt payment of principal and interest on highway bonds  
847 heretofore issued, including such bonds issued or to be issued  
848 under the provisions of Chapter 312, Laws of 1956, and amendments  
849 thereto.

850       Nothing contained in this section shall be construed to  
851 reduce the amount of such gasoline, diesel fuel or kerosene excise  
852 taxes levied by the state, allotted under the provisions of Title  
853 65, Chapter 33, Mississippi Code of 1972, to counties in which  
854 there are outstanding bonds issued for seawall or road protection  
855 purposes issued under the provisions of Chapter 319, Laws of 1924,  
856 and amendments thereto; the amount of said gasoline, diesel fuel  
857 or kerosene excise taxes designated in this section for the  
858 payment of bonds and interest authorized and issued or to be  
859 issued under the provisions of Chapter 130, Laws of 1938, and  
860 subsequent acts authorizing the issuance of bonds payable from  
861 gasoline, diesel fuel or kerosene tax revenue, shall, in such  
862 counties, be considered as being paid "into the State Treasury to  
863 the credit of the State Highway Fund" within the meaning of  
864 Section 65-33-45 in computing the amount to be paid to such



865 counties under the provisions of said section, and this section  
866 shall be administered in connection with Title 65, Chapter 33,  
867 Mississippi Code of 1972, and Sections 65-33-45, 65-33-47 and  
868 65-33-49 dealing with seawalls, as if made a part of this section.

869 (d) The proceeds of the Five and One-fourth Cents  
870 (5.25¢) of the tax per gallon on oils used as a propellant for jet  
871 aircraft engines, and Six and Four-tenths Cents (6.4¢) of the tax  
872 per gallon on aviation gasoline and the tax of One Cent (1¢) per  
873 gallon for each gallon of gasoline for which a refund has been  
874 made pursuant to Section 27-55-23 because such gasoline was used  
875 for aviation purposes, shall be paid to the State Treasury into a  
876 special fund to be used exclusively, pursuant to legislative  
877 appropriation, for the support and development of aeronautics as  
878 defined in Section 61-1-3.

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

885 (f) "Gasoline, diesel fuel or kerosene taxes" as used  
886 in this section shall be deemed to mean and include state  
887 gasoline, diesel fuel or kerosene taxes levied and imposed on  
888 distributors of gasoline, diesel fuel or kerosene, and all state



889 excise taxes derived from any fuel used to propel vehicles upon  
890 the highways of this state, when levied by any statute.

891 **[With regard to any county which is required to operate on a**  
892 **countywide system of road administration as described in Section**  
893 **19-2-3, this section shall read as follows:]**

894 27-5-101. Unless otherwise provided in this section, on or  
895 before the fifteenth day of each month, all gasoline, diesel fuel  
896 or kerosene taxes which are levied under the laws of this state  
897 and collected during the previous month shall be paid and  
898 apportioned by the State Tax Commission as follows:

899 (a) (i) Except as otherwise provided in Section  
900 31-17-127, from the gross amount of gasoline, diesel fuel or  
901 kerosene taxes produced by the state, there shall be deducted an  
902 amount equal to one-sixth (1/6) of principal and interest  
903 certified by the State Treasurer to the State Tax Commission to be  
904 due on the next semiannual bond and interest payment date, as  
905 required under the provisions of Chapter 130, Laws of 1938, and  
906 subsequent acts authorizing the issuance of bonds payable from  
907 gasoline, diesel fuel or kerosene tax revenue on a parity with the  
908 bonds issued under authority of said Chapter 130. The State  
909 Treasurer shall certify to the State Tax Commission on or before  
910 the fifteenth day of each month the amount to be paid to the  
911 "Highway Bonds Sinking Fund" as provided by said Chapter 130, Laws  
912 of 1938, and subsequent acts authorizing the issuance of bonds  
913 payable from gasoline, diesel fuel or kerosene tax revenue, on a



914 parity with the bonds issued under authority of said Chapter 130;  
915 and the State Tax Commission shall, on or before the twenty-fifth  
916 day of each month, pay into the State Treasury for credit to the  
917 "Highway Bonds Sinking Fund" the amount so certified to him by the  
918 State Treasurer due to be paid into such fund each month. The  
919 payments to the "Highway Bonds Sinking Fund" shall be made out of  
920 gross gasoline, diesel fuel or kerosene tax collections before  
921 deductions of any nature are considered; however, such payments  
922 shall be deducted from the allocation to the Transportation  
923 Department under paragraph (c) of this section.

924 (ii) From collections derived from the portion of  
925 the gasoline excise tax that exceeds Seven Cents (7¢) per gallon,  
926 from the portion of the tax on aviation gas under Section 27-55-11  
927 that exceeds Six and Four-tenths Cents (6.4¢) per gallon, from the  
928 portion of the special fuel tax levied under Sections 27-55-519  
929 and 27-55-521, at Eighteen Cents (18¢) per gallon that exceeds Ten  
930 Cents (10¢) per gallon, from the portion of the taxes levied under  
931 Section 27-55-519, at Five and Three-fourths Cents (5.75¢) per  
932 gallon that exceeds One Cent (1¢) per gallon on special fuel and  
933 Five and One-fourth Cents (5.25¢) per gallon on special fuel used  
934 as aircraft fuel, from the portion of the excise tax on compressed  
935 gas used as a motor fuel that exceeds the rate of tax in effect on  
936 June 30, 1987, and from the portion of the gasoline excise tax in  
937 excess of Seven Cents (7¢) per gallon and the diesel excise tax in



938 excess of Ten Cents (10¢) per gallon under Section 27-61-5 there  
939 shall be deducted:

940                   1. An amount as provided in Section  
941 27-65-75(4) to the credit of a special fund designated as the  
942 "Office of State Aid Road Construction."

943                   2. An amount equal to the tax collections  
944 derived from Two Cents (2¢) per gallon of the gasoline excise tax  
945 for distribution to the State Highway Fund to be used exclusively  
946 for the construction, reconstruction and maintenance of highways  
947 of the State of Mississippi or the payment of interest and  
948 principal on bonds when specifically authorized by the Legislature  
949 for that purpose.

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

952                   (b) Subject to the provisions that said basis of  
953 distribution shall in nowise affect adversely the amount  
954 specifically pledged in paragraph (a) of this section to be paid  
955 into the "Highway Bonds Sinking Fund," the following shall be  
956 deducted from the amount produced by the state tax on gasoline,  
957 diesel fuel or kerosene tax collections, excluding collections  
958 derived from the portion of the gasoline excise tax that exceeds  
959 Seven Cents (7¢) per gallon, from the portion of the tax on  
960 aviation gas under Section 27-55-11 that exceeds Six and  
961 Four-tenths Cents (6.4¢) per gallon, from the portion of the  
962 special fuel tax levied under Sections 27-55-519 and 27-55-521, at



963 Eighteen Cents (18¢) per gallon, that exceeds Ten Cents (10¢) per  
964 gallon, from the portion of the taxes levied under Section  
965 27-55-519, at Five and Three-fourths Cents (5.75¢) that exceeds  
966 One Cent (1¢) per gallon on special fuel and Five and One-fourth  
967 Cents (5.25¢) per gallon on special fuel used as aircraft fuel,  
968 from the portion of the excise tax on compressed gas used as a  
969 motor fuel that exceeds the rate of tax in effect on June 30,  
970 1987, and from the portion of the gasoline excise tax in excess of  
971 Seven Cents (7¢) per gallon and the diesel excise tax in excess of  
972 Ten Cents (10¢) per gallon under Section 27-61-5:

973                   (i) Twenty percent (20%) of such amount which  
974 shall be earmarked and set aside for the construction,  
975 reconstruction and maintenance of the highways and roads of the  
976 state, provided that if such twenty percent (20%) should reduce  
977 any county to a lesser amount than that received in the fiscal  
978 year ending June 30, 1966, then such twenty percent (20%) shall be  
979 reduced to a percentage to provide that no county shall receive  
980 less than its portion for the fiscal year ending June 30, 1966;

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

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





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

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

991 (vi) The remainder shall be divided on a basis of  
992 nine-fourteenths (9/14) and five-fourteenths (5/14) (being the  
993 same basis as Four and One-half Cents (4-1/2¢) and Two and  
994 One-half Cents (2-1/2¢) is to Seven Cents (7¢) on gasoline, and  
995 six and forty-three one-hundredths (6.43) and three and  
996 fifty-seven one-hundredths (3.57) is to Ten Cents (10¢) on diesel  
997 fuel or kerosene). The amount produced by the nine-fourteenths  
998 (9/14) division shall be allocated to the Transportation  
999 Department and paid into the State Treasury as provided in this  
1000 section and in Section 27-5-103 and the five-fourteenths (5/14)  
1001 division shall be returned to the counties of the state on the  
1002 following basis:

1003 1. In each fiscal year, each county shall be  
1004 paid each month the same percentage of the monthly total to be  
1005 distributed as was paid to that county during the same month in  
1006 the fiscal year which ended April 9, 1960, until the county  
1007 receives One Hundred Ninety Thousand Dollars (\$190,000.00) in such  
1008 fiscal year, at which time funds shall be distributed under the  
1009 provisions of paragraph (b) (vi)4 of this section.



1010                   2. If after payments in 1 above, any county  
1011 has not received a total of One Hundred Ninety Thousand Dollars  
1012 (\$190,000.00) at the end of the fiscal year ending June 30, 1961,  
1013 and each fiscal year thereafter, then any available funds not  
1014 distributed under 1 above shall be used to bring such county or  
1015 counties up to One Hundred Ninety Thousand Dollars (\$190,000.00)  
1016 or such funds shall be divided equally among such counties not  
1017 reaching One Hundred Ninety Thousand Dollars (\$190,000.00) if  
1018 there is not sufficient money to bring all the counties to said  
1019 One Hundred Ninety Thousand Dollars (\$190,000.00).

1020                   3. When a county has been paid an amount  
1021 equal to the total which was paid to the same county during the  
1022 fiscal year ended April 9, 1960, such county shall receive no  
1023 further payments during the then current fiscal year until the  
1024 last month of such current fiscal year, at which time distribution  
1025 will be made under 2 above, except as set out in 4 below.

1026                   4. During the last month of the current  
1027 fiscal year, should it be determined that there are funds  
1028 available in excess of the amount distributed for the year under 1  
1029 and 2 above, then such excess funds shall be distributed among the  
1030 various counties as follows:

1031                                   One-third (1/3) of such excess to be  
1032 divided equally among the counties;

1033                                   One-third (1/3) of such excess to be paid  
1034 to the counties in the proportion which the population of each





1060 valuation of the taxable property of the county, it shall be the  
1061 duty of the board of supervisors to set aside not less than  
1062 thirty-five percent (35%) of such county's share of the gasoline,  
1063 diesel fuel or kerosene taxes to be used in paying the principal  
1064 and interest of such road or bridge bonds as they mature.

1065 In any county having such road or bridge bonds outstanding  
1066 which exceed, in the aggregate, five percent (5%) of the assessed  
1067 valuation of the taxable property of the county, but which do not  
1068 exceed, in the aggregate, eight percent (8%) of the assessed  
1069 valuation of the taxable property of the county, it shall be the  
1070 duty of the board of supervisors to set aside not less than twenty  
1071 percent (20%) of such county's share of the gasoline, diesel fuel  
1072 or kerosene taxes to be used in paying the principal and interest  
1073 of such road and bridge bonds as they mature.

1074 In any county having such road or bridge bonds outstanding  
1075 which do not exceed, in the aggregate, five percent (5%) of the  
1076 assessed valuation of the taxable property of the county, it shall  
1077 be the duty of the board of supervisors to set aside not less than  
1078 ten percent (10%) of such county's share of the gasoline, diesel  
1079 fuel or kerosene taxes to be used in paying the principal and  
1080 interest on such road or bridge bonds as they mature.

1081 The portion of any such county's share of the gasoline,  
1082 diesel fuel or kerosene taxes thus set aside for the payment of  
1083 the principal and interest of road or bridge bonds, as provided  
1084 for in this section, shall be used in paying the currently



1085 maturing installments of the principal and interest of such road  
1086 or bridge bonds, if there be any such road or bridge bonds  
1087 outstanding.

1088         The remaining portion of such county's share of the gasoline,  
1089 diesel fuel or kerosene taxes, after setting aside the portion  
1090 above provided for the payment of the principal and interest of  
1091 bonds, shall be used in the construction and maintenance of any  
1092 public highways, bridges or culverts of the county, in the  
1093 discretion of the board of supervisors.

1094         In any county having no road or bridge bonds outstanding, all  
1095 such county's share of the gasoline, diesel fuel or kerosene taxes  
1096 shall be used in the construction, reconstruction and maintenance  
1097 of the public highways, bridges or culverts of the county, as the  
1098 board of supervisors may determine.

1099         In every county in which there are county road bonds or  
1100 seawall or road protection bonds outstanding which were issued for  
1101 the purpose of building bridges or constructing public roads or  
1102 seawalls, such funds shall be used in the manner provided by law.

1103                 (c) From the amount produced by the nine-fourteenths  
1104 (9/14) division allocated to the Transportation Department, there  
1105 shall be deducted:

1106                         (i) The amount paid to the State Treasurer for the  
1107 "Highway Bonds Sinking Fund" under paragraph (a) of this section;

1108                         (ii) Any amounts due counties in accordance with  
1109 Section 65-33-45 which have outstanding bonds issued for seawall



1110 or road protection purposes, issued under provisions of Chapter  
1111 319, Laws of 1924, and amendments thereto; and

1112 (iii) Except as otherwise provided in Section  
1113 31-17-127, the remainder shall be paid by the State Tax Commission  
1114 to the State Treasurer on the fifteenth day of each month next  
1115 succeeding the month in which the gasoline, diesel fuel or  
1116 kerosene taxes were collected to the credit of the State Highway  
1117 Fund.

1118 The funds allocated for the construction, reconstruction and  
1119 improvement of state highways, bridges and culverts, or so much  
1120 thereof as may be necessary, shall first be used in conjunction  
1121 with funds supplied by the federal government for such purposes  
1122 and allocated to the Transportation Department to be expended on  
1123 the state highway system. It is specifically provided hereby that  
1124 the necessary portion of such funds hereinabove allocated to the  
1125 Transportation Department may be used for the prompt payment of  
1126 principal and interest on highway bonds heretofore issued,  
1127 including such bonds issued or to be issued under the provisions  
1128 of Chapter 312, Laws of 1956, and amendments thereto.

1129 Nothing contained in this section shall be construed to  
1130 reduce the amount of such gasoline, diesel fuel or kerosene excise  
1131 taxes levied by the state, allotted under the provisions of Title  
1132 65, Chapter 33, Mississippi Code of 1972, to counties in which  
1133 there are outstanding bonds issued for seawall or road protection  
1134 purposes issued under the provisions of Chapter 319, Laws of 1924,



1135 and amendments thereto; the amount of said gasoline, diesel fuel  
1136 or kerosene excise taxes designated in this section for the  
1137 payment of bonds and interest authorized and issued or to be  
1138 issued under the provisions of Chapter 130, Laws of 1938, and  
1139 subsequent acts authorizing the issuance of bonds payable from  
1140 gasoline, diesel fuel or kerosene tax revenue, shall, in such  
1141 counties, be considered as being paid "into the State Treasury to  
1142 the credit of the State Highway Fund" within the meaning of  
1143 Section 65-33-45 in computing the amount to be paid to such  
1144 counties under the provisions of said section, and this section  
1145 shall be administered in connection with Title 65, Chapter 33,  
1146 Mississippi Code of 1972, and Sections 65-33-45, 65-33-47 and  
1147 65-33-49 dealing with seawalls, as if made a part of this section.

1148 (d) The proceeds of the Five and One-fourth Cents  
1149 (5.25¢) of the tax per gallon on oils used as a propellant for jet  
1150 aircraft engines, and Six and Four-tenths Cents (6.4¢) of the tax  
1151 per gallon on aviation gasoline and the tax of One Cent (1¢) per  
1152 gallon for each gallon of gasoline for which a refund has been  
1153 made pursuant to Section 27-55-23 because such gasoline was used  
1154 for aviation purposes, shall be paid to the State Treasury into a  
1155 special fund to be used exclusively, pursuant to legislative  
1156 appropriation, for the support and development of aeronautics as  
1157 defined in Section 61-1-3.

1158 (e) State highway funds in an amount equal to the  
1159 difference between Forty-two Million Dollars (\$42,000,000.00) and



1160 the annual debt service payable on the state's highway revenue  
1161 refunding bonds, Series 1985, shall be expended for the  
1162 construction or reconstruction of highways designated under the  
1163 highway program created under Section 65-3-97.

1164 (f) "Gasoline, diesel fuel or kerosene taxes" as used  
1165 in this section shall be deemed to mean and include state  
1166 gasoline, diesel fuel or kerosene taxes levied and imposed on  
1167 distributors of gasoline, diesel fuel or kerosene, and all state  
1168 excise taxes derived from any fuel used to propel vehicles upon  
1169 the highways of this state, when levied by any statute.

1170 **SECTION 10.** This act shall take effect and be in force from  
1171 and after July 1, 2013.

